

# **PEDDLERS & SOLICITORS**

## **A LOCAL LAW NO. 5 OF 1979**

### **A Local Law to Provide for the Licensing and Regulating of Peddlers and Solicitors**

**Adopted August 7, 1979**

Be it enacted by the Town Board of the Town of Kirkwood as follows:

#### ARTICLE 1

1. **LEGISLATIVE INTENT.** This local law is enacted for the purpose of regulating itinerant merchandising in order that the peace, health, safety, welfare and good order of the town and of the inhabitants thereof shall not be endangered or unduly disturbed.

2. **DEFINITIONS.** For the purpose of this local law, the terms used herein are defined as follows:

**Established place of business.** Any building, store or depository in which or where the person transacts business and deals in the goods, wares and merchandise he hawks, peddles or solicits.

**Hawker and peddler.** Except as herein expressly provided, any person, principal or agent who, in any public street or highway or public place, or by going from house to house or place of business to place of business, on foot or from any vehicle standing in a street or highway, sells or barter, offers for sale or barter or carries or exposes for sale or barter any goods, wares or merchandise, except as hereinafter exempted.

**Merchandising.** Refers to the selling, bartering or trading, or offering to sell, barter or trade, of any goods, wares, commodities or services.

**Person.** Any individual, firm, partnership, corporation, unincorporated association and all other entities of any kind, or any principal or agent thereof.

**Solicitor.** Any person who goes from place to place or house to house, or stands in any Street or public place, taking or offering to take orders for goods, wares or merchandise, except as hereinafter exempted, or for services to be performed in the future, or for making, manufacturing or repairing any article or thing whatsoever for future delivery.

3. **LICENSE REQUIRED.** It shall be unlawful for any person, within the limits of the Town of Kirkwood, to act as a hawker, peddler or solicitor, as herein defined, except in conformity with the provisions of this local law, and without first having obtained and paid for and having in force and effect a license, as provided herein.

4. **APPLICATION REQUIREMENTS.** Every applicant for a license under this local law shall file with the town clerk a sworn written application, in duplicate, on a form to be furnished by said clerk, which shall give or be accompanied by the following:

- A. Name and description of the applicant.
- B. Permanent home address and full local address of the applicant and all other persons who will be assisting the applicant.
- C. A brief statement of the nature of the business and a description of the merchandise or service to be sold.

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- D. If employed, the name and address of the employer, together with credentials establishing the exact relationship.
- E. The length of time for which the license is desired.
- F. If a vehicle is to be used, a description of such vehicle and its license number.
- G. The place where the goods or property to be sold or offered for sale are manufactured or produced, where such goods or property are located at the time such application is filed and the proposed method of delivery.
- H. A photograph of the applicant taken within sixty (60) days immediately prior to the date of the application, which photograph shall clearly show the head and shoulders of the applicant and shall measure two by two (2 x 2) inches.
- I. Two (2) business references located in the County of Broome, State of New York, or, in lieu thereof, such other available evidence of the character and business responsibility of the applicant as will enable an investigator to properly evaluate such character and responsibility.
- J. A statement as to whether the applicant has been convicted of any crime, misdemeanor or violation of any municipal ordinance, the nature of the offense and the punishment or penalty assessed therefore.

5. INVESTIGATION AND ISSUANCE OF LICENSE. Upon receipt of such application, the original shall be referred to the Enforcement Officer of the Town of Kirkwood, who shall cause such investigation of the applicant's business and moral character to be made as he deems necessary for the protection of the public good.

A. If as a result of such investigation the applicant's character or business responsibility is found to be unsatisfactory, the Enforcement Officer shall endorse on such application his disapproval and his reasons for same and return the said application to the town clerk, who shall notify the applicant that his application is disapproved and that no license will be issued. A hearing upon such disapproval shall be held, upon appeal, as provided in section 10-B.

B. If as a result of such investigation the character and business responsibility of the applicant are found to be satisfactory, the Enforcement Officer shall endorse on the application his approval and return such application to the town clerk, who shall, upon payment of the prescribed fee, issue a license to the applicant. Such license shall contain the signature and seal of the issuing officer and shall show the name and address of said licensee, the kind of goods to be sold there under, the amount of fee paid, the date of issuance and the length of time the same shall be operative.

6. LICENSE FEES. The fee for each license issued pursuant to this local law shall be One Hundred Dollars (\$100.00) per year or fraction thereof. (Amended 8-4-2015 by LL #5-2015)

7. LICENSE CONDITIONS.

A. A license shall not be assignable. Any holder of such license who permits it to be used by any other person, and any person who uses such license granted to any other person, shall be guilty of an offense against this local law.

B. Each such license issued shall automatically expire on December thirty-first following the date of issuance thereof.

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C. No applicant to whom a license has been refused or who has had a license which has been revoked shall make further application until a period of at least twelve (12) months shall have elapsed since the last previous rejection or revocation, unless he can show that the reason for such rejection or revocation no longer exists.

D. Every licensee, while exercising his license, shall carry the license with him and shall exhibit the same upon demand to any police officer or citizen.

8. RECORDS. It shall be the duty of the town clerk to keep a record of all applications and of all licenses granted under the provisions of this local law, giving the number and date of each license, the name and residence of the person licensed, the amount of the license fee paid and also the date of revocation of all licenses revoked.

9. RESTRICTIONS. A licensed hawker, peddler or solicitor shall:

A. Not engage in such business at any time between the hours of 8:00 P.M. and 9:00 A.M.

B. Not willfully misstate the quantity or quality of any article offered for sale.

C. Not offer for sale any unwholesome, tainted, deleterious or diseased provisions or merchandise.

D. Keep the vehicles and receptacles used by him in a clean and sanitary condition and the foodstuffs and edibles offered for sale well covered and protected from dirt, dust and insects.

E. Not call attention to his goods by blowing a horn, by ringing a bell other than a house doorbell, by shouting or crying out or by any loud or unusual noise.

F. Not stand or permit the vehicle used by him to stand in one (1) place in any public place or street for more than ten (10) minutes, or in front of any premises for any time if the owner or lessee of the premises objects.

G. Not create or maintain any booth or stand, or place any barrels, boxes, crates or other obstructions, upon any street or public place for the purpose of selling or exposing for sale any goods, wares or merchandise.

H. Not sell or peddle prepared foods of any kind, including ice cream, confectionery, beverages, prepackaged snack foods, hot dogs, hamburgers and other sandwiches, in *any* town park upon which is located a concession stand operated under an agreement with the town, or on any parking area adjacent thereto.

10. REVOCATIONS: HEARINGS.

A. Causes. Licenses issued under the provisions of this local law may be revoked by the Town Board of the Town of Kirkwood after notice and hearing for any of the following causes:

1. Fraud, misrepresentation or false statement contained in the application for a license.

2. Fraud, misrepresentation or false statement made in the course of carrying on his business as a hawker, peddler or solicitor.

3. Any violation of this local law.

4. Conviction of any crime or misdemeanor involving moral turpitude.

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5. Conducting the business of peddling, hawking or soliciting in an unlawful manner or in such a manner as to constitute a breach of the peace or to constitute a menace to the health, safety or general welfare of the public.

B. Notice of hearing for revocation or refusal of a license shall be given in writing setting forth specifically the grounds of complaint and the time and place of hearing. Such notice shall be mailed to the licensee at his last known address at least five (5) days prior to the date set for hearing.

### 11. EXEMPTIONS.

A. No part of this local law shall be enforced so as to conflict with Article 4, Section 32 of the General Business Law of the State of New York, providing for exemption for veterans.

B. The requirements of this local law shall not apply to the following, provided that official uniforms, clothing or other suitable identification is displayed:

1. Any person soliciting or collecting for any bona fide charitable, religious, educational, civic or political organization; provided, however, that such organization shall have otherwise been certified or otherwise been duly qualified as required by law or by any competent governmental body or agency and met the requirements therefore of the Town of Kirkwood.
2. Any such organization as the Boy Scouts, Girl Scouts, local volunteer firemen or local school group.

C. Nothing in this local law shall be held to apply to:

1. Sales conducted pursuant to statute or by order of any court.
2. Persons selling personal property at wholesale to dealers in such articles.
3. Merchants having an established place of business within the Town or their employees.
4. The peddling of meats, fish, fruit and similar produce by farmers and persons who produce such commodities within the Town.
5. Dealers in milk, baked goods, heating oil and daily newspapers.
6. Licensed real estate brokers.
7. Minors 18 years of age and under engaged in such services as snow shoveling, grass cutting, leaf raking, lawn clearing, newspaper and magazine delivering and collecting and other similar services as an independent contractor.

12. PENALTIES FOR OFFENSES. Any person committing an offense against any provision of this local law shall, upon conviction thereof, be guilty of a violation punishable by a fine not exceeding two hundred fifty dollars (\$250) or by imprisonment for a term not exceeding fifteen (15) days, or by both such fine and imprisonment. The continuation of an offense against the provisions of this local law shall constitute, for each day the offense is continued, a separate and distinct offense hereunder.

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13.           WHEN EFFECTIVE. This local law shall become effective immediately as provided by law.

14.           SEVERABILITY. If any clause, sentence, paragraph, section or part of this local law shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate any other clause, sentence, paragraph, section or part of this local law.

15.           REPEAL OF PRESENT ORDINANCE. The ordinance entitled “Selling etc. Ordinance No.1” previously adopted by the Town Board is hereby repealed.