

Chapter 219

PEDDLING AND SOLICITING

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[HISTORY: Adopted by the Town Board of the Town of Yorktown 10-1-1991 by L.L. No. 31-1991.

§ 219-1. Purpose; statutory authority.

It is the intent of the Town of Yorktown to ensure that peddling and soliciting in the Town is conducted in a safe and peaceful manner without inconvenience to Town residents.

This chapter is enacted pursuant to the police power of the Town, Subdivision 8 of § 32 of the General Business Law of the state and any and all other applicable laws, rules and regulations of the state. Nothing contained herein shall be deemed to conflict with any such laws, rules or regulations.

§ 219-2. Definitions.

For the purpose of this chapter, the following definitions shall apply:

COMPANY — Any association of individuals, partnerships, firms, corporations, societies or any other organization.

ESTABLISHED PLACE OF BUSINESS — A permanent building, store or depository in which or where the person transacts business and deals in goods, wares, merchandise or services in the ordinary and regular course of business.

HANDBILL — Any printed or written matter, any sample or device, or any other printed or otherwise reproduced original or copies of any matter or literature, including but not limited to circular, leaflet, pamphlet, paper, or booklet.

PEDDLE — To go from house to house, from store to store, from place to place or from street to street, or to deal out, distribute or dispense, to sell and make immediate delivery or to offer for sale and deliver any goods, wares, merchandise or provisions, including books or periodicals, in possession of the seller or any combination thereof at any place within the Town of Yorktown other than from a fixed place of business.

PEDDLER — Any individual, firm, partnership, corporation, unincorporated association and any principal or agent thereof who, in any street or public place or by going from house to house or from place to place or any combination thereof, on foot or from any vehicle, sells, barter, offers for sale or barter or carries or displays for sale or barter, any goods, wares, merchandise or services. For the purposes of this chapter,

the entity which engages a person as their agent for the purposes of peddling is also considered a peddler within the meaning of this section and is subject to the provisions of this chapter. The words "peddler," "hawker" and "huckster" are considered synonymous terms.

PUBLIC PLACE — Any street, sidewalk, alley or other public way and public park, square, space or grounds or any publicly owned or leased land or buildings.

SOLICIT — To go from house to house, from store to store, from place to place or from street to street to sell or take orders for goods, wares, merchandise or provisions, including books or periodicals, for future delivery, or for services to be performed at any place within the Town of Yorktown, or to distribute advertising matter.

SOLICITOR — Any person, either principal or agent, traveling either by foot or by any conveyance from place to place, from house to house or from street to street or any combination thereof, who takes or offers to take orders for the sale of any goods, wares or merchandise, for present or future delivery or for the performance of future services, whether or not he or she collects advance payments for such sale or service. For the purposes of this chapter, the entity which engages a person or his or her agent for the purpose of soliciting, is also considered a solicitor within the meaning of this section and is subject to the provisions of this chapter.

STATIONARY LOCATION — Includes any point or distance within 0.3 of a mile in all directions of a stationary location.

VEHICLE — Any motor vehicle as defined in the Vehicle and Traffic Law of New York.

VEND — To peddle, hawk, sell, barter or lease, or to offer to sell, barter or lease, or to display for sale, barter or lease any goods, wares, merchandise or services in a public place.

§ 219-3. License required.

It is prohibited to engage in itinerant trading, hawking and peddling or making a sale by sample and taking orders for future delivery of goods, produce, wares, books, magazines and periodicals or merchandise of any description, in or upon the public highways or public places of the Town or upon private property, by calls from house to house, without obtaining a license as herein provided.

A license must be obtained by each individual who peddles or solicits, regardless of whether or not he or she is affiliated with a company, firm, partnership, corporation, unincorporated association or is a principal or agent thereof of any entity which engages a person as their agent for the purposes of peddling.

§ 219-4. Exemptions.

Such prohibition shall not apply to:

The peddling of meats, fish, fruit and farm produce by farmers and persons who produce such commodities, nor does it apply to any person, firm or corporation who operates a regularly established place of business within the Town of Yorktown to which orders may be given through a delivery man, nor does it apply to any charitable, educational, fraternal or religious organization.

A sale conducted pursuant to an order of any court.

A child 18 years of age or under who resides within the Town of Yorktown and who solicits or peddles on behalf of a charitable, religious, athletic, social, educational or civic organization, including but not limited to Scouting America or clubs, classes or organizations sponsored by a public or private school. A not-for-profit-organization's sale of food ancillary to a fundraising event, such as a picnic or carnival, that lasts no longer than five consecutive days. This exemption shall not apply to any door-to-door peddling or soliciting.

§ 219-5. Fees.

Trucks and conveyances.

The license fee payable by each peddler for each unit, truck or any conveyance carrying wares shall be in accordance with the Town's Master Fee Schedule.

The license is to be displayed in the vehicle at all times while soliciting in the Town of Yorktown.

The license fee for each solicitor or peddler going from door to door shall be in accordance with the Town's Master Fee Schedule.

§ 219-6. Filing of application; criminal history check.

Any person desiring a license, as herein provided, shall file with the Town Clerk a written application therefore duly verified by the applicant upon blank forms provided by the Town Clerk. A license may be taken out only by an individual and not in the name of a firm, corporation, association, club or other group. Such application shall include, but not be limited to, the following information:

The name, address, date of birth, social security number and motorist identification number of said person, and the name of any corporation, firm, association, club, partnership or other organization involved.

A description of the type of goods, wares and/or merchandise that the applicant wishes to sell or solicit orders for.

A description of the vehicle that the applicant wishes to use in carrying out his/her business or occupation. The owner of the vehicle and registration details thereof.

The County Health Department permit number, if a food vendor.

If peddling or soliciting for a corporation, the date of incorporation, state in which it is incorporated and name, address, date of birth and social security number of all officers.

Whether applicant has ever been convicted of a crime and, if so, under what name, with a listing of such convictions, including crime, jurisdiction, date and sentence imposed.

All applicants must be fingerprinted by a third-party agency under contract with the New York State Division of Criminal Justice Services [DCJS]. Applicants shall be responsible for the fingerprinting fee, the processing fee and all other associated fingerprinting fees. The third-party agency will then submit the fingerprints to the DCJS for a criminal background investigation.

The Town of Yorktown Police Chief and/or his or her designee shall be responsible for reviewing the criminal history record information (CHRI) disseminated by DCJS. All applicants are responsible for ensuring that their background check and any CHRI, including but not limited to any information provided by DCJS, is provided to and reviewed by the Police Chief and/or his or her designee prior to any application being determined by the Town Clerk.

Each applicant must file with his/her application two unmounted, unretouched photographs of himself/herself, 1 1/4 inches by 1 1/2 inches in size, taken within 30 days preceding the filing of the application. One photo shall be attached to the license when issued, the other shall be affixed to the application.

Any decision regarding a prospective applicant's fitness for a permit based upon a conviction contained in the criminal history background information obtained from the DCJS must be made upon consideration of

New York State Correction Law §§ 701 through 703-b and §§ 751 through 753.

§ 219-7. Method of issuing license or denial of license; conditions; fee; appeals.

The Town Clerk, with such assistance from the Police Department as may be reasonably necessary, shall investigate all applications and shall, thereafter, issue or deny said license to the applicant.

The Town Clerk shall refuse issuance of a license to any person who has been convicted of a felony.

The license shall automatically expire on December 31 following the date of its issuance. The date of issuance and expiration of the license, as well as the purpose for which it has been issued, shall be set forth on the face thereof.

The license shall be carried on the person of the licensee at all times while being exercised and shall be exhibited by the licensee to any person on demand thereof. A picture of the applicant shall appear on the valid license with the Town Seal imprinted on same.

The license shall not be transferable or assignable. In the event that a licensee shall permit any person other than himself/herself to possess or use such license, such license shall automatically be revoked, and the licensee shall thereby be guilty of violating this chapter, and no application for a future license may be made for a period of one year from the date of revocation.

The license is good only for the purposes stated thereon, and any change of product being sold or offered for sale, without written consent from the Town Clerk, shall constitute cause for revocation of the license, and the licensee shall thereby be guilty of violating this chapter, and no application for a future license may be made for a period of one year from the date of revocation.

If a Board of Health or other county permit is required, the sale of a product not covered by such permit shall be a violation of this chapter, and no application for a future license may be made for a period of one year from the date of revocation.

An applicant who has had a license denied or revoked by the Town Clerk may appeal to the Town Board in writing. The Town Board will thereafter hold a public hearing to review the determination of the Town Clerk.

§ 219-8. Special provisions for veterans.

Any honorably discharged member of the Armed Forces of the United States, holding a license pursuant to § 32 of the General Business Law, must file an application with the Town Clerk for the issuance of a local license under the same conditions as any other peddler. No fee shall be required of any such Veteran of the Armed Forces of the United States, except that conveyances not owned by such Veteran shall be licensed at the usual fee.

§ 219-9. Stationary locations.

No licensed hawker, peddler or solicitor shall permit any cart, wagon or vehicle owned or operated or controlled by him to stand stationary or remain stationary, nor shall he sell or offer for sale therefrom or from any pack or container any goods, wares or merchandise of any kind within the lines of any street, highway or sidewalk in the Town of Yorktown, within 300 feet of any schoolhouse or school grounds or within 1,500 feet of any public market or store engaged in the business of selling the same goods, wares and merchandise offered by the licensee, or in front of any premises if the owner or any lessee thereof objects thereto.

No peddler or solicitor shall have any exclusive right to any location in any street or on any public property, nor shall any peddler or solicitor be permitted to occupy any stationary location in any street or on any public property without the express permission of the Town Clerk. No person may peddle or solicit in any congested place or area when or where such activity may impede or inconvenience the public or add to the congestion of such place or area. For the purpose of this subsection, the judgment of any peace officer or police officer, exercised in good faith, shall be deemed conclusive as to the existence of congestion and as to whether the public is impeded or inconvenienced.

§ 219-10. Penalties for offenses.

Any violation of this chapter shall be a misdemeanor and may be punishable by a fine not exceeding \$500 or by imprisonment not exceeding 30 days, or by both such fine and imprisonment.

§ 219-11. Hours of operation.

Unless otherwise authorized by the Town Clerk, no person shall peddle or solicit in the Town except during the hours from 9:30 a.m. to 7:30 p.m. on Monday through Saturday of each week, other than legal holidays. This limitation on days and hours shall be set forth on each license issued pursuant to this chapter.

No person shall solicit or peddle in the Town parks during the hours of operation of the concession stands as posted at the entrance of the pool facilities, day camps and concession stands without the prior written approval of the Superintendent of Recreation and Parks.

§ 219-12. Do-Not-Knock Registry.

Any owner or occupant of residential property located in the Town who wishes to prohibit soliciting and peddling on the premises shall complete a form available in the Town Clerk's Office and on the Town's website. The completion of the form will allow the owner/occupant's premises to be included on a list of properties that do not permit solicitation or peddling (herein referred to as the "Do-Not-Knock Registry" or "Registry").

In order to be removed from the registry, the owner and/or occupant must complete a form indicating that he/she does not want his/her property to be included on the registry.

Any owner and/or occupant who has requested enlistment on the Do-Not-Knock Registry, pursuant to this chapter, shall be able to purchase from the Town, for a nominal fee, a sticker or sign for display indicating enlistment on the Do-Not-Knock Registry.

All solicitors and peddlers shall obtain the current Do-Not-Knock Registry at the time of issuance of a permit or at the time of registration to solicit pursuant to the provisions of this chapter.

Solicitors and peddlers shall not solicit or peddle at any premises identified on the then current Do-Not-Knock Registry.

It shall be the responsibility of the solicitor and peddler to check each residence for the presence of such signage and to obtain updated copies of the registry.

Solicitation in connection with political, educational, charitable, religious or other non-commercial purposes shall not be subject to the provisions of this section regarding the Do-Not-Knock Registry.

It shall constitute a violation of this chapter punishable under § 219-10 for any registered peddler or solicitor to go upon any property or premises for the purpose of engaging in soliciting or peddling where

the property or premises is included on the Do-Not-Knock Registry.

§ 219-13. Transferability.

Such licenses shall not be transferable and shall not be valid for the use by any agent or employee of the licensee.

§ 219-14. (Reserved)