

A Hawking and Peddling Ordinance  
For the Town of Allegany

BE IT ENACTED BY THE TOWN BOARD OF THE TOWN OF ALLEGANY, NEW YORK, AS FOLLOWS:

Section 1. Definitions.

Established place of business.

The term "established place of business" as used in this article shall mean and include a building or store in which or where the person transacts business and deals in the goods, wares or merchandise he hawks, peddles, or solicits for, during regular hours of business daily or the home of an individual residing in the Town of Allegany who accepts orders for merchandise but accepts no payment until the time of delivery.

Hawker, Peddler.

The terms "hawker" and "peddler" as used in this article shall mean and include any person, either principal or agent, who, in any public street or public place, or by going from house to house on foot or on any vehicle, sells or barter, offers for sale or barter, or carries or exposes for sale or barter any goods, wares or merchandise, except milk, newspapers, periodicals and non-processed foods.

Solicitor

The term "solicitor" as used in this article shall mean and include any person who solicits publicly, goes from place-to-place or house-to-house, requests or accepts orders by telephone or who stands in any street or public place taking or offering to

take orders for goods, wares or merchandise, except newspapers or milk, or for services to be performed in the future or for making, manufacturing or repairing any article or thing whatsoever for future delivery.

Private Sale.

The term "private sale" as used in this article shall mean and include any sale of personal goods, by the owner of such at their place of residence, (such sales are sometimes referred to as "garage sales", "lawn sales", etc.).

Transient Business.

The term "transient business" as used in this article shall mean and include one conducted in a store, hotel, motel, house, building, structure on property owned by another or one conducted house-to-house or one conducted by telephone communications for the sale or purchase at retail of goods, wares and merchandise, including food products, and which is intended to be conducted for a temporary period of time, and not permanently.

Section 2. License Required.

It shall be unlawful for any person, except as provided in Section three (3) below within the limits of the Town of Allegany, to act as a hawker, peddler, or solicitor or to conduct at transient business as herein defined without first having obtained and paid for, and having in force and effect, a license therefor.

Section 3. Applicability of Exemptions from Provisions.

Generally. Nothing in this article shall apply to sales or purchases conducted pursuant to statute or by order of any court, or to any persons selling personal property at wholesale to dealers in such article. The licensing provisions of this article shall not apply to merchants having an established place of business in the Town of Allegany or their employees; to farmers and truck gardeners of the Town of Allegany who themselves or through their employees vend, sell, or dispose of the products for their own farms or gardens; party plans; private sales or sales or services by prior invitation nor shall this ordinance be construed to prevent route salesmen or other persons having established customers to whom they make periodic deliveries from calling upon such customers or from making calls upon prospective customers to solicit an order for future periodic deliveries.

This ordinance shall not apply to solicitations by local charitable, religious or civic organizations, or those represented by a Town of Allegany citizen or organization.



Section 4. Application for License: Bond.

(A) Form, Contents:

Any person desiring to procure a license as herein provided shall file with the Town Clerks Office a written application upon a blank form provided by the Town Clerk and furnished by the Town and shall file at the same time character references from the "Local Law Enforcement Agency, Chamber of Commerce, or Better Business Bureau" from two (2) different communities where the applicant or his firm has previously conducted a similar business endeavor. Such information must contain the name, current address and telephone number of the references. Such application shall give the number and kind of vehicles to be used by the applicant in carrying on the business for which the license is desired, the kind of goods, wares and merchandise one desires to sell or purchase or the kind of service one desires to perform, the method of distribution, the names, permanent and local address and age of the applicant, the name and address of the person or firm one represents, the length of time the applicant desires a license, not to exceed (30) days and such other information as may be required by the Clerk.

B. Accompanying Documents:

Such application shall be accompanied by a certificate from an authorized New York State Sealer of Weights and Measures certifying that all weighing and measuring devices to be used by the applicant have been examined and approved.

C. Bonds, Conditions, Amount, Duration:

An application for a license as a hawker, peddler, solicitor or transient business that demands, accepts or receives a payment or deposit of money in advance of final delivery or purchases items from individuals or an entity shall also be accompanied by a bond to the Town of Allegany approved as to form and security by the Town Attorney in the penal sum of at least ONE THOUSAND DOLLARS (\$1,000.00) with sufficient surety or surities or sufficient collateral security conditioned for making a final delivery of goods, wares or merchandise ordered or services to be performed in accordance with the term of such order, or failing therein that the advance payment of such order be refunded, and further conditioned that in the event the purchaser stops payment on its payment instrument or has insufficient funds to make payments for goods purchased from individuals or entities, then, and in that event, such bond to be used to make payment to the seller in such amount up to the limit of the bond. It is also required that any such bond applicant will make a full, complete and true report of the gross amount of sales made in such business within the Town in accordance with Section II below and will comply in good faith with the provisions of this Law and in paying the amount of taxes fixed.

Any person aggrieved by the action of any licensed hawkers, peddlers, solicitors or transient business, shall have the right

merchandise to be sold or service to be rendered, the dates of issuance and expiration of the license, the fee paid and the name and address of the licensee.

(D).

Every licensee, while exercising his license, shall at all times, display the license conspicuously, or if engaged in telephone solicitation, shall upon the commencement of each call state ones name and address and the respective number of license.

Section 6. License Fee.

The following fees shall be paid for the license herein required:

A.

Where a vehicle or vehicles is or are to be used by the applicant, the fees shall be:

(1)

For the first such vehicle so used: for (30) days the fee shall be Five Hundred Dollars (\$500.00).

(2)

For each additional vehicle so used by any one licensee: for (30) days the fee shall be Five Hundred Dollars (\$500.00).

(B)

Where no vehicle is used by the applicant, or where an additional license is required by subsection (A) of Section 7 hereof: for (30) days the fee shall be Five Hundred Dollars (\$500.00).



Section 7. Employees, Agents, Representatives, Sales Personnel.

(A) Number, limited.

Any person using a vehicle may employ under the same license not more than one person to assist in selling and delivering but such person shall so act only when accompanying a licensed hawker, peddler, solicitor or transient business and when any additional persons are so employed, an additional license shall be required for each such additional person and the fee fixed in subsection (b) of Section 6 shall be paid thereof.

(B). Identification Card Required.

The one employee, agent or sales person mentioned in subsection (A) above who acts with a licensee shall at all times carry and on demand display a card of identification issued by the Town Clerk, which card shall contain the following information: The name and picture of the employee, agent or sales person, the name of the employer or company and the date of expiration of the employer's or company's license. Such identification cards shall be valid until the expiration of the license under which they are issued.

(C). Personal Statement Required.

Each such employee or sales person shall file with the Town Clerk's Office a statement including his name, age, permanent and town address and name and address of his employer or company and the telephone numbers of all such firms and/or individuals responsible for supervision of such activity.

(D) Refusal, Revocation of Card.

The provisions of Section 8 respecting revocation of license shall apply to the revocation of a card of identification. The issuance of a card of identification may be refused upon the same grounds as set forth in Section 5(A) for the refusal of a license.

Section 8. Revocation of License.

(A)

The Town Clerk may at any time for a violation of this article, or any other ordinance or any law, revoke the license. When a license shall be revoked, no refund of any unearned portion of the license fee shall be made.

(B)

Notice of such revocation and the reason or reasons therefor in writing shall be served upon the person named in the application by delivering the same to him either personally or by mailing the same to the address given in the application: Certified Mail - Return Receipt Requested; such revocation shall be immediately effective if served personally and shall become effective twenty-four (24) hours after mailing if served by mail.

(C)

Licenses obtained by fraud or misrepresentation of any material fact shall be wholly invalid and shall be surrendered upon demand; no refund of the license fee shall be made and the violators shall be subject to the provisions of Section 13.



Section 9. Orders by Solicitors, Hawkers, Peddlers, or Transient Business; Written Statement Required for Purchaser.

A written statement of all orders taken by licensed solicitors who demand, accept or receive payment or deposit of money in advance of final delivery, setting forth the terms thereof, the amount paid in advance, the name of the solicitor and the name of the person or firm he represents, shall be given to the purchaser at the time the money is paid to or deposited with such individual or firm.

Section 10. Prohibited Acts.

(A) Unlawful Sales.

A hawker, peddler, solicitor or transient business shall not falsely or fraudulently misrepresent the quantity, character or quality of any article offered for sale or purchase; or offer for sale any unwholesome, tainted or diseased provisions or merchandise.

(B) Sanitary Conditions.

A hawker, peddler, solicitor or transient businessman shall keep the vehicles and receptacles used by him in a clean and sanitary condition and the food stuffs and edibles offered for sale well covered and protected from dirt, dust and insects, and must obtain all necessary Federal, State and County licenses and or permits as a condition of granting the license herein.

(C) Noises.

A hawker, peddler, solicitor or transient businessman shall not blow a horn, ring a bell or use any other noisy device to attract public attention to his wares, or shout or cry his wares.

(D) Obstructions.

A hawker, peddler, solicitor or transient businessman shall not create or maintain any booth or stand or place any barrels, boxes, crates or other obstruction upon any street or public place for the purpose of selling or exposing for sale or purchasing any goods, wares or merchandise, except in streets or public places wherein permission is granted within the license, specifically.

(E) Measuring Devices.

A hawker, peddler, solicitor or transient businessman shall not use any weighing or measuring devices unless the same shall have been examined and sealed by an Authorized New York State Sealer of Weights and Measures.

Section 11. Weekly Sales Reports.

Any person or firm permitted to conduct business under the provisions of this ordinance shall file and attest to its accuracy a report containing the gross amount of sales for each week or portion thereof that such business is conducted. This report is to be filed on or before twelve o'clock noon, on Monday or the first business day of each week for any portion of the preceeding week in which sales are made. The report is to be

filed with the Town Clerk unless otherwise stipulated. The bond will not be returned until the report has been filed.

Section 12. Purchase and/or Sale of Precious Metals and Jewelry:

In addition to the standing provisions of this Local Law governing transient business transactions the following provisions will apply to the purchase and/or sale of previous metals:

(A)

All transactions shall be in the "accepted trade standards", (i.e.: Karat, Metric, Troy, etc.)

(B)

The range of prices being paid must be conspicuously posted at a place where business is transacted.

(C)

Advertising must clearly state purchase prices being offered in relation to "accepted trade standards".

(D)

Scales used in any purchase or sale must be New York State type approved for both lightweight and heavyweight metals.

(E)

All purchases must be recorded and conform to the following:

- 1) Full description of item purchased.
- 2) Name of seller, address and telephone number.

(Identification used for conformation of information will be a driver's license, social security card or other satisfactory ID with picture normally accepted as approved documents).



- 3) Physical description of seller (i.e. Height, Weight, Color, Hair, Eyes and Completion, etc.).
- 4) No transactions shall be made with any individual under the age of eighteen (18).
- 5) No transactions shall be conducted before 9:00 a.m. and after 9:00 p.m. Any records so maintained shall be made available to any law enforcement officials at any time covering transient business transactions conducted in the community and for a period of ninety (90) days thereafter if such is requested.

Any hawker, peddler, solicitor or transient business that purchases or sells precious metals must secure a bond in accordance with provisions outlined in Section 4(paragraph C) of this Local Law.

#### Section 13. Violations and Penalties.

The violation of the provisions of this ordinance shall constitute an offense and a person guilty of such offense may be punished by a fine not more than one thousand dollars (\$1,000.00) or by imprisonment not exceeding fifteen days by both fine and imprisonment.

#### Section 14.

This ordinance shall not supersede any other Local Law or ordinance.

#### Section 15. Administration.

The Building and Zoning Inspector of the Town of Allegany, and the appropriate police agency of the Town of Allegany are hereby designated to enforce this code.

Administrative Officer of that unit.

Section 16.

This ordinance shall take effect according to the provisions of Section 133 of the Town Law. ( Ten days after publication following acheduled Public Hearing.)

TOWN BOARD OF THE TOWN OF ALLEGANY

BY

*Carol G. Livingston*  
Carol G. Livingston, Town Clerk