

Chapter 139

PEDDLING AND SOLICITING

- | | |
|---|--|
| § 139-1. Definitions; word usage. | § 139-11. Transfer of permit or badge prohibited. |
| § 139-2. Permit requirements and exemptions. | § 139-12. Entry upon signed premises unlawful. |
| § 139-3. Permit application. | § 139-13. Hours of solicitation. |
| § 139-4. Fees. | § 139-14. Permit revocation. |
| § 139-5. Bond required. | § 139-15. Notice; hearing. |
| § 139-6. Application review; and permit issuance; contents of permit. | § 139-16. Appeals. |
| § 139-7. Denial of permit. | § 139-17. Penalties for offenses. |
| § 139-8. Permit expiration. | § 139-18. Severability. |
| § 139-9. Identification badges. | § 139-19. Disabled veterans. |
| § 139-10. Permit exhibition. | § 139-20. Prohibited acts; sale of frozen food products. |

[HISTORY: Adopted by the Board of Selectmen of the Village of Sodus Point 6-20-2002 by L.L. No. 1-2002. Amendments noted where applicable.]

GENERAL REFERENCES

Streets and sidewalks- See Ch. 161.

Vehicles and traffic - Sec Ch. 175.

§ 139-1. Definitions; word usage.

A. As used in this chapter, the following terms shall have the meanings indicated:

CHARITABLE- Patriotic, philanthropic, social service, health, welfare, benevolent, educational, civic, cultural or fraternal.

CLERK - The Village of Sodus Point Clerk.

CONTRIBUTIONS - Alms, money, subscription, property or any donations.

HAWKER- One who offers for sale his goods by calling out in the street.

HAWKING - The selling or vending or offering for sale of any goods, wares or merchandise for immediate delivery, which the person selling or offering for sale carries with him in traveling or has in his possession or control, upon any of the streets or sidewalks or from house to house in the Village of Sodus Point.

PEDDLER - Any person who goes upon the premises of any private residence, not having been invited by the occupant thereof, carrying or transporting goods, wares, merchandise or personal property of any nature and offering the same for sale. This

includes any person who solicits orders and as a separate transaction makes deliveries to purchasers. The word "peddler" shall not apply to the following:

- (1) Farmers seeking or taking orders for or selling or offering the sale of their own produce.
- (2) The seeking or taking of orders for or the selling or offering for sale of bread or bakery products, meat or meat products or milk or milk products by any manufacturer or producer thereof.
- (3) The seeking or taking of orders for or the selling or offering for sale of insurance by insurance agents or brokers licensed under the insurance laws of the State of New York.

PEDDLING - All activities described under the definition of "peddler" of this section.

PERSON - A person or any firm, corporation, association, club, society or organization.

SOLICITOR - Any person who goes upon the premises of any private residence, not having been invited by the occupant thereof, for the purpose of taking or seeking or attempting to take orders or make contracts for the sale of goods, merchandise, wares, or other personal property of any nature for future delivery, or for services to be performed in the future. This includes any person who, without invitation, goes upon private property to request subscriptions or contribution of funds or anything of value, or sell goods or services for political, charitable, religious, or other noncommercial purposes.

SOLICITATION - All activities described under the definition of "solicitor" of this section.

TRANSIENT MERCHANT - A person who engages or proposes to engage temporarily in merchandising business in the Village of Sodus Point and occupies a room, building, tent, lot, stand, table or other premises for the purpose of selling, trading or bartering goods, wares and merchandise.

B. Usage. The singular shall include the plural.

§ 139-2, Permit requirements and exemptions.

A. It shall be unlawful for any person to engage in peddling or solicitation activities within the Village of Sodus Point without first obtaining a pennit issued by the Clerk; provided, however, that the following are exempt from the provisions of this section:

- (1) Any solicitation made upon premises owned or occupied by an organization upon whose behalf the solicitation is made.
- (2) Any communication by an organization soliciting contributions solely from persons who are members of the organization at the time of such solicitation.
- (3) Any solicitation in the form of a collection at a regular meeting, assembly or service of a charitable person or organization; or

- (4) Any solicitation for the relief of any individual specified by name at the time of the solicitation where the solicitor represents in each case that the entire amount collected shall be turned over to the named beneficiary.
 - (5) Yard sales, garage sales or conducted residential auctions of personal household property or sales of a like nature conducted in connection with a dwelling in a zoned residence district shall not be deemed to be the conduct of a transient retail business so long as no more than two such sales of not more than three days each per year are conducted on any parcel or private property. The person conducting such sale, whether resident or auctioneer, shall not require a license, but is requested to register the proposed activity with the Police Department so that the Department may be alerted as to a possible traffic situation.
 - (6) Persons engaged in interstate commerce selling or soliciting subscriptions, books, magazines or periodicals, including educational, religious and reference materials. (As a courtesy, these individuals are requested to inform the Police Department of their presence).
 - (7) Juvenile peddlers and solicitors under the age of 18.
- B. This permit requirement applies to any and all persons who wish to engage in peddling or solicitation including, but not limited to transient merchants as defined in § 139-1. This includes transient merchants who wish to offer for sale wares at any type of carnival, festival, flea market, craft show, etc.
 - C. Every owner or lessee of a building zoned commercial or industrial who leases or subleases space within the halls or courts of the building for a daily craft show, flea market, exhibit, etc., where wares are offered for sale or orders for wares solicited shall not permit said operation to be conducted unless and until each transient merchant displays a license as required herein, or the operation has been qualified as exempt from the provisions hereof, as determined by the Clerk.
 - D. No person engaged in peddling or solicitation shall occupy any fixed location upon any of the streets, highways, sidewalks or other locations for the purpose of hawking, peddling, vending or soliciting. No licensee may enter upon any public park, Village property, municipal recreation facility, golf course or municipal off-street parking areas, or premises of educational institutions for the purpose of hawking, peddling, vending or soliciting.
 - E. No person shall be allowed to engage in peddling or solicitation, hawking, or the selling of goods, with or without a vehicle, in the Village of Sodus Point on Greig Street between Bay Street and Irwin Street due to the limited parking available, congested traffic patterns and need to ensure the safety of pedestrians in this area.

§ 139-3. Permit application.

- A. Every person subject to the provisions of this chapter shall file with the Clerk an application in writing on a form to be furnished by the Clerk, which shall provide the following information:

- (1) Proof of age, address and identification of the applicant.
 - (2) A brief description of the business or activity to be conducted.
 - (3) The house and location for which the right to peddle or solicit is desired.
 - (4) Whether there is parking located at the site of the proposed solicitation location and, if so, the type of parking provided.
 - (5) If employed, the name, address and telephone number of the employer; or if acting as an agent, the name, address and telephone number of the principal who is being represented, with credentials in written form establishing the relationship and the authority of the employee or agent to act for the employer or principal, as the case may be.
 - (6) A statement as to whether or not the applicant has been convicted of a felony, misdemeanor or local law violation, the nature of the offense or violation, the penalty or punishment imposed, the date and place where such offense occurred, and other pertinent details thereof.
 - (7) Proof of possession of any license or permit which, under federal, state or local laws or regulations, the applicant is required to have in order to conduct the proposed business, or which, under any such law or regulations, would exempt the applicant from the licensing requirements of this chapter.
 - (8) Two photographs of the applicant, which shall have been taken within 60 days immediately prior to the date of filing of the application. The photographs shall measure 1 1/2 inches by 2 1/2 inches and show the head and shoulders of the applicant in a clear and distinguishing manner.
 - (9) The type or types of article, device, subscription, contribution, service, goods, wares and/or merchandise he or she desires to sell or for which he or she wishes to solicit within the Village of Sodus Point.
 - (10) The type of vehicle(s) he or she wishes to use, if any.
- B. Each person shall execute the application under oath or affirmation with a written and printed signature, and, if for an organization, his title. He shall provide written proof of his authorization to apply for a license on behalf of said organization.

§ 139-4. Fees.

- A. At the time the application is filed with the Clerk, the applicant shall pay a fee to cover the cost of processing the application and investigating the facts stated therein. The permit fee shall be \$20 for a one-day permit, \$50 for a one-week permit or \$200 for an annual pennit for each solicitor or peddler.
- B. This provision shall not apply to persons soliciting orders for goods to be shipped into the state or otherwise involved in interstate commerce.

- C. A New York State veteran or resident surviving spouse of a veteran may obtain a free license to peddle upon the streets/highways of the Village of Sodus Point so long as said veteran or resident surviving spouse of a veteran resides within the Village limits. Said license is nontransferable.

§ 139-5. Bond required.

All solicitors requiring cash deposits or taking orders for cash on delivery purchases (COD) or who require a contract of agreement to finance the sale of any goods, services, or merchandise for future delivery, or for services to be performed in the future, shall furnish to the Clerk a bond in the amount of \$5,000.

§ 139-6. Application review; and permit issuance; contents of permit.

- A. Upon receipt of an application, the Clerk shall review the application as deemed necessary to ensure the protection of the public health, safety and general welfare.
- B. If the Clerk finds the application to be satisfactory, the Clerk shall approve the application and shall, upon payment of the prescribed fee, deliver the required permit to the applicant.
- C. The permit shall show the name, address and photograph of the permittee, the class of permit issued, the kind of goods or services to be sold or delivered, the date of issuance, and the length of time that the permit shall be in effect. The permit shall also show the permit number and identifying description of any vehicle to be used in carrying on the business for which the permit is issued.

§ 139-7. Denial of permit.

- A. Upon the Clerk's review of the application, the Clerk may refuse to issue a permit to the applicant under this chapter for any of the following reasons:
- (1) The location and time of solicitation or peddling would endanger the safety and welfare of the solicitors, peddlers or their customers;
 - (2) An investigation reveals that the applicant falsified information on the application;
 - (3) The applicant has been convicted of a felony, misdemeanor or local law violation involving a sex offense, trafficking in controlled substances, or any violent acts against persons or property, such conviction being entered within the five years preceding the date of application;
 - (4) The applicant is a person against whom a judgment based upon, or conviction for, fraud, deceit or misrepresentation has been entered within the five years immediately preceding the date of application;
 - (5) The applicant offers no proof of authority to serve as an agent; or

- (6) The applicant has been denied a permit under this chapter within the immediate past year, unless the applicant can and does show to the satisfaction of the Clerk that the reasons for such earlier denial no longer exist.

B. The Clerk's disapproval and the reasons for disapproval shall be noted on the application, and the applicant shall be notified that his application is disapproved and that no permit will be issued. Notice shall be mailed to the applicant at the address shown on the application form, or at the applicant's last known address.

§ 139-8. Permit expiration.

All permits issued under the provision of this chapter shall expire one year from the date of issuance, unless an earlier expiration date is noted on the permit.

§ 139-9, Identification badges.

At the same time the permit is issued, the Clerk shall issue to each permittee a badge, which shall be worn by the permittee in such a way as to be conspicuous at all times while the permittee is soliciting or peddling in the Village of Sodus Point.

§ 139-10. Permit exhibition.

Every person required to obtain a permit under the provisions of this chapter shall exhibit the permit when requested to do so by any prospective customer or individual.

§ 139-11. Transfer of permit or badge prohibited.

It shall be unlawful for any person other than the permittee to use or wear any permit or badge issued under the provisions of this chapter. The person designated on said permit or badge shall be the only person authorized to engage in such business thereunder.

§ 139-12. Entry upon signed premises unlawful.

It shall be unlawful for any person, whether licensed or unlicensed, while conducting the business of a peddler or solicitor, to enter upon any residential premises in the Village of Sodus Point where the owner, occupant or person legally in charge of the premises has posted, at the entry to the premises, or at the entry to the principal building on the premises, a sign bearing the words "No Peddlers," "No Solicitors," or words of similar import.

§ 139-13. Hours of solicitation.

No person, while conducting the activities of a peddler or solicitor, whether licensed or unlicensed, shall enter upon any private property, knock on doors or otherwise disturb persons in their residences on Sundays or between the hours of 8:00 p.m. and 9:00 a.m. Mondays through Saturdays.

§ 139-14. Pennit revocation.

Any permit issued under this chapter may be revoked or suspended by the Clerk, after notice and a hearing, for any of the following reasons:

- A. Fraud, misrepresentation or false statement contained in the application for a permit;
- B. Fraud, misrepresentation or false statement made by the pennittee in the course of conducting solicitation or peddling activities;
- C. Conducting peddling or solicitation activities contrary to the provisions in the permit;
- D. Conviction for any crime involving moral turpitude; or
- E. Conducting peddling or solicitation activities in such a manner as to create a public nuisance, constitute a breach of the peace or endanger the health, safety or general welfare of the public.

§ 139-15. Notice; hearing.

Notice of a hearing for revocation of a pennit issued under this chapter shall be provided in writing and shall set forth specifically the grounds for the proposed revocation and the time and place of the hearing. Notice shall be mailed, postage prepaid, to the permittee at the address shown on the permit application or at the last known address of the permittee.

§ 139-16. Appeals.

- A. Any person aggrieved by the action or decision of the Clerk to deny, suspend or revoke a permit applied for under the provisions of this chapter shall have the right to appeal such action or decision to the Mayor within 15 days after the notice of the action or decision has been mailed to the person's address as shown on the pennit application form, or to his last known address.
- B. An appeal shall be taken by filing with the Clerk a written statement setting forth the grounds for the appeal.
- C. The Clerk shall transmit the written statement to the Mayor within 10 days of its receipt, and the Mayor shall set a time and place for a hearing on the appeal.
- D. A hearing shall be set not later than 20 days from the date of receipt of the appellant's written statement.
- E. Notice of the time and place of the hearing shall be given to the appellant in the same manner as provided for the mailing of notice of action or decision.
- F. The decision of the Mayor on the appeal shall be final and binding on all parties concerned.

§ 139-17. Penalties for offenses.

- A. Violation of any of the provisions of this chapter shall be treated as an infraction and shall, upon conviction, be punishable by a fine of not more than \$250 and up to 15 days in jail.
- B. In addition to any criminal enforcement, the Village of Sodus Point or any individual may pursue any available civil remedies deemed appropriate and necessary.

§ 139-18. Severability.

The provisions of this chapter are deemed and declared to be severable. If any section, sentence, clause, or phrase of the chapter shall, for any reason, be held to be invalid or unconstitutional by a court of competent jurisdiction, such decisions shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this chapter, but they shall remain in effect, it being the legislative intent that this chapter shall remain in effect notwithstanding the validity of any part.

§ 139-19. Disabled veterans.

A disabled veteran who has obtained a license pursuant to this chapter, shall not be subject to the terms and conditions of this chapter (other than the permit/license requirement), so long as he conducts his business without the use of a motorized vehicle.

§ 139-20. Prohibited acts; sale of frozen food products.

- A. No person engaged in soliciting or peddling or acting as a transient merchant shall occupy any of the streets or alleys or sidewalks of the Village of Sodus Point for purposes of soliciting or peddling, with or without any type of stand, counter, cart, etc.
- B. No peddler or solicitor shall peddle, vend or sell his or her goods or wares within 200 feet of any church or place of worship or public or private school during regular business hours.
- C. No person shall solicit any business whatsoever at the scene of any accident within the Village of Sodus Point.
- D. All pennittees offering for sale any ice cream or frozen food product or water ices shall observe the following specified requirements:
 - (1) No bell, whistle, horn or other noisemaking device shall be used for vending purposes.
 - (2) No vending shall be permitted from vehicles located on state highways.
 - (3) No product shall be sold or dispensed to any child who must cross any street or highway to the vehicle from which products are sold or dispensed unless such child is accompanied by and under the immediate supervision and protection of the driver of said vehicle or other adult and such child is returned across such street or

highway in the same manner before such vehicle shall leave the immediate location from which products are sold or dispensed. The driver of such vehicle shall not leave any area where he has sold or dispensed any product until all empty cartons, paper containers or other waste materials originating from said vehicle have been removed and placed in a container inside the vehicle.

- E. No vending shall be conducted within a distance of 75 feet of the radius curve of any street or highway intersection or from any other location which may obstruct the normal flow of traffic.