

## **Chapter 121**

### **PEDDLING AND SOLICITING**

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**[HISTORY: Adopted by the Town Board of the Town of Patterson 8-8-79 as Ord. No. 1-1979. Adopted in its entirety 9-24-2003. (readopted 4-13-2005 by L.L. No. 9-2005) Amendments noted where applicable.]**

### **GENERAL REFERENCES**

- Public Assemblies - See Ch. 51**
- Christmas Tree Sales - See Ch. 70**
- Entertainment Establishments - See Ch. 84**
- Littering - See Ch. 103**
- Loitering - See Ch. 107**
- Noise - See Ch. 109**
- Political advertising - See Ch. 124**
- Vehicles and traffic - See Ch. 150.**

## **§ 121-1. Definitions.**

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

**HAWKER and PEDDLER** - Includes, except as hereinafter expressly provided, any person, either principal or agent, who in any public street or public place, or by going from house to house or place of business to place of business, on foot or on or from any animal or vehicle standing in a street, 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.

**PERSON** - Includes one (1) or more persons of either sex, natural persons, corporations, partnerships, associations, joint-stock companies, societies and all other entities of any kind capable of being sued.

**PLACE OF BUSINESS** - A building, store, shopping center or mall in which persons transact business or deal in goods, wares, merchandise and services which they hawk, peddle or solicit for during regular business hours.

**SOLICITOR** - Includes, except as hereinafter expressly provided, any person who goes from place to place or house to house or who stands in any street or public place, taking or offering to take orders for goods, wares, merchandise, publications or services, 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, or for work to be done at the premises of the offeree.

**SOLICITOR OF FUNDS** - Includes, except as hereinafter provided, any person who goes from place to place or house to house or who stands in any street or public place, asking, collecting or accepting pledges for money, funds, contributions or merchandise in lieu of money, funds or pledges for any purpose whatever.

## **§ 121-2. Exemptions. [Amended 3-22-1995 by L.L. No. 2-1995]**

A. Nothing in this chapter shall be held to apply to the following:

- (1) Any sales conducted pursuant to statute or by order of the court.
- (2) Any person selling personal property at wholesale to dealers in such articles.
- (3) The peddling of meats, fish, fruit, vegetables and similar produce by farmers and persons who produce such commodities
- (4) Dealers in baked goods, heating oil and daily or weekly newspapers
- (5) Any honorably discharged member of the Armed Forces of the United States who has procured a license as provided in the General Business Law of the State of New York.

(6) Persons soliciting or collecting anything for a bona fide charitable organization, a local character-building youth agency, local church societies, veterans groups or local volunteer firemen's associations or other similar local non-profit-making organizations.

(7) A child under the age of 18 years of age and who solicits or peddles on behalf of a charitable, religious, athletic, social, educational, or civic organization, including but not limited to the Boy Scouts, Girl Scouts, Cub Scouts, Brownie scouts, clubs, classes or organizations sponsored by the school which he/she attends.

B. This chapter shall also not apply so as unlawfully to interfere with interstate commerce.

### **§ 121-3. License required.**

It shall be unlawful for any person, within the territorial limits of the Town of Patterson, to act as a hawker, peddler or solicitor, or to solicit funds, as herein defined, without first having obtained and paid for and having in force and effect a license therefor issued by the Town Clerk of the Town of Patterson.

### **§ 121-4. Application for license.**

A. Every applicant for a license is required to submit to the Town Clerk a written application supplying, under affidavit, the following information:

(1) That he is a citizen of the United States.

(2) That he has never been convicted of a felony or misdemeanor.

(3) The particular business, trade, occupation or purpose for which the application is required or requested, stating such in detail.

(4) The manner or means of conveyance, if any, in which said business or trade, solicitation or collection shall be conducted.

(5) The locality within which it is desired to carry on or engage in said trade, business, occupation or solicitation.

(6) The name of the person or persons and the residence of such person or persons, any firm applying for a license, or the principal place of business of any such corporation and the name and address of the officer of the corporation upon whom process or other legal notice may be served.

(7) The length of time the applicant desires a license.

(8) Such other information as may be required by the Town Clerk.

B. Each person or individual to be employed as a solicitor, hawker or peddler, or solicitor of funds, shall apply individually for a separate license, and each such applicant shall submit three (3) facial photographs of himself taken within thirty (30) days of the date of application.

C. In order to protect the health, safety, morals and general welfare of Patterson citizens, each applicant for a license to hawk, peddle or solicit, or to solicit funds, shall complete an Authorization/Request for Criminal Record/NYS Driver's Record from Non-Police Agency form supplied by the Putnam County Sheriff's Department that will subject the applicant to a background check. A copy of the form may be obtained in the office of the Town Clerk.

**§ 121-5. Issuance of license; unauthorized use.**

A. Upon the filing of the application for a license as provided in § 121-4, the Town Clerk shall, upon his approval of such application, issue to the applicant a license as provided for in § 121-3, signed by the Town Clerk, such license to be attached to a copy of the facial photograph as submitted.

B. Except as hereinafter provided, no license shall be refused except for a specific reason or reasons and for the protection of the public safety, health, morals or general welfare.

C. A license shall not be assignable, and unauthorized use thereof, either by the holder of such license or by any other person, shall be deemed a violation of this chapter.

**§ 121-6. License fees; expiration.**

A. The license processing fee to hawkers, peddlers or solicitors, and solicitors of funds, shall be as set from time to time by resolution of the Town Board for the following:

- (1) Those hawking , peddling or soliciting on foot.
- (2) Each vehicle used for peddling, hawking or soliciting.
- (3) Those soliciting funds.

B. All licenses issued hereunder shall automatically expire on the first day of January of the year following their issuance.

**§ 121-7. Revocation or denial of license.**

A. The Supervisor of the Town of Patterson, after a complaint of violation of this chapter or other ordinance or any law, after investigation of the complaint by the Putnam County Sheriff or New York State Police and/or a hearing by the Supervisor of the complaint, may revoke any license.

B. Upon the refusal of the Town Clerk to issue a license to an applicant, or upon the determination of the Supervisor that a license should be revoked, the procedure prescribed in § 137 of the Town Law of the State of New York shall be complied with.

C. When a license is revoked, no refund of any unearned portion of the license fee shall be made.

D. Notice of such revocation and the reason or reasons therefor, in writing, shall be served by the Supervisor upon the person of the licensee, on the person designated in the application or by mailing the same to the address given in the application, and a copy of such notice of revocation shall be filed with the Town Clerk, the Putnam County Sheriff's Department and the New York State Police.

### **§ 121-8. Restrictions.**

A licensed hawker, peddler or solicitor, or solicitor of funds, shall:

A. Not falsely or fraudulently misrepresent the quality or quantity of any article or articles offered for sale, nor offer for sale unwholesome, tainted or diseased provisions or merchandise.

B. Keep the vehicle or 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. Additionally, if peddling or hawking from a motor vehicle, he/she shall keep two lidded garbage cans, one for regular trash and one for recyclables, which shall be emptied at the end of each day.

C. Not stand or permit the vehicle used by him to stand in one (1) place for more than ten (10) minutes nor in front of any premises or business establishment if the owner, occupant or lessee objects.

D. Not sell any confectionery or ice cream within two hundred fifty (250) feet of any day school between the hours of 8:00 a.m. and 4:00 p.m. on school days.

E. Not blow a horn, ring a bell or use any other noise or device to attract public attention to his wares, nor shout or cry out his wares; except that peddlers of ice cream and ice cream products for immediate consumption are exempted from the foregoing prohibition of the use of a bell.

F. Not permit any vehicle used by him to stop for any length of time so as to block or endanger vehicular or pedestrian traffic or to block a crosswalk.

G. Not create or maintain a booth or stand, nor place barrels, boxes 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 engage in peddling or soliciting before the hour of 9:00 a.m. of any day, or after sunset of any day, or after the hour of 7:00 p.m. of any day, whichever occurs first..

I. Not enter any dwelling or residence without first obtaining the consent of an adult occupant to do so.

J. Not stand, hawk, peddle or solicit, or solicit funds, on or near the premises of any business establishment, shopping center or mall without the written consent of the owner or individual, agency or organization responsible for the management and/or operation of the same.

K. Not solicit funds, money or merchandise in lieu of funds without first obtaining endorsement or approval in writing, to be filed with the Town Clerk, from the Better Business Bureau, Chamber of Commerce, Human Resources Commission, United Fund or some similar established agency coordinating and approving fund-raising drives. The approval should attest to the bona fide nature of the fund-raising drive and the purpose for which funds are to be collected or pledged.

L. Not peddle, solicit or canvass on private or public property which has displayed a sign bearing the words "No Peddling, Soliciting or Canvassing" or words of the like intent, nor shall any peddler, solicitor or canvasser remain on the premises after the owner or occupant thereof request his/her departure therefor,

#### **§ 121-9. Entering upon private property.**

To protect the residents of the Town of Patterson and visitors to the town from harassment, intimidation and endangerment to life and property, it shall be unlawful for any person to enter upon any private residential property for the purpose of hawking, peddling or soliciting without the consent of an adult occupant of the premises previously given.

#### **§ 121-10. Written orders; warranties.**

A. All orders taken by licensed solicitors who demand, accept or receive payment or deposit of money in advance of final delivery shall be in writing, in duplicate, stating the terms thereof and the amount paid in advance of final delivery. One (1) copy of the order so written shall be given the purchaser at the time the deposit of money is paid the solicitor.

B. For all sales, whether partial or final, for wares, etc., immediately delivered or promised for future delivery and containing a warranty or guaranty, such warranty and/or guaranty should be in writing and expressly spelled out.

#### **§ 121-11. Magazine subscription solicitors; licensing.**

A. No licensed or unlicensed hawker, peddler or solicitor for the sale of, or sale of subscriptions to, magazines or other periodicals, except newspapers of general circulation, shall visit a private residence for such purpose unless previously invited by the owner or occupant thereof

B. The license for hawkers, peddlers or solicitors of magazines or other periodicals, except

newspapers of general circulation, shall be signed by the Town Clerk.

**§ 121-12. 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 chapter, 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 expiration or revocation of all licenses.

**§ 121-13. Penalties for offenses.**

Any person who, himself or by his clerk or employee, shall act as a hawker, peddler or solicitor, or solicitor of funds, as defined herein, without a license, or who shall violate any provision of this chapter, or who upon having had his license revoked shall continue to act as a hawker, peddler or solicitor, or solicitor of funds, shall, upon trial and conviction, be guilty of a violation punishable by a fine not exceeding two hundred fifty dollars (\$250.) or imprisonment for not more than fifteen (15) days, or both; and each day on which such violation continues shall constitute a separate offense.