

CHAPTER 40

PEDDLERS, SOLICITORS AND ITINERANT VENDORS

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SECTION 40-1. LICENSE REQUIRED.

It shall be unlawful for any person to engage in a business, occupation or activity (hereinafter collectively referred to as “vending: or “to vent”) of vendor, hawker, peddler, salesman, canvasser or solicitor of goods, wares and merchandise as buyer or seller (hereinafter called “vendor” or “vendors”) in the public streets and places and from door to door within the corporate limits of the Village, without first applying for and securing a license hereinafter called a “vendor’s license,” as hereinafter provided.

SECTION 40-2. DEFINITIONS.

VENDOR, HAWKER AND PEDDLER-As used in this Chapter shall mean and include, except as hereinafter expressly provided, any person, either principal or agent who, from any boat or car, on a railroad track or on any public street or public place or by going from house to house on foot, or from any animal or vehicle, sells or barter, offers for sale or barter, or carries or exposes for sale or barter any goods, wares or merchandise.

SOLICITOR-As used in this Chapter shall mean and include 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 or merchandise, or for service to be performed in the future, for laundering or dry cleaning or for making, manufacturing or repairing any article or thing whatsoever for future delivery.

PERSON-As used in the Chapter shall mean and include one (1) or more persons of either sex, natural persons, corporations, partnerships, associations, general stock companies, societies and all other entities of any kind capable of being sued. Each natural person employed as a vendor or solicitor is required to apply for and obtain a license.

PUBLIC PLACE-A place other than private property.

ITINERANT VENDOR-For the purposes of this section, the term "itinerant vendor" shall mean a merchant, other than a merchant with an established retail store, who transports to a building, vacant lot, or other location, including a location where a fee is charged for the privilege of offering or displaying goods for sale and/or where a fee is charged to prospective buyers for admission to the area where goods are offered or displayed for sale, an inventory of goods for the purpose of offering or displaying such goods for sale, but shall not include persons who sell by sample, catalog or brochure for future delivery, or who make sale presentations pursuant to a prior invitation issued by the owner or legal occupant. This article shall not be construed to pre-empt any municipality from adopting a local law, rules or regulations containing more stringent penalties than those provided in this article.

SECTION 40-3. APPLICATION REQUIREMENTS.

An applicant for a license shall execute an application form at the office of the Village Clerk, which application form shall require the following:

- A. Applicant's name, home, business and local address, if any.
- B. A physical description of the applicant, setting forth the applicant's age, sex, height, weight, complexion, color of hair and eyes, and any other distinguishing physical characteristics or photo identification such as license or passport
- C. The name and address or local principal office of the person, firm, organization or corporation, if any, for or through whom or under whose auspices the applicant is authorized to conduct such activity; if a partnership, the names and addresses of the partners; if a corporation, the names and addresses of the president, vice-president; secretary, and treasurer; or a statement that the applicant is engaged in such activity solely on his own behalf.
- D. A brief description of the type or types of articles or services for which sales, purchases or orders are to be solicited.
- E. A statement as to the approximate amount to be collected by the applicant and whether in full or partial payment.
- F. The length of time during which the applicant intends to remain in the Village of Arcade for the purpose of engaging in such activity.
- G. A statement whether any license similar to or like that provided for in this Ordinance was issued or denied to the applicant within the current or prior calendar year; whether in Arcade or elsewhere and, if issued, whether such license had been revoked, setting forth the reasons for such revocation.
- H. A statement as whether the applicant has been arrested or convicted of a felony, misdemeanor or local law violation and, if so, the place where, the nature of the offense and punishment or penalty assessed therefore, or if the matter is pending.

I. The exact location where the applicant proposes to sell such merchandise and the time during which said business is to be conducted. Property owner's name and contact information.

Credentials from the person, firm or corporation for which the applicant proposes to do business, authorizing the applicant to act as such representative.

Applications must be received 7 business days prior to the first date of business and will be issued or denied no later than 5 business days from the receipt of the completed application.

SECTION 40-4. SUBMITTING IDENTIFICATION.

The applicant at the time of executing such application shall also submit identification satisfactory to the Police Department which shall contain a specimen of the applicant's signature.

SECTION 40-5. ISSUING OF LICENSES.

The license fee by each applicant shall be listed in the Village of Arcade Fee Schedule. The license hereunder shall be issued by the licensing officer for a term expiring December 31st of the year in which it is issued to such persons as the licensing officer shall deem fit and proper for such trade or occupation, after such investigation as the licensing officer deems necessary for the public good. Any applicant who shall have been refused a license by the licensing officer may apply to the Village Board of Trustees therefore for a meeting thereof, and the same may be granted or refused by the Board.

SECTION 40-6. SUSPENSION OF LICENSES.

The licensing officer may suspend any such license for any reported violation of this ordinance or other sufficient cause shown until the next meeting of the Board of Trustees and thereupon the said license may be revoked or continued by the Board. Written notice of such suspension, together with the grounds thereof, and of the Board meeting, shall be given to the licensed person by delivering to him in person or by mailing the same by registered mail addressed to his local address, if any, and if none given in his application, then to his home or business address. At such Board meeting the licensee shall have an opportunity to be heard. In the event that the license is revoked there shall be no return of the license fee.

SECTION 40-7. ASSIGNMENT OF LICENSES.

The license herein provided for is not assignable. It may be renewed at its expiration only upon the execution and approval of a new application.

SECTION 40-8. LICENSE REQUIREMENTS.

A. The vendor shall have such license in his possession at all times and shall exhibit the same at any time upon demand by any police officer, village official or the person approached by any vendor.

B. A vendor shall not conduct activities in such manner as will interfere with the pedestrian or vehicular use of the public streets and places.

C. He shall not directly or indirectly cause or permit the public streets and places to be littered with papers, wrappings or other debris or refuse.

D. He shall not enter any house or building where there is posted on the front of the building or premises a written notice stating that vendors are not desired, unless the vendor has received the prior consent of the occupant thereof.

E. He shall make no false statements or misrepresentations in the course of his activities and shall conduct himself at all times in an orderly and lawful manner.

F. He shall not use any sound device, other than a bell or horn, the sound of which shall not be of such volume as to be disturbing or offensive to the public or shout or cry out for the purpose of attracting attention to his wares or giving notice of his approach.

G. He shall not sell any confectionary or ice cream within two hundred fifty (250) feet of any school property line between the hours of 8:00 AM and 4:00 PM on school days, except as permitted by the school authorities as to time and place.

H. The vendor shall conduct activities between the hours of 9:00 AM and 7:00 PM, Monday through Friday

I. The fee shall be set forth in the Village of Arcade Fee Schedule. Fee includes one sign not to exceed 12 square feet or signage on truck, trailer or auto. Signs may not be affixed to any utility or municipal sign pole or post already erected. **If additional signs are required a zoning compliance permit must be obtained.**

SECTION 40-9. WEIGHING REQUIREMENTS.

Any vendor carrying, keeping or using scales, measures or other appliances for weighing or measuring shall first have the same inspected by the Sealer of Weights and Measures, and if the latter shall find such appliances correct and true he shall issue his certificate to that effect and such certificate shall be affixed thereto in a conspicuous place. A vendor shall not carry, keep for use or use any such appliances, which shall not be correct and true and do not record and give the weight and quantity claimed by said vendor.

SECTION 40-10. EXEMPTIONS.

The following transactions shall be exempted from the provisions of this ordinance, and no application for license shall be required in the following cases:

A. An honorable discharged member of the Armed Forces of the United States who is disabled as a result of injuries received while in the service of said Armed Forces.

B. A veteran of the Armed Forces of the United States and a widow of any such veteran who shall have obtained a license from the County Clerk pursuant to the provisions of the General Business Law of the State of New York. However, such person must present the license issued by the County Clerk to the village license without payment of any fee. Such person shall otherwise be subject to the requirements of the Chapter.

C. Vendors of meats, fish, fruit, and farm produce by farmers and persons who produce such commodities.

D. Salesmen calling on and selling directly to governmental, business and commercial establishments.

E. Salesmen duly licensed by the State of New York while engaged in the activity for which they are licensed.

F. Minors eighteen (18) years of age or under engaged in providing such services as snow shoveling, grass cutting, leaf raking, lawn clearing and other similar home services, as an independent contractor.

G. Solicitations, sales or offers on behalf of a society, association or corporation, organized and operated exclusively for charitable, educational, civic, patriotic, benevolent, religious, philanthropic purposes and not for pecuniary benefit, no part of the net earnings of which inure to the benefit of any private shareholder or individual, when such solicitation, sale or offer is carried out on behalf of such society, association or corporation by volunteers or persons employed on an annual basis for fixed wage or salary.

H. Solicitations at the regularly appointed meetings or services in the regular place of worship or exercises of any church, religious society, lodge, benevolent order or fraternity. Labor union, veteran's organization or political party, Fire Company, or any branch thereof.

I. Sales conducted pursuant to statute or order of any court.

J. Persons having an established place of business within the village or their employees soliciting orders from customers and delivering the same.

K. Organized Community Farmers Markets approved by the Arcade Village Board conducted on a regular basis on specific dates and times

L. Any person selling personal property at a garage sale held at his/her residence.

SECTION 40-11. VIOLATION AND PENALTY.

A violation of the Section shall constitute disorderly conduct and a person violating this ordinance shall be and hereby is declared a disorderly person subject to arrest, prosecution and punishment, as provided by paragraph 338 of the Village Law. The

penalty for each violation of this Chapter shall be and is hereby fixed at not less than \$25.00 no more than \$100.00.

SECTION 40-12. OTHER VENDING LICENSES.

The Village Clerk shall act as the licensing authority for the Village and may issue any license required, upon proper application, by State Law to be issued for any commercial venture with the Village required to be licensed, including licenses for “Going Out of Business Sales” pursuant to Article 29-E of the General Business Law.

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