

Article D - Peddling, Soliciting & Itinerant Merchants

§ 6-1041. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Itinerant merchant means any person who engages in a temporary business for the retail sale of goods, wares, or merchandise for less than six consecutive months at a single location, whether such person proposes to conduct such business from a truck, a cart, or other vehicle or mobile platform on non-residential property located in the municipality, or who hires, rents, leases or is given permission to occupy any premises, room, building, hotel, rooming house, structure or motor vehicle of any kind for the purpose of selling and delivering goods.

Peddler and/or *solicitor* means any person engaging temporarily in the retail sale of goods, wares or merchandise within the Town from place to place, house to house, transporting goods whether by foot or by other means of transportation, including soliciting orders for goods or services or distributing, disseminating or gathering information by written or spoken word upon the streets and sidewalks of the Town.

Person means an individual, a firm, an association, a partnership, a limited liability company, a corporation or another group acting as a unit.

Seasonal sales mean any person participating in a specific type of itinerant merchant sales, specifically for items typically related to the season or holiday and for a temporary period of time, including but not limited to Christmas tree and fireworks sales.

Solicitor means any person who travels from place to place taking or offering to take orders for the sale of goods for future delivery or for personal services to be performed in the future, whether or not samples are displayed or money is collected in advance, and any person who uses or occupies any building or premises for the sole purpose of taking or offering to take orders for the sale of goods for future delivery or for personal services to be performed in the future, whether or not samples are displayed or money is collected in advance.

(Code 1977, § 6-1041; Ord. No. M-03-03, 4-7-2003; Ord. No. M-13-07.1, § 6-1041, 8-5-2013)

§ 6-1042. - Permit required for peddling & soliciting.

(a) No person shall conduct any business within the Town by solicitation or as a peddler until such person has obtained a permit in accordance with this chapter and has paid an administrative fee to the Town for processing of the permit, in accordance with the Town's adopted fee schedule.

(b) No person shall conduct any business within the Town by solicitation or as an itinerant merchant or peddler unless:

(1) Such activity occurs between the hours of 9:00 a.m. and 8:00 p.m.

(2) The commercial solicitation permit is carried at all times by the permittee when engaged in the activity and is displayed when requested by any police officer or person solicited.

(3) All other permits or licenses required by law have been obtained.

(4) The above exceptions shall not be allowed on Town property except for Town-sponsored events and upon invitation of the Town. Town property includes, but is not limited to, sidewalks, parking lots, streets, parks or any other Town-owned or controlled property.

(c) Nothing herein shall prevent a property owner, Homeowners Association or other similar organization from posting their privately-owned property to prevent peddling and solicitation. Such posting shall be given full force and effect and shall supersede the application of this article as to the subject property so posted.

(Code 1977, § 6-1042; Ord. No. M-03-03, 4-7-2003; Ord. No. M-13-07.1, § 6-1042, 8-5-2013)

§ 6-1043. - Permit application.

(a) Applications for soliciting or peddling permits under this article shall be submitted to the Police Department during normal business hours (Monday through Friday, 9:00 a.m. to 5:00 p.m.) on a form provided by the Police Department, under oath, and shall include, but not be limited to, the following information:

(1) The full name of the applicant.

(2) The permanent residence address of the applicant.

(3) The applicant's temporary address in or in the vicinity of the Town, if applicable.

(4) The name and address of the applicant's employer or the organization with which the applicant is associated in connection with the activity.

(5) The types of goods, wares, merchandise, food periodicals or services to be sold, offered for sale, displayed or delivered.

(6) The period for which the application is sought, which shall not exceed one year from the date of issuance of the permit, except that permits may be renewed in accordance with [section 6-1045](#).

(7) A record of all crimes of which the applicant has been convicted or has pleaded no contest in the ten years preceding the submittal of the application.

(8) The age and height of the applicant and any other additional information which the Town may reasonably require for identification, including a copy of the documents used by the applicant to verify personal identification (e.g., driver's license, passport, picture I.D.).

(9) A complete listing of and information concerning all other permits or licenses, such as business licenses, which were obtained by the applicant.

(b) If an application is filed by an employer, there shall also be filed separate applications for each individual engaging in the activity, giving the information set forth above for each such individual and signed and sworn to by each such individual, and a separate permit shall be issued for each such individual.

(c) Applications for itinerant merchant permits under this article shall be submitted to the Planning Department during normal business hours on a form provided by the Planning Department and shall include all required information. In some cases, additional information may be required to review such permit applications.

(Ord. No. M-13-07.1, § 6-1042.1, 8-5-2013)

§ 6-1044. - Procedures for considering application.

(a) Upon receipt of a complete peddler or solicitation application, the Police Chief or designee shall make such investigation as is reasonably necessary to verify the information in the application and to ensure compliance with the provisions of this chapter and shall issue a permit unless the applicant:

(1) Has not submitted a complete application, along with the administrative fee for the permit;

(2) Is not permitted by law to engage in the activity due to age;

(3) Has been convicted of, or has pleaded no contest to, a felony charge within the ten years preceding the submittal of the application;

(4) Has been, within the previous five years, convicted of, or pleaded no contest to, a misdemeanor charge under G.S. 66-257, or a misdemeanor charge involving theft, fraud, forging, uttering or other crimes of like nature or any crime involving moral turpitude;

(5) Does not have valid driving privileges in the State in those cases where the applicant will be operating a vehicle in the course and scope of the commercial solicitation; or

(6) Has not obtained the necessary licenses.

(b) The Police Chief shall have up to 72 hours to approve or deny an application and issue a permit.

(c) Upon receipt of a complete itinerant merchant application, the Planning Department shall make such investigation as is reasonably necessary to verify the information in the application and to ensure

compliance with the provisions of this chapter and shall issue a permit unless the applicant fails to comply.

(d) The Planning Department shall have up to three business days to approve or deny an application and issue a permit.

(Ord. No. M-13-07.1, § 6-1042.2, 8-5-2013)

§ 6-1045. - Permit renewals.

Permits issued under the provisions of this chapter shall be renewed by following the procedures in [section 6-1043](#).

(Ord. No. M-13-07.1, § 6-1042.3, 8-5-2013)

§ 6-1046. - Appeals.

The appeal of a refusal to issue or the revocation of a permit shall be made to the Town Manager by filing a written notice of appeal, specifying with particularity the grounds upon which the appeal is made, no later than ten days from the date of the refusal to issue a permit or the revocation of a permit. The Town Manager shall fix a reasonable time for the hearing of the appeal, shall give due notice to all parties and shall render a decision within a reasonable time. The order or decision of the Town Manager shall be final municipal action for the purpose of judicial review.

(Ord. No. M-13-07.1, § 6-1042.4, 8-5-2013)

§ 6-1047. - Revocation of permit.

Permits issued under this chapter may be revoked by the Town, after notice and hearing, for any of the following causes:

- (1) Any fraud, misrepresentation or false statement contained in the application for the permit.
- (2) Any fraud, misrepresentation or false statement made in connection with the selling of goods, wares, merchandise and services.
- (3) Any violation of this Code and/or other ordinance of the Town.
- (4) Conduction the activity under this Code and/or any ordinance of the Town in an unlawful manner or in such a manner as to constitute a breach of the peace or to constitute a menace to the health, safety, morals or general welfare of the public.
- (5) Where evidence is presented, it is shown that the applicant has been arrested for a felony or a misdemeanor under G.S. 66-257 or a misdemeanor involving theft, fraud, forgery, moral turpitude, criminal trespass or a threat to the public safety during the permit period or has otherwise violated the provisions of this chapter.

(Ord. No. M-13-07.1, § 6-1042.5, 8-5-2013)

§ 6-1048. - Exemptions.

The following are exempt from the provisions of this chapter:

- (1) The delivery of goods or services which have been ordered before delivery.
- (2) The circulation of petitions for signature or lawful distribution of advertising materials, flyers or materials expressing views on political, social or religious matters.
- (3) The lawful promotion or expression of views concerning political, social, religious and other like matters.
- (4) The selling or offering for sale of goods, wares, merchandise, food, periodicals or services by bona fide members or representatives of charitable, religious, civic, educational or fraternal organizations, and who receive no compensation of any kind for their services, and such sale or offering by children under the age of 18 years who are students in a public or private school for school activities.
- (5) The solicitation of contributions or pledges thereof for bona fide nonprofit organizations.
- (6) The selling or delivery of goods to business establishments.
- (7) The selling of an individual's household personal property at a yard sale on the premises of the individual's residence, where in compliance with the Town Code of Ordinances.

(Ord. No. M-13-07.1, § 6-1042.6, 8-5-2013)

§ 6-1049. - Itinerant merchants.

Itinerant merchants shall be permitted under the following conditions:

- (1) *Food vendors and seasonal merchants.*
 - a. Shall apply for a permit and all applicable fees paid prior to operation of such business.
 - b. Shall be allowed only on premises owned or controlled by the itinerant merchant or with the written permission of the property owner.
 - c. Shall be allowed only on commercially zoned locations.
 - d. Shall not impede vehicular or foot traffic.
 - e. Shall not occupy designated parking spaces.
 - f. Shall not be allowed on Town property except for Town-sponsored events and upon invitation of the Town or events approved by the Town, provided that specific authorization for such vendors and/or merchants is granted by the Town Board for the approved event. Town property includes, but

is not limited to, sidewalks; parking lots, streets, parks or any other Town owned or controlled property.

g. Shall comply with the Town's sign regulations.

(2) Food and beverage vendors; additional requirements.

a. Must be a non-motorized, non-permanent, push-type or pull-type cart.

b. Shall not occupy more than 100 square feet of designated area for the itinerant use and appurtenances.

c. Shall not be allowed closer than 500 feet from another vendor. This requirement does not apply to events sponsored or approved by the Town for approved events having been granted authorization for such vendors and merchants, as described in subsection (1) of this section.

d. Health Department approval must be furnished prior to receiving a permit from the Town.

(3) Seasonal merchants; additional requirements.

a. Shall be limited to one sales event per calendar year.

b. Shall not operate for more than 30 days during the one event. This shall include set-up and takedown time.

c. Prior to opening for business, all temporary structures associated with the business must be inspected and approved by appropriate Town staff, and all applicable fees must be paid.

(Code 1977, § 6-1043; Ord. No. M-03-03, 4-7-2003; Ord. No. M-04-07, 12-6-2004; Ord. No. M-13-07.1, § 6-1043, 8-5-2013)

§ 6-1050. - Peddling & soliciting.

(a) No person shall stand or loiter in the main traveled portion, including the shoulders and median, of any Town or State highway or street, or stop any motor vehicle for the purpose of soliciting employment, business or contributions from the driver or occupant of any motor vehicle that impedes the normal movement of traffic on the public highways or streets, provided that the provisions of this section shall not apply to licenses, employees or contractors of the Department of Transportation or of any municipality engaged in construction or maintenance or in making traffic or engineering surveys.

(b) No person shall conduct any business as an itinerant merchant or peddler within 20 feet of any right-of-way in the Town.

(Ord. No. M-13-07.1, § 6-1044, 8-5-2013)

§ 6-1051. - Penalty.

Commercial solicitation without a permit or otherwise in violation of any of the provisions of this chapter, including failing to surrender a revoked permit, shall constitute a criminal misdemeanor and shall subject the offender to a fine of not more than \$500.00 or imprisonment for not more than 30 days.

(Ord. No. M-13-07.1, § 6-1045, 8-5-2013)