

ARTICLE III. PEDDLERS AND TRANSIENT MERCHANTS*

*State law references: Peddlers, solicitors, etc., G.S. 160A-178; peddlers, itinerant merchants, and specialty markets, G.S. 66-250 et seq.

Sec. 8-44. 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:

Peddler means any person who goes from house to house, or place to place, selling or taking orders for the sale of goods, wares, merchandise, books, magazines, periodicals, educational or commercial plans and/or any type of tangible or intangible personal property requiring the present or future monetary payment. This shall include all persons whether acting for himself or as an agent for any other person.

Transient merchant means any person, acting for himself or as agent for another person, who attempts to engage in any of the acts set out in the definition of the term "peddler" by doing so as a temporary business only and operating such business out of any motor vehicle, trailer, rolling equipment, tents, railroad box cars or any other structure, vehicle or equipment, if the tenure of such business is intended to be temporary only.

(Ord. No. 3-78, § 1, 3-11-1978)

Sec. 8-45. License required.

It is unlawful for any peddler, or transient merchant to engage in any such business within the town without first obtaining a license therefor in compliance with the provisions of this article.(Ord. No. 3-78, § 2, 3-11-1978)

Sec. 8-46. Application; contents.

Applicants for a license under this article shall file with the town clerk a sworn application in writing on a form to be furnished by the town clerk which shall give the following information:

- (1) Name and description of applicant;
- (2) Complete permanent and local address of the applicant and, in the case of the transient merchants, the local address from which proposed sales will be made;
- (3) A brief description of the nature of the business and the goods to be sold;
- (4) If employed, the name and address of the employer, together with credentials therefrom establishing the exact relationship;
- (5) The length of time for which the right to do business is desired;
- (6) The source of supply of the goods or property proposed to be sold, or orders taken for the sale thereof, where such goods or products are located at the time said application is filed, and the proposed method of delivery;
- (7) A valid driver's license, state-issued identification card, or other evidence of identification which the town clerk shall reasonably require for proof of identity;
- (8) A statement as to whether or not the applicant has been convicted of any crime, misdemeanor, or violation of any municipal ordinance, the nature of the offense and the punishment or penalty assessed therefor;
- (9) The last cities or towns, not to exceed three, where the applicant carried on business immediately preceding date of application and the address from which such business was conducted in those municipalities; and
- (10) At the time of filing the application, a fee of up to \$25.00 may be required of the applicant by the town clerk to cover the cost of investigation of the applicant prior to issuing or denying a license. This fee is only intended to cover actual expenses incurred or to be incurred by the town therein but shall not include anything for services rendered by a solicited employee of the town. The town clerk shall complete his investigation within a reasonable time after application has been filed. Upon the completion thereof, he shall issue a license upon payment of the license fee as set out below or shall deny the issuance of such a license with an explanation to the applicant of the reasons for such denial. Any unused investigation fee shall be returned in full to the applicant.(Ord. No. 3-78, § 3, 3-11-1978)

Sec. 8-47. Exemptions.

(a) *Business exemptions.* This article shall not apply to wholesale or retail dealers with established businesses (which are not itinerate) who deliver items purchased in the regular course of business, and to nonitinerate businesses which establish regular routes for the delivery of newspapers, milk, or other commodities in the normal course of business operations.

(b) *Other exemptions.* This article shall not apply to religious, charitable or other organizations organized and operating as nonprofit groups. Unless the town clerk has personal knowledge of the exempt qualifications of an applicant, he shall require the applicant to provide reasonable proof of its exempt status as provided in this article.

(c) *Permit required.* Before engaging in canvassing or solicitation of funds or the sale of any goods or merchandise, any organization claiming to be exempt from the license provisions of this article, shall apply to the town clerk for a permit to engage in any of these activities and in such application shall furnish to the town clerk the following information:

- (1) Name and purpose of the cause for which the permit is sought;
- (2) Names and addresses of the officers of the organization;
- (3) Period during which solicitation is to be carried on;
- (4) Whether or not any commission, fees, wages or emoluments are to be expended in connection with such solicitation and the amount thereof.

(Ord. No. 3-78, § 4, 3-11-1978)

Sec. 8-48. Bond.

(a) Every nonexempt applicant who is not a resident of the county, owns no real property in the state, or represents a firm that owns no real property in the state, shall furnish to the town clerk a cash bond or an acceptable surety bond as a condition precedent to obtaining a license. However, no bond shall be required for less than \$100.00 or more than \$1,000.00. All bonds shall be payable to the town and/or any person establishing a valid claim against the licensee in any court of law obtaining jurisdiction of the parties, provided that such claim shall have arisen from or been caused by any of the activities for which this license shall have issued. All cash bonds shall expire 60 days after the license period ends and thereafter shall be immediately refunded to the former licensee. All surety bonds shall expire 12 months after the license expires. The purpose of these bonds is to protect the town, its residents or visitors from losses they might suffer from licensed activities and have no way of obtaining legal jurisdiction of the guilty party or parties in order to recover such loss.

(b) The bond required in this section is not intended to unreasonably impede with interstate commerce. This provision is intended for a reasonable exercise of the town's police powers to protect the general welfare of its town and residents. (Ord. No. 3-78, § 5, 3-11-1978)

Sec. 8-49. License fees.

(a) No license shall be issued until a license fee has been paid. A license fee of \$25.00 shall be charged for any peddler and a license fee of \$50.00 shall be charged for any transient merchant.

(b) Any licensee may apply for a renewal or an extension of the license period without submitting a new application, upon payment of the license fee for the extended period of time to the town clerk and provided that the licensee has not violated any ordinances of the town or any state or federal law.

(c) All license fees shall be paid in full at the beginning of the license period. No license shall be issued at any one time for longer than 12 months.

(d) The annual fees herein provided shall be assessed on a calendar-year basis and on or after July 1, the amount of such fee for an annual license shall be one-half the amount stipulated in subsection (a) of this section for the remainder of the year. (Ord. No. 3-78, § 6, 3-11-1978; Ord. No. 6-97, 10-2-1997)

Sec. 8-50. Loud noises and speaking devices.

No licensee, nor any person in his behalf, shall shout, cry out, blow a horn, ring a bell or use any sound amplifying device upon any of the streets, alleys, parks or other public places of the town or upon private premises where sound of sufficient volume is emitted or produced therefrom that is capable of being plainly heard upon the streets, avenues, alleys, parks, or other public places, for the purpose of attracting attention to any goods, wares or merchandise which such licensee proposes to sell. (Ord. No. 3-78, § 7, 3-11-1978)

Sec. 8-51. Use of streets.

No licensee shall have any exclusive right to any location in the public streets, nor shall any be permitted a stationary location thereon, nor shall any be permitted to operate in a congested area where such operation might impede or inconvenience the public use of such streets. For the purpose of this article, the judgment of a police officer shall determine if congested and the public impeded or inconvenienced. (Ord. No. 3-78, § 8, 3-11-1978)

Sec. 8-52. Exhibition of license.

Licensees are required to exhibit their certificate of license at the request of any citizen. (Ord. No. 3-78, § 9, 3-11-1978)

Sec. 8-53. Duty of police to enforce article provisions.

It shall be the duty of the town administrator to enforce the provisions of this article by issuing licenses, collecting fee, investigating applicants and requiring peddlers and transient merchants to produce and display their licenses and to otherwise enforce and administer this article. The police of the town shall also be empowered to have peddlers or transient merchants produce their licenses and enforce this article. The town administrator shall refer any violations of this article to the town police department for any criminal charge. (Ord. No. 3-78, § 10, 3-11-1978; Ord. No. 6-97, 10-2-1997)

Sec. 8-54. Records.

The chief of police shall report to the town clerk all convictions for violation of this article and the town clerk shall maintain a record for each license issued and record the reports of violation therein. (Ord. No. 3-78, § 11, 3-11-1978)

Sec. 8-55. Appeal from denial of permit or license.

Such appeal shall be taken by filing with the board a written statement setting forth the grounds for appeal. This written statement of appeal must be filed with the town clerk on behalf of the board within ten days from the denial of each permit or license. The mayor or mayor pro tem shall, within three days after notice of appeal has been filed, set a time and place for a hearing thereon before the board, which hearing shall take place not later than 21 days thereafter. At such hearing, the board shall receive evidence from the applicant in support of the appeal and from the town clerk in support of his denial of a license or permit. After hearing all of the evidence, the board shall make a final decision to authorize the license or permit or to deny the same. (Ord. No. 3-78, § 12, 3-11-1978)

Sec. 8-56. Revocation of license.

Licenses issued under the provisions of this article may be revoked temporarily by the town clerk and this action shall be rescinded or confirmed by the board within ten days thereafter or at its next regularly scheduled meeting, whichever shall occur the sooner. At least three days notification of such hearing shall be furnished the licensee prior to such hearing. Grounds for summary revocation by the town clerk shall be confined to the following:

- (1) Fraud, misrepresentation, or incorrect statement contained in the application for license;
- (2) Fraud, misrepresentation or incorrect statement made in the course of carrying on his business as solicitor, canvasser, peddler, transient merchant, itinerate merchant or itinerate vendor;
- (3) Any violation of the provisions of this article;
- (4) Conviction of any crime or misdemeanor;
- (5) Conducting the business of peddler, canvasser, solicitor, transient merchant, itinerate merchant, or itinerate vendor, as the case may be, 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, or general welfare of the public.

At such hearing, the board shall hear all pertinent evidence from the town clerk and the licensee in connection with such revocation and shall reinstate such license or permanently revoke the same. (Ord. No. 3-78, § 13, 3-11-1978)

Sec. 8-57. Reapplication.

No licensee whose license has been revoked shall make further application until at least six months have elapsed since the last previous revocation.

(Ord. No. 3-78, § 14, 3-11-1978)

Sec. 8-58. Expiration of license.

All annual licenses issued under the provisions of this article shall expire at midnight, December 31 in the year when issued. Licenses, other than annual licenses, shall expire at midnight on the date specified in the license. (Ord. No. 3-78, § 15, 3-11-1978)

Sec. 8-59. Penalty.

Any person who violates any provision of this article shall be guilty of a class 3 misdemeanor and upon conviction thereof shall be punished by a fine not exceeding \$500.00 or by imprisonment for a period not exceeding 30 days. (Ord. No. 3-78, § 16, 3-11-1978; Ord. No. 6-97, 10-2-1997)