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Chapter 179: Peddling, Soliciting, Transient Businesses and Mobile Food Vending

[HISTORY: Adopted by the Town Board of the Town of Cheektowaga 10-21-1985 as Ch. 51 of the 1985 Code, amended in its entirety by L. L. No 2017 - _____. Subsequent amendments noted where applicable.]

GENERAL REFERENCES

Noise — See Ch. 166

Zoning — See Ch. 260

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§ 179-1 Purpose.

The purpose of this chapter is to promote and protect the health, safety and general welfare of the community, and the preservation and protection of property of the Town of Cheektowaga and its residents.

§ 179-2 Definitions.

The following words and phrases shall have the meanings set forth unless the context of their use clearly indicates otherwise:

APPLICANT

Any person by or for whom an application is made under this chapter.

CHARITABLE ORGANIZATION

- A. Any benevolent, philanthropic, patriotic, military veterans, not-for-profit, educational or religious association, society or other organization or any other association, society or organization qualified as a tax-exempt organization under Section 501 of the Internal Revenue Code.
- B. Any governmental entity or organization, including, without limitation, a school district, fire district and fire company.

MOBILE FOOD VEHICLE

A self-contained mobile food unit in which ready-to-eat food is prepared, cooked, wrapped, packaged, processed or portioned for service, sale, or distribution.

MOBILE FOOD VENDOR

The owner or owner's agent of a mobile food vehicle.

PEDDLER

A person who engages in peddling.

PEDDLING

- A. Selling or offering for sale, barter or exchange any property or service, either for immediate or future delivery or performance upon any street, road or highway or from house to house in the Town, and including, without limitation, activities commonly known as "hawking."
- B. Delivery or distribution of advertising matter, literature, pamphlets, samples or handbills house to house or on any of the streets, roads or highways or by going from place to place in the Town, but not including the delivery or distribution of newspapers, magazines or political or religious materials.

PERSON

A natural person, corporation, partnership, association, joint venture, society or other organization or association of any kind, whether acting as principal, agent, employer or employee.

PROPERTY

Any goods, wares, merchandise or other article or thing of every kind or nature except newspapers.

SOLICITING

- A. Seeking, taking or offering contracts or orders for any property for future sale or delivery or performance of any service upon any street, road or highway or from house to house in the Town.
- B. Seeking or taking subscriptions or contributions of money or property, upon any street, road or highway or from house to house in the Town.

SOLICITOR

A person who engages in soliciting.

TOWN

The Town of Cheektowaga outside the Villages of Depew and Sloan.

TRANSIENT BUSINESS

A retail or wholesale business, other than a mobile food vehicle vendor (as regulated separately in this Local Law), conducted from a temporary structure or tent, truck, van or trailer, stand, parking lot or vacant parcel of land, in a public right-of-way or in or on any other place in the Town, but not (1) outdoor sales of property or services accessory to a business conducted within a permanent structure on a same premises or (2) the sale of food products raised or produced on the same premises from a temporary or seasonal stand, provided that the principal structure or activities otherwise comply with the zoning and other ordinances of the Town.

§ 179-3 Permit or registration required.

- A. No person shall engage in peddling, soliciting, mobile food vehicle vending or a transient business without first obtaining a permit or registering or both as required by this chapter.
- B. No motor vehicle shall be used for peddling, mobile food vehicle vending or conducting a transient business unless a permit shall first have been obtained, which permit shall at all times be displayed in a conspicuous location that is visible from the outside of the vehicle.

§ 179-4 Exemptions.

No permit under this chapter shall be required:

- A. By any charitable organization or its agents or employees or veterans licensed pursuant to General Business Law § 32.

- B. By any business, service or activity licensed under any other ordinance or law of the Town of Cheektowaga
- C. For lawn cutting, leaf raking and snow shoveling services for residential property.
- D. By political parties and candidates for public office.
- E. For peddlers and solicitors not over sixteen (16) years old.

§ 179-5 Requirements for charitable organizations.

No charitable organization shall engage in soliciting before it files with the Town Clerk a list of the names, addresses and dates of birth of the persons who will conduct the activity on its behalf and a statement of the time period during which the solicitations shall occur. The Clerk shall provide a copy of the list to the Police Department. No person shall engage in soliciting on behalf of a charitable organization until this information has been provided to the Town Clerk.

§ 179-6 Hours.

No peddling, soliciting or transient business activities, whether or not exempt from the permit requirements of this chapter, shall be conducted before 9:00 a.m. or after 8:00 p.m. Mobile food vending shall not be conducted before 9:00 a.m. or after 8:00 p.m. on a residential property except for the following:

- A. When the mobile food truck and vending activities are not located within the required front yard as defined by the Zoning Ordinance of the Town of Cheektowaga (Chapter 260 of the Code of the Town of Cheektowaga), the allowable hours of operation shall be from 9:00 a.m. to 11:00 p.m.

Mobile food vending shall not be conducted before 7:00 a.m. or after 11:00 p.m. on a non-residential property or in a right-of-way adjacent to a non-residential property.

§ 179-7 Application requirements.

- A. An application for a permit under this chapter shall contain the following:
 - (1) The name, home address and local address, if any, of the applicant.
 - (2) A physical description of the applicant, giving date of birth, height, weight and color of hair and eyes. A photograph may be required.
 - (3) The name and address of the person, if any, by whom the applicant is employed and for whom or through whom orders are to be solicited, cleared, filled or delivered.
 - (4) A description of the business or activity in which the applicant intends to engage and of the nature of any property or services involved.
 - (5) For peddlers or solicitors, a list of crimes for which the applicant has been arrested or convicted, including the dates and places.

- (6) A statement as to the period of time during which the applicant intends to engage in the business or activity regulated under this chapter.
 - (7) Proof that the applicant, or his or her employer or principal, is registered for sales tax purposes, if the business or activity to be conducted is subject to sales or use tax.
 - (8) A description of any motor vehicle that will be used for pickup or delivery of property or for the purpose of bringing any such property into the Town for peddling, soliciting or transient business purposes, or from which a transient business will be conducted, to include the name of manufacturer, year, type of vehicle, vehicle identification number, registration plate number, title holder and name of the person other than the title holder to whom the vehicle is registered, if any.
 - (9) The location where a transient business or mobile food vending operation is to be conducted, if known.
 - (10) Further information required by the Town Clerk or the Police Department.
- B. The application shall be signed by the applicant and sworn to before a notary public or other officer authorized to administer oaths.
 - C. If mobile food vending or a transient business is to be conducted on private property, the written consent of the property owner, if other than the applicant, shall be filed with the application or shall be prominently displayed on the mobile food vending vehicle or at the transient business site.

§ 179-8 Investigation of applicant.

- A. For peddling or soliciting permit applications, the Town Clerk shall forward a copy of the application to the Police Department. A copy of any application for a transient business or mobile food vendor shall be forwarded to the Building Department. The Police Department shall, to the extent possible, determine whether or not the applicant has accurately reported convictions and is otherwise a person of good moral character and reputation. The Police and Building Departments shall report the results of their investigations of applications to the Town Clerk within ten (10) business days of the receipt of the copy.
- B. The Police Department shall perform the same investigation and provide the report of the results to the Town Clerk within ten (10) business days of the receipt of a copy of a list filed pursuant to the requirements of § 179-5 of this chapter.

§ 179-9 Fees.

The following fees shall be paid to the Town Clerk with an application for a permit:

Type of Permit	Fee
Peddler's or solicitor's permit	\$100.00
Transient business permit	\$100.00

Type of Permit	Fee
Mobile Food Vehicle Vendor permit	\$200.00 for the first vehicle
	\$100 for each additional vehicle
	\$100 for permit renewals in accordance with § <u>179-10B</u> .

§ 179-10 **Permit regulations.**

- A. After receipt of reports from the Police Department and Building Department, when required, the Town Clerk shall issue the permit requested unless the applicant for a peddler's or solicitor's permit has been convicted of a felony at any time or a misdemeanor involving moral turpitude within five (5) years prior to the application, and has not been granted relief from civil disabilities, or otherwise is found not to be a person of good moral character and reputation.
- B. Solicitors', peddlers', transient business permits and Mobile Food Vehicle Vendor permits issued pursuant to this chapter automatically expire one hundred eighty (180) days after issuance.
- C. Permits issued under this chapter shall not be transferable.
- D. A permit issued pursuant to this chapter may be revoked if, following its issuance, the Police Department determines that the applicant was convicted for any crime not reported in the application or is otherwise not a person of good moral character and reputation. A permit may also be revoked for any violation of this chapter committed after its issuance.
- E. A transient business permit shall be limited to a single location. If the location is in a public right-of-way, it must be approved by the state, county or town authority having jurisdiction. If the location is not in a public right-of-way, it must be approved by the Building Department.
- F. For Mobile Food Vendors:
 - (1) It shall be unlawful to conduct business from a mobile food vehicle within a public right-of-way or on private property within the Town without having first obtained a valid mobile food vendor permit for each mobile food vehicle.
 - (2) It shall be unlawful for a mobile food vendor to conduct business in a location within one hundred (100) feet of the primary entrance of an establishment that is open to the public and where ready-to-eat food is prepared, cooked, wrapped, packaged, processed or portioned for service, sale, or distribution. This requirement shall be waived if permission for the mobile food vending operation is obtained from the owner of the property that contains the establishment where ready-to-eat food is prepared, cooked, wrapped, packaged, processed or portioned for service, sale or distribution.

- (3) Within non-residential zoning districts, it shall be unlawful for a mobile food vendor to conduct business at a single location within a public right-of-way for a duration exceeding three (3) hours. Within residential zoning districts, it shall be unlawful for a mobile food vendor to conduct business within a public right-of-way except for mobile food vehicles that operate for less than twenty (20) minutes at a single location or that operate within an area where a block party is being conducted.
- (4) At all times, mobile food vendors must abide by the New York State Transportation Law and all applicable Parking, Vehicle and Traffic Laws, Ordinances, Rules and Regulations.
- (5) All signage associated with a mobile food vendor must be permanently affixed to the mobile food vehicle. No accessory signage shall be placed outside or around the mobile food vehicle.
- (6) All mobile food vendors must provide trash receptacles of sufficient capacity to contain all trash and waste generated in association with the business of the mobile food vendor. All waste and trash shall be placed in the trash receptacles. All trash, waste, litter and debris shall be removed from the site of the vending operation at the end of each daily operation.
- (7) It shall be unlawful to discharge liquid waste, fats, oils or grease on the land. Such discharges shall be held in appropriate containers and then disposed in a legally permissible manner.
- (8) Mobile food vendors shall not conduct operation from a site that contains a gasoline service.
- (9) Each mobile food vehicle shall be inspected annually by the Building Department for fire-safety code compliance.
- (10) All required permits shall be posted conspicuously on the mobile food vehicle.
- (11) Each mobile food vehicle shall be registered as a commercial vehicle with the New York State Department of Motor Vehicles.
- (12) When parked on a public or private right-of-way, products shall not be dispensed from the street side of the mobile food vehicle.
- (13) A mobile food vehicle shall not be operated in reverse in order to attempt or make a sale.
- (14) When parked on a public or private right-of-way, a mobile food vehicle shall not be parked within sixty (60) feet of an intersection with another public or private right-of-way boundary.

§ 179-11 **Prohibited acts.**

- A. No person shall use private real property for any activity requiring a permit under this chapter without the written consent of the owner, and in compliance with § 179-7C.
- B. No person regulated by this Local Law shall hawk or cry property, offers, contracts or services upon any location in the Town, or use any loudspeaker, horn or other sound making device.
- C. No person holding a permit under this chapter shall engage in any activity regulated hereunder unless he or she has the permit on his or her person or as it pertains to a mobile food vendor, on the mobile food vehicle.

§ 179-12 **Trespassing.**

- A. The owner or occupant of a residential building may post a notice prohibiting peddlers and solicitors. The notice shall be placed in a conspicuous place adjacent to the entrance door of the building. The letters of the notice shall be at least 1/2 inch in height and shall contain a statement saying in substance that "peddlers or solicitors are prohibited." No person shall engage in any activity regulated by this chapter by attempting to enter a building or ringing a doorbell or knocking on an entrance door to any residence building at which entrance such a notice has been posted.
- B. Any person engaged in an activity regulated under this chapter, whether that person is exempt or not, who has entered upon private property, whether invited or not, shall immediately and peacefully depart therefrom when requested to do so by any occupant.

§ 179-13 **Penalties for offenses.**

Any person who violates any provision of this chapter shall be guilty of a violation. Each violation shall be punishable by a fine not to exceed \$250 or by imprisonment for a period not to exceed fifteen (15) days, or both.

§ 179-14 **Enforcement.**

This chapter shall be enforced by the Police Department and the Building Department of the Town of Cheektowaga. Primary enforcement of the Mobile Food Vending regulations contained in this Local Law shall be the responsibility of the Building Department. Matters concerning the Vehicle and Traffic Law, the New York State Transportation Law, illegal parking and trespassing shall be the responsibility of the Police Department. If the Building Department determines an issue to be a police matter, the Building Department shall refer that issue to the Police Department.

§ 179-15 **Severability.**

The invalidity of any section or provision of this Local Law shall not invalidate any other section or provision of this Local Law.

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