

Chapter 57

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Chapter 57

Peddling and Soliciting

§ 57-1. Definitions.

For the purposes of this Chapter, unless the context requires otherwise, the following words and phrases have the meanings given by this section:

A. “Hawker” or “Peddler” means any person who engages in the activities, respectively, of hawking or peddling.

B. “Hawking” or “Peddling” means the act of offering for sale for either the simultaneous delivery or future delivery of goods, wares or merchandise, including, but not limited to, magazines, books, periodicals, foodstuffs and personal property of every nature, from house to house or from place to place or on the public streets or in any other public or private place, including offering any of the abovementioned items for sale and simultaneous delivery from any type of wagon, vehicle, boat or other movable structure, and including the distribution of unsolicited flyers, handbills or similar papers advertising the sale of commercial goods or services by placement of such items upon a building or vehicle. Hawking and peddling shall include the promotion or description of any service, product or thing of value offered by any person.

C. “Person” means any individual, firm, partnership, association, corporation, company or organization of any kind.

D. “Temporary Business” means any commercial activity that is not intended to be permanent or ongoing for a minimum of one year.

E. “Transient Merchant” means any person who, whether or not a resident of the Town, engages in a temporary business of selling or offering for sale goods, wares or merchandise, or who displays samples, models, goods, wares or merchandise for the purpose of taking orders for future delivery, within the Town from any hotel or motel, room, inn, rooming or boarding house, club, storehouse, house or other building, either residential or commercial in nature, that is not owned or leased for such purpose for a period of at least one year by the person who engages in such activities.

§ 57-2. License Required.

All hawkers, peddlers and transient merchants are required to obtain a license from the Town Clerk prior to engaging in business as a hawker, peddler or transient merchant, unless specifically exempted by the provisions of this Chapter. One license will be required in the case of a business entity, in which case the business entity and the entity’s officers and directors shall be held responsible for all of the corporation’s, firm’s, partnership’s or association’s agents engaging in activities as a hawker, peddler or transient merchant in the Town.

§ 57-3. Exemptions from Licensing Requirements.

Any person engaged in the following is exempt from the licensing requirements of this Chapter upon compliance with all other provisions of this Chapter and submission of applicable identification and documentation to support the claim to exemption:

- A. Selling or offering for sale fruits and farm products grown by himself or herself, with or without the help of others;
- B. Engaging in the delivery of goods, wares or merchandise, including, but not limited to, bread and bakery products, meat and meat products or milk and milk products, in the regular course of business to the premises of any person who had previously ordered the same or was entitled to receive the same by reason of a prior agreement;
- C. Calling on any residence or business for the purpose of hawking or peddling at the request or invitation of the owner or occupant thereof;
- D. Selling or offering for sale any goods, wares or merchandise on behalf of any school, political or civic organization, benevolent society, service club or any not-for-profit organization which has been determined to be exempt from federal income taxation under the Internal Revenue Code of the United States of America;
- E. Selling or offering for sale personal property or any other commodities at wholesale to dealers in such articles;
- F. Conducting a bona fide auction sale pursuant to law or a sale required by statute or by order of any court;
- G. Conducting a yard, garage or attic sale at a person's residence, for not more than four days within any consecutive twelve (12) month period; and
- H. Selling or offering for sale any goods, wares or merchandise from any booth in a bona fide fair, exposition, antique, collectible or trade show.

§ 57-4. License Application.

Any person wishing to be a hawker, peddler or transient merchant within the Town shall file an application for a license with the Town Clerk, giving the following information:

- A. The name, local and permanent address, telephone number, age, weight, height, color of hair and eyes and any other distinguishing physical characteristics of the person making the application;
- B. The name, local and permanent address, telephone number, age, weight, height, color of hair and eyes and any other distinguishing physical characteristics of the person to be licensed;
- C. The name and address of the person to receive notification provided for in this Chapter;

D. If the person making the application is not going to be managing or supervising the person to be licensed, the names, addresses and telephone numbers of all individuals who will be conducting, managing, supervising or administering the business on behalf of the person;

E. A brief description of the nature of the person's business and goods or services to be sold or offered for sale;

F. The name and address of the person's employer, if any, including the name and address of the company and the person's immediate supervisor;

G. A description of the vehicle, if any, that is to be used in connection with licensed activities, including the State license tag and number and the vehicle identification number;

H. A statement as to whether the person making the application or any person conducting, managing, supervising or administering the business on behalf of the person has ever been convicted of a felony or misdemeanor and, if so, the nature of the offense, when and where convicted and the penalty or punishment assessed therefor;

I. The place where the goods to be sold or orders to be taken for the sale thereof are manufactured or produced and the proposed method of delivery; and

J. The names of at least two reliable references unrelated to the person and unaffiliated with the business entity, if any, making the application who will certify as to the person's good character and reputation.

§ 57-5. Bond Required.

Every hawker, peddler or transient merchant shall post with the Town Clerk a cash bond, in the amount of \$200, upon the condition that the hawker, peddler or transient merchant comply fully with all of the provisions of the laws and ordinances of the Town. The Town may draw upon such bond for the cost of remedying the effects of any failure to comply with the provisions of this Chapter or to satisfy any final judgment in favor of the Town upon a municipal infraction citation issued pursuant to this Chapter, provided that the defendant in such action has not satisfied or appealed the judgment within thirty days of the entry thereof. The bond shall be returned to the person posting it upon the expiration of sixty days from the date of expiration of the license or the conclusion of any action pending by the Town against the hawker, peddler or transient merchant in connection with his activities pursuant to the license, whichever is later.

§ 57-6. License Fee.

A nonrefundable fee of Twenty-Five Dollars (\$25.00) shall be paid to the Town Clerk when the application is filed.

§ 57-7. Investigation--Issuance of License--Determination of Threat to Health, Safety and Welfare.

A. The Town Administrator shall contact the Queen Anne's County Sheriff's Office and may contact any other agency of the State, County or other Local Government as he or she deems necessary in connection with any investigation under this Chapter.

B. Unless after investigation the Town Administrator finds that the person making the application has not complied with this Chapter, or the Town Administrator determines that the person requesting a license as a hawker, peddler or transient merchant may be a threat to the health, safety and welfare of the citizens of the Town, he or she shall issue a license upon the posting of the bond as provided in Section 57-5 of this Chapter. No license shall be issued to any holder of a license previously issued under this Chapter within one year of a revocation of the previous license.

C. In determining the threat to health, safety and welfare, the Town Administrator shall consider the reputation of the person seeking the license, his or her criminal record, if any, and license history in this or other jurisdictions as reported to the Town Administrator by the Sheriff's Office or any other department or agency of the State, County or Local Government. Emphasis in reaching a decision shall be given to any convictions for crimes of violence, sex offenses, violations of gaming, narcotic and alcoholic beverage laws and fraud.

§ 57-8. Duration, Exhibition and Surrender of License.

A. In the case of hawkers and peddlers, a license issued under this Chapter shall be good for one year from the date of issuance, unless earlier suspended or revoked as provided in this Chapter.

B. In the case of a transient merchant, a license issued under this Chapter shall be of a duration as set by the Town Administrator after reviewing the application and intended business of the transient merchant; however, no license issued to a transient merchant shall be for a duration of more than ninety (90) days.

C. Every hawker, peddler or transient merchant shall carry his or her license at all times he or she is engaged as a hawker, peddler or transient merchant in the Town. Additionally, he or she shall show his or her license to anyone who shall demand to see the same while he or she is so engaged. If a license is issued to a firm, partnership, association, corporation, company or organization, the original license shall be carried by the owner or supervisor and a copy of the license shall be carried by each agent engaged as a hawker, peddler or transient merchant under such license.

D. Any license issued under the provisions of this Chapter shall be surrendered to the Town Administrator upon expiration, suspension or revocation.

§ 57-9. Renewal of License.

The holder of any license issued under this Chapter who desires a new license to be effective on the expiration of the existing license shall, not less than thirty (30) nor more than sixty (60) days before the expiration of the existing license, file a written application for renewal with the Town

Administrator, giving the information set forth in Section 57-4. The fee shall be as set in Section 57-6. The provisions for approving or disapproving of an application as set forth in Section 57-7 shall apply.

§ 57-10 Denial, Revocation or Suspension of License--Notice.

A. The Town Administrator may refuse to issue or renew a license or may revoke or suspend any license which has been issued under this Chapter if he or she finds that the person making the application withheld or falsified any information required for the license or has been convicted of any of the crimes described in Section 57-7.C.

B. The Town Administrator may suspend, revoke or refuse to renew any license upon a finding that the hawker, peddler or transient merchant engaged in fraud or willful misrepresentation, violated any provision of this Chapter, committed any unlawful act or refused to leave any private property immediately when requested to do so by the owner or occupant.

C. Upon revocation or suspension, the hawker, peddler or transient merchant shall immediately return his or her license to the Town Administrator, and, upon failing to do so, the Town Administrator may request and direct that the license be confiscated.

D. Any denial, revocation, suspension or refusal of renewal shall be accompanied by written notice to the person identified in the application, by Certified Mail. The notice shall contain a reason for the action taken.

§ 57-11. Hours of Operation.

No hawking or peddling shall be conducted in the Town except between the hours of nine a.m. and six p.m. each day, except that business may be conducted at a residence when the owner or occupant of such residence has agreed by previously arranged appointment for a time other than the prescribed hours. For the hawking and peddling of foodstuffs, the hours for which it may be conducted are extended from six p.m. each day until dusk each day.

§ 57-12. Prohibited Acts.

A. No hawker or peddler (regardless of whether such hawker or peddler is exempt from the licensing requirements of this Chapter) shall engage in the activities of hawking or peddling in a Town park or any roads or walkways adjacent to or through a Town park, or any other place as determined by the Commissioners by Resolution of the Commissioners from time to time for the protection of the health, safety and welfare of the citizens of the Town, except the Town Administrator may grant exemptions for the selling or offering for sale of goods, wares or merchandise as part of a festival, firemen's muster or other bona fide activity within a Town park.

B. No hawker or peddler may distribute unsolicited flyers, handbills or similar papers advertising the sale of commercial goods or services by placement of such items upon a building or vehicle:

1. Unless such flyer, handbill or similar item includes the name of a responsible person and a mailing address and a local telephone number at which the hawker or peddler may be contacted by a person requesting that the hawker or peddler cease or refrain from the future distribution of flyers, handbills or similar items to property owner by such person;
2. When the building or vehicle is owned by the Town or by a person who has requested that the hawker or peddler cease or refrain from the future distribution of such flyers, handbills or similar papers; or
3. In a manner that results in littering upon public or private property.

§ 57-13. Violations--Penalties.

A violation of any provision of this Chapter shall be a municipal infraction, subject to a fine of \$100.

§ 57-14. Other Governmental Requirements.

This Chapter does not relieve any person of the requirement to comply with any and all applicable statutes, including, but not limited to, State Licensing Laws, door to door sales laws, Maryland Secondhand Precious Metal Object Dealers and Pawnbrokers Act and Home Improvement Contractor Laws. This Chapter is not applicable to activities for which the State of Maryland has preempted regulation.

§ 57-15. Severability.

In the event that any portion of this Chapter is held to be invalid, such invalidity shall not affect the other valid portions of this Chapter.

Originally adopted on June 7, 2010 as Ordinance No. 135-10. The date of any amendment will appear below the amended paragraph in brackets ([]).