



Town of Mamakating Application for Peddlers License

_____, being duly sworn, deposes and states:

1. My name is: _____
2. I reside at: _____

3. My phone number at my permanent residence is: _____
4. My business address is (if different from above):

5. My business telephone is (if different from above):

6. I use the trade name: _____
7. In connection with my peddling in the Town of Mamakating, I will use the following vehicle:
 - a. Make and year: _____
 - b. License plate and state of issuance: _____
8. This application is made to peddle the following items:

9. Have you ever been convicted of a crime, misdemeanor or municipal ordinance: []
Yes [] No
10. If so, where, when and what offense, circumstances and penalty:

11. I have been given a copy of the Town of Mamakating Chapter 145 Peddling and Soliciting

(Signature of Applicant)

Sworn to before me this _____ day of _____, 20____

Notary Public / Town Clerk

Fee Paid: \$ _____ Town License Number: _____

Chapter 145. Peddling and Soliciting

[HISTORY: Adopted by the Town Board of the Town of Mamakating at time of adoption of Code 10-4-1990 by L.L. No. 7-1990 (see Ch. 1, General Provisions, Art. I). Amendments noted where applicable.]

GENERAL REFERENCES

Junkyards and junk dealers — See Ch. 124.

Noise — See Ch. 135.

§ 145-1. Title.

This chapter shall be known and may be cited as the "Hawking and Peddling Ordinance."

§ 145-2. Purpose.

This chapter is enacted for the purpose of regulating itinerant merchandising in order that the peace, health, safety, welfare and good order in the town and of its inhabitants shall not be endangered or unduly disturbed.

§ 145-3. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

ESTABLISHED PLACE OF BUSINESS

A permanent building, store or depository in which or where the person transacts business and deals in the goods, wares or commodities he hawks or peddles in the ordinary and regular course of business.

HAWKER AND PEDDLER

Includes, unless otherwise herein provided, any person who engages in merchandising any goods, wares, commodities or services by going from house to house, place of business to place of business or in any public street or public place or by temporarily occupying a room, building or other premises therefor.

MERCHANDISING

The selling, bartering or trading of or offering to sell, barter or trade any goods, wares, commodities or services.

PERSON

Includes any individual, firm, partnership, corporation, unincorporated association and principal or agent thereof.

TEMPORARY OCCUPANCY

A store, room, building, tent, enclosure or structure of any kind intended to be occupied for the period of time necessary to hawk or peddle the merchandise or products therein housed initially without the intent to replenish or restock such goods, wares and merchandise sold therein. In all prosecutions for a violation of this chapter, the intent of the defendant to conduct an established place of business shall be a material fact and the burden of proving such intent shall be upon the defendant in such prosecution.

§ 145-4. License required.

Merchandising any goods, wares, commodities or service within the Town of Mamakating without first having obtained a license therefor from the Town Clerk is hereby prohibited, unless such merchandising is at the personal request of the person solicited.

§ 145-5. Exemptions.

A. The provisions of this chapter shall not apply to the following:

- (1) An honorably discharged soldier, sailor or marine who is crippled as a result of injuries received while in the naval or military service of the United States.
- (2) Any person soliciting at the express invitation of the person solicited or serving an established customer.
- (3) A wholesaler selling articles to dealers or merchants who have an established place of business within the town.

- (4) A truck gardener or farmer who himself or through his employees vends, sells or disposes of products of his own farm or garden.
 - (5) A child regularly attending any public or parochial or private school or a representative of any established church maintaining a place of worship or a member of a veterans organization or a member of a fraternal organization or civic group. Any person coming within the provisions of this exemption shall only hawk or peddle in connection with an authorized activity of the organization of which such person is a member or the school which such person attends.
 - (6) Auction sales held pursuant to law by a sheriff or other officer authorized by law to conduct such sale.
- B. This chapter shall not apply so as to interfere unlawfully with interstate commerce.

§ 145-6. Application for license.

- A. Every applicant for a license is required to submit to the Town Clerk a written application supplying, under oath, the following information:
- (1) The name of the applicant.
 - (2) The applicant's permanent home residence.
 - (3) The name and address of the firm represented, if any.
 - (4) The length of time for which the license is required.
 - (5) A description of the goods, wares or commodities to be offered for sale, together with a true invoice of their amount, quality and value.
 - (6) The applicant's number of arrests or convictions for crimes and the nature thereof.
- B. To the application must be appended a letter of authorization from the firm which the applicant purports to represent.

§ 145-7. Issuance of license.

Upon receipt of the application and of the license fee and if reasonably satisfied with the applicant's qualifications, the Town Clerk shall issue a license to the applicant, specifying the particular business authorized and the location wherein it may be conducted. This license shall be nontransferable and shall be in the continuous possession of the licensee while engaged in the business licensed. The license shall be produced upon the demand of any town official or prospective buyer.

§ 145-8. Records.

- A. The Town Clerk shall keep a record of the applications, the determinations thereon and of all licenses issued in accordance with this chapter. The record shall contain the name and residence of the person licensed, the location of the business, the amount of the license fee paid and the date of revocation of all licenses revoked.
- B. All licenses hereunder shall expire one year from the date of issuance, except that a license issued for a shorter period than one year shall expire at the expiration of the period for which it is issued.

§ 145-9. Fees.

[Amended 6-6-1991 by L.L. No. 5-1991]

The license fees for all licenses issued hereunder are hereby fixed as follows: \$100 per year or \$20 per day or fraction thereof.

§ 145-10. Restrictions.

A licensed hawker or peddler shall:

- A. Not willfully misstate the quantity or quality of any article offered for sale.
- B. Not willfully offer for sale any article of any unwholesome or defective nature.
- C. Not call attention to his goods by blowing a horn, by ringing a bell other than a house doorbell, by shouting or crying or by any loud or unusual noise.
- D. Not frequent any street in an exclusive nature so as to cause a private or public nuisance.
- E. Keep the vehicle and/or receptacles used by him in the furtherance of his licensed business in a sound, clean and sanitary condition.
- F. Keep his edible articles offered for sale well protected from dirt, dust and insects.
- G. Not stand or permit the vehicle used by him to stand in one place in any public place or street for more than 10 minutes or in front of any premises for any time if the owner of or the lessee of the ground objects.

H. Not sell confectionery or ice cream within 250 feet of any school between the hours of 8:00 a.m. and 4:00 p.m. on school days.

§ 145-11. Registration by residents not desiring visits.

- A. Any resident of the Town of Mamakating not wanting to be visited or called upon by hawkers or peddlers for the sale of goods, wares or merchandise may register at the office of the Town Clerk on a list of registrants of the Town of Mamakating who do not desire to be visited or solicited at their homes, in the following manner:
- (1) Said resident or residents shall either personally appear or, on forms supplied by the Town Clerk, register with the Town Clerk, advising that said resident or residents do not want hawkers or peddlers to call at their homes.
 - (2) The Town Clerk shall keep on file at all times a registration book showing the names and addresses of the residents of the Town of Mamakating who have registered as not wanting hawkers or peddlers to call at their homes.
- B. Every applicant shall personally read said list of residents of the Town of Mamakating who are registered as not wanting to be approached or contacted for the sale of goods, wares or merchandise and will sign an affidavit that said list has been reviewed by the applicant, and the applicant shall obtain from the Town Clerk a photostatic copy of said list.

§ 145-12. Revocation of license.

A license may be summarily revoked by the Town Clerk by reason of a violation of the terms of the license, the violation of any municipal ordinance, state or federal statute or falsification in applying for a license. Written notice of such revocation, stating the terms thereof, shall be personally served upon the licensee or mailed to the address given in the application. Upon the filing of such notice of revocation in the Town Clerk's office, with affidavit of service by mailing, such license shall be revoked. A hearing upon the revocation of the license shall be granted the licensee if said licensee shall request such a hearing as hereinafter provided.

§ 145-13. Magazine sales.

- A. No person hawking, peddling or soliciting the sale of magazines or other periodicals shall visit a private residence for the purpose of hawking, peddling or soliciting except after procuring a license hereunder, unless such person has been personally invited to such private residence by the owner or occupant thereof.
- B. The license issued to a person hawking, peddling or soliciting the sale of magazines or other periodicals shall, in addition to the other requirements hereby imposed, have the photograph of the licensee affixed thereto and to the application. Such photograph shall have been taken within 30 days next preceding the application for such license.

§ 145-14. Appeals.

In the event of the revocation of a license pursuant to the provisions of § 145-12 hereof or in the event of the denial of a license to any applicant by the Clerk, the applicant may request a hearing within a period of 30 days after such revocation, refusal or denial. Such requests shall be in writing and shall be made to the Town Board of the Town of Mamakating and filed with the Town Clerk within the period provided herein. The Town Board shall hear such applicant's request for a review of the determination of the Town Clerk at the next regularly scheduled meeting of said Town Board following the filing of the application for review with the Town Clerk. The Town Board may grant a license to the applicant if it should determine that the refusal on the part of the Clerk was arbitrary or otherwise in error. If the Town Board, after such hearing, shall determine that the decision of the Town Clerk was not arbitrary and was justified under the circumstances, the Board shall refuse such license. The decision on any hearing shall be rendered by the Town Board, in writing, within 45 days after the hearing thereof and shall be entered in the minutes of the Town Board.

§ 145-15. Penalties for offenses.

Any person who shall act as a hawker or peddler, as herein defined, without a license or who shall violate any of the provisions of this chapter or who shall continue to act as a hawker or peddler subsequent to the revocation of his license shall, upon conviction thereof, be subject to the penalties set forth in Chapter 1, General Provisions, Article II.