

Chapter 74

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Chapter 74 PEDDLERS, HAWKERS, ITINERANT VENDORS, SOLICITORS, CANVASSERS, SALESPERSONS*

***Cross reference(s)**--Streets, sidewalks and other public places, ch. 86.

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ARTICLE I. IN GENERAL

Sec. 74-1. Definitions.

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

Canvasser or solicitor means any individual, whether a resident of the town or not, taking or attempting to take orders from anyone on the premises of a house, apartment, trailer or other place of residence for sale of goods, wares, merchandise, including articles of food, or personal property of any nature whatsoever for future delivery, or for services to be performed in the future, whether or not such individual shall carry or expose for sale a sample of the subject of such sale, or whether he is collecting advance payments on such sales or not.

Hawker or peddler means any person, whether the principal or agent, who goes from town to town or from place to place in the same town selling or bartering, or carrying for sale or barter or exposing therefor, any goods, wares, merchandise, including articles of food, either on foot or from any animal or vehicle.

Itinerant vendor means any person, whether a principal or agent, who engages in a temporary or transient business in this state, either in one locality or in traveling from place to place selling goods, wares, merchandise or conducting any closeout sale and who, for purposes of carrying out such business or sale, hires, leases or occupies any building or structure for the exhibition and sale of such goods, wares and merchandise, temporary or transient business, meaning and including any exhibition and sale of goods, wares or merchandise which is carried on in any tent, booth, building or other structure, unless such place is open for business during usual business hours at least nine months in each year.

Salesperson means any person who shall sell or expose for sale, or solicit orders for any articles of food, or any goods, wares, merchandise, materials or services, or solicit for any contracts within the town to or from anyone on the premises of a house, apartment, trailer or other place of residence, and shall include canvassers, solicitors, hawkers, peddlers and itinerant vendors.

(Ord. No. 106, § 1, 8-21-72; Ord. of 8-17-92)

Cross reference(s)--Definitions generally, § 1-2.

Sec. 74-2. Exemptions.

This chapter shall not apply to:

- (1) Persons less than 17 years of age;
- (2) Persons selling only to stores, institutions, businesses, industrial or commercial establishments, and municipal agencies;
- (3) Charitable, political, religious and government organizations and their representatives, including public service organizations engaged in soliciting for charitable projects;
- (4) Persons canvassing, soliciting or selling exclusively by telephone;
- (5) Persons delivering food, groceries, fuel oil, milk and other goods or supplies which have been ordered or contracted for; and
- (6) Persons exempted by the statutes of laws of the state and/or licensed by the state to sell goods and services.

(Ord. No. 106, § 11, 8-21-72; Ord. of 8-17-92)

Sec. 74-3. Penalty for violation of chapter.

Any person violating any of the provisions of this chapter shall, upon conviction, be punished as provided in section 1-10 for each offense.

(Ord. No. 106, § 12, 8-21-72; Ord. of 8-17-92)

Sec. 74-4. Required behavior of permittees.

Each person to whom permits have been issued pursuant to this chapter shall, while engaged in the town in the activities for which he has a permit:

- (1) Conduct himself at all times in a quiet, orderly and lawful manner.
- (2) Enter within any home only upon being expressly invited to do so by an occupant of such home.
- (3) Leave any premises immediately upon the request of any occupant of the premises.
- (4) Deliver as agreed or represented, and within a reasonable time, all food, goods, wares, merchandise and materials, and perform in like manner all services for which he has been paid in whole or in part, except as provided in subsection (5) of this section.
- (5) Refund promptly any payment made to him if he shall find that it is not reasonably possible for such permittee to comply with subsection (4) of this section, unless such refund shall be refused by the other party.
- (6) Give a written and signed receipt for all payments in excess of \$5.00 received by him, stating the amount of such payment; a description of the food, goods, wares, merchandise, materials and/or services or contracts in connection with which such payment was made; the total of all charges made in connection with the same; and when and in what amounts any additional payments are to be made.
- (7) Any peddler, hawker, solicitor, canvasser or salesperson whose business involves food service within the town shall also be required to comply with article II of chapter 54, food service and the duties and fee schedules therein.

(Ord. No. 106, § 9, 8-21-72; Ord. of 8-17-92)

Secs. 74-5--74-35. Reserved.

ARTICLE II. PERMIT*

*State law reference(s)--Peddlers' permits, G.S. § 21-37.

Sec. 74-36. Required; application contents; applicant to supply proof of identity.

(a) It shall be unlawful for any peddler, hawker, solicitor, canvasser or salesperson, except as provided in section 74-2, to engage in such business within the town limits without first applying for a permit for such business in compliance with this chapter.

(b) Applicants for a permit must file with the town police chief a sworn application in writing, in duplicate, on a form to be furnished by the police chief, which shall give the following information:

- (1) Name and description of the applicant.
- (2) Permanent home address and full local address of the applicant.
- (3) A detailed description of the nature of the business and goods to be sold.
- (4) If employed, the name and address of the employer.
- (5) The length of time for which the applicant wishes to engage in business.
- (6) The place where the property proposed to be sold, or orders taken for the sale thereof, are manufactured or produced.
- (7) Where such goods or products are located at the time such application is filed, and the proposed method of delivery.
- (8) Make, model or registration number of the motor vehicle, if any, to be used.
- (9) Whether, when, where and on what charges he has ever been arrested, together with the disposition of such charges.
- (10) Whether, when, where, in what court, and by whom he or any present or former employer, principal or contract associate has ever been sued in a civil action alleging fraud or misrepresentation in connection with or as a result of the registrant's activities in soliciting for any articles of food or any goods, wares, merchandise, materials or services.

(c) Each registrant shall, at the time he files any registration form, exhibit identification satisfactory to the police chief and containing a specimen of the registrant's handwriting.

(Ord. No. 106, § 2, 8-21-72; Ord. of 8-17-92)

Sec. 74-37. Fees; period of validity; renewal.

At the time of filing the original application, the fee which shall be charged and collected by the chief of police shall be \$50.00. Such permit shall be valid for a period of three months. At the time of filing a renewal application, which shall give the peddler, hawker, solicitor, canvasser or salesperson three additional months of approved vending time, the fee, which shall be charged and collected by the chief of police, shall be \$25.00. A peddler, hawker, solicitor, canvasser or salesperson shall be entitled one renewal per year, giving such peddler, hawker, solicitor, canvasser or salesperson not more than six months total vending time annually.

(Ord. No. 106, § 3, 8-21-72; Ord. of 8-17-92)

Sec. 74-38. Investigations of applicants.

Upon the receipt of such application, the chief of police shall cause to be undertaken and completed, within a period of two weeks, such investigation of the applicant's business and moral character, and the statements made in the application, as he deems necessary for the public good. If as a result of such investigation, the applicant's character or business responsibility is found to be unsatisfactory, the police chief shall endorse the disapproval on the application and the reasons for the disapproval, and notify the applicant. In such cases a permit shall be refused or, after issuance, revoked by the town manager and immediately returned to the town manager if the registrant has made any patently and indisputable false statement or representation in any registration form filed by the registrant pursuant to this chapter, has been convicted of any crime or misdemeanor involving moral turpitude, or of any violation of this chapter, or if judgement shall at any time have been entered against him or any present or former employer, principal or contract associate in a civil action alleging fraud or misrepresentation in connection with or as a result of the activities of the registrant. If a permit is refused, no fee shall be charged. If for any reason the investigation within two weeks, carried out by the chief of police is not completed, the applicant may demand and be issued a temporary permit, which may be revoked or made permanent depending on the results of the investigation.

(Ord. No. 106, § 4, 8-21-72; Ord. of 8-17-92)

Sec. 74-39. Approval.

If, as a result of such investigation, the character and business responsibility of the applicant are found to be satisfactory, the police chief shall endorse such approval on the application and turn a copy over to the town manager, who shall thereupon deliver to the applicant a permit which shall show the name and address of the licensee, the kind of goods to be sold under such license, the manner of sale, the date of issuance and the length of time the license shall be operative.

(Ord. No. 106, § 5, 8-21-72; Ord. of 8-17-92)

Sec. 74-40. Expiration.

Except as provided in section 74-2, no person whose permit has expired shall engage in any of the activities named in section 74-1 until he shall have again registered with the police chief, obtained a new permit and paid the same fee as in the case of the issuance of the original permit.

(Ord. No. 106, § 6, 8-21-72; Ord. of 8-17-92)

Sec. 74-41. Exhibition.

It shall be the duty of any police officer of the town to request any person seen engaging in any of the activities defined in section 74-1, and who is not known by such officer to have a proper permit, to produce such permit. It shall be the duty of any such officer to enforce the provisions of this chapter against any person found to be violating this chapter. Peddlers, hawkers, solicitors, canvassers and salespersons are required to exhibit their permits at the request of any citizen.

(Ord. No. 106, § 7, 8-21-72; Ord. of 8-17-92)

Sec. 74-42. Revocation.

(a) Permits issued under the provisions of this chapter may be revoked by the town manager after notice and hearing, for any of the following causes:

(1) Fraud, misrepresentation or false statement contained in the application for a permit.

(2) Fraud, misrepresentation or false statement made in the course of carrying on his business as a peddler, hawker, solicitor, canvasser or salesperson.

(3) Any violation of this chapter.

(4) Conviction of any crime or misdemeanor involving moral turpitude.

(5) Upon a determination by the director of health of unsanitary conditions.

(b) Notice of hearing for a revocation of permit shall be given in writing, setting forth specifically the grounds of the complaint. Such notice shall be mailed by certified mail to the last known address of the holder at least five days prior to the date set for the hearing.

(Ord. No. 106, § 8, 8-21-72; Ord. of 8-17-92)

Sec. 74-43. Recordkeeping.

It shall be the duty of the town manager to keep records of all permits issued under the provisions of this chapter in a book or file kept for that purpose. Such records shall contain, as to each holder of a permit, all application forms signed by him with a notation on each as to whether a permit was issued or refused as a result of its being filed; the date of issuance or refusal; the reason for refusal or the fee paid, as the case may be; a summary of each complaint concerning the activities of the holder; and the date of any revocation of permit granted, pursuant to any application filed by him, together with a statement of the reasons therefor. The town manager shall keep a detailed account of all receipts from permit fees and shall turn such fees over to the town treasurer monthly.

(Ord. No. 106, § 10, 8-21-72; Ord. of 8-17-92)