

**TOWN OF TICONDEROGA
COUNTY OF ESSEX, STATE OF NEW YORK**

**AN ORDINANCE REGULATING PEDDLERS, SOLICITORS,
AND TRANSIENT MERCHANTS**

Be it enacted by the Town Board of the Town of Ticonderoga, as follows:

Section 1. Legislative Intent.

Pursuant to Town Law section 136(1), this Ordinance is enacted to regulate the conduct and business practices of peddlers, solicitors and transient merchants within the Town of Ticonderoga. The purpose of this Ordinance is to assist the local government in the management of its businesses and to preserve good order and to promote the health, safety and welfare of the resident of the Town of Ticonderoga and to provide for the protection and security of their property.

Section 2. Definitions.

For purposes of this Ordinance, the following terms have the meanings indicated:

(a) “Person” means any one or more natural person, individual, association of individuals, partnership, limited liability company, corporation, society, and all other entities of any kind.

(b) “Peddler” or “Solicitor” means any Person, as defined herein, who goes from house to house, from place to place, or who stands in any street or public place, in order to sell or purchase, take orders for, or offer to take orders for, wares, merchandise, food, food products, works of art, magazines, books, photographs and any other goods, or in order to make sales or offer to make sales for the performance of any service to be performed immediately or in the future.

(c) “Transient Merchant” means any Person, as defined herein, who sells or purchases, takes orders for, or offers to take orders for wares, merchandise, food, food products, works of art, magazines, books, photographs and any other goods, or makes sales or offers to make sales for the performance of any service to be performed immediately or in the future, in, on or from a building, temporary structure, tent, motor vehicle, parking lot, vacant parcel of land, portion of a public right-of-way, or any other place, with the permission of the owner of the place or property, for a temporary period of time not to exceed fourteen (14) days.

Section 3. License Required.

It shall be unlawful for any Person to act as a Peddler, Solicitor, or Transient Merchant without first having obtained and paid for, and having in force and effect, a license from the Town Clerk.

Section 4. Exemptions.

A. The licensing provisions of this Ordinance shall not apply to:

(1) Any sales conducted or services performed by the owner of an established business in the Town of Ticonderoga from the site of said business. This is not intended to provide exemption from the Zoning Ordinance in the Town of Ticonderoga.

(2) Farmers and/or gardeners who, themselves or through their employees, vend, sell, or dispose of the products of their own farms or gardens.

(3) Calls in response to a prior invitation.

(4) Persons eighteen (18) years of age or under who are engaged in providing services such as snow shoveling, lawn mowing, lawn clearing, and other similar home services within the Town of Ticonderoga as independent contractors.

(5) Persons conducting garage, yard and/or lawn sales at their residence no more than twice in any given year and for no more than three (3) days for each sale.

(6) The distribution of newspapers.

(7) Persons regularly engaged in the sale and delivery of milk and milk products and other dairy products from a fixed place of business within the County of Essex.

(8) Honorably discharged members of the Armed Forces of the United States and veterans of any war who shall have obtained a license from the County Clerk of the County of Essex pursuant to the provisions of Section 32 of the General Business Law of the State of New York.

(9) Persons having established customers to whom they make periodic route deliveries.

(10) Solicitations by charitable, religious, educational or civic organizations

which have or maintain a regular place of business, place of worship, chapter, lodge, troop, or other regular meeting place within the Town of Ticonderoga.

B. This Ordinance shall not apply to sales conducted pursuant to a statute, by order of any court, or to any person selling personal property at wholesale to dealers.

Section 5. Application.

A. Any person desiring to procure a license to act as a Peddler, Solicitor and/or Transient Merchant, as defined herein, shall file with the Town Clerk, a written application upon a form furnished by the Town Clerk. Such application shall include the following:

- (1) Name, address, telephone number, and date of birth of the applicant.
- (2) Local address of the applicant, if any.
- (3) Brief description of the nature of the business, the type of goods and/or services that will be sold or performed or offered to be sold or performed, and the method by which the goods will be distributed or services will be performed.
- (4) Length of time the applicant desires the license.
- (5) Current identification with photograph, which shall be a drivers license if the applicant intends to use a motor vehicle as part of his licensed activities.
- (6) If applicable, a description of the vehicle being used, the name of the owner of said vehicle and the vehicle license number.
- (7) If applicable, the name, address and title of the officer of the entity upon whom process or other legal notice may be served.
- (8) If applicable, a certificate issued by the Essex County Sealer of Weights and Measures certifying that all weighing and measuring devices to be used by the applicant have been examined and approved.
- (9) If applicable, proof from the New York State Department of State that the foreign entity is authorized to do business in New York.
- (10) If applicable, the applicant's New York State sales tax number.

(11) If the applicant proposes to sell food, or take orders for food, a New York State Department of Health.

(12) If a Transient Merchant; the location where the applicant proposes to sell such goods and/or services and the times during which said business is to be conducted.

(13) If the licensee will conduct his/her activities upon Town owned property, evidence of insurance meeting the Town's requirements and evidence of a duly issued use of community facilities permit.

Section 6. Investigation and Issuance of License.

A. Upon receipt of a completed application, the Town Clerk shall refer the application to the Chief of Police for a local records check.

B. If such investigation should reveal that a history of convictions exists for the applicant, the Chief of Police or his designee shall attach a copy of the criminal history to the application and any other information concerning the applicant the investigation reveals, together with his recommendation as to whether or not a license should be issued.

C. The Town Clerk may issue or refuse the license based upon the report of the Chief of Police.

D. No license shall be refused except for a specific reason and for the protection of the public safety, health, morals and general welfare. A license may be refused if the applicant's character or business responsibility is found to be unsatisfactory.

E. If a license shall be issued to the applicant, the applicant shall pay the required license fee, as set forth in Section 9 of this Ordinance and the Town Clerk shall prepare a license which shall contain the signature of the Town Clerk, the name, address and photograph of the licensee, the kind of goods and/or services to be peddled or solicited thereunder, the fee paid, the date of issuance, the date of expiration of the license, as well as the vehicle license number, if applicable.

Section 7. Appeal

Any person aggrieved by an action of the Town Clerk pursuant to this Ordinance, in the denial of an application for a license, or otherwise, shall have the right of appeal to the Town Board. Such appeal shall be filed with the Town Clerk within 14 days after the

applicant receives the notice of action complained of. Such appeal shall be in writing and fully state the grounds for the appeal. The Town Board shall set a time and place for a hearing on appeal and the applicant shall be so notified. The decision and order of the Town Board on such appeal shall be binding and conclusive.

Section 8. Additional Transient Merchant License Requirements.

In addition to the provisions of Sections 5 and 6 of this Ordinance, an applicant seeking a license to conduct business as a Transient Merchant, as defined herein, shall comply with the Zoning Ordinance of the Town of Ticonderoga.

Section 9. Fees and Duration of License.

All licensees who will conduct activities during the Town's annual Fourth of July celebration, shall pay the fee established by the Fourth of July committee. In all other cases, a fee of twenty dollars (\$20) shall be paid for a two (2) day license, sixty dollars (\$60) shall be paid for a seven (7) day license, and a fee of two hundred fifty dollars (\$250) shall be paid for a license for the entire calendar year.

Section 10. Restrictions, Prohibitions, Loss, and Exhibition of License.

A. Whenever a license shall be lost or destroyed on the part of the holder or his agent or employee, a duplicate in lieu thereof, under the original application, may be issued by the Town Clerk upon the licensee filing with the Town Clerk an affidavit setting forth the circumstances of the loss and what, if any, search has been made for its recovery, and paying a twenty five dollar (\$25) fee.

B. All licenses shall include the right to use only one vehicle in carrying on the business for which the person is licensed.

C. No license shall be granted to a person under eighteen (18) years of age.

D. No applicant to whom a license has been refused or who has had a license which has been revoked, pursuant to the provision of this Ordinance shall make further application until a period of at least six (6) months shall have elapsed since the last previous rejection or revocation, unless he can show that the reason for such rejection no longer exists.

Section 11. Operating Restrictions and Responsibilities.

A. A license shall not be transferable or assignable. Any holder of such license who

permits it to be used by any other person and any person who uses such license granted to any other person shall each be guilty of a violation of this Ordinance.

B. Every licensee, while exercising his license, shall carry the license with him and shall exhibit the same upon demand.

C. A licensee shall not conduct his business in any 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.

D. A licensee shall not falsely or fraudulently misrepresent the quantity, character or quality of any article offered for sale or offer for sale any unwholesome, tainted or diseased merchandise.

E. A licensee shall not use the license provided by the Town after the expiration or revocation of the license issued to him.

F. A licensee shall keep the vehicles and receptacles used by him in a clean and sanitary condition and the food products and edibles offered for sale well covered and protected from dirt, dust and insects.

G. If licensee is a Peddler or Solicitor, as defined herein, he shall not stand or permit the vehicle used by him to stand in one place in any public place or street for more than ten (10) minutes or in front of any premises for any time if the owner or lessee of the ground floor thereof objects.

H. A licensee shall not conduct his business within two hundred (200) feet of any school between the hours of 8:00 a.m. and 4:00 p.m. on school days.

I. A licensee shall not permit any vehicle used by him to stop or remain on any crosswalk.

J. A licensee shall not create or maintain any booth or stand or place any barrels, boxes, crates or other obstructions upon any street or public place for the purpose of selling or exposing for sale any goods, wares or merchandise.

K. A licensee shall vend and solicit orders for goods, wares, services or merchandise door-to-door only during reasonable hours, except by invitation of the property owner.

L. A licensee shall immediately depart the premises or property upon being requested to do so by the owner or occupant thereof.

M. A licensee shall not enter upon any property whereon there is displayed any sign containing any or all of the following words: “No Peddlers” , “No Solicitors”, or any other wording the purpose of which purports to prohibit peddling or soliciting on the property.

Section 12. Revocation of License.

A. Licenses issued under the provisions of this Ordinance may be revoked by the Town Board of the Town of Ticonderoga, after notice and hearing, for any of the following causes:

- (1) Fraud, misrepresentation or false statement contained in the application for the license.
- (2) Any violation of this Ordinance.
- (3) Conviction of any felony or misdemeanor.

B. When a license shall be revoked, no refund of any unused portion of the license fee shall be made.

Section 13. Records.

It shall be the duty of the Town Clerk to keep a record of all of the applications and of all the licenses granted under the provisions of this Ordinance and to notify the Chief of Police of all licenses issued. The records shall indicate the date of each license, the name and residence of the licensee, the amount of the license fee paid, the date of expiration and the date of revocation, if applicable.

Section 14. Penalties for Offenses.

A. Each violation of this Ordinance or of any regulation or prohibition promulgated thereunder shall be punishable by a fine not to exceed Two Hundred Fifty (\$250) and/or up to fifteen (15) days in jail for each offense. Each day that a violation continues shall be a separate offense.

B. In case any Transient Merchant, as defined herein, shall erect, construct or maintain a transient merchant business or use any building, structure or land or sites in violation of this Ordinance or other permit or approval issued or made hereunder, the

Code Compliance Officer or other proper local authorities of the Town may, in addition to seeking other remedies, penalties and/or fines, institute any appropriate actions or proceedings to prevent such unlawful erection, construction, maintenance, use of any building, structure, land or site; restrain, correct or abate such violation; prevent the occupancy of said building, structure, land or site; and/or prevent any illegal act, conduct, business or use in or about such premises.

Section 15. Enforcement.

A. It shall be the duty of any police officer of the Town of Ticonderoga to administer and enforce the provisions of this Ordinance.

B. In the event the provisions of this Ordinance are being enforced against a Transient Merchant, as defined herein, in addition to the police officers of the Town of Ticonderoga, the Code Compliance Officer for the Town of Ticonderoga is expressly delegated the duty and responsibility to administer and enforce the provisions of this Ordinance and, in furtherance thereof, to issue appearance tickets as defined, authorized and set forth in Article 150 of the Criminal Procedure Law of the State of New York.

Section 16. Severability.

If any provisions of this Ordinance are held to be unconstitutional or otherwise invalid by any court of competent jurisdiction, the remaining provisions of this Ordinance shall remain in effect.

Section 17. Effective Date.

This Ordinance shall take effect ten (10) days after publication of a copy hereof.