

CHAPTER 48
Hawkers, Peddlers and Solicitors

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§48-1. Definitions.

HAWKER and PEDDLER - As used in this ordinance shall mean and include any person, either principal or agent, who in any public street or public place, or by going from house to house or from place of business to place of business, on foot or on or from any vehicle or animal, sells or barter, offers for sale or barter, or carries or exposes for sale or barter any goods, wares or merchandise and periodicals.

SOLICITOR - As used in this ordinance shall mean and include any person who goes from place to place or house to house or who stands in any street or public place taking or offering to take orders for goods, wares or merchandise or for services to be performed in the future, or for making, manufacturing or repairing any article or thing whatsoever for future delivery.

ESTABLISHED PLACE OF BUSINESS - As used in this ordinance shall mean and include a building or store in which or where the person transacts business and deals in the goods, wares or merchandise he hawks, peddles or solicits for during regular hours of business daily.

PERSON - As used in this ordinance shall mean and include one (1) or more persons of either sex, natural persons, firms and corporations, and all other entities of any kind capable of being sued.

DESIGNATED AREAS - As used in this ordinance shall mean and include specified areas in the City of Norwich which allow mobile food vendors for an extended duration between the hours of 8:00 a.m. through 11:00 p.m. without the need to move.

§48-2. License Required.

It shall be unlawful for any person, except as provided in §48-11 below, within the corporate limits of the City of Norwich, to act as a hawker, peddler or solicitor as herein defined without first having obtained and paid for, and having in force and effect, a license therefor.

§48-3. Application; bond.

Any person desiring to procure a license, as herein provided, shall file with the Director of Finance of the City of Norwich, New York, a written application upon a blank form provided by the Director of Finance and furnished by the City, and shall file at the same time satisfactory proof of good character. Such application shall give the number and kind of vehicles to be used by the applicant in carrying on the business for which the license is desired, the kind of goods, wares and merchandise he desires to sell or the kind of service he desires to perform, the method of distribution, the name, permanent and Norwich addresses and age of the applicant, the name and address of the person, firm or corporation he represents, the length of time the applicant desires a license and such other information as may be required by the Director of Finance. Such application shall be accompanied by a certificate from the Sealer of Weights and Measures certifying that all weighing and measuring devices to be used by the applicant have been examined and approved. An application for a license as a solicitor who demands, accepts or receives a payment or deposit of money in advance of final delivery shall also be accompanied by a bond to the City of Norwich, New York, approved as to form and surety by the City Attorney in the penal sum of five hundred dollars (\$500.) with sufficient surety or sureties of sufficient collateral security conditioned for making a final delivery of the goods, wares or merchandise ordered or services to be performed in accordance with the terms of such order, or failing herein that the advance payment of such order be refunded. Any person aggrieved by the action of any licensed solicitors shall have right of action on the bond for the recovery of money or damages, or both. Such bond shall remain in full force and effect, and in case of a cash deposit, such deposit shall be retained by the City of Norwich for a period of ninety (90) days after the expiration of any license, unless sooner released by the Director of Finance. The requirement for a certificate of weights and measures and bond shall apply to those claiming any one (1) of the exemptions under Section 48-11.

§48-4. Licenses.

A. Upon the filing of the application as provided in the last preceding subdivision, the Director of Finance shall upon approval of said application by the Chief of Police issue to the applicant a license as provided in §48-2 hereof. Except as hereinafter provided no license shall be refused expect for a specific reason and for the protection of the public safety, health, morale or the general welfare, or failure to produce other documents which the Common Council may require such as insurance certificates, sales tax information, etc.

B. A license shall not be 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 be guilty of a violation of this ordinance. All licenses shall be issued from a properly bound book with proper reference stubs kept for that purpose, numbered in the order in which they are issued, and shall state clearly the kind of vehicle, if any, to be used, and the kind of goods, wares or merchandise to be sold, or service to be rendered, the dates of issuance and expiration of the license, the fee paid and the name and address of the licensee. Every licensee, while exercising his license, shall carry the license with him and shall exhibit the same upon demand.

§48-5. Fees.

The following fees shall be paid for the license hereinabove required:

A. Where a vehicle or vehicles is or are to be used by the applicant, the fees shall be:

1. Designated Area - Annual Fee - One Hundred Dollars (\$100.) – allows for the lease of one of the six designated spaces in the City where goods and services may be sold from a mobile unit without having to fulfill the requirement of movement every ten minutes.

(a) All four of the downtown spaces are available for Annual Lease. The designated spaces can be used by seasonal permit holders until spaces leased for annual fees. Permits are nontransferable. Limit one designated space per vendor. Annual Permit may be renewed by the same vendor. To assure renewal of the same space the vendor must renew by the last day of February of the licensing year.

Designated Spaces for Annual Lease are as follows:

Northwest Corner of East Side Park
Southeast Corner of East Side Park
Northeast Corner of East Side Park
Northeast Corner of West Side Park

2. Designated Area - Seasonal Fee - Seventy five dollars (\$75.) -- allows for the length of six (6) months from the date of permit.

Designated Spaces for Seasonal Lease are as follows:

Old Borden Avenue Road Across From Weiler Park
Kurt Beyer Park, next to the Kurt Beyer Pool Filter House

3. Standard (All Others) - Fifty Dollars (\$50.) – allows for a calendar year permit allowing a vendor to sell throughout the City of Norwich under the standard conditions including moving every ten minutes.

4. Any person using a vehicle may employ under the same license not more than one (1) person to assist in selling and delivering, but such person shall so act only when accompanying a licensed hawker, peddler or solicitors and when any additional persons are so employed, an additional license shall be required for each such additional person and the fee fixed in Section 48-5A3 shall be paid therefor.

B. Where no vehicle is used by the applicant, the fee shall be:

1. Standard – Fifty Dollars (\$50.) – allows be for a calendar year permit allowing the vendor to sell throughout the City of Norwich

C. Special Events – Twenty five Dollars (\$25.) – allows for a vendor to set up for a special event designated by the Common Council. A permit is required whether the vendor is on public or private property, and is required in addition to any other permit issued under this ordinance. Any vendor setting up in the area designated by the Common Council as the special event area is required to obtain a permit. There is no requirement to move every ten minutes with this permit.

(Annual permit holders are exempted from the Special Events permit requirement as long as they stay in the designated space of their Annual permit. Resolution # 30-99)

§48-6. Markings on vehicles.

The vehicle kept or used by a licensee in exercise of his license shall be marked on both sides with the number corresponding to the number of his license, and the words "Licensed Vendor" in plain letters and figures at least two (2) inches in height and of such color as to be plainly read at a distance of at least ten (10) feet.

§48-7. Name and address on vehicle.

Every vehicle used by a licensed hawker, peddler or solicitor in or about his business shall have the name of the licensee and his address plainly, distinctly and legibly painted in letters and figures at least two (2) inches in height in a conspicuous place on the outside of each side of every such vehicle, and such name and address shall be kept so painted plainly and distinctly at all times where such vehicle is in use during the continuance of the license.

§48-8. Revocation of license.

The Chief of Police may, at any time, for a violation of this or any other ordinance or any law, revoke the license. When a license shall be revoked no refund of any unearned portion of the license fee shall be made. Notice of such revocation and the reason or reasons therefor, in writing, shall be served upon the person named in the application by delivering the same to him personally or by mailing the same to the address given in the application; such revocation shall be immediately effective if served personally and shall be effective twenty-four (24) hours after mailing if served by mail. Licenses obtained by fraud or misrepresentation of any material fact shall be wholly invalid and shall be surrendered upon demand; no refund of the license fee shall be made.

§48-9. Restrictions.

A hawker, peddler or solicitor shall:

- A. 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 provisions or merchandise.
- B. Keep the vehicles and receptacles used by him in a clean and sanitary condition and the foodstuffs and edibles offered for sale well covered and protected from dirt, dust and insects.
- C. Not blow a horn, ring a bell or use any other noisy device to attract public attention to his wares, or shout, or cry his wares.
- D. Not stand or permit the vehicle used by him to stand, in one (1) place in any street or public place for more than ten (10) minutes unless the vehicle has a permit for a designated area or special event.
- E. 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.

- F. Not use any weighing or measuring devise unless the same shall have been examined and sealed by the City Sealer of Weights and Measures.
- G. Participants in the Norwich Business Improvement District (BID) Pushcart Program are hereby exempted from paragraphs 48-9(C), 48-9(D) and 48-9(E) above.

§48-10. Orders.

A written statement of all orders taken by licensed solicitors who demand, accept or receive payment or deposit of money in advance of final delivery, setting forth the terms thereof, the amount paid in advance, the name of the solicitor and the name of the person or firm he represents, shall be given to the purchaser at the time the money is paid to or deposited with the solicitor.

§48-11. Exemptions; certificate of compliance.

A. Nothing in this ordinance shall apply to sales conducted pursuant to statute or by order by any court, or to any persons selling personal property at wholesale to dealers in such article. The licensing provisions of this ordinance shall not apply to merchants having an established place of business within the City; to farmers and truck gardeners who themselves or through their employees vend, sell or dispose of the products of their own farms or gardens; to honorably discharged members of the armed forces of the United States properly exercising a license issued pursuant to the General Business Law, or to berry pickers who sell berries of their own picking; but all such persons shall observe the provisions of §§48-7 and 48-9 hereof, and shall provide the certificate of weights and measures and bond mentioned in §48-3.

B. This ordinance also shall not apply so as unlawfully to interfere with interstate commerce, and to that end all persons claiming to be engaged in interstate commerce or claiming any of the exemptions hereinabove set forth shall apply to the Director of Finance for a certificate of compliance, using the form of application described in §48-3. The applicant shall also submit to the Director of Finance satisfactory evidence that he is engaged in interstate commerce. When the applicant shall have established to the satisfaction of the Director of Finance that he is engaged in interstate commerce, or is entitled to one (1) or more of the above exemptions, the Director of Finance shall issue to him, without charge, a certificate of compliance, stating, among other things, that such person has complied with the requirements of this section and has satisfactory established that he is engaged in interstate commerce. Such certificate shall be invalid after one (1)

year from its date of issue. The securing of any such certificate by fraud or misrepresentation by any person not in fact engaged in interstate commerce or entitled to one (1) or more exemptions shall constitute a violation of this ordinance.

§48-12. Violations and penalties.

Failure to comply with the provisions of this ordinance shall constitute a violation subject to a fine of double the applicable license fee and each day's violation shall constitute a separate offense.

§48-13. Severability.

If any subdivision or provision of this ordinance shall be decided by any court of competent jurisdiction to be unconstitutional or invalid, the same shall not affect the validity of this ordinance as a whole or any part thereof other than the part so decided to be unconstitutional or invalid.

§48-14. When effective.

This ordinance shall take effect upon publication.