

Chapter 139

PEDDLING AND SOLICITING

GENERAL REFERENCES

Trespassing — See Ch. 88.

Noise — See Ch. 127.

Streets and sidewalks— See Ch. 163.

Zoning — See Ch. 200.

ARTICLE I
Licensing of Peddlers

§ 139-1. Title.

This article may be cited as the “Peddlers Law” of the Village of Palmyra, Wayne County.

§ 139-2. Definitions and word usage. [Amended 12-2-2013 by L.L. No. 5-2013]

- A. The following definitions shall govern the interpretation of this article unless otherwise expressly defined herein:

PEDDLER — Includes any person, whether a resident of the Village of Palmyra or not, traveling by foot, wagon, automotive vehicle or any other type of conveyance from place to place, from house to house or from street to street and offering for sale goods, wares, merchandise or provisions of any kind or description, offering and exposing the same for sale or making sales and delivering articles to purchasers, or who shall sell or offer the same for sale, and further provided that one who solicits orders and as a separate transaction makes deliveries to purchasers as part of a scheme or design to evade the provisions of this article shall be deemed a peddler subject to the provisions of this article. The word "peddler" shall include the words "hawker" and "solicitor."

PERSON — Any natural person, partnership, association, corporation, or legal entity.[Amended 10-16-2017 by L.L. No. 4-2017]

REGISTER — To supply to the Clerk of the Village of Palmyra the name and address of said person and affiliated organization, together with the dates said organization will engage in peddling and/or soliciting activities within the Village of Palmyra.[Amended 10-16-2017 by L.L. No. 4-2017]

SOLICITOR — Any person who goes upon the premises of any private property, not his or her own, for the purpose of taking or seeking or attempting to take orders or make contacts for the sale of goods, merchandise, wares, or other personal property of any nature for future delivery, or for services to be performed in the future, including the sale and/or delivery of natural gas and electricity. This includes any person who, without invitation, goes upon private property to request subscriptions or contributions of funds or anything of value.[Amended 10-16-2017 by L.L. No. 4-2017]

VILLAGE — Includes all areas within the Village of Palmyra.

- B. Words used in the singular shall include the plural and vice versa. The word "shall" is always mandatory.

§ 139-3. License required.

It shall be unlawful for any person to engage in the business of peddler as defined in § 139-2 of this article within the corporate limits of the Village of Palmyra without first obtaining a license therefor as provided herein.

§ 139-4. Application for license; fees. [Amended 12-2-2013 by L.L. No. 5-2013];

10-16-2017 by L.L. No. 4-2017]

- A. Applicants for a license under this article must file with the Village Clerk a sworn application, in writing, on a form to be furnished by the Village Clerk, which application shall give the following information:
- (1) Name of the applicant.
 - (2) Present address of the applicant.
 - (3) The applicant's place of residence for the last five years.
 - (4) The applicant's business address for the last five years.
 - (5) The applicant's driver's license or other suitable picture ID.
 - (6) Whether or not the applicant has ever been convicted of a felony, misdemeanor or violation of any municipal local law, except with relation to illegal parking, and, if so, in what court, when, where, and upon what charges, and the sentence of the court.
 - (7) Whether the applicant has been previously licensed in any occupation and, if so, when, where, and for what period and, if such previous license was ever revoked, the date of the revocation, and the reason therefor.
 - (8) A description of any vehicle, together with the license number or other means of identification, to be used by the applicant in the Village of Palmyra.
- B. The applicant shall be charged a fee in the amount as set from time to time by resolution of the Board of Trustees for a full search and return from the Division of Criminal Justice Services, said fee to be made payable to the Village Clerk of the Village of Palmyra.

§ 139-5. Refusal to issue license; record of licenses issued.

- A. If the application should disclose that the applicant has been convicted of a felony and/or misdemeanor, which felony and/or misdemeanor, in the judgment of the Village Clerk, renders the applicant unfit or undesirable, the Village Clerk shall notify the applicant that his application is disapproved, and no license will be issued on said application.
- B. If the application should disclose that the applicant has ever violated duly enacted Village or town local laws and has been convicted of same on more than one occasion and, in the judgment of the Village Clerk, this renders an applicant unsatisfactory or undesirable, the Village Clerk shall refuse issuance of the license.
- C. The Village Clerk shall keep a record of all licenses issued and all licenses revoked. **[Amended 10-16-2017 by L.L. No. 4-2017]**

§ 139-6. Fees.

- A. For each person proposing to peddle, whether on foot or from a licensed vehicle: an amount as set from time to time by resolution of the Board of Trustees. In the event the Village Clerk disapproves the application, said fee shall be refunded in full.

- B. The annual fee herein provided for shall be assessed on a calendar-year basis, and all licenses shall expire on the 31st day of December immediately following the date of issuance. There shall be no reduction in fees for fractional parts of the year.

§ 139-7. Display of license. [Amended 10-16-2017 by L.L. No. 4-2017]

Every peddler licensed under this article shall have his license in his immediate possession at all times when peddling and shall display the same upon demand of any person, along with an acceptable picture ID.

§ 139-8. Transfer of license.

No license issued under the provisions of this article may be transferred from one person to another person. Each peddler shall have his or her separate license, notwithstanding he or she may be employed by, or associated with, a licensed peddler.

§ 139-9. Use of streets. [Amended 11-17-2003 by L.L. No. 2-2003; 10-16-2017 by L.L. No. 4-2017]

Except as provided in Article II, Stationary Sidewalk Vendors, of this chapter, no peddler, including those otherwise exempt from this article, may remain in a stationary location in the public streets, nor shall any peddler be permitted to operate in any congested area where his operation might impede or inconvenience the public. For the purpose of this article, the judgment of any police officer, exercised in good faith, shall be deemed conclusive as to whether the area is congested or the public impeded or inconvenienced.

§ 139-10. Prohibitions. [Amended 10-16-2017 by L.L. No. 4-2017]

- A. It shall be unlawful for any person to enter upon private or public property for the purpose of peddling before the hour of 10:00 a.m. of any day or after the hour of 7:00 p.m. of any day, except upon the invitation of the householder or occupant.
- B. No peddler shall peddle, vend or sell his goods or wares within 200 feet of any church or place of worship or any place occupied exclusively as a public or private school or for school purposes.
- C. No peddler, nor any person in his behalf, shall shout, cry out, or blow a horn upon any of the streets, alleys, parks, or other public places of said Village or upon any private premises or any other place in the said Village.

§ 139-11. Exemptions. [Amended 11-17-2003 by L.L. No. 2-2003]

The provisions of this article, except the necessity to obtain a license from the Village of Palmyra, shall not apply to the following:

- A. Charitable or religious organizations. However, for the purposes of this article, said charitable or religious organizations must register with the Clerk of the Village of Palmyra before engaging in any peddling activities.
- B. Persons maintaining a regular delivery route in the Village of Palmyra.

- C. Commercial salesmen or deliverymen calling exclusively upon retail or wholesale establishments or other business firms within the Village of Palmyra.
- D. Girl Scouts, Boy Scouts and/or school-age children doing any fundraising. **[Added 10-16-2017 by L.L. No. 4-2017]**

§ 139-12. Enforcement.

It shall be the duty of any police officer of the Village of Palmyra to require any person who is engaged in peddling to produce his peddler's license and to enforce the provisions of this article against any person found to be violating same.

§ 139-13. Report of violations; suspension of permit.

- A. The Palmyra Village Police Department shall report to the Village Clerk all convictions for violation of this article, and the Village Clerk shall record the reports of such violations.
- B. Whenever it shall be shown, or whenever the Board of Trustees of the Village of Palmyra or the Palmyra Village Police have knowledge, that any person to whom a permit has been issued under this article has violated any of the provisions of this article or that any promoter, agent or solicitor of a permittee has misrepresented the purpose of the solicitation, the Board of Trustees or the Palmyra Village Police shall immediately suspend the permit and give the permittee written notice, by certified mail, of a hearing to be held within five days of such suspension to determine whether or not the permit should or should not be revoked.

§ 139-14. Revocation of license.

- A. Licenses issued under the provisions of this article may be revoked by the Board of Trustees of the Village of Palmyra after notice and hearing for any of the following causes:
 - (1) Fraud, misrepresentation or false statement contained in the application for license.
 - (2) Fraud, misrepresentation or false statement made in the course of carrying on his business as a peddler. **[Amended 10-16-2017 by L.L. No. 4-2017]**
 - (3) Any violation of this article.
 - (4) Conviction of a felony or a misdemeanor, which misdemeanor, in the judgment of the Village Board, renders the applicant unfit or undesirable.
 - (5) Conducting the business of peddling in an 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.
- B. Notice of the hearing for revocation of a license shall be given in writing, setting forth specifically the grounds of complaint and the time and place of hearing. Such notice shall be mailed, postage prepaid, to the licensee at his last known address at least five days prior to the date set forth for hearing.

§ 139-15. Suspension of provisions.

The Village Board is hereby authorized, by resolution, to suspend any of the provisions of this article in connection with any holiday celebration or upon any occasion of special public interest, for such time and upon such conditions as shall be prescribed by the Village Board.

§ 139-16. Penalties for offenses. [Amended 11-17-2003 by L.L. No. 2-2003]

Any person, firm, association or corporation violating any of the provisions of this article shall be guilty of an offense punishable by a fine of not more than \$1,000 or imprisonment for not more than one year, or both; however, for the purpose of conferring jurisdiction upon courts and judicial officers, such violations shall be deemed to be misdemeanors and, for such purposes only, all provisions of law relating to misdemeanors shall apply to such violations. Notwithstanding the foregoing, any person, firm, association or corporation violating any provisions of this article shall be subject to a penalty in a minimum sum of \$250 for the first such violation, \$500 for the second such violation, and \$1,000 for any subsequent violations, said penalties to be recoverable in a civil action in the name of the Village of Palmyra.

ARTICLE II
Stationary Sidewalk Vendors
[Added 6-5-2000 by L.L. No. 1-2000]

§ 139-17. Findings and purposes.

It is found and declared by the Board of Trustees of the Village of Palmyra that:

- A. The primary purpose of the public streets, sidewalks, and other public ways is for use by vehicular and pedestrian traffic;
- B. Vending on such public ways promotes the public interest by contributing to an active and attractive pedestrian environment;
- C. Reasonable regulations of vending on public ways is necessary to protect the public health, safety, and welfare; and
- D. This article shall be in addition to, and not in lieu of, the provisions of Article I, and shall govern to the extent inconsistent therewith.

§ 139-18. Definitions.

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

SIDEWALK — That portion of a street or public right-of-way between the curblineline or roadway and the adjacent property line, whether improved or unimproved.

SPECIAL EVENT — Any occasion including, but not limited to, fairs, shows, exhibitions, events, celebrations, festivals, etc., within a specifically defined area of the Village of Palmyra for a specific period of time recognized as such by the Board of Trustees of the Village of Palmyra.

STAND — Any newsstand, table, bench, booth, rack, handcart, pushcart, or any other fixture or device used for the display, storage, transportation of articles or services offered for a vendor or used in connection therewith.

VENDOR — Any individual, including an employee or agent of a group of individuals, partnerships, or corporation, who sells or offers food, beverages, goods, merchandise, or services on any sidewalk from a stand or from a stationary location on any sidewalk.

§ 139-19. License required.

It shall be unlawful for any vendor to sell, display, or offer any food, beverage, goods, merchandise, or services on any sidewalk in the Village of Palmyra without first obtaining a license from the Village Clerk of the Village of Palmyra.

§ 139-20. Exemptions. [Amended 10-16-2017 by L.L. No. 4-2017]

The provisions of this article shall not apply to residents of property abutting sidewalks in the Residential (R-1) Districts established under Chapter 200, Zoning, of the Palmyra Village Code vending food, beverages, goods, merchandise, or services on the sidewalk abutting such property on a temporary basis not exceeding three days.

§ 139-21. Application for license.

The application for a vendor's license shall contain all information relevant and necessary to determine whether a particular license may be issued as set forth in Article I of this chapter, or otherwise established by resolution of the Board of Trustees of the Village of Palmyra.

§ 139-22. Rules and regulations.¹

The Board of Trustees of the Village of Palmyra may by resolution promulgate and enforce rules and regulations relating to the issuance of licenses authorized under this article, including applications requirements, fees therefor, location and duration of licensed activity, method of assigning license by location, dispensing or modification of requirements during special events, restrictions regarding stands, hours of operation, conditions or restrictions upon licenses, and such other rules and regulations appropriate to further the purposes of this article, protect the public safety, and welfare, and the appropriate use of the sidewalks in the Village.

§ 139-23. Enforcement.

Any person, partnership, corporation, or entity who or which violates any provision of this article, any rule or regulation promulgated hereunder, any condition or restriction imposed upon any license issued pursuant thereto, or any lawful order of any police officer pertaining thereto, shall be guilty of an offense punishable as provided in § 139-16 of this chapter.

1. Editor's Note: The "Rules and Regulations for Stationary Vendors for Special Events" is on file in the office of the Village Clerk.