

## **Chapter 110 PEDDLING AND SOLICITING**

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**[HISTORY: Adopted by the Town Board of the Town of Olive at time of adoption of Code; see Ch. 1, General Provisions, Art. I. Amendments noted where applicable.]**

### **GENERAL REFERENCES**

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#### **§ 110-1. Purpose.**

The purpose of this chapter is to promote and protect the health, safety and general welfare of the community, and the preservation and protection of property of the Town of Olive and its residents.

#### **§ 110-2. Definitions.**

The following words and phrases shall have the meanings set forth unless the context of their use clearly indicates otherwise:

**APPLICANT** - Any person by or for whom an application is made under this chapter.

#### **CHARITABLE ORGANIZATION**

A. Any benevolent, philanthropic, patriotic, military veterans, not-for-profit, educational or religious association, society or other organization or any other

association, society or organization qualified as a tax-exempt organization under Section 501 of the Internal Revenue Code.

B. Any governmental entity or organization, including, without limitation, a school district, fire district and fire company.

JUNK DEALER - A person who engages in junk dealing.

JUNK DEALING:

A. Keeping, conducting or maintaining any building, structure, yard or place for storing, distributing or selling any junk, used or secondhand property, goods, wares or merchandise of any kind or nature, or the parts thereof.

B. Selling or buying for resale any junk, used or secondhand property, goods, wares or merchandise of any kind or nature, or the parts thereof.

C. The provisions of this chapter requiring permits for "junk dealing" shall not apply to persons in the business of manufacturing or buying and selling new or used motor vehicles, or who buy or receive secondhand motor vehicles in the course of trade for resale, but shall apply to all such persons who wreck or junk secondhand or used motor vehicles.

PEDDLER - A person who engages in peddling.

PEDDLING:

A. Selling or offering for sale, barter or exchange any property or service, either for immediate or future delivery or performance upon any street, road or highway or from house to house in the town, and including, without limitation, activities commonly known as "hawking."

B. Delivery or distribution of advertising matter, literature, pamphlets, samples or handbills house to house or on any of the streets, roads or highways or by going from place to place in the town, but not including the delivery or distribution of newspapers, magazines or political or religious materials.

PERSON - A natural person, corporation, partnership, association, joint venture, society or other organization or association of any kind, whether acting as principal, agent, employer or employee.

PROPERTY - Any goods, wares, merchandise or other article or thing of every kind or nature except newspapers.

SOLICITING:

A. Seeking, taking or offering contracts or orders for any property for future sale or delivery or performance of any service upon any street, road or highway or from house to house in the town.

B. Seeking or taking subscriptions or contributions of money or property, upon any street, road or highway or from house to house in the town.

SOLICITOR - A person who engages in soliciting.

TOWN - The Town of Olive.

TRANSIENT BUSINESS - A retail or wholesale business conducted from a temporary structure or tent, truck, van or trailer, stand, parking lot or vacant parcel of land, in a public right-of-way or in or on any other place in the town, but not (1) outdoor sales of property or services accessory to a business conducted within a permanent structure on a same premises or (2) the sale of food products raised or produced on the same premises from a temporary or seasonal stand, provided that the principal structure or activities otherwise comply with the zoning and other laws of the town.

### **§ 110-3. Permit or registration required.**

A. No person shall engage in peddling, soliciting, junk dealing or a transient business without first obtaining a permit or registering or both as required by this chapter.

B. No motor vehicle shall be used for peddling, junk dealing or conducting a transient business unless a permit shall first have been obtained therefor, which permit shall at all times be displayed on a conspicuous location on the outside of the vehicle.

### **§ 110-4. Exemptions.**

No permit under this chapter shall be required:

A. By any charitable organization or its agents or employees or veterans licensed pursuant to General Business Law § 32.

- B. By any person conducting a business or activity or performing a service pursuant to a license issued by the State of New York.
- C. For the delivery of goods or services ordered by telephone, mail or other method initiated by the person receiving the goods or services.
- D. By any business, service or activity licensed under any other ordinance or law of the Town of Olive.
- E. For purchase or sale of motor vehicles or parts by any person otherwise conducting a used vehicle or vehicle parts business from any permanent location.
- F. By any person engaged in the business of antique dealing from a permanent location.
- G. For lawn cutting, leaf raking and snow shoveling services for residential property.
- H. By political parties and candidates for public office.

**§ 110-5. Requirements for organizations.**

No charitable organization shall engage in soliciting before it files with the Town Clerk a list of the names, addresses and dates of birth of the persons who will conduct the activity on its behalf and a statement of the time period during which the solicitations shall occur. The Clerk shall provide a copy of the list to the Police Department. No person shall engage in soliciting on behalf of a charitable organization until this information has been provided to the Town Clerk.

**§ 110-6. Hours.**

No peddling, soliciting or transient business activities, whether or not exempt from the permit requirements of this chapter, shall be conducted before 9:00 a.m. or after the earlier of 1/2 hour after sunset or 8:00 p.m.

**§ 110-7. Application requirements.**

- A. An application for a permit under this chapter shall contain the following:
  - (1) The name, home address and local address, if any, of the applicant.

- (2) A physical description of the applicant, giving date of birth, height, weight and color of hair and eyes. A photograph may be required.
  - (3) The name and address of the person, if any, by whom the applicant is employed and for whom or through whom orders are to be solicited, cleared, filled or delivered.
  - (4) A description of the exact business or activity in which the applicant intends to engage and of the nature of any property or services involved.
  - (5) A list of crimes for which the applicant has been arrested or convicted, including the dates and places.
  - (6) A statement as to the period of time during which the applicant intends to engage in the business or activity regulated under this chapter.
  - (7) Proof that the applicant, or his or her employer or principal, is registered for sales tax purposes, if the business or activity to be conducted is subject to sales or use tax.
  - (8) A description of any motor vehicle that will be used for pickup or delivery of property or for the purpose of bringing any such property into the town for peddling, soliciting or transient business purposes, or from which a transient business will be conducted, to include the name of manufacturer, year, type of vehicle, vehicle identification number, registration plate number, title holder and name of the person other than the title holder to whom the vehicle is registered, if any.
  - (9) The exact location where a transient business is to be conducted.
  - (10) Further information required by the Town Clerk or the Police Department.
- B. The application shall be signed by the applicant and sworn to before a notary public or other officer authorized to administer oaths.
- C. If the transient business is to be conducted from private property, the written consent of the owner, if other than the applicant, shall be filed with the application.

#### **§ 110-8. Investigation of applicant.**

A. The Town Clerk shall forward a copy of the application to the Police Department. A copy of any application for a transient business conducted on private property shall be forwarded to the Building Department. The Police Department shall, to the extent possible, determine whether or not the applicant has accurately reported convictions and is otherwise a person of good moral character and reputation. The Police and Building Departments shall report the

results of their investigations of applications to the Town Clerk within seven days of the receipt of the copy.

B. The Police Department may perform the same investigation and provide the report of the results to the Town Clerk within seven days of the receipt of a copy of a list filed pursuant to the requirements of § 110-5 of this chapter.

#### **§ 110-9. Fees.**

A. The Town Board shall, from time to time, by resolution, establish a schedule of fees to be paid for any permit or certificate of permit issued pursuant to the provisions of this chapter.

B. All fees shall be payable at the time of the issuance of the permit and shall be paid in cash or certified funds.

#### **§ 110-10. Permit regulations.**

A. After receipt of reports from the Police Department and Building Department, when required, the Town Clerk shall issue the permit requested unless the applicant has been convicted of a felony at any time or a misdemeanor involving moral turpitude within five years prior to the application, and has not been granted relief from civil disabilities, or otherwise is found not to be a person of good moral character and reputation.

B. Solicitors', peddlers' or transient business permits issued pursuant to this chapter automatically expire 90 days after issuance. Each junk dealer's permit shall expire on December 31 following issuance.

C. Permits issued under this chapter shall not be transferable.

D. A permit issued pursuant to this chapter may be revoked if following its issuance the Police Department determines that the applicant was convicted for any crime not reported in the application or is otherwise not a person of good moral character and reputation. A permit may also be revoked for any violation of this chapter committed after its issuance.

E. A transient business permit shall be limited to a single location. If the location is in a public right-of-way, it must be approved by the Police Department. If the location is not in a public right-of-way, it must be approved by the Building Department.

### **§ 110-11. Reports.**

The Police Department may require reports from any permit holder at any time and at such intervals as it deems necessary for the protection of the public health, welfare and safety.

### **§ 110-12. Prohibited acts.**

A. No person shall use private real property for any activity requiring a permit under this chapter without the consent of the owner.

B. No person engaged in soliciting or peddling shall hawk or cry property, offers, contracts or services upon any of the streets, roads or highways in the town, or use any loudspeaker, horn or other sound-making device other than a bell to attract attention or announce his or her presence.

C. No person holding a permit under this chapter shall engage in any activity regulated hereunder unless he or she has the permit on his or her person.

### **§ 110-13. Trespassing.**

A. The owner or occupant of a residential building may post a notice prohibiting peddlers and solicitors. The notice shall be placed in a conspicuous place adjacent to the entrance door of the building. The letters of the notice shall be at least 1/2 inch in height and shall contain a statement saying in substance that "peddlers or solicitors are prohibited." No person shall engage in any activity regulated by this chapter by attempting to enter a building or ringing a doorbell or knocking on an entrance door to any residence building at which entrance such a notice has been posted.

B. Any person engaged in an activity regulated under this chapter, whether that person is exempt or not, who has entered upon private property, whether invited or not, shall immediately and peacefully depart therefrom when requested to do so by any occupant.

### **§ 110-14. Appeals.**

A. Any person aggrieved by the action of the Town Clerk in the denial of an application for a permit shall have the right to appeal to the Town Board.

B. Such appeal shall be taken by filing, within 14 days after notice of the action complained of has been mailed to such person's last known address, as shown on the application, a written statement setting forth fully the grounds for the appeal.

C. The Town Board shall set a time and place for a hearing on such appeal, and notice of such hearing shall be mailed to the applicant at his or her last known address at least five days prior to the date set for the hearing.

D. The granting, refusal, revocation or suspension of a license or permit by the Town Board shall be subject to review pursuant to Article 78 of the Civil Practice Law and Rules of the State of New York. Any such Article 78 proceeding must be commenced within 30 days of the mailing of notice of the action sought to be reviewed.

**§ 110-15. Penalties for offenses.**

Any person who violates any provision of this chapter shall be guilty of a violation. Each violation shall be punishable by a fine not to exceed \$250 or by imprisonment for a period not to exceed 15 days, or both.