

CHAPTER 39

HAWKERS AND PEDDLERS

§ 39-1. Definitions 3902

§ 39-2. Permit required 3903

§ 39-3. Exemptions 3903

§ 39-4. Permit to be in effect 3903

§ 39-5. Application for general permit 3903

§ 39-6. Application for a single day or multi-day municipal event permit 3904

§ 39-7. Insurance and Bond 3905

§ 39-8. Issuance and conditions of permit 3905

§ 39-9. Compliance required; fees 3906
[Amended 9-7-2010 as L.L. #1-2010]

§ 39-10. Badges and vehicle plates 3907

§ 39-11. Name and address on vehicle 3908

§ 39-12. Revocation of permit 3908

§ 39-13. Restrictions 3909

§ 39-14. Harbor area restrictions 3910
[Added 6-17-1993 as L.L. #6 (Intro No. 10) 1993]

§ 39-15. Written orders and receipts 3910

§ 39-16. Records 3910

§ 39-17. Effect on other provisions 3910

§ 39-18. Penalties for offenses 3911

[HISTORY: Adopted by the Common Council of the City of Dunkirk 4-29-1992 as L.L. #2-1992. Editor’s Note: This local law superseded former Ch. 39 Hawkers and Peddlers, adopted 5-23-1922 as Ch. XXV of the Ordinances of the City of Dunkirk, as amended. Amendments noted where applicable.]

GENERAL REFERENCES

- Auctions and auctioneers - See Ch. 6.
- Junk dealers and pawnbrokers - See Ch. 44.
- Permits - See Ch. 51.

§ 39-1. Definitions. [Amended 6-17-1993 as L.L. #10-1993; amended 5-5-1994 as L.L. #3-1994]

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

CRAFT PEDDLER - Any "person", either principal or agent, who sells or barter, offers for sale or barter, or carries or exposes for sale or barter, any hand-made goods, except for food items, at a single day or multi-day municipal event.

HAWKER and PEDDLER - Any person, either principal or agent, who from any boat or car on a railroad track or in any public street or public place or by going from house to house or place of business to place of business, on foot or from any vehicle, sells or barter, offers for sale or barter or carries or exposes for sale or barter or consigns for vending purposes any goods, wares or merchandise, except newspapers.

PEDESTRIAN WALKWAY - a thirteen foot (13') wide strip of land immediately adjacent to the hotel premises located at 30 Lake Shore Drive East, running from Lake Shore Drive East on the south parallel to the western boundary of the hotel premises to the northern boundary of the hotel premises."

PERSON - One (1) or more persons of either sex, natural persons, corporations, partnerships, associations, joint-stock companies, societies and all other entities of any kind capable of being sued.

PUBLIC WATERFRONT ACCESS AREA - a thirty foot (30') wide strip of land located along Lake Erie, beginning at a point located three hundred seventy-nine and seven-tenths feet (379.7') north by rectangular measurement from the northerly line of Lake Shore Drive East (NYS Route 5) and two hundred seventy and two-tenths feet (270.2') west by rectangular measurement from the westerly line of Deer Street; thence northerly and parallel to Deer Street thirty feet (30') to the north face of an existing sheetpile lakewall; thence westerly along said sheetpile lakewall six hundred twenty feet (620'); thence southerly and parallel to Deer Street thirty feet (30'); thence easterly and parallel to Lake Shore Drive East, six hundred twenty feet (620') to the point or place of beginning.

SOLICITOR - 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, except newspapers, or for services to be performed in the future or for making, manufacturing or repairing any article or thing whatsoever for future delivery.

§ 39-2. Permit required. [Amended 5-5-1994 as L.L. #3-1994]

No person shall at any time offer for sale as a hawker, peddler, solicitor or craft peddler, any goods, wares, provisions or merchandise at retail in any manner in any of the public streets or places or from house to house within the City of Dunkirk without having procured a permit as required by the terms of this chapter.

§ 39-3. Exemptions.

This chapter does not apply to:

- A. Any sales conducted pursuant to statute or by order of any court.
- B. Any person selling personal property at wholesale to dealers in such articles.
- C. Farmers and truck gardeners who, themselves or through their employees, vend, sell or dispose of products of their own farms and gardens.
- D. Berry pickers who sell berries of their own picking.

§ 39-4. Permit to be in effect. [Amended 5-5-1994 as L.L. #3-1994]

It shall be unlawful for any person within the corporate limits of the City of Dunkirk to act as a hawker, peddler, solicitor or craft peddler, as herein defined, without first having obtained and paid for and having in force and effect a permit.

§ 39-5. Application for general permit.

Any person desiring to procure a permit as a hawker, peddler or solicitor in the City of Dunkirk shall complete and file with the City Clerk an application containing the following information:

- A. The name, address and telephone number of the applicant.
- B. The name and address of the person, firm or corporation that the applicant represents.
- C. A list of the type of goods or services to be sold.
- D. The method of distribution.
- E. A list of the articles to be sold in conducting business.
- F. The length of time the permit is applicable.

- G. Certificate of all weighing and measuring devices from the Sealer of Weights and Measures, where applicable.
- H. Such other information as the City may require.

§ 39-6. Application for single day or multi-day municipal event permit. [Amended 5-5-1994 as L.L. #3-1994]

- A. Any person desiring to procure a permit as a hawker, peddler, solicitor or craft peddler in the City of Dunkirk for a single day or multi-day municipal event shall complete and file with the City Clerk an application containing the following information:
 - (1) The name, address and telephone number of the applicant.
 - (2) The legal status of the applicant.
 - (3) A list of goods or services to be sold.
 - (4) They type of electrical connections required.
 - (5) An agreement to comply with such other conditions as may be required by the City.
- B. Any person with a general permit must also procure a single day or multi-day municipal event permit it that person intends to hawk, peddle or solicit during the period of the single day or multi-day municipal event.
- C. At the option of the City, only full event or minimum period permits shall be issued, and there shall be no single-day or partial period permits available unless authorized by the City.

§ 39-7. Insurance Bond. [Amended 5-5-1994 as L.L. #3-1994]

- A. Any application for a permit, with the exception of a permit application by a craft peddler, shall be accompanied by proof of an insurance policy providing the coverage required by Vendor Classification E on the City of Dunkirk Standard Insurance Certificate. No permit shall be issued until such satisfactory proof is produced and approved as to form and surety by the City Attorney, except for craft peddler permits.
- B. An application for a permit as a solicitor who demands, accepts or receives payment or deposit of money in advance of final delivery

shall also be accompanied by a bond to the City of Dunkirk, approved as to form and surety by the City Attorney, in the penal sum of Two Thousand Five Hundred Dollars (\$2,500.00), with a sufficient surety or sureties or sufficient collateral security, conditioned for making final delivery of the goods, wares or merchandise ordered or services to be performed in accordance with the terms of order, or, failing therein, that the advance payment on such order be refunded.

- C. Any person aggrieved by the action of any permitted solicitor shall have a right by action on the bond for the recovery of the money advanced or damages, or both.
- D. 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 Dunkirk for a period of ninety (90) days after the expiration of any such permit, unless sooner released.

§ 39-8. Issuance and conditions of permit.

- A. Upon the filing of the application, bond and certificate as provided in the preceding section, the City Clerk shall, upon approval of such application, issue to the applicant a permit as provided in § 39-4, signed by the City Clerk.
- B. Except as hereinunder provided, no permit shall be refused except for a specific reason and for the protection of the public safety, health, morals or general welfare.
- C. A permit shall not be assignable. Any holder of such permit who permits it to be used by any other person, and any person who uses such permit granted to any other person, shall each be guilty of violation of this chapter.
- D. Whenever a permit, badge or vehicle plate shall be lost or destroyed on the part of the holder or the holder's agent or employee, a duplicate in lieu therefore under the original application and bond may be issued by the City Clerk upon the filing with the Clerk by the permittee of an affidavit setting forth the circumstances of the loss and what, if any, search has been made for its recovery.
- E. All such permits shall be issued from a properly bounded 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 to be used, the kind of goods, wares and merchandise to be sold or service to be rendered, the badge number and license plate, the

dates of issuance and expiration of the permit, the fee paid and the name and address of the permittee.

- F. Such permits shall automatically expire on January 1 following the date of issuance of such permits, but such permits may specifically state and provide for an earlier expiration date.
- G. Such permit shall include the right to use only one (1) vehicle in carrying on the business for which the person is licensed.
- H. No applicant to whom a permit has been refused or who has had a permit which has been revoked shall make further application until a period of at least six (6) months shall have elapsed since the last previous rejection or revocation, unless the person can show that the reason for such rejection no longer exists.
- I. Every permittee, while exercising this permit, shall carry the permit with the permittee and shall exhibit the same upon demand.

§ 39-9. Compliance required; fees. [Amended 5-5-94 as L.L. #3-1994; Amended 4-18-2006 as L.L. #3-2006; Amended 9-7-2010 as L.L. #1-2010]

- A. No permit shall be issued until the provisions of this chapter have been complied with and the following fees therefore shall be paid to the City Clerk:
 - (1) A permit to sell any merchandise of any description, using a motor vehicle, pushcart or wagon or other vehicle: Three Hundred Dollars (\$300.00) per annum. **[Amended 4-18-2006 as L.L. #3-2006; Amended 9-7-2010 as L.L. #1-2010]**
 - (2) A fifteen-day permit for Subsection A(1): One Hundred Dollars (\$100.00) per day. **[Amended 4-18-2006 as L.L. #3-2006; Amended 9-7-2010 as L.L. #1-2010]**
 - (3) A permit for a single day or multi-day municipal event: One Hundred Dollars (\$100.00) per day with the exception of July Fourth, where the fee will be Two Hundred Fifty Dollars (\$250.00). **[Amended 5-5-1994 as L.L. #3-1994; Amended 4-18-2006 as L.L. #3-2006; Amended 9-7-2010 as L.L. #1-2010]**
- B. All permittees may use one (1) additional person and no more, in selling and distributing their merchandise, but such additional

person shall only act while accompanying a permittee, hawker, peddler or solicitor.

- C. The permit fees set forth in Subsections A and B shall not apply to individuals with licenses obtained under § 32 of the General Business Law.

§ 39-10. Badges and vehicle plates.

- A. The City Clerk shall supply badges and vehicle plates to permitted hawkers, peddlers, solicitors and craft peddlers. Such badges and plates shall not be transferred or assigned. **[Amended 5-5-1994 as L.L. #3-1994]**
- B. On the expiration of the permit, the permittee shall surrender the badge to the City Clerk.
- C. It shall be unlawful for any person to destroy, deface or injure such badge in any manner or change the number or date thereon.
- D. It shall also be unlawful for any person to wear or have in his or her possession such badge unless he is the permitted hawker, peddler, solicitor or craft peddler in whose name the permit is issued. **[Amended 5-5-1994 as L.L. #3-1994]**
- E. Such permittee, while exercising the permit, shall wear on the front of his or her outermost garment the badge so provided, which badge shall state the number and character of the permit and the date when it expires.
- F. The vehicle plates shall be displayed by every permittee operating a vehicle, one (1) on each side of the body of the vehicle used in the exercise of the permit.
- G. Such vehicle plates shall state the character and number of the license and the date of expiration.
- H. The color of the vehicle plates shall be changed each permit year.
- I. The wearing of the badge and display of the vehicle plates are hereby made a condition of every permit to which such badge or plate apply, and failure by the permittee to wear the badge or to display the vehicle plates, as aforesaid, while in the exercise of the permit shall be cause for the revocation of such permit.

- J. A charge of One Dollar (\$1.00) shall be made by the City Clerk for each badge, which sum shall be refunded when the badge is returned by the permittee.

§ 39-11. Name and address on vehicle.

Every vehicle used by a permitted hawker, peddler or solicitor in or about his or her business shall have the name of the permittee and 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 while such vehicle is in use during the continuance of the permit.

§ 39-12. Revocation of permit.

- A. The City Clerk may, at any time, for a violation of this chapter or any other ordinance or any law, revoke any permit.
- B. When a permit shall be revoked, no refund or any unearned portion of the permit shall be made.
- C. Notice of such revocation and the reason or reasons therefore, in writing, shall be served by the City Clerk upon the person named in the application or by mailing the same to the address given in the application and upon filing a copy of such notice with the City Clerk.

§ 39-13. Restrictions.

A permitted hawker, peddler, solicitor or craft peddler shall not:
[Amended 5-5-1994 as L.L. #3-1994]

- A. 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. Wear the badge provided by the City or use the vehicle plates after the expiration or revocation of the permit represented by them
- C. Allow the vehicle and receptacles used to become in an unsanitary condition and shall keep the foodstuffs and eatables offered for sale well covered and protected from dirt, dust and insects.
- D. Blow a horn, ring a bell or use any other noisy device to attract public attention to his or her wares or shout or cry out his or her wares between the hours of 10:30 P.M. and 9:00 A.M.

- E. Stand or permit the vehicle used to stand in one (1) 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 of or lessee of the ground floor thereof objects.
- F. Sell any confectionery or ice cream within two hundred fifty (250) feet of any school between the hours of 8:00 A.M. and 4:00 P.M. on school days.
- G. Create or maintain any booth or stand or place any barrels, boxes, crates or other obstructions upon any street or public place for purposes of selling or exposing for sale any goods, wares or merchandise.
- H. Hawk, peddle or solicit any good or services, from house to house, between the hours of sunset and 9:00 A.M. **[Added 5-6-1993 as L.L. #5 (Intro No. 8) 1993]**

§ 39-14. Harbor area restrictions. [Added 6-17-1993 as L.L. #6 (Intro No. 10) 1993]

- A. No person shall hawk, peddle or solicit on the public waterfront access area, pedestrian walkway or on any sidewalk on Lake Shore Drive East between Main Street and Central Avenue.
- B. This section shall not apply to a person procuring a single day or multi-day municipal event permit, nor to any other permitholder on such days as may be designated by the Common Council.

§ 39-15. Written orders and receipts for deposits. [Editor's Note: Renumbered as of 6-17-1993]

All orders taken by permitted solicitors who demand, accept or receive payment or deposit any money in advance of final delivery shall be in writing, in duplicate, stating the terms thereof and the amount paid in advance, and one (1) copy shall be given to the purchaser at the time the deposit of money is paid to the solicitor.

§ 39-16. Records. [Editor's Note: Renumbered as of 6-17-1993]

It shall be the duty of the City Clerk to keep a record of all applications and of all permits granted under the provisions of the chapter, giving the number and date of each permit, the name and residence of the person permitted, the amount of the permit fee paid and also the date of revocation of all permits revoked.

§ 39-17. Effect on other provisions. [Editor's Note: Renumbered as of 6-17-1993]

The provisions of this chapter are supplemental to, and not in replacement of, the provisions of Article 10-A of the Personal Property Law.

§ 39-18. Penalties for offenses. [Editor's Note: Renumbered as of 6-17-1993]

The violation of any of the provisions of this chapter is hereby declared to be a misdemeanor, and any person, upon being convicted of such violation, shall be punishable as provided in Chapter 1, General Provisions, Article I, of the Code of the City of Dunkirk.