

## Town Of Rutland

### Peddlers, Solicitors and Transient Merchants

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#### Authority

Pursuant to 24 V.S.A. § 2291(9) the following ordinance is promulgated in order to regulate the licensing of peddlers, solicitors, and transient merchants conduction business in the Town of Rutland. This Ordinance is designated as a civil ordinance pursuant to 24 V.S.A. § 1971(b).

#### License Required

Unless exempted from this Ordinance by section 04, it shall be unlawful for any person to engage in the business of peddler, solicitor, or transient merchant as defined in section 03 of this Ordinance within the corporate limits of the Town of Rutland without first obtaining a license therefore as provided herein.

#### Definitions

“Peddler” is defined as any person, whether a resident of the Town of Rutland 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, carrying, conveying or transporting goods, wares, merchandise, meats, fish, vegetables, fruits, garden truck, farm products or provisions or popcorn, ice cream, sodas, or other refreshments of like character, offering and exposing the same for sale, or making sales and delivering articles to purchases or who without traveling from place to place, shall sell or offer the same for sale from a wagon, automotive vehicle, railroad car, or other vehicle or conveyance, and further provided that one who solicits orders and as a separate transaction makes deliveries to purchases as part of a scheme or design to evade the

provisions of this chapter shall be deemed a peddler subject to provisions of this chapter.

The word "Person" as used herein shall include the singular and the plural and shall also mean and include any person, firm, or corporation, association, club, co-partnership or society, or any other organization.

"Solicitor" is defined as any person, whether a resident of the Town of Rutland or not, traveling either by foot, wagon, automobile, motor truck or any other type of conveyance, from place to place, from house to house, or from street to street, taking or attempting to take orders for sale of goods, wares and merchandise, personal property of any nature whatsoever for future delivery, or for services to be furnished or performed in the future whether or not such individual has, 'carries or exposes for sale a sample of the subject of such sale or whether he/she is collecting advance payments on such sales or not, provided that such definition shall include any person who, for him/herself, or for another person, firm or corporation, hires, leases, uses or occupies any building, structure, tent, railroad box car, hotel room, lodging house, apartment, shop or any other place within the Town for the sole purpose of exhibiting samples and taking orders for future delivery.

"Transient merchant" is defined as any person, whether as owner, agent, consignee or employee, whether a resident of the Town or not, who engages in a temporary business of selling (and delivering) goods, wares, and merchandise within the Town, and who, in furtherance of such purpose, hires, leases, uses or occupies any building, garage, structure, motor vehicle, tent, railroad box car, public room in hotels, lodging houses, motel, apartments, shops, or any street, driveway, alley, or other place within the Town, for the exhibition and sale of such goods, wares and merchandise, either privately or at public auction provided that such definition shall not be construed to include any person who, while occupying such temporary locations, does not sell stock, but exhibits samples only for the purpose of securing orders for future delivery only. The person so engaged shall not be relieved from complying with the provisions of this chapter merely by reason of association temporarily with any local dealer, trader, merchant, auctioneer or by conducting such transient business in connection with, as a part of, or in the name of any local dealer, trader, merchant or auctioneer.

### Exceptions

The provisions of this chapter shall not apply to one who sells or offers for sale in person or by his/her employees or agents, newspaper, ice, bread, pastry, wood, milk, fruits, vegetables or other farm produce.

The provision of this chapter shall not apply to sales made to manufacturers, merchants and dealers for resale only.

## License Application

An application for licenses under this Ordinance, shall set forth the name, permanent and local address, business address and physical description of all persons to be covered by the license; description of any vehicles to be used in the licensed activity, including registration number, the nature of the business to be conducted; the last place of such business, and the period of time requested to be covered by the license.

The applicant shall identify every federal, state, or local administrative or regulatory enforcement action or license violation asserted against the applicant or the applicant's employer concerning commerce, the conducting of business, or the sale of services, goods, wares, merchandise, personal property or any other thing regulated by this Ordinance and, if no longer pending, the outcome or resolution thereof.

The applicant shall identify any and all misdemeanor and felony criminal convictions concerning the applicant. For each such conviction, the applicant shall identify the offense for which the applicant was convicted, the date of conviction, and the court and state that issued the conviction.

The applicant shall state whether they seek a permit to conduct business door to door or from a particular location. An applicant that proposes to conduct business from a particular location must provide with the application written permission from the owner of the property for the location proposed. Any such permit shall be limited to the particular location identified.

The applicant shall provide copies of drivers' licenses for all drivers and number on the driver's license.

The applicant shall provide the name of the State that issued the vehicle license plate.

The applicant shall provide date of birth.

The applicant shall submit the information for all persons involved in the activity.

The Select Board or its designee shall issue or deny a license application.

No license shall be issued where the applicant or the business that the applicant seeks to conduct would endanger the health, safety or welfare of the public. Evidence of danger to the public health, safety or welfare may include, but shall not be limited to, misdemeanor or felony conviction(s); evidence of fraud, deceit, or misrepresentation; consumer complaints; or evidence of violations or enforcement concerning other licensing or consumer protection authorities.

In the exercise of its discretion, the Select Board of the Town of Rutland may establish the duration of permits and a schedule of fees for permits issued pursuant to this Ordinance.

#### Display of license

Each solicitor, peddler and transient merchant shall at all times while doing business in the Town of Rutland keep in his/her possession the license provided for in this Ordinance and shall, upon the request of prospective customers, Town Constable or other Town official, exhibit the license as evidence that he/she has complied with all requirements thereof. Each transient merchant shall publicly display his/her license in his/her place of business.

#### No assignment or transfer of license

A license issued pursuant to this Ordinance shall not be used at any time by any person other than the person identified on the license. A license issued pursuant to this Ordinance shall not be transferred or assigned.

#### Loud noises and amplifying devices

No peddler, solicitor or transient merchant, nor any person in his/her behalf, shall shout, make any cry out, blow a horn, ring a bell or use any sound device, including any loud speaking radio or sound amplifying system upon any street, alleys, parks or other public places of the Town or upon any private premises in the Town for the purpose of attracting attention to any foods, wares or merchandise which such licensee proposes to sell.

#### Use of Town highway to sell or conduct business prohibited

A peddler, solicitor, or transient merchant shall not sell or conduct business from any location in town highway, including a town highway right of way. A peddler, solicitor, or transient merchant shall not conduct business from a metered parking space. A peddler, solicitor or transient merchant shall not conduct business operate in any congested area where his/her operations might impede or inconvenience the public without the approval of the Select Board of the Town of Rutland.

#### No solicitation list

Any resident, tenant, or property owner located that desires not to receive solicitation or other contact at their property from persons subject to this Ordinance may so inform the Town Administrator.

The Town Administrator shall keep a list of the properties and/or addresses of the properties in the Town for which the Town has received such notice (the no-solicitation list”).

The Town Administrator shall provide a copy of the no solicitation list to the holder of permit that authorizes door-to-door solicitation.

It shall constitute a violation of this Ordinance for a permit holder to solicit or conduct business covered by this Ordinance, otherwise attempt to conduct business covered by this Ordinance at a property identified on the no-solicitation list.

### Municipal records

The Constable(s) of the Town of Rutland shall inform the Town Administrator of every municipal ticket issued for a violation of this Ordinance. The Town Administrator shall maintain a record for each license and a record of all the reports of violation of this Ordinance.

### Enforcement, violations, and penalties

A civil penalty of not more than \$500 may be imposed for a violation of this Ordinance. Each week that the violation continues shall constitute a separate violation of this Ordinance.

An issuing municipal official is authorized to recover by the issuance of a municipal complaint, civil penalties in the following amounts for each violation of this Ordinance:

First Violation	\$50
Second Violation	\$100
Third Violation	\$300
Fourth and Subsequent Violations	\$500

In lieu of the civil penalties provided in subsection b of this section, an issuing municipal official is authorized to recover a waiver fee in the following amount, from any person to whom a municipal complaint is issued, who declines to contest the municipal traffic complaint and pays the waiver fee:

First Violation	\$25
Second Violation	\$50
Third Violation	\$150
Fourth and Subsequent Violations	\$250

Other Relief - In addition to the enforcement procedures available before the Traffic and Municipal Ordinance Bureau, the Town of Rutland may pursue any remedy authorized by law, including without limitation, the maintenance of a civil action in superior court pursuant to 24 V.S.A. § 1974a(b) to obtain injunctive and other appropriate relief.

### Severability

The provisions of this Ordinance are severable. If any provision of this Ordinance, or its application to any person or circumstances or within any part of the Town of Rutland is held invalid, illegal, or unenforceable by a court of competent jurisdiction, the invalidity shall not apply to any other portion of this Ordinance which can be given effect without the invalid provision or application thereof.

### Effective date

This Ordinance shall become effective sixty (60) days after its adoption by the Select Board. If a petition is timely filed under 24 V.S.A. § 1973, the taking effect of this Ordinance shall be governed by 24 V.S.A. § 1973(e).