

Chapter 76

PEDDLING AND SOLICITING

[HISTORY: Adopted by the Town Board of the Town of Urbana: Art. I, 7-28-1993 as L.L. No. 1-1993. Amendments noted where applicable.]

ARTICLE I

Transient Merchants

[Adopted 7-28-1993 as L.L. No. 1-1993]

§ 76-1. Purpose.

This Article is enacted for the purpose of regulating the business practices of roadside vending and transient merchants within the Town of Urbana and to provide for the preservation of good order and the peace, health, safety and welfare of the Town of Urbana residents and the protection and security of their property.

§ 76-2. Definitions.

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

PERSON — An individual, firm, partnership, association, corporation or agent thereof.

PRODUCE — Agricultural products grown or produced for human consumption, including but not limited to various fruits, vegetables, syrups and honey.

RIGHT-OF-WAY — Any area bordering a public highway or roadway, defined by the respective governing agency to be a part of that public highway or roadway, and to be free of any structures or obstructions.

ROADSIDE VENDING STAND — Any stand, cart, wagon or other vehicle or temporary structure located adjacent to any highway or roadway for the purpose of selling and offering merchandise to the general public.

SOLICITOR — Any person, whether a resident of the Town of Urbana 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 or personal property of any nature whatsoever, for future delivery or for services, whether or not such individual has, carries or exposes for sale a sample of the subject of such sale or whether or not he is collecting advance payment on such sales.

TRANSIENT BUSINESS — A retail, wholesale or service business conducted in a temporary structure, tent or vehicle on any lot or parcel of land, or by door-to-door

solicitation, for a limited period of time. Lack of a permitted permanent physical structure housing a permitted business shall be presumptive evidence of a temporary situation.

TRANSIENT MERCHANT — Any person, whether a resident of the Town of Urbana or not, who engages or proposes to engage in a transient retail or service business.

VENDOR — A person who engages or proposes to engage in the operation of a roadside vending stand.

§ 76-3. Permit required; exception.

A. No person shall engage in business as a transient merchant unless he shall first have obtained a permit to do so from the Town Clerk. The fee for such permit shall be determined from a schedule of fees as adopted by the Town Board.¹

B. Persons desiring to sell produce and related agricultural products from a temporary roadside location are not required to obtain a permit, provided that such persons comply with the other provisions of this Article and any other applicable regulations of the Town of Urbana.

§ 76-4. Regulations.

Vendors selling agricultural produce and related products from roadside stands, carts, wagons or other vehicles or temporary structures are not required to obtain a permit but are subject to the following regulations:

A. Any roadside stand, carts, wagons or other vehicles or devices utilized by them shall not be located in any state or municipal right-of-way.

B. Only agricultural produce or related products can be offered for sale at such roadside locations.

C. No such roadside stand shall be located within 500 feet from any roadway intersection.

D. Any roadside vending stand not located on property owned by the vendor shall have written permission from the property owner expressly allowing the operation of said stand. Such written permission shall be visibly displayed.

E. No vendor shall operate any roadside stand for a period exceeding 60 days, consecutive or cumulative, whichever is less.

§ 76-5. Exemptions.

¹ Editor's Note: See Ch. 55, Fees.

The following types of activities may be undertaken and maintained without a permit or payment of a fee, provided that such activities comply with the requirements of this Article and any other local laws or ordinances of the Town of Urbana or any other governing body:

- A. The temporary, in season, sale of fruits, vegetables, produce or related agricultural products.
- B. Any person selling personal property at wholesale to dealers.
- C. The peddling of meats, fish, fruit and similar produce by farmers and persons who produce such commodities or to dealers in milk, baked goods, heating oil, daily newspapers or similar commodities.
- D. Any honorably discharged member of the United States Armed Forces who has procured a license under Article 4 of the General Business Law of the State of New York.
- E. Persons soliciting, collecting or operating a sale on behalf of any bona fide charitable, education, scientific, health, religious, patriotic or other organization or worthy cause deemed to be in the public interest.
- F. Any person selling personal property at a garage or yard sale held at his residence.

§ 76-6. Application procedure.

A. Applications for a transient merchant permit shall be made in writing on forms obtained from the Urbana Town Clerk and shall contain the following information:

- (1) The name, address and telephone number of the applicant.
- (2) The name, address and telephone number of any person or persons who will be conducting business.
- (3) A copy of any applicant's certificate of doing business as filed in the Steuben County Clerk's office.
- (4) A copy of the applicant's current New York State sales tax resale certificate.
- (5) A brief description of the goods or services to be provided.
- (6) The location where the applicant intends to do business.
- (7) A description of any vehicle. (If a vehicle is utilized, then a copy of the vehicle registration is to be included.)
- (8) The dates that this permit shall include.

B. The applicant shall present a New York State drivers license or similar photographic identification.

§ 76-7. Permit issuance.

Following the receipt of a completed application, the Town Clerk shall verify that the application is complete. Upon verification of the application and payment of the prescribed fee, the permit shall be issued by the Town Clerk.

§ 76-8. Transferability of permit.

The permit issued shall not authorize any person, except the designated person named in said license, to engage in business thereunder. Said permit shall not be transferable from the person to whom issued to any other person. A separate permit must be obtained by a licensed peddler or solicitor for every agent or employee working for him. Each permit shall authorize the person to conduct business only in the manner as indicated therein.

§ 76-9. Form of permit.

All permits shall be issued on forms drawn in accordance with this Article. They shall be printed and consecutively numbered. The permit shall contain all the required information, including the term of the permit and the amount of fees paid.

§ 76-10. Possession of permit.

A. Every person holding a permit under this Article shall be required to carry the permit with him while engaged in the business permitted. He must produce the permit at the request of any town official and present such permit to any person in the town with whom he wishes to conduct business.

B. If a permit is lost or stolen, such shall be immediately reported to the Town Clerk. Upon notification, the Town Clerk shall issue a replacement permit to the permittee pursuant to the fee schedule approved by the Town Board.

§ 76-11. Term of permit.

Each transient merchant permit shall have a term of one week. For the purposes of this Article, a "week" is defined as that period beginning at 9:00 a.m. on Monday and ending at 6:00 p.m. the following Sunday or any portion thereof.

§ 76-12. Conduct of business.

A transient merchant or any person in his behalf shall not:

A. Be permitted to operate in any congested area where his operations might impede or inconvenience the public.

B. Sell or offer for sale goods, wares or merchandise from vehicles on any of the public streets of the Town of Urbana; provided, however, that the prohibition herein contained shall not include the bona fide delivery of goods, wares, merchandise or food made on a regular route to regular customers.

§ 76-13. Applicability.

This Article shall not apply to any village within the Town of Urbana.

§ 76-14. Enforcement.

The Town Board of the Town of Urbana shall provide for the enforcement of the provisions of this Article. The Code Enforcement Officer, his agents or any other person authorized by the Town Board shall have the right to administer and enforce this Article.

§ 76-15. Revocation of permit.

If the Code Enforcement Officer, upon investigation, finds that the holder of any transient merchant permit or operator of any roadside vending stand is in violation of the provisions of this Article, he shall serve upon the holder of such permit or such vendor an order, in writing, directing the person or persons to cease and desist from any such activity and to surrender any permit or permits until the violations therein specified are remedied.

§ 76-16. Penalties for offenses.

Any person violating the provisions of this Article shall be guilty of an offense and, upon conviction thereof, shall be fined not less than \$50 nor more than \$100, for each offense. Each and every day that a violation of this Article shall continue shall constitute a separate and distinct offense.