

**TOWN OF MONTGOMERY
ORANGE COUNTY, N.Y.**

LICENSE #: _____
Date Received: _____
Fee Paid: _____
Date Issued: _____

**APPLICATION
FOR TRANSIENT MERCHANT, HAWKER, VENDOR, PEDDLER AND SOLICITOR LICENSE
Under Local Law Number 1-1988**

1. Applicant's Name: _____ Date: _____
2. Residence _____ Phone #: _____
3. Business Address: _____ Phone #: _____
4. Date of Birth: _____ Height: _____ Weight: _____ Color Hair: _____ Eyes: _____
5. If Corporation, Principal Place of Business: _____
Name and Address of Officers: _____

Name and address of person in New York State upon whom process or official notice may be served: _____
6. Criminal Record: Has applicant ever been arrested? Yes ☐ No ☐
Has applicant ever been convicted of a misdemeanor or felony? Yes ☐ No ☐
If yes, explain: _____
7. State the exact location within the Town of Montgomery where business is to be conducted if other than a hawker, peddler or solicitor. _____
8. Indicate the valid, certified sales tax number issued by the New York State Department of Taxation and Finance: _____
9. a) Do you have the express permission of the landowner upon whose lands you intend to conduct your business as set forth in #7 above? Yes ☐ No ☐
b) State name, address and telephone number of said landowner. _____
10. Type of products or services to be sold or solicited: _____

Give trade name of products, manufacturer's name, if different, manufacturer's address and address of company the applicant represents, if different: _____
11. Has an application for a similar license ever been rejected in any jurisdiction?
Yes ☐ No ☐
12. Have you held a license in the Town of Montgomery before? Yes ☐ No ☐
If yes, give last License Number _____
13. Give the name and address of any two persons the applicant expects to employ hereunder: _____
14. Motor vehicle to be used by licensee: Make: _____ Year: _____
Color: _____ License No. _____
Driver's License No. _____

15. Attach proper and valid Department of Health Certificates if foodstuffs and edibles are proposed for sale under any license herein.

STATE OF NEW YORK)
COUNTY OF ORANGE)

_____ being duly sworn, deposes and says that (s)he is the applicant
for the above requested license, that (s)he knows the contents of the application
and all statements therein are true under the penalty of perjury.

Sworn to me this
day of _____

20 _____

Applicant

Notary Public

(Please Use this Form for Filing your Local Law with the Secretary of State)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

~~County~~
~~City~~ of MONTGOMERY
~~Town~~
~~Village~~
Local Law No. 1 of the year 19 88

A local law TRANSIENT RETAIL MERCHANTS, HAWKERS, PEDDLERS & SOLICITORS
(Insert title)

Be it enacted by the TOWN BOARD of the
(Name of Legislative Body)

~~County~~
~~City~~ of MONTGOMERY as follows:
~~Town~~
~~Village~~

SECTION 1: PURPOSE

The purpose of this local law is to assist in the orderly government of the Town of Montgomery, to assist in the orderly management of the business, peace, health, safety and welfare of its inhabitants and the protection and security of their property.

SECTION 2: DEFINITIONS.

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

TRANSIENT RETAIL BUSINESS - One conducted in a store, hotel, house, building, motor vehicle, trailer, tent, railroad boxcar or boat or on any street, alley or other place for the sale of retail goods, wares or merchandise excepting prepared food and farm products and which is intended to be conducted for a temporary period of time and not permanently. If the place in which the business is conducted is rented or leased for a period of six (6) months or less, such fact shall be presumptive evidence that the business named or carried on therein is a transient business.

ROADSIDE FARM MARKET - a truck gardener or farmer who himself or through his employees, vends, sells or disposes of products of his own farm or garden from any location within the Town of Montgomery other than his permanent residence or permanent farmstead.

(If additional space is needed, please attach sheets of the same size as this and number each)

FOOD VENDING BUSINESS - one selling prepared food products for immediate consumption from any motor vehicle, trailer, platform, stand, tent or on any highway, street, public right of way, alley or other place within the Town of Montgomery.

HAWKER/PEDDLER - The terms "hawker" and "peddler" shall mean and include, except as hereinafter expressly provided, any person, either principal or agent who, in any public street or public place or by going from house to house or place of business, on foot or on or from any animal or vehicle standing in the street or highway, sells or barter, offers for sale or barter or carries or exposes for sale or barter, any goods, wares or merchandise, except as hereinafter exempted.

SOLICITOR - The term "solicitor" mean and include 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 as hereinafter exempted, or for services to be performed in the future, or for making, manufacturing or repairing any article or thing whatsoever for future delivery.

PERSON - The word "person" shall mean and include one 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 used.

SECTION 3: EXCEPTIONS

This local law shall not apply to sales in a residence where the retail merchant also resides in such permanent residence within the Town of Montgomery and shall not apply to door to door sales by civic groups, churches, school sponsored programs, Girl or Boy Scout programs, Little League Baseball, Rotary Clubs, Lions Clubs, Kiwanis and like civic minded groups. Further, the provisions of this local law shall not apply to persons engaged in the sale of cosmetics or Tupperware, provided, however, that such sales occur solely and exclusively within a residence by permission of the owner thereof. It is the intent of this Section to except such persons who sell Avon products, Tupperware, Mary Kay Cosmetics and like groups that conduct sales of like wares in residences with permission of the owner thereof.

This local law shall also not apply to any person soliciting at the express invitation of the person solicited; to a wholesaler selling articles to dealers or merchants who have an established place of business within the Town of Montgomery; to any sales held pursuant to statute or by order of any court or to insurance brokers, insurance agents, real estate brokers, real estate agents, stockbrokers and securities salesmen, all of whom must hold any required license from the State of New York for such professions or businesses.

Anything to the contrary notwithstanding, this Local Law shall not apply if its enforcement would unlawfully interfere with interstate commerce.

SECTION 4: LICENSE REQUIRED

It shall be unlawful for any person, firm or corporation to conduct or operate a transient retail business, roadside farm market, food vending business or to engage in hawking, peddling and/or soliciting sales of any products to which this Local Law applies within the Town of Montgomery without first obtaining a license from the Town Clerk of the Town of Montgomery. All licenses shall be nontransferable. The particular licensee shall have such license in his possession at all times and shall exhibit the same at any time upon demand by any Town police officer, the Town Clerk or any other officer of the Town designated by the Supervisor and the Town Board and upon demand by any citizen or customer or prospective customer.

SECTION 5: FEES FOR LICENSE

The fees for the licenses required by this local law shall be as follows:

TRANSIENT RETAIL BUSINESS	\$100.00
ROADSIDE FARM MARKET	\$100.00
FOOD VENDING BUSINESS	\$100.00
HAWKER/PEDDLER	\$100.00
SOLICITOR	\$100.00

An honorably discharged member of the armed forces who is handicapped as a result of injuries received while in the military services of the United States and who has procured a license from the Orange County Clerk as provided by the General Business Law of the State of New York shall be exempt from this fee requirement.

SECTION 6: APPLICATION FOR LICENSE

The application for the license shall include a statement verified by the person or persons who are to conduct such transient retail business, roadside farm market, food vending business or who seeks to engage in hawking/peddling and soliciting and, if a corporation, by the president and treasurer thereof, containing the following information:

- A. The full name, address, telephone number, photograph, physical description and criminal arrest and conviction record, if any, of each of such persons and, if a corporation, the state under the laws of which it is organized, the exact location of its principal office place of business and the names and addresses of its officers.
- B. Name and address of the person located in New York State upon whom process or official notice may be served.
- C. The exact location and nature of the business engaged by such persons during the five (5) years immediately preceding the filing of such statement and, in the case of a corporation organized less than five (5) years, since its organization.
- D. The exact location within the Town of Montgomery where business is to be conducted, if other than a hawker/peddler or solicitor.
- E. The date on which such person intends to begin doing such business within the Town.
- F. The valid, certified sales tax number issued to the applicant by the New York State Department of Taxation and Finance.
- G. A statement that the applicant has the permission of the landowner upon whose lands the transient retail business, roadside farm market, or food vending business as designated in Section 6D herein, together with the name, address and telephone number of such landowner or in the alternative proof of an agreement between the vendor and the landowner as to the permitted operation of same together with the name, address and telephone number of such landlord.
- H. The type of products or services to be sold or solicited, including trade name of products, if any. Further, name and address of manufacturer of above products or company applicant represents. If

manufacturer or company is located outside of New York State, provide name and address of New York office.

- I. Whether or not an application for a similar license has ever been rejected in any jurisdiction within the United States.
- J. Whether or not the applicant or anyone associated with its business has ever held a similar license in the Town of Montgomery at anytime in the past. If so, provide the last license number.
- K. Motor vehicle to be used by licensee, including make, model, year, color, state registration number and driver's license number.
- L. Where foodstuffs and edibles are proposed for sale under any license herein, the applicant shall present with the application all proper and valid Department of Health Certificates as otherwise required by law.

Any false statement contained in any application hereunder shall be grounds for revocation of the subject license.

SECTION 7: INVESTIGATIONS

Upon filing of the verified application required herein, the Town Clerk shall immediately cause an investigation to be made of the parties named in such statement, along with the merchandise; and after such examination and in no event not more than five (5) business days after submission of a completed application, the Town Clerk may refuse to issue a license to conduct such business if, in the judgment of the Town Clerk the public interest so requires.

Upon the refusal of the Town Clerk to issue a license to any applicant or upon the determination of the Town Board that any license shall be revoked, the procedure prescribed in Section 137 of the Town Law shall control. When a license shall be revoked, no refund of any unearned portion of the license fee shall be made. Notice of such revocation and the reason therefor in writing shall be served by the Town Clerk upon the person designated in the application to receive notice and service of process, and a copy of such notice shall be filed with the Town Clerk.

SECTION 8: LICENSE

Upon the filing of the application as provided in the preceding section, the Town Clerk shall, upon his or her approval of such application issue to the applicant a license as provided. No licenses shall be refused except for a specific reason and for the protection of public safety, health, morals or general welfare. A license shall not be assignable. Any holder of such license who permits it to be used by any other person and any person who uses such license granted to any other person, shall be guilty of a violation of this local law. Such license shall automatically expire on January 1, following the date of issuance of such license, but such license may provide for an earlier expiration date. No license shall be granted to a person under 18 years of age. No application to whom a license has been refused or who has had a license which has been revoked shall make further application until a period of at least six months shall have elapsed since the last previous rejection or revocation, unless he can show that the reason for such rejection or revocation no longer exists.

SECTION 9: EMPLOYEES OF LICENSEE

Any licensee may employ not more than two persons to assist in selling and delivering the wares, but such persons shall so act only while accompanying a licensed peddler, hawker or solicitor. An additional license shall be required for each additional employee engaged in selling or soliciting the wares or services of his employer, over the two employees permitted above.

SECTION 10: PLACE OF CONDUCT OF BUSINESS

No person shall conduct a transient retail business, roadside farm market or food vending business within the Town at any location other than that named in the statement filed in the office of the Town Clerk.

SECTION 11: RESTRICTIONS

A licensed transient retail merchant, roadside farm market operator, food vending operator, peddler, hawker or solicitor shall:

- a. not falsely or fraudulently misrepresent the quantity or quality of any article offered for sale; or offer for sale any unwholesome, tainted or diseased provisions or merchandise;
- b. keep the vehicle and receptacles used by him in a clean and sanitary condition and the foodstuffs and edibles offered for sale well covered and protected from dirt, dust and insects, and where foodstuffs and edibles are involved shall comply with Article 13, Title VIII of the Public Health Law of the State of New York.
- c. not stand or permit the vehicle used by him to stand in one place in any public place or street or street right of way for more than ten minutes, or in front of any premises for any time if the owner or lessee of the premises objects.
- d. not sell any confectionery or ice cream within 250 feet of any school between the hours of 8 a.m. and 4 p.m. on school days, except when written permission from school authorities has been procured.
- e. not permit any vehicle used by him to stop or remain on any crosswalk.
- f. not create or maintain any motor vehicle, trailer, booth or stand or place any barrels, boxes, crates or other obstructions upon any public highway, street or public right of way or upon any public place for the purpose of selling or exposing for sale, any goods, wares or merchandise.

SECTION 12: APPROVAL REQUIRED FOR WEIGHING AND MEASURING DEVICES

Any licensee or its agents, servants or employees carrying, keeping or using scales, measures or other appliances for weighing or measuring shall first have the same inspected by the County Sealer of Weights and Measures, and if the latter shall find such appliances correct and true, he shall issue his certificate to that effect, and such certificate shall be affixed thereto in a conspicuous place. A licensee, its agents, servants and employees shall not carry, keep for use or use any such appliances which shall not be correct and true and do not give record and give the weight and quantity claimed by said licensee, agent, servant or employee.

SECTION 13: ORDERS

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

SECTION 14: RECORDS

It shall be the duty of the Town Clerk to keep a record of all applications and of all licenses granted under the provisions of this local law, giving the number and date of each license fee paid and also the date of revocations of all licenses revoked.

SECTION 15: REPEALER

Any other local law, ordinance or resolution inconsistent herewith is hereby repealed, including but not limited to Town of Montgomery Local Law #1 of 1968.

SECTION 16: SEVERABILITY

The determination by any court of competent jurisdiction that any provision of the within local law is unenforceable, invalid, void, unconstitutional or in conflict with federal or state law shall not in any way affect the enforceability or validity of any other provision contained herein.

SECTION 17: VIOLATIONS AND PENALTIES

Any person violating any provision of this local law shall be guilty of the violation of Disorderly Conduct for each offense and the person shall be deemed a disorderly person and shall be subject to a fine of not more than \$250.00 or a term of imprisonment of not more than fifteen (15) days or both such fine and imprisonment for each offense hereunder.

SECTION 18: OTHER LAWS, RULES, REGULATIONS, OR ORDINANCES

This local law imposes requirements in addition to those of any other statute, local law not hereby repealed, regulation, rule or ordinance, including but not limited to, all the terms, provisions and requirements of the Zoning Law of the Town of Montgomery as it now exists or as it is from time to time amended.

SECTION 19: WHEN EFFECTIVE

This local law shall take effect immediately upon publication and filing with the Secretary of State in accordance with the Municipal Home Rule Law of the State of New York.

BE IT ENACTED THIS 21st DAY OF JANUARY, 1988 BY THE TOWN BOARD OF THE TOWN OF MONTGOMERY, COUNTY OF ORANGE, STATE OF NEW YORK.

CARL HELSTROM, SUPERVISOR
ROBERT K. TWEDDLE, COUNCILMAN
EARL C. SNYDER, COUNCILMAN
ERNEST R. TRAPINI, COUNCILMAN
ALBERT C. VALK, COUNCILMAN


MARIE MARANO, TOWN CLERK
TOWN OF MONTGOMERY