

(Use this form to file a 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 SHAWANGUNK
Town of
~~Village~~

Local Law No. 1 of the year 19 98

A local law entitled "TRANSIENT RETAIL MERCHANTS, HAWKERS, PEDDLERS AND SOLICITORS"
(Insert Title)

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

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

SECTION II – STATEMENT OF AUTHORITY

This Local Law is authorized by the New York State Constitution, Article IX, the provisions of the New York Municipal Home Rule Law, the provisions of the Statute of Local Governments, the relevant provisions of the Town Law of the State of New York, the Zoning Ordinance of the Town of Shawangunk and the general police power vested with the Town of Shawangunk to provide for the health, safety and welfare of the citizens and landowners in the Town.

SECTION II – LEGISLATIVE INTENT

The purpose of this Article is to regulate the business practices of hawkers, peddlers, solicitors and transient retail businesses in the Town of Shawangunk with certain exceptions, as otherwise provided herein, by providing for the registration and regulation of the conduct of such businesses. It is not the intent of this law to regulate freedom of speech as guaranteed under the Constitution of the United States and the Constitution of New York State.

SECTION III – DEFINITIONS AND WORD USAGE

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

PERSON – Any person, association, partnership, firm or corporation or any other

(If additional space is needed, attach pages the same size as this sheet, and number each.)

entity that engages in the transient retail business or the business of door-to-door solicitation or peddling.

SOLICITING and PEDDLING:

1. SOLICITING – The seeking or taking of contracts or orders for any goods, wares, merchandise or services for future delivery or for subscriptions or contributions upon any streets or sidewalks or from house to house within the Town of Shawangunk, except as hereinafter excepted.
2. HAWKING/PEDDLING – The selling or offering for sale of any goods, wares, merchandise or services for immediate delivery which the person selling or offering for sale carries with him or her in traveling or has in his possession or control upon any of the streets or sidewalks or from house to house within the Town of Shawangunk.

SOLICITOR or PEDDLER – Any person who shall engage in soliciting or hawking/peddling as hereinabove defined.

TRANSIENT MERCHANT – A person who engages or proposes to engage temporarily in merchandising business in the Town of Shawangunk and occupies a room, or uses a building, tent, lot, stand, vehicle (car, truck, van, pushcart or trailer) or other premises for the purpose of selling, trading or bartering goods, wares and merchandise. Merchants of this type must restrict their sales to the Small Business District or commercial area of the Town.

SECTION IV – EXEMPTIONS

- A) **License Fee Exemption:** The requirements of this Chapter as to the payment of a license fee shall be held not to include the following persons who expressly are exempt from the license fee provisions:

- 1) Any person honorably discharged from the United States Army, Navy, Air Force or Marine Corps or other components of the military forces of the United States
- 2) Persons engaged in delivering merchandise of any nature whatsoever on regular, scheduled routes to regular customers, including specifically, but not limited to, persons delivering dairy products, bread and other merchandise over such routes.

All of the other provisions of this Chapter shall apply to persons otherwise exempt from the license fee provisions.

B) **Complete Exemption:** This Chapter shall not apply to any of the following:

- 1) Sales conducted pursuant to statute
- 2) Sales conducted pursuant to the order of any court
- 3) Any person selling personal property at wholesale to dealers in such articles
- 4) The sale of fruits and vegetables raised on the property where such items are sold
- 5) 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.
- 6) Persons soliciting, collecting or operating a sale on behalf of any local bona fide charitable, religious, veterans, patriotic, civic group or other organization of worthy cause deemed to be in the public interest and which organization is represented locally by a Town resident. By way of example and not in limitation thereof, this Chapter shall not apply to door-to-door sales or transient retail sales by Fire Departments and other public safety organizations, churches, school-sponsored programs, scouting programs, Little League and other not-for-profit

sports programs, Rotary Clubs, Lions Clubs, Kiwanis and other like civic or not-for-profit groups or organizations.

- 7) Any person selling personal property at a garage or yard sale held at its (or his or her) residence provided not more than four (4) such sales are conducted per calendar year.
- 8) The sale of newspapers.
- 9) Any merchant having an established place of business lawfully within the Town of Shawangunk doing business solely on that property.
- 10) Farmers seeking or taking orders for or selling or offering for sale their own produce.
- 11) The seeking or taking of orders for or the selling or offering for sale of bread or bakery products, meat or meat products or milk and milk products by any manufacturer or producer thereof.
- 12) The seeking or taking of orders for or the selling or offering for sale of insurance by insurance agents or brokers licensed under the insurance laws of the State of New York or the sale of real estate or securities provided the salesperson is in possession of the required New York State license for same.
- 13) Where the enforcement of this Chapter would unlawfully interfere with interstate commerce.
- 14) Where the person soliciting does so at the express invitation of the person solicited.

SECTION V – REGISTRATION REQUIRED

No person shall engage in soliciting, hawking or peddling or act as a transient merchant in the Town of Shawangunk without first registering with the Town Clerk and obtaining a license from the Town Clerk as hereinafter provided.

SECTION VI – APPLICATION

- A) Every person desiring to be a transient merchant or to engage in soliciting, hawking or peddling in the Town of Shawangunk, shall first register, under oath, with the Town Clerk. Upon such application, such person shall give a photo identification that would include his or her name, address and age as well as the business' sales tax identification number, any previous criminal record, the name and address of the person for whom he or she works and a letter appended to the application authorizing the applicant to represent the firm the applicant purports to represent, if any; the type or types of article, device, subscription, contribution, service or contract which he or she desires to sell or for which he or she wishes to solicit within the Town; the length of time he or she wishes to be registered; the type of vehicle used, if any, and its registration number; and the name, address and title of a company officer upon whom process or other legal notice may be served, if the applicant is a corporation or company or other legal entity. Additionally, transient retail merchants must supply written proof from the owner of the land authorizing the transient merchant to utilize said lands for the purpose allowed hereunder.
- B) Where a person makes application for himself or herself and one (1) or more helpers, all applicable personal information specified above shall be given for each helper and an individual license shall be required for each helper. No license issued under this Chapter shall be transferable from one person to another.

- C) If the applicant for a license uses scales or measures in its business, he or she shall also file with his application for a license a certificate issued by the Ulster County Sealer of Weights and Measures that the scales or measures have been tested and sealed and that such certificate shall remain valid for the duration of the license issued hereunder.
- D) All applicants for food licenses shall exhibit to the Town a permit from the Ulster County Department of Health at the time of the application hereunder.
- E) No license shall be issued to any individual whose merchandise to be sold on the streets or sidewalks of the Town consists of souvenirs, such as artificial flowers to be worn as boutonnieres, small replicas of the American Flag or a facsimile thereof, or any other souvenirs of a patriotic nature, unless sponsored by one of the bona fide local veterans' or like civic organizations as more fully described elsewhere in this Chapter.
- F) No license shall be issued to any person standing or selling in parking lots.
- G) All licenses issued hereunder shall expire automatically and without further notice on the one year anniversary of issuance unless such license expires sooner by its stated term.
- H) All such applications shall be sworn to as accurate and/or shall contain a statement that false statements will subject the applicant to the penalties for filing a false written statement per New York State Penal Law Section 210.45 as same now exists or may be amended hereafter.

SECTION VII- LICENSE FEES

No permit or license shall be issued under this chapter except upon payment of the fee unless otherwise exempt as set forth elsewhere in this Chapter. The fee shall be established by resolution of the Town Board of Shawangunk and may be amended from time to time, also by resolution of said Board.

SECTION VIII – ISSUANCE OF LICENSE; TRANSFERABILITY; MARKETPLACES

- A) Upon registering with the Town Clerk or the Town Clerk's designee as aforesaid, each solicitor or peddler or transient merchant shall be issued a license or permit and may, unless he or she shall have been convicted of a crime involving moral turpitude, be permitted to solicit or peddle or act as a transient merchant within the Town for the licensed period beginning on the date such license or permit issued and ending on the expiration date thereof. Such license or permit shall not be transferable.
- B) The applicant for a transient merchant license shall indicate the location where any selling or soliciting will be done and a permit will be issued for that location only. Any changes of location must be requested in writing to the Town Clerk and must be approved by the Town Clerk's office. The application must include a written authorization from the landowner.
- C) Notwithstanding the provisions of Subsection A hereof, the Town Clerk shall be authorized to issue transient merchant license(s) to the owner of any validly existing marketplace for casual retail sales and barter by independent vendors upon condition that said owner shall provide to the Town Clerk a complete list of participating vendors and with the additional condition that the special fee for this type of marketplace be paid as set forth in the Fee Schedule adopted by the Town Board as herein provided.
- 1) This list required by this subsection shall contain a statement on behalf of said owner as follows:

"This list constitutes a complete list of vendors for the reporting period. Each of said vendors is in compliance with the Local Law #1 of 1998 for the Town of Shawangunk. A false statement herein renders both the owner and the

signatory liable to punishment pursuant to Penal Law Section 210.45 as that Law now exists or from time to time is amended.”

2) This list shall be provided at least once each month or otherwise as required by the Town Clerk.

SECTION IX – DISPLAY AND RESTRICTIONS OF LICENSE

- A) Every solicitor or hawker/peddler shall, at all times while engaged in soliciting or peddling in the Town, carry evidence of such registration upon his or her person and shall exhibit such evidence upon request to all police officers, Town officials and citizens.
- B) Every person holding a transient merchant license shall post said license in a prominent place in his or her business premises and shall maintain said license as such at all times.
- C) No solicitor or peddler shall engage in selling or offering for sale or in seeking or taking of orders or contracts for any goods, wares, merchandise, article, device, subscription, contribution, service or contract not mentioned upon such license, nor shall any person use any vehicle for soliciting or peddling other than the vehicle registered upon his or her license.
- D) No license issued under the provisions of this chapter may be transferred from one person to another. The person designated in said license shall be the only person authorized to engage in such business thereunder.
- E) No offensive behavior or language shall be used in the course of the merchant’s sales.

SECTION X – DAYS AND HOURS OF SALE

No person shall engage in soliciting or hawking/peddling at anytime on Sunday or on federally designated holidays or on any other day of the week before 9:00 a.m. or after 5:00 p.m. except upon invitation from or an appointment with the resident. (The Sunday restriction and the hours may be waived for special events by resolution of the Town Board.)

SECTION XI – NOISE RESTRICTION

No person engaged in soliciting or peddling or as a transient merchant shall hawk or cry his or her goods, wares, merchandise, articles, contracts or services upon any of the streets or sidewalks of the Town, nor shall he or she use any loudspeaker or horn or any other device on public property for announcing his or her presence.

SECTION XII – VEHICLE RESTRICTIONS

No person engaged in soliciting or peddling or as a transient merchant shall park any vehicle upon any of the streets or alleys of the Town in order to sort, re-arrange or clean any of his or her goods, wares or merchandise or any samples, order books, contracts, circulars, literature or advertising matter pertaining thereto, nor may any such person place or deposit any refuse upon any such street or curbside market or soliciting or peddling office by parking any vehicle upon any street or alley in the Town for longer than necessary in order to solicit from or peddle to persons residing in the immediate vicinity.

SECTION XIII – PROHIBITED ACTS

- A) No person engaged in soliciting or peddling or acting as a transient merchant shall occupy any of the streets or alleys or sidewalks of the Town for the purpose of soliciting or peddling, with or without any stand or counter. No obstructions, such as barrels, boxes or crates will be placed on any street or sidewalk.

- B) No person engaged in soliciting or peddling shall enter upon premises for the purpose of soliciting or peddling which are posted with signs indicating that soliciting or peddling thereon is prohibited.

- C) No peddler or solicitor shall peddle, vend or sell his or her goods or wares within two hundred fifty (250) feet of any church or place of worship or of any place occupied exclusively as a public or private school or for school purposes, nor shall he or she permit his or her car, wagon or vehicle to stand on any public highway within said distance of such school property. Additionally, no peddler or solicitor shall sell the same or similar products as sold by any established business within two hundred fifty (250) feet.

- D) No person shall solicit any business whatsoever at the scene of any accident or other disaster within the incorporated area of the Town of Shawangunk.

SECTION XIX – SALES ON TOWN PROPERTY AND/OR SALES IN CONNECTION WITH SPECIAL FUNCTIONS OR EVENTS

Notwithstanding any other provision of this Chapter, no person shall sell merchandise at any public function held in the Town of Shawangunk, New York on Town streets, sidewalks and/or public right of ways or on lands owned by the Town of Shawangunk, New York, without first obtaining written permission therefor from the Town Board and the Board may, from time to time,

adopt rules and regulations concerning such sales. Any such person shall first apply to the Town Clerk for a license hereunder in the normal course. The Town Clerk shall promptly refer such completed application to the Town Board for action involving such types of sales. Proof of acceptable insurance coverage must be submitted for all such licensees.

SECTION XV – CONDUCT; RECEIPT REQUIRED

Any person soliciting an order of purchase for future delivery of goods, wares and merchandise shall conduct himself or herself at all times in an orderly and lawful manner and shall give a written receipt, signed by the solicitor, of all orders so taken. Such receipt shall set forth a brief description of the goods, wares and merchandise ordered, the total purchase price thereof, the amount of downpayment received by the solicitor from the purchaser and the approximate date of delivery.

SECTION XVI – RECORDS; SUPERVISION

The Chief of Police shall keep a record of all registrations made under this Chapter and the Chief of Police or his designee shall supervise the activities of all holders of such licenses.

SECTION XVII – REVOCATION OF LICENSE; HEARING FOR REINSTATEMENT; REFUSAL TO ISSUE LICENSE; HEARING FOR ISSUANCE

- A) Any license hereinafter issued may be revoked by the Chief of Police of the Town of Shawangunk upon the failure of the licensee to comply with the standards of conduct established in this local law or upon ascertainment that the licensee has made any false statements in the application for the license hereunder or upon such licensee's being arrested and convicted of any crime involving moral turpitude. Any license application that is rejected by the Town Clerk or any license that has been revoked also shall be subject to review by the Town Board as set forth in paragraph C below.

- B) The refusal of a solicitor or hawker/peddler to leave a private premises after request by the owner or lawful occupant, or the solicitation of persons other than between the hours of 9 a.m. and 5 p.m. on Monday through Saturday, excepting federal holidays, shall be cause for revocation. Any person whose license is revoked shall forfeit the license fee previously paid.
- C) Any person whose license has been revoked or whose application for same has been rejected shall be entitled to appear, with counsel, if desired, before the Town Board of the Town of Shawangunk at a regular or special meeting and be heard on behalf of a request for issuance or reinstatement of said license. Such proceeding must be initiated by the person within 30 days of said rejection or revocation and must include a written request to the Town Board outlining the reasons for issuance or restoration of said license. A public hearing is required on any and all license revocations by the Town Board per Town Law Section 137 as same now exists or hereafter may be amended.
- D) For all such appeals to the Town Board, the procedure set forth in Town Law Section 137 as same now exists or hereafter may be amended shall control.

SECTION XVIII – CONTENTS OF PERMIT

Each permit shall be issued in card form, shall be carried by the person for whose benefit it is issued and shall contain the following: the number of the permit, fee paid, date of issue, expiration date and the name, age, weight, name of employer, address and signature of the holder. The reverse side of such permit shall contain any regulations then in effect and controlling the holder, as well as any conditions and/or limitations to which such permit is subject.

SECTION XIX – PENALTIES FOR OFFENSES

Any person violating the provisions of this chapter shall be guilty of a violation as a disorderly person and, upon conviction thereof, shall be fined not less than Fifty (\$50.00) Dollars nor more than Two Hundred Fifty (\$250.00) Dollars for each offense; and shall be further directed to obtain a license pursuant to this chapter, paying the appropriate fee. Every day that a violation of this chapter shall continue shall constitute a separate and distinct offense.

SECTION XX – REPEALER

Any other local law, ordinance or resolution inconsistent herewith hereby is repealed, including, but not limited to, Town of Shawangunk Local Law #2 of 1980 entitled “Peddling and Soliciting,” otherwise known as Chapter 126 of the Code of the Town of Shawangunk, New York.

SECTION XXI – 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 XXII – OTHER LAWS, RULES REGULATIONS OR ORDINANCES

This Chapter 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 Ordinance of the Town of Shawangunk, as it now exists or as it is from time to time amended.

SECTION XXIII – EFFECTIVE DATE/CODIFICATION

This chapter 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. The provisions of this local law shall be codified as new Chapter 126 of the Code of the Town of Shawangunk, subsections 1 through 23.

BE IT ENACTED THIS 18th DAY OF JUNE 1998 BY THE TOWN BOARD OF THE TOWN OF SHAWANGUNK, COUNTY OF ULSTER STATE OF NEW YORK.

JOHN VALK, JR., SUPERVISOR
RICHARD GREER, COUNCILMAN
JOSEPH KELLY, COUNCILMAN
INGRID MALLOY, COUNCILWOMAN
TONI GAGAN, COUNCILWOMAN

MARGARET Y. TREMPER, TOWN CLERK

ATTEST;

TOWN SEAL

(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)

1. (Final adoption by local legislative body only.)

I hereby certify that the local law annexed hereto, designated as local law No. 1 of 1998 of the ~~(County)(City)(Town)(Village)~~ of SHAWANGUNK was duly passed by the TOWN BOARD on June 18 1998, in accordance with the applicable provisions of law.
(Name of Legislative Body)

~~2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer*.)~~

~~I hereby certify that the local law annexed hereto, designated as local law No. _____ of 19____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ (Name of Legislative Body) on _____ 19____, and was (approved)(not disapproved)(repassed after disapproval) by the _____ (Elective Chief Executive Officer*) and was deemed duly adopted on _____ 19____ in accordance with the applicable provisions of law.~~

3. (Final adoption by referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 19____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ (Name of Legislative Body) on _____ 19____, and was (approved)(not disapproved)(repassed after disapproval) by the _____ (Elective Chief Executive Officer*) on _____ 19____. Such local law was submitted to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general)(special)(annual) election held on _____ 19____, in accordance with the applicable provisions of law.

4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 19____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ (Name of Legislative Body) on _____ 19____, and was (approved)(not disapproved)(repassed after disapproval) by the _____ (Elective Chief Executive Officer*) on _____ 19____. Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of _____ 19____, in accordance with the applicable provisions of law.

*Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairman of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.

~~5. (City local law concerning Charter revision proposed by petition.)~~

~~I hereby certify that the local law annexed hereto, designated as local law No. _____ of 19____ of the City of _____ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on _____ 19____, became operative.~~

6. (County local law concerning adoption of Charter.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 19____ of the County of _____, State of New York, having been submitted to the electors at the General Election of November _____ 19____, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and of a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph 1, above.

(Seal)

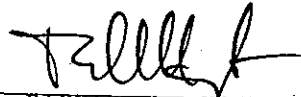
Clerk of the County legislative body, City, Town or Village Clerk
or officer designated by local legislative body
MARGARET Y. TREMPER, TOWN CLERK

Date: August _____, 1998

(Certification to be executed by County Attorney, Corporation Counsel, Town Attorney, Village Attorney or other authorized Attorney of locality.)

STATE OF NEW YORK
COUNTY OF ORANGE

I, the undersigned, hereby certify that the foregoing local law contains the correct text and that all proper proceedings have been had or taken for the enactment of the local law annexed hereto.



Signature RICHARD W. HOYT

ATTORNEY
Title

County
City of SHAWANGUNK
Town
Village

Date: August 10, 1998