

Chapter 138PEDDLERS, SOLICITORS AND ITINERANT MERCHANTS**Sections:**

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Adopted by the Town Council of the Town of Front Royal 3-11-85 (*Chapter 25 of the 1965 Code. Sections 138-1, 138-2 and 138-3 amended and sections 138-12.1 added at time of adoption of Code. Section 25-11, Subsection (e), of the 1965 Code, which immediately followed 138-12, was deleted at time of adoption of Code*). Ord. No. 13-86 amended 138-3 “Solicitors Permit-Applicability” and 138-4 “Solicitors Permit-Permit Required” 7-28-86; Ord.8-91 amended 138-7 “Photographing” 3-11-91. The Entire Chapter was amended in its entirety 3-14-16. Other amendments noted where applicable.

138-1 PERMIT REQUIRED

To promote the safety of residents, it shall be unlawful for any person to engage in the business of Peddler, Itinerant Merchant, or Commercial Solicitor as defined in this Chapter, within the limits of Front Royal, Virginia, without first obtaining a permit as provided herein. Issuance of a permit does not relieve an individual from obtaining a business license (Town Code Chapter 98) from the Town’s Finance Department prior to engaging in operation of business.

(Amended 12-11-17-Effective Upon Passage)

138-2 DEFINITIONS

ITINERANT MERCHANT - One who offers merchandise, goods, food or services for sale or barter from a stationary but temporary site within the Town.

MOTOR VEHICLE – means every vehicle that is self-propelled as more specifically defined in Virginia Code Section 46.2-100, and which is validly licensed, insured, and inspected.

(Added 9-28-20-Effective Upon Passage)

PEDDLER - One who moves from place to place within the Town and offers merchandise, goods, food or services for sale or barter at no definite place of business.

STREET; ROAD – A public thoroughfare, except an alley, driveway or parking area, which affords vehicular traffic circulation and principal means of access to abutting property.

(Added 12-11-17-Effective Upon Passage)

TOWN - Front Royal, Virginia.

TOWN MANAGER - The Town Manager of Front Royal, Virginia or their designated agent.

SOLICITOR (Commercial) - Any person, whether a principal, agent, or salesman, who engages in transient business by going from residence to residence for the purpose of taking orders or offering to take orders for the sale of goods, wares, or merchandise or taking orders for services to be performed in the future. A commercial solicitor shall not carry goods, wares, or merchandise except for display purposes only, and shall not sell items directly.

VEHICLE - Every device in, upon or by which any person or property is or may be transported or drawn including any wheeled conveyance.

VENDING VEHICLE – means a motor vehicle, displaying a current Town business license and any required health inspection certificate, used for vending pursuant to a valid Town peddler's permit, to retail customers on Town streets, equipped with four (4) amber signal lights of a minimum diameter of four (4) inches, located on each corner of the top of the motor vehicle, with all four (4) lights capable of flashing simultaneously while such motor vehicle is stopped with the engine running for the purpose of selling ice cream or other frozen dessert to a retail customer, equipped only with bells for the purpose of attracting customers which are sounded only while in motion between regular permitted stops, and with a receptacle for the disposal of all trash generated during each stop.

(Added 9-28-20-Effective Upon Passage)

138-3 PERMIT APPLICATION

- A. Applicants under this Chapter must file with the Town's Planning and Zoning Department a sworn application to be furnished by the Town.
- B. At the time of filing of the application for permit, a fee of twenty dollars (\$20.00) shall be paid, to cover the cost of investigation and processing the application. There shall be no fee for those who are deemed exempt as defined in 138-4.
- C. At the time of filing, the applicant shall provide a front facing passport size photograph which accurately depicts the applicant's appearance at the time of application.

- D. A background check will be performed on all applicants for Commercial Solicitor's permits by local law enforcement.
- E. All Peddler and Itinerant Merchant applicants shall obtain approval from the Town's Department of Planning & Zoning prior to selling from private property. Approval shall be based upon submittal of a plat, site plan, or sketch plan identifying the location of the property on which the activity is to be conducted and showing the location of the structure from which the sale or exchange activity will occur, the area under the control of such person, parking spaces and provisions for well-defined vehicular entrances and exits.

(Amended Entire Section and Added C – E 12-11-17-Effective Upon Passage)

138-4 QUALIFYING FOR AN EXEMPTION

- A. The following shall be exempt from the permit application fee but shall be required to submit a permit application and comply with this Chapter:
 - 1. Persons selling farm or domestic products or nursery products, ornamental or otherwise, or for the planting of nursery products, as an incident to the sale thereof, outside of the regular market houses and sheds of the Town, provided such products are grown or produced by the person offering them for sale; and peddlers at wholesale or to those who sell or offer for sale in person or by their employees, ice, wood, charcoal, meats, milk, butter, eggs, poultry, game, vegetables, fruits or other family supplies of a perishable nature or farm products grown or produced by them and not purchased by them for sale. A dairyman who uses upon the streets of the Town in one or more vehicles may sell and deliver from this vehicles, milk, butter, cream and eggs in Town without procuring a peddler's license;

(Amended 12-11-17-Effective Upon Passage)

- 2. Persons selling newspapers;
- 3. Persons selling for wholesale concerns who only solicit orders from or sell to retail dealers in Front Royal for resale or other commercial purposes or to manufacturers for manufacturing or other commercial purposes;
- 4. Wholesalers soliciting orders or selling to others for retail, resale, or upon manufacturers for manufacturing and selling at wholesale at place of manufacture;
- 5. Children of or under the age of 16, except when they are acting as agents of adults covered by this article;
- 6. Delivery of food or merchandise ordered by phone, internet, or mail from a fixed place of business issued a business license for operation;
- 7. Merchants selling food and merchandise during a Special Event that has been issued permit by the Town; and

8. Tax exempt civic, charitable, government or educational organizations.

B. All persons qualifying for exemptions from this Section must present proof of such qualification upon completion of application.

(Amended Title and "B" 12-11-17-Effective Upon Passage)

138-5 ISSUANCE OF PERMITS

Upon receipt of completed application and required background check the Town Manager or his designee shall endorse on the application their approval, execute a permit addressed to the applicant for the carrying on of the business applied for and submit executed permit to the Town's Finance Department for payment of business license tax as defined in Chapter 98 of the Town Code.

Permits shall be approved or denied ten (10) business days following the date of the filing of the application.

(Amended Entire Section 12-11-17-Effective Upon Passage)

138-6 TRANSFER

No permit issued under the provisions of this Chapter shall be used by an person other than the one to whom it was issued.

138-7 RENEWAL

All permits issued under the provisions of this Chapter shall be valid for the calendar year they are issued, beginning from the date of issuance, and expiring on December 31 of each calendar year. Permits shall be renewed for subsequent calendar years, without the requirement for a new permit application, if the applicant files to renew their business license with the Department of Finance by March 1 of the calendar year, and submits written verification that there are no changes from the previous year's application. A new permit application shall be required if there are changes from the previous year's application, or if the filing of a renewal occurs after March 1 of the calendar year.

(Amended Entire Section 12-11-17-Effective Upon Passage)

138-8 RESTRICTIONS

No Peddler, Commercial Solicitor or Itinerant Merchant shall have any exclusive right to any location on public property, nor shall he or she:

A. Be permitted a stationary location on any public sidewalk or street;

B. Display any sign on a street, sidewalk, or other public place visible to vehicular traffic, except for signs that are actually imprinted on the exterior body of a licensed motor vehicle;

- C. Make any sale or delivery to any person while such person is located in the street, as defined in 138-2;

(Amended 12-11-17-Effective Upon Passage)

- D. Make any sale, offer or delivery to any driver or passenger in a motor vehicle while the motor vehicle is stopped at a red light or while in a moving traffic lane;
- E. Conduct business from any street or center median strip of any street; except from a vending vehicle subject to the following conditions:
1. no stopping on any Town street with a posted speed limit in excess of twenty-five (25) miles per hour;
 2. whenever stopped for the purpose of making a sale, the vending vehicle shall be stopped at the right-hand curb or edge of the street out of the lanes of travel in a legal parking space, and no sales shall be made to any customer not standing on the sidewalk or off of the paved roadway;
 3. sales may only occur at stops designated on the approved permit application pursuant to §138-3 and §138-5;
 4. no sales may occur between the hours of 8:00 p.m. and 10:00 a.m., and no unattended vending vehicle may be parked on Town streets during these hours;

(Added 9-28-20-Effective Upon Passage)

- F. Restrict access to any legally parked vehicle;
- G. Operate in any other way that would restrict the flow of pedestrian or vehicular traffic;
- H. Conduct any business on any private or public property, street, or sidewalk between the hours of 10:00 pm and 6:00 am except if operating through a Special Event Permit issued by the Town
- I. Leave vehicles and/or equipment overnight at the approved location. All vehicles and equipment must be removed from the site by the end of the business day, unless prior approval from the property owner has been received and submitted to the Town Manager or his designee for verification, excluding those permitted at the Flea Market as specified in Chapter 98-46; and

(Amended 12-11-17-Effective Upon Passage)

- J. Leave any cart or table unattended on any public property, street, or sidewalk; and
- K. Shall provide receptacles for the disposal of waste materials or other litter created in the immediate area of any stationary location from which sales, offers of sales or deliveries are taking place, and they shall request customers to place all waste and litter in the receptacles and they shall remove and dispose of the waste materials and litter.

138-9 PLACE OF SALE – PEDDLER AND ITINERANT MERCHANT

A. All Peddlers and Itinerant Merchants, except when vending from a vending vehicle, may only be located at a hospital, locations approved by Special Event Permit, or in the areas designated by the Town's Zoning Map as C-1, Community Business District, C-2, Downtown Business District, or the Mixed-Use Campus District.

(Amended to include "hospital" and "Special Event Permit" 12-11-17-Effective Upon Passage)
(Amended to add "vending vehicle" 9-28-20-Effective Upon Passage)

B. It shall be unlawful for any Peddler or Itinerant Merchant to occupy or partially occupy while selling, or sell from, the private property of another without written permission of the private property owner.

138-10 DOOR-TO-DOOR SALES - COMMERCIAL SOLICITOR

Door-to-door sales shall only take place between the hours of 9:00 a.m. and 8:00 p.m.

Regardless of whether or not a permit and business license has been issued, no person shall enter in or upon any house, building or private property of any type without the prior express consent of the owner or occupant thereof, where there is placed or posted on the premises in a conspicuous position at or near the usual means of ingress a sign or other form of notice stating or indicating that the owner or occupant thereof forbids or otherwise does not desire persons in solicitation or selling to enter upon the premises.

(Amended 12-11-17-Effective Upon Passage)

138-11 EXHIBITION OF PERMIT AND BUSINESS LICENSE

Peddlers, Itinerant Merchants and Commercial Solicitors are required to conspicuously display their permit and business license at their vehicles or temporary stands or if they have none, to exhibit their permit and business license upon request.

(Amended by Adding "business license" 12-11-17-Effective Upon Passage)

138-12 RECORDS

The Town's Finance Department shall maintain a record for each permit and business license issued, and record the reports of violation thereon.

(Amended 12-11-17-Effective Upon Passage)

138-13 REVOCATION OF PERMIT

A. Permits issued under the provision of this Chapter may be revoked by the Town Manager after notice and hearing for any of the following causes:

1. Fraud, misrepresentation or intentional false statement of material or relevant facts contained in the application;
2. Conviction of any felony or crime of moral turpitude (including, by way of illustration and not limitation, crimes of sexual misconduct and distribution of controlled substances or paraphernalia) within the five (5) years immediately preceding the date of filing of the application;
3. Conviction of any crime involving fraud in the conduct of his or her business;
4. Permit holder creates a public safety hazard as identified by Fire Marshal, Chief of Police, or their designee or any authoritative body that has legal regulatory oversight over public safety; and,

(Amended 12-11-17-Effective Upon Passage)

5. Any violation of this Chapter

B. Notice of the hearing for revocation of a permit shall be given in writing, setting forth specifically the grounds of the revocation and the time and place of hearing. Such notice shall be mailed, postage prepaid, to the permit holder at their last known address at least five (5) days prior to the date set for hearing. Failure to appear for a hearing does not preclude permit revocation.

138-14 APPEAL OF DENIAL OR REVOCATION OF PERMIT

- A. Any person aggrieved by the action of the Town Manager, or the designated agent, in the denial of an application for a permit or in the decision with reference to the revocation of a permit shall have the right of appeal. Such appeal shall be taken by filing with the Clerk of the Town Council within ten (10) days after the notice of action complained of has been mailed to such person's last known address, a written statement setting forth fully the grounds of appeal.
- B. The Clerk of the Town Council shall notify the Town Manager of the filing of an appeal.
- C. Upon filing an appeal, the party aggrieved shall be entitled to a hearing by the Town Council. The time and place of the hearing shall be scheduled by the Clerk of Council at any time after the filing of an appeal upon notice by the Clerk of Council mailed to the party to the action at the address required to be stated by the appellant at the time of the filing of the appeal. Such appeals may be continued by the Town Council.
- D. The party shall have the right to present their case in person or by counsel licensed to practice law in the Commonwealth of Virginia.
- E. The Town Council shall consider the case record as well as statements offered by an interested party and shall determine whether the Town Manager abused their discretion under the rules and standards set forth in this Chapter. The hearing need not be conducted according to technical rules relating to evidence and witnesses. Any relevant evidence may

be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make improper the admission of such evidence in civil actions.

138-15 LICENSE TAX

The License Tax for activities defined in this Chapter shall be provided in the following Chapters:

- A. Peddlers and Itinerant Merchants – Chapter 98-61
- B. Commercial Solicitors – Chapter 98-45

138-16 PENALTY FOR VIOLATION OF CHAPTER

Any person violating any provision of this Chapter shall be guilty of a Class 1 Misdemeanor with penalties specified in Town Code Chapter 1-15.

138-17 SEVERANCE CLAUSE

The provisions of this Chapter are hereby declared to be severable, and if any section, sentence, clause or phrase of this Chapter shall, for any reason, be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses or phrases of this Chapter, but they shall remain in effect, it being the legislative intent that this Chapter shall stand, notwithstanding the invalidity of any part.

(Amended Entire Chapter 3-14-16-Effective Upon Passage)