

TRANSIENT MERCHANT  
AND PEDDLERS ORDINANCE  
ORDINANCE #2 OF 1984

SECTION 33



TRANSIENT MERCHANT AND PEDDLERS LAW  
ORDINANCE #2 OF 1984

WHEREAS, in recent years there has been an increase of transient merchants and peddlers who conduct business in the Town of Marcy, with no permanent location, and some of whom after selling their wares, leave the Town of Marcy, and some of whom do not pay sales taxes and in some instances there is no recourse to the consumer for defective and/or inferior goods, and

WHEREAS, there has been created inconvenience, annoyance and obstructions as a result of the merchandising by said transient merchants and peddlers, and

WHEREAS, the Town Board of the Town of Marcy deems it appropriate to regulate said transient merchants and peddlers for the general public welfare;

NOW, THEREFORE, BE IT ORDAINED;

*Section 1. Definitions*

a. **Transient merchant or peddler:** A transient merchant or peddler is any person, whether a resident of the Town of Marcy, State of New York 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, truck garden or farm product or provisions, offering and exposing them for sale, or making sales and delivering articles to purchasers, or who, without traveling from place to place, sells or offers the same for sale from a wagon, automotive vehicle, railroad car, or other vehicle, conveyance or structure; or is any person, partnership or corporation, who displays, samples, models, goods, wares or merchandise in any indoor or outdoor area or any hotel or motel room, rooming house, store, club, storehouse, house or other indoor place for the purpose of securing orders or completing sales for the retail sale of said goods, wares or merchandise, and who does not own said premises or is not the holder of a formal lease thereof for a term of not less than three months and for a rental of not less than Two Hundred Fifty Dollars (\$250.00) per month.

b. **Person:** Person, as used in this Ordinance shall be deemed to include any individual, firm, partnership, corporation, unincorporated association, employee, principal or agent thereof.

c. **Merchandising:** Merchandising, as used in this ordinance refers to the selling, bartering or trading, or offering to sell, barter or trade any goods, wares, commodities or services.

*Section 2.*

d. **License:** No person shall engage in business as a transient merchant or peddler unless he shall first have obtained a license to do so from the Town Clerk of the Town of Marcy. The fee for a peddler or transient merchant's license shall be at the rate of Two Hundred Dollars (\$200.00) for each three month period or a portion thereof. The license issued by the Town Clerk to the transient merchant or peddler, must be at all times prominently displayed in a location visible to the public in or about the premises used by the transient merchant in merchandising or conducting his business.

Every person to whom a license has been granted hereunder, while exercising his license, shall place the license number and date of issuance in all advertisements placed in newspapers, and provide that the number and date of issuance shall be announced in the course of all radio and television commercials placed during such period of time the license is in operation and effect.

e. **Application for License:** An applicant for a transient merchant's license shall provide the following information:



1. Name, address and physical description of the applicant.
2. The applicant's place of residence.
3. If applicant is employed, the name and address of the employer together with credentials establishing exact relationship.
4. A brief description of the nature of the business to be conducted and the goods to be sold.
5. The length of time for which the right to do business is desired.
6. If a vehicle is to be used, description of the same, together with the state vehicle license number or other means of identification.
7. Statement as to whether or not the applicant has been convicted of any crime, misdemeanor or violation of any municipal ordinance, and if so, the nature of the offense and punishment or penalty assessed therefore.
8. The firm or firms the applicant represents together with copies of documents establishing the firms state or country, form of organization, ownership, qualifications to do business in this state, and the exact relationship between the firm and the transient merchant peddler.
9. A certificate identifying applicant's sales tax number.

f. **Bonding:** Before such license is issued by the Town Clerk, the applicant will be required to post a surety bond in an amount of not less than Five Hundred Dollars (\$500.00) for each transaction made and bonded for Twenty Five Thousand Dollars (\$25,000.00) protection in the aggregate for transactions occurring in a licensed period of three months or any portion thereof. Any extension of a license period will require the same bonding before said license is extended. Said bond shall be approved as to form and sufficiency by the Attorney for the Town of Marcy before such license is issued or extended.

The condition of such bond shall be that the transient merchant or peddler will pay all state and local taxes applicable to his transactions entered into in this municipality; that he will well and truly perform any and all contracts or sales orders made within the Town; and more particularly, that if said merchant takes orders for merchandise to be delivered at a future date and accepts payment in part or in full thereof, he will deliver said merchandise in a satisfactory condition, within a period of four (4) months from the date of said contract, a copy of which contract or sales order with full particulars to be delivered to the purchaser at the time of sale, and that he will comply with and be bound by all local ordinances of the Town of Marcy relating to his business and to comply with and be bound by all other statutes of the State of New York applying to his business including, but not limited to the provisions of the Uniform Commercial Code of the State of New York.

g. **Report:** The owner, proprietor, manager, or lessor of any outdoor or indoor place shall report, within six (6) hours after renting the same to said transient merchant or peddler. Report shall be made in writing to the Town Clerk and shall include the name of any person who has rented said indoor or outdoor space for the sale and display of merchandise of a transient merchant or peddler, or giving the locations so rented and the location of the room so rented.

h. **Penalties.** Any person violating the provisions of this ordinance shall be guilty of disorderly conduct and shall be deemed a disorderly person and upon conviction thereof, shall be fined not more than Six Hundred Fifty Dollars (\$650.00) for each offense, and every day that a violation of this Section shall continue shall constitute a separate and distinct offense, and the fine shall be One Hundred Fifty Dollars (\$150.00), per day, for each additional or continuing day.

*Section 3.*

i. **Exemptions:** Nothing herein contained shall be construed to regulate or prohibit the pursuit or exercise of peddling or merchandising farm produce, except hay and straw, within the limits of the Town of Marcy if such farm produce is merchandised or peddled by the producer thereof, or his servants or employees.

1. This ordinance shall not apply so as to interfere unlawfully with interstate commerce.
2. This ordinance shall not prohibit a wholesaler from selling articles to dealers or merchants who have an established business within the Town of Marcy.
3. This ordinance shall not prohibit the casual sale of balloons and similar goods during public parades and similar public activities.
4. This ordinance shall not prohibit the display of samples, models, goods, wares and merchandise in any outdoor or indoor area, or in any hotel or motel room, rooming house, store, club, storehouse, house, or other indoor or outdoor place for the purpose of securing orders or completing sales for the retail sale of such goods, wares or merchandise by a person, partnership or corporation, duly formed or operating as not for profit, charitable purposes, the proceeds of which retail sales are to be used for charitable purposes.

*Section 4.*

j. **Effective Date:** This ordinance shall take effect immediately.

DATED: March 5, 1984



STATE OF NEW YORK )  
County of Oneida ) ss

Cynthia A. Montero \_\_\_\_\_ of the City of Utica  
county, being duly sworn, says she is the Principal Clerk of the Utica Observer-Dispatch  
Publishers of (The Observer-Dispatch, The Daily Press), a daily newspaper printed and published  
the City of Utica, County and State aforesaid, and that an advertisement of which the attached  
copy, cut from the columns of said paper has been regularly published in said paper on the  
following dates:

Observer-Dispatch - Feb. 15, 1984

Daily Press - Feb. 15, 1984

Sworn to before me this

15th. day of Feb. 19 84

Mary E. Sittig  
NOTARY PUBLIC ONEIDA CO., N.Y.

#### LEGAL NOTICES

**TOWN OF MARCY**  
NOTICE IS HEREBY GIVEN  
pursuant to Section 136 of the  
Town Law of the State of New  
York, the Town Board of the  
Town of Marcy will hold a public  
hearing on March 5, 1984 at  
7:30 P.M. at the Marcy  
Municipal Building, Toby  
Road, Marcy, New York, to  
hear all interested parties and  
citizens for or against pro-  
posed Ordinance #7 of 1984, to  
license Transient Merchants  
and Peddlers.

Any persons or firms selling or  
offering goods from door to  
door, or from a vehicle conveyance  
or structure and who does not own  
the premises or structure or who is  
not the holder of a formal lease of not  
less than three (3) months for a  
monthly rental of not less than  
\$250.00 is subject to this ordinance.

A license is required for such  
Transient Merchants or Peddlers.

An application is required in  
writing providing certain information,  
including, among other things, names,  
addresses and sales tax information.  
A \$25,000.00 bond is required in the  
aggregate and \$500.00 for each  
transaction. Bond to be approved  
by Attorney for the Town of Marcy.

Any person renting to a Transient  
Merchant or Peddler shall report same  
to Town Clerk within six (6) hours.  
License fee is \$500.00 for each  
three (3) month period.

Violation of the ordinance is  
disorderly conduct and fine is  
\$650.00. Every day thereafter  
constitutes a separate violation  
and the fine is \$150.00 per day  
for each continuing day.

A complete copy of the proposed  
ordinance is available for examination  
at the Marcy Town Clerk's office,  
Toby Road, Marcy, New York.

DATED: February 8, 1984  
O. Anne Armstrong  
Town Clerk  
Press & O-D Feb. 15, 1984

STATE OF NEW YORK )

County of Oneida )

Cynthia A. Montero

county, being duly sworn, says she is the Principal Clerk of the Publishers of (The Observer-Dispatch, The Daily Press), a daily in the City of Utica, County and State aforesaid, and that an advert copy, cut from the columns of said paper has been regularly published following dates:

Daily Press - Mar. 14, 1984

Sworn to before me this

14th. day of Mar. 19 84

NOTARY PUBLIC ONEIDA CO., N.Y.

TOWN OF MARCY  
ORDINANCE NO. 26  
NOTICE IS HEREBY GIVEN  
that the following Ordinance  
No. 26 of 1984 was duly adopted  
by the Town Board of the  
Town of Marcy on March 5,  
1984.

WHEREAS, in recent years  
there has been an increase of  
transient merchants and ped-  
dlers who conduct business in  
the Town of Marcy, with no  
permanent location, and some  
of whom, after selling their  
wares, leave the Town of Mar-  
cy, and some of whom do not  
pay sales taxes and in some  
instances there is no recourse  
to the consumer for defective  
and/or inferior goods; and

WHEREAS, there has been  
created inconvenience, annoy-  
ance and obstructions as a  
result of the merchandising by  
said transient merchants and  
peddlers; and

WHEREAS, the Town Board  
of the Town of Marcy deems it  
appropriate to regulate said  
transient merchants and ped-  
dlers for the general public  
welfare;

NOW, THEREFORE, BE IT  
ORDAINED

Section 1. Definitions

(a) Transient merchant or  
peddler-A transient merchant or  
peddler is any person, whether a resident of the Town  
of Marcy, State of New York 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, veg-  
etables, fruits, truck garden or  
farm products or provisions,  
offering and exposing them for  
sale, or making sales and  
delivering articles to pur-  
chasers, or who, without trav-  
eling from place to place, sells  
or offers the same for sale  
from a wagon, automotive  
vehicle, railroad car, or other  
vehicle, conveyance or struc-  
ture; or is any person, part-  
nership or corporation, who  
displays, samples, models,  
goods, wares or merchandise  
in any indoor or outdoor area  
or any hotel or motel room,  
rooming house, store, club,  
storehouse, house or other  
indoor place for the purpose of  
securing orders or completing  
sales for the retail sale of said  
goods, wares or merchandise;  
and who does not own said  
premises or is not the holder of a  
formal lease thereof for a  
term of not less than three  
months and for a rental of not  
less than Two Hundred Fifty  
Dollars (\$250.00) per month.

(b) Person-Person, as used in  
this ordinance shall be deemed to  
include any individual, firm,  
partnership, corporation,  
unincorporated association,  
employee, principal or agent thereof.

(c) Merchandising-Merchandise,  
as used in this ordinance refers to the selling,  
bartering or trading, or offering to sell, barter or trade any  
goods, wares, commodities or service.

Section 2.  
(d) License-No person shall  
engage in business as a transient merchant or peddler  
unless he shall first have  
obtained a license to do so  
from the Town Clerk of the  
Town of Marcy. The fee for a  
peddler or transient mer-  
chant's license shall be at the  
rate of Two Hundred Dollars  
(\$200.00) for each three month  
period or a portion thereof.  
The license issued by the Town  
Clerk to the transient mer-  
chant or peddler must be at  
all times prominently dis-  
played in a location visible to  
the public in or about the  
premises used by the transient  
merchant in merchandising or  
conducting his business.

Every person to whom a  
license has been granted  
hereunder, while exercising  
his license, shall place the  
license number and date of  
issuance in all advertisements  
placed in newspapers, and  
provide that the number and  
date of issuance shall be  
announced in the course of all  
radio and television com-  
mercials placed during such peri-  
od of time the license is in  
operation and effect.

(e) Application for License-An  
applicant for a transient mer-  
chant's license shall provide  
the following information:

1. Name, address and physical  
description of the applicant.

2. The applicant's place of resi-  
dence.

3. If applicant is employed, the  
name and address of the  
employer, together with  
credentials establishing exact  
relationship.

4. A brief description of the  
nature of the business to be  
conducted and the goods to be  
sold.

5. The length of time for which  
the right to do business is  
desired.

6. If a vehicle is to be used,  
description of the same,  
together with the state vehicle  
license number or other  
means of identification.

7. Statement as to whether or  
not the applicant has been con-  
victed of any crime, mis-  
demeanor or violation of any  
municipal ordinance, and if so,  
the nature of the offense and  
punishment or penalty  
assessed therefore.

8. The firm or firms the appli-  
cant represents together with  
copies of documents establish-  
ing the firm's state or country,  
form of organization, owner-  
ship, qualifications to do busi-  
ness in this state, and the  
exact relationship between the  
firm and the transient mer-  
chant/peddler.

9. A certificate identifying  
applicant's sales tax number.

(f) Bonding-Before such  
license is issued by the Town  
Clerk, the applicant will be  
required to post a surety bond  
in the amount of not less than  
Five Hundred Dollars  
(\$500.00) for each transaction,  
and made and bonded for  
Twenty Five (\$25,000.00) pro-  
tection in the aggregate for  
transactions occurring in a  
licensed period of three  
months or any portion thereof.  
Any extension of a license  
period will require the same  
bonding before said license is  
extended. Said bond shall be  
approved as to form and suffi-  
ciency by the Attorney for the  
Town of Marcy before such  
license is issued or extended.

The condition of such bond  
shall be that the transient  
merchant or peddler will pay  
all state and local taxes appli-  
cable to his transactions,  
entered into in this municipali-  
ty, that he will well and truly  
perform any and all contracts  
or sales orders made within  
the Town; and more particu-  
larly, that if said merchant  
take orders for merchandise to  
be delivered at a future date  
and accepts payment in part  
or in full thereof, he will deliv-  
er said merchandise in a satis-  
factory condition within a  
period of four (4) months from  
the date of said contract, a  
copy of which contract or sales  
order with full particulars to  
be delivered to the purchaser  
at the time of sale, and that he  
will comply with and be bound  
by all local ordinances of the  
Town of Marcy relating to his  
business, and to comply with  
and be bound by all other stat-  
utes of the State of New York  
applying to his business  
including, but not limited to,  
the provisions of the Uniform  
Commercial Code of the State  
of New York.

(g) Report-The owner, prop-  
rietor, manager, or lessor of any  
outdoor or indoor place shall  
report, within six (6) hours  
after renting the same to said  
transient merchant or peddler.  
Report shall be made in writ-  
ing to the Town Clerk and  
shall include the name of any  
person who has rented said  
indoor or outdoor space for the  
sale and display of mer-  
chandise of a transient mer-  
chant or peddler, or giving the  
locations so rented and the  
location of the room so rented.

(h) Penalties-Any person vi-  
olating the provisions of this  
ordinance shall be guilty of  
disorderly conduct and shall  
be deemed a disorderly person,  
and upon conviction thereof,  
shall be fined not more than  
Six Hundred Fifty Dollars  
(\$650.00) for each first offense,  
and every day that a violation  
of this section shall constitute  
a separate and distinct  
offense, and the fine shall be  
One Hundred Fifty Dollars  
(\$150.00), per day, for each  
additional or continuing day.

Section 3.  
(i) Exemptions-Nothing herein  
contained shall be construed to  
regulate or prohibit the pur-  
suit or exercise of peddling or  
merchandising farm products  
except hay and straw within  
the limits of the Town of Mar-  
cy if such farm produce is  
merchandised or peddled by  
the producer thereof, or his  
servants or employees.

This ordinance shall not  
apply so as to interfere unlaw-  
fully with interstate com-  
merce.

1. This ordinance shall not  
prohibit a wholesaler from  
selling articles to dealers or  
merchants who have an estab-  
lished business within the  
Town of Marcy.

2. This ordinance shall not