

Chapter 155

PEDDLING AND SOLICITING

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[Adopted 5-9-2016 by L.L. No. 1-2016¹]

1. Editor's Note: This local law also repealed former Ch. 155, Peddling and Soliciting, which comprised Art. I, Solicitors, adopted 8-4-1997 by L.L. No.

GENERAL REFERENCES

Streets and sidewalks — See Ch. 176.

§ 155-1. Purpose and intent.

The Village Board finds that high-pressure, misleading, fraudulent, and threatening activities have been associated with hawking, peddling and soliciting activities in the Village of Barker, and that it is the purpose and intent of this chapter to protect the health, safety and general welfare of the residents of the Village by establishing regulations and licensing of hawkers, peddlers and solicitors within the Village.

§ 155-2. Definitions.

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

ESTABLISHED PLACE OF BUSINESS — A building or store in which the person transacts business and deals in the goods, wares and merchandise he hawks, peddles or solicits for during regular business hours.

HAWKER AND PEDDLER — 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 to place of business on foot or on or from any animal or vehicle standing in a street or highway, sells or barter, offers for sale or barter or carries or exposes for sale or barter any goods, wares, or merchandise, including magazines and other publications, except as hereinafter exempted.

PERSON — One or more persons, corporations, partnerships, associations, joint-stock companies, societies and all other entities.

SOLICITOR — 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 service to be performed in the future, or for making, manufacturing or repairing any article or thing whatsoever for future delivery.

§ 155-3. Exemptions.

Nothing in this chapter shall apply to sales conducted pursuant to statutory requirement or by order of court, to any person selling personal property at wholesale to dealers in such articles, to merchants having an established permanent place of business within the Village or their employees selling or soliciting from that place of business, or to 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 and daily newspapers, to any honorably discharged member of the armed forces of the United States who has produced a license as provided by the General Business Law of the State of New York, or to persons soliciting or collecting for any bona fide charitable organization or for persons soliciting, selling or collecting for service, school or youth groups. This chapter shall not apply so as to unlawfully interfere with interstate commerce.

§ 155-4. License required.

It shall be unlawful for any person, within the territorial limits of the Village of Barker, to act as a hawker, peddler or solicitor as herein defined without first having obtained, and having in force and effect, a license to conduct the activity.

§ 155-5. Application for license.

Every applicant for a license as herein provided shall submit to the Village Clerk a written application, under affidavit, setting forth the following information, to wit: that he or she has never been convicted of a felony or misdemeanor (or, if so, giving the details); a detailed statement of the particular business, trade or occupation or purpose

for which the license is requested; the number and kind and license numbers of vehicles, if any, to be used by the applicant in carrying on the business for which the license is requested; the kinds of goods, wares and merchandise he or she desires to sell or the kind of service he or she desires to render; the name, address and age of the applicant; the name and address of the person, firm or corporation he or she represents; the name and addresses of all partners of a partnership; and the names and addresses of a person upon whom a legal notice may be served; and such other information as may be required by the Village Clerk.

§ 155-6. License restrictions; expiration.

Upon the filing of the application, as provided in the preceding section, the Village Clerk shall, upon her approval of such application, issue to the applicant a license as provided in § 155-4, signed by the Village Clerk. Except as hereinafter provided, no licenses shall be refused except for a specific reason and for the protection of public safety, health, morals, or general welfare. Conviction by the applicant of a crime involving fraud, theft, assault, or any crime of violence or of moral turpitude shall be grounds for refusal. 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 another person, shall be guilty of a violation of this chapter. 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 corresponding to the termination of the activity. No applicant 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 no longer exists. Every licensee, while exercising his or her license, shall carry the license with him or her and shall exhibit the same upon demand to any police officer or citizen.

§ 155-7. License fees.

The license fee to hawkers, peddlers or solicitors shall be as follows: \$150 or such other fee as shall be established by the Village Board by resolution from time to time.

§ 155-8. Separate licenses required.

A separate license shall be required for:

- A. Each person or entity owning or sponsoring the hawking, peddling or soliciting activity.
- B. Each person engaging in the activity in the Village and each person operating a vehicle in support of such activity.

§ 155-9. Name and address on vehicle.

Every vehicle used in support of hawking, peddling or soliciting shall have the name of the licensee and his or her address plainly, distinctly and legibly displayed in letters and figures at least two inches in height in a conspicuous place on the outside of the vehicle.

§ 155-10. Refusal or revocation of license.

Upon the refusal of the Village Clerk to issue a license to any applicant or upon the determination of the Village Board that any license should be revoked, the person shall, upon request, be entitled to a hearing by the Village Board. If, after the hearing, the revocation or refusal is upheld by the Village Board, the license/applicant may bring an action pursuant to Article 78 of CPLR. When a license shall be revoked no refund of any portion of the license fee shall be made. Notice of such revocation and the reason wherefore in writing shall be served by the Village Clerk upon the person named in the application by certified mail, and a copy of such notice shall be filed with the Village Clerk. Violation of any provision of this chapter shall constitute grounds for revocation of a license.

§ 155-11. Hours of operation.

Peddlers, hawkers and solicitors shall be allowed to engage in the business of vending, peddling or soliciting only between the hours of 9:00 a.m. and 7:00 p.m.

§ 155-12. Restrictions.

A licensed hawker, peddler 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 vehicles and receptacles used by him or her in a clean and sanitary condition and the foodstuffs and edibles offered for sale well covered and protected from dirt, dust and insects.
- C. Not stand or permit the vehicle used by him or her to stand in one place in any public place or street for more than 10 minutes, or in front of any premises for any time if the owner or any lessee of the premises objects.
- D. Not sell any confectionary or ice cream within 250 feet of any school between the hours of 8:00 a.m. and 4:00 p.m. on school days.
- E. Not permit any vehicle used by him or her to stop or remain on any crosswalk.
- F. Not create or maintain any booth or stand or place any barrels, boxes, crates or other obstructions upon any street or public place for the purpose of selling or exposing for sale any goods, wares or merchandise.
- G. Not blow a horn or use any other noisy device to attract public attention to his or her wares, or shout or cry out his or her wares.
- H. Not enter upon the property of any person or entity which displays a sign which states "No Trespassing," "No Soliciting,"

or "No Peddling" or any other message clearly indicating that solicitors, hawkers or peddlers are not welcome upon the premises.

§ 155-13. Orders.

All orders taken by a licensed solicitor who demands, accepts or receives 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.

§ 155-14. Records.

It shall be the duty of the Village Clerk to keep record of all applications and of all licenses granted under the provisions of this chapter, giving the number and date of each license, the name and residence of the person licensed, the amount of the license fee and also the date of revocation of all licenses revoked.

§ 155-15. Background check; penalties for offenses.

- A. By signing the application the hawker, peddler or solicitor shall consent to a background check by the Village Clerk, her designee or a law enforcement agency or a person on behalf of the Town. In addition to the application fee the applicant shall pay with the application the actual cost of such background check as determined from time to time by the Village Clerk.
- B. Any person who shall violate any provision of this chapter shall be guilty of a violation and shall be punished by a fine not to exceed \$250 or by imprisonment of up to 15 days or by both such fine and imprisonment.

