

Town of Haverstraw, NY

Friday, March 10, 2017

## Chapter 123. Peddling and Soliciting

[HISTORY: Adopted by the Town Board of the Town of Haverstraw 8-9-1999 by L.L. No. 11-1999.<sup>[1]</sup> Amendments noted where applicable.]

[1] *Editor's Note: This local law also superseded former Ch. 123, Peddling and Soliciting, consisting of the following: Art. I, General Provisions, adopted 5-8-1950 by ordinance (Ch. 20, Art. I, of the 1966 Code), as amended; and Art. II, Signs to Exclude Peddlers and Solicitors, adopted 2-23-1976 by L.L. No. 1-1976 (Ch. 20, Art. II, of the 1966 Code), as amended.*

### § 123-1. Title.

This chapter shall be cited as the "Peddling and Soliciting Law of the Town of Haverstraw."

### § 123-2. Purpose and intent.

This chapter is enacted for the purpose of regulating local activities of itinerant sellers and solicitors of orders for sale in order that the peace, health, safety, welfare and good order of the town and its inhabitants shall be preserved.

### § 123-3. Definitions.

For the purpose of this chapter, the words used herein are defined as follows:

#### **ESTABLISHED PLACE OF BUSINESS**

A building, commercial or residential, in which or where a person transacts business and deals in goods, wares, merchandise or services, which shall have been in operation for at least 90 days.

#### **PERSON**

One or more persons of either sex, a firm, partnership, a corporation or any individual representative or agent thereof with

proper identification (ID), such as a driver's license or photo ID with proper addresses.

### **SOLICITOR**

- A. Any person who, by going door to door or by standing in any street or public place:
  - (1) Offers to sell merchandise, wares or other goods.
  - (2) Takes orders for the future delivery of merchandise, wares or other goods.
  - (3) Offers to purchase goods, wares or other articles of value.
  - (4) Offers to perform services immediately or at any future date or offers to make, manufacture or repair any article or thing whatsoever for future delivery.
  - (5) Offers to make a future appointment for any of the above purposes.
- B. For the purpose of this chapter, the following terms shall be considered synonymous with solicitor: "hawker," "peddler," "itinerant merchant," "transient vendor," "surveyor" and "door-to-door salesman."

### **VEHICLE**

Car, truck, van, pushcart and trailer.

## **§ 123-4. License required.**

It shall be unlawful for any person to solicit, as defined in § 123-3, within the Town of Haverstraw without first having registered with the Town Clerk and having received, and having in force and effect, a license for the same if such be required by said Town Clerk.

## **§ 123-5. Persons and organizations exempt.**

- A. The following persons or organizations are exempt from the license requirements of this chapter:
  - (1) An honorably discharged veteran who:
    - (a) Is physically disabled as a result of injuries received while in the service as set forth in § 35 of the General Business Law of the State of New York; and
    - (b) Holds a license granted pursuant to § 32 of the General Business Law.

- (2) A wholesaler selling articles to dealers or merchants who have an established place of business within the town or their employees while acting within the scope of their employer and not having another use.
  - (3) A truck gardener or farmer who, himself or through his employees, sells products of his own farm or garden.
  - (4) Religious, charitable and nonprofit organizations.
  - (5) A child regularly attending any public or private school within the County of Rockland, or a representative of any church maintaining a place of worship within the County of Rockland, or a member of a veterans' organization, provided that such organization maintains a chapter, post, lodge, camp or other group within the County of Rockland, or a member of a fraternal organization, any firemen's organization or a civic group, provided that such fraternal organization, firemen's organization or civic group maintains a chapter or local organization within the County of Rockland, and further provided that any person within the provisions of this exemption shall hawk, peddle or solicit only as part of an authorized activity of the organization of which he is a member or of the school or church which he attends, and further provided that no person exempted by this subsection receives any compensation for any such activity here exempted.
- B. All persons and organizations soliciting funds solely for charitable or other purposes who are exempted from the license requirements under this chapter shall maintain and keep records identifying all persons soliciting funds within the town, and such records shall contain at least the name and the address of the person soliciting, the area solicited and the date or dates of solicitation. Said records shall be filed with the Town Clerk and Police Department.

## § 123-6. Application information.

- A. Every applicant for a license shall submit to the Town Clerk a written verified application containing the following information:
- (1) The name and age of the applicant.
  - (2) His permanent home residence and the address of his current place of sojourn if different from his home address.
  - (3) The name and address of all entities whose products he intends to sell or which he intends to solicit orders.
  - (4) An itemized statement of all property or services to be sold or offered for sale.
  - (5)

All municipalities (name and state) in which the applicant has carried on the business of hawking, selling or soliciting orders during the six months immediately preceding the application.

- (6) A statement of the name, address and telephone number of any person and of any corporation supervising the applicant's local selling activities under contractual or employment arrangement.
- (7) Copies of all forms of order and of receipt used by the applicant in soliciting sales or orders.
- (8) Enumeration of the number and kind of vehicles, if any, to be used by the applicant in carrying on the business for which the license is requested.
- (9) The names and addresses of all partners, if a partnership, and the names and addresses of the principal officers, if a corporation.
- (10) The name and address of a person upon whom a legal notice may be served.
- (11) Appended to the application, a letter of authorization from each entity supplying any property or services to be sold or for which orders are to be solicited by the applicant.
- (12) A statement to the effect that if a permit is granted, it will not be used or represented in any way as an endorsement by the Town of Haverstraw or by any department or officer thereof.
- (13) If the applicant is a nonprofit corporation of the State of New York, a certified copy of its certificate of incorporation, together with any amendments or supplements thereto.
- (14) Two business references located in the County of Rockland, State of New York, or, in lieu thereof, such other available evidence of the character and business responsibility of the applicant as will enable an investigator to properly evaluate such character and responsibility.
- (15) The length of time that a license shall be valid shall be from the date of approval until December 31 of that same year.
- (16) A Rockland County Department of Health permit for food licenses.
- (17) Every applicant shall submit in triplicate a photograph two inches by two inches taken within 30 days of the date of the application for such license. Such photograph shall show head, full face and shoulders of the applicant. One copy of the photograph shall be attached to the license application, one copy of the photograph shall be attached to the license, and the third shall be delivered to the Chief of Police of the town.

- (18) Each applicant for a license shall have a fingerprint impression of the fingers and thumbs on both hands taken by the Police Department of the town, and his photograph delivered to the Chief of Police shall be attached to the fingerprint identification card and remain on file with the Police Department.
  - (19) The Town Clerk shall not issue a license unless the applicant shall furnish satisfactory proof of compliance with the provisions hereof relating to fingerprint identification and until completion of an investigation by the Clerk. On all applications for renewal (which must be submitted before the expiration of a license), the applicant need only submit the photograph required hereunder to the Town Clerk unless said Chief of Police shall request a new fingerprint identification.
  - (20) The applicant shall indicate the general 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 Code Enforcement Officer.
- B. If the Town Clerk shall approve the application, the Clerk shall, within five days, issue a license or registration card, signed by the Clerk, authorizing the holder thereof to conduct business under the terms of this chapter. In the event that the application shall be denied, the Town Clerk shall state the reasons therefor. Any license issued hereunder shall not be assignable, and any holder of a license who permits it to be used by any other persons, and any other person who uses it, shall be guilty of a violation of this chapter.
  - C. No license shall be granted to a person under 18 years of age. No license shall be issued to a person who has been refused a license within the past 12 months or who has had a license revoked within the past 12 months unless he can show that the reasons for such rejection or revocation no longer exist. Every licensee, while conducting business, shall carry the license and exhibit the same upon demand.
  - D. No license shall be issued to any individual whose merchandise to be sold on the streets of the town consists of souvenirs, such as artificial flowers to be worn as boutonnieres, all 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' organizations.
  - E. No license shall be issued to any person standing or selling in parking lots except those exempt from the license requirements as set forth in § 123-5.

## § 123-7. Investigation of applicants.

- A. When the application is properly filled out and signed by the applicant, the original and duplicate thereof shall be filed with the Clerk, and the Clerk shall refer the original to the Chief of Police, who shall make or cause to be made, within five days, such investigation of the applicant's business responsibility and character as he deems necessary for the protection of the public good.
- B. If, as a result of such an investigation, the applicant's character or business responsibility is found to be unsatisfactory, the Chief of Police shall endorse on such application his disapproval and his reasons therefor and shall return said application to the Clerk. Any determination by the Chief of Police that an application is unsatisfactory shall be based on one or more of the following findings with respect to the applicant:
  - (1) Conviction of a crime involving moral turpitude.
  - (2) Prior violation of a peddling or soliciting ordinance or law.
  - (3) Previous fraudulent acts or contracts.
  - (4) Record of breaches of solicited contracts.
  - (5) Concrete evidence of bad character.
- C. In the absence of any such finding, the Chief of Police shall find the application satisfactory, shall endorse his approval on the application and shall return the application to the Clerk.

## § 123-8. Denial or issuance of license.

- A. If an application is found unsatisfactory by the Town of Haverstraw Chief of Police and he has endorsed his disapproval upon the application, the Clerk shall notify the applicant, by certified mail, that the application is disapproved and shall deny the applicant a license.
- B. Upon receipt of the fee, application, report of the Town of Haverstraw Police Chief's investigation and upon compliance with all the requirements of this chapter, the Town Clerk shall issue a license to the applicant specifying the particular business authorized. This license shall be nontransferable. It shall be in the continuous possession of the licensee while engaged in the business licensed. The license shall be produced upon the demand of any police or law enforcement officer and shall be exhibited to each prospective buyer or person solicited before making any offer or solicitation.
- C. Where an organization has several agents peddling, soliciting or distributing merchandise or printed material, each agent shall be registered separately and each shall pay the appropriate fee. Upon the expiration of a license, a new license will be issued upon compliance with all the provisions of this chapter and the

payment of fees and the posting of the bond, except that the investigation and waiting period therefor may be waived if approved by the Clerk.

- D. In the event of the denial of a license to any applicant by the Clerk, the applicant may request a hearing within a period of 30 days after such refusal and denial. Such request shall be in writing and shall be made to the Town Board and filed with the Town Clerk within the period provided herein. The Town Board shall hear such applicant's request for a review of the determination of the Town Clerk at its next regularly scheduled meeting following the filing of the application for review with the Town Clerk and in accordance with the provisions for publication of a legal notice. The Town Board may grant a license to the applicant if it should determine that the refusal on the part of the Clerk was arbitrary or erroneous. If the Town Board, after such hearing, shall determine that the decision of the Town Clerk was justified under the circumstances, the Board shall refuse such license. The decision on any such application shall be rendered by the Town Board, in writing, within 30 days after the hearing thereof and shall be entered in the minutes of the Town Board.

## § 123-9. Revocation of license.

- A. The town may at any time, for cause shown or for a violation of this chapter or any other law, immediately revoke any license by delivering to the licensee, either in person or by mailing to the address given in the application, notice of such revocation in writing and stating therein the reason or reasons for such revocation. A license so revoked shall be returned to the Town Clerk within four days of receipt of the revocation.
- B. Licenses issued under the provisions of this chapter may be revoked by the Town Board after notice and hearing for any of the following causes:
- (1) The refusal of a solicitor to leave a private premises after a request by the owner or lawful occupant or the solicitation of persons other than between the hours of 9:00 a.m. and 7:00 p.m. shall be cause for revocation.
  - (2) Fraud, misrepresentation or a materially incorrect statement contained in the application for a license.
  - (3) Fraud, misrepresentation or a materially incorrect statement made in the course of carrying on the business of solicitor, peddler, or distributor or transient merchant.
  - (4) Any violation of this chapter.
  - (5) Conviction of any state or federal crime, felony or misdemeanor.

- (6) Conducting the business of peddler, solicitor, distributor or transient merchant in an unlawful manner or in such manner as to constitute a breach of the peace or to constitute a menace to the health, safety or general welfare of the public.
- C. A notice of the hearing for the revocation of a license shall be given by the Town Clerk, in writing, setting forth specifically the grounds of the complaint and the time and place of the hearing before the Town Board. Such notice shall be mailed, postage prepaid, to the holder of the license at the address given on the application at least five days prior to the date set for the hearing or shall be delivered by an agent of the town in the same manner as a summons at least three days prior to the date set for the hearing.
- D. Upon receipt of notice of cause for revocation, the Town Clerk may suspend any license pending a hearing and a decision by the Town Board.

## § 123-10. Fees; exceptions; expiration of license.

- A. The license fee for solicitors shall be, per person, as set forth from time to time by resolution of the Town Board as an annual license fee. In addition, those solicitors who use vehicles, pushcarts and trailers shall pay an annual fee set forth from time to time by resolution of the Town Board for each vehicle, pushcart or trailer.
- B. A disabled veteran who was honorably discharged and holds a peddler's license pursuant to §§ 32 and 35 of the General Business Law, shall not be required to pay any license fee whatever but shall be required to register with the Town Clerk.
- C. All licenses shall expire on the 31st day of December of each year immediately following its issuance.
- D. All applicants for food licenses shall exhibit to the town a permit from the Rockland County Department of Health at the time of application hereunder.
- E. All vehicles which will be used or involved in soliciting shall at the time of application have a valid license and registration.
- F. All places of sale or soliciting shall be handicapped accessible.
- G. All premises licensed hereunder shall be in conformity with New York State Uniform Fire Prevention and Building Code.

## § 123-11. Bonding requirements.

- A. Prior to the issuance of any license, the applicant shall file with the Town Clerk either a bond running to the town in the amount of \$1,500, with good and sufficient surety, in such form to be approved by the Town Attorney, or the amount of \$1,500 to be held in escrow. Said bond or amount shall remain in escrow for the term of the license and shall be conditioned to indemnify and pay the town for any penalties or costs incurred in the enforcement of any of the provisions of this chapter.
- B. The aforesaid bond shall be declared forfeited upon proof of:
  - (1) Falsification in the application for a license.
  - (2) Violation of any of the provisions of this chapter by the applicant or his agents, servants or employees.
- C. The Town Board may, by resolution, exempt persons from the bond and fee requirements, provided that the applicant satisfies the Board that the nature of his activity does not jeopardize the position of the town or the protection given herein to the residents.

## § 123-12. Prohibited acts, restrictions and requirements.

A licensee or his employee shall:

- A. Not create or maintain any booth or stand or place any barrels, boxes, crates or other obstruction upon any street, sidewalk or public place for the purpose of conducting business without the express approval of the Building Inspector or the Town Board.
- B. Not stand or sell the same or similar products within 1,000 feet of any establishment or business within the Town of Haverstraw.
- C. Not willfully misstate any fact about any article offered for sale.
- D. Not willfully offer for sale any article of an unwholesome or defective nature.
- E. Not call attention to his goods by blowing a horn, by ringing a bell, other than a house doorbell, by shouting or crying or by any loud or unusual noise, except that peddlers of ice cream and ice cream products for immediate consumption are exempted from the foregoing prohibition of the use of a bell.
- F. Not frequent any street, sidewalk or public place so as to cause a private or public nuisance.

- G. Keep any vehicle or receptacle used by him in his licensed business in a sound, clean and sanitary condition.
- H. Keep any edible articles offered for sale well-protected from dirt, dust and insects.
- I. Deliver to every person to whom a sale is made or from whom an order is taken a legibly written receipt, signed and dated by the licensee, setting out the total price, a description of the goods or services sold or ordered and a statement of any payment received by the licensee.
- J. Not enter upon any residential premises clearly displaying a sign with letters at least one inch in height reading PEDDLERS AND SOLICITORS PROHIBITED.
- K. Leave all premises promptly upon request of any occupant of such premises.
- L. When conducting business pursuant to such license, relocate the operation of such business to a location of at least 1,000 feet away from the operation of such business every 15 minutes and may not operate such business within 1,000 feet of any location previously used within a twenty-four-hour period.
- M. Not sell or solicit except between the hours of 9:00 a.m. and 7:00 p.m.
- N. Comply with Chapter **167**, Article **IV**, Section **167-11** of the Zoning Law of the Town of Haverstraw.

## § 123-13. Records.

It shall be the duty of the Town Clerk to keep a record of all applications received and all licenses granted under the provisions of this chapter, in which shall be recorded the names and addresses of persons licensed, the amount of fees paid and all other pertinent data concerning the issuance of licenses under this chapter. All licenses issued and all records pertaining thereto shall contain, in addition to the name and address of the licensee, the kind of goods, wares and merchandise to be sold or the nature of the services to be rendered and the date of expiration of said license.

## § 123-14. Penalties for offenses.

- A. Any person who, himself or through an agent or employee, shall act as a solicitor as herein defined without registering with the Town Clerk or obtaining a license, if said Clerk shall require one, or who, having had his license revoked, shall continue to act as a solicitor, shall, upon conviction, be punished by a fine of not more than \$250 or imprisonment not to exceed 15 days, or both, and

each day on which such violation continues shall constitute a separate offense.

- B. Any person who, himself or through an agent or employee, shall violate the provisions of this chapter shall, upon conviction, be punished by a fine of not to exceed \$100 for the first offense and not to exceed \$250 or imprisonment not to exceed 15 days, or both, for each subsequent offense.
- C. Any violation of the provisions of this chapter shall be deemed an offense; provided, however, that for the purpose of conferring jurisdiction upon courts and judicial officers generally, such violation shall be deemed a misdemeanor; and, for such purposes only, all provisions of law relating to misdemeanors shall apply to such violations.

## § 123-15. Soliciting on sidewalks; outdoor sales.

- A. On sidewalks. All locations must first have the approval of the Building Inspector. Fifty percent of the sidewalk must be clear for pedestrian travel, shopping carts, carriages, etc. The location cannot impede any fire ingress or egress and cannot block fire hydrants. The licensee shall be solely responsible for maintaining an orderly, clean environment at all times; failure to do so will result in revocation of the license. A permit to solicit shall be prominently displayed during all times of operation. No merchandise shall be left outside on the sidewalk after business hours unless there is a person assigned to monitor merchandise. Any and all equipment approved for use using electricity shall have an electrical inspection before a permit is issued to ensure that no electrical violations exist.
- B. Any property to be used for soliciting shall have written documentation from said owner allowing the licensee to solicit on the same.
- C. Approval is required of the Building Inspector for any outdoor sales of goods ordinarily sold indoors in an adjacent establishment.

## § 123-16. Effective Date.

This local law shall become effective upon filing with the Secretary of State.

