

## **Chapter 150**

### **PEDDLING AND SOLICITING**

#### **GENERAL REFERENCES**

Streets and sidewalks — See Ch. 180.

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#### **§ 150-1. Purpose.**

The purpose of this chapter is to prevent fraud, crime and unethical and dishonest business practices and to protect the health, safety and welfare of the residents of the Town of Victor.

#### **§ 150-2. Definitions.**

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

**PEDDLER (PEDDLING)** — Any person, either principal or agent, who, in any public street or road or highway or public place or from any vacant property, whether publicly or privately owned, or by going from place to place or house to house, delivers or distributes advertising matter, literature, pamphlets, samples or handbills or sells or offers for sale, barter or exchange any goods, wares, merchandise, service or any other article or thing whatsoever, either in his possession or not in his possession, either for immediate or future delivery.

**PERSON** — Includes an individual, corporation, partnership, association or any other organizational group of persons or representative of any of the foregoing.

**SOLICITOR (SOLICITING)** — Any person, either principal or agent, who, in any public street, road or highway or public place or from any vacant property, whether publicly or privately owned, or by going from place to place or house to house, requests or accepts a contribution.

#### **§ 150-3. Restricted areas.**

- A. Peddling and soliciting shall not be allowed in any Town or county rights-of-way.
- B. In addition to the foregoing and excluding those areas defined in § 1157(C) of the Vehicle and Traffic law of the State of New York, soliciting and peddling shall not be allowed on any public lands or in any public places, nor shall the same be allowed on Town-owned property unless approval is secured from the Town Board. As a condition for approval, the Town Board shall require adequate surety in an amount that will ensure that the activities authorized will not jeopardize the position of the Town or the protection of the Town residents.

#### **§ 150-4. License required. [Amended 1-11-2016 by L.L. No. 1-2016]**

In all areas of the Town of Victor, exclusive of those listed in § 150-3 of this chapter and the Village of Victor, it shall be unlawful to peddle or solicit without first having obtained and paid for, and having in force and effect, a license issued by the Town Clerk's office. Each permitted peddler or solicitor must carry a copy of the license.

#### **§ 150-5. License application procedure; fees.**

- A. Application for license. Every applicant for a license to peddle or solicit or a renewal thereof shall be required to submit a written application supplying, under oath, in a form prescribed by the Town Clerk, the following information:
- (1) The name, home address and local address, if any, of the applicant.
  - (2) A physical description of the applicant, setting forth the applicant's age, height, weight, color of hair and eyes.
  - (3) The name and address of the person, firm or corporation for whom or through whom orders are to be solicited or cleared.
  - (4) Goods, wares or merchandise for which orders are to be solicited.
  - (5) Honorably discharged members of the Armed Forces shall also state, if applicable, the county from which they secured a license, pursuant to Article 4 of the General Business Law, together with the date and number of such license.
  - (6) A statement as to the period during which the applicant intends to solicit orders.
  - (7) Proof that the applicant holds a New York State sales tax identification number.
  - (8) If the applicant proposes to peddle on private property, written proof that the applicant has the permission of the owner or owners to use and occupy the premises for such purposes.
  - (9) Proof that adequate parking and loading is provided and that ingress and egress will cause the minimum interference with vehicular and pedestrian traffic.
  - (10) Proof that the applicant will provide adequately for garbage and solid waste disposal.
  - (11) Such other information as the Town Clerk shall reasonably require.
  - (12) The applicant, at the time of executing such application, shall submit as identification a driver's license or nondriver's photo identification, reasonably satisfactory to the Town Clerk, and a completed Ontario County Sheriff's Release of Information. **[Amended 1-11-2016 by L.L. No. 1-2016]**
  - (13) Proof of liability insurance.
  - (14) Food vendors must provide proof of New York State Health Department approval. **[Amended 1-11-2016 by L.L. No. 1-2016]**
  - (15) For each person soliciting, a driver's license or nondriver's photo identification and a completed Ontario County Sheriff's Release of Information shall be submitted. **[Added 1-11-2016 by L.L. No. 1-2016]**
- B. Fees.
- (1) A license fee for peddlers or solicitors shall be in such amount as the Town Board of the Town of Victor may, from time to time, establish by resolution.
  - (2) No fee shall be required by a veteran who has obtained a license pursuant to Article 4 of the General Business Law of the State of New York.

**§ 150-6. License issuance or denial; appeals.**

- A. Issuance. Upon the receipt of a properly filled out application and the license fee, the Town Clerk shall review the application, and, if granted, shall issue the license to the applicant within fourteen (14) days from the date of the acceptance of the application.
- B. Denial. The Town Clerk may deny the application; in which case, the Clerk shall specify to the applicant the reason or reasons therefor. Such decision must relate to the protection of the public safety, health, morals or general welfare of the residents of the Town. The Town Clerk may also deny any application by any person who shall have been convicted of any crime or of any violation of this chapter.
- C. Appeals. Any person aggrieved by the action of the Town Clerk in the denial of a license shall have the right of appeal to the Town Board. Such appeal shall be taken by filing with the Board, within fourteen (14) days after the notice of the action complained of has been mailed to such person's last known address, a written statement setting forth fully the grounds for such appeal. The Town Board shall set a time and place for a hearing on such appeal, provided that the same shall be set within sixty (60) days of the receipt of the statement for appeal. Notice of such hearing shall be given in the same manner as provided in § 150-7.

**§ 150-7. Suspension of license.**

- A. Suspension. Whenever the Town Clerk shall have probable cause to believe that any person to whom a license has been issued under this chapter has violated any of the provisions of this chapter or that any peddler, solicitor or his agents have misrepresented the purpose of their activities, the Town Clerk shall immediately suspend the license temporarily and give the license holder written notice by certified mail of a hearing to be held before the Town Board within ten (10) days of such temporary suspension to determine whether or not the license should be revoked. This notice must contain a statement of the facts upon which the Town Clerk has acted in suspending the license. If, after such hearing, the Town Board finds that this chapter has been violated or the activities of the peddler or solicitor have been misrepresented, the Board may, within two (2) days after the hearing, revoke the license and give the applicant written notice of the revocation and the reasons therefor. Any conviction of the license holder, its employees, agents or representatives of a violation of any provisions of this chapter shall be prima facie grounds for temporary suspension.

**§ 150-8. Revocation of license.**

- A. In addition to the process set forth in § 150-7, such license may also be revoked by the Town Board of the Town of Victor after notice and hearing for any of the following causes:
  - (1) Fraud, misrepresentation or false statement contained in the application for the license.
  - (2) Fraud, misrepresentation or false statement made in the course of carrying on business as a peddler or solicitor.
  - (3) Any violation of this chapter.
  - (4) Conviction for a felony or misdemeanor, which misdemeanor or felony, in the judgment of the Town Board, renders the applicant unfit or undesirable.

- (5) Conducting the business of peddling in an unlawful manner or in such a manner as to constitute a menace to health, safety or general welfare of the public.
  - (6) Upon the recommendation of the New York State Department of Health that the sale of food or food products or other edibles is being conducted under unsanitary conditions or that there is a violation of law regulation, code or ordinance cited by the New York State Department of Health.
- B. Notice for a hearing for the revocation of a license pursuant to this section shall be given by the Town Clerk, in writing, setting forth specifically the grounds of the complaint and the time and date of hearing. Such notice shall be mailed, postage prepaid, to the permittee at his/her last known address at least ten (10) days prior to the date set for hearing.

#### **§ 150-9. Expiration of license.**

Peddling and soliciting licenses shall expire one (1) year from the date of issuance of said license.

#### **§ 150-10. Renewal of license.**

A valid peddling/soliciting license may be renewed for a period of one (1) year at a time by following the license application procedures in § 150-5 above. Such renewal application must be submitted at least thirty (30) days prior to the expiration of the current license.

#### **§ 150-11. Age restriction.**

No license for peddling or soliciting shall be issued under this chapter to any person under the age of eighteen (18) years.

#### **§ 150-12. Transfer of license.**

No permit shall be transferable from one person to another for peddling or soliciting.

#### **§ 150-13. Provisions applicable to veterans.**

Honorably discharged members of the Armed Forces of the United States, who obtain a license pursuant to the provisions of § 32 of the General Business Law, shall, in addition thereto, file a further application to the Town Clerk of the Town of Victor for the issuance of a license. The application for such license shall state the veteran's name, residence at the time of the application and nature of goods to be sold; and, if the applicant is working on a commission or percentage basis for any person, firm or corporation, the name and business address of such person, firm or corporation shall be stated. The application shall be signed by the applicant, and the name on this application and on the original certificate of honorable discharge shall be compared to ascertain if the person so applying is the same person named in the original certificate of honorable discharge. The Town Clerk, when satisfied, shall issue to such former member of the Armed Forces of the United States a license, without charge, certifying him to be entitled to the benefits of this chapter; provided, however, that nothing in this chapter shall prevent or in any manner interfere with the soliciting or peddling without the use of any but a hand-driven vehicle in a street, avenue, alley, lane or park of the Town by any honorably discharged member of the Armed Forces of the United States who is disabled as a result of injuries received while in the

service of said Armed Forces and who is the holder of a license granted pursuant to § 32 of the General Business Law.

**§ 150-14. Hours of operation. [Amended 1-11-2016 by L.L. No. 1-2016]**

Within the Town of Victor, exclusive of the Village of Victor, soliciting or peddling door to door shall be prohibited before 9:00 a.m. and after 7:00 p.m., Monday through Saturday. No peddling shall be permitted on Sundays.

**§ 150-15. Exemptions. [Amended 3-8-2004 by L.L. No. 2-2004]**

Exemptions shall be as follows:

- A. Peddling or soliciting for charitable, political, educational or not-for-profit organizations.
- B. Delivery of newspapers or periodicals.
- C. Sale of newspapers from coin-operated vending machines.
- D. Activities limited to three days or less per month on privately owned property.
- E. Any person or proprietor soliciting on residential property at the express invitation of the person, serving an established customer or for the express purpose of providing a product or products to a not-for-profit organization.
- F. Those activities defined in Article IV of Chapter 211, Zoning, § 211-38, Roadside stands.
- G. This chapter shall not apply so as to interfere unlawfully with interstate commerce.
- H. Activities that would otherwise require a peddler's/solicitor's license shall be exempt if there is in existence a valid license or permit issued by the Town Board relating to similar or associated activities.

**§ 150-16. Penalties for offenses.**

Any person who violates any provision of this chapter shall, upon conviction thereof, be subject to a penalty not to exceed two hundred fifty dollars (\$250.) or to imprisonment for a term not to exceed fifteen (15) days, or both. The continuance of an offense for each twenty-four-hour period shall be a distinct and separate violation.