

Local Law Filing

(Use this form to file a local law with the Secretary of State.)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

County City Town Village

(Select one:)

of Canandaigua

Local Law No. _____ of the year 2017

A local law Creating Chapter 153 Peddling and Soliciting

(Insert Title)

DRAFT

Be it enacted by the Town Board of the
(Name of Legislative Body)

County City Town Village

(Select one:)

of Canandaigua as follows:

(see attached)

(If additional space is needed, attach pages the same size as this sheet, and number each.)

Be it enacted by the Town Board of the Town of Canandaigua as follows:

SECTION ONE. Purpose. The purpose of this Chapter is to prevent fraud, crime, unethical and dishonest business practices, and to protect the health, safety, and welfare of the residents of the Town of Canandaigua.

SECTION TWO. Peddling and Soliciting. A new Chapter shall be added to the Town of Canandaigua Town Code at Chapter 153. Said new Chapter shall immediately follow Town Code Chapter 152 (Parks and Recreation). Said new Chapter shall be entitled "Peddling and Soliciting." The text of said new Chapter shall be as follows:

§153-1. License Required. In all areas of the Town of Canandaigua, it shall be unlawful to peddle without first having obtained and paid for, and having in full force and effect, a current, valid license issued by the Town Clerk's Office. Each permitted Peddler must carry a copy of the license issued by the Town Clerk's Office on his or her person at all times when engaged in Peddling Activity.

§ 153-2. Application Procedures.

A. Application for License. Every applicant for a license to peddle 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, hair color, and eye color;
- (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, services, 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) A statement as to whether the applicant has ever been convicted of any crimes, including details as to the charges, dates of convictions, and any other information the Town Clerk deems appropriate;
- (9) 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;
- (10) Such other and further information as the Town Clerk shall reasonably require;
- (11) 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 form;
- (12) Proof of liability insurance reasonably acceptable by the Town Clerk's Office must be submitted at the time of application.

B. Fees for License.

- (1) A license fee for peddlers shall be in such amount as the Town Board of the Town of Canandaigua 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.

C. Issuance. Upon receipt of a properly filled out application and license fee, the Town Clerk shall review the application, and shall issue the license to the applicant within fourteen (14) days from the date of submission of the application.

D. Denial. The Town Clerk may deny the application if it does not comply with the requirements of § 153-2. When the Town Clerk denies an application, the Town 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 of Canandaigua. 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.

§ 153-3. Suspension of License. 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 has misrepresented the purpose of his or her 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 of the Town of Canandaigua 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 have been misrepresented, the Board may, within two (2) days after the hearing, revoke the license and give the license holder written notice of the revocation and the reasons therefor.

§ 153-4. Revocation of License.

- A.** Any license issued pursuant to this Chapter may be revoked by the Town Board of the Town of Canandaigua after notice and hearing for any of the following causes:
- (1)** Fraud, misrepresentation or false statements contained in the application for the license.
 - (2)** Fraud, misrepresentation or false statements made in the course of carrying on business as a Peddler.
 - (3)** Any violation of the Town Code of the Town of Canandaigua.
 - (4)** Any violation of New York State Penal Law.
 - (5)** Conducting the business of a Peddler in an unlawful manner or in such a manner as to constitute a menace to the 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 or Ontario County Board 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 date and time of such hearing. Such notice shall be mailed, postage prepaid, to the person holding the license, at his or her last known address at least ten (10) days prior to the date set for the hearing.

§ 153-5. License Rules & Regulations.

- A.** Hours of Operation. Peddling door to door is prohibited before 9:00 AM and after 7:00 PM Monday through Saturday. No peddling shall be permitted on Sundays.
- B.** Transfer of License. No license shall be transferable from one person to another.
- C.** Age Restriction. No license for peddling under this Chapter shall be issued to any person under the age of eighteen (18) years.

- D. License to be carried. The license issued by the Town Clerk must be carried by the license holder at all times while engaged in peddling activity within the Town of Canandaigua.
- E. License to be produced. Any person licensed under this Chapter shall produce and exhibit his or her license upon the request of any person desiring inspection thereof.
- F. No licensed peddler shall willfully misstate the quantity or quality of any item or service offered for sale.
- G. No licensed peddler shall willfully offer for sale any goods, wares, services, or merchandise which is unwholesome or unsafe or defective in any way, unless clearly identified as such.
- H. No licensed peddler shall cause a public or private nuisance.
- I. Expiration of License. A license issued pursuant to this Chapter shall expire on (1) year from the date of issuance of said license.

§ 153-6. 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 of the Town of Canandaigua. 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 receipt of the statement for appeal. Notice of such hearing shall be given in the same manner as provided in § 153-4(B).

§ 153-7. Enforcement. The provisions of this Chapter shall be enforced by the Ontario County Sheriff's Department, the New York State Police, or the Town of Canandaigua Code Enforcement Officer.

§ 153-8. Penalties for Offenses. The violation of any provision of this chapter shall be deemed an offense, except that for the purpose of conferring jurisdiction upon courts, such violation shall be deemed a misdemeanor. Each separate violation shall be punishable by a fine not to exceed \$250, and/or imprisonment for a period not to exceed 60 days. Each day's continued violation shall be deemed a separate offense.

§ 153-9. Exceptions. The following activities shall not be subject to the license requirements of this Chapter:

- A. Peddling for charitable or political purposes.
- B. Delivery of newspapers or periodicals.

C. This chapter shall not apply so as to unlawfully interfere with interstate commerce.

SECTION THREE. Definitions. The following definitions shall be added to Town Code § 1-17:

PEDDLER (PEDDLING). A person who attempts to make personal contact with a resident at his or her residence without prior specific invitation or appointment from the resident for the purpose selling, or attempting to sell, any goods or services.

PEDDLING ACTIVITY. The act or action of making or attempting to make personal contact with a resident or residents at his or her residence without prior specific invitation or appointment from the resident for the purpose of selling, or attempting to sell, any goods or services.

SECTION FOUR. Severability. The provisions of this Local Law are declared to be severable, and if any section, subsection, sentence, clause or part thereof is, for any reason, held to be invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of any remaining sections, subsections, sentences, clauses or part of this Local Law.

SECTION FIVE. Effective Date. This Local Law shall take effect immediately upon its filing with the New York State Secretary of State.

DRAFT

(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)

DRAFT

1. (Final adoption by local legislative body only.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 2017 of the (County)(City)(Town)(Village) of Canandaigua was duly passed by the Town Board on _____ 2017, in accordance with the applicable provisions of law.
(Name of Legislative Body)

2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer*.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved) *(Name of Legislative Body)* (repassed after disapproval) by the _____ and was deemed duly adopted *(Elective Chief Executive Officer*)* on _____ 20 , in accordance with the applicable provisions of law.

3. (Final adoption by referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved) *(Name of Legislative Body)* (repassed after disapproval) by the _____ on _____ 20____. *(Elective Chief Executive Officer*)*

Such local law was submitted to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general)(special)(annual) election held on _____ 20____, in accordance with the applicable provisions of law.

4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved) *(Name of Legislative Body)* (repassed after disapproval) by the _____ on _____ 20____. Such local *(Elective Chief Executive Officer*)* law was subject to permissive referendum and no valid petition requesting such referendum was filed as of _____ 20____, in accordance with the applicable provisions of law.

* Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairperson of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.

5. (City local law concerning Charter revision proposed by petition.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the City of _____ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on _____ 20____, became operative.

6. (County local law concerning adoption of Charter.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the County of _____ State of New York, having been submitted to the electors at the General Election of November _____ 20____, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph _____ above.

Clerk of the county/legislative body, City, Town or Village Clerk or officer designated by local legislative body

Date: _____

(Seal)