

Chapter 151
PEDDLING AND SOLICITING

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[HISTORY: Adopted by the Board of Trustees of the Village of Pelham Manor as indicated in article histories. Amendments noted where applicable.]

ARTICLE I
Peddling

[Derived from Section 24 of the General Code of Ordinances]

§ 151-1. License required.

In order that the use of the village streets may be properly regulated, the good government of the village maintained and the health, safety and general welfare of its inhabitants preserved and promoted, the use of the streets of the village for the sale of merchandise shall be limited to those persons licensed as peddlers by the village. It shall be unlawful for any person, except the lawful holder of a peddler's, hawker's, huckster's or solicitor's license issued by the village to him and then in full force and effect and while the same or the license number identifying it is displayed conspicuously upon the vehicle or receptacle from which merchandise is sold or upon the person of such peddler, hawker, huckster or solicitor at any time to sell, peddle or hawk personal property, produce, garden truck, food or other merchandise of any sort whatsoever in the streets of the village or solicit orders or subscriptions for future delivery.

§ 151-2. Regulations.

All such licenses and the continuance thereof in effect shall be conditioned upon the obedience of such license holder to the following rules. It shall be unlawful for any licensee:

- A. To misrepresent maliciously or fraudulently the quality, character or quantity of any article offered for sale, or offer for sale any unwholesome, tainted or diseased provisions or merchandise.
- B. To allow the vehicles or receptacles used by him to be in an unclean or unsanitary condition or the foodstuffs or eatables offered for sale to remain uncovered or unprotected from dirt, dust and insects.
- C. To blow a horn, ring a bell or use any other noisy device, or shout or call to attract public attention to his wares, or shout or cry out his wares.
- D. To stand or permit the vehicle used by him to stand in one place in any public place or street for more than five minutes, or in front of any premises for any time if the owner or lessee thereof or of any part of thereof objects.
- E. To permit any vehicle used by him to stop on or remain on any crosswalk.
- F. To sell any confection, beverage 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.
- G. To solicit orders from pedestrians or occupants of automobiles.
- H. To create or maintain any booth, cart, automobile or stand or place any barrel, crate, box or other obstacle upon any street or public place for the purpose of selling or exposing for sale any goods, wares or merchandise.

§ 151-3. Applicability to discharged members of armed forces.

The above regulations shall also apply to every honorably discharged member of the armed forces of the United States who has been issued a license by the County Clerk in accordance with the provisions of § 32, Subdivision 8, of the General Business Law.

ARTICLE II

Soliciting

[Adopted 11-24-1997 by L.L. No. 3-1997]

§ 151-4. Purpose

In order to maintain the peace and good order of the Village of Pelham Manor; to protect the peace and tranquillity of the residential neighborhoods of the village; to protect the residents of the village from annoyance by preventing unwelcome interference with their privacy, with their rest and with the enjoyment of their homes; to assist in the prevention of crime in the residential neighborhoods of the village; to reduce the risk of safety hazards occasioned by unrestricted soliciting on or about the streets of the village; to prevent breaches of the peace on the streets and at the residences within the village; and to protect the health, comfort and convenience of the residents of the village by regulating the time, place and manner in which solicitation is permitted, and, in order to do so, to facilitate the investigation of solicitors coming into the village, establish the conditions under which they shall operate within the village, and to make such investigation and regulation possible and, in part at least, to defray the cost thereof, it shall be unlawful for any person to act as a solicitor, except in compliance with this article.

§ 151-5. Certificate of registration required.

No person shall act as a solicitor without having been granted a certificate of registration as such pursuant to this section or, if the person has been granted a certificate of registration, in violation of the terms and conditions thereof. As used in this section, the term "solicitor" shall mean any person who goes from door-to-door or otherwise approaches persons within the village for the purpose of making surveys for research purposes, analysis or opinion polls; distributing information; recruiting supporters; obtaining signatures on petitions; advocating for a particular cause; or soliciting contributions for any person or organization.

§ 151-6. Application for certificate of registration.

Any person desiring to be granted a certificate of registration to act as a solicitor shall submit an application therefor to the Chief of Police, in accordance with the terms of this section.

A. The application shall be made on a form provided by the Chief of Police, and shall state:

- (1) The full name, and any former name, of the applicant;
- (2) The complete permanent home and local address of the applicant and telephone number at each such address;
- (3) The name, address and telephone number of the entity, organization or person at the direction of which or on behalf of which the applicant intends to solicit;
- (4) The applicant's height, weight, date of birth, color of hair and color of eyes;
- (5) The names of the streets on which the applicant requests permission to solicit;
- (6) The date or dates on which the applicant requests permission to solicit; and
- (7) If a vehicle is to be used in connection with the proposed soliciting, the make, model, year, color and license plate number of such automobile, and the name, address and telephone number of the person who will be driving the vehicle.

B. The application shall be accompanied by the following documentation:

- (1) Two photos showing the full face and shoulders of the applicant, not less than two inches by two inches in size, taken not more than 60 days prior to application.
- (2) Proof that the applicant is a citizen or lawful resident of the United States of America.
- (3) If a vehicle is to be used in connection with the proposed soliciting:
 - (a) A copy of the valid driver's license of the person who will be driving the vehicle;
 - (b) A statement signed by the person who will be driving the vehicle authorizing the village to investigate such person's driving record;
 - (c) A photograph of the vehicle, not less than two inches by two inches in size, taken not more than 60 days prior to the date of the application;
 - (d) A copy of the valid registration certificate for the vehicle; and

- (e) A valid certificate evidencing that the vehicle is insured as required by the laws of the State of New York.
- (4) A statement that the applicant:
 - (a) Has read and understood this article.
 - (b) Agrees to notify the Chief of Police promptly of any change in the information set forth in the application.
 - (c) Recognizes that any material misstatement of fact in or omission from the application may result in immediate revocation of the certificate of registration which may be issued pursuant to this section.
- C. The application and accompanying documentation required pursuant to this section shall be submitted to the Chief of Police not less than 45 days prior to the first date on which the applicant proposes to solicit.

§ 151-7. Determination of granting or denial of certificate.

The Chief of Police shall either grant or deny the application for a certificate of registration within five business days of the date on which a completed application and all of the documentation required pursuant to this section are received.

- A. The Chief of Police shall not deny an application for a certificate of registration as a solicitor except upon finding that:
 - (1) The applicant has failed to submit the documentation required pursuant to this article;
 - (2) The applicant has made a material false statement or has submitted false documentation in connection with the application;
 - (3) The applicant has willfully failed to comply with the conditions of a certificate of registration previously issued pursuant to this section; or
 - (4) Fewer than six months have elapsed since the applicant was last denied registration pursuant to this section or had such registration revoked, and the applicant cannot establish to the satisfaction of the Chief of Police that the reason for the denial or revocation no longer exists.
- B. Each certificate of registration as a solicitor granted pursuant to this section shall be subject to, and no person shall solicit except in accordance with, the following terms and conditions:
 - (1) A certificate of registration shall not be assignable. Any holder of such certificate who permits it to be used by any other person and any person who uses a certificate granted to any other person shall each be guilty of a violation of this section.
 - (2) Every solicitor shall carry the certificate of registration with him at all times while soliciting and shall exhibit the same upon demand.

- (3) The certificate of registration shall be valid for a period of two months or for the date or dates on which the applicant proposes to solicit as stated on the application, whichever is shorter.
- (4) No solicitor shall place a table on any sidewalk for the purpose of soliciting therefrom or solicit:
 - (a) On any roadway which is open to vehicular traffic;
 - (b) In any area other than the specific areas stated in the application;
 - (c) While sitting or lying on a sidewalk; or
 - (d) Within 50 feet of a financial institution automated teller machine.
- (5) No solicitor shall solicit before 9:00 a.m. or after 7:00 p.m. or one-half hour after sunset, whichever shall be later.
- (6) No solicitor shall enter or attempt to enter any residence without an express invitation from the occupant of such residence.
- (7) No solicitor shall knowingly enter upon any property identified on the list maintained by the Chief of Police pursuant to § 151-11 of this article, or where there is displayed to public view any sign containing the words "No Solicitors," "No Soliciting," or other wording, the purpose of which purports to be to prohibit soliciting on the premises.
- (8) No solicitor shall remain on a premises or continue to solicit thereon after being asked by the resident, owner or other person in charge thereof to leave the premises or to cease soliciting thereon, respectively.
- (9) No solicitor shall:
 - (a) Touch the solicited person without the solicited person's consent;
 - (b) Use words which are offensive and inherently likely to provoke an immediate reaction;
 - (c) Threaten the person solicited with physical harm by word or gesture, which such conduct would make a reasonable person fearful of the threatened harm;
 - (d) Come closer than three feet to a person solicited;
 - (e) Block or impede a person's passage; or
 - (f) Follow a person after such person declines a solicitation.
- (10) The solicitor shall notify the Chief of Police, in writing, of any change of control in the ownership, management, name or location of the entity, organization or person at the direction of which or on behalf of which the applicant intends to solicit within 10 days thereof.

§ 151-8. Revocation of certificate.

The Chief of Police may revoke a certificate of registration issued pursuant to this section if such certificate was granted in violation of this section or the registrant has failed to comply with the terms and conditions of the certificate of registration or has otherwise violated this section. Notice of such revocation and the reason or reasons therefor, in writing, shall be provided to the registrant by the Chief of Police either by delivering the same personally to the registrant or by mailing the same to the registrant's address as set forth in the application. If the certificate of registration is revoked by reason of the registrant's failure to comply with the terms and conditions thereof, the certificate of registration shall be suspended immediately upon the personal delivery of the notice of revocation, or, if the notice of revocation is mailed, three days from the date of mailing. The registrant shall be entitled to a hearing with respect to such revocation, provided that the registrant requests such a hearing, in writing, within 30 days of receiving the notice of revocation. The hearing shall be held within five days of receipt of the request therefor. Upon revocation, the certificate issued pursuant to this section shall be surrendered to the Chief of Police.

§ 151-9. Appeal of determination.

Any person aggrieved by any determination of the Chief of Police made pursuant to this section shall have the right to appeal such determination to the Village Manager by filing a notice of such appeal, stating the grounds upon which the appeal is based, within 30 days of receipt of notice of the determination of the Chief of Police. The determination of the Village Manager shall be rendered within 10 days of receipt of the notice of appeal and shall be subject to judicial review in accordance with applicable law.

§ 151-10. Lost or destroyed certificate.

Whenever a certificate issued under the provisions of this article shall be lost or destroyed, the Chief of Police shall issue a duplicate in lieu thereof under the original application upon the filing with him by the registrant of an affidavit setting forth the circumstances of the loss and the actions taken to recover the original certificate. The registrant shall pay a fee for such replacement of a lost certificate in the amount provided in the schedule of fees.

§ 151-11. Soliciting prohibited at certain residences.

The Chief of Police shall maintain a list of the addresses of those village residents who desire that solicitors not enter upon their property, and shall provide a copy of such a list to each solicitor the time a certificate of registration is granted.

§ 151-12. Village not liable.

Nothing contained in this article shall be read to subject the village or its officials, agents, attorneys or employees to liability for damages or otherwise arising out of or related to the conduct of any activity by a person to whom a certificate of registration is granted pursuant to this section.