

NOTICE OF ADOPTION OF RESOLUTION

NOTICE IS HEREBY GIVEN that the Town Board of the Town of Babylon, County of Suffolk, State of New York, at a regular meeting thereof held on the 1st day of March, 2023 duly adopted a resolution, an abstract of which is as follows:

**RESOLUTION NO. 187 MARCH 1, 2023
ADOPTING LOCAL LAW 6 OF 2023
AMENDING THE CODE OF THE TOWN OF BABYLON,
CHAPTER 168 (PEDDLERS, SOLICITORS AND CANVASSERS)**

WHEREAS, the Town Board of the Town of Babylon seeks to adopt a local law amending the Town Code with respect to the licensing and regulation of peddlers; and

WHEREAS, the Town Board of the Town of Babylon duly called and held a Public Hearing at Babylon Town Hall, 200 East Sunrise Highway, Lindenhurst NY 11757 and on the 15th day of February, 2023 upon the question of the enactment of Local Law No. 6 of 2023 of the Town of Babylon, Suffolk County, New York, being such a local law; and

WHEREAS, in accordance with Part 617.5(c.) (26), State Environmental Quality Review (SEQR), the adoption of this local law is classified a Type II Action and not subject to environmental review under SEQR; and

NOW, THEREFORE, be it

RESOLVED AND ORDAINED, by the Town Board of the Town of Babylon, that Local Law 6 of 2023 of the Town of Babylon, Suffolk County, New York, is hereby enacted as follows and is effective upon its filing with the New York State Department of State:

**LOCAL LAW 6 OF 2023
AMENDING THE CODE OF THE TOWN OF BABYLON**

AMEND as follows:

**CHAPTER 167
PEDDLERS, SOLICITORS AND CANVASSERS**

§ 167-1. Definitions.

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

CANVASS and CANVASSER

Considered as synonymous with the terms "solicit" and "solicitor."

COMPANY

Any association of individuals, partnerships, firms, corporations or any other organization.

PEDDLE

To go from house to house, from store to store, from place to place or from street to street to sell and make immediate delivery of or offer for sale and delivery any goods, wares, merchandise, food, beverages or provisions in possession of the seller at any place within the Town other than from a fixed place of business. Nothing in this definition shall excuse a peddler from this chapter for failing to go from house to house, from store to store, from place to place or from street to street, and who remains stationary in any place in the Town of Babylon without a certificate of occupancy for a building or structure from which sales of that kind are permitted. [Amended 12-7-2004 by L.L. No. 31-2004]

PEDDLER

Any person or company who peddles, including any person who helps or assists another in the act of peddling. The words "peddler," "hawker" and "huckster" shall be considered synonymous terms. Peddlers shall include, but not be limited to: hotdog and food/beverage trucks, stands or other means or objects from which hotdogs or food/beverages or any other merchandise are sold. [Amended 12-7-2004 by L.L. No. 31-2004]

PERSON

A natural person or an individual over the age of 16 years.

SOLICIT

To go from house to house, street to street, place to place or from store to store to sell or take orders for goods, wares, merchandise, food, beverage or provisions for future delivery or for services to be performed or for information to be obtained or to distribute advertising matter at any place within the Town other than from a fixed place of business. Nothing in this definition shall excuse a solicitor for failing to go from house to house, from store to store, from place to place or from street to street, and who remains stationary in any place in the Town of Babylon without a certificate of occupancy for a building or structure from which sales of that kind are permitted.

[Amended 12-7-2004 by L.L. No. 31-2004]

SOLICITOR

Any person or company who solicits as herein defined.

§ 167-2. License required.

It shall be unlawful for any person or company to peddle or solicit within the Town, or to assist another to peddle or solicit in the Town, without having first obtained a valid license ~~therefor~~ to peddle or solicit as provided herein.

§ 167-3. Application for License.

[Amended 6-23-1992; 3-4-1997 by L.L. No. 2-1997]

A Applicants for a license under this chapter shall file an application with the Town Clerk in the form of a sworn affidavit, in duplicate, on a form to be supplied by the Town Clerk, which application shall furnish the following information:

- (1) The name, address and telephone number of the applicant.
- (2) The applicant's place of residence for the past five years.
- (3) The applicant's business or employer for the past five years.
- (4) The applicant's age, height, weight, color of eyes, color of hair and place of birth.
- (5) Two full-face photographs of the applicant taken within 30 days of application and measuring 1 1/2 inches by 1 1/2 inches.
- (6) Whether or not the applicant has ever been convicted of a felony, misdemeanor or violation of any municipal ordinance, except traffic violations, and, if so, the date, court, ordinance and sentence of the court.
- (7) Whether the applicant has been previously licensed in any occupation and, if so, when, where and for what period and, if such previous license was ever revoked, the date of revocation and the reason therefor.
- (8) The name and address of the person, firm or corporation the applicant represents or is employed by.
- (9) The particular business, trade or occupation for which the license is requested.
- (10) The manner or means of conveyance in which said business or trade or occupation shall be conducted.
- (11) If the application is for a license to handle food in any form, the applicant shall submit a valid permit issued by the Suffolk County Health Department indicating compliance with the provisions of the Suffolk County Public Health Local Law.
- (12) If the applicant requires the use of weighing and/or measuring devices, such application shall be accompanied by a certificate from the County Sealer of Weights and Measures certifying that all weighing and measuring devices to be used by the applicant have been examined and approved.
- (13) If the application involves use of a vehicle, proof of a valid New York Motor Vehicle Registration for the vehicle to be used.

- (14) If the application involves the use of a vehicle, proof that the applicant holds a valid New York State driver's license.
- (15) Proof that the applicant holds a New York State sales tax identification number.
- (16) Proof that the applicant has been electronically fingerprinted through a New York State Division of Criminal Justice Services (DCJS) approved Statewide Vendor-Managed Civil Fingerprint Capture System.
- (16) (17) In the event that any other license or permit shall be required by any other governmental agency in connection with the applicant's business, the same shall be produced by the applicant, and the Town Clerk shall duly note the same.
- (17) (18) Charitable solicitations. Any person or any employee of any organization who is required to be registered with the Attorney General of the State of New York under the provisions of Article 7-A of the Executive Law of the State of New York, relating to the solicitation and collection of funds for charitable purposes, shall exhibit evidence of such registration to the Town Clerk.

B. Any change in circumstances with regard to the information provided in the application or on the license shall be reported to the Town Clerk within 30 days.

§ 167-4. Issuance of license.

[Amended 8-3-2022 by L.L. No. 16-2022]

Upon receipt of the application provided for in § 167-3 and payment of the fee hereinafter provided for, the Town Clerk, if satisfied that the applicant possesses the proper qualifications, shall issue a license to the applicant within 60 days of the completed application, which license shall contain a photograph of the licensee.

§ 167-5. Record of licenses issued.

The Town Clerk shall keep a record of all licenses issued under the provisions of this chapter.

§ 167-6. License fees.

[Amended 9-8-1976; 5-5-1992; 3-4-1997 by L.L. No. 2-1997; 8-3-2022 by L.L. No. 16-2022]

A. The following fees shall be collected by the Town Clerk at the time applications are presented:

- 1. For a motor vehicle: \$250.
- 2. For a pushcart or any other nonmotorized vehicle: \$150.
- 3. For each and every person selling peddling or assisting a peddler from a vehicle: \$50.
- 4. For peddling and/or soliciting or assisting a peddler or solicitor from house to house: \$50.
- 5. For peddling or soliciting or assisting a peddler or solicitor without a vehicle: \$50.

B. Fees shall not be refunded.

C. There shall be no reduction in fees for licenses issued for a fractional part of a year.

§ 167-7. License to be carried.

Each person licensed hereunder shall carry on his or her person the license issued by the Town Clerk at all times that he or she is engaged in his business and shall exhibit it to any person upon request.

§ 167-8. Eligibility.

[Added 3-4-1997 by L.L. No. 2-1997]

Only a person who is a resident of the State of New York will be eligible for a peddler's license or vehicle license pursuant to this chapter.

§ 167-9 (Reserved)

§ 167-10. Licensing of veterans.

[Amended 3-4-1997 by L.L. No. 2-1997]

- A. Exemption. Any honorably discharged veteran of the armed services of the United States who has obtained a veteran's license from the Suffolk County Clerk to hawk, peddle, vend or solicit trade in pursuance of law shall be exempt from the provisions of § 167-6 of this chapter.
- B. Issuance of permit. In lieu of a license the Town Clerk, upon approval of the veteran's application, shall issue a permit to said veteran to ply his or her trade within the Town, subject to all other provisions of this chapter. Such permit shall be stamped in ink on the county license.

§ 167-11. Insurance requirements.

[Amended 3-21-1989]

Any itinerant peddler or solicitor offering rides or transportation on any portable conveyance more commonly known as "carousels," "whips," "fire engines" and the like shall be required to furnish public liability insurance in the minimum amounts of \$1,000,000 for injuries, including wrongful death, to any person, \$3,000,000 to cover any accident involving more than one person, and property damage insurance in an amount not less than \$25,000 involving property damage to one person and \$50,000 for any one accident. Certificates of such insurance shall be filed with the Town Clerk at the time of issuance of the permit.

§ 167-12. Nontransferability of license.

[Amended 4-5-1977]

No license, license plate or badge issued under the provisions of this chapter may be transferred from one person to another person or from one vehicle to another vehicle, nor shall the badge so issued be used or worn at any time by any person other than the person to whom it was issued.

§ 167-13. Revocation of license.

- A. Grounds; authority. Licenses issued under the provisions of this chapter may be revoked by the Town Clerk after notice and hearing for any of the following causes:
 - 1. Fraud, misrepresentation or false statement contained in the application for 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 of any crime or misdemeanor involving moral turpitude.
 - 5. Conducting the business of peddling 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.
- B. Notice of hearing. Notice of the hearing for revocation of a license shall be given in writing, setting forth specifically the grounds of complaint and the time and place of hearing. Such notice shall be mailed, postage prepaid, to the licensee at his or her last known address at least five days prior to the date set for hearing.
- C. Conduct of hearing. The hearing shall be a public hearing conducted by the Town Board.

§ 167-14. Appeal of license denial or revocation.

- A. Right of appeal. Any person aggrieved by the action of the Town Clerk in the denial of an application for a license, as provided in § 167-4 of this chapter, or in the decision of the Town Clerk with reference to the revocation of a license, as provided in § 167-13 of this chapter, shall have the right to appeal to the Town Board.
- B. Conduct of appeal. Such appeal shall be taken by filing, within 14 days after 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 the appeal. The Town Board shall set a time and place for a hearing on such appeal, and notice of such hearing on such appeal shall be mailed to the applicant at his or her last known address at least five days prior to the date set for the hearing.
- C. Decision on appeal. The decision and order of the Town Board on such appeal shall be final and conclusive.

§ 167-15. Hours of operation.

[Amended 8-3-2022 by L.L. No. 16-2022]

It shall be unlawful for any person to enter upon private property for the purpose of peddling or soliciting except after 9:00 a.m. of any day until dusk (i.e., 30 minutes before sunset) except upon the invitation of the householder or occupant.

§ 167-16. **Effect of signs.**

It shall be unlawful for any peddler or solicitor in plying his or her trade to ring the bell or knock upon or enter any building whereon there is painted or otherwise affixed or displayed to public view any sign containing any or all of the following words: "No Peddlers," "No Solicitors," "No Agents" or other wording, the purpose of which purports to prohibit peddling or soliciting on the premises.

§ 167-17. **Location of sales.**

[Amended 3-21-1989]

- A. No peddler or solicitor shall have any exclusive right to any location in the public streets; nor shall any peddler or solicitor be permitted to sell wares within 200 feet of a school between the hours of 8:00 a.m. and 4:00 p.m. on a school day; nor shall he be permitted to sell his or her wares within 300 feet of a Town-owned park; nor shall he be permitted to stand in one place for more than 30 minutes; nor shall he be permitted to stop within 200 feet of a previous stop; nor shall he be permitted to operate in any congested area where his or her operation might impede or inconvenience the public.
- B. For the purpose of this section, the judgment of any police officer or Ordinance Enforcement Officer of the Town of Babylon, exercised in good faith, shall be deemed conclusive as to whether the area is congested or the public impeded or inconvenienced.
- C. It shall be unlawful for any peddler or solicitor to set up a table, box, stand, bag, container or any other device upon any public sidewalk or roadway for the purpose of peddling or soliciting.
- D. No person shall occupy any part of a state highway for the purpose of peddling. For so long as the same is governed and regulated by state law, violation hereof shall be punishable in accordance with state law (Vehicle and Traffic Law).
- E. It shall be unlawful for any person to peddle within a radius of 1,500 feet of any public market or store engaged in the business of selling the same or similar goods, wares and merchandise offered by said peddler.

§ 167-18. **Peddling excluded from certain highways.**

- A. Enumerated. In the interest of public safety and due to the traffic hazards caused by the stopping of passing automobiles, no peddler shall conduct his or her business on the following highways or in such proximity to said highways as shall cause or shall be designed to cause or shall result in the stopping of automobiles on said highways for the purpose of trade:

- B. Intersecting streets. No person may peddle from a motor vehicle on any street that intersects the streets above set forth unless he is distant more than 100 feet from said intersection.
- C. No peddler shall display merchandise or goods for sale other than on his or her person in or on the vehicle licensed pursuant to this chapter. Displays of merchandise on the ground or on movable structures or stands outside and unattached to the peddler's vehicle are prohibited. Use of tables, seats or any freestanding counter is prohibited.

[Added 3-4-1997 by L.L. No. 2-1997]

- D. Size, placement and removal of vehicles.

[Added 3-4-1997 by L.L. No. 2-1997]

- 1. No vehicle, cart, wagon or trailer or combination thereof which exceeds 30 feet in total length shall be used by any peddler.

§ 167-19. **Exemptions from provisions.**

The provisions of §§ 167-4 through 167-8 and § 167-12 of this chapter shall not apply to the following:

- A. Charitable or religious organizations.

- B. The peddling of meats, fish, fruit and farm produce by farmers and persons who produce such commodities.
- C. Honorably discharged veterans of the armed forces of the United States who have obtained a veteran's license from the Suffolk County Clerk to hawk, peddle or vend pursuant to law.
- D. Persons maintaining a regular delivery route in the Town.
- E. Persons under 18 years of age.
- F. Persons licensed by the state to conduct the specific business or businesses to which the provisions of this chapter would otherwise be applicable.
- G. Commercial salesmen or deliverymen calling exclusively upon retail or wholesale establishments or other business firms within the Town.

§ 167-20. **Enforcement.**

[Amended 3-21-1989; 3-4-1997 by L.L. No. 2-1997]

- A. It shall be the duty of the County Police Department, together with the Town of Babylon Department of Planning and Development, Division of Public Safety, to enforce the provisions of this chapter against any person, company or entity found to be violating the same.
- B. Certificate of disposition of action. It shall be the duty of the Court Clerk of the court having jurisdiction to forward to the Town Clerk a certificate of disposition of any action brought in said court pertaining to this chapter.

§ 167-21 (**Reserved**)

§ 167-22. **Severability.**

[Added 3-21-1989]

The provisions of this chapter are declared to be severable, and if any section, sentence, clause or phrase of this chapter shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining section, sentences, clauses and phrases of this chapter, but they shall remain in effect, it being the legislative intent that this chapter shall stand notwithstanding the invalidity of any part.

ADDITIONS ARE INDICATED BY UNDERLINE
DELETIONS ARE INDICATED BY ~~STRIKETHROUGH~~

Dated: March 1, 2023, Town of Babylon

BY ORDER OF THE TOWN BOARD, TOWN OF BABYLON
GERALDINE COMPITELLO, TOWN CLERK