

Town of Greenburgh, NY
Wednesday, November 23, 2011

Chapter 390. PEDDLERS, SOLICITORS AND CANVASSERS

[HISTORY: Adopted by the Town Board of the Town of Greenburgh 11-14-1990 by L.L. No. 4-1990. Amendments noted where applicable.]

GENERAL REFERENCES

Zoning — See Ch. 285.

Fingerprints — See Ch. 350.

§ 390-1. Title; intent.

This chapter shall be known and may be cited as the "Peddlers, Solicitors and Canvassers Law, Local Law No. 4-1990, of the Town of Greenburgh." It is meant as an expression of the police power of the Town and has been enacted to protect the community, not as a taxation or revenue-raising measure.

§ 390-2. Definitions.

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

CANVASSER

Any person, either principal or agent, who represents a nonprofit organization, in any street or public place or by going from house to house or place of business to place of business or any combination thereof, predominantly seeks contributions, fund-raises, petitions, solicits membership, disseminates information or conducts activities which would not be characteristic of a peddler or solicitor.

ESTABLISHED PLACE OF BUSINESS

A permanent building, store or depository in which or where the person transacts business and deals in goods, wares, merchandise or services in the ordinary and regular course of business.

PEDDLER

Any person who, in any street or public place or by going from house to house or from place of business to place of business, or any combination thereof, on foot or from any vehicle, sells or barter or offers for sale or barter or carries or displays for sale or barter any goods, wares, merchandise or services. For the purposes of this chapter, the entity which engages a person as its agent for the purposes of peddling or soliciting is also considered a "peddler" within the meaning of this section and is subject to all provisions herein.

PERSON

Includes any individual, firm, partnership, corporation, unincorporated association and any principal or agent thereof.

SOLICITOR

Any person, either principal or agent, traveling either by foot or by any conveyance from place to place, from house to house, from street to street or from place of business to place of business, or

any combination thereof, who takes or offers to take orders for the sale of any goods, wares or merchandise, including books or periodicals, for future delivery, or for the performance of future services, whether or not he collects advance payments for such sale or service.

§ 390-3. License required.

It shall be unlawful for any person to engage in the business of peddler or solicitor as defined in § 390-2 of this chapter without having first obtained and having in force and effect a license therefor as herein provided.

§ 390-4. Exemptions.

Nothing contained in this chapter shall be deemed to apply to any of the following:

- A. A sale conducted pursuant to an order of any court.
- B. A wholesaler selling articles to dealers or merchants who have an established place of business in the Town.
- C. Provided that such person has completed the application for a license and has met all other requirements as set forth in this chapter, there shall be no fee for such license for an honorably discharged member of the Armed Forces of the United States who is the holder of a license issued pursuant to § 32 of the General Business Law of the State of New York.
- D. The peddling of meats, fish, fruit and farm produce by farmers and persons who produce such commodities on their own land, provided that they have otherwise complied with any licensing and health and safety requirements of any other competent governmental body or agency and the sale takes place from a stationary location upon property owned or leased by the seller of such goods.
- E. Any person selling goods, wares, merchandise or services regularly to those who are his established customers, patrons or purchasers.
- F. Any candidate running for office or his representatives.

§ 390-5. Application for license.

- A. Any person desiring a license as herein provided shall file with the Town Clerk a written application, duly verified by the applicant upon forms prescribed by the Town Clerk. Such application shall include but not be limited to the following information:
 - (1) The name, address, date of birth, social security number and motorist identification number of such person and the name of the corporation, firm, association, club, partnership or any other organization represented by such person.
 - (2) A description of the type of goods, wares or merchandise which the applicant wishes to sell or solicit orders for or the type of service the applicant wishes to sell or solicit orders for.
 - (3) A description of the vehicle which the applicant wishes to use in carrying out his business or occupation.

- (4) Owner of vehicle and registration details.
 - (5) County Health Department permit number, if a food vendor.
 - (6) If peddling or soliciting for a corporation, the state in which it is incorporated and the names, addresses, dates of birth and social security numbers of all officers.
 - (7) Whether the applicant has ever been convicted of a crime and, if so, under what name, with a listing of such conviction, including crime jurisdiction, date and sentence imposed.
 - (8) A list of streets, roads or neighborhoods where the licensee shall conduct business.
- B. Such application shall be accompanied by three photographs of the applicant, two inches by two inches in size, taken within 30 days prior to the date of filing of the application, full face on a white background.
- C. Each applicant shall submit two sets of fingerprints to the Chief of Police or his designated representative in conformity with the Fingerprints Law of the Town, *Editor's Note: See Ch. 350, Fingerprints.* along with any fees required by that chapter. In addition, a certified check or money order, in the amount specified by and made payable to the New York State Division of Criminal Justice Services to cover the cost of processing fingerprints, shall accompany the application.
- D. The amount of the license fee shall be as established by the Town Clerk, subject to the approval of the Town Board by resolution, except that there shall be no fee for veterans of the Armed Forces of the United States pursuant to General Business Law § 32.

§ 390-6. Issuance or denial of license.

- A. The Town Clerk and the Police Department shall investigate all applications.
- B. After completing the investigation pursuant to Subsection A above, the Chief of Police or his designated representative shall forward to the Town Clerk his recommendation as to either granting or denying the application. No license shall be issued under the provisions of this chapter until the Chief of Police or his designated representative has indicated, in writing, his recommendation thereof.
- C. The Town Clerk may deny any application for cause, after written notice, for the reasons following, including but not limited to:
- (1) Fraud, misrepresentation or false statement in the application for the license.
 - (2) Fraud, misrepresentation or false statement made in the course of carrying out the applicant's trade, business or occupation.
 - (3) Any violation of this chapter.
 - (4) Conviction of a felony or a misdemeanor which, in the judgment of the Town Clerk or Chief of Police, renders the applicant unfit or undesirable, except by a majority vote of the Town Board.

- (5) Carrying out of the licensed business, trade or occupation in an unlawful manner or in such a way as to breach the peace or to constitute a menace to the health, welfare or safety of the public.
- D. The license shall automatically expire on December 31 of the year of its issuance. The dates of the issuance and expiration of the license, as well as the nature of the business, shall be set forth on the face thereof.
- E. The license shall be carried on the person of the licensee at all times while engaging in peddling or soliciting and shall be exhibited by the licensee to any person on demand. A picture of the licensee shall appear on the valid license with the Town Seal imprinted on the same.
- F. The license shall not be transferable or assignable. In the event that a licensee shall permit any other person to possess or use such license, such license shall automatically be revoked, and the licensee shall thereby be guilty of violating this chapter, and no application for a further license may be made for a period of one year from the date of revocation.
- G. Any applicant who has had a license denied or revoked by the Town Clerk may appeal to the Town Board, in writing, within 30 days of the receipt of the denial or revocation. The Town Board will thereafter hold a public hearing within 45 days of receipt of the demand for such hearing to review the determination of the Town Clerk.

§ 390-7. Canvasser registration.

- A. It shall be unlawful for any person to engage in the business of canvasser, as defined in § 390-2 of this chapter, without having first registered with the Town Clerk upon forms prescribed by the Town Clerk. Such registration shall include, but not be limited to, the following information:
 - (1) The name and address of such organization, firm, association, club, corporation or partnership.
 - (2) The name, address, date of birth and social security number of such person(s) who will represent the organization.
 - (3) The current tax status (i.e., whether tax exempt, not-for-profit, etc.).
 - (4) Proof of registration with the Department of State Office of Charities Registration and/or the Attorney General Charities Bureau.
 - (5) Sample literature.
 - (6) The date and state of incorporation, along with a copy of the Articles of Incorporation.
 - (7) The dates and times canvassing is to take place.
- B. The canvassing organization will provide each canvasser with an identification card which will include the canvasser's name and photograph, along with the name of the organization.

- C. Each organization shall renew its registration on a yearly basis by providing the Town Clerk with a current list of the names, addresses, dates of birth and social security numbers of its canvassers, as well as the times and dates it intends to canvass.
- D. There shall be no fee for a canvasser registration.

§ 390-8. Prohibited acts; restrictions.

A. Licensed peddlers and solicitors or registered canvassers shall not:

- (1) Enter upon private or public property for the purpose of soliciting, peddling or canvassing before the hour of 10:00 a.m. or after the hour of 8:00 p.m., except:
 - (a) Upon the express invitation of the householder or occupant.
 - (b) In the case of motor vehicles selling food, the hours of operation shall be extended from 7:30 a.m. to 7:30 p.m. and to 10:00 p.m. June 15 through September 15.
- (2) Resort to deceptive acts or practices, physical abuse, threats, intimidation or harassment in the course of conducting their business or offer for sale any provision, food or merchandise that is unwholesome, unfit or is otherwise harmful to the user or consumer thereof.
- (3) Permit any vehicle used in such business to stand or remain:
 - (a) Within 100 feet of the confines of any intersection.
 - (b) In any private or public place or street longer than 15 minutes.
 - (c) On any crosswalk.
- (4) Peddle, solicit or canvass on private or public property which has displayed a sign bearing the words "No Peddling, Soliciting or Canvassing" or words of like intent, nor shall any peddler, solicitor or canvasser remain on the premises after the owner or occupant thereof shall have requested his departure therefrom.
- (5) Create, erect or maintain any booth or stand or place any barrels, boxes, crates or other obstructions upon any street, public place or private property for the selling or exposing for sale any goods, wares or merchandise.
- (6) Have any exclusive right to any location in the public streets, nor shall any be permitted a stationary location, nor shall any be permitted to operate in a congested area where such operation might impede or inconvenience the public. For the purpose of this chapter, the judgment of any police officer exercised in good faith shall be deemed conclusive as to whether the area is congested or the public impeded or inconvenienced.
- (7) Cry their wares or make use of any noise in violation of the Noise Law of the Town.
Editor's Note: See Ch. 380, Noise.
- (8) Peddle, solicit, canvass or otherwise offer for sale, any goods, wares, merchandise or services within 250 feet of any school property between the hours of 7:00 a.m. and

3:00 p.m. on school days.

- B. Such license or registration shall include the right to use only one vehicle or conveyance in carrying out the business for which the person is licensed or registered.
- C. Such license or registration shall not be construed so as to supersede any applicable ordinances.
- D. All orders taken by a licensed solicitor or peddler for which he or she demands, accepts or receives payment of deposit of money in advance of final delivery shall be in writing, in duplicate, stating the terms thereof and the amount paid in advance, and one copy shall be given to the purchaser at the time the deposit of money is paid to the solicitor or peddler. Such orders can be taken only in compliance with applicable state law, federal law and Federal Trade Commission rulings, and nothing herein shall be taken to waive such restrictions.

§ 390-9. Seasonal sales.

- A. Any person desiring a permit to conduct a seasonal sale (i.e., Christmas trees, pumpkins, etc.) shall submit an application, duly verified by the applicant, upon forms prescribed by the Town Clerk as set forth above in § 390-5A. Additionally, the applicant shall submit a proposed location for the proposed sale.
- B. Seasonal sales shall be permitted only in CB, IB and DS Zones, as those zones are defined by the Town Zoning Ordinance. *Editor's Note: See Ch. 285, Zoning.* Such sale sites are subject to the approval of the Chief of Police and the Fire Marshal or their designated representatives, who shall consider, among other things, the traffic, building and firesafety for the proposed site.
- C. The application must be filed no less than two weeks before the proposed sale is scheduled to begin.
- D. The Town Clerk may deny any application or, once a permit has been issued, may revoke any permit, in accordance with § 390-6C above. Upon such denial or revocation, the person may appeal the decision of the Town Board pursuant to § 390-6G above.
- E. The permit shall expire automatically one month after the date of its issuance. The permit shall be nonrenewable.
- F. The amount of the permit fee shall be \$250. Additionally, the applicant shall file with the Town Clerk a cleanup bond in the amount of \$500, subject to the approval of the Town Attorney. Cleanup of the site must be completed within one week of the conclusion of the sale. Said bond shall be released after an inspection of the site reveals that the site has been left in a clean and neat condition.
- G. This section shall not apply to a retail establishment conducting a sale at its established place of business in the ordinary course of business.

§ 390-10. Revocation of license.

Licenses issued under the provisions of this chapter may be revoked by the Town Clerk of the

Town of Greenburgh for cause after written notice, including but not limited to the same reasons for denying an application listed above in § 390-6C. Upon revocation, the person may appeal the revocation to the Town Board as provided above in § 390-6G.

§ 390-11. Recordkeeping.

The Town Clerk shall keep an accurate record of all licenses issued under this chapter.

§ 390-12. Renewals of licenses.

Licenses are nonrenewable. Each person shall file with the Town Clerk a completed application as set forth above in § 390-5 on a yearly basis, except that the requirements of § 390-5C, pertaining to fingerprints, need only be submitted on a biyearly basis.

§ 390-13. Penalties for offenses.

- A. A person who violates any licensing or registration provision of this chapter shall be guilty of a misdemeanor, punishable by a fine of not more than \$500 and/or imprisonment for not more than three months, except that after the first violation, the person shall be guilty of a misdemeanor punishable by a fine not to exceed \$1,000 and/or imprisonment for a period of time not to exceed one year.
- B. A person who violates any provision of this chapter other than those set forth above in § 390-13A shall be guilty of a violation punishable by a fine not to exceed \$250 and/or imprisonment for not more than 30 days, except that after the first violation, the person shall be guilty of a misdemeanor punishable by a fine not to exceed \$500 and/or imprisonment for not more than three months.
- C. Each day on which any violation continues shall constitute a separate offense.