

TOWN OF CLIFTON PARK
COUNTY OF SARATOGA
STATE OF NEW YORK

NOTICE OF PUBLIC HEARING REGARDING
PROPOSED AMENDMENTS AND REVISIONS TO CHAPTER 156 OF THE TOWN CODE
RELATIVE TO DOOR TO DOOR SOLITITORS AND PEDDLERS

Please take notice that the Town Board of the Town of Clifton Park will conduct a public hearing on August 19, 2019 at 7:05 p.m. in the Wood Memorial Meeting Room in the Town Office Building, located at One Town Hall Plaza, Town of Clifton Park, County of Saratoga, State of New York to consider revisions and amendments to the Town's code relative to door to door solicitors and peddlers.

The proposed legislation would increase annual license fees for companies and entities wishing to engage in door to door sales, expand the background information and documentation required to obtain such license, provide an administrative appeal process for denials and revocations, eliminate obsolete provisions of the existing code.

Copies of the proposed local law are posted at <https://cliftonpark.org/government/legal-notices.html> , and are available for review in the Town Clerk's office during normal business hours.

Patricia O'Donnell, Town Clerk

Chapter 156
Peddling and Soliciting

Repeal and Replace Version

§ 156-1 Definitions.

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

PERSON

Includes one or more persons of either sex, natural persons, corporations, partnerships, associations, joint-stock companies, societies and all other entities of any kind capable of being sued.

SOLICITOR

Includes any person who goes from place to place or house to house or who stands in any street or public place taking or offering to take orders for goods, wares or merchandise, except newspapers or milk, or for services to be performed in the future or for making, manufacturing or repairing any article or thing whatsoever for future delivery.

VENDOR, HAWKER and PEDDLER

Includes, except as hereinafter expressly provided, any person, either principal or agent, who, from any car, bicycle, or on a railroad track, or in any public street or public place or by going from house to house or place of business to place of business on foot or from any vehicle, sells or barter, offers for sale or barter or carries or exposes for sale or barter any goods, wares or merchandise except milk or newspapers.

§ 156-2 Exemptions.

- A. Generally, nothing in this chapter shall apply to sales conducted pursuant to statute or by order of any court or to any person selling personal property at wholesale to dealers in such article.
- B. The licensing provisions of this chapter shall not apply to:
 - (1) Farmers and truck gardeners who, themselves or through their employees, vend, sell or dispose of the products of their own farms or gardens.
 - (2) Party plans.
 - (3) Calls in response to prior invitation.
 - (4) Honorably discharged members of the Armed Forces of the United States and veterans of any war who shall have obtained a license from the County Clerk of the County of Saratoga pursuant to the provisions of § 32 of the General Business Law of the State of New York. However, such persons must present the license issued by the County Clerk to the Town Clerk, who will issue a town license without payment of a license fee. Such persons shall otherwise be subject to the requirements of this chapter.
 - (5) Minors 18 years of age or under engaged in providing such services as snow shoveling, grass cutting, leaf raking, cookie sales, lawn clearing and other similar home services as independent contractors, or for school club, sports or civic associations.
- C. This chapter shall not be construed to prevent route salesmen or other persons having established customers to whom they make periodic deliveries
- D. Charitable, religious, educational or civic organizations, or political organizations.

§ 156-3 License required.

It shall be unlawful for any person within the corporate limits of the Town of Clifton Park to act as a

vendor, hawker, peddler or solicitor, as herein defined, without first having obtained and paid for, and having in force and effect, a license therefor.

§ 156-4 Application for license; bond requirement.

- A. Every applicant for a license under this chapter shall file with the Town Clerk a sworn application in writing on a form to be furnished by the Town Clerk setting forth the following:
1. A brief description of the nature of the business and the goods or services to be sold, and a copy of any sales material or handouts proposed to be distributed.
 2. Name, Address, telephone number, web address and email address for the Company or entity seeking the license as well as the owners, partners and principals of the Company
 3. A letter of authorization from each business supplying merchandise or services which the applicant sells or solicits orders for.
 4. Copies of all order and receipt forms used by the applicant in soliciting sales or orders.
 5. With regard to each person or individual for whom authorization to solicit under this license is sought, the following information must be provided:
 - (a) The name and address of each such employee or agent, both legal and local, if different.
 - (b) Date of birth.
 - (c) Copy of Driver's License or government issued ID.
 - (d) Two photographs of the applicant, two inches by two inches in dimension, taken within 30 days of the date of the application. Such photographs shall show the head, full face and shoulder of the applicant. One copy of the photograph shall be attached to the application, and one to the license.
 - (e) A list of all other municipalities in which the applicant has peddled within the last three years, together with inclusive dates of such activities, together with a list of previous peddler's license permit numbers, noting which are still in effect.
 - (f) For vendors selling Ice Cream, shaved Ice, or other food items, an active permit from The NYS Department of Health.
 - (g) A description of all vehicles to be used to transport any of the individuals to be covered by the License, including make, model, color and license plate number.
 - (h) A statement as to whether the applicant has been convicted of any crime, misdemeanor or violation of any municipal ordinance or local law, the nature of the offense and the punishment or penalty assessed therefor.
 6. Each application shall identify by year, make, model and license plate each vehicle to be used by licensees issued under this chapter.
- B. An application for a license as a solicitor who demands, accepts or receives payment or deposit of money in advance of final delivery shall also be accompanied by a bond to the Town of Clifton Park, approved as to form and surety by the attorney employed by the Town Board, in the sum of \$1,000 with a sufficient surety or sureties, or sufficient collateral security, conditioned for making a final delivery of the goods, wares or merchandise ordered or services to be performed in accordance with the terms of such order or, failing therein, that the advance payment on such order be refunded. Any person aggrieved by the action of any licensed solicitor shall have right by action on the bond for the recovery of money or damages, or both. Such bond shall remain in full force and effect, and in case of a cash deposit, such deposit shall be retained by the Town of Clifton Park for a period of 90 days after the expiration of any such license, unless sooner released by the Town Board.

§ 156-5 Issuance, loss, restrictions, expiration and exhibition of license.

- A. Upon filing of the application, bond and certificate as provided in § 156-3, the Town Clerk shall, review the application and references provided, and make a determination on the application within 7

business days. If an application is Denied, the Applicant may appeal to the Town Board or it's designee within 5 days of Denial. The Town Board or it's designee will hold a hearing on the Denial within 15 days of the Notice of Appeal, and issue a determination within 5 days of Hearing. Such Determinations on appeal shall be reviewable by the Supreme Court pursuant to Article 78 of the CPLR.

- B. A license shall not be assignable. Any holder of such license who permits it to be used by any other person and any person who uses such license granted to any other person shall each be guilty of a violation of this chapter.
- C. Whenever a license shall be lost or destroyed on the part of the holder or his agent or employee, a duplicate in lieu thereof, under the original application and bond, may be issued by the Town Clerk upon the filing with him by the licensee of an affidavit setting forth the circumstances of the loss and what, if any, search has been made for its recovery.
- D. All licenses shall be issued by the Town Clerk in form and content determined by the Clerk.
- E. Such licenses shall expire on January 1 following the date of issuance of such licenses, but such licenses may specifically state and provide for an earlier expiration date.
- F. No license shall be granted to a person under 18 years of age.
- G. No applicant to whom a license has been refused or who has had a license which has been revoked shall make further application until a period of at least six months shall have elapsed since the last previous rejection or revocation, unless he can show that the reason for such rejection no longer exists.
- H. Every licensee, while exercising his license, shall carry the license with him and shall exhibit the same upon demand.

§ 156-6 License fees.

[Amended 7-19-1993 by L.L. No. 13-1993]

The license fee shall be \$200.00 per annum, and if the licensee shall have more than one person be covered by the License issued, there shall be an additional fee of \$25 per person for each license so issued.

§ 156-7 Vehicle identification.

Vehicle permits will be issued for placement on the dashboard of each vehicle to be used in the solicitation or door to door activity.

§ 156-8 Revocation of license.

The Town Clerk may revoke this License for a violation of this chapter or any other ordinance or any law. When a license shall be revoked, no refund of any unearned portion of the license fee shall be made. Notice of such revocation and the reason or reasons therefor in writing shall be served by the Town Clerk upon the person named in the application or by mailing the same to the address given in the application.

§ 156-9 Operating restrictions and responsibilities.

A licensed vendor, hawker, peddler or solicitor shall:

- A. Not falsely or fraudulently misrepresent the quantity, character or quality of any article offered for sale or offer for sale any unwholesome, tainted or diseased provisions of merchandise.
- B. Not use the license provided by the Town after the expiration or revocation of the license represented by him.
- C. Keep the vehicles and receptacles used by him in a clean and sanitary condition.
- D. Not blow a horn, ring a bell or use any other noisy device to attract public attention to his wares or shout or cry out his wares.
- E. Not permit any vehicle used by him to stop or remain on any crosswalk.
- F. Not create or maintain any booth or stand or place any barrels, boxes, crates or other obstructions upon any street or public place for the purpose of selling or exposing for sale any goods, wares or merchandise.
- G. Not hawk, peddle, vend or solicit orders for goods, wares or merchandise door-to-door before 10:00 a.m. or after 30 minutes before dusk

- H. Behave in an orderly and peaceful manner - refraining at all times from aggressive or deceptive sales technique. Individuals issued licenses under this chapter agree to immediately depart the premises of a householder, owner or occupant upon being requested to do so.
- I. Not remain stopped or standing at any one place for a period of time in excess of four hours within any twenty-four-hour period.

§ 156-10 Advance payment orders.

All orders taken by licensed solicitors who demand, accept or receive payment or 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 is paid to the solicitor.

§ 156-11 Records.

It shall be the duty of the Town Clerk to keep a record of all the applications and of all licenses granted under the provisions of this chapter, giving the number and date of each license, the name and residence of the person licensed, the amount of license fee paid and the date of revocation of all licenses revoked.

§ 156-12 Penalties for offenses.

Any person who himself or by his clerk, agent or employee shall act as a vendor, hawker, peddler or solicitor, as herein defined, without a license or who shall violate any of the provisions of this chapter or who, having had his license revoked, shall continue to act as a vendor, hawker, peddler or solicitor shall be liable to a penalty of not more than \$250 for each offense, or a term of imprisonment not to exceed 15 days, or both such fine and imprisonment. In addition a violation of any of the provisions hereof shall constitute disorderly conduct and the person violating the same shall be a disorderly person