
Chapter 121, PEDDLING AND SOLICITING

[HISTORY: Adopted by the Town Board of the Town of Brighton 1-24-1996 by L.L. No. 1-1996; see Ch. 1, General Provisions, Art. I. Amendments noted where applicable.]

GENERAL REFERENCES

Garage sales -- See Ch. 76.

Noise -- See Ch. 102.

Peddling and soliciting in parks -- See Ch. 113, § 113-7.

§ 121-1. Intent.

This chapter is enacted for the purpose of regulating itinerant merchandising and soliciting in order that the peace, health, safety, welfare and good order of the Town and its inhabitants shall not be endangered or unduly disturbed.

§ 121-2. Definitions.

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

ESTABLISHED PLACE OF BUSINESS -- A permanent office, building, store or depository in which or where the person transacts business and deals in the goods, wares, commodities or services the person peddles, vends or solicits in the ordinary and regular course of business.

LICENSE -- Unless otherwise specified, shall be construed to mean a license, certificate of license or special permit as required or permitted by this chapter.

MERCHANDISING -- The selling, bartering or trading of or offering to sell, barter or trade any goods, wares, commodities or services.

NOTICE OF VIOLATION -- The statement in writing above the signature of the Town Clerk or designee setting forth the name and address of the property owner, occupant or tenant to be served, the date, time and notice of the violation, a description of the violation, the date by which the violation must be cured and the penalties that may occur. [Amended 1-8-2003 by L.L. No. 1-2003]

PEDDLER -- Includes, unless otherwise herein provided, any person who engages in merchandising any goods, wares, commodities, books, periodicals or services by going from house to house.

PERSON -- Includes any individual, firm, partnership, corporation, unincorporated association

and principal or agent thereof.

SOLICITOR -- Includes any person who solicits contributions of goods, money or services by going from house to house.

TEMPORARY OCCUPANCY -- Includes a store, room, building, tent, enclosure or structure of any kind intended to be occupied for the period of time necessary to peddle, vend or solicit the merchandise or products therein housed initially, without the intent to replenish or restock such goods, wares and merchandise sold therein. In all prosecutions for a violation of this chapter, the intent of the defendant to conduct an established place of business shall be a material fact, and the burden of proving such intent shall be upon the defendant in such prosecution.

TOWN -- The Town of Brighton, Monroe County, New York.

VENDOR -- Includes, unless otherwise herein provided, a person who engages in merchandising any goods, wares, commodities, books, periodicals or services or solicits contributions of goods or moneys by occupying space on any public street, roadside, private or public parking lot or driveway, unless owned by said vendor or operated under lease as adjunct to the vendor's business.

§ 121-3. Permits required for peddlers, solicitors and vendors. [Amended 6-11-1997 by L.L. No. 3-1997]

It shall be unlawful for any person within the Town to act as a peddler, solicitor or vendor, as herein defined, without first having obtained and having in force and effect a permit from the Town Clerk therefor.

§ 121-4. Exemptions. [Amended 6-11-1997 by L.L. No. 3-1997; 1-8-2003 by L.L. No. 1-2003]

- A. The provisions of this chapter shall not apply, except to the extent specifically made applicable elsewhere in this chapter, to the following:
- (1) Any person soliciting at the express invitation of the person solicited.
 - (2) A wholesaler selling articles to dealers or merchants who have an established place of business within the Town.
 - (3) Auction sales held pursuant to law by a sheriff or other officer authorized by law to conduct such sale.
 - (4) Candidates for elective or party offices or persons acting on behalf of any such candidates or for a recognized political party, in obtaining signatures on petitions,

distributing literature or otherwise promoting the candidacy of any such candidate or seeking support of any position advocated by such candidate or party.

- (5) A child residing in the Town and regularly attending any public school district or parochial or private school located, in whole or in part, within the County of Monroe or a member of a veterans organization or fraternal organization, provided that such organization has and maintains a chapter, post, lodge, camp or other group within Monroe County or a member of any other organization qualified as a not for profit organization under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, that maintains a chapter or local organization within Monroe County; and further provided that any person coming within the provisions of this exemption shall only peddle, vend or solicit in connection with an authorized activity of the organization of which he or she is a member or the school which he or she attends.
- (6) Members or representatives of a church, synagogue or other religious organization or sect in the exercise of legitimate religious activities, provided that such activities are carried out in an orderly manner without annoyance or harassment to the persons solicited or in any way disturbing the peace or creating a public or private nuisance.

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

§ 121-5. Application information. [Amended 6-11-1997 by L.L. No. 3-1997]

- A. Every applicant for a permit is required to submit to the Town Clerk a written application supplying, under oath, the following information:
 - (1) The name and social security or tax identification number of the applicant.
 - (2) The permanent business office of the applicant.
 - (3) A description of the goods, wares, commodities or services to be offered for sale, together with a true invoice of their amount, quality and value.
 - (4) All felonies or misdemeanors with which the applicant has been charged within the 10 years prior to the date of application and the disposition of each such charge.
 - (5) A written detailed description of the specific proposed plan of operations to be used by the applicant in merchandising the products or services. If a form of contract is proposed to be used to obtain orders from Town residents, a copy of such form contract, complying with the provisions of New York Personal Property Law Article 10-A, the Door-to-Door Sales Protection Act, must also be supplied.
 - (6) Any violations of this chapter or any comparable laws, ordinances, statutes, rules, orders or regulations of any other municipality or of the State Door-to-Door Sales Protection

Act, within the past 10 years, by the applicant or any individuals employed by or on behalf of the applicant as a vendor, solicitor or peddler.

- (7) A listing of all municipalities within the region in which this type of solicitation has occurred within the last three years. [Amended 6-26-2002 by L.L. No. 4-2002]
 - (8) If applicable, proof that the applicant is a veteran's or fraternal organization, a church or other religious sect or an organization qualified under Section 501(c)(3) of the Internal Revenue Code of 1986 as amended, which shall be displayed at the request of homeowners. [Amended 1-8-2003 by L.L. No. 1-2003]
- B. If the applicant has one or more members, employees, contractors or other agents who will work in the Town, the same information must be supplied as to each such person, together with the home address of each, and proof that, in the case of an applicant described in § 121-5A(8), proof that each such individual is a member of such applicant.

§ 121-6. Referral to Police Department; issuance of license by Clerk. [Amended 6-11-1997 by L.L. No. 3-1997; 6-26-2002 by L.L. No. 4-2002]

- A. Upon receipt of the properly completed application and the applicable fee, the Town Clerk may issue a permit to the applicant specifying the particular business and method of business operations authorized, along with any restrictions thereon. In addition, upon payment of the required fee, the Clerk may issue certificates with raised seal and original signature of the permit for each employee of the applicant who will work in the Town and for whom the information required by § 121-5B has been supplied. The permit and certificates of permit shall be nontransferable and shall be in the continuous possession of the applicant or each employee of the applicant, as the case may be, while engaged in the business of peddling, vending or soliciting. A list of permits issued will be forwarded to the Police Department upon issuance.
- B. The permit or certificate of permit, as the case may be, shall be produced upon the demand of any Town official, prospective buyer, police officer or Sheriff's deputy but shall not be worn in a conspicuous place by any person soliciting, peddling or vending, nor shall any such person represent that such permit constitutes any sanctioning or approval of the activity by the Town.
- C. The permit shall expire no later than December 31 of the year issued.

§ 121-7. Records; expiration. [Amended 6-11-1997 by L.L. No. 3-1997]

The Town Clerk shall keep a record of the applications, the determinations thereon and of all permits issued in accordance with this chapter. The record shall contain the name and residence

of the person issued a permit, the location of the business, the amount of the permits paid and the date of the revocation of all permits revoked.

§ 121-8. Fees. [Amended 6-11-1997 by L.L. No. 3-1997]

- A. The Town Board shall, from time to time, by resolution, establish a schedule of fees to be paid for any permit or certificate of permit issued pursuant to the provision of this chapter.
- B. All fees shall be payable at the time of the issuance of the permit and shall be paid in cash, credit card or certified funds. [Amended 6-26-2002 by L.L. No. 4-2002]

§ 121-9. Prohibited acts. [Amended 6-11-1997 by L.L. No. 3-1997]

A peddler, huckster, vendor or solicitor, whether permitted or exempt from permitting pursuant to the provisions of this chapter, shall not:

- A. Willfully misstate the quantity or quality of any article or service offered for sale.
- B. Willfully offer for sale any article of any unwholesome or defective nature.
- C. Call attention to his or her goods by blowing a horn, by sounding other loud noisemaking devices, by shouting or using any loudspeakers.
- D. Frequent any street in an exclusive manner so as to cause a private or public nuisance.
- E. Fail to keep the vehicle and/or receptacles used by him or her in the furtherance of his or her licensed business in a sound, clean and sanitary condition.
- F. Use any of the public streets or rights-of-way or public places within the Town as standing places for more than five minutes for the selling of items or services or for his or her vehicle or cart for the conduct of his or her business.
- G. Peddle, solicit or vend funds on or about the premises of any business establishment, shopping center or mall without the written consent of the owner or individual, agency or organization responsible for the management and/or operation of the same.
- H. Peddle, solicit or vend within 250 feet of any school property between the hours of 8:00 a.m. and 4:00 p.m. on any school day.
- I. Enter upon private property for the purpose of peddling or soliciting before the hour of 9:00 a.m. of any day or 9:00 p.m. of any day, except upon the invitation of the householder or occupant. [Amended 6-26-2002 by L.L. No. 4-2002; 1-8-2003 by L.L. No. 1-2003]
- J. 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.

K. Take any action otherwise prohibited under this chapter.

§ 121-10. Suspension or revocation of license or permit; hearing.

- A. Licenses or permits issued under provisions of this chapter may be suspended for up to 60 days or revoked by the Town Clerk after notice and hearing for any of the following causes:
- (1) Fraud, misrepresentation or any false statement contained in the application for license.
 - (2) Fraud, misrepresentation or false statement made in the course of carrying on the business as peddler, huckster, vendor or solicitor.
 - (3) Any violation of this chapter.
 - (4) Conviction of any crime or misdemeanor involving dishonesty or moral turpitude.
 - (5) Conducting the licensed business in an unlawful manner or in such a manner as to constitute a breach of the peace or to constitute a menace to the health, safety or general welfare of the public.
 - (6) Any breach of stipulations or conditions specified by the Town Board or any deviation from the terms and agreements upon which a special permit has been granted, as provided herein.
- B. A hearing for such suspension or revocation shall be held before the Town Clerk upon notice given, in writing, setting forth specifically the grounds of the complaint and the time and place of the hearing. Such notice shall be mailed, postage prepaid, to the licensee or permittee at his or her last known address as shown on his or her application at least five days prior to the date set for the hearing.
- C. If the licensee has one or more employees, agents or contractors, the revocation or suspension hereunder shall apply to the licensee and all employees if either the licensee or any one or more of the licensee's employees, agents or contractors are determined to be in violation of this chapter, and all such individuals shall receive notice of the hearing as set forth in § 121-10B above.

§ 121-11. Appeals.

- A. Any person aggrieved by the action of the Town Clerk in the denial of an application for a license, as provided in § 121-5 of this chapter, shall have the right to appeal to the Town

Board.

- B. 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, as shown on the application, a written statement setting forth fully the grounds for the appeal.
- C. The Town Board shall set a time and place for a hearing on such appeal, and notice of such hearing 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.
- D. The granting, refusal, revocation or suspension of a license or permit by the Town Board shall be subject to review pursuant to Article 78 of the Civil Practice Law and Rules of the State of New York. Any such Article 78 proceeding must be commenced within 30 days of the mailing of notice of the action sought to be reviewed.

§ 121-12. Eligibility for new license restricted.

Any person denied a license or permit or whose license or permit has been suspended or revoked in accordance with § 121-10 of this chapter shall be ineligible to apply for a new license or permit for a period of six months from the date of such denial, revocation or suspension, unless the applicant shows that the conditions upon which such action was based have been remedied or removed.

§ 121-13. Penalties for offenses.

Any person convicted of violating any provision of this chapter shall be subject to the penalties provided in Chapter 1, General Provisions.

PEDDLER'S, VENDOR'S SOLICITOR'S PERMIT

**APPLICATION FOR CERTIFICATE OF PERMIT
PURSUANT TO TOWN CODE OF THE TOWN OF BRIGHTON**

WARNING: THIS APPLICATION IS REQUIRED TO BE SWORN TO UNDER OATH. ANY FALSE SWEARING IS PUNISHABLE AS PROVIDED IN THE PENAL LAW OF THE STATE OF NEW YORK

1. **NAME AND ADDRESS OF APPLICANT:** Fill in the exact legal name and address of the person or entity to whom the permit is proposed to be issued (the "Applicant").

(a) If the applicant is a corporation, list its exact full name as it appears on its Certificate of Incorporation, together with the state of incorporation.

(b) If the Applicant is a partnership, joint venture or DBA with more than one (1) member, list its exact full name and address as it appears on the Partnership Agreement, or DBA Certificate, together with the full name of each general partner.

(c) If the applicant is an individual, sole proprietorship or individual DBA, list the exact name and address of the Applicant and any individual owner of the Applicant

-

2. For each entity and/or individual listed in answer to Question No. 1 above, set forth the complete legal address and phone number. For a corporation or partnership, such address will be the principle office of the business, for an individual, such address will be the person's current, permanent home. Please set forth the street address by number, street, city and zip code. Attach additional pages if necessary. **DO NOT LIST POST OFFICE BOX NUMBERS.**

3. (a) Is the Applicant a Veteran's or other fraternal organization: _____ Yes _____ No

If so, list the name and address of Applicant's local chapter, post or other group within Monroe County

(b) Is the Applicant a not-for-profit organization qualified under Section 501(c)(3) of the Internal Revenue Code? _____ Yes _____ No

If so, attach recognition letter from Internal Revenue Service, and list the name and address of Applicant's local chapter or other organization with Monroe County. If none, list "N.A."

(c) Is Applicant a church, synagogue or other religious organization or sect? _____ Yes _____ No.

4. On a separate sheet, list any past violations of the Brighton Peddlers, Solicitors and Vendors Law or any comparable laws, ordinances, statutes, rules order or regulations of any other municipality or of the New York State Door to Door Sales Protection Act by Applicant or by any officer, director, partner or employee or agent of Applicant, within the past ten (10) years.

5. **DESCRIPTION OF GOODS OR SERVICES TO BE OFFERED**

Set forth a detailed description of the type, name and brand of all goods, wares, commodities or services to be offered for sale, together with showing the amount, quality and value of all items to be marketed. Note that your permit is only good for such items as you fully describe on this application form.

6. **PRIOR CONVICTIONS** Set forth all felonies and misdemeanors with which you have been convicted within the last ten (10) years, including a description of the original charges, the date charged, and the name and address of the court in which such charge was brought and the disposition of each such charge. Check box as applicable:

- (a) There have been no such charges. _____
(b) The charges were as follows:

7. **DESCRIPTION OF PROPOSED PLAN OF OPERATION**

(a) Set forth a detailed description of your specific proposed plan of operations to be used in merchandising the products or services. If door-to-door solicitation is proposed, set forth the days and hours of each week that such solicitation may occur. **NOTE** that you may not sell or vend within 250 feet of any school property between the hours of 8:00a.m. and 4:00p.m. on school days, nor enter upon private property for the purpose of peddling or soliciting before the hour of 9:00a.m. of any day or after 9:00pm of any day, except upon the prior invitation of the householder or occupant. There are other restrictions which apply. Please review Town Code Section 121-9 for a listing of such restrictions.

YOU MAY NOT DEVIATE FROM THE ABOVE-STATED PROPOSED PLAN OF OPERATIONS WITHOUT SUBMISSION AND APPROVAL OF A NEW APPLICATION

(b) If a form of contract or order form to be signed by customers is to be used, a copy of such form, complying with the provisions of New York Personal Property Law Article 10-A, if applicable, must be attached to this application.

8. **NOTE** If the application has more than one (1) employee agent or other authorized representatives, who will work in the Town of Brighton, the same information must be supplied as to each such person, who must complete and swear to a separate application form and pay an individual permit certificate fee.
9. Name and phone number of authorized agent who is responsible for supervision of employees while working in Brighton.

Name

Phone No.

10. **NO ENDORSEMENT** The granting of a permit or certificate of permit by the town of Brighton does not constitute an endorsement or official approval of your products or services. It is unlawful to make any representation to the contrary

11. **CERTIFICATION AND OATH**

- i. The undersigned has received, read and understands Chapter 121 of the Town Code of the Town of Brighton, entitled "Peddling, Vending and Soliciting Law" and agrees to abide by all restrictions and conditions set forth in such law.
- ii. The undersigned applicatnt has read this completed application and knows the contents thereof and swears that the same is true to deponent's knowledge.

Dated: _____

Name of Applicant

By: _____

(Printed Name and Title of Signeer)

Sworn to before me this _____ day of
_____, 20

Notary Public

PEDDLER'S, VENDOR'S SOLICITOR'S PERMIT

**APPLICATION FOR CERTIFICATE OF PERMIT
PURSUANT TO TOWN CODE OF THE TOWN OF BRIGHTON**

This application is for persons employed by or acting as agents of a business which has a Peddler's, Vendor's or Solicitors Permit issued by the Town of Brighton.

WARNING: THIS APPLICATION IS REQUIRED TO BE SWORN TO UNDER OATH. ANY FALSE SWEARING IS PUNISHABLE AS PROVIDED IN THE PENAL LAW OF THE STATE OF NEW YORK

1. **NAME AND ADDRESS OF APPLICANT:**

2. **NAME AND ADDRESS OF EMPLOYER:**

3. **Have you been charged with any past violations of the Brighton Peddlers, Solicitors and Vendors Law or any comparable laws, ordinances, statutes, rules, orders or regulations of any other municipality or of the New York State Door-to-Door Sales Protection Act within the past ten (10) years? Yes No**

4. **PRIOR CONVICTIONS** Set forth all felonies and misdemeanors with which you have been convicted within the last ten (10) years, including a description of the original charges, the date charged, and the name and address of the court in which such charge was brought and the disposition of each such charge. **Check box as applicable:**

- (a)** There have been no such charges.
- (b)** The charges were as follows:

5. **NO ENDORSEMENT** The granting of a permit by the Town of Brighton does not constitute an endorsement or official approval of your products or services. It is unlawful to make any representation to the contrary.

6. **CERTIFICATION AND OATH**

- (a)** The undersigned has received, read and understands Chapter 121 of the Town Code of the Town of Brighton, entitled "Peddling, Vending and Soliciting Law" and agrees to abide by all restrictions and conditions set forth in such law.
- (b)** The undersigned applicant has read this completed application and knows the contents thereof and swears that the same is true to applicant's knowledge.

Dated: _____

(Print Name of Applicant)

(Signature)

Sworn to before me this ___ day of _____, 20__

Notary Public