

Chapter 150
PEDDLING AND SOLICITING

- | | |
|--|--|
| § 150-1. Legislative intent. | § 150-8. Bonding requirements. |
| § 150-2. Definitions. | § 150-9. Appeals from denial of certificate. |
| § 150-3. Registration. | § 150-10. Registration conditions. |
| § 150-4. Application for registration certificate. | § 150-11. General regulations. |
| § 150-5. Investigation of applicants. | § 150-12. Revocation of certificate. |
| § 150-6. Denial or issuance of certificate. | § 150-13. Exemptions. |
| § 150-7. Fees. | § 150-14. Penalties for offenses. |

[HISTORY: Adopted by the Board of Trustees of the Village of Caledonia 10-6-1981 by L.L. No. 2-1981 as Ch. 77 of the 1981 Code. Amendments noted where applicable.]

GENERAL REFERENCES

Streets and sidewalks — See Ch. 182.

§ 150-1. Legislative intent.

This chapter is enacted for the purpose of regulating the distribution of certain materials, peddling, soliciting and related activities within the Village of Caledonia. The registration of persons engaged in the above-mentioned activities is required so that the identity of persons going door to door or distributing materials within the village may be established, so that general regulations may be more effectively enforced, for the protection and maintenance of the health, safety and welfare of the inhabitants of the village and to prevent dishonest business practices and dishonest solicitation of funds in the village.

§ 150-2. Definitions.

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

DISTRIBUTOR — Any person who distributes or causes to be distributed on any street or public place within the village any newspaper, periodical, book, magazine, handbill, circular, card or pamphlet or printed material of any kind.

MERCHANDISE — All goods, wares, food, meat, fish, ice cream, fruit, vegetables, magazines, periodicals, printed material, farm products, services and orders or contracts for services, home improvement or alterations and anything that may be sold or distributed by peddlers, solicitors or distributors as used herein.

PEDDLER — Any person, whether a resident of the village or not, who goes from house to house, from place to place or from street to street, traveling by foot, automotive vehicle

or any other type of conveyance, carrying or transporting merchandise for the purpose of selling and delivering the merchandise to customers. The word "peddler" shall also include the words "hawker" and "huckster."

PERSON — Any individual, firm, partnership, corporation, organization, club, association or any principal or agent thereof.

SOLICITOR — Any person, whether a resident of the village or not, who goes from house to house, from place to place or from street to street, traveling by foot, automotive vehicle or any other type of conveyance, soliciting, taking or attempting to take orders for the sale of merchandise or services of any kind for future performance or delivery, whether or not such individual has, carries or exposes for sale a sample of the merchandise or services and whether or not he is collecting advance payments on such sales or orders, or who engages in any of the foregoing activities from a stationary location on any street or other public place. The word "solicitor" shall also include the word "canvasser" or any person who goes from door to door as described above for the purpose of soliciting and/or collecting funds from a stationary location on any street or other public place.

TRANSIENT MERCHANT — Any person engaging in the activities commonly referred to as "transient merchant" or "itinerant vendor" who merchandises or sells with the intent to close out or discontinue such business within a period of one (1) year from the date of commencement and occupies a room, building, tent, lot or other premises for the purpose of selling merchandise.

§ 150-3. Registration.

It shall be unlawful for any peddler, solicitor, distributor or transient merchant to sell, offer for sale or distribute merchandise, printed material or services within the village without first applying for and obtaining a registration certificate therefor from the Village Clerk.

§ 150-4. Application for registration certificate.

Every applicant for a registration certificate under the provisions of this chapter shall file with the Village Clerk a sworn written application, on a form to be furnished by said Clerk, which shall give or be accompanied by the following information or documents:

- A. The name and description of the applicant.
- B. The permanent home address and full local address of the applicant.
- C. A brief statement of the nature of the business and a description of the merchandise or service to be sold.
- D. If employed, the name and address of the employer, together with credentials establishing the exact relationship.
- E. The length of time for which the certificate is desired.
- F. If a vehicle is to be used, a description of such vehicle and its license number.

- G. The place where the merchandise or services to be sold or offered for sale are manufactured or produced, where such merchandise is located at the time such application is filed and the proposed method of delivery.
- H. Two (2) business references located in the County of Livingston, State of New York, or, in lieu thereof, such other available evidence of the character and business responsibility of the applicant as will enable an investigator to properly evaluate such character and responsibility.
- I. A statement as to whether the applicant has been convicted of any crime, misdemeanor or violation of any municipal ordinance, the nature of the offense and the punishment or penalty assessed therefor.

§ 150-5. Investigation of applicants.

- A. When the application is properly filled out and signed by the applicant, the original and duplicate thereof shall be filed with the Clerk, and the Clerk shall refer the original to the Chief of Police, who shall make or cause to be made within five (5) days such investigation of the applicant's business responsibility and character as he deems necessary for the protection of the public good.
- B. If, as a result of such an investigation, the applicant's character or business responsibility is found to be unsatisfactory, the Chief of Police shall endorse on such application his disapproval and his reasons therefor and shall return said application to the Clerk. Any determination by the Chief of Police that an application is unsatisfactory shall be based on one (1) or more of the following findings with respect to the applicant:
 - (1) Conviction of a crime involving moral turpitude.
 - (2) Prior violation of a peddling or soliciting ordinance or law.
 - (3) Previous fraudulent acts or conduct.
 - (4) Record of breaches of solicited contracts.
 - (5) Concrete evidence of bad character.
- C. In the absence of any such finding, the Chief of Police shall find the application satisfactory, shall endorse his approval on the application and shall return the application to the Clerk.

§ 150-6. Denial or issuance of certificate.

- A. If an application is found unsatisfactory by the Chief of Police and he has endorsed his disapproval upon the application, the Clerk shall notify the applicant, by mail, that the application is disapproved and shall deny the applicant any registration certificate.
- B. If an application is found satisfactory by the Chief of Police, the Clerk shall issue a registration certificate addressed to the applicant to conduct the business applied for upon the payment of the proper fee by the applicant. Such certificate shall contain the signature of the issuing officer and shall show the name, address and photograph of the applicant, the

type of business (peddler, solicitor, distributor or transient merchant) for which the applicant has registered, the kind of goods or services to be sold thereunder, the date of issue, the length of time the certificate shall be operative and the license number and other identifying description of any vehicle used in the activity licensed.

§ 150-7. Fees.

- A. At the time of the issuance of a registration certificate, a fee in an amount as shall be set forth from time to time by resolution of the Board of Trustees and as indicated on a fee schedule on file in the office of the Village Clerk shall be paid by the applicant to cover the costs of investigation and the administration and enforcement of this chapter.¹
- B. Where an organization has several agents peddling, soliciting or distributing merchandise or printed material, each agent shall be registered separately and each shall pay the appropriate fee. Upon the expiration of a certificate, a new certificate will be issued upon compliance with all the provisions of this chapter and the payment of fees and the posting of the bond, except that the investigation and waiting period therefor may be waived if approved by the Clerk and Chief of Police.

§ 150-8. Bonding requirements.

- A. Prior to the issuance of any certificate, the applicant shall file with the Village Clerk a bond running to the village in the amount of one thousand five hundred dollars (\$1,500.), with good and sufficient surety, in such form as shall be approved by the Village Attorney or his designated representative. Said bond shall remain in force for the term of the certificate and shall be conditioned to indemnify and pay the village for any penalties or costs incurred in the enforcement of any of the provisions of this chapter and to indemnify or reimburse any purchaser of personal property from the holder of the certificate in a sum equal to at least the amount of any payment such purchaser may have been induced to make through the misrepresentation as to the kind, quality or value of the personal property, whether the misrepresentations were made by the licensee or said licensee's agents, servants or employees either at the time of making the sale or through any advertisement printed or circulated with reference to such personal property or any parts thereof.
- B. The aforesaid bond shall be declared forfeited upon proof of:
 - (1) Falsification in the application for a certificate.
 - (2) Violation of any of the provisions of this chapter by the applicant or his agents, servants or employees.
- C. The Board of Trustees may, by resolution, exempt persons from the bond and fee requirements, provided that the applicant satisfies the Board that the nature of his activity does not jeopardize the position of the village or the protection given herein to the residents.

¹ Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

§ 150-9. Appeals from denial of certificate.

Any person aggrieved by the action of the Chief of Police or of the Village Clerk in the denial of a certificate, as provided in § 150-6 of this chapter, shall have the right of appeal to the Board of Trustees. Such appeal shall be taken by filing with the Board, within fourteen (14) days after the 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 appeal. The Board of Trustees shall set a time and place for a hearing on such appeal, and notice of such hearing shall be given in the same manner as provided in § 150-12 of this chapter for notice of hearing on revocation. The decision of the Board on such appeal shall be final and conclusive.

§ 150-10. Registration conditions.

- A. Upon obtaining a registration certificate as hereinafter provided, a peddler, solicitor, distributor or transient merchant may conduct his activities within the village only as long as he adheres to the regulation set forth in this chapter.
- B. All certificates shall expire one (1) calendar year from the date of issuance.
- C. A registration certificate shall not be assignable. Any holder of a certificate who permits it to be used by any other person and any person who uses a certificate issued to any other person shall be guilty of an offense against this chapter.
- D. No applicant to whom a certificate has been refused or who has had a certificate revoked shall make further application until a period of at least twelve (12) months shall have elapsed since the last previous rejection or revocation, unless he can show that the reason for such rejection or revocation no longer exists.
- E. Every peddler, solicitor, distributor or transient merchant shall, while conducting his activities, carry the certificate with him and shall exhibit the same upon demand to any police officer or citizen.

§ 150-11. General regulations.

No person or license holder shall:

- A. Peddle, solicit or distribute merchandise, except between the hours of 8:00 a.m. and 4:00 p.m., unless specifically having been invited into a house by the occupant or having made an appointment with a person previously.²
- B. Attempt to peddle, solicit or distribute merchandise or printed material without first having identified himself as a peddler, solicitor or distributor registered with the Clerk and displaying his certificate.
- C. Have exclusive right to any location in the public streets or operate in any congested area where his operations might impede or inconvenience the public.

² Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

- D. Leave at a property or house or in any public place circulars, samples or other matter, except a newspaper, which shall be defined as a periodical with a paid circulation of at least ninety percent (90%) of its total circulation, except when handed to a person willing to accept the same.
- E. Enter or attempt to enter the land of any resident in the village without an express invitation from the occupant of such land.
- F. Conduct himself in such a manner as to become objectionable to or annoy an occupant of any house.
- G. Shout, cry out, blow a horn, ring a bell or use any sound-making or amplifying device upon any of the streets, parks or public places of the village or upon private premises, in such manner that sound of sufficient volume is emitted or produced to be capable of being plainly heard upon the streets, avenues, parks or other public places of the village or upon private premises therefrom, for the purpose of attracting attention to any merchandise or services.
- H. Distribute obscene merchandise or printed material or that which advocates unlawful conduct.
- I. Litter the streets, public places or properties within the village with any merchandise or printed material.

§ 150-12. Revocation of certificate.

- A. Certificates issued under the provisions of this chapter may be revoked by the Board of Trustees after notice and hearing for any of the following causes:
 - (1) Fraud, misrepresentation or a material incorrect statement contained in the application for a certificate.
 - (2) Fraud, misrepresentation or a material incorrect statement made in the course of carrying on the business of solicitor, peddler, distributor or transient merchant.
 - (3) Any violation of this chapter.
 - (4) Conviction of any crime or misdemeanor.
 - (5) Conducting the business of peddler, solicitor, distributor or transient merchant 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 this public.
- B. A notice of the hearing for the revocation of a certificate shall be given by the Village Clerk, in writing, setting forth specifically the grounds of complaint and the time and place of the hearing. Such notice shall be mailed, postage prepaid, to the holder of the certificate at the address given on the application at least five (5) days prior to the date set for the hearing or shall be delivered by an agent of the village in the same manner as a summons at least three (3) days prior to the date set for the hearing.
- C. Upon revocation, the certificate shall be surrendered to the Clerk.

§ 150-13. Exemptions.

- A. No part of this chapter shall be enforced so as to conflict with Article 4, § 32, of the General Business Law of the State of New York, providing for exemptions for veterans.
- B. The requirements of this chapter shall not apply to the following, provided that an official uniform, clothing or other suitable identification approved by the Board of Trustees is displayed:
 - (1) Any recognized local nonprofit religious, charitable, educational, civic or political organization.
 - (2) Any such organizations as the Boy Scouts, Girl Scouts or local volunteer firemen.
- C. Nothing in this chapter shall be held to apply to:
 - (1) Sales conducted pursuant to statute or by order of any court.
 - (2) Persons selling personal property at wholesale to dealers in such articles.
 - (3) Merchants having an established place of business within the village or their employees.
 - (4) The peddling of meats, fish, fruit and similar produce by farmers and persons who produce such commodities.
 - (5) Dealers in milk, baked goods, heating oil and daily newspapers.
 - (6) Licensed real estate brokers.

§ 150-14. Penalties for offenses.

Any person committing an offense against any provision of this chapter shall, upon conviction thereof, be guilty of a violation, punishable by a fine of at least ten dollars (\$10.) but not exceeding two hundred fifty dollars (\$250.) or by imprisonment for a term not exceeding fifteen (15) days, or by both such fine and imprisonment. The continuation of an offense against the provisions of this chapter shall constitute, for each day the offense is continued, a separate and distinct violation hereunder.