

Village of Penn Yan



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NOTICE OF ADOPTION

VILLAGE OF PENN YAN

Local Law Amending the Peddling and Soliciting Chapter of the Village Code.

Notice is hereby given that at a meeting of the Board of Trustees of the Village of Penn Yan, County of Yates, State of New York, which was held on the 20th day of July, 2021, the above referenced proposed Local Law was adopted.

The effect of this Local Law is to delete certain prohibitions on peddling, modify time restrictions on peddling, amend the license application process and update terminology in the Peddling Chapter of the Village Code.

A copy of the Local Law may be examined at the Office of the Clerk of the Village of Penn Yan, 111 Elm Street, Penn Yan, NY 14527 during regular business hours or at the Village website www.villageofpennyan.com.

Gary Meeks, Village Clerk/Treasurer
Village of Penn Yan

Local Law Filing

DEPARTMENT OF STATE

162 WASHINGTON AVENUE, ALBANY, NY 12231

NEW YORK STATE

(Use this form to file a local law with the Secretary of State.)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

VILLAGE OF PENN YAN

LOCAL LAW 6 OF THE YEAR 2021

LOCAL LAW Amending the Peddling and Soliciting Chapter”, of the CODE OF THE VILLAGE OF PENN YAN”

Be it enacted by the Board of Trustees of the Village of Penn Yan as follows:

Section 1: Short Title.

This Local Law shall hereafter be known as the “Village Code Peddling and Soliciting Chapter Amendment of 2021” to the “Zoning” Chapter of the Code of the Village of Penn Yan.

Section 2: Legislative Intent.

The purpose of this Local Law is to amend the “Peddling and Soliciting Chapter of the Code of the Village of Penn Yan.

Section 3: Legislative Findings.

The Board of Trustees determines that the present Peddling and Soliciting Chapter contain provisions that may be contrary to law and also antiquated, requiring amendment thereof.

Section 4: Legislative Authority.

This Local Law is enacted pursuant to the provisions of the Municipal Home Rule Law (MHRL) of the State of New York.

Chapter 136

PEDDLING

- § 136-1. Title.
- § 136-2. Definitions.
- § 136-3. Exemptions.
- § 136-4. License required.

- § 136-5. **Application.**
- § 136-6. **Bond.**
- § 136-7. **Issuance of license.**
- § 136-8. **Nontransferability.**
- § 136-9. **Lost or destroyed license.**
- § 136-10. **Form of license.**
- § 136-11. **Term of license.**
- § 136-12. **Exhibition.**
- § 136-13. **Fee.**
- § 136-14. **Revocation.**
- § 136-15. **Prohibited acts.**
- § 136-16. **Records to be kept.**
- § 136-17. **Penalties for offenses.**

§ 136-1. Title.

This Chapter shall be known and may be cited as the “Village of Penn Yan Peddlers Law.”

§ 136-2. Definitions.

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

BOARD OF TRUSTEES – The Board of Trustees of the Village of Penn Yan.

PEDDLER – The actions by any person, either principal or agent, who from any public street or public place or by going from house to house or place of business to place a business, on foot or on or from any vehicle, sells or barter, offers for sale or barter or carries or exposes for sale or barter any goods, wares, merchandise, books, magazines, periodicals or any other item or items of value or offers any services for which compensation is requested or required.

TRANSIENT MERCHANT – A merchant who sells merchandise from private property within the Village for temporary periods only and does not conduct business in buildings or structures which are assessed on the Village tax rolls.

VILLAGE CLERK – The Clerk/Treasurer of the Village of Penn Yan or any Deputy Clerk of the Village of Penn Yan.

YARD SALE- Offering for sale of generally used personal or household goods, locally produced baked goods, preserves and other domestic products and/or handicrafts, conducted as a temporary accessory use in the yard of any property and not on public property. Such items offered for sale may be in the open, under a temporary canopy, on an open porch or in an open garage on the subject property.

§ 136-3. Exemptions.

Generally. Nothing in this Chapter shall be held to apply to any sales or offer of service:

- A. Conducted pursuant to statute or by order of any court of competent jurisdiction;
- B. By any person selling personal property at wholesale to businesses or dealers in such articles;
- C. By persons representing local nonprofit organizations;
- D. Relating to peddling of meats, fish, fruit and farm produce by farmers and person who produce such commodities and by authorized person selling such items at farm markets whose location and hours have been approved by the Board of Trustees;
- E. By authorized persons selling personal property at sidewalk sales location and hours have been approved by the Board of Trustees;
- F. By persons selling antiques, art and crafts at shows whose location and hours have been approved by the Board of Trustees;
- G. By persons selling their own used household goods and clothings, not purchased for resale, at yard and lawn sales on real property where they reside, provided that no such sales shall occur at the same real property for more than two (2) consecutive weeks and not within more than six (6) weeks per calendar year;
- H. Conducted or authorized by nonprofit organizations having offices in Yates County, the proceeds of which shall be used for charitable or not-for-profit endeavors.

§ 136-4. License required.

It shall be unlawful for any person within the limits of the Village to act as a peddler or transient merchant, as herein defined, or assist the same without first having obtained and

paid for and having in force and effect a license therefore or having in force and effect a certificate of compliance issued by the Village Clerk.

§ 136-5. Application.

Any person desiring to procure a license as herein provided shall file with the Village Clerk a written application upon a form furnished by the Village Clerk. Such application shall give:

- A. The number of vehicles and the make, model, color, license plate number and State of registration of each vehicle to be used in sales solicitation;
- B. The kind of goods, wares and/or merchandise he or she desires to sell or the kind of service he or she desires to perform;
- C. The method of distribution;
- D. The name, address, social security number, telephone number and age and date of birth of the applicant and every person involved in the sales, along with description including gender, height, weight and hair color of each such person;
- E. The name, address, telephone number, entity and tax identification number of the person, firm or corporation the applicant represents.
- F. The length of time the applicant desires the license.
- G. Copies of appropriate photo identification of each person covered by the license shall be obtained by the Village Clerk and made a part of the application. The Village Clerk shall have the sole discretion in determining whether a photo identification is "appropriate";
- H. Such other information as may be required by the Village Clerk to substantiate the above items.

§ 136-6. Bond.

An application for a license as a solicitor or transient merchant who demands, accepts or receives payment or a deposit of money in advance of final delivery shall also be accompanied by a cash deposit of two thousand dollars (\$2000.00) or a surety company bond of ten thousand dollars (\$10,000.00) or other bond secured by sufficient collateral, said bond to be approved by the Village Attorney as to form and surety, 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 shall be refunded. Any person aggrieved by the action of any

licensed solicitor shall have the 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 village for a period of one hundred eighty (180) days after the expiration of any such license, unless sooner released by the Board of Trustees.

§ 136-7. Issuance of license.

- A. Village Clerk may issue or deny. Upon the filing of the application and bond as provided in the preceding sections and payment of the required fee, the Village Clerk shall, upon his or her approval of such application, issue to the applicant a license as provided in § 136-4. A license may be refused if the applicant shall have been convicted of any violation of this Chapter.
- B. Appeal to Board of Trustees. Any applicant who has been refused a license by the Village Clerk may apply to the Board of Trustees therefor, and the same may be granted or refused by the Board of Trustees.

§ 136-8. Nontransferability.

A license shall not be assignable. The holder of any license issued pursuant to this Chapter who permits it to be used by any person not listed in that license and any person who uses such license granted to another person and not named in the license, shall each be guilty of a violation as defined in the Penal Law of the State of New York.

§ 136-9. Lost or destroyed license.

Whenever a license shall be lost or destroyed, a duplicate in lieu thereof, under the original application and bond, may be issued by the Village Clerk upon the request of the applicant or any person listed on the original application and license.

§ 136-10. Form of license.

The license shall contain the name of the applicant, the name of the firm, corporation or entity being represented by the applicant, the names of all persons covered by the license, the nature of sales to which the license applies, the date the license becomes effective as well as the date of expiration of the license, the signature of the Village Clerk or Deputy Clerk and the date of issuance of the license.

§ 136-11. Term of license.

Such license shall be for such term as requested by the applicant but shall not exceed one (1) year.

§ 136-12. Exhibition.

Every individual listed in a license, while exercising his or her license, shall carry a copy of the license with him or her and shall exhibit the same upon request.

§ 136-13. Fee.

The license fee for each person licensed as a peddler or transient merchant shall be set by resolution duly adopted by the Board of Trustees. Likewise, such license fee may be modified from time to time by Resolution duly adopted by the Board of Trustees.

§ 136-14. Revocation.

A license issued pursuant to this Chapter may be revoked by the Village Clerk after due notice to the licensee. Upon any such revocation it shall be the responsibility of the person to whom the license was issued to notify every other individual covered by such license that the license has been revoked.

§ 136-15. Prohibited acts.

- A. It shall be unlawful for any person to enter upon private property for the purpose of peddling or soliciting before the hour of 9:00 a.m. of any day or after the hour of 8:00 p.m. of any day except upon the invitation of the householder or occupant and in any event no later than one half (1/2) hour after sunset.
- B. 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 on the premises.
- C. No peddler shall peddle, vend or sell his or her goods or wares on any public street, highway or sidewalk within two hundred (200') feet of any place occupied exclusively as a public or private school or for school purposes, nor shall he or she permit his or her cart, wagon or vehicle to stand on any public highway within said distance of such school property.

§ 136-16. Records to be kept.

It shall be the duty of the Village Clerk to keep a record of all applications and of all licenses granted under the provisions of this Chapter including copies thereof, giving the number and date of each license, the fee paid and the date of revocation of all licenses revoked.

§ 136-17. Penalties for offenses.

A violation of any provision of this Chapter is hereby declared to be a violation as defined by the Penal Law of the State of New York and shall be punishable by a fine not exceeding two hundred fifty dollars (\$250.00) and/or imprisonment for not more than fifteen (15) days. Each incident of a violation may be considered a separate offense and may be prosecuted as such.

Section 5. Severability.

If a court determines that any clause, sentence, paragraph, subdivision, or part of this Local Law or the application thereof to any person, firm or corporation, or circumstance is invalid or unconstitutional, the court's order or judgment shall not affect, impair or invalidate the remainder of this Local Law, but shall be confined in its operation to the clause, sentence, paragraph, subdivision or part of this Local Law or in its application to the person individual, firm or corporation or circumstance directly involved in the controversy in which such judgment or order shall be rendered.

Section 6. Effective date.

This Local Law shall take effect immediately upon its filing with the Secretary of State of the State of New York, subsequent to having been duly adopted by the Board of Trustees of the Village of Penn Yan.

(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)

1. (Final adoption by local legislative body only)

I hereby certify that the local law annexed hereto, designated as Local Law No. 6 of the year 2021, was duly passed by the Board of Trustees of the Village of Penn Yan on July 20, 2021, in accordance with the applicable provisions of law.

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph 1 above.



Gary Meeks, Clerk/Treasurer

(SEAL)

Date: August 3, 2021

(Certification to be executed by County Attorney, Corporation Counsel, Town Attorney, Village Attorney or other authorized attorney of locality)

STATE OF NEW YORK)
COUNTY YATES) ss:

I, the undersigned, hereby certify that the foregoing local law contains the correct text and that all proper proceedings have been had or taken for the enactment of the local law annexed hereto.



Edward J. Brockman, Village Attorney

Village of Penn Yan

Date: August 3, 2021