



**Town of East Fishkill  
Dutchess County, New York  
330 Route 376  
Hopewell Junction, New York 12533  
Telephone 845-221-9191**

**TOWN BOARD  
WORKSESSION  
February 14, 2019 @ 7:00PM**

**Pledge of Allegiance**

**Supervisor's Announcements**

**Open Work Session**

**Discussion:**

1. Fence and Shed Amnesty Law
2. Peddler's Permit
3. Possibly Changing Zoning Law For Poultry
4. Information On Drainage Easement
5. Highway 101

**Open Discussion**

**Close Work Session**

**Next Town Board Meeting: February 28, 2019**

**All Agendas are posted on the web [www.eastfishkillny.org](http://www.eastfishkillny.org)**

# Chapter 140: Peddling and Soliciting

## § 140-1. Definitions.

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

### **PUBLIC STREET OR SIDEWALK**

All areas legally open to public use as public streets, sidewalks, roadways, highways, parkways, alleys and any other public way.

### **SOLICITOR/PEDDLER/VENDOR**

Any person, including an employee or agent of another, who sells or offers to sell services, food, beverages, goods or merchandise on any public street or sidewalk from a stand, motor vehicle or from his or her person, or one who travels by foot, wagon, motor vehicle, pushcart or any other method of transportation from house to house or street to street selling or offering to sell services, food, beverages, goods or merchandise. This shall include corporations, limited liability companies, partnerships, and their agents.

### **STAND**

Any newsstand, table, bench, booth, rack, handcart, pushcart or any other fixture or device which is not required to be licensed and registered by the Department of Motor Vehicles, used for the display, storage or transportation of articles offered for sale by a vendor.

### **STATIONARY SOLICITOR, PEDDLER OR VENDOR**

A solicitor, peddler or vendor who uses a vehicle or stand and who operates from the same location for more than three days. This shall include corporations, limited liability companies, partnerships, and their agents.

## § 140-2. License required; special permit required for stationary vendor.

- A. It shall be unlawful for any person, except as exempted herein, to solicit, peddle or vend within the Town of East Fishkill, without first obtaining a license from the East Fishkill Town Clerk, as herein provided.
- B. A stationary vendor as defined herein shall be required to obtain a special permit in accordance with § 194-66 in order to obtain a license pursuant to this chapter.

## § 140-3. Exemptions.

- A. No part of this chapter shall be enforced so as to conflict with Article 4, Section 32, of the General Business Law of the State of New York, providing for exemption for veterans.
- B. The requirements of this chapter shall not apply to the following, provided that official uniforms, clothing or other suitable identification is displayed:

- (1) Any nonprofit religious, charitable, educational, civic or political organization (including candidates for elective office or their representatives).
- (2) Any such organization as the Boy Scouts, Girl Scouts or local volunteer firemen.
- (3) Sales conducted pursuant to statute or by order of any court.
- (4) The peddling of milk, meats, fish, fruit and similar produce by farmers and persons who produce such commodities.
- (5) This exemption does not authorize any person to occupy any portion of a highway for the purpose of solicitation of monetary contributions, as prohibited by Vehicle and Traffic Law § 1157, Subdivision (c), and § 177-12 of the East Fishkill Code.

## § 140-4. License application requirements.

Applications for licenses or a renewal thereof by solicitors, peddlers or vendors shall be made to the Town Clerk, shall be sworn and in writing, and shall contain the following information:

- A. Name, age, telephone number, permanent address and current address, if different, or business address.
- B. Physical description of the applicant.
- C. A brief description of the nature of the business to be conducted and the goods to be sold.
- D. If employed, the name and address of the employer, together with credentials establishing the exact relationship.
- E. If a vehicle is to be used, a description of such vehicle and its license number.
- F. A description of the proposed location(s) of the vending business and the length of time during which it is proposed that the business shall be conducted.
- G. The place where the goods or property to be sold or offered for sale are manufactured or produced, where such goods or property are located at the time such application is filed and the proposed method of delivery.
- H. A photograph of the applicant taken within 60 days immediately prior to the date of the application, which photograph shall clearly show the head and shoulders of the applicant and shall measure 2 inches by 2 inches.
- I. Two business references located in the County of Dutchess, 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.
- J. A statement as to whether the applicant has been convicted of any crime, misdemeanor or violation of any municipal ordinance regarding soliciting, peddling or vending, the nature of the offense and the punishment or penalty assessed therefor.

- K. If the application is for a license to handle food in any form, the applicant shall submit a valid permit issued by the Dutchess County Health Department establishing compliance with the provisions of the Dutchess County Public Health Regulations.
- L. Proof that applicant holds a New York State Sales Tax Identification Number where applicable.
- M. A copy of any other license or permit required by any other governmental agency in connection with the applicant's business.
- N. Any change in circumstances with regard to the information provided in the application or on the license shall be reported to the Town Clerk within 30 days.
- O. A certificate of insurance as required pursuant to § 140-7.

### § 140-5. License/application procedure.

- A. An application to solicit, peddle or vend accompanied by all required information shall be submitted to the East Fishkill Town Clerk. The Clerk shall refer the application to the Chief of Police.
- B. The Chief of Police shall review and investigate the application and make a determination within 30 days of receipt. The Chief of Police, after such investigation, may reject, in writing, an application for a license if the issuance of the license would involve an unreasonable risk to property or to the safety or welfare of specific individuals or of the general public.
- C. In the absence of any such finding, the Chief of Police shall find the application satisfactory, shall endorse his approval subject to conditions of § 140-5D on the application and shall return the application to the Clerk.
- D. The police may impose reasonable conditions on a license to ensure that any peddling from a vehicle in the public way does not interfere with traffic flow and safety. Such conditions may include, but are not limited to, placement of vehicles used in peddling, parking and hours of operation.
- E. If approved, the Town Clerk will issue a license after payment of the appropriate fee pursuant to § 140-6 and the license shall contain the following information:
  - (1) The name, address and photograph of the licensee.
  - (2) The kind of goods to be peddled or solicited thereunder.
  - (3) The amount of fee paid.
  - (4) The peddler's license number.
  - (5) The date of issuance and the date of expiration of such license.
  - (6) The signature of the Town Clerk or authorized deputy.
  - (7) Any conditions imposed by the Chief of Police.

- F. Denial of a license is subject to review by the Town Board, upon application within 30 days of the date of the denial.

## § 140-6. Fees.

An applicant for a license under this chapter shall pay an annual license fee, per vendor, as set from time to time by the Town Board.

## § 140-7. Insurance.

No license shall be issued to an applicant unless the applicant furnishes proof to the town of a public liability bond or insurance policy in an amount not less than \$1,000,000 for property damage and injuries, including injury resulting in death, caused by the operation of the vending business.

## § 140-8. License to be carried; replacement of lost license.

Each licensee shall carry on his person all licenses issued by the Town Clerk at all times and shall exhibit same to any town official or police officer upon request. If such license is lost or stolen, such shall be reported to the Town Clerk within 10 days. Upon such notification, the Town Clerk shall issue a replacement license, payable to the Town Clerk, in an amount as set from time to time by the Town Board.

## § 140-9. Transferability.

No license issued pursuant to this chapter may be used or displayed at any time by any other person or entity than to who the license was issued.

## § 140-10. Restrictions.

### A. Restricted and prohibited locations

- (1) Pursuant to § 1157, Subdivision (c), and § 1800 of the New York State Vehicle and Traffic Law, no solicitor/peddler/vendor shall occupy any part of a state highway in any manner for the purpose of selling or soliciting, except a veteran holding a peddler's license pursuant to Article 4 (§ 32 and following) of the General Business Law. Pursuant to § 177-12 of the East Fishkill Code, no person shall occupy any part of any highway in the Town of East Fishkill in any manner for the purposes of soliciting monetary contributions.
- (2) No solicitor/peddler/vendor who is licensed by the town to sell from a vehicle shall solicit, peddle or vend on privately owned lands without permission from the owner unless specifically authorized by the Town Board to do so for an event such as a flea market, carnival, circus, community day or any similar activity.
- (3) It shall be unlawful for any solicitor, peddler or vendor in plying his trade to enter upon any premises or property, or to ring the doorbell 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 solicitors, peddlers or vendors," or other wording, the purpose of which purports to prohibit soliciting or peddling on the premises.

- (4) No solicitor/peddler/vendor who is licensed by the town shall permit any vehicle used in such business to stand or remain:
  - (a) Within 200 feet of any intersection.
  - (b) On any crosswalk.
  - (c) Within 250 feet of any school, public building, residence or commercial establishment.
- (5) No solicitor/peddler/vendor shall have any exclusive right to any location in the public streets, nor shall any be permitted a stationary location without a special permit, nor shall any be permitted to operate in a congested area where such operation might impede access to the entrance of any adjacent building or driveway or inconvenience the public. For the purpose of this chapter, the judgment of any police officer or Building Inspector exercised in good faith shall be deemed conclusive as to whether the area is congested or the public impeded or inconvenienced.
- B. Use of signs and displays. It shall be lawful for peddlers to use signs which are painted on or affixed to a peddler's vehicle, provided same do not exceed the dimensions of the vehicle on which they are placed, and such vehicle can be driven safely with the sign as affixed. Such permitted signs shall be exempt from the provisions of the East Fishkill Zoning Ordinance. The use of other movable, portable and/or freestanding signs by solicitors, peddlers or vendors is prohibited.
- C. Restrictions on Times and Days. A solicitor/peddler/vendor shall not sell or solicit on a house-to-house or door-to-door basis on Saturdays, Sundays or holidays, and he or she shall not solicit on other days except between the hours of 9:00 a.m. and 6:00 p.m.
- D. Non-Solicitation List. The Town Clerk's office shall keep a list of properties that have requested in writing that solicitors/peddlers/vendors not solicit from them. This list shall be continually updated and provided to a solicitor/peddler/vendor during its initial application and subsequent renewals. No solicitor/peddler/vendor shall solicit anyone from this list.
- E. Other restrictions:
  - (1) No solicitor, peddler or vendor may operate in violation of any conditions imposed in its license.
  - (2) Solicitors, peddlers or vendors are responsible for the cleanup of any debris associated with their business.

## § 140-11. Enforcement.

The East Fishkill Police Department and the Building Inspector shall enforce the provisions of this chapter.

## § 140-12. Penalties for offenses.



A violation of this article shall constitute an offense punishable by a fine not exceeding \$250 or by imprisonment for a term not exceeding 15 days and/or a civil penalty of \$1,000. Each day said violation continues shall constitute a separate violation.

### § 140-13. Revocation of license.

Licenses issued under the provisions of this Chapter may be revoked by the Town Board of the Town of East Fishkill after notice and hearing, for any of the following causes:

- A. Fraud, misrepresentation or false statement contained in the application for license.
- B. Fraud, misrepresentation or false statement made in the course of carrying on business as a peddler/solicitor/vendor.
- C. Any violation of this chapter.
- D. Conducting the business of peddling 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.
- E. Upon the recommendation of the Dutchess County Department of Health that the sale of food or food products or other edibles is being conducted under unsanitary conditions or that there is a violation of law, regulation, code or ordinance cited by the Dutchess County Department of Health.

### § 140-14. Records.

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

### § 140-15. License period.

A license issued pursuant to this chapter shall be good for one year from date of issuance.

### § 140-16. Renewal.

Application for renewal shall be processed as new applications. The town shall review each application for renewal to determine that:

- A. The applicant is in full compliance with the provisions of this chapter.
- B. The applicant has a currently effective insurance policy in the minimum amount provided for in § 140-7. If the town finds that the application meets the above requirements, the town shall issue a license for a period of one year.