

Local Law Filing

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(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.

County City Town Village
(select one)

of Floral Park

Local Law No. 1 of the year 2019

A local law amending Chapter 47 of the Code of the Incorporated Village of Floral Park with Regard to Commercial Solicitation.

(insert Title)

Be it enacted by the Board of Trustees of the
(Name of Legislative Body)

County City Town Village
(Select One:)

of Floral Park as follows:

Section 1. Legislative Intent

Originally adopted in 1943 and subsequently amended in 1984 and 2003, Chapter 47 of the Village Code addresses solicitation within the Village. Due to developments in the law regarding the regulation of commercial solicitation, this Local Law amends Chapter 47 so as to address the licensing requirements for those engaged in the commercial solicitation of the sale of goods and services.

(If additional space is needed, attach pages the same size as this sheet, and number each.)

Section 2. Chapter 47 As Amended

Chapter 47

HAWKING, PEDDLING AND SOLICITING

- § 47-1. License required.
- § 47-2. Application for license.
- § 47-3. License fee.
- § 47-4. Approval of application.
- § 47-5. Restrictions.
- § 47-6. Notice by those not desiring noncommercial solicitation.

- § 47-7. Identification cards.
- § 47-8. Suspension and revocation of license.
- § 47-9. Ice cream vending vehicles.
- § 47-10. Exemptions.
- § 47-11. Severability.
- § 47-12. Penalties for offenses.

§ 47.1 License required.

Except as may be otherwise provided herein, it shall be unlawful for any person, organization, society, association, company or corporation or their agents or representatives, to proselytize, canvass, solicit business, take orders for goods or services or to distribute handbills, pamphlets or other written material or solicit donations or contributions of money or property or financial assistance of any kind upon the streets, in the offices of business buildings, upon private property, by house-to-house canvass or in public places in the Village of Floral Park without a license previously issued pursuant to this chapter.

§ 47-2. Application for license.

Application for a license as provided in this chapter shall be in writing and addressed to the Clerk of the Village of Floral Park and shall contain the following information:

- A. Name, address and purpose of the cause for which the license is sought.
- B. Names and addresses of the officers and directors of the organization, firm, society, association, company or corporation.
- C. Time for which permission is sought and localities and places of activity, giving the date of the commencement and termination of the solicitation.
- D. Legal and tax status of any organization, firm, society, association, company or corporation so applying.
- E. Whether or not any commissions, fees, wages or emoluments are to be expended in connection with such activity.
- F. The name, address, date of birth, social security number, personal photograph(s) and complete driver's license information of the person or persons who shall be conducting the solicitation or otherwise peddling, soliciting or canvassing.
- G. A brief description of the nature of the business and the goods to be sold or services to be performed for which funds are to be solicited and an explanation of the intended use of the funds toward that purpose.
- H. If a vehicle or vehicles are to be used in the solicitation, a description of same, including year, make and model, together with a license plate number, registration certification information and liability insurance information or other satisfactory means of identification. Such information shall be presented for inspection, upon demand, by any Floral Park Village Code Enforcement Officer or Floral Park Village Police Officer.

- I. The names of any other municipalities in which the person registering has solicited or otherwise peddled, solicited or canvassed within the previous 12 months.
- J. Such other information as the Board of Trustees may require.

§ 47-3. License fee.

All applications must be accompanied by a twenty-five-dollar process fee payable to the Clerk, Village of Floral Park. Upon approval of the license, a fee of \$200.00 shall be paid to the Village of Floral Park.

§ 47-4. Approval of application.

Upon receiving such application, the Clerk shall present the same to the Board of Trustees at its next regular meeting, but not later than twenty (20) business days from the date upon which the application is filed. The Board of Trustees shall approve the application of all bona fide applicants who have complied with the above provisions. The Board of Trustees may deny the application for any of the following reasons:

- A. An investigation reveals that the applicant falsified information on the application.
- B. The applicant has been convicted of a felony, misdemeanor or ordinance violation involving a sex offense, trafficking in controlled substances or any violent act against persons or property.
- C. The applicant is a person against whom a judgment or administrative agency determination has been entered or a conviction obtained within the five (5) years immediately preceding the date of the application based upon fraud, deceit or misrepresentation.
- D. The solicitation involves the sale of illegal substances or services.
- E. The applicant does not possess any applicable licenses required by the United States, the State of New York, the County of Nassau or the Town of Hempstead.
- F. A determination by the Floral Park Village Commissioner of Police that the location and time of the activities described in the application would endanger the safety and welfare of the applicant or potential customers.

§ 47-5. Restrictions.

Any license approval granted by the Board of Trustees is subject to the following restrictions:

- A. Payment by the applicant of the license fee of \$200.00.
- B. All activity must be conducted on weekdays and Saturdays only between the hours of 9:00 a.m. and dusk (i.e.30 minutes after sunset).
- C. Any organization, society, association, company or corporation licensed under this chapter shall not have more than ten (10) individuals engaged in the activity at any one (1) time.

- D. The license shall be effective for no more than one (1) calendar year from the date of issuance, and all licenses shall terminate on December 31 in the year in which it was issued. There shall be no pro-ration of fees over the calendar year.
- E. The Board of Trustees shall not grant permission for applicants' activity with respect to those persons who have advised the Board of Trustees in writing that they do not desire solicitation.

§ 47-6. Notice by those not desiring solicitation.

Any person not desiring solicitation upon the person's private property may advise the Board of Trustees by written notice objecting to any or all solicitation or distributions. Such notice shall include the name of the person filing; the address of the property affected; the date of such filing; a statement specifically identifying the organizations or institutions which the person filing objects to permitting entrance onto his private residential property for the purpose of solicitation or distribution; or that all such solicitation or distribution is objected to.

§ 47-7. Identification cards.

All persons soliciting donations or contributions or proselytizing pursuant to this chapter shall, at all times during such period, carry an identification card issued by the organization, society, association, company or corporation licensed to conduct the solicitation. Each identification card shall be displayed on the outer garment and shall plainly show the name of the person who is soliciting, his or her photograph and the person, organization, society, association, company or corporation on whose behalf such solicitation is being made.

§ 47-8. Suspension and revocation of license.

Any and all licenses which may be granted by the Board of Trustees pursuant to any part of this chapter may, for cause, be suspended by the Mayor and may be revoked by the Board of Trustees after notice and hearing for any of the following causes:

- A. Fraud, misrepresentation or a false statement contained in the application for a license.
- B. Violation of any of the restrictions imposed on the issuance of such license or on the conduct of any solicitations so licensed.

§ 47-9. Ice cream vending vehicles.

The provisions of § 47-9 shall not prohibit a duly licensed ice cream vending vehicle from selling ice cream products in the streets of the Village, provided that a license therefor is obtained as hereinafter provided:

- A. Every applicant for such a license is required to submit to the Village Clerk a written application supplying under affidavit the following information: that he is a citizen of the United States, has never been convicted of a felony or misdemeanor, is a fit and desirable person and is capable of properly conducting the trade or occupation desired. If satisfied that the applicant possesses the required qualifications, the Village Clerk shall, upon receipt of the license fee, issue a license to the applicant upon payment of the license fee of \$200.00. Such license shall

be issued annually and shall expire on the 31st day of December next succeeding the date of issuance thereof.

- B. Every such licensee using an ice cream vending vehicle shall have and keep the number of his license painted in conspicuous figures on a metallic sign on a conspicuous place on the side of such vehicle, and if any person uses or employs more than one vehicle for such business, he shall procure a separate license for each of such vehicles. All licenses shall be displayed in a conspicuous place within the vending vehicles.
- C. The vending vehicle shall, at all times, be kept in a safe operational condition, including fully operational horn, safety lights and safety arm with stop sign. Upon request, the licensee agrees to allow the vehicle to be inspected by the Floral Park Police Department.
- D. It shall be unlawful to stop for the purposes of selling without the warning lights, safety arm and stop sign activated and all amplified sound or noise terminated until the vehicle leaves the location.
- E. Vending shall only take place from the side or rear of the vehicle, away from moving traffic and as near as possible to the curb or edge of the roadway.
- F. There shall be no vending to a person standing in the roadway.
- G. The driver of a vending vehicle shall not back up the vehicle to make or attempt a sale.
- H. The driver of a vending vehicle shall not permit any person under 16 years of age nor any unauthorized person to ride in or on the vehicle.
- I. The vending vehicle shall not be stopped within 50 feet of any street intersection or 500 feet of any school or the Village Recreation Center; in a metered parking area; or within 50 feet of any district designated as B-1, B-2 or B-3 under the Zoning Code of the Incorporated Village of Floral Park.
- J. No vending vehicle shall operate before 10:00 a.m. or after 10:00 p.m. in the Village.
- K. In addition to the penalties specified in § 47-13, any person found to be in violation of any provisions of this section shall be subject to punishment by a fine not to exceed \$250.00 and revocation of the vendor's license.

§ 47-10. Exemptions.

This chapter shall not apply to persons for whom exemption is made by any special provision of law from any of the provisions of this chapter, provided they are not engaged in commercial transactions or the solicitation of funds. This chapter also shall not apply to any duly organized religious corporation, lodge, benevolent or fraternal order, political organization; nor to a local community group or organization such as the Boy Scouts, Girl Scouts, or other such youth organization, or to any political party or candidate. In the event such organizations or individuals are involved in commercial transactions or the soliciting of funds, special permission shall first be obtained from the Board of Trustees for soliciting or canvassing.

§ 47-11. Severability.

If any section, subsection or provision of this chapter or the application of such section, subsection or provision to any person or circumstances shall be held invalid, illegal or unconstitutional, the validity of the remainder of this chapter and the applicability of such section, subsection or provision to other persons or circumstances shall not be affected thereby.

§ 47-12. Penalties for offenses.

Any person violating any provision of this chapter shall be liable for the forfeit and pay a penalty as provided in § 32-14 of Chapter 32 hereof. Said violation shall constitute and is hereby declared to be disorderly conduct, and any person violating this chapter or any provision thereof shall be and hereby is declared a disorderly person as provided in § 32-1 of Chapter 32 hereof.

Section 3. 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 4. Effective Date

This local law shall take effect immediately upon filing with the Secretary of State.

(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. 1 of 2019 of the ~~(County)(City)(Town)~~(Village) of Floral Park was duly passed by the Board of Trustees on February 5, 2019 in accordance with the applicable provisions of law.

2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer*.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20__ of the ~~(County)(City)(Town)~~(Village) of _____ was duly passed by the _____

_____ on _____ 20____, and was (approved)(not approved)
(Name of Legislative Body)

(repassed after disapproval) by the _____ and was deemed duly adopted
(Elective Chief Executive Officer*)
on _____ 20____, in accordance with the applicable provisions of law.

3. (Final adoption by referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20__ of the ~~(County)(City)(Town)~~(Village) of _____ was duly passed by the _____

_____ on _____ 20____, and was (approved)(not approved)
(Name of Legislative Body)

(repassed after disapproval) by the _____ on _____ 20____.
(Elective Chief Executive Officer*)

Such local law was submitted to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general)(special)(annual) election held on _____ 20____, in accordance with the applicable provisions of law.

4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20__ of the ~~(County)(City)(Town)~~(Village) of _____ was duly passed by the _____

_____ on _____ 20____, and was (approved)(not approved)
(Name of Legislative Body)

(repassed after disapproval) by the _____ on _____ 20____. Such local

law was subject to permissive referendum and no valid petition requesting such referendum was filed as of _____ 20____, in accordance with the applicable provisions of law.
(Elective Chief Executive Officer*)

* Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairperson of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.

5. (City local law concerning Charter revision proposed by petition.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20__ of the City of _____ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on _____ 20____, became operative.

6. (County local law concerning adoption of Charter.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20__ of the County of _____ State of New York, having been submitted to the electors as the General Election of November _____ 20____, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)

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.

Susan E Walsh
Clerk of the county legislature body, City, Town or Village Clerk or officer designated by local legislative body

Date: February 5, 2019

(Seal)

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

STATE OF NEW YORK
COUNTY OF NASSAU

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.

Signature *John E. Ryan* John E. Ryan

Village Attorney
Title
County
City
Town of Floral Park
Village

Date: February 5, 2019