

CURRENT FLOWER HILL PROVISION:

§ 147-2 Peddling, soliciting and commercial circularization.

A. *Peddling and soliciting. No person shall hawk, peddle, sell or dispose of any goods, wares or merchandise, nor engage in the business of hawking or peddling any goods, wares or merchandise, of any description from any wagon, cart, car, pack or bottle, booth or stand in any street or public place in the Village of Flower Hill, nor shall any person canvass or solicit orders nor solicit trade or business of any nature whatsoever for the purchase or sale of books, periodicals, magazines or articles of merchandise within said Village. Nothing herein contained shall apply to the retail sale of ice cream from approved vending vehicles for consumer consumption.*

B. *Commercial circularization.*

(1) *No person shall circularize nor place upon the driveway, or upon any other portion of a residential property within the Village, any commercial newspaper or flyer, nor any promotional or advertising periodical, without first registering with the Village and securing a license therefor as provided in this chapter.*

(2) *Where the resident of any such property shall have requested that unsolicited print or other written materials not be delivered to his or her premises, no person shall deliver, circularize nor place any commercial newspaper or flyer, nor any promotional or advertising periodical, upon any portion of such resident's property.*

(3) *The Village Clerk shall maintain a list of the addresses of Village residents who have requested that unsolicited print or other written materials not be delivered to, circularized at, nor placed upon their premises, and any person desiring to deliver, circularize, or distribute such materials within the Village shall secure a copy of such list and shall exclude the residences therein set forth from its circularization, distribution, and deliveries.*

PROPOSED UPDATE:

PROPOSED LOCAL LAW L - 2022

Article
Peddling and Soliciting

§ -1 **Definitions.**

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

CHARITABLE

The purpose of an organization which has received a letter of determination approving tax-exempt status under Title 26 of the United States Code § 501(c)(3) or the purpose of a school club, recognized and affiliated with a public or private school, having a program with annual campaigns to support the public or private school club.

COMMERCIAL

The purpose of solicitation is related to the taking or attempting to take orders for, or the selling or making immediate delivery of, any goods, wares, merchandise, personal property, anything of value, or services of any kind or description for future delivery or for services to be performed in the future, either in person or by distributing flyers and leaflets and does not constitute noncommercial solicitation, as defined in this section.

CORPORATION

The meaning consistent with the New York State Business Corporation Law and the New York State Not for Profit Corporation Law.

HAWKER AND PEDDLER

Any person, either principal or agent, who engages in any solicitation other than noncommercial solicitation.

NONCOMMERCIAL

The purpose of solicitation that is charitable, as defined in this section, religious or political.

PERSON

Any individual, corporation, firm, partnership, joint venture, association, social club, league, fraternal organization, society, joint-stock company, estate, trust, business trust, receiver, trustee, syndicate or any other group acting as a unit.

SOLICITATION

- A. The act of any person, whether a resident of the Village of Flower Hill or not, traveling by foot, vehicle or any other type of conveyance who goes from house to house, from place to place or in or along any highway, street or sidewalk within the Village of Flower Hill either:
- (1) Requesting, soliciting, hawking, or peddling, either directly or indirectly, money, credit, funds, contributions, personal property or anything of value;
 - (2) Taking, soliciting, hawking, or peddling, or attempting to take orders for the sale of any goods, wares, merchandise, personal property, anything of value, or services of any kind or description for future delivery or for services to be performed in the future, either in person or by distributing flyers and leaflets; and
 - (3) Selling, soliciting, hawking, peddling, or making immediate delivery of any goods, wares, merchandise, personal property, anything of value, or services of any kind or description, commonly referred to as "peddling."
- B. Solicitation shall not include the following so long as the person is not requesting, either directly or indirectly, money, credit, funds, contributions, personal property or anything of value:
- (1) A person communicating or otherwise conveying ideas, views or beliefs or otherwise disseminating oral or written information to a person willing to directly receive such information, provided that such information is of a political, religious, educational, or charitable nature;
 - (2) A person seeking to influence the personal belief of the occupant of any residence or business in regard to any political or religious matter;
 - (3) A person seeking to obtain, from an occupant of any residence or business, an indication of the occupant's belief in regard to any political or religious matter;
 - (4) A person conducting a poll, survey or petition drive in regard to any political matter; and
 - (5) A person carrying, conveying, delivering or transporting dairy products, newspapers, periodicals, books or similar printed material, or other goods to regular customers on established routes or to the premises of any person who had previously ordered such products, goods or services and is entitled to receive the same.

SOLICITOR

Any person, whether a resident of the Village of Flower Hill or not, engaged in solicitation.

§ -2 License required.

Except as may be otherwise provided herein, it shall be unlawful for any person, or its agents or representatives, to engage in commercial solicitation without a license previously issued pursuant to this chapter.

§ -3 Application for license.

Application for a license as provided in this chapter shall be in writing and addressed to the Administrator of the Village of Flower Hill, and shall contain the following information:

- A. Names and business addresses of the person that is seeking a license pursuant to this chapter. If the applicant is not a natural person, then the applicant shall provide the names and business addresses of the directors (or similar) of the organization, firm, society, association, company or corporation.
- B. Address for service of process, within New York State.
- C. Time for which permission is sought and localities and places of activity, giving the date of the commencement and termination of the planned solicitation.
- D. Legal and tax status of any person applying for a license pursuant to this chapter.
- E. The name, address, date of birth, social security number (or similar), personal photograph(s) and complete driver's license information (or similar identification) of the person or persons who shall be conducting the solicitation.
- F. A brief description of the nature of the business and the goods to be sold or services to be performed.
- G. 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, vehicle registration information and liability insurance information or other satisfactory means of identification.
- H. Such other relevant information as the Board of Trustees may reasonably require.

§ -4 License fee.

All applications must be accompanied by a nonrefundable processing fee of \$25 payable to the Administrator, Village of Flower Hill. Upon approval of the license, an annual fee of \$250 for commercial solicitations for each solicitation period, from the issuance of the license to its termination, shall be paid to the Village of Flower Hill. The annual application fee shall authorize one individual commercial hawker or peddler to operate within said Village. Applicants shall pay an additional sum of \$50 for each additional individual hawker or peddler intended to solicit within said Village.

§ -4.1 Expiration of license.

All licenses granted pursuant to this chapter shall expire one year from date of issuance following the granting thereof, unless sooner suspended or revoked. All such licenses may be suspended, for good cause, and are revocable, as provided for in this chapter.

§ -4.2 Approval of application.

- A. Upon receiving such application, the Village Administrator shall present the same to the Board of Trustees at its next regular meeting, but not later than 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:
 - (1) The applicant provided false information on the application.
 - (2) The individual listed or employed by 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.

- (3) The applicant is a person against whom a judgment or administrative agency determination has been entered or a conviction obtained within the five years immediately preceding the date of the application, which is based upon fraud, deceit or misrepresentation.
 - (4) The solicitation involves the sale of illegal substances or services.
 - (5) The applicant does not possess any applicable licenses required by the laws of the United States, the State of New York, the County of Nassau, the Town of North Hempstead, and/or the Village of Flower Hill for such solicitation.
 - (6) A determination by the Board of Trustees that the location and time of the activities described in the application would endanger the safety and welfare of the applicant or potential customers.
 - (7) No license shall be granted, and no license shall be effective, pursuant to this section, until the applicant has presented a surety bond with a surety company reasonably approved by the Village of Flower Hill, in the amount of \$1,000.
- B. Upon approval of the application by the Board of Trustees, the Village Administrator shall provide written notice to the applicant's address set forth within the application within seven days of the approval. If the Board of Trustees denies the application, the Village Administrator shall provide written notice of the denial to the applicant's address set forth within the application, which shall include the reason(s) for denial, within 14 days.

§ -4.3 **Restrictions.**

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

- A. All solicitation must be conducted on weekdays and Saturdays only between the hours of 10:00 a.m. and either 9:00 p.m. or 30 minutes after sunset, whichever is earlier.
- B. Any solicitor licensed under this chapter shall not have more than five individuals engaged in the solicitation at any one time.
- C. All solicitors shall obtain and maintain the current do-not-knock registry, established pursuant to this chapter, at the time of issuance of license and, thereafter, not less frequently than quarterly, for the duration of the license to conduct solicitation pursuant to the provisions of this chapter.
- D. Solicitation is expressly prohibited with respect to owners and occupants who have made an appropriate filing with the do-not-knock registry, as described in this chapter.

§ -4.4 **Do-not-knock registry.**

- A. Any owner or occupant of residential property located in the Village who wishes to prohibit solicitation on the premises, owned or occupied by such person, may complete a form available in the Village Administrator's office or on the Village's website, setting forth the common street address of such premises. Upon completion of the form, Village Hall includes the owner/occupant's premises on a list of properties that do not permit solicitation (herein referred to as the "do-not-knock registry" or "registry").
- B. In order to be removed from the registry, the owner and/or occupant must complete a form deleting the premises from the registry.
- C. The Board of Trustees shall, at its sole discretion, periodically provide all solicitors with an updated do-not-knock registry.
- D. Solicitors shall not conduct any solicitations at any premises identified on the then-current do-not-knock registry.
- E. It shall be the sole responsibility of the solicitor to abide by updated versions of the registry.

§ -4.5 Identification cards.

All solicitors shall, at all times during such solicitation, carry an identification card issued by the person licensed to conduct the solicitation. Each identification card shall be prominently displayed on the outer garment, and shall plainly show the name of the individual who is soliciting, his or her photograph, and the person on whose behalf such solicitation is being made.

§ -4.6 Suspension and revocation of license.

- A. Any and all licenses that may be granted by the Board of Trustees pursuant to any part of this chapter may, for good cause, be suspended by the Mayor, and the giving of written notice by the Village Administrator, for any of the following causes:
- (1) The licensee violates any provision of this chapter, including, but not limited to, § -7, the "Do not knock" registry.
 - (2) Fraud, misrepresentation or a false statement contained in the application for a license.
 - (3) Violation of any of the restrictions imposed on the issuance of such license or on the conduct of any solicitations so licensed.
 - (4) The licensee, or any individual working on behalf of or who worked on behalf of or with the licensee, is convicted of violating any federal, state or local law while in the course of operating under the license;
 - (5) The activities for which the license was granted were or are being conducted in a manner that is detrimental to the public health, safety, peace or welfare.
- B. Within 10 days after receipt of written notice of the suspension, the licensee may file a written objection to the suspension with the Village Administrator, setting forth fully the grounds for objection. The Board of Trustees will thereafter hold a hearing, within 30 days of receipt of a written objection or within 40 days of the suspension if no written objection is timely made by the licensee, for a hearing to review the determination by the Mayor and to decide whether to implement a full revocation of the license or to reinstate the license. The Village Administrator shall send notice of such hearing to the licensee's address set forth in the application at least three days prior to the date set for the hearing, which the licensee shall be permitted to attend. The Board of Trustees shall consider any objection to the proposed revocation, whether by written objection pursuant to this provision or made in person at said hearing.
- C. If the Board of Trustees decides to implement a revocation, then the Village Administrator shall provide written notice of the revocation to the licensee, which shall include the reason(s) for revocation, within three days of the hearing. If the Board of Trustees determines not to implement a revocation, and determines to reinstate the license, the Village Administrator shall provide written notice to the licensee within three days of the hearing. When a license has been revoked, no other license shall be issued under the provisions of this chapter to the same applicant within six months of the date of revocation.

§ -4.8 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 engaged in noncommercial solicitation. This chapter shall also 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 fire district, Boy Scouts, Girl Scouts, or other such youth organization, or to any political party or candidate.

§ -4.9 Penalties for offenses.

Any person, firm or corporation who or which shall violate any of the provisions of this chapter shall, upon conviction, be punishable as provided in Chapter 1, General Provisions, Article II, Penalties, and as otherwise provided herein. Each day of continuance of an offense shall be considered a separate offense.