

LOCAL LAW NO. 2 OF 2019
A LOCAL LAW REPEALING VILLAGE CODE CHAPTER 125,
PEDDLING AND SOLICITING, AND ENACTING CHAPTER 105,
HAWKING, PEDDLING AND SOLICITING

BE IT ENACTED BY THE BOARD OF TRUSTEES OF THE VILLAGE
OF HEAD-OF-THE-HARBOR AS FOLLOWS:

SECTION 1. PURPOSE.

The purpose of this local law consistent with recent litigation concerning solicitation local laws is to repeal the existing provisions of Village Code Chapter 125, Peddling and Soliciting, and replace same by enactment of Village Code Chapter 105, Hawking, Peddling and Soliciting.

SECTION 2. REPEAL OF VILLAGE CODE CHAPTER 125.

Village Code Chapter 125 is hereby repealed.

SECTION 3. ENACTMENT OF VILLAGE CODE CHAPTER 105, HAWKING, PEDDLING AND SOLICITING.

§ 105-1. 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 Head-of-the-Harbor without a license previously issued pursuant to this chapter.

§ 105-2. 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 Head-of-the-Harbor 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 Head-of-the-Harbor Village Code Enforcement Officer or Head-of-the-Harbor 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.

§ 105-3. License fee.

All applications must be accompanied by a \$50 process fee payable to the Village of Head-of-the-Harbor. Upon approval of the license, a fee of \$200 shall be paid to the Village of Head-of-the-Harbor, a fee calculated to address internal management of anticipated communications with homeowners by reason of the issuance of any license under this local law. Any challenge to said fee shall be by means of an Article 78 proceeding.

§ 105-4. Approval of application.

Upon receiving such application, the Clerk shall present the same to the Board of Trustees at its next regular monthly meeting, but not later than 31 business days from the date upon which a complete 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 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 or the County of Suffolk.

F. A determination by the Village Chief 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.

§ 105-5. 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. Any such fee shall be waived in whole or part going forward or refunded upon a renewal if applicant demonstrates that the fee exceeds any

Village expense associated with this license during the preceding year.

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 10 individuals engaged in the activity at any one time.

D. The license shall be effective for no more than one calendar year from the date of issuance, and all licenses shall terminate on December 31 in the year in which it was issued. Any fee for a license for less than 12 months shall be prorated.

E. The Board of Trustees shall not grant permission to an applicant with respect to those residents who have advised the Board of Trustees in writing that they do not desire solicitation as provided in § 105-6.

§ 105-6. 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. 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 or her private residential property for the purpose of solicitation; or that all such solicitation is objected to. The Village Clerk shall maintain an up to date index of all letters received under this subsection. In addition the Village Clerk shall

maintain an up to date index of all other communications relating to any license issued hereunder.

§ 105-7. 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.

§ 105-8. 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.

§ 105-9. 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.

§ 105-10. 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.

§ 105-11. Penalties for offenses.

Any person violating any provision of this chapter shall be subject to revocation of the license hereunder and shall be liable for a fine imposed by the Justice Court not exceeding \$350.00. The Village reserves the right to enforce this Chapter by injunctive relief obtained in the Supreme Court.

SECTION 4. SEVERABILITY.

Should any part or provision of this local law be decided by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the local law as a whole nor any part thereof other than the part so decided to be unconstitutional or invalid.

SECTION 5. EFFECTIVE DATE.

This Local Law shall take effect immediately upon filing with the Secretary of State as provided by law.