

PUBLIC NOTICE

NOTICE IS HEREBY GIVEN, that the Town Board of the Town of Smithtown, Suffolk County, State of New York will meet via Zoom Meeting on Thursday, March 25, 2021 at 2:00PM, time then in effect to consider a proposed amendment to Chapter 215 of the Town Code, entitled Peddling and Soliciting, regarding Food Trucks, Ice Cream Trucks and Coffee Trucks, as described below:

On the day of the meeting, to attend virtually (PC, Mac, smart phone, iPad, tablet) visit smithtownny.gov (Select Town Board Meetings) or copy and paste the following URL address to your browser:

<https://zoom.us/j/92073852728?pwd=VWtsaUUwb045WWIMRlhK2JGa2Z6QT09>

Article III. Food Trucks, Ice Cream Trucks, Coffee Trucks.

§215-32. Definitions.

COFFEE TRUCK

A licensed, motorized vehicle equipped with facilities for brewing coffee and selling refreshments, which is temporarily stored on a premises where coffee and refreshments are sold to the general public.

FOOD TRUCK

A licensed, motorized vehicle or mobile food unit equipped with facilities for cooking and selling food, which is temporarily stored on a premises where food items are sold to the general public, also known as Mobile Food Preparation Vehicle.

ICE CREAM TRUCK

A licensed, motorized vehicle which is used for the mobile sale of ice cream or similar refreshments as a primary product along the public streets.

§215-33. License requirements.

- A. It shall be unlawful for any person to operate a Food Truck, Coffee Truck, or Ice Cream Truck within the Town of Smithtown without first having obtained a valid license therefor, as provided hereunder.
- B. Every employer who hires a person to operate a Food Truck, Coffee Truck, or Ice Cream Truck on its behalf without first having obtained a valid license therefore shall be subject to the penalties hereunder.

§215-34. Application for license.

Licenses shall be good for a period of one (1) year. To procure a license required under §215-33, or any renewal thereof, a verified application shall be made to the Department of Public Safety setting forth the following information:

- A. The name and residence of the applicant. If the applicant is a corporation, partnership or other business entity, the applicant shall also provide the name and address thereof and the names and residence addresses for all principals, officers, directors, partners, and members.
- B. The residence and business addresses of the applicant during the past five years. If the applicant is a corporation, partnership or other business entity, the applicant shall also provide the business and residence addresses for all principals, officers, directors, partners, and members.
- C. The applicant's business(es) for the past five years. If the applicant is a corporation, partnership or other business entity, the applicant shall also provide the business(es) for all principals, officers, directors, partners, and members for the past five years.
- D. If employed by the owner of a licensed vehicle, the name and address of such employer, together with credentials establishing the exact relationship.
- E. If for a vehicle license, a description of the vehicle, together with the license number or other means of identification, including a copy of the vehicle registration and insurance card.
- F. The applicant shall provide a New York State sales tax number.
- G. The applicant shall provide individual photographs (three of each principal, each two inches by two inches).
- H. The applicant shall provide a record of prior conviction(s) of any crime for which the applicant plead or was found guilty. If the applicant is a corporation, partnership, or other business entity, it shall also provide a record of any prior conviction(s) of any crime for which it plead or was found guilty.
- I. The applicant shall furnish the Department of Public Safety with a full set of the applicant's fingerprints, together with a fee of \$140 annually, which shall include the cost for a complete criminal background and investigation through the Division of Criminal Justice Service.
- J. The applicant shall provide a list of any and all pending lawsuits to which it is a party and an explanation of each pending lawsuit, including any civil, criminal or administrative proceeding.

K. The applicant shall provide any other information or documentation required by the Town Clerk and/or Department of Public Safety for the purpose of implementing the intent of his chapter.

§215-35. Issuance of or refusal to issue license; appeals.

A. All applications and documentation shall be submitted to the Department of Public Safety for review. If the Department of Public Safety determines that a material misrepresentation is contained therein; or if the applicant shall have been convicted of a misdemeanor or felony which is determined to render the applicant unfit to carry on the aforesaid operation; provided, however, that proper consideration is given to New York State Correction Law §§701 through 703-b and §§751-753, it shall issue a report to the Town Clerk, who shall deny said application. The Town Clerk shall notify the applicant within 30 days after receipt of a completed application as to whether the application shall be approved or denied. If the application is denied and the applicant has been operating within the Town prior to the denial, then the applicant shall discontinue all operations within the Town of Smithtown within 15 days of such notification. An applicant who is denied a permit hereunder may request a review by the Town Board, which shall, upon such request, review the basis for such denial and shall determine whether such denial shall be affirmed or reversed.

B. The Town Clerk shall issue licenses pursuant to the requirements of this Article, except for any such license that is to be denied pursuant to §215-35A.

C. The Town Clerk shall keep a record of all licenses issued.

D. Licenses shall be affixed to the vehicle in a location that allows it to be clearly visible from the street.

§215-36. Additional requirements prior to issuance.

A. If the applicant's business involves the use of scales or measures, the Town Clerk shall not issue any license until such time as there has been filed with him a certificate by the Suffolk County Sealer of Weights and Measures that the applicant's scales or measures have been tested or sealed.

B. If the application is for a license to handle food in any form, the Town Clerk shall not issue the license until there has been submitted to him evidence that the applicant has complied with the provisions of the Suffolk County Public Health Ordinance.

C. If the application is for the operation of a Food Truck the applicant is also required to comply with all provisions of Chapter 164, Article XXXII of the Town Code.

§215-37. Fees.

A. For each person proposing to operate a food truck, coffee truck or ice cream truck: \$50.

B. For each commercial or suburban vehicle: \$125.

C. The annual fee herein provided for shall be assessed on a calendar-year basis, and all licenses shall expire on the 31st day of December immediately following the date of issuance. There shall be no reduction in fees for fractional parts of the year.

§215-38. Prohibitions.

A. Food Trucks:

(1) The operation of food trucks shall be prohibited between the hours of 10:00 p.m. and 5:00 a.m.

(2) Food trucks shall be located a minimum of 150 feet from the main entrance to any eating establishment or similar food service business, 150 feet from any outdoor dining area and 50 feet from any permitted food vending cart location, as measured from the designated location on the lot accommodating the food truck.

(3) Food trucks shall not operate on public rights-of-way or in locations designated as municipal parking, unless expressly permitted by the Town Board, and are limited to commercial zoned properties that allow retail uses or those owned by Veteran's organizations.

(4) Food trucks that are participating in a Special Event that has been approved by the Town Board are exempt from the restrictions contained in sections (2) and (3) above when the Town Board has expressly permitted otherwise.

(5) Operator must have permission of property owner to operate from the site and ground signs shall be prohibited.

(6) Food Trucks shall be parked on paved surfaces with adequate room for customers and their vehicles.

B. Ice Cream Trucks:

(1) The operation of ice cream trucks shall be prohibited between sunset and 9:00 a.m.

C. Coffee Trucks:

(1) The operation of coffee trucks shall be prohibited between 8:00 p.m. and 4:00 a.m.

§215-39. Revocation of License.

A. Licenses issued under the provisions of this Article may be revoked by the Town Board of the Town of Smithtown after notice and hearing for any of the following causes:

(1) Fraud, misrepresentation or false statement contained in the application for license.

(2) Fraud, misrepresentation or false statement in the course of carrying on business as a Food Truck or Ice Cream Truck vendor.

(3) Any violation of this Article.

(4) Conviction of a felony or a misdemeanor, which misdemeanor, in the judgment of the Town Board, renders the applicant unfit or undesirable.

(5) Conducting business 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.

B. Notice of the hearing for revocation of a license shall be given in writing, setting forth specifically the grounds of complaint and the time and place of hearing. Such notice shall be mailed, postage prepaid, to the licensee at his last known address at least five days prior to the date set for hearing.

§215-40. Penalties for offenses.

Any person, firm, association or corporation violating any of the provisions of any ordinances of the Town of Smithtown shall be guilty of an offense punishable by fine or imprisonment, or both; however, for the purpose of confirming jurisdiction upon courts and judicial officers, such violations shall be deemed to be misdemeanors, and for such purposes only all provisions of law relating to misdemeanors shall apply to such violations. Notwithstanding the foregoing, any person, firm, association or corporation violating any provisions of any ordinance of the Town of Smithtown shall be subject to a penalty in a minimum sum of \$750 for the first such violation, \$1,500 for the second such violation, and \$2,500 for any subsequent violation, said penalties to be recoverable in a civil action in the name of the Town of Smithtown as damages.

Dated: February 25, 2021

BY ORDER OF THE TOWN BOARD
OF THE TOWN OF SMITHTOWN
VINCENT PULEO
TOWN CLERK