

TOWN OF SMITHTOWN

OFFICE OF THE TOWN CLERK

99 WEST MAIN STREET, SMITHTOWN, NEW YORK 11787 (631) 360-7620

PEDDLER/SOLICITOR LICENSE

Please review the Town Code, Chapter 215 – Peddling and Soliciting, prior to submission of the application to ensure you comply with the Town Code.

INSTRUCTIONS: failure to return this application, properly completed, will result in the return of this application and the ceasing of all consideration for said license. Read the application carefully and fill in all required information. Every questions must be answered. An omission in any section may be considered cause for rejection.

It is in your interest to fully complete the application without omissions or evasions. Should investigation disclose important discrepancies, this application may be denied. If a license has been issued and discrepancies are found later, then said license may be revoked.

All licenses expire on the 31st of December of the year of issue, and must be renewed by submitting a completed application and required fees.

TOWN OF SMITHTOWN

REQUIREMENTS FOR PEDDLER/SOLICITOR LICENSE

APPLICATION REQUIREMENTS:

1. COMPLETED APPLICATION FORM
2. INDIVIDUAL PHOTOGRAPHS THREE (3) 2 x 2
3. COPY OF NEW YORK STATE SALES TAX NUMBER
4. LIST OF ITEMS BEING SOLICITED / PEDDLED
5. PHOTOCOPY OF DRIVERS LICENSE (VEHICLE OPERATORS)
6. ALIEN REGISTRATION CARD IF LEGAL ALIEN
7. FOR VEHICLE LICENSE, A DESCRIPTION OF VEHICLE AND COPY OF VEHICLE REGISTRATION AND INSURANCE CARD

FEES:

LICENSE	\$25.00
VEHICLE	\$25.00

ALL CHECKS MUST BE MADE OUT TO THE TOWN OF SMITHTOWN

All licenses expire on the 31st day of December in the year of issue, and
Must be renewed by submitting a complete application and required fees.

PLEASE NOTE:

AS PER TOWN ORDINANCE

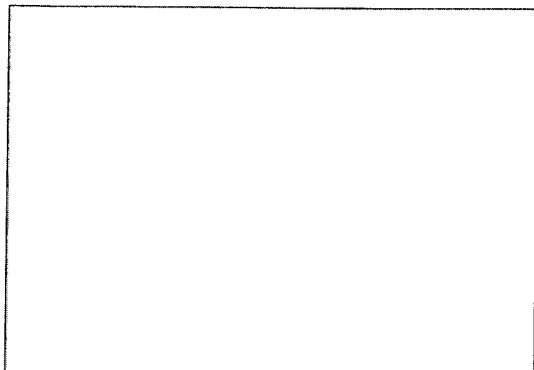
CHAPTER 215. PEDDLING AND SOLICITING
ARTICLE II. SOLICITORS AND CANVASSERS
§ 215-25 PROHIBITIONS:

- A. No solicitor and/or canvasser shall enter upon private or public property for the purpose of soliciting and/or canvassing before the hour of 8:00 a.m. or after sundown of any day, except upon the express invitation of the householder or occupant.
- B. It shall be unlawful for any solicitor or canvasser, or any person on his behalf, to enter upon property whereon there is any sign stating "NO PEDDLERS," "NO SOLICITORS," "NO AGENTS," or any other such wording, indicating that peddling, soliciting, or canvassing is prohibited on the premises.

INITIALS:

**TOWN OF SMITHTOWN
OFFICE OF THE TOWN CLERK**

APPLICATION FOR (Check one) **PEDDLERS LICENSE** _____ **SOLICITOR LICENSE** _____



APPLICANT NAME: _____

APPLICANT ADDRESS: _____

ALL PREVIOUS ADDRESS(ES) WITHIN THE PAST FIVE (5) YEARS: _____

HOME PHONE: _____ CELL PHONE: _____

DATE OF BIRTH: _____ AGE: _____ RACE: _____

HEIGHT: _____ WEIGHT: _____ EYE COLOR: _____ HAIR COLOR: _____

DRIVERS LICENSE #: _____ STATE OF ISSUANCE: _____

HAVE YOU EVER PREVIOUSLY BEEN LICENSED IN ANY OCCUPATION? YES _____ NO _____

IF YES, STATE WHEN AND WHERE: _____

WAS LICENSE EVER REVOKED? YES _____ NO _____ IF YES, STATE WHEN, WHERE, AND WHY:

HAVE YOU EVER BEEN CONVICTED OF A CRIME? YES _____ NO _____ IF YES, STATE, WHERE,

WHAT OFFENSE, CIRCUMSTANCES, PUNISHMENT OR PENALTY: _____

HAVE YOU EVER BEEN CONVICTED OF ANY SMITHTOWN TOWN CODE VIOLATIONS?

YES ____ NO ____ IF YES, STATE WHERE, WHEN, WHAT OFFENSE, CIRCUMSTANCES,

PUNISHMENT OR PENALTY: _____

IF A VEHICLE WILL BE OPERATED IN CONNECTION WITH THIS LICENSE, PLEASE PROVIDE THE FOLLOWING INFORMATION:

OWNER NAME AND ADDRESS: _____

VEHICLE ID NUMBER (VIN): _____ PLATE NUMBER: _____

MAKE: _____ MODEL: _____ YEAR: _____ COLOR: _____

IF A CORPORATION/PARTNERSHIP, COMPLETE THE FOLLOWING FOR EACH AND EVERY OFFICER/AND OR DIRECTOR OF THE CORPORATION:

NAME/HOME ADDRESS/PHONE NUMBER: _____

NAME/HOME ADDRESS/PHONE NUMBER: _____

NAME/HOME ADDRESS/PHONE NUMBER: _____

LIST OF ITEMS BEING PEDDLED/SOLICITED: _____

STATEMENT OF ACCEPTANCE AND COMPLIANCE

This section to be completed by each and every corporate officer/partner, associate or individual

_____, being duly sworn, depose and say:

- a. I make this statement in support of an application for a _____ License
- b. I am authorized to submit this application on behalf of _____ (STATE NAME OF CORPORATION, PARTNERSHIP, UNINCORPORATED ASSOCIATION, ETC); and
- c. I have personally read and completed each question and parts of the application and swear that the response to said questions or parts, or any statements made therein are correct and true; and
- d. I have read all terms conditions, requirements and provisions of Chapter 215 of the Code of the Town of Smithtown; and
- e. I understand the terms, conditions, requirements and provisions of said chapter, and
- f. I agree to abide by all terms, conditions, requirements and provisions set forth in said chapter; and
- g. I understand and agree that any violation of any term condition, requirement or provision of said chapter shall result in an immediate suspension of all licenses issued under this chapter for myself and/or my corporation, partnership, association or other entity, and any license issued pursuant thereto until such time as a licensed revocation hearing is held and a determination is made thereupon.

Signature Date

STATE OF NEW YORK }
COUNTY OF SUFFOLK } ss:

On this _____ day of _____, 20 _____ before me personally came, _____, to me known to be the individual described in and who executed the foregoing instrument and acknowledge that he executed the same.

Notary Public

STATE OF NEW YORK }
COUNTY OF SUFFOLK } ss:

Authorized Company Representative

On this _____ day of _____, 20 _____ before me personally came, _____, to me known, who being by me duly sworn, did depose and say that he resides at _____

_____; that he is the _____ of _____, the corporation described and has authorized applicant to request a License on behalf of the above described corporation.

Signature Date

Notary Public

Town of Smithtown, NY
Friday, July 9, 2021

Chapter 215. Peddling and Soliciting

[HISTORY: Adopted by the Town Board of the Town of Smithtown as indicated in article histories.
Amendments noted where applicable.]

Article I. Peddlers

[Adopted 8-5-1980]

§ 215-1. Title.

This Article is to be known as the "Peddlers Ordinance."

§ 215-2. Definitions and word usage.

[Amended 10-6-2009]

- A. The following definitions shall govern the interpretation of this Article unless otherwise expressly defined herein:

PEDDLE

The act of traveling by foot, wagon, automotive vehicle or any other type of conveyance from place to place, from house to house or from street to street and offering or exposing for sale goods, wares, merchandise or provisions of any kind or description, or making sales and delivering articles to purchasers or otherwise offering, exposing or selling the same.

PEDDLER

Any natural person or any organization or entity that peddles, as herein defined, whether directly or indirectly, and whether in person or through another person or employee.

REGISTER

To supply to the Clerk of the Town of Smithtown the name and address of an organization or entity, together with the dates that said organization or entity will engage in peddling activities within the Town of Smithtown.

TOWN

Includes all areas within the Town of Smithtown, exclusive of areas wholly within any incorporated village.

- B. Words used in the singular shall include the plural and vice versa. The word "shall" is always mandatory.

§ 215-3. License requirements.

[Amended 10-6-2009]

- A. It shall be unlawful for any person under the age of 16 to peddle within the Town of Smithtown, unless accompanied by a parent or legal guardian.

- B. It shall be unlawful for any person to peddle within the Town of Smithtown without first having obtained a valid license therefor, as provided hereunder.
- C. Every employer who hires a person to peddle on its behalf without first having obtained a valid license therefor shall be subject to the penalties hereunder.

§ 215-4. Application for license; fee.

[Amended 9-21-1982; 7-24-1990; 5-21-1992; 4-5-1994; 7-22-2003; 10-6-2009]

To procure a license required under § 215-3, 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 address 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 vehicle registration and insurance card.
- F. The applicant shall provide a New York State sales tax number.
- G. Individual photographs (three of each principal, each two inches by two inches).
- H. (Reserved)^[1]
 - [1] *Editor's Note: Former Subsection H, regarding fingerprinting for applicants, as amended, was repealed 9-4-2018.*
- I. If the applicant is a corporation, partnership or other business entity, the applicant shall furnish the name, address, and date of birth of each and every principal, officer, director, partner, and member, as well as the percent of ownership interest of each such person, and an affidavit from each such person describing his or her duties and responsibilities.
- J. The applicant shall provide a record of a prior conviction or convictions 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 a prior conviction or convictions of any crime for which it plead or was found guilty.
- K. 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.
- L. 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 this chapter.

§ 215-5. Issuance of or refusal to issue license; appeals.

[Amended 10-6-2009]

- A. All applications and documentation shall be submitted to the Department of Public Safety. Upon receipt of any such application and documentation, the Department of Public Safety shall review same and shall verify the truth and accuracy of said application and documentation. The Department of Public Safety, in order to establish the truth and accuracy of the information contained in the application, may request any information pertinent to the processing of said application and may, as necessary, request any additional information during the application process and for the entire term of said permit. If the Department of Public Safety cannot confirm the truth or accuracy of said material contained in the application; or if it 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 through 753 in making any such determination; or if it determines the applicant to be unfit or incapable of properly conducting the aforesaid operation, 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 § 215-5A.
- C. The Town Clerk shall keep a record of all licenses issued.

§ 215-6. 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.

§ 215-7. Fees.

- A. For each person proposing to peddle, whether on foot or from a licensed vehicle: \$25.
[Amended 11-20-1984; 9-4-2018]
- B. For each commercial or suburban vehicle: \$25.
[Amended 11-20-1984; 9-4-2018]
- 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.

§ 215-8. License plates.

[Amended 9-4-2018]

For each vehicle licensed under this article, the Town Clerk shall issue a license card which shall bear the word "peddler," the number of the license and the calendar year for which such license is issued, in figures plainly discernible. Said license card shall be displayed in each vehicle in a conspicuous place and shall be kept clear and readable at all times.

§ 215-9. Display of license.

Every peddler licensed under this Article shall have his license in his immediate possession at all times when peddling and shall display the same upon demand of any person.

§ 215-10. Transferal of license.

No license or license plate issued under the provisions of this Article may be transferred from one person to another person or from one vehicle to another vehicle.

§ 215-11. Use of streets.

A. No peddler, including those otherwise exempt from this Article, may remain in a stationary location in the public streets, nor shall any peddler be permitted to operate in any congested area where his operation might impede or inconvenience the public. For the purpose of this Article, the judgment of any police officer, exercised in good faith, shall be deemed conclusive as to whether the area is congested or the public impeded or inconvenienced.

[Amended 10-6-1981]

B. No peddler, including those otherwise exempt from this Article, shall conduct business on the following roads within the Town of Smithtown or within the lines of the following highways or within a distance of 250 feet therefrom of any intersecting street:

(1) State Route 25.

(2) State Route 25-A.

(3) Terry Road between State Route 25 and Annette Avenue.

(4) Smithtown Boulevard.

(5) Veterans Memorial Highway.

(6) State Road 347, also known as Smithtown Bypass.

(7) Indian Head Road.

(8) Motor Parkway.

(9) Route 111.

[Added 10-6-1981]

§ 215-12. Prohibitions.

A. It shall be unlawful for any person to enter upon private or public property for the purpose of peddling before the hour of 8:00 a.m. of any day or after sundown of any day, except upon the invitation of the householder or occupant.

[Amended 9-4-2018]

B. No peddler shall peddle, vend or sell his goods or wares within 200 feet of any church or place of worship or any place occupied exclusively as a public or private school or for school purposes.

C. No peddler, nor any person in his behalf, shall shout, cry out or blow a horn upon any of the streets, alleys, parks or other public places of said Town or upon any private premises or any other place in said Town.

D. It shall be unlawful for any peddler, or any person on his behalf, to enter upon property whereon there is any sign stating "No Peddlers," "No Solicitors," "No Agents," or any other such wording, indicating that peddling, soliciting or canvassing is prohibited on the premises.

[Added 9-4-2018]

§ 215-13. Exemptions.

[Amended 10-6-2009]

The following organizations and individuals shall, upon supplying the requisite proof to the Clerk of the Town of Smithtown, be exempt from §§ **215-3B**, **215-3C** and **215-4** of this article:

- A. Charitable, religious, or other not-for-profit organizations. However, for the purposes of this article, said organizations must register with the Clerk of the Town of Smithtown and provide proof of organizational status before engaging in any peddling activities.
- B. Honorably discharged veterans of the armed forces of the United States who have obtained a veteran's license from the Suffolk County Clerk to hawk, peddle or vend pursuant to law.
- C. Persons maintaining a regular delivery route in the Town of Smithtown.
- D. Commercial salesmen or deliverymen calling exclusively upon retail or wholesale establishments or other business firms within the Town of Smithtown.

§ 215-14. Enforcement.

It shall be the duty of any police officer of the Suffolk County Police Department and/or the Ordinance Inspector of the Town of Smithtown to require any person who is engaged in peddling to produce his peddler's license and to enforce the provisions of this Article against any person found to be violating the same.

§ 215-15. Report of violations; suspension of permit.

- A. The Suffolk County Police Department and/or the Ordinance Inspector of the Town of Smithtown shall report to the Town Clerk all convictions for violations of this Article, and the Town Clerk shall record the reports of such violations.
- B. Whenever it shall be shown, or whenever the Town Board of the Town of Smithtown or the Suffolk County Police have knowledge, that any person to whom a permit has been issued under this Article has violated any of the provisions of this Article or that any promoter, agent or solicitor of a permittee has misrepresented the purpose of the solicitation, the Town Board or the Suffolk County Police shall immediately suspend the permit and give the permittee written notice, by certified mail, of a hearing to be held within five days of such suspension to determine whether or not the permit should or should not be revoked.

§ 215-16. 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 made in the course of carrying on his business as peddler.
 - (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 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.

- 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.

§ 215-17. Penalties for offenses.

[Amended 8-24-1982]

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.

Article II. Solicitors and Canvassers

[Adopted 8-5-1980]

§ 215-18. License requirements.

[Amended 10-6-2009]

- A. It shall be unlawful for any person under the age of 16 to solicit within the Town of Smithtown, unless accompanied by a parent or legal guardian.
- B. It shall be unlawful for any person to solicit within the Town of Smithtown without having first obtained a valid license therefor, as provided hereunder.
- C. Every employer who hires a person to solicit on its behalf without having first obtained a valid license therefor shall be subject to the penalties hereunder.

§ 215-19. Definitions.

[Amended 10-6-2009]

SOLICIT or CANVASS — To go from place to place, from house to house, from street to street, or from store to store to sell or take orders for goods, wares, merchandise or provisions for future delivery or for services to be performed or for information to be obtained, or to distribute advertising matter, or for the purpose of obtaining contributions of money or of goods, wares or provisions at any place within the Town of Smithtown.

SOLICITOR OR CANVASSER

Any natural person or any organization or entity that solicits or canvasses, as herein defined, whether directly or indirectly, and whether in person or through another person or employee.

§ 215-20. Application for license; fees.

[Amended 9-21-1982; 7-24-1990; 5-21-1992; 4-5-1994; 7-22-2003; 10-6-2009]

To procure a license required under § 215-18, 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 address 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.
- F. The applicant shall provide a New York State sales tax number.
- G. Individual photographs (three of each principal, each two inches by two inches).
- H. (Reserved)^[1]
 - [1] *Editor's Note: Former Subsection H, regarding fingerprinting for applicants, as amended, was repealed 9-4-2018.*
- I. If the applicant is a corporation, partnership or other business entity, the applicant shall furnish the name, address, and date of birth of each and every principal, officer, director, partner, and member, as well as the percent of ownership interest of each such person, and an affidavit from each such person describing his or her duties and responsibilities.
- J. The applicant shall provide a record of a prior conviction or convictions 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 a prior conviction or convictions of any crime for which it plead or was found guilty.
- K. 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.
- L. 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 this chapter.

§ 215-21. Issuance of or refusal to issue license; appeals.

[Amended 10-6-2009]

- 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 through 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.

[Amended 9-4-2018]

- B. The Town Clerk shall issue license pursuant to the requirements of this article, except for any such license that is to be denied pursuant to § 215-21A.
- C. The Town Clerk shall keep a record of all licenses issued.

§ 215-22. Fees.

- A. The license fee which shall be charged by the Town Clerk for such license shall be \$25 per year for each person, provided that any authorized agent or representative of an employer licensed hereunder shall be issued a license under this Article for no additional fee if such agent or representative produces a statement from his licensed employer to the effect that said person is in fact an authorized agent or representative of the licensed employer and is a reliable and reputable person. Such certification shall be in a manner satisfactory in form to the Town Clerk. All other individual solicitors and/or canvassers shall pay said fee of \$25.
- B. The annual fees herein provided shall be assessed on a calendar-year basis, and all licenses shall expire on December 31 immediately following the date of issuance. There shall be no reduction in fees for fractional parts of the year.

§ 215-23. (Reserved)

[1] *Editor's Note: Former § 215-23, Surety bond, was repealed 9-4-2018.*

§ 215-24. Cards.

The Town Clerk shall issue to each licensee at the time of delivery of his license a card which shall contain the words "licensed solicitor" and/or "licensed canvasser," the period for which the license is issued and the number of the license, in letters and figures easily discernible from a distance of 10 feet.

§ 215-25. Prohibitions.

[Amended 9-4-2018]

- A. No solicitor and/or canvasser shall enter upon private or public property for the purpose of soliciting and/or canvassing before the hour of 8:00 a.m. or after sundown of any day, except upon the express invitation of the householder or occupant.
- B. It shall be unlawful for any solicitor or canvasser, or any person on his behalf, to enter upon property whereon there is any sign stating "No Peddlers," "No Solicitors," "No Agents," or any other such wording, indicating that peddling, soliciting or canvassing is prohibited on the premises.

§ 215-26. Display of license.

Solicitors and canvassers are required to carry with them while soliciting and/or canvassing and to exhibit their licenses at the request of any person.

§ 215-27. Enforcement.

It shall be the duty of any police officer of the Suffolk County Police Department and/or the Ordinance Inspector of the Town of Smithtown to require any person who is engaged in soliciting and/or canvassing to produce his solicitor's or canvasser's license and to enforce the provisions of this Article against any person found to be violating the same.

§ 215-28. Reports of violations; records.

The Chief of Police shall report to the Town Clerk all convictions for violation of this Article, and the Town Clerk shall maintain a record for each license issued and record the reports of violations therein.

§ 215-29. Revocation of license.

- A. Permits and 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 the license.
 - (2) Fraud, misrepresentation or false statement made in the course of carrying on his business as solicitor or as canvasser.
 - (3) Any violation of this Article.
 - (4) Conviction of any crime or misdemeanor involving moral turpitude.
 - (5) Conducting the business of soliciting or of canvassing in an unlawful manner or in such a manner as 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.

§ 215-30. Exemptions.

[Amended 10-6-2009]

The following organizations and individuals shall, upon supplying the requisite proof to the Clerk of the Town of Smithtown, be exempt from §§ **215-18B**, **215-18C** and **215-20** of this article:

- A. Charitable, religious, or other not-for-profit organizations. However, for the purposes of this article, said organizations must register with the Clerk of the Town of Smithtown and provide proof of organizational status before engaging in any soliciting activities.
- B. Honorably discharged veterans of the Armed Forces of the United States who have obtained a veteran's license from the Suffolk County Clerk to hawk, peddle or vend pursuant to law.
- C. Persons maintaining a regular delivery route in the Town of Smithtown.
- D. Commercial salesmen or deliverymen calling exclusively upon retail or wholesale establishments or other business firms within the Town of Smithtown.

§ 215-31. 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 a 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 sum not exceeding \$100 for the first such violation and in a sum not exceeding \$250 for any subsequent violation; said penalties shall be recoverable in a civil action in the name of the Town of Smithtown as damages.

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

[Adopted 5-4-2021 by Res. No. 2021-421]

§ 215-32. Definitions.

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

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 therefor shall be subject to the penalties hereunder.
- C. Food trucks, ice cream trucks, and coffee trucks that are participating in a special event that has been approved by the Town Board are exempt from the license requirements contained in this article, provided they are operating only at the location of the Town Board-approved special event, and only during the date and time of said special event.

§ 215-34. Application for license.

Licenses shall be good for a period of one 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 this article.

§ 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 veterans' 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 Subsection **A(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.