

No. _____

Town of Batavia
Genesee County, New York

APPLICATION FOR PEDDLERS AND SOLICITORS LICENSE WITHIN THE
TOWN OF BATAVIA, NEW YORK

DATE _____

Instructions:

- (a) This application is to be filled in by typewriter or in ink and submitted in **duplicate** to the Batavia Town Clerk.

APPLICATION IS HEREBY MADE to the Batavia Town Clerk for the issuance of a license to act as a vender, hawker, peddler or solicitor within the Town of Batavia, New York. The applicant acknowledges receipt of a copy of Local Law No. 1 of 2018 of the Town of Batavia which Local Law regulates and licenses peddlers and solicitors within the Town of Batavia and agrees to abide by the terms thereof together with the terms of all other applicable laws, ordinances and regulations of the Town of Batavia.

- 1. Name of applicant or employee of applicant _____
- 2. Permanent home address _____
- 3. Name and Address of Employer _____
- 4. Local Address _____ (if different from address in item #2 above)
- 5. Name and address of firm represented: _____

A. If Partnership:

- 1) Name and Address of Principal Office of Partnership: _____
- 2) Name and Address of Local Office Partnership: _____
- 3) Name and Address of Each Partner: _____

B. If Corporation:

1) Name and Address of Principal Office of Corporation:

2) Name and Address of Local Office Corporation:

3) Name and Address of Person Upon Whom Legal Notice may be Served:

4) Name and Address of:

President: _____

Vice-President: _____

Secretary: _____

Treasurer: _____

6. Length of time for which license is requested (licenses shall be issued for a specific period of time but not longer than for one (1) year)

Beginning date _____ Ending Date _____

7. Social Security number of applicant _____

Date of birth of applicant _____ Physical description of applicant: sex ____
approximate height _____ approximate weight _____ age ____
race _____; hair color _____ other identifying features _____

8. Description of **vehicle(s) and license number(s)** to be used by applicant in conducting business for which license is desired:

9. State the kinds of goods, wares and/or merchandise desired to be sold or the kind of services to be performed by applicant _____

10. Method of distribution (if applicable) (e.g. by mail, house to house, etc) _____

11. Manner of Payment for Merchandise and/or Services:

a. Approximate cost of article(s) or services(s): _____

b. Partial Payment? YES: _____ NO: _____

If yes, describe further: _____

12. Has a similar license ever been revoked here or elsewhere in the current or prior calendar year? YES: _____ NO: _____

If yes, state the following:

Date: _____

Place of Revocation: _____

Reason for Revocation: _____

13. Have you ever been convicted of any felony or misdemeanor? YES _____ NO _____

If yes, state the following:

Date: _____

Place of Conviction: _____

Nature of Offense: _____

Penalty assessed therefore: _____

Do you have any criminal matter pending? YES _____ NO _____

If so, please explain: _____

14. Produce credentials from person, firm or corporation for which you propose to do business, authorizing you to act as such representative.
15. Produce specimen of your signature.
16. Produce two full-face, white background photos of applicant.
17. Produce two business references located in Genesee County, State of New York or, in lieu thereof, such other evidence of the character and business responsibility of the applicant.
18. License fee is \$200.00
19. A separate license is required for each person or entity owing or sponsoring the Hawking, Peddling or Soliciting activity or for each person engaging in the activity in the Town and each person operating a vehicle in support of such activity.
20. A license issued hereunder expires on December 31 following the date of issuance of permit. It is revocable and is non-assignable.
21. Provide Law Enforcement background check from the County in which the applicant resides and Law Enforcement background check from Genesee County.
22. Provide a certificate from the Genesee County Sealer of Weights and Measures certifying that all weighing and measuring devices to be used are examined and approved.

Date: _____

Signature of Applicant

STATE OF NEW YORK) ss:
COUNTY OF _____

_____, being duly sworn, deposes and says that he is the (applicant) (employee of applicant) named therein. That he has read the foregoing application and the information contained therein is true to the best of his knowledge.

Signature of Applicant

Sworn to before me this _____
day of _____, 20

Notary Public

(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 of Batavia, Genesee County, New York
Town
Village

Local Law No. 1 of the year 2018.

A local law known as A Local Law Regulating and Licensing Peddlers and Solicitors within the Town of Batavia
(Insert Title)

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

County
City of Batavia, Genesee County, New York as follows:
Town
Village

ARTICLE I: **ENACTMENT, AUTHORIZATION, PURPOSE, AND TEXT OF LAW**

Section 1. Title.

The title of this chapter shall be "A Local Law Regulating and Licensing Peddlers and Solicitors within the Town of Batavia."

Section 2. Purpose and Intent.

The Town Board finds that high pressured, and misleading, fraudulent, and threatening activities have been associated with hawking, peddling and soliciting activities in the Town of Batavia, and that it is the purpose and intent of this law to protect the health, safety and general welfare of the residents of the Town by regulating itinerant merchants.

Section 3. Definitions.

Terms used in this chapter shall have the following meanings:

PERSON

Any individual, firm, partnership, corporation, unincorporated association and any principal, agent or employee thereof and all other entities of any kind.

ESTABLISHED PLACE OF BUSINESS

A building or store in which the person transacts business and deals in the goods, wares and merchandise he hawks, peddles or solicits for during regular business hours.

SOLICITOR

Any person who goes from place to place, or house to house, or who stands in any roadway or public place taking or offering to take orders for goods, wares or merchandise, or for services to be performed in the future, or for making, manufacturing or repairing any article or thing whatsoever for future delivery.

VENDOR, HAWKER OR PEDDLER

Any person, either principal or agent, who, from any vehicle or any public road or public place, or by going from house to house or place of business to place of business, on foot or from any animal or vehicle, sells or barter, offers for sale or barter, or carries or exposes for sale or barter any goods, wares or merchandise, including magazines and other publications, except as hereinafter exempted.

Section 4. License required.

It shall be unlawful for any person, unless exempt from the provisions of this chapter, within the limits of the Town of Batavia, to act as a vendor, hawker, peddler or solicitor without first having obtained and paid for, and having in force and effect, a license therefor.

Section 5. Exemptions.

A. This chapter shall not be held to apply to any sales conducted pursuant to statute or by order of any court; to any person selling personal property at wholesale to dealers in such articles; to farmers and truck gardeners who themselves or through their employers vend, sell or dispose of products of their own farms and gardens; to dealers in milk, baked goods, heating oil and daily newspapers; to persons having an established place of business within the County of Genesee or their employees soliciting orders from customers and delivering the same; to any honorably discharged member of the armed forces who has procured a license issued by the Genesee County Clerk as provided by the General Business Law of the State of New York; or to persons soliciting or collecting for any bona fide charitable organization, service, school or youth groups. This chapter shall also not apply so as to unlawfully interfere with interstate commerce. Nonprofit organizations and persons working for said organizations shall also be exempt.

Section 6. Application for license.

Any person desiring to procure a license under this chapter shall submit to the Town Clerk a written application in duplicate, to be supplied by the Town Clerk, stating, under oath, the following information:

- A. Name of applicant;
- B. Permanent home address;
- C. Name and address of firm represented or sponsoring entity, if any;
- D. Length of time for which the license is requested;
- E. Social Security number;
- F. Date of birth;
- G. Physical description of the applicant;

- H. The license number and kind of vehicle to be used by the applicant in carrying on the business for which the license is desired;
- I. The kind of goods, wares and merchandise desired to be sold or the kind of service to be performed;
- J. The method of distribution, if applicable;
- K. For the firm represented, if any, names and addresses of all partners, if a partnership, and the names and addresses of the principal officers, if a corporation, and the name and address of a natural person upon whom a legal notice of process may be served within the State of New York;
- L. All felonies or misdemeanors of which the applicant has been convicted together with the disposition date and court having jurisdiction thereof;
- M. Two photographs of the applicant, full face on a white background, two inches by two inches in size, taken within 30 days prior to the date of filing of the application;
- N. Law enforcement background check from the County in which the applicant resides, as well a law enforcement background check from Genesee County. Background checks shall have been completed within the 30 days prior to the day of filing of the application.
- O. A certificate from the Genesee County Sealer of Weights and Measures certifying that all weighing and measuring devices to be used by the applicant, if any, have been examined and approved.

Section 7. Employees/Agents of Principals.

A separate license shall be required for:

- A. Each person, firm or entity represented or sponsoring the Hawking, Peddling or Soliciting activity
- B. Each person engaging in the activity in the Town and each person operating a vehicle in support of such activity.

Section 8. Solicitor's bond.

An applicant for a license as a solicitor who demands, accepts or receives payment or deposit of money in advance of final delivery shall file with the Batavia Town Clerk a cash deposit or a bond executed by a surety company or insurance company licensed to do business within the State of New York in the sum of \$1,000, conditioned upon making a final delivery of the goods, wares or merchandise ordered or services to be performed in accordance with the terms of any order obtained or, failing therein, that the advance payment on such order be refunded. Any person aggrieved by the action of any licensed solicitor shall have the right by action on the bond for the recovery of money or damages, or both. The bond shall remain in full force and effect, and, in case of cash deposit, such deposit shall be retained by the Batavia Town Clerk for a period of three months after the expiration of any such license, unless sooner released by the Batavia Town Board for good cause shown.

Section 9. Issuance of license; conditions.

A. The Town Clerk, with assistance from such law enforcement agencies as she shall deem necessary, shall investigate all applications and shall thereafter, with due dispatch, issue or deny such license to the applicant. All licenses shall become effective from the date thereof and shall continue in force for the term specified therein but shall not be transferable. No license shall be issued for a longer term than one year from the date thereof.

B. If, after investigation of any application, the Town Clerk shall deny the same, she shall endorse on such application such disapproval and the reason for the same, and the Town Clerk shall forthwith notify the applicant in writing of such denial and of his right to appeal as hereinafter set forth. A license may be refused by the Town Clerk if the applicant shall have been convicted of a misdemeanor or felony which in the judgment of the Town Clerk renders the applicant unfit or undesirable to carry on the purpose for which the license is requested. In addition, the Town Clerk may also refuse a license to any person who in her judgment shall be an undesirable person or incapable of properly conducting the trade or business for which the license has been requested.

C. Any licensee aggrieved by any action or determination of the Town Clerk hereunder may appeal to the Batavia Town Board for the issuance of a license within 14 days after notice of the action or determination complained of has been mailed to his last known address by filing a written statement setting forth fully the grounds for appeal. The Town Board shall set a time and place for a hearing on such appeal, and notice of such hearing shall be mailed to the applicant's last known address at least five days prior to the date set for the hearing. The decision and order of the Town Board on such appeal shall be final and conclusive.

D. After a public hearing thereon at which the licensee shall have an opportunity to be heard, the Town Board may revoke any license issued under authority of this chapter to any applicant whom the Town Board shall determine to be an undesirable person or incapable of properly conducting the trade or business previously licensed.

E. A license shall not be assignable.

F. The holder of a license shall not permit it to be used by any other person.

G. Whenever a license is lost or destroyed on the part of the holder or his agent or employee, a duplicate in lieu thereof, under the original application and bond, may be issued by the Town Clerk upon the filing with her by the licensee of an affidavit, under oath, setting forth the circumstances of the loss and what, if any, search has been made for its recovery.

H. All licenses shall be issued from a properly bound book with proper reference stubs for that purpose, numbered in that order in which they are issued, and shall state clearly the kind of vehicle to be used, the kind of goods, wares and merchandise to be sold or service to be rendered, the number of each license, the date of issuance and expiration of the license, fee paid and the name and address of the licensee.

I. Such license shall include the right to use only one vehicle in carrying on the business for which the person is licensed, unless such license shall otherwise provide.

J. No license shall be granted to a person under 18 years of age.

K. Every licensee, while exercising his license, shall carry the license with him and shall exhibit the same upon demand.

Section 10. License fees.

The license fee to hawkers, peddlers, or solicitors shall be \$200 per year, or such other fee as shall be established by the Town Board by resolution from time to time.

Section 11. Restrictions.

A licensed hawker, peddler or solicitor shall not:

- A. Enter upon private property for the purpose of peddling or soliciting before the hour of 9:00 a.m. Monday through Saturday, nor after the earlier of (1) 1/2 hour before sunset Monday through Saturday, or (2) the hour of 7:00 p.m. Monday through Saturday. No solicitation shall be permitted on Sundays or holidays.
- B. Ring the bell or knock upon or enter any building whereon there is painted or otherwise affixed or displayed to public view any sign containing any or all of the following words: "No Peddlers," "No Solicitors," "No Agents," or other wording, the purpose of which purports to prohibit peddling or soliciting on the premises. No peddler or solicitor shall peddle, vend or sell his or her goods or wares within 200 feet of any place occupied exclusively as a public or private school or for school purposes, nor shall he or she permit his or her car, wagon or vehicle to stand on any public highway within said distance of such school property.
- C. Falsely or fraudulently misrepresent the quantity, character or quality of any article offered for sale. No person shall, by any trick or device, or by any false representation, obtain or attempt to obtain admission to the house, garage or barn of any person, firm or corporation in the Town of Batavia.
- D. Blow a horn, ring a bell or use any other noisy device to attract attention to his wares, or shout or cry out his wares.
- E. Stand or permit the vehicle used by him to stand in one place in any public place or street for more than 10 minutes, or in front of any premises for any time if the owner or any lessee of the premises objects.
- F. Permit any vehicle used by him to stop or remain on any crosswalk
- G. Create or maintain any booth or stand or place any barrels, boxes, crates or other obstructions upon any street or public place for the purpose of selling or exposing for sale any goods, wares or merchandise.

Section 12. Orders where money is paid in advance.

All orders taken by licensed solicitors who demand, accept or receive payment or deposit of money in advance of final delivery shall be in writing made in duplicate, stating the terms thereof and the

amount paid in advance, and one copy shall be given to the purchaser at the time the deposit is paid to the solicitor.

Section 13. Penalties for offenses.

Any person, firm or entity who, individually or by his clerk, agent, servant or employee, shall act as a peddler, hawker or solicitor, as herein defined, without a license, or who shall violate any of the provisions of this chapter, or who shall continue to act as a peddler, hawker or solicitor subsequent to the revocation of his license, shall be deemed to have committed a violation pursuant to the Penal Law of the State of New York and, upon conviction, shall be punished by a fine not exceeding \$250 or by imprisonment for a period of not more than 15 days, or both. Each day on which such violation shall continue shall constitute a separate offense. This chapter may also be enforced by injunction.

Section 14. Signs.

Appropriate signs, as the Town Board of the Town of Batavia shall deem necessary, shall be erected by the Highway Department of the Town of Batavia, at such places as the Town Board directs, within the Town of Batavia, advising of the existence of this chapter.

ARTICLE II: **REPEAL OF INCONSISTENT REGULATIONS, EFFECTIVE DATE, AND SEVERABILITY**

Section 1: Repeal of Chapter 173 of the Code

Existing Chapter 173 of the Code of the Town of Batavia, entitled Peddling and Soliciting, is hereby repealed in its entirety.

Section 2: Effective Date

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

Section 3: Severability

The invalidity or unenforceability of any section, subsection, paragraph, sentence, clause, provision, or phrase of the aforementioned sections, as declared by the valid judgment of any court of competent jurisdiction to be unconstitutional, shall not affect the validity or enforceability of any other section, subsection, paragraph, sentence, clause, provision, or phrase, which shall remain in full force and effect.

(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 2018, of the (~~County~~) (City) (Town) (~~Village~~) of Batavia, New York was duly passed by the Town Board on _____, 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) _____ was duly passed by the _____ on _____ 20____, and was (approved) (not disapproved) (repassed after disapproval) by the _____ and was deemed duly adopted on _____ 2006, 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 disapproved) (repassed after disapproval) by the _____ on _____ 20__. 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 disapproved) (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 means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairman 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 at 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 of 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.

(SEAL)

Teresa M. Morasco
Town Clerk, Town of Batavia

Date: _____, 2018

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 GENESEE

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.

Andrew W. Meier
Town Attorney
County
City of Batavia
Town
Village

Date: _____