

Local Law No. 4 of the year 2020

Village of the Branch, County of Suffolk

**A local law adding new Sections 234-29 of the Code of the Village of the Branch to amend and clarify the requirements for permits and approvals to hawk, peddle, vend or solicit within the Village.**

**Be it enacted by the Board of Trustees of the Village of the Branch as follows:**

**§ 1. Permit required.**

Except as may otherwise be provided herein, no person or entity may hawk, vend, peddle or solicit orders for any services, goods, wares, merchandise or other commodities in the highways and public places of the Village, or by going from house to house, or distribute or peddle any handbills, pamphlets, advertisements or other like matter on the highways of the Village or by going from house to house, unless a permit therefor has first been obtained pursuant to this Article.

**§ 2. Application for permit.**

Application for a permit as provided in this Article must be in writing on a form prescribed by the Village and delivered to the Village Clerk and must contain the following information:

- A. Name and address of individual or names and address of the officers and directors of the entity;
- B. A brief description of the nature of the business and the goods to be sold or services to be performed;
- C. Time for which permission is sought to solicit, giving the date of the commencement and the date of termination of the solicitation;
- D. Legal status of the entity;
- E. The name, address and copy of government-issued identification for the person or persons who will be conducting the solicitation or otherwise peddling, soliciting or canvassing;
- F. If a vehicle is 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 (this information will be presented for inspection, upon demand, by any Village Official);
- G. The names of any other municipalities in Suffolk County in which the person registering has solicited or otherwise peddled, solicited or canvassed within the previous 12 months; and

H. Such other information as the Village Board of Trustees may require.

### **§ 3. Permit fee.**

All applications must be accompanied by a \$25 fee payable to the Village. Upon approval of the permit, a fee of \$200 must be paid to the Village.

### **§ 4. Approval of application.**

Upon receiving such application, the Village Clerk will present the same to the Board of Trustees at its next regular meeting, but not later than 60 calendar days from the date the application is filed. The Board of Trustees will approve the application of all bona fide applicants who have complied with the above provisions. Notwithstanding the foregoing, 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, or officer or director of the applicant, or the person conducting the soliciting, 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, or officer or director of the applicant, or the person conducting the soliciting, 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, permits or other approvals required by the United States, the State of New York, the County of Suffolk or the Town of Smithtown.

### **§ 5. Restrictions and conditions.**

Any permit granted by the Board of Trustees is subject to the following restrictions and conditions:

- A. Payment by the applicant to the Village of the license fee of \$200;
- B. All activity must be conducted on weekdays and Saturdays only between the hours of 9:00 a.m. and dusk (30 minutes after sunset);
- C. Any entity or person licensed under this Article will not have more than five individuals engaged in the activity on their behalf at any one time; and

- D. The permit will be effective for no more than six months from the date of issuance. There will be no proration of fees.

#### **§ 6. Notice by those not desiring solicitation.**

- A. Any person not desiring hawking, peddling, vending, or solicitation or distributing or peddling of any handbills, pamphlets, advertisements or other like matter (collectively, “Soliciting”) on the person's private property may advise the Board of Trustees by written notice objecting to any or all solicitation or distributions. Such notice shall include: the name of the person filing; the address of the property affected; the date of the 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 Soliciting or that all Soliciting is objected to.
- B. Soliciting will not be permitted on the properties of those persons who have advised the Board of Trustees in writing that they do not desire Soliciting.

#### **§ 7. Identification cards.**

All persons soliciting donations or contributions or proselytizing, on behalf of an entity pursuant to this Article must, at all times during such solicitation, carry an identification card issued by the entity licensed to conduct the solicitation. Each identification card shall be displayed on the outer garment and must plainly show the name of the person who is soliciting, his or her photograph and the entity on whose behalf such solicitation is being made.

#### **§ 8. Suspension and revocation of permit.**

Any and all permits which may be granted by the Board of Trustees pursuant to any part of this Article 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 permit.
- B. Violation of any of the restrictions or conditions imposed on the issuance of such permit.
- C. Misconduct by the person conducting the solicitation.

#### **§ 9. Exemptions.**

If any portion of this Article is prohibited by federal or State law, this Article will not apply to the activities protected thereby and will not apply to constitutionally protected religious or political or other constitutionally protected speech.

## **§ 10. Penalties for offenses.**

Any person or entity committing an offense against any provision of this Article will, upon conviction thereof, be guilty of a violation pursuant to the Penal Law of the State of New York, punishable by a fine not exceeding \$750 or by imprisonment for a term not exceeding 15 days, or by both such fine and imprisonment. The continuation of an offense against the provisions of this Article shall constitute, for each day the offense is continued, a separate and distinct offense hereunder.

## **§ 11. Severability.**

If a court determines that any clause, sentence, paragraph, subdivision, or part of this local law or the application thereof to any person, firm or corporation, or circumstance is invalid or unconstitutional, the court's order or judgment will not affect, impair, or invalidate the remainder of this local law, but will be confined in its operation to the clause, sentence, paragraph, subdivision, or part of this local law or in its application to the person, individual, firm or corporation or circumstance, directly involved in the controversy in which such judgment or order will be rendered.

## **§ 12. Effective date.**

This local law will take effect immediately upon filing with the Secretary of State.