

## LEGAL NOTICE OF PUBLIC HEARING

PLEASE TAKE NOTICE that the Town Board, Town of Poughkeepsie does hereby set **May 24, 2023 at 7:00pm** as the time, date and place of a public hearing to afford all interested parties an opportunity to be heard and seek public comment, in regard to the following:

A local law amending Chapter 151 entitled “Peddling and Soliciting” to the Town Code should be considered for adoption.

AND PLEASE ALSO TAKE FURTHER NOTICE that said proposed amendment is available in full with Exhibit to preview on our website @ <https://ny-poughkeepsietown.civicplus.com/300/Public-Hearings> or in person @ the Town Clerk’s Office, Monday – Friday, 8AM – 4PM.

Felicia Salvatore, Town Clerk  
Town of Poughkeepsie  
April 13, 2023

RESOLUTION 4:12 - # 9 of 2023

WHEREAS, the Town Board has received a recommendation from the Code Update Committee that a local law amending Chapter 151 entitled "Peddling and Soliciting" should be considered for adoption; and

WHEREAS, the proposed local law is annexed hereto as Exhibit A and incorporated herein as if recited verbatim, and the Town Board does direct that said local law be spread across the record as if it, in fact, had been read verbatim; and

WHEREAS, this action to amend the Town Code is a Type II Action under the New York State Environmental Quality Review Act (SEQRA), such that an Environmental Assessment Form (EAF) need not be prepared; and

WHEREAS, because the proposed action does not involve changes to Chapter 210, Zoning, of the Town Code, the Town Board has determined that the proposed code amendments do not require referral to the Dutchess County Department of Planning and Development or the Town Planning Board; and

WHEREAS, the amendments require a public hearing.

NOW, THEREFORE BE IT RESOLVED THAT:

1. The Town Board hereby determines that the proposed action is a Type II action pursuant to SEQRA, 6 NYCRR §617.5(c)(26) and (33), and no further environmental review is required; and
2. The Town Board hereby sets a public hearing on the proposed local law for May 24, 2023, at 7:00 PM, or as soon thereafter as the matter may come to be heard, in the Town Hall, One Overocker Road, Poughkeepsie, New York, and it directs the Town Clerk to post and publish notice of said public hearing.

Dated: April 12, 2023

Moved: Anne Burger

Seconded: William Carlos

Motion passes/ fails: Ayes 6 Nays 0

JEN/mem  
t-4/4/2023  
m-4/12/2023

		AYE	NAY	ABSTAIN
<u>PRESENT/ABSENT</u>	Councilman Renihan	<u>absent</u>	_____	_____
<u>PRESENT/ABSENT</u>	Councilman Carlos	<u>✓</u>	_____	_____
<u>PRESENT/ABSENT</u>	Councilwoman Burger	<u>✓</u>	_____	_____
<u>PRESENT/ABSENT</u>	Councilman Cifone	<u>✓</u>	_____	_____
<u>PRESENT/ABSENT</u>	Councilman Krakower	<u>✓</u>	_____	_____
<u>PRESENT/ABSENT</u>	Councilwoman Shershin	<u>✓</u>	_____	_____
<u>PRESENT/ABSENT</u>	Supervisor Baisley	<u>✓</u>	_____	_____

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## *Local Law Filing*

NEW YORK STATE DEPARTMENT OF STATE 162  
WASHINGTON AVENUE  
ALBANY, NY 12231

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(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.

**TOWN OF POUGHKEEPSIE  
LOCAL LAW NO. \_\_ (PROPOSED) OF THE YEAR 2023**

**A LOCAL LAW TO AMEND  
CHAPTER 151 ENTITLED "PEDDLING AND SOLICITING"**

**BE IT ENACTED** by the Town Board of the Town of Poughkeepsie as follows:

### **SECTION 1. LEGISLATIVE INTENT**

This local law amends Chapter 151 entitled "Peddling and Soliciting" for clarity and to ensure that the provisions of this chapters are consistent with Chapter 76 of the Town Code entitled "Community Events, Outdoors" and Chapter 114 entitled "Food Trucks."

The proposed amendments to the Town Code are designed to protect the health, safety, and welfare of the public. The amendments are consistent with the recommendations of the Town's 2021 *Comprehensive Plan* and with "Greenway Connections: Greenway Compact Program and Guides for Dutchess County Communities" pursuant to Chapter 18 of the Town Code.

### **SECTION 2. APPLICATION**

This Local Law shall apply within the Town of Poughkeepsie.

### **SECTION 3. SEVERABILITY**

The invalidity of any word, section, clause, paragraph, sentence, part, or provision of this Local Law shall not affect the validity of any other part of this Local Law, which can be given effect without such part or parts.

### **SECTION 4. AMENDMENTS TO CHAPTER 151 OF THE CODE ENTITLED "PEDDLING AND SOLICITING"**

***Chapter 151 of the Code entitled "Peddling and Soliciting" is hereby amended by deleting it in its entirety and replacing it with the following new Chapter 151 to read as follows:***

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## **Chapter 151 Peddling and Soliciting**

### **§ 151-1 Findings; intent.**

The purpose of this chapter is to protect the public health, safety, and general welfare by regulating peddling and soliciting in the Town of Poughkeepsie.

### **§ 151-2 Definitions.**

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

#### **ESTABLISHED PLACE OF BUSINESS**

A building in which a person lawfully transacts a business, trade or occupation.

#### **PEDDLER**

Any person who engages in the activity of “peddling.”

#### **PEDDLING**

Moving about the Town by foot or vehicle of any kind, from place to place, house to house, door to door, or upon any street or highway, for the purpose of selling and simultaneously delivering, or offering for sale and simultaneous delivery, at retail, any goods, wares, merchandise, or services of any kind whatever. This definition shall not include “food trucks,” which are regulated by Chapter 114 of the Town Code.

#### **PUBLIC GROUNDS**

Lands, other than the public right-of-way, used for public purposes, such as parks and recreation areas.

#### **PUBLIC RIGHT-OF-WAY**

Any publicly owned land adjacent to and abutting any public street, road or highway.

#### **SOLICITING**

Moving about the Town by foot or vehicle of any kind from place to place, house to house, door to door, or upon any street or highway, for the purpose of attempting to obtain orders for the sale and future delivery of any goods, wares, merchandise or services of any kind, or to take or solicit donations.

#### **SOLICITOR**

Any person who engages in the activity of “soliciting.”

#### **VEHICLE**

Any device in, upon, or by which any person or property is or may be transported or drawn upon a street or highway.

### **§ 151-3 License required.**

It shall be unlawful for any person, except as exempted in § 151-11 herein, to peddle or solicit within the Town of Poughkeepsie without first having obtained a license from the Town Clerk as provided in this chapter.

**§ 151-4 License application requirements.**

- A. An application for a license to peddle or solicit shall be made to the Town Clerk on a form provided by the Town, and shall be accompanied by a nonrefundable application fee in accordance with the Fee Schedule established by the Town Board. The application shall, at a minimum, include the following information:
- (1) Name, address, e-mail address, and telephone number of the applicant, and of the person, firm or corporation the applicant represents or is employed by, if any.
  - (2) A government-issued photo identification of the applicant.
  - (3) One full-face photograph of the applicant taken within 30 days of the application and measuring at least 1½ inches by 1½ inches.
  - (4) The applicant's place of residence for the past five years.
  - (5) The applicant's business or employer for the past five years.
  - (6) The particular business, trade or occupation for which the license is requested, including a brief description of the nature of the business, trade or occupation, and the kind of goods, wares, merchandise or services to be peddled or solicited.
  - (7) The manner or means of conveyance in which said business, trade or occupation shall be conducted (*i.e.*, by vehicle, on foot, etc.).
  - (8) If the applicant requires the use of weighing and/or measuring devices, a certificate, not more than six months old, issued by the Dutchess County Sealer of Weights and Measures certifying that all weighing and measuring devices to be used by the applicant have been inspected and approved.
  - (9) Whether the applicant has ever been convicted of a felony, misdemeanor or violation of any municipal ordinance, except traffic violations, and if so, the date, court, ordinance violated and sentence of the court.
  - (10) Whether the applicant has been previously licensed in any occupation, and if so, when, where and for what periods, and if such previous license was ever revoked, the date of revocation and the reason therefor.
  - (11) Proof that applicant holds a valid New York State sales tax identification number.
- B. If a license or permit shall be required by any other governmental agency in connection with the applicant's business, a copy of the same shall be provided.
- C. Any change in circumstances with regard to the information provided in the application or on the license shall be reported to the Town Clerk within 30 days.

**§ 151-5 Application procedure; issuance of license; replacement.**

- A. Upon receipt of a complete application, the Town Clerk shall refer a copy of the application to the Town of Poughkeepsie Police Department for such investigation of the applicant to be made as it deems necessary for the protection of the public good.
- B. If such investigation should prove the applicant to have been convicted of a misdemeanor or a felony, the Police Department shall attach to the application a copy of the applicant's conviction record and shall return the application to the Town Clerk.

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- C. If, as a result of such investigation of the applicant, no police record is found, the Police Department shall attach a statement to the application that it has no police record of the applicant and shall return the application to the Town Clerk.
- D. The Town Clerk may refuse to issue the license if, in the judgment of the Town Clerk, in consultation with the Police Department, either the conviction renders the applicant unfit or undesirable to carry on the business, trade or occupation involved, or the business is inappropriate for peddling purposes.
- E. If the application is approved by the Town Clerk and the applicant has paid the license fee pursuant to § 151-6 herein, the Town Clerk shall prepare and issue to the applicant a license. Such license shall contain the Seal of the Town of Poughkeepsie and the signature of the Town Clerk or authorized Deputy, and shall show the name, address and photograph of the licensee, the kind of goods, wares, merchandise or services to be peddled or solicited thereunder, the amount of fee paid, the license number, the date of issuance and the date of expiration of such license, as well as the license plate number, make, model and color of any vehicle to be used.
- F. Any applicant who has been denied a license by the Town Clerk under Subsection D above may apply to the Town Board for a review of such denial. In the event that the Town Board, after formal review thereof, approves the license, the application shall be returned to the Town Clerk, who shall issue the license in accordance with Subsection E above.
- G. The Town Clerk shall keep a record of all licenses issued, and a list of such licensed peddlers and solicitors shall be posted on the Town's website.
- H. If the license is lost or stolen, such shall be reported to the Town Clerk within 10 days. Upon such notification, the Town Clerk shall issue a replacement license at a cost to the licensee in an amount as provided in the Fee Schedule established by the Town Board.
- I. The applicant for a license, by virtue of applying for said license, does expressly authorize the Town to do a background check including but not limited to his or her driving and criminal record and other background material.

**§ 151-6 License fee; veteran's exemption.**

- A. There shall be a nonrefundable license fee in the amount as provided in the Fee Schedule established by the Town Board.
- B. Any honorably discharged veteran of the Armed Services of the United States who has obtained a Veteran's Peddler's License from the Dutchess County Clerk, under § 32 of the General Business Law, to peddle or solicit on the streets and highways within Dutchess County shall be exempt from the requirement to pay the fee in Subsection A above.

**§ 151-7 License expiration**

All licenses issued pursuant to this chapter shall be valid for one calendar year from the date of issuance, unless sooner terminated or revoked. It shall be the licensee's responsibility to renew their license once expired. The Town shall not be obligated to send out reminder notices or renewal forms.

**§ 151-8 License possession and display.**

Every peddler or solicitor licensed under this chapter shall carry on their person the license issued by the Town Clerk at all times when peddling or soliciting, and shall display the same upon demand

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to any resident, Town official or police officer upon request.

**§ 151-9 Non-transferability of license.**

No license issued under the provisions of this chapter may be transferred from one person to another, nor be used or displayed at any time by any person other than the person whose name and photograph appear on the license.

**§ 151-10 Prohibitions.**

**A. Prohibited locations.**

- (1) Pursuant to §§ 1157(c) and 1800 of the New York State Vehicle and Traffic Law, no pedestrian shall occupy any part of a state highway in any manner for the purpose of peddling or soliciting, except a veteran holding a peddler's license under §§ 32 and 35 of the General Business Law.
- (2) No pedestrian shall occupy any part of a County or Town highway in any manner for the purpose of peddling or soliciting.
- (3) It shall be unlawful to peddle or solicit within 500 feet of any established place of business which, in the judgment of the Town Clerk, sells similar items or services for similar uses or consumption.
- (4) It shall be unlawful to peddle or solicit within 250 feet of any place of worship during services, or any place occupied or used as a public or private school or college while in session.

**B. Prohibited parking.**

- (1) No person shall park a vehicle on public grounds or on privately owned lands for the purpose of peddling or soliciting.
- (2) No person shall park a vehicle in the public right-of-way for the purpose of peddling or soliciting unless the vehicle is lawfully parked.
- (3) It shall be unlawful for any peddler or solicitor to permit their vehicle to park or stand in any one public place for more than four hours. After four hours in any one public place, said peddler or solicitor must move their vehicle a distance of not less than 500 feet from said place.

**C. Prohibited acts.**

- (1) It shall be unlawful for any person to engage in peddling or soliciting before 9:00 a.m. or after sunset or after 7:00 p.m., whichever is earlier.
- (2) It shall be unlawful for any peddler or solicitor in plying their trade to enter upon any premises or property, or to ring the doorbell 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.
- (3) It shall be unlawful for any peddler or solicitor in plying their trade to enter property on which there exists an apartment complex, a mobile home park, or a shopping complex without the permission of the owner of such property to do so.



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**§ 151-11 Exemptions.**

A. The provisions of this chapter shall not apply to:

- (1) Any person who is at a premises at the request or invitation of the owner or occupant of the premises.
- (2) Any person selling to, or attempting to obtain orders from, a business for resale or for use in their business.
- (3) Any person selling farm produce grown or produced by the seller thereof.
- (4) Any person soliciting on behalf of, or selling for, any charitable or nonprofit organization.
- (5) Peddlers and solicitors at outdoor community events that have obtained a permit under Chapter 76 of the Town Code.
- (6) Peddlers and solicitors at outdoor community events authorized by the Town Board.

**§ 151-12 Violations.**

A. Any of the following shall constitute a violation of this chapter:

- (1) Failure to properly obtain a valid license under this chapter.
- (2) Fraud or misrepresentation contained in the license application.
- (3) Fraud or misrepresentation made in the course of carrying on business as a peddler or solicitor.
- (4) Conduct in an unlawful manner or which creates a public nuisance, or otherwise constitutes a danger to the public health, safety, and welfare.
- (5) Failure to comply with any provisions of this chapter.
- (6) Conviction of any crime involving moral turpitude.

**§ 151-13 Suspension or revocation of a license.**

- A. The Town Clerk may issue a notice of intent to suspend or revoke a peddler's license for any violation of this chapter. The notice of intent to suspend or revoke shall describe the violation, and require the licensee to immediately cease operations and correct the violation or cause the violation to be corrected.
- B. The notice of intent may be given personally to the licensee or in writing by mail to the licensee at the address shown on the application.
- C. If the licensee fails to immediately correct the violation or cause the violation to be corrected, the Town Clerk shall suspend or revoke the license.
- D. A licensee shall be entitled to request a hearing on suspension or revocation before the Town Board, upon application made to the Town Clerk in writing demonstrating that the licensee was not in violation of the license. Any suspension or revocation remains in effect unless modified by the Town Board. The Town Board shall hold a hearing to determine whether to reverse the suspension or revocation within 30 days of receipt of the written request.

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**§ 151-14 Enforcement, Penalties and Remedies.**

- A. Violations of this chapter may be enforced by any law enforcement agency that has jurisdiction in the Town of Poughkeepsie, or their duly authorized representatives.
- B. The individuals identified in Subsection A are authorized to issue appearance tickets as defined in § 150.10 of the Criminal Procedure Law, and to prosecute the violation in Court, and are authorized to issue orders to remedy and notices of violation, to enforce the provisions of this Chapter.
- C. Each occurrence or incident shall constitute a separate offense. If a violation continues for more than a 24-hour period, each day shall constitute a separate offense.
- D. A violation of this chapter or any part thereof shall constitute an offense punishable as follows:
  - (1) By a civil penalty
    - (a) not to exceed \$500 for a first offense;
    - (b) not to exceed \$1,000 for a second offense; and
    - (c) not to exceed \$1,500 for any subsequent offense; and/or
  - (2) By a fine
    - (a) not to exceed \$1,500 for a first offense;
    - (b) not to exceed \$2,500 for a second offense; and
    - (c) not to exceed \$3,500 for any subsequent offense; and/or
  - (3) By imprisonment for a term of not more than fifteen (15) days; and/or
  - (4) By any combination thereof.

**SECTION 5. EFFECTIVE DATE**

This local law shall take effect immediately after it is filed with the Secretary of State as provided in section twenty-seven of the Municipal Home Rule Law.