

Local Law Filing

(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 ☒ Town ☐ Village

(Select one:)

of Lyndon

Local Law No. 2 of the year 2016

A local law regulating peddling/vending and soliciting in the Town of Lyndon

(Insert Title)

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

☐ County ☐ City ☒ Town ☐ Village

(Select one:)

of Lyndon as follows:

SECTION 1. LEGISLATIVE INTENT

This Local Law is enacted for the purpose of regulating itinerant merchandising and soliciting in the Town of Lyndon in order to maintain the peace, health, safety, welfare and good order in the Town and so that its inhabitants shall not be endangered or unduly disturbed.

SECTION 2. DEFINITIONS

A.) Peddler, Vendor and Solicitor: As used in this Local Law shall be deemed to include, unless otherwise provided herein, any person who engages in merchandising any goods, wares, commodities, books, periodicals or services, or solicits contributions of goods or monies, by going from house to house, established place of business to established place of business, or in any public street or public place, or by temporarily occupying a room, building or other premises therefore, or on foot or on any vehicles, standing on any street or highway, sells or barter, offers for sale or barter, or carries or exposes for sale or barter, any goods, wares, or merchandise, except as hereinafter exempted.

B.) Person: As used in this Local Law shall be deemed to include any individual, firm, partnership, corporation, unincorporated association and principal or agent thereof.

C.) Merchandising: As used in this Local Law refers to the selling, bartering, or trading, or offering to sell, barter or trade any goods, wares, commodities or services.

(If additional space is needed, attach pages the same size as this sheet, and number each.)

- D.) Established place of business: As used in this Local Law means a permanent building, store or depository which or where the person transacts business and deals in the goods, wares or commodities he or she peddles, vends or solicits in the ordinary and regular course of business.
- E.) Temporary occupancy: As used in this Local Law shall mean a store, room, building, tent, enclosure or structure of any kind intended to be occupied for the period of time necessary to peddle, vend or solicit the merchandise or products therein housed initially without the intent to replenish or restock such goods, wares and merchandise sold therein. In all prosecutions for a violation of this Local Law, the intent of the defendant to conduct an established place of business shall be a material fact, and the burden of proving such intent shall be upon the defendant in such prosecution.

SECTION 3. LICENSE REQUIRED

It shall be unlawful for any person within the jurisdiction of this Local Law to act as a peddler, vendor or solicitor, as herein defined, without first having obtained and paid for, and having in force and effect, a license therefore.

SECTION 4. EXEMPTIONS

The provisions of this Local Law shall not apply to the following:

- A.) An honorably discharged soldier, sailor or marine, who is crippled as a result of injuries received while in the naval or military services of the United States, but no such person shall engage in any of the occupations specified in this Local Law without first having been issued a license by the Town Clerk, which shall be issued without fee.
- B.) Any person soliciting at the express invitation of the person being solicited.
- C.) A wholesaler selling articles to dealers or merchants who have an established place of business within the Town.
- D.) A truck gardener, or farmer who himself or through his employees vends, sells or disposes of products from his own farm or garden.
- E.) A child regularly attending any public or parochial or private school located within the Town of Lyndon or a representative of any established church maintaining a place of worship within the Town, or a member of veterans' organization, provided that such organization has and maintains a chapter, post, lodge, or other group within the Town of Lyndon, or a member of a fraternal organization or civic group maintaining a chapter or local organization within the Town of Lyndon or one of the Town of Lyndon Fire Companies; and further provided that any person falling within the

provisions of this exemption shall only peddle, vend or solicit in connection with an authorized activity of the organization of which they are a member or the school which they attend.

- F.) Auction sales held pursuant to law by a sheriff or other officer authorized by law to conduct such sale.
- G.) This Local Law shall not apply so as to interfere unlawfully with interstate commerce.

SECTION 5. APPLICATION FOR LICENSE

Every applicant for a license is required to submit to the Town Clerk a written application stating under oath the following information:

- A.) Name of applicant
- B.) Permanent home address
- C.) Name and address of firm represented, if any.
- D.) The length of time for which the license is required.
- E.) Physical description of the applicant, Social Security number and date of birth
- F.) Copy of driver's license.
- G.) A description of the goods, wares or commodities to be offered for sale.
- H.) The number and kind of vehicles, if any, to be used by the applicant in carrying on the business for which a license is requested.
- I.) Name and address of all partners, if partnership, and the names and addresses of the principal officers, if a corporation, and the name and address of a person upon whom legal notice of process may be served within the State of New York.
- J.) All felonies with which the applicant, its officers or employees, have been convicted of and the description of the charges and the court having jurisdiction thereof.
- K.) A letter of authorization must be appended to the application from the firm which the applicant purports to represent.

- L.) If the applicant has one or more employees who will work within the Town, the same information as hereinabove set forth must be supplied as to each and every employee before the issuance of a license.
- M.) Food sales applicants must supply Cattaraugus County Health Department certificate.

SECTION 6. GRANTING OF LICENSE

Upon receipt of the application and the license fee, and if reasonably satisfied with the applicant's qualifications, the Town Clerk shall issue a license to the applicant specifying the particular business authorized and the location wherein it may be conducted.

- A.) This license shall be nontransferable and shall be in the continuous possession of the licensee while engaged in the business licensed.
- B.) The license shall be produced upon the demand of any Town official, prospective buyer, police officer or peace officer.
- C.) The granting of this license does not indicate an endorsement of the vendor or product by the Town Board.
- D.) There are two classes of licenses: 1.) Door-to-Door and 2.) Seasonal. The Door-to-Door license is valid for one (1) week while the Season is valid for up to eight (8) months.
- E.) Upon expiration of either license, it cannot be renewed for a period of ninety (90) days at which time a new license application will be required. Upon permit expiration the vendor must remove all products from the site and public view.

SECTION 7. RECORDING OF LICENSE

- A.) The Town Clerk shall keep a record of all applications, the determination made thereon and of all licenses issued in accordance with this Local Law. The record shall contain the name and address of the person licensed the location of the business, the amount of the license fee paid and the date of revocation of any license revoked.
- B.) All licenses hereunder shall expire as set forth in the applicants permit.

SECTION 8. SCHEDULE OF FEES

The fees for all licenses will be fixed from time to time by the Town Board.

SECTION 9. RESTRICTIONS

A licensed peddler, vendor or solicitor shall:

- A.) Not engaged in such business at any time between the hours of 9:00 p.m. and 9:00 a.m.
- B.) Not willfully misstate the quantity or quality of an article offered for sale.
- C.) Not willfully offer for sale any article of an unwholesome or defective nature.
- D.) Not call attention to his goods by blowing a horn, by ringing a bell other than a house doorbell, by shouting or crying out, or by any loud or unusual noise.
- E.) Not frequent any street in an exclusive nature so as to cause a private or public nuisance.
- F.) Keep the vehicle and/or receptacles used in the furtherance of the licensed business in a clean and sanitary condition and the foodstuffs and edibles offered for sale well covered and protected from dirt, dust and insects.
- G.) Not 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.
- H.) Not stand or permit the vehicle used by him to stand in one place in any public place or street for more than ten (10) minutes nor in front of any premises for any time, if the owner or the lessee of the premises objects.

SECTION 10. REVOCATION OF LICENSE

- A.) Licenses issued under the provisions of this Local Law may be revoked by the Town Board of the Town of Lyndon after notice and hearing for any of the following causes:
 - a. Fraud, misrepresentation or false statement contained in the application for license.
 - b. Fraud, misrepresentation or false statement made in the course of carrying on the business as peddler, vendor or solicitor.
 - c. Any violation of this Local Law.
 - d. Conviction of any crime or violation (as defined under the New York State Penal Law) involving moral turpitude.

- e. Conducting the business of peddling, hawking, vending or soliciting in an unlawful manner or in such a manner as to constitute a breach of the peace or to constitute a menace or nuisance 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 the hearing. Such notice shall be mailed, postage prepaid, to the licensee at his or her last known address at least five (5) days prior to the date set for the hearing.
- C.) The Town Clerk, upon receiving information giving reasonable cause to believe that the holder of any license issued hereunder has violated any provisions of this Local Law, or has been convicted of any violation referred to in this Section, or indicted or charged with any crime or offense, or has been convicted of any crime or offense, may forthwith temporarily suspend such license until the hearing is held by the Town Board, as herein provided, and the Board shall have issued its determinations thereon.
- D.) If the licensee has one or more employees, the revocation hereunder shall apply to the licensee and to all employees, if either the licensee or any one or more of the employees are determined to be in violation of this Local Law.

SECTION 11. APPEAL

Any person aggrieved by the actions of the Town Clerk in the denial of an application for a license, as provided in this Local Law, or in the decision of the Town Board with reference to the revocation of a license, as herein provided, shall have the right to appeal to the Town Board. Such appeal shall be taken by filing within ten (10) days after notice of the action complained of has been mailed to such person's last known address, a written statement setting forth in full the grounds for the 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 at his or her last known address at least five (5) 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.

SECTION 12. PENALTY

Any person who shall act as a peddler, vendor or solicitor, as herein defined, without a license, or who shall violate any the of the provisions of this Local Law, or who shall continue to act as a peddler, vendor or solicitor subsequent to the revocation of a license shall be guilty of a misdemeanor and shall be subject to a fine not to exceed Five Hundred (\$500.00) Dollars for each and every violation. It is expressly set forth that each day the violation continues shall constitute a separate offense and violation. In

addition, such person shall be liable for a civil penalty of Fifty (\$50.00) Dollars for each day on which such violation continues.

SECTION 13. VALIDITY

If any clause, sentence, phrase, paragraph or any part of this Local Law shall for any reason be finally adjudged by a court of competent jurisdiction to be invalid, such determination shall not affect, impair or invalidate the remainder of this Local Law, but shall be confined in its operation and effect to the clause, sentence, phrase, paragraph or part thereof directly involved in the controversy or action in which such judgment shall have been rendered. It is hereby declared to be the legislative intent that the remainder of this Local Law would have been adopted had any such provisions not been included.

SECTION 14. EFFECTIVE DATE

This Local Law shall take effect immediately upon the filing thereof in the office of the Secretary of State.

(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. 2 of 2016 of the ~~(County)(City)(Town)(Village)~~ of Lyndon was duly passed by the Town Board on May 17 2016, in accordance with the applicable provisions of law.
(Name of Legislative Body)

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) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved) (Name of Legislative Body)
(repassed after disapproval) by the _____ and was deemed duly adopted (Elective Chief Executive Officer*)
on _____ 20____, 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 approved) (Name of Legislative Body)
(repassed after disapproval) by the _____ on _____ 20____. (Elective Chief Executive Officer*)

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 approved) (Name of Legislative Body)
(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 chairperson 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.)

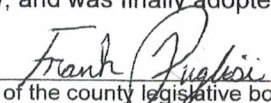
I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the City of _____ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified 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 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.


Clerk of the county legislative body, City, Town or Village Clerk or
officer designated by local legislative body

Date: May 18 2016

(Seal)

May 26, 2016

Frank Puglisi
Town Clerk
852 Lyndon Center Rd
Cuba NY 14727

RE: Town of Lyndon, Local Law 1 & 2 2016, filed on May 25, 2016

Dear Sir/Madam:

The above referenced material was filed by this office as indicated. Additional local law filing forms can be obtained from our website, www.dos.ny.gov.

Sincerely,
State Records and Law Bureau
(518) 473-2492



NEW YORK
STATE OF
OPPORTUNITY.

Department
of State