

**TOWN OF HARWICH
ANNUAL TOWN MEETING
MAY 2, 2016**

Attorney General

DOOR TO DOOR CANVASSING SOLICITATION BY-LAW

ARTICLE 45: To see if the Town will vote to amend the Code of the Town of Harwich under the General By-Laws by adding a new by-law under Chapter 214 – Peace and Good Order as follows, and to act fully thereon. By request of the Chief of Police.

§214.4 - Temporary Transient Business: Door-to-Door Canvassing and Solicitation.

Title.

This by-law shall be known as the “Door-to-Door Canvassing and Solicitation By-law Law of the Town of Harwich.”

Purpose.

This by-law, adopted pursuant to Article 89 of the Amendments to the Constitution of the Commonwealth of Massachusetts, establishes registration requirements and specific operational requirements for persons intending to engage in door-to-door canvassing or solicitation in the Town of Harwich in order to protect its citizens from disruption of the peaceful enjoyment of their residences and from the perpetration of fraud or other crimes; and, to allow for reasonable access to residents in their homes by persons or organizations who wish to communicate either commercial or non-commercial messages.

Definitions.

For the purpose of this By-law, the following definitions shall apply:

“**Soliciting**” shall mean and include any one or more of the following door-to-door activities:

- a) selling, or seeking to obtain orders for the purchase of goods or services, including advertising in any type of publication, for any kind of consideration whatsoever;
- b) selling, or seeking to obtain prospective customers for application for purchase of insurance of any kind;
- c) selling, or seeking to sell subscriptions to books, magazines, periodicals, newspapers or any other type of publication;

- d) seeking to obtain gifts or contributions of money, or any valuable thing for the support or benefit of any association, organization, corporation or project wholly or in part for commercial purposes or by a professional solicitor or commercial co-venturer for a charitable or other non-commercial organization; and
- e) seeking to obtain information on the background, occupation, economic status, political affiliation, attitudes, viewpoints, or the like of the occupants of a residence for the purpose of selling or using such data, wholly, or in part, for commercial purposes.

"Canvassing" shall mean and include any one or more of the following door-to-door activities:

- a) person-to-person distribution of literature, periodicals, or other printed materials for commercial purposes, but shall not include placing or dropping off printed materials on the premises;
- b) seeking to enlist membership in any organization for commercial purposes; and
- c) seeking to present, in person, organizational information for commercial purposes.

"Residence" shall mean and include every individual dwelling unit occupied for residential purposes by one or more persons.

"Registered solicitor" shall mean any person who has obtained a valid certificate of registration from the Town as required by this Bylaw.

"Charitable Organization," "Professional Solicitor" and "Commercial Co-venturer" shall be defined as set forth in Chapter 68, Section 18, of the General Laws.

Registration.

Every person or organization intending to engage in soliciting or canvassing door-to-door in the Town of Harwich must apply for a permit with the Chief of Police by filing a registration application form with the Chief of Police. Applications for individual registration shall be filed at least ten business days in advance. Applications for organizational registration shall be filed at least three business days in advance.

Organization application forms shall include the following information:

- a) The name and address of the organization applying for registration, and the names and addresses of the organizations' principal officers. If the organization is a charitable organization, a certification that the most recent Annual Registration Statement required to be filed with the Attorney General's Division of Public Charities has been so filed.

If the organization is a Professional Solicitor or a Commercial Co-venturer for a charitable organization, a copy of the contract with the charitable organization must be provided with this application. Failure to include a copy of the contract with the charitable organization under such circumstances will render the application incomplete and no action will be taken thereon;

- b) The name, title and phone number, IRS or Social Security (optional) number and valid driver's license or other government-issued photo identification of the persons filing the application form;
- c) The names and addresses of the person(s), if any, who will be directly supervising the solicitation or canvassing operation in the Town of Harwich;
- d) A list of the names, addresses, dates of birth of all individuals who will be employed in solicitation or canvassing by the applicant;
- e) Period of time for which certificate of registration is needed (note: no certificate may be granted for longer than a 60-day period);
- f) Names of the last three communities (if any) in which the organization has conducted a solicitation or canvassing operation, complete with the date issued and date expired; and
- g) Insurance information and license, if applicable.

Individual registration forms shall be required for all individuals, including those who are affiliated with an organization registered hereof. Individual registration forms shall contain the following information:

- a) Name and address of the present place of residence and length of residence at that address; if less than three years residence at present address, the address of residence(s) during the past three years;
- b) Date of birth;
- c) Name, address and telephone number of the person or organizations whom the applicant represents and the length of time the applicant has been associated with or employed by that person or organization. If the individual is a professional solicitor or a commercial co-venturer for a charitable organization, a copy of the contract, if any, with the charitable organization must be provided with this application. Failure to include a copy of the contract with the charitable organization under such circumstances will render the application incomplete and no action will be taken thereon;

- d) Period of time for which certificate of registration is needed (note: no certificate may be granted for longer than a 60-day period);
- e) Name of the last three communities (if any) in which the applicant has solicited or canvassed door-to-door, complete with the date of issue and expiration date;
- f) Valid driver's license or other government issued photo identification; and
- g) Make, model and registration number of any vehicle to be used by the applicant while soliciting or canvassing.

Registration Fee.

The registration fee shall be established and adjusted from time to time by the Board of Selectmen, as necessary. The registration fee shall accompany each application required by this By-law.

Registration Cards.

The Chief of Police, after a review, but in no event more than ten (10) business days after receipt of a fully-completed application, shall furnish each person with a registration card which shall contain the following information:

- (a) The name of the person;
- (b) A recent photograph of the person;
- (c) The name of the organization (if any) which the person represents;
- (d) A statement that the individual has been registered with the Town of Harwich Police Department but that registration is not an endorsement of any individual or organization; and
- (e) Specific dates or period of time covered by the registration.

Persons engaged in solicitation or canvassing as defined in this By-law must display their Town issued registration card on the outermost portion of their clothing at all times while soliciting or canvassing and show such card to any person solicited or upon the request of any police officer.

Registration cards are valid only for the specific dates or time period specified thereon and in no case for longer than 60 days.

The Police Chief shall routinely grant registrations without further inquiry but shall refuse registration to an organization or an individual whose registration has been revoked for

violation of this Bylaw within the previous two-year period or who has been convicted of murder/manslaughter, rape, robbery, arson, burglary/breaking and entering, felony assault, or larceny over \$250, as such persons pose a substantial degree of dangerousness to minors and other persons vulnerable to becoming victims of the violent crimes so listed. The Police Chief shall also refuse to register a person who is a sex offender required to register with the Sex Offenders Registry Board and who is finally classified as Level 2 or Level 3 Sex Offender, as such persons have been found to have a moderate to high risk of re-offense and pose a substantial degree of dangerousness to minors and other persons vulnerable to becoming victims of sex crimes.

Exceptions.

Registration shall not be required for officers or employees of the Town, County, State or Federal governments when on official business.

Individual registration shall not be required for minors under the age of 18, except in connection with canvassing or soliciting on behalf of a profit organization, newspaper carriers excepted.

Nothing in this By-law shall be construed to impose any registration requirement or otherwise restrict or in any way regulate any activity for religious, political, newspaper distribution or public policy purposes or other non-commercial purposes, regardless of whether such activity includes acts that would otherwise constitute soliciting or canvassing.

No Solicitation List.

A No Solicitation List shall be established and maintained by the Harwich Police Department. Residents may submit their property for inclusion on the list without charge.

Upon approval and issuance of a Town of Harwich registration card required under this By-law, each registered entity or individual shall be provided with a copy of the No Solicitation List and may not solicit or canvass at such premises.

Duties of Persons Going Door-to-Door.

Upon going into any residential premises in the Town of Harwich, every solicitor, canvasser or other person must first examine any notice that may be posted prohibiting solicitation or other activities. If such a notice is posted, the solicitor, canvasser or other person shall immediately and peacefully depart from the premises.

Any solicitor, canvasser or other person who has gained entrance to any residence, whether invited or not, shall immediately and peacefully depart from the premises when requested to do so by the occupant.

Immediately upon gaining entrance to any residence, each Solicitor or Canvasser as defined in this Bylaw must do the following:

- (a) Present his registration card for inspection by the occupant;
- (b) Request that the occupant read the registration card; and
- (c) Inform the occupant in clear language of the nature and purpose of his business and, if he is representing an organization, the name and nature of that organization.

Restrictions on Methods of Solicitation, Canvassing, or Other Door-to-Door Activities

It shall be unlawful for a solicitor, canvasser or other person to do any of the following:

- (a) Falsely represent, directly or by implication, that the solicitation, canvassing or other activity is being done on behalf of a governmental organization, or on behalf of any municipal employee or elected official;
- (b) Solicit, canvass or conduct any other activity at any residence where there is a posted sign prohibiting the same, without express prior permission of an occupant;
- (c) Solicit, canvass or conduct any other activity at any residence without express prior permission of an occupant, before 9:00 a.m. or after 9:00 p.m. where there is no sign posted otherwise limiting solicitation or the hours of solicitation or such other activities;
- (d) Utilize any form of endorsement from any department head currently employed or serving the Town of Harwich; and
- (e) Solicit, canvass or conduct any other activity at any residence in a threatening, abusive or illegal fashion.

Penalty.

Any person or organization who shall violate any of the provisions of this Bylaw or any applicable state or federal laws governing soliciting or canvassing, including, but not limited to Chapter 68 of the General Laws, shall be subject to a fine not to exceed \$300.00 for each offense. When enforced through the non criminal disposition procedures pursuant to Chapter 40, section 21D of the General Laws, the penalty shall be \$100 for the first offense, \$200 for the second offense, and \$300 for the third offense and each subsequent offense. Each day that a violation continues shall be considered a separate offense.

Any person or organization who for himself, herself, itself, or through its agents, servants or employees is found after investigation by a police officer to have:

- (a) violated any provision of this Bylaw, or any applicable state or federal laws governing soliciting or canvassing, including but not limited to Chapter 68 of the General Laws; or
- (b) knowingly provided false information on the registration application shall have his, her or its registration revoked by the Chief of Police by written notice delivered to the holder of the registration in person, or sent to the holder by certified mail at the address set forth in the application.

Appeals.

Any person or organization who is denied registration or whose registration has been revoked may appeal by filing a written notice of appeal with the Board of Selectmen. Such appeal must be filed within 5 days after receipt of the notice of denial or revocation. The Board of Selectmen shall hear the appeal at its next scheduled meeting after the filing of the written notice of appeal, provided, however, that if the Board of Selectmen fails to make a determination within 30 days after the filing of the appeal, the registration shall be deemed granted or reinstated as the case may be.

Severability.

Invalidity of any individual provision of this Bylaw shall not affect the validity of the Bylaw as a whole.

FINANCE COMMITTEE RECOMMENDS THIS ARTICLE BE ACCEPTED AND ADOPTED. AT THE PRESENT TIME THERE ARE NO BY-LAWS IN PLACE TO HELP PROTECT OUR CITIZENS. VOTE: YES-6, NO-0.

MOTION: (Dana A. DeCosta, Chairman-Finance Committee) I move that this article be accepted and adopted as printed in the warrant. Duly seconded

ACTION: The motion carried.

A true copy



Attest:

Anita N. Doucette, MMC/CMMC
Town Clerk