



TOWN OF PEMBROKE

APPLICATION FOR VENDOR/SALES PERMIT HAWKER/PEDDLERS, TRANSIENT VENDOR, & DOOR TO DOOR SALES

In accordance with Massachusetts General Laws Chapter 101 and the by-laws of the Town of Pembroke, Article XX, Section 9.0:

The Town of Pembroke requires all persons who intend to sell, barter, or carry for sale or barter or expose thereof any goods, wares, or merchandise as a Hawker/Peddler, Transient Vendor, or Door to Door Solicitor or Canvasser in the Town of Pembroke obtain a permit.

In accordance with this, the following information is to be supplied by the applicant. Upon receipt of this application, it will be forwarded to any boards having jurisdiction. The Selectmen shall consider and set requirements as to hours, conditions and expiration date of permit.

The Chief of Police will have the final approval and be responsible for issuance of all permits.

SECTION 9.0 Door-to-Door Solicitation

It is the purpose of this by-law to establish registration requirements and specific operational requirements for persons intending to engage in door-to-door canvassing or solicitation in the Town of Pembroke through the issuance of licenses and imposition of other limitations on such conduct for the purpose of protecting the Town's residents from disruption of the peaceful enjoyment of their residences and from the perpetration of fraud and other crimes, and further, to allow reasonable access to residents in their homes by persons or organizations who wish to communicate either commercial or non-commercial messages. It is framed with deep respect for the principles embodied in the constitutions of the United States and the Commonwealth of Massachusetts and attempts to achieve a workable balance between the right of free speech and the right of privacy. It is intended to be framed narrowly and construed strictly to achieve its purpose by imposing certain restrictions as to the time, place and manner in which solicitation and canvassing are conducted. It is not intended to be applied to political or religious activities for religious, political, newspaper distribution or public policy purposes or other non-commercial purposes, regardless of whether such activities include acts that would otherwise constitute soliciting or canvassing entitled to protection under the First Amendment to the United States Constitution.

A. Statutory authority; purpose.

This article, adopted pursuant to G.L. c. 43B, § 13 and Article 89 of the Amendments to the Constitution of the Commonwealth of Massachusetts, establishes permit requirements and specific operational requirements for persons intending to engage in door-to-door canvassing or solicitation in the Town of Pembroke, and this article is adopted for the reasons stated above.

B. Definitions.

For the purposes of this article, the following definitions shall apply:

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 or mail deliveries;
- (b) Seeking to enlist membership in any organization for commercial purposes; and
- (c) Seeking to present, in person, organizational information for commercial purposes.

CHARITABLE ORGANIZATION Shall be defined as set forth in MGL c. 68, § 18.

COMMERCIAL CO-VENTURER Shall be defined as set forth in MGL c. 68, § 18.

PROFESSIONAL SOLICITOR Shall be defined as set forth in MGL c. 68, § 18.

REGISTERED SOLICITOR Shall mean any person who has obtained a valid certificate of permit from the Town as required by this Bylaw.

RESIDENCE Shall mean and include every individual dwelling unit occupied for residential purposes by one or more persons.

SOLICITING Shall mean and include any one or more of the following activities conducted door-to-door or on a public way:

- (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 noncommercial organization.
- (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.

C. Permit.

Every person or organization intending to engage in soliciting or canvassing door-to-door or on a public way in the Town of Pembroke must apply for a certificate of permit at least fourteen (14) business days in advance by filing a permit application form with the Board of Selectmen and Police Chief. At their next regularly scheduled meeting, the Board of Selectmen will act upon the permit application form in a posted Open Meeting. Upon approval of the permit application form, all documentation will be transferred to the Police Chief, along with a current copy of the No Solicitation List.

Organization or individual application forms shall include the following information:

- (1) The name and address of the organization applying for permit and the names and addresses of the organization's principal officers. If the organization is a charitable organization, a copy of the Annual Registration Statement filed with the Attorney General's Division of Public Charities must be provided with this application. Failure to include a copy of the Annual Registration Statement under such circumstances will render the application incomplete and no action will be taken thereon; 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; and
- (2) The name, title and telephone number, IRS or Social Security (optional) number, and valid driver's license or other government-issued photo identification of the person(s) filing the application form; and
- (3) The names and addresses of the person(s), if any, who will be directly supervising the solicitation or canvassing operation in the Town of Pembroke; and
- (4) A list of the names, addresses, dates of birth of all individuals who will be employed in solicitation or canvassing by the applicant; if less than three years' residence at present address, the address of residence(s) during the past three years; and
- (5) Period of time for which the certificate of permit is sought. No certificate shall be granted for a period longer than 90 days; and
- (6) Names of the last three communities, if any, in which the organization has conducted a solicitation or canvassing operation, complete with the dates such solicitation or canvassing operation commenced and concluded; and
- (7) Valid driver's license or other government-issued photo identification of all individuals who will be employed in solicitation or canvassing by the applicant; and
- (8) Make, model and permit number and state of any vehicle to be used by the applicant while soliciting or canvassing; and
- (9) Each individual applicant for a certificate of permit shall sign a form authorizing the Chief of Police or his agent to conduct a CORI (Criminal Offender Registry Information) check of the individual and submit fingerprints taken by the Pembroke Police Department.

D. Permit fee.

Each individual or organization applying for a certificate of permit or re-permit shall pay to the Town: 1) an application fee of \$25; 2) a fee of \$5 for the cost of a permit card; and 3) a criminal history check authorization fee of \$60, which shall be used solely for fees and costs associated with the administration of its state and national criminal history records check system.

E. Permit cards.

- (a) The Police Chief, after a review, but in no event more than fourteen (14) business days after receipt of a fully-completed application, shall furnish each person with a permit card which shall contain the following information:
- (1) The name of the person;
 - (2) A recent photograph of the person;
 - (3) The name of the organization, if any, which the person represents;
 - (4) A statement that the person has registered with the Town of Pembroke Police Department but that said permit does not constitute endorsement of any individual or organization; and
 - (5) The specific dates or period of time covered by the permit.
- (b) Persons engaged in soliciting or canvassing, as defined by this Bylaw, must carry the permit card at all times while soliciting or canvassing and must present said card to any person solicited or canvassed or, upon request, to any police officer.
- (c) Permit cards are valid only for the specific dates or time period specified thereon and in no case for longer than 90 days. Each such permit card shall state thereon the date upon which the permit expires. Upon the date so stated, the permit shall automatically expire. This provision, however, shall not bar an individual and/or organization from seeking and obtaining permit cards for successive ninety-day periods upon reapplication using the same process as that used for the initial application process.
- (d) The Police Chief shall refuse a permit card to an organization or individual whose permit has been revoked within the previous two-year period for violation of any provision of this By-law or to any individual who has been convicted of murder/manslaughter, rape, robbery, arson, burglary/breaking and entering, or felony assault, as such persons pose a substantial degree of dangerousness to minors, senior citizens, and other persons vulnerable to becoming victims of the violent crimes so listed. The Police Chief shall also refuse to issue a permit card to any person who is a sex offender required to register with the Sex Offenders Registry Board and who is finally classified as a 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, senior citizens, and other persons vulnerable to becoming victims of sex crimes.

F. Exceptions.

The provisions of this By-Law shall not apply to the following persons:

- (a) Any officer or employee of the Town, county, state, federal government, or any subdivision thereof when on official government business.
- (b) Any solicitor or canvasser under the age of 18 years selling goods or periodicals for a commercial purpose under the provisions of G.L. c. 101, §34.
- (c) Route salesmen or other persons having established customers to whom they make periodic deliveries from calling upon such customers or from making calls upon prospective customers, including but not limited to news carriers.
- (d) Any persons engaged in the pursuit of soliciting for charitable, benevolent, fraternal, religious, political, or other non-commercial purposes, regardless of whether such activity includes acts that would otherwise constitute soliciting or canvassing.
- (e) Any person exempted under G.L. c. 149, §69.

G. Duties of persons going door-to-door.

- (a) Upon approaching any residential premises in the Town of Pembroke, every solicitor, canvasser or other person must first examine any notices or signs posted on the property prohibiting solicitation or other activities. If such a notice or sign is posted, the solicitor, canvasser or other person must refrain from entering the property, and if the notice or sign was not visible until the property was entered, the solicitor, canvasser or other person must then immediately leave the premises.
- (b) No solicitor, canvasser or other person shall enter any premises which are identified on the "No Solicitation" list, described below, on file at the Pembroke Police Department.
- (c) Any solicitor, canvasser or other person who has gained entrance to any residence, whether invited or not, shall immediately and peacefully leave the premises when requested to do so by the occupant.
- (d) Immediately upon gaining entrance to any residence, each solicitor or canvasser, as defined by this Bylaw, must do the following:
 - (1) Present his/her permit card for inspection by the occupant;
 - (2) Request that the occupant read the permit card; and
 - (3) Inform the occupant in clear language of the nature and purpose of his/her business and, if he/she is representing an organization, the name and nature of that organization.

H. 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 notice or sign prohibiting the same, without express prior permission of an occupant.
- (c) Solicit, canvass or conduct any other activity at any residence which is on the "no solicitation" list described below, without the express prior permission of an occupant.
- (d) Solicit, canvass or conduct any other activity at any residence, without express prior permission of an occupant, before 9:00 a.m. or after 8:00 p.m. where there is no sign or notice posted on the property which otherwise limits solicitation or the hours of solicitation or such other activities.
- (e) Utilize any form of endorsement from any department head currently employed by the Town of Pembroke.
- (f) Solicit, canvass or conduct any other activity at any residence or on any public way in a threatening, abusive, or illegal fashion.

I. "No Solicitation" list.

- (a) Any person, firm or corporation who is the owner or lawful tenant or occupant of any private residence within the Town of Pembroke may prohibit the practice of going in or upon the private residence of such owner or occupant, by uninvited solicitors or canvassers, as defined in this article, by placing a sign upon its property which reads "No Solicitation" in a location which is reasonably visible to persons who intend to enter upon such residential property.

- (b) Any person, firm or corporation who is the owner or lawful tenant or occupant of any private residence within the Town of Pembroke may prohibit the practice of going in or upon the private residential property and/or the private residence of such owner or occupant, by solicitors or canvassers, as defined in this article, by registering its property in accordance with Subsection (c) of this section and by posting upon each such registered residential property a sign which reads "No Solicitation" in a location which is reasonably visible to persons who intend to enter upon such residential property.
- (c) The No Solicitation List registration authorized by Subsection (b) hereof shall be made by filing a "No Solicitation Permit Form" at the office of the Board of Selectmen, on a form furnished by the Town Administrator for such purpose. The form shall be completed by the property owner or occupant, and it shall contain the following information:
 - (1) Name of the person filing the form and capacity to sign, e.g., owner, tenant, occupant.
 - (2) Residential address(es) for which the "no solicitation" restriction shall apply.A resident of the Town of Pembroke may mail said form to the Town Hall, fill it out at the Town Hall or request inclusion on the "no solicitation" list by telephone call to the Selectmen's Office. In the case of telephone request, the office shall verify that the person calling resides at the address identified by making a return telephone call to the telephone number provided for said residence.
- (d) All residences requesting inclusion on the "no solicitation" list shall be placed on said list by the Board of Selectmen's staff.
- (e) The Police Chief shall receive an updated list with each permit approved by the Board of Selectmen and shall supply every applicant for a certificate of permit with a copy of said list.

J. Penalties.

- (a) Any person or organization who shall violate any of the provisions of this Bylaw shall be subject to a fine of \$300 for each offense. Each day that a person solicits or canvasses without a license shall constitute a separate offense.
- (b) Any person or organization who for himself, itself or through its agents servants or employees is found, after investigation by a police officer, to have 1) violated any provision of Subsection H or I, or any applicable state or federal laws governing soliciting or canvassing, including but not limited to MGL c. 68; 2) knowingly provided false information on the permit application required by Subsection C of this bylaw; or 3) conducted himself or itself in a threatening, abusive or illegal fashion, shall have his/her/its permit revoked by the Police Chief by written notice delivered to the holder of the permit card in person, or sent to the holder by certified mail at the address set forth in the application.

K. Appeals.

Any person or organization who is denied permit or whose permit has been revoked by the Police Chief may appeal by filing a written notice of appeal with the Pembroke Board of Selectmen. Such appeal must be filed in the Town Clerk's office within five days after receipt of the notice of denial or revocation. The Selectmen shall hear the appeal at its next regularly scheduled meeting after the filing of said written notice of appeal; provided, however, that if the Selectmen fails to make a determination within 30 days after the filing of the appeal, the permit shall be deemed granted or reinstated as the case may be. (ART. #12 STM 10/24/2016 with A.G. Amendment 2/24/2017)



TOWN OF PEMBROKE
 OFFICE OF THE BOARD OF SELECTMEN
 100 CENTER STREET
 PEMBROKE, MA 02359
 (781) 293-3844

APPLICATION FOR VENDOR/SALES PERMIT
 HAWKER/PEDDLERS, TRANSIENT VENDOR, & DOOR TO DOOR SALES

Individual Applying:

Name _____ Date of Birth _____
 Street _____ Social Security # _____
 Town _____ Zip Code _____
 Mailing Address if different _____
 Telephone No. _____

Note: Valid driver's license or other government issued-photo identification is required.

Business Name: _____
 Contact Person for This Permit: _____
 Address: _____
 Phone: _____ Tax ID#: _____
 Email: _____

Description of Business _____

Note: If your organization is a charitable organization, a copy of the Annual Registration Statement filed with the Attorney General's Division of Public Charities **must** be provided with this application.

Failure to include a copy of the Annual Registration Statement under such circumstances will render the application incomplete and no action will be taken thereon.

If your 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.**

Purpose for Permit, Requested Duration and Hours for Solicitation:

Purpose (what activity will occur at the door i.e. distribution of materials, scheduling future appointments, entering the home): _____

Duration (maximum of 90 days): _____

Hours (maximum 9:00 a.m. to 8:00 p.m.): _____

List of Other Towns in Which Permit is Held: _____

**Complete Information Must Be Submitted for EACH Member of Your Group
 iCORI Authorization Form for Each Member of the Group is required**

Date of BOS Hearing: _____ Determination: _____

If Denied, Reason for Denial: _____

Date Forwarded to Police Dept: _____ Date of No Sol List: _____

Town Administrator Signature: _____

ADDITIONAL EMPLOYEE INFORMATION

Name _____ Date of Birth _____
Home Address _____
If less than 3 years, Previous Home Address: _____
Social Sec # _____ Phone# _____
Vehicle Reg# _____ Driver's Lic# _____
Vehicle Make _____ Vehicle Model _____

Name _____ Date of Birth _____
Home Address _____
If less than 3 years, Previous Home Address: _____
Social Sec # _____ Phone# _____
Vehicle Reg# _____ Driver's Lic# _____
Vehicle Make _____ Vehicle Model _____

Name _____ Date of Birth _____
Home Address _____
If less than 3 years, Previous Home Address: _____
Social Sec # _____ Phone# _____
Vehicle Reg# _____ Driver's Lic# _____
Vehicle Make _____ Vehicle Model _____

Name _____ Date of Birth _____
Home Address _____
If less than 3 years, Previous Home Address: _____
Social Sec # _____ Phone# _____
Vehicle Reg# _____ Driver's Lic# _____
Vehicle Make _____ Vehicle Model _____

Any person or organization who shall violate any of the provisions of this Bylaw shall be subject to a fine of \$300 for each offense.

Each day that a person solicits or canvasses without a license shall constitute a separate offense.

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

- 1) violated any provision of Subsection H (Restrictions) or I (No Solicitation List), or any applicable state or federal laws governing soliciting or canvassing, including but not limited to MGL c. 68; or**
- 2) knowingly provided false information on the permit application required by Subsection C of this bylaw; or**
- 3) conducted himself or itself in a threatening, abusive or illegal fashion, shall have his/her/its permit revoked by the Police Chief by written notice delivered to the holder of the permit card in person, or by certified mail at the address set forth in the application.**

I certify under the penalties of perjury that I, to my best knowledge and belief, have answered these questions truthfully and completely.

Signature of Applicant _____ Date _____

All are required fields: any application submitted without this information or not signed by the individual on behalf of the group will be deemed incomplete and will **not** be considered by the Board of Selectmen.