

Chapter 160

PEDDLING AND SOLICITING

[HISTORY: Adopted by the Town Meeting of the Town of Charlton as Art. XXXIII of the 2005 Bylaws; amended in its entirety 5-19-2014 ATM by Art. 22. Subsequent amendments noted where applicable.]

GENERAL REFERENCES

Licenses and permits — See Ch. 155.

§ 160-1. License required; application procedures; fees.

- A. It shall be unlawful for any solicitor or canvasser as defined in this bylaw to engage in such business within the Town of Charlton without first obtaining a license therefor in compliance with the provisions of this bylaw.
- (1) The provisions of this bylaw, with the exception of § 160-4C, shall not apply to:
 - (a) Any person engaged in the pursuit of soliciting for charitable, benevolent, fraternal, religious or political activities;
 - (b) Any person exempted by any other General Law;
 - (c) Salespersons or agents for wholesale houses, or firms who solicit orders from or sell to retail dealers for resale, or to manufacturers for manufacturing purposes; nor to
 - (d) Bidders for public works or supplies.
 - (2) Nor shall this bylaw be construed in such a way as to prevent persons having established customers to whom they make periodic deliveries from calling upon such established customers to solicit an order for future deliveries.
- B. "Solicitor or canvasser" is defined as any person who, for such person or for another person, firm, corporation or other legal entity, travels by foot, automobile or any other type of conveyance from place to place, or from house to house, for the purpose of soliciting funds for any purpose or selling, distributing, offering or exposing for sale, or soliciting orders for: (a) magazines, books, periodicals or other articles, goods or items of a commercial nature; or (b) services of a commercial nature, including without limiting the generality of the foregoing, services for home, driveway or land improvements, whether or not such individual has, carries or exposes a sample of or documents relating to the subject of such sale, and whether or not he/she is soliciting or collecting or attempting to collect advance payment for or relating to the foregoing.
- C. Application.

- (1) Applicants for a license shall file with the Chief of Police, on a form issued by him/her, a written application signed under the penalty of perjury, containing the following information:
 - (a) Name of applicant.
 - (b) Address of applicant (local and permanent address if different).
 - (c) Applicant's height, eye and hair color.
 - (d) Applicant's social security number.
 - (e) The length of time for which the license is sought.
 - (f) A brief description of the nature of the business and the goods and/or services to be sold, distributed, offered or exposed.
 - (g) The name and home office address of the applicant's employer. If self-employed, it shall so state.
 - (h) A photograph of the applicant, frontal view, which picture shall be submitted by the applicant and be two (2) inches by two (2) inches, showing the head and shoulders of the applicant in a clear manner which would enable a person to identify the applicant upon sight.
 - (i) A statement as to whether or not the applicant has been convicted of any crime, including without limiting the generality of the foregoing, any misdemeanor (excepting therefrom any motor vehicle violation), within ten (10) years of the date of application, and the nature of the offense.
 - (j) If operating a motor vehicle: the year, make, color, model, motor number, registration number, state of registration, vehicle's owner and address.
 - (k) The applicant's fingerprints.
 - (2) Handling and procedures as to fingerprints shall conform with the Civil Fingerprinting License Bylaw adopted pursuant to MGL c. 6, § 172B 1/2, as part of the Charlton General Bylaws.¹ The Town shall comply with the requirements of MGL c. 93H as to maintenance, storage and reporting of any actual or suspected release or misuse of any "personal information," as defined in MGL c. 93H, § 1(a), received in implementation of this bylaw.
- D. At the time of filing the application, each applicant shall pay a ten dollars (\$10) to the Town of Charlton. The applicant shall also at the time of filing the application pay a fee of fifty dollars (\$50) for the cost of civil fingerprinting pursuant to MGL c. 6, § 172B 1/2, and the aforementioned Charlton Fingerprinting Bylaw.
- E. Investigation; decision on application.

¹. Editor's Note: See Ch. 155, Licenses and Permits, Art. II.

- (1) Upon receipt of the application, the Chief of Police (which, wherever used herein, shall be deemed to include the Chief's designee) shall investigate the applicant's background and reputation as to compliance with law, business practices, character, morals and integrity to the extent that such may relate to the standards set forth in Subsection E(2) immediately below.
- (2) Within twenty-one (21) days of his/her receipt of the application, the Chief shall approve or disapprove the application and notify the applicant of the decision. The decision may be based on any information reasonably related to public safety or protection of the public from fraud or unfair business practices (by way of example only: conviction of, or an admission or court finding of responsibility for, any crime or juvenile delinquency violation involving violence, fraud, theft, or misappropriation of funds; violation of a consumer protection law; dishonesty in contractual dealings with another person). Any denial shall be in writing and shall state the reason(s) for the denial, a copy of which shall be provided to the applicant. (Note: Nothing herein shall derogate from the provisions of Chapter 155, Licenses and Permits, Article I, concerning denial, revocation or suspension of any license for neglect or failure to pay any local tax, fee, assessment, betterment or other municipal charge, all of which shall apply to any license sought or granted under this bylaw.)
- (3) In the event that the application is approved, a license and an identifying badge shall be issued within three (3) business days of the decision.

F. Appeals.

- (1) Any applicant shall have the right to appeal a denial to the Board of Selectmen, which shall uphold the Chief's decision unless it determines that such was arbitrary, capricious or wholly unrelated to any ground set forth above for denial.
- (2) Such appeal shall be taken by filing with the Town Clerk, with a copy to the Town Administrator's office, each by first class mail, postage prepaid, or by hand delivery, a written statement of the grounds for the appeal, within five (5) days after notice of decision by the Chief of Police has been given.
- (3) The Board of Selectmen shall set the time and place for the hearing such appeal, and notice of such time and place shall be given by the Town Clerk by first class, postage prepaid mailing to the license holder at the address given on the application, at least five (5) days prior to the date set for the hearing.
- (4) At the hearing, the license holder shall be afforded an opportunity to present any information and evidence he/she believes pertinent to the ground(s) for the appeal and to the denial.
- (5) The Board shall issue a written decision within fourteen (14) days of conclusion of the hearing and shall uphold the Chief's decision unless it determines that such was arbitrary, capricious or wholly unrelated to any ground set forth above for denial.

- G. Such license, when issued, shall contain the signature of the issuing officer and shall show the name, address and photograph of the licensee, the Town and state of issuance and the length of time the same shall be operative, as well as the license number.
- H. The Chief of Police shall keep a record for six (6) years of all licenses issued.
- I. Identification badge.
 - (1) Solicitors and canvassers, when engaged in the business of soliciting or canvassing, are required to display an identifying badge issued by the Chief of Police, by wearing said badge at all times on their outermost garment.
 - (2) A deposit of five dollars (\$5) will be required for each badge. This deposit will be refunded upon return of the badge to the Chief of Police.
 - (3) Each solicitor or canvasser, and each of such solicitor's or canvasser's employees or agents, is required to possess an individual license and badge.
- J. The police officers of the Town of Charlton shall enforce this bylaw in accordance with § 160-7 below.
- K. The Chief of Police and/or Board of Selectmen may revoke any license in accordance with § 160-6 below.
- L. Each license issued under the provisions of this bylaw shall continue in force for such period as is specified in the license, or, if no period is specified therein, for twelve (12) months from the date of its issuance, unless sooner revoked.
- M. An applicant requesting a renewal of a license must apply in person for such license renewal, and provide such material relating to the information described in Subsection C above as may be required by the Chief of Police.

§ 160-2. Hours of operation.

It shall be unlawful for any person to solicit or conduct any activity described in § 160-1B of this bylaw before the hour of 8:00 a.m. of any day or after the hour of 9:00 p.m. of any day except by appointment.

§ 160-3. Posted prohibitions.

It shall be unlawful and a violation of this bylaw for any solicitor or canvasser to ring a bell or knock at any building whereon there is painted, affixed or otherwise displayed to public view any sign containing any or all of the following words: "NO PEDDLERS," "NO SOLICITORS" or "NO AGENTS," or which otherwise expresses an intent to prohibit peddling or soliciting on the premises.

§ 160-4. Fraudulent practices prohibited.

- A. It shall be unlawful for any peddler or solicitor to represent by words, writing or action that he/she is some other peddler or solicitor, that he/she is a partner,

employer, employee, representative or agent of any peddler or solicitor when in fact he/she is not the partner, employer, representative, agent or employee of such peddler or solicitor, or that he/she is the employer, employee, representative, agent or partner of any person, when in fact he/she is not the employer, employee, representative, agent or partner of such person.

- B. No solicitor or canvasser may misrepresent, in any manner, the buyer's right to cancel as stipulated by Chapter 255D of the General Laws.
- C. No solicitor or canvasser, licensed or exempted from licensing, may use any plan, scheme or ruse which misrepresents the true status or mission of the person making the call in order to gain admission to a prospective buyer's home, office or other establishment with the purpose of making a sale of consumer goods or services or for soliciting funds.

§ 160-5. Exceptions.

The provisions of the bylaw, with the exception of § 160-4C immediately above, shall not apply to salespersons or agents for wholesale houses or firms who solicit orders from or sell to retail dealers for resale, or to manufacturers for manufacturing purposes, or to bidders for public works or supplies or to charitable, religious, fraternal, service and civic organizations.

§ 160-6. Revocation of licenses.

- A. Licenses issued pursuant to this bylaw may be revoked by the Chief of Police of the Town of Charlton, after notice and hearing, for any of the following causes:
 - (1) Fraud, misrepresentation or any false statement made to the Police Department in furnishing the information required in § 160-1 of this bylaw.
 - (2) Any violation of this bylaw.
 - (3) Conviction, or an admission or court finding of responsibility, of or by the license holder as to any felony, crime or juvenile delinquency violation involving moral turpitude, embezzlement or a crime of this nature, or of a nature upon which a license application may be denied pursuant to § 160-1E(2) above.
 - (4) Conducting the soliciting or peddling in an unlawful manner or in such a manner as to constitute a breach of the peace or to be a menace to the health, safety or general welfare of the people of the Town of Charlton or the general public.
- B. Notice of the hearing for consideration of revocation of a license shall be given in writing, stating the ground(s) for such possible revocation and the time and the place of hearing.
- C. Such notice shall be mailed first class, postage prepaid, to the license holder at the address given on the application/license, at least five (5) days prior to the date set for the hearing.

D. Appeals.

- (1) Any person aggrieved by the decision of the Chief of Police shall have the right of appeal to the Board of Selectmen.
- (2) Such appeal shall be made by filing with the Town Clerk, with a copy to the Town Administrator's office, each by first class mail, postage prepaid, or by hand delivery, a written statement of the grounds for the appeal, within five (5) days after notice of decision by the Chief of Police has been given.
- (3) The Board of Selectmen shall set the time and place for hearing such appeal, and notice of such time and place shall be given by the Town Clerk to the license holder in the manner hereinabove provided for notice of hearing on possible revocation by the Chief of Police.
- (4) At the hearing, the license holder shall be afforded an opportunity to present any information and evidence he/she believes pertinent to the ground(s) for the appeal and to the revocation.
- (5) The Board shall issue a written decision within fourteen (14) days of conclusion of the hearing and shall uphold the Chief's decision unless it determines that such was arbitrary, capricious or wholly unrelated to any ground set forth above for revocation.

§ 160-7. Enforcement; violations and penalties.

- A. The police officers of the Town of Charlton shall enforce this bylaw.
- B. Every person violating any provision of this bylaw is guilty of a misdemeanor and shall be punished by a fine not exceeding fifty dollars (\$50).
- C. Alternatively, violations may be enforced by the Charlton Police by means of a penalty of fifty dollars (\$50) per violation using noncriminal disposition procedures pursuant to MGL c. 40, § 21D, and Chapter 10, Penalties, Article I, the Noncriminal Disposition Enforcement Procedure Bylaw.
- D. Every violator of any provision of this bylaw shall be guilty of a separate offense as to every day such violation shall continue and shall be subject to a separate fine or penalty imposed by this section for each and every separate offense.