

General By Law

Section 1. Hawker, Peddler, Solicitor, Vendor Registration and Criminal History Checks

I. General Guidelines:

- a) The purpose of this section is to establish regulations for registration as well as specific operating requirements for person(s) intending to engage in hawking, peddling, vending and door-to-door solicitation with-in the Town of Holland. This section is intended to protect citizens from the perpetration of fraud or other crimes, while allowing for reasonable access to residents in their homes by persons or organizations who wish to communicate either commercial or non-commercial messages.
- b) No person, firm, co-partnership, corporation, company, association, organization, committee or other such entity shall engage in solicitation or canvassing in or upon any public or private premises with-in the Town of Holland, without first registering with the Holland Police Department. The police department shall respond to the registration request within (10) days.
- c) No person, firm, co-partnership, corporation, company, association, organization, committee or other such entity shall engage in hawking, peddling or vending in or upon any public or private premises with-in the Town of Holland, without first registering with the Board of Selectmen. The Board of Selectmen shall respond to the registration request within (30) days.
- d) With-in the scope of their legal authority, it shall be the responsibility of the police department and authorized police employees to identify those who fail to comply with the regulations outlined in this section.

II. Definitions:

- a) "Hawker/Peddler" shall mean any person, either principal or agent, who goes from town to town or from place to place in the same town selling or bartering, or carrying for sale or barter or exposing therefore, any goods, wares or merchandise, either on foot, or from any animal or vehicle.
- b) "Person" shall mean any individual, firm, co-partnership, corporation, company, association, organization, committee or other such entity.
- c) "Residential Premises" includes each individual dwelling unit without limitation.
- d) "Solicitor" shall mean those person(s) who are seeking to sell or to obtain orders for the purchase of goods, wares, merchandise, or services of any kind, character or description, or seeking to obtain subscriptions to books, magazines, periodicals, newspapers and every other type of publication.

- e) "Solicitation"/"Canvassing" shall mean traveling by foot, motor vehicle or any type of conveyance, from place to place, from house to house, or from street to street, whether for salary, commission or other remuneration, whether on behalf of oneself or another person, business, firm, corporation, organization or other entity, and selling, leasing or taking orders for the sale of any goods, wares, merchandise or services whatsoever, including, but not limited to, books, periodicals, food, and home improvement services, or attempting to so sell, lease or take orders, whether or not advance payment on such sales is collected; or seeking or requesting donations of money, goods or services for any for-profit entity or nonprofit entity.
- f) "Transient vendor" shall mean a person, either principal or agent, who engages in a temporary or transient business in the Commonwealth selling goods, wares or merchandise, either in 1 locality or in traveling from place to place; provided, however, that this shall not include a person operating under a written agreement with a licensed promoter.

III. Requirements/Prohibitions:

- a) Each person intending to engage in hawking, peddling, vending, soliciting or canvassing with-in the Town of Holland must complete and submit a registration application, (form 8.31).
- b) Persons engaged in hawking, peddling, vending, soliciting or canvassing shall display in plain view the certificate of registration while so engaged, and shall produce such certificate upon request.
- c) Immediately upon encountering an occupant of any residential premises, a person engaged in solicitation or canvassing shall present such certificate of registration for inspection and inform the occupant of the nature and purpose of their business, and if they are representing an organization, firm, or other entity.
- d) Persons engaged in solicitation or canvassing in or upon any residential premises shall immediately and peacefully leave such premises upon the request of the occupant.
- e) No person shall engage in hawking, peddling, vending, solicitation or canvassing in or upon any premises which displays a sign or other written notice which prohibits trespassing, solicitation or canvassing, unless invited to do so by the rightful owner of said premises.
- f) No person engaging in hawking, peddling, vending, solicitation or canvassing shall misrepresent in any way their true objective, status or mission, or that of any organization on behalf of which they are so engaged.
- g) No person engaging in hawking, peddling, vending, solicitation or canvassing shall utilize any plan, scheme or ruse to misrepresent the true status or mission of any

person conducting the activity in order to gain admission to the home, office or other establishment of any person in the town.

- h) No person engaging in hawking, peddling, vending, solicitation or canvassing shall engage in the conduct of business in such a manner as to obstruct or interfere with the flow of traffic, the maintenance of ways or the removal of snow.
- i) No person engaging in hawking, peddling, vending, solicitation or canvassing shall, while in the conduct of business, cause unreasonable noise or emit odors in such a manner as to injure or disturb the health and peace of the public.
- j) Persons engaging in hawking, peddling, vending, solicitation and canvassing shall comply with all federal, state and local laws, including, but not limited to, consumer protection laws such as M.G.L. c. 93, 93A and 255D, as well as the provisions outlined with-in M.G.L. c. 101, s. 1-34, as amended.

Ic. Registration:

- a) Persons intending to engage in hawking, peddling or vending pursuant to this section shall file a registration application, (form 8.31), with the Board of Selectmen either in person or by mail. All statements made on the application or in connection therewith shall be made under the penalties of perjury.
- b) Persons intending to engage in solicitation or canvassing pursuant to this section shall file a registration application, (form 8.31), with the police department either in person or by mail. All statements made on the application or in connection therewith shall be made under the penalties of perjury.
- c) The application shall contain:
 - 1. The applicants name, home address, telephone number and date of birth;
 - 2. The name, address, telephone number, and state or federal tax identification of the applicant's business, firm, corporation, organization, or other entity represented (if applicable);
 - 3. The year, make, model, color, registration number, state of registration, and owner's name of any vehicle that the applicant will be operating or transported by (if applicable).
 - 4. A description of the nature of the business and the goods or services to be sold or the purpose(s) for which donations are to be requested;
 - 5. The length of time for which applicant seeks to conduct business in the town;
- d) The applicant must also provide:
 - 1. The applicants driver's license to be copied (if applicable);
 - 2. A recent passport sized photograph of the applicant;

3. Whether the applicant has been convicted in any state or federal court of the United States of burglary, breaking and entering, larceny, robbery, receiving stolen property, assault, fraud, sexual misconduct, unlawfully carrying weapons, or any other felony with-in the past seven years;
 4. Consent by the applicant authorizing a criminal history check to be conducted by the chief of police or designee;
- e) A person licensed by the Commonwealth of Massachusetts as a hawker or peddler under the provisions of M.G.L. c. 101, s. 22 shall, before making any sale of goods, wares or merchandise within the limits of the town, register with the Board of Selectmen. Such registration shall be subject to reasonable rules and regulations as may from time to time be made by the board.
- f) No person shall hawk or peddle goods, wares or merchandise within the limits of the town, except as otherwise authorized by law, without first registering with the Board of Selectmen. Such registration shall be subject to reasonable rules and regulations and to fees as established by the board in accordance with the provisions of M.G.L. c. 101, s. 17.
- g) A person licensed by the Commonwealth of Massachusetts as a transient vendor under the provisions of M.G.L. c. 101, s. 3 shall, before making any sales of goods, wares or merchandise within the limits of the town, register with the Board of Selectmen. Such registration shall be subject to reasonable rules and regulations as may from time to time be made by the board and to the payment of a fee in accordance with the provisions of M.G.L. c. 101, s. 5.

c. Certificate of Registration:









- a) All persons engaging in hawking, peddling, vending, solicitation or canvassing pursuant to this section shall be confined to conduct their business during the hours of 9:00AM until 8:00PM, unless otherwise indicated on the certificate of registration. No person having received a certificate of registration shall represent to the public that the same constitutes an endorsement or approval by the Town of Holland or its officials.
- b) The police department shall keep a record of all applications and certificates of registration for solicitation for (6) years after the application is filed. All certificates will expire (90) days after the date of issue, unless otherwise indicated on the certificate of registration.
- c) Each certificate for hawking, peddling, vending and solicitation shall contain:
 1. The name, address and photograph of the holder of the certificate;
 2. The name and address of the business, firm, corporation, organization, or other entity represented (if applicable);
 3. The date of issue and expiration date of the certificate;

4. The signature of the licensing authority;

- d) Any certificate of registration may be revoked by the licensing authority for good cause, including a violation of any of the provisions of this section or for false statement(s) made in the application. Immediately upon such revocation, the licensing authority shall provide written notice to the holder of the certificate in person or by certified mail addressed to the address submitted in the application.
- e) Immediately upon the giving of such notice of revocation, the certificate of registration shall become null and void. No certificate of registration may be transferred to any other person or entity.
- f) Upon a determination that the holder of a certificate of registration has been convicted of fraud or found by the Attorney General's Office to have violated any consumer protection law or regulation, the certificate of registration shall be revoked.
- g) Should any person who has been issued a certificate of registration be arrested or charged with a crime that is alleged to have occurred in the course of conducting business under the certificate, the certificate shall be automatically suspended. Such suspension shall last until the resolution of the criminal proceedings. Should the person be found guilty of the offense, the certificate shall be revoked and no subsequent certificate shall be issued.
- h) Any revoked certificate of registration shall be turned in to the police department within three (3) days of notice. Failure to do so shall constitute a violation of this section and each day the certificate is not turned in shall constitute a separate offense.
- i) The licensing authority may decline to issue a certificate of registration for any application which is determined to be incomplete, contains fraudulent statements or for any organization which has been charged with fraud, deceptive or misleading advertising, or is under investigation by the Attorney General's Consumer Fraud Prevention Division, until such charge or investigation is disposed of and the organization found not culpable.
- j) The licensing authority may also decline to issue a certificate of registration to any person who has ever been convicted of a felony, convicted of any crimes listed on the application or to any person who has violated any provision outlined within this section.
- k) Any person or organization that is denied a certificate of registration or whose certificate has been revoked may appeal the decision by petitioning the Town of Holland Board of Selectmen in writing. Such appeal must be filed within (5) days after receipt of the notice of denial or revocation and the Board of Selectmen shall hear the appeal at its next scheduled meeting after the filing of the written notice of appeal. The Board of Selectmen shall issue a decision within twenty-one (21) days of the filing of the appeal.

çI. Authorization to conduct criminal history checks:

- a) As authorized by M.G.L. c. 6, s. 172 B 1/2, the police department shall conduct State and Federal Fingerprint Based Criminal History checks for individuals applying for the following licenses:

-  Hawking and Peddling (BOS);
-  Door to Door Salespeople/Solicitors (Police);
-  Manager of Alcoholic Beverage License (BOS);
-  Owner or Operator of Public Conveyance (BOS);
-  Dealer of Secondhand Articles (BOS);
-  Pawn Dealers (BOS);
-  Hackney Drivers (BOS);
-  Ice Cream Truck Vendors (BOS);

- b) At the time of fingerprinting, the police department shall notify the individual fingerprinted that the fingerprints will be utilized to check the individual's criminal history records.
- c) Upon receipt of the fingerprints and the appropriate fee, the police department shall transmit the fingerprints it has obtained pursuant to this section to the Identification Section of the Massachusetts State Police, the Massachusetts Department of Criminal Justice Information Services (DCJIS), and/or the Federal Bureau of Investigation (FBI) or the successors of such agencies as may be necessary for the purpose of conducting fingerprint based state and national criminal records background checks of license applicants specified in this section.
- d) The town authorizes the Massachusetts State Police, the Massachusetts Department of Criminal Justice Information Systems (DCJIS), and the Federal Bureau of Investigation (FBI), and their successors, as may be applicable, to conduct fingerprint based state and national criminal record background checks, including FBI records, consistent with this section. The town authorizes the police department to receive and utilize State and FBI records in connection with such background checks, consistent with this section. The State and FBI criminal history will not be disseminated to unauthorized entities.
- e) Upon receipt of a report from the FBI or other appropriate criminal justice agency, a record subject may request and receive a copy of his/her criminal history record from the police department. Should the record subject seek to amend or correct his/her record, he/she must take appropriate action to correct said record, which action currently includes contacting the Massachusetts Department of Criminal Justice Information Services (DCJIS) for a state record or the FBI for records from other jurisdictions maintained in its file. An applicant that wishes to challenge the accuracy or completeness of the record shall be advised that the procedures to change, correct, or update the record are set forth in Title 28CFR 16.34.

- f) The police department shall not utilize and/or transmit the results of the fingerprint based criminal record background check to any licensing authority pursuant to this section until it has taken the steps detailed in this section.
- g) Municipal officials should not deny an applicant the license based on information in the record until the applicant has been afforded a reasonable time to correct or complete the information, or has declined to do so.
- h) The police department shall communicate the results of fingerprint based criminal record background checks to the appropriate governmental licensing authority within the town as listed. The police department shall indicate whether the applicant has been convicted of, or is awaiting final adjudication for, a crime that bears upon his or her suitability or any felony or misdemeanor that involved force or threat of force, controlled substances or a sex related offense.
- i) Licensing authorities of the town shall utilize the results of fingerprint based criminal record background checks for the sole purpose of determining the suitability of the subjects of the checks in connection with the license applications specified in this section. A town licensing authority may deny an application for a license on the basis of the results of a fingerprint based criminal record background check if it determines that the results of the check render the subject unsuitable for the proposed occupational activity. The licensing authority shall consider all applicable laws, regulations and town policies bearing on an applicant's suitability in making this determination. The town or any of its officers, departments, boards, committees or other licensing authorities is hereby authorized to deny any application for, including renewals transfers thereof, for any person who is determined unfit for the license, as determined by the licensing authority, due to information obtained pursuant to this section.
- j) The fee charged by the police department for the purpose of conducting fingerprint based criminal record background checks shall be one hundred dollars (\$100). The Town Treasurer shall periodically consult with Town Counsel and the Department of Revenue, Division of Local Services regarding the proper municipal accounting of those fees. A portion of the fee, as specified in M.G.L. c. 6, s. 172B 1/2, shall be deposited into the Firearms Fingerprint Identity Verification Trust Fund, and the remainder of the fee maybe retained by the town to be expended by the police department to help offset costs associated with the administration of the fingerprinting system.
- k) The Chief of Police or his/her designee shall periodically check with the Executive Office of Public Safety and Security (EOPSS) to see if there have been any updates to ensure the town remains in compliance.

çII. Exemptions:

- a) The provisions of this section shall not apply to officers or employees of town, county, state, or federal government, or any subdivision thereof, when conducting

official business. To person soliciting solely for religious, charitable or political purposes. To persons selling or soliciting for the purpose of funding non-profit entities, such as but not limited to, persons affiliated with local recreation, youth activities, school activities and parent-teacher associations. To youth and students who sell lemonade or similar items, solicit for the shoveling of snow or cutting of lawns or similar services.

- b) The provisions of this section shall not apply to organizations registered with the Attorney General's Office in accordance with M.G.L. c. 68, s. 19. To those who are exempt without the promulgation of rules and regulations by the municipality or to those who are exempt pursuant to M.G.L. c. 101, M.G.L. c. 149, s. 69, M.G.L. c. 180, s. 4, or any other M.G.L.
- c) The provisions of this section shall not be construed to prevent route salespersons or other persons having established customers from conducting business with those whom they make periodic deliveries, including, but not limited to, news carriers.
- d) The requirement of registration and certification outlined in this section shall not apply to those persons who provide the services of snow plowing, snow removal or the treatment or removal of ice or other debris when the activity is conducted in preparation of an impending severe weather event, during a severe weather event or as a result of a severe weather event; however, the provisions of this section related to requirements and prohibitions are not exempt.
- e) Licensing authorities shall be authorized to amend and/or suspend portions of the rules and regulations contained here-in, at any time, without notice, in preparation of an impending emergency, during an existing emergency, or in the event of extraordinary circumstances, such as but not limited to, severe weather events, provided there is reasonable justification for such action.

çIII. Fee's and Fines:

- a) A registration for certification application shall be filed by utilizing the appropriate form provided by the municipality, (form 8.31), and shall be submitted with a non-refundable application fee of (\$20.00) by way of check or money order made out to the Town of Holland.
- b) Violation by a solicitor or canvasser of any provision of this section shall be punishable by a fine of one hundred dollars (\$100.00) for each and every violation; however, violation of M.G.L. c. 101, s. 34, shall be punishable by a fine of not more than (\$500.00) or imprisonment of not more than six months, as provided therein.
- c) Provisions for the non-criminal disposition of violations of the regulations outlined in this section shall be conduct in accordance with M.G.L. c. 40 s. 21D.