

**Article :** To see if the Town will vote to amend or replace the current By-law Regulating For-Profit Door-to-Door Business & Solicitations adopted under Article 42 at the May 16, 2005, Annual Town Meeting, by deleting the existing By-law in its entirety, and by inserting in place thereof, the following Town of Somerset, By-law Regulating For-Profit Door-to-Door Business & Solicitations, or take any action relative thereto.

### **Section 1. Purpose**

This article, adopted pursuant to Chapter 43, Section 13, of the General Laws and 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 Somerset ("Town") 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.

### **Section 2. Definitions**

For the purpose of this Bylaw, 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/or
- 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 Massachusetts General Laws.

### Section 3. Registration

Every person or organization intending to engage in soliciting or canvassing door-to-door in the Town 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, and valid driver's license or other government-issued photo identification of the person(s) 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;
- 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.

#### **Section 4. Registration Fee**

There shall be no application fee or charge for an individual registration card. Each organizational applicant for registration or re-registration shall pay to the Town an application fee of \$75.00.

#### **Section 5. Registration Cards**

The Chief of Police or his designee, after a review, but in no event more than ten (20) 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, if possible;
- (c) The name of the organization (if any) which the person represents;
- (d) A statement that the individual has been registered with the Town 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 Bylaw 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 \$1200, 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.

#### **Section 6. 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 for-profit organization, newspaper carriers excepted.

Nothing in this Bylaw 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.

## **Section 7. Duties of Persons Going Door-to-Door**

Every solicitor, canvasser, or other person should take heed of the Town's "No-Knock" registration list, in which individuals and private residences have registered with the Town to prohibit solicitations, canvassers, or such activities from entering on or engaging in activities subject to this Bylaw at their private properties. If such an individual or private residence have registered with the Town's No-Knock Registry, the solicitor, canvasser, or other person shall not enter upon that property, or on learning the residence is registered on the No-Knock Registry, shall immediately and peacefully depart from the premises. It shall further be the duty of the solicitor, canvasser, or other person to examine the No-Knock Registry daily for updated information. Residents wishing to enter their residence on the No-Knock Registry may do so on the Somerset Police website at [somersestd.org](http://somersestd.org), or by completing a form in-person at the Somerset Police Department. The No-Knock Registry will be maintained electronically by the Somerset Police Department, with electronic access instructions provided with each soliciting registration.

Upon going into any residential premises in the Town, every solicitor, canvasser, or other person must first examine any notice that may be posted on or near private or public property 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.

## **Section. 8. Regulations 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 8:00 a.m. or after 7:00 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; and
- (e) Solicit, canvass, or conduct any other activity at any residence in a threatening, abusive, or illegal fashion.

## **Section 9. Penalty**

Any person or organization who shall violate any of the provisions of this Bylaw shall be subject to a fine not to exceed \$300.00 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, 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
- (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.
- (c) after 3 documented violations of any provisions of this Bylaw, the Chief of Police may, at his/her discretion, revoke the registration.

## **Section 11. 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 five (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.

## **Section 12. Severability**

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

### ***Article***

***Title or subject matter: Amend By-law Regulating For-Profit Door-to-Door Business & Solicitations***

***Description: This article, if approved, will repeal the existing Article 42 solicitation bylaw and replace same with a revised bylaw implementing a "No-Knock" registry and new regulations for the solicitation application process to include this registry.***