



Town of Winchester

Town Manager's Office
71 Mt. Vernon Street
Winchester, MA 01890
Phone: 781-721-7133
Fax: 781-756-0505
townmanager@winchester.us

Board of Selectmen Meeting
Monday, July 6, 2016

BUSINESS

Docket Item G - 2: Solicitation Bylaw Discussion

Supporting Documents:

G - 2: Proposal Chronology:
Town Clerk's Record of town Meeting action on Article 17;
2009 Fall Town Meeting Article Background/Motions;
2009 Fall Town Meeting Warrant Article
Board of Selectmen Meeting Minutes:
March 1, 2010; February 8, 2010;
November 5, October 26, 19, 5, 2009
September 17, July 27, June 22, 2009

Town of Reading Bylaw
Town of Wilmington Bylaw
Town of Lynnfield Bylaw
Town of Stoneham Bylaw
Town of North Reading Bylaw
Town of Lexington Bylaw

Action Required:

G - 2:

Solicitation Bylaw Proposal Chronology

- Town Clerk's Record of town Meeting action on Article 17
- 2009 Fall Town Meeting Article 17 Background and Motion
- 2009 Fall Town Meeting Warrant / Article 17: *To see if the Town will vote to amend the Town of Winchester Code of By-Laws by Adding a new chapter as follows:*
 - Board of Selectmen Meeting Minutes discussing the Solicitation Bylaw
 - March 1, 2010
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 - November 5, 2009
 - October 26, 2009
 - October 19, 2009
 - October 5, 2009
 - September 17, 2009
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 - June 22, 2009



Town of Winchester
OFFICE OF THE TOWN CLERK
Town Hall 71 Mt. Vernon Street Winchester, MA 01890
Phone 781-721-7130 Fax 781-721-1153 E-Mail melannon@winchester.us

Mary Ellen Lannon, Town Clerk
Joanne G. Cerasoli, Records Clerk

Kathleen Cramer, Asst. Town Clerk
Suzanne M. Gill, Records Clerk

Fall Annual Town Meeting
November 2, 2009

ARTICLE 17: To see if the Town will vote to amend the Town of Winchester Code of By-Laws by adding a new chapter, as follows:

CHAPTER 19. SOLICITATIONS AND CANVASSING:

Section 19.1. STATEMENT OF PURPOSE

This By-Law is intended to secure for residents of the Town the tranquility which they reasonably expect to enjoy in the privacy of their homes and to protect them from unreasonable intrusion by unrequested and unwanted solicitation and canvassing. 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 entitled to protection under the First Amendment to the United States Constitution.

Section 19.2. DEFINITIONS

(a) "Solicitation or canvassing" means traveling by foot, motor vehicle or any type of conveyance, from place to place, from house to house, or from street to street, for salary, commission or other remuneration, whether on behalf of oneself or of another person, firm or corporation and:

(1) Selling, leasing or taking orders for the sale of any goods, wares, merchandise or services whatsoever, including without limitation 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

(2) Seeking or requesting donations of money, goods or services for any for-profit or nonprofit entity.

(b) "Residential property" includes without limitation each individual dwelling unit.

Section 19.3. PROHIBITION AND REQUIREMENTS

(a) No person shall engage in solicitation or canvassing in or upon any private residential property in the Town of Winchester, and no firm, corporation, organization or other entity shall arrange for any person to engage in solicitation or canvassing in or upon

any residential property, without first registering with the Chief of Police not less than seven days before commencing such solicitation or canvassing and obtaining from the Chief of Police a certificate evidencing such registration.

(b) Persons engaged in solicitation or canvassing shall carry such certificate or registration while so engaged and shall produce such certificate upon the request of a police officer.

(c) Immediately upon encountering an occupant of any residential property, 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 his business and, if he is representing an organization, firm or other entity, the nature and purpose of such organization, firm or other entity.

(d) Each person engaged in solicitation or canvassing in or upon any residential premises shall immediately leave such premises upon the request of the occupant.

(e) No person shall engage in solicitation or canvassing in or upon any residential property upon which is displayed a sign prohibiting trespassing, solicitation or canvassing.

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(g) Persons engaging in solicitation or canvassing shall comply with all federal, state and local laws and regulations, including but not limited to consumer protection laws such as MGL c. 93, 93A and 255D.

Section 19.4. REGISTRATION

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- (3) Applicant's business, residence and local telephone numbers;
- (4) Applicant's date of birth;
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- (6) Applicant's sex, race, height, weight, hair color and eye color;
- (7) Applicant's photograph and fingerprint record card taken by the Police Department at the time of application;
- (8) Length of time for which applicant seeks to conduct business in the Town of Winchester;
- (9) Description of the nature of the business and the goods or services to be sold or purpose(s) for which donations are to be requested;
- (10) Name, home office address and home office telephone number of applicant's employer, if any, or statement of self-employment;

(11) If applicant is operating or being transported by a motor vehicle, the year, make, model, color, registration number, state of registration, owner's name and address of each such vehicle.

(b) Fee. Upon filing such application each applicant shall pay a nonrefundable filing fee in the amount of \$25.

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Section 19.12. EXCEPTION

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

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- (b) Any officer or employee of the Town, county, state or federal government on official business; or
- (c) Route salespersons or others having established customers making periodic deliveries to such customers or making calls upon prospective customers to solicit orders for periodic route deliveries, including but not limited to news carriers.

Section 19.13. SEVERABILITY

If any section, subsection, sentence, clause, phrase or portion of this by-law shall be declared invalid or held unconstitutional by any court of last resort, the remainder shall continue in full force and effect.

Section 19.14. PENALTY

Whoever violates any provisions of this by-law shall be liable to a penalty of not less than \$100 for each offense.

Or take any other action in relation thereto.

(Board of Selectmen)

MOVED AND SECONDED that the Town vote to amend the Town of Winchester Code of By-Laws by adding a new chapter, as follows:

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(b) Fee. Upon filing such application each applicant shall pay a nonrefundable filing fee in the amount of \$25.

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Forrest Fontana presented the motion on behalf of the Board of Selectmen. The BOS recommends favorable action on this article. Police Chief Kenneth Albertelli was present and reviewed the reasons he asked the BOS to present the article. He stated he felt it was his obligation to protect the citizens of the community and that many similar communities have a similar bylaw. He stated he has been concerned with the solicitors targeting the senior population in town. Discussion took place from the floor and several Town Meeting Members expressed their objection to this article stating the bylaw infringes on freedom of speech and makes it difficult for legitimate business's to conduct door to door sales.

Discussion continued and the Chief was asked if the Police Department currently does any community outreach on educated the public about vendors going door to door. The Chief stated that the department could certainly do an outreach campaign but that he still felt strongly that the bylaw would be an additional tool for his department. The moderator called for the vote a standing vote.

Motion Failed
Standing Vote
YES: 66 NO: 80

I certify that the foregoing is a true account of the action taken under Article 17 of the Fall Annual Town Meeting of November 2, 2009.

ATTEST:



Mary Ellen Lannon
Winchester Town Clerk



Town of Winchester
2009 Annual Fall Town Meeting

ARTICLE 17

To see if the Town will vote to amend the Town of Winchester Code of By-Laws by adding a new chapter, as follows:

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(b) Fee. Upon filing such application each applicant shall pay a nonrefundable filing fee in the amount of \$25.

Section 19.5. INVESTIGATION AND ISSUANCE

(a) Upon receipt of an application for registration the Chief of Police shall cause to make an investigation of the applicant's background and reputation. Within seven days of the filing [of] such application the Chief of Police or his designee shall either approve such application and cause the certificate of registration to be issued or deny such application, stating the reason(s) for such denial. Failure of the Chief of Police or his designee to so act within seven days shall constitute approval of said application.

(b) Grounds for denial shall include but are not limited to the following:

- (1) A conviction in any state or federal court of the United States or any court of a territory of the United States for any of the following named offenses committed within seven years prior to the date of such shall constitute grounds for denial of such application: burglary, breaking and entering, larceny, robbery, receiving stolen property, assault, fraud, sexual misconduct as specified in Chapter 265, Sections 13B and 22 through 24, and Chapter 272, Section 53 of the General Laws, unlawfully carrying weapons, or the attempt of any such offense;
- (2) The failure to include any of the information requested in the application.

Section 19.6. CONTENTS OF CERTIFICATE

Each certificate of registration shall contain the signature of Chief of Police or his designee and shall show the name, address and photograph of the holder of said certificate, date of issue and registration number.

Section 19.7. APPEAL

(a) Any applicant aggrieved by the action of the Chief of Police in denying such application or in revoking such certificate of registration may appeal in writing to the Board of Selectmen within seven days of the action complicated of. The Board of Selectmen shall hold a hearing and render a decision within 30 days of the date the appeal is received.

(b) If the Board of Selectmen fails to render a decision within 30 days the appeal shall be deemed to be upheld.

Section 19.8. EXPIRATION OF CERTIFICATE

Each certificate of registration issued pursuant to this by-law shall expire 90 days from date of issue.

Section 19.9. TRANSFER OF CERTIFICATE

No certificate of registration may be transferred to any other person or entity.

Section 19.10. REVOCATION OF CERTIFICATE:

The Chief of Police may revoke the certificate of registration of any solicitor or canvasser for violation of any provision of this by-law or for providing false information on the application.

Section 19.11. DUTIES OF POLICE DEPARTMENT

The Police Department shall keep a record of all certificate of registration, including registration numbers, and application thereof for a period of six years after application. Enforcement authority of this By-Law shall be by criminal complaint filed by the Police Department.

Section 19.12. EXCEPTION

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

- (a) Any person duly licensed under Chapter 101 of the General Laws or any persons exempted under Chapter 101, Chapter 149, Section 69, Chapter 180, Section 4, or any other General Law.
- (b) Any officer or employee of the Town, county, state or federal government on official business; or
- (c) Route salespersons or others having established customers making periodic deliveries to such customers or making calls upon prospective customers to solicit orders for periodic route deliveries, including but not limited to news carriers.
- (d) Political or religious groups entitled to protection under the First Amendment to the United States Constitution.

Section 19.13. SEVERABILITY

If any section, subsection, sentence, clause, phrase or portion of this by-law shall be declared invalid or held unconstitutional by any court of last resort, the remainder shall continue in full force and effect.

Section 19.14. PENALTY

Whoever violates any provisions of this by-law shall be liable to a penalty of not less than \$100 for each offense.

MOTION #2:

MOVED AND SECONDED, to rescind Section 3, 4 and 5 from CHAPTER 8 - PUBLIC ORDER of the Code of By-Laws.

ARTICLE 19 BACKGROUND:

Article 19 was submitted by the Board of Selectmen at the request of the Chief of Police. It is intended to establish a more formal and rigorous regulation of parties that solicit or canvass residents of the Town of Winchester on a "door to door" basis.

For the past several years, the Police Department has had an increasingly growing problem with door to door solicitation. Solicitors are often hired by companies with little or no background checks. Many solicitors have no identification and some have been found to possess criminal backgrounds. In many cases, the attitude and demeanor of solicitors is aggressive. The Police Department has had to arrest or summons several solicitors for disturbing the peace, assaults or warrants from other jurisdictions.

The proposed by-law has been adapted from one that was successfully implemented in the Town of Marblehead, Massachusetts. It has been reviewed by the Committee of Government Regulations.

Majority vote required for passage.

ARTICLE 13. To see if the Town will vote to appropriate a sum of money for drainage improvements in the Main Street, Manchester Field and Manchester Road area, including but not limited to, catch basins and infiltration systems, all related engineering, and all other costs incidental or related thereto; to determine whether this appropriation shall be raised by borrowing or otherwise, or take any other action in relation thereto.

(Capital Planning Committee)

ARTICLE 14. To see if the Town will vote to appropriate a sum of money for sewer line rehabilitation, including replacing and/or lining existing sewer pipes and all engineering and other costs incidental or related thereto; to determine whether this appropriation shall be raised by borrowing from the Massachusetts Water Resources Authority or otherwise, or take any other action in relation thereto.

(Capital Planning Committee)

ARTICLE 15. To see if the Town will vote to appropriate a sum of money for the replacement of the Johnson Road sewer main including engineering and all other costs incidental or related thereto; to determine whether this appropriation shall be raised by borrowing, transfer from unexpended bond proceeds or otherwise; or take any other action in relation thereto.

(Capital Planning Committee)

ARTICLE 16. To see if the Town will vote to raise and appropriate, or transfer from the Parking Meter Fund or other available funds, a sum of money in order to complete a Parking Study for the center of Town and related areas, or take any other action in relation thereto.

(Board of Selectmen)

ARTICLE 17. To see if the Town will vote to amend the Town of Winchester Code of By-Laws by adding a new chapter, as follows:

CHAPTER 19. SOLICITATIONS AND CANVASSING:

Section 19.1. STATEMENT OF PURPOSE

This by-law is intended to secure for residents of the town the tranquility which they reasonably expect to enjoy in the privacy of their homes and to protect them from unreasonable intrusion by unrequested and unwanted solicitation and canvassing. 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 entitled to protection under the First Amendment to the United States Constitution.

Section 19.2. DEFINITIONS

(a) "Solicitation or canvassing" means traveling by foot, motor vehicle or any type of conveyance, from place to place, from house to house, or from street to street, for salary, commission or other remuneration, whether on behalf of oneself or of another person, firm or corporation and:

(1) Selling, leasing or taking orders for the sale of any goods, wares, merchandise or services whatsoever, including without limitation 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

(2) Seeking or requesting donations of money, goods or services for any for-profit or nonprofit entity.

(b) "Residential property" includes without limitation each individual dwelling unit.

Section 19.3. PROHIBITION AND REQUIREMENTS

(a) No person shall engage in solicitation or canvassing in or upon any private residential property in the Town of Winchester, and no firm, corporation, organization or other entity shall arrange for any person to engage in solicitation or canvassing in or upon any residential property, without first registering with the Chief of Police not less than seven days before commencing such solicitation or canvassing and obtaining from the Chief of Police a certificate evidencing such registration.

(b) Persons engaged in solicitation or canvassing shall carry such certificate or registration while so engaged and shall produce such certificate upon the request of a police officer.

(c) Immediately upon encountering an occupant of any residential property, 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 his business and, if he is representing an organization, firm or other entity, the nature and purpose of such organization, firm or other entity.

(d) Each person engaged in solicitation or canvassing in or upon any residential premises shall immediately leave such premises upon the request of the occupant.

(e) No person shall engage in solicitation or canvassing in or upon any residential property upon which is displayed a sign prohibiting trespassing, solicitation or canvassing.

(f) No person engaging in solicitation or canvassing shall misrepresent in any way his true objective, status or mission or that of any organization on behalf of which he is so engaged.

(g) Persons engaging in solicitation or canvassing shall comply with all federal, state and local laws and regulations, including but not limited to consumer protection laws such as MGL c. 93, 93A and 255D.

Section 19.4. REGISTRATION

(a) Application. Persons seeking registration certificates in accordance with this by-law shall apply thereof not less than seven days before commencing solicitation or canvassing in the Town of Winchester. Such application shall be signed under the penalties of perjury and shall contain the following information on a form provided by the Chief of Police:

- (1) Applicant's name;
- (2) Applicant's business, residence and local address;
- (3) Applicant's business, residence and local telephone numbers;
- (4) Applicant's date of birth;
- (5) Applicant's driver's license number and state of issue;
- (6) Applicant's sex, race, height, weight, hair color and eye color;
- (7) Applicant's photograph and fingerprint record card taken by the Police Department at the time of application;
- (8) Length of time for which applicant seeks to conduct business in the Town of Winchester;
- (9) Description of the nature of the business and the goods or services to be sold or purpose(s) for which donations are to be requested;
- (10) Name, home office address and home office telephone number of applicant's employer, if any, or statement of self-employment;
- (11) If applicant is operating or being transported by a motor vehicle, the year, make, model, color, registration number, state of registration, owner's name and address of each such vehicle.

(b) Fee. Upon filing such application each applicant shall pay a nonrefundable filing fee in the amount of \$25.

Section 19.5. INVESTIGATION AND ISSUANCE

(a) Upon receipt of an application for registration the Chief of Police shall cause to make an investigation of the applicant's background and reputation. Within seven days of the filing [of] such application the Chief of Police or his designee shall either approve such application and cause the certificate of registration to be issued or deny such application, stating the reason(s) for such denial. Failure of the Chief of Police or his designee to so act within seven days shall constitute approval of said application.

(b) Grounds for denial shall include but are not limited to the following:

(1) A conviction in any state or federal court of the United States or any court of a territory of the United States for any of the following named offenses committed within seven years prior to the date of such shall constitute grounds for denial of such application: burglary, breaking and entering, larceny, robbery, receiving stolen property, assault, fraud, sexual misconduct as specified in Chapter 265, Sections 13B and 22 through 24, and Chapter 272, Section 53 of the General Laws, unlawfully carrying weapons, or the attempt of any such offense;

(2) The failure to include any of the information requested in the application.

Section 19.6. CONTENTS OF CERTIFICATE

Each certificate of registration shall contain the signature of Chief of Police or his designee and shall show the name, address and photograph of the holder of said certificate, date of issue and registration number.

Section 19.7. APPEAL

(a) Any applicant aggrieved by the action of the Chief of Police in denying such application or in revoking such certificate of registration may appeal in writing to the Board of Selectmen within seven days of the action complained of. The Board of Selectmen shall hold a hearing and render a decision within 30 days of the date the appeal is received.

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Section 19.12. EXCEPTION

The provisions of this by-law shall not apply to the following persons:

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- (b) Any officer or employee of the town, county, state or federal government on official business; or
- (c) Route salespersons or others having established customers making periodic deliveries to such customers or making calls upon prospective customers to solicit orders for periodic route deliveries, including but not limited to news carriers.

Section 19.13. SEVERABILITY

If any section, subsection, sentence, clause, phrase or portion of this by-law shall be declared invalid or held unconstitutional by any court of last resort, the remainder shall continue in full force and effect.

Section 19.14. PENALTY

Whoever violates any provisions of this by-law shall be liable to a penalty of not less than \$100 for each offense.

Or take any other action in relation thereto.

(Board of Selectmen)

ARTICLE 18. To see if the Town will vote to transfer the proceeds from the sale of raspberries at the Wright-Locke Farm that have been deposited into a revolving fund (Fund #8762) under the jurisdiction of the Town pursuant to Massachusetts General Law Chapter 44 section 53E½ to the Wright-Locke Farm Conservancy, Inc, a 501 (c)(3) not-for-profit corporation as reimbursement for management and other services provided and to be provided to the Town and expenses incurred and to be incurred pursuant to a Memorandum of Understanding between the Town and the Conservancy dated July 1, 2009, or take any other action in relation thereto.

(Town Manager)

ARTICLE 19. To see if the Town will vote to raise and appropriate, or transfer from available funds, a sum or sums of money to supplement appropriations previously voted for Fiscal Year 2010 Budgets, or take any other action in relation thereto.

(Town Manager)

ARTICLE 20. To see if the Town will vote to accept committee reports, dissolve old committees, authorize new committees, or take any other action in relation thereto.

(Board of Selectmen)

ARTICLE 21. To see if the Town will vote to take appropriate action to comply with provisions of M.G.L. Chapter 59, Section 21c, a law known as "2 ½ Tax Limitation", or take any other action in relation thereto.

(Town Manager)

And you are hereby directed to serve this warrant by mailing a printed copy thereof, by you attested, to every occupied dwelling house in said Town and by posting on the Town bulletin board at least ten days before the holding of said meeting.

Hereof fail not and make due return of this warrant with your doings thereon to the Town Clerk before the day of said meeting.

Given under our hands and seals this 5th day of October two thousand nine.

BRIAN P. O'CONNOR, CHAIRMAN
JAMES A. JOHNSON III, VICE CHAIRMAN
THOMAS R. HOWLEY
ROGER L. BERMAN
FORREST N. FONTANA

Board of Selectmen
Town of Winchester

A true copy:
ATTEST:

Richard S. Kelley, Constable

And you are hereby directed to serve this warrant by mailing a printed copy thereof, by you attested, to every occupied dwelling house in said Town and by posting on the Town bulletin board at least ten days before the holding of said meeting.

Hereof fail not and make due return of this warrant with your doings thereon to the Town Clerk before the day of said meeting.

Given under our hands and seals this 5th day of October two thousand nine.

Board of Selectmen
Town of Winchester

A true copy:
ATTEST:

Richard S. Kelley, Constable

Town Manager reported that on Tuesday, March 9th, Mass. DOT is conducting the required public hearing on the bikeway project. A preliminary meeting was held with the Mayor of Woburn and the Town Administrator from Stoneham, and the project has a long, complicated, controversial history. One of the major issues in Winchester concerned the Town Hall campus, now successfully segregated from the State portion of the project. Issues remain in both Woburn in Stoneham, however the process must move on. Mass DOT will conduct the hearing that is being held in Maurer Auditorium here in Town Hall. The Town's bikeway and Greenway Committee will be present to offer their support for this project.

BUSINESS

Town Meeting Warrant Articles

Town Manager presented a list of potential Spring Town Meeting Warrant Articles for the Board's review. He pointed out that the deadline for submitting warrant articles is Friday, March 12th.

 Board members discussed review and refinement of the Solicitation Bylaw, with the Chairman commenting that he feels it should be more basic and not so far reaching. Selectman Fontana suggested that the privacy issue should be better vetted. Selectman Berman indicated that the case was not made for what the issues and concerns were, and what the real problem is that the Police Chief is trying to address. Selectman Fontana informed his colleagues that he would work on this article with the Town Manager and the Chief of Police.

In discussion about including an article in the warrant authorizing the transfer of the deed to the property, farmhouse, garage, 1827 barn, ice house and shed (all known as the Wright-Locke Farmstead), Selectman Howley indicated that the transfer could be made to the Conservancy but there may be less of a risk to protect the buildings no matter what happens with the Abbott Development deal, although the Conservancy is not in a legal position to address the problems with the buildings. He pointed out that Town Meeting was previously informed that the transfer would not occur until the deal with Abbott Development closed. Selectman Howley suggested that the reluctance might relate to a transfer before it is known what is going on with Abbott. He informed his colleagues that he believes in the vision that the Conservancy has and hopes that any developer would be in agreement.

As far as leasing to the Conservancy, Selectman Howley explained that while the buildings would be protected, it still does not give the Conservancy the legal rights for preservation. He indicated that the Board needs to find an interim way to address the gap. He noted that Town Counsel was concerned because if the property is going to be leased to the Conservancy it must first be advertised under the law. Vice Chairman Johnson indicated that an RFP could be written to address the needs of the community. Selectman Howley pointed out that the third amendment to the Abbott Agreement contemplates that the Town would hold the permits and approvals for a development that does not include the raspberry patch or the historic farmstead buildings.

Speaking to the placeholder article to enact as a By-Law the Stretch Energy Code, Selectman Howley informed his colleagues that this issue is currently being addressed by staff and it has been decided that the most important thing that can be done is to educate residents on what it is and how the stretch code applies, along with access to funding sources to offset the mandates, holding workshops and educating the public in general.

Selectman Howley informed the Board that the Sanborn House proponents would like to get the Preservation Restriction in place and the parking situation rectified. He recalled that the Board approved the use of approximately \$5,000 towards the \$12,500 design plan. He noted that the Historical Society has been somewhat hesitant because there is a demand for their money. Selectman Howley referenced his conversation with Bob Colt informing him that if the Historical Society does not want to proceed at this time, is it possible to work on the handicap portion only. He informed his colleagues that he feels Town Counsel's preference is for the whole plan to be done and in place, but questions remain concerning who would pay for this parking. Selectman Howley informed his colleague that there are

Monday, February 8, 2010
Board of Selectmen Meeting

Selectman Howley noted that the Board of Selectmen has adopted a policy that is very similar to the students pledge, where the Board is trying to help the Town become more energy efficient and more environmentally conscious; a number of things are being done to try to achieve this. Solar panels are being considered for various locations in Town, one of which is the Transfer Station, the same location the students are considering for a wind turbine. Selectman Howley suggested that the team come back to the Board with their grant application for a formal vote to authorize application at that time. Town Manager Kleckner presented a mini wind turbine to the Turbinators for their classroom.

CONSENT AGENDA

One Day Alcoholic Beverage Licenses:

Winchester Seniors Association – Jenks Senior Center – February 27, 2010;
Wheaton College Group – Mahoney's Rocky Ledge Nursery – March 24, 2010

Road Race Request:

Michael J. Dunleavy Annual Walk and Road Race – April 11, 2010

Acceptance of \$500 Donation from Whip Saltmarsh

Expenses relating to the memorial plaque honoring Ed O'Connell which is
located at the Edward F. O'Connell Memorial Plaza

Request for Funding for ADA Plan

- * Motion: That the Board of Selectmen approve the Consent Agenda for Monday, February 8, 2010 that includes One Day Alcoholic Beverage licenses for the Winchester Seniors Association and the Wheaton College Group, a road race request for April 11th, acceptance of a \$500 donation from Whip Saltmarsh to defray expenses for a memorial plaque in honor of Ed O'Connell, and up to \$7,000 from the Hospital Gift Account to develop a plan to address ADA issues.

Johnson – Berman

All in Favor

VOTED.

Approve / Correct Meeting Minutes of Monday, January 25, 2010

- * Motion: That the Board of Selectmen approve the Meeting Minutes of Monday, January 25, 2010 as written.

Johnson – Howley

All in Favor

VOTED.

Approve / Correct Meeting Minutes of Monday, January 4, 2010

- * Motion: That the Board of Selectmen approve the Meeting Minutes of Monday, January 4, 2010 as written.

Johnson – Howley

All in Favor

VOTED.

Non-Docket Business from the Selectmen

Selectman Fontana, speaking to both the physical and television audience, asked that people understand that the Board does listen to their concerns about various issues. He pointed to the hard work that has been done to resolve the train station issues, noting that the Board does hear and with a combination of effort from citizens and public officials, is able to make progress.

Selectman Fontana noted that recently, there has been some dialogue on solicitation complaints that have been voiced and transferred to the Police Department staff. He asked residents to understand that the safety of the public is an important issue and it is important for residents to make their concerns known so that data can be assembled. Also of concern is the scaffolding at the Black Horse Tavern. He noted that the Board is monitoring this, is aware of the inconvenience created for residents, therefore

Thursday, November 5, 2009

Board of Selectmen Meeting – Room A108 Winchester High School

* Referencing Article 17, the Solicitation ByLaw proposal, Selectman Howley informed his colleagues that he feels this is not ready as it has not been discussed by the Board nor properly vetted through usual channels. He explained that the other articles all have a 'champion', but this article came forward without a lot of Board interaction or public discussion. Town Counsel indicated that this is a policy decision for the Board however he did not vet this article. Vice Chairman Johnson suggested that this article be postponed for action in the Spring.

Chairman O'Connor noted that he feels there is a problem in the Town that has been pointed out by the Police Chief on many different occasions. This warrant article could alleviate the robberies, flim flam, etc. as well as provide protection to the residents. Town Counsel indicated that approval of this article would provide a tool for the Police Department against this situation, which has been a problem for a number of years. Chairman O'Connor noted that the success of this article would enhance the safety of the citizens in Winchester.

Town Manager reported that the proposed bylaw for Winchester was taken from a bylaw that had been approved in another community, has had Attorney General review. He noted that there will always be lawyers that are on both sides of the issue.

COMMUNICATIONS AND REPORTS

The Board acknowledged receipt of the following correspondence:

1. List of upcoming Committee Meetings
2. EFPBC Minutes of 8/19/09; 8/26/09; 9/2/09; 9/30/09, and 10/14/09
3. Public Hearing Notices: NSTAR Grant of Location Petitions
4. Letter from Lorraine McDonough: Suggestions for Hemingway Street
5. MOA: Mass. Dept. of Environmental Protection, Abbott Real Estate Development, Mass. Historical Commission and the Town of Winchester
6. Press Release: Abbott Real Estate Development, LLC – Purchase and Sale Agreement

Recess to Town Meeting – 7:28 PM

* Motion: That the Board of Selectmen recess to the floor of Town Meeting.

Howley – Berman

By Roll Call: Fontana, Berman, Howley, Johnson, O'Connor

VOTED.

Respectfully submitted,

Melvin A. Kleckner, Town Manager

The Moderator noted that the Town Charter calls for the Town Manager to develop a capital plan, and the ByLaw requires that the Capital Planning Committee be appointed to assist the Town Manager. The Charter stipulates that the Town Manager's Capital Plan is provided to the Finance Committee along with a recommendation from the Capital Planning Committee; the recommendation from the Finance Committee is what is provided to the Town Meeting. The Moderator recalled that in 2002 a committee was appointed at Town Meeting to develop a report which recommended that the Capital Planning Report be made in the Fall with appropriations made in the Spring Town Meeting. The Moderator noted that this year, appropriations are being made in the Fall, not a good idea because it takes the capital priority evaluation versus the operational budget out of sequence.

The Moderator recommended that the motions for Article 12 and Article 15 require a transfer from an existing account to use as partial funding. He noted that it is important to list the original account and original appropriation. Article 16 appropriates \$40,000 to fund the costs of the Winchester Center Parking Study. The Moderator informed the Board that he feels this motion is deficient in one minor point, that being that the Town Manager has authority to enter into contracts and approve payments with respect to the project. He requested that this verbiage be added to the motion for Article 16.

Article 17: To amend the Code of By-Laws by adding a new Chapter 19: Solicitations and Canvassing.

Moderator Sullivan explained that he has read the By-Law and there may be a conflict in Chapter 8 ss. 4 and 5 of the existing by-law. He explained that there are two paragraphs in the existing by-law, one for hawking and the other for peddling, where there was litigation on the hawking portion filed by the Jehovah Witnesses as a violation of their rights. Town Manager informed the Board that the Government Regulations Committee has suggested a second motion to eliminate this. The Moderator indicated that this would be out of order, resulting in two choices, passage of this article and conflict with the other section. He noted that the conflict could be removed at the Spring Town Meeting. He suggested that the legal team review this.

Article 19: To raise and appropriate a sum of money to supplement the FY2010 Budget.

The Moderator noted that Motion #1 under this article is out of order. Motion #2 is in order and pertains to reallocation in the Planning Board budget. He explained that this particular motion does not do what is discussed in the article, e.g., appropriating or transferring from available funds.

Town Manager explained that the Town refinanced its debt therefore there is no longer the need to appropriate the same amount as was needed in the Spring. Town Manager indicated that he would check with Department of Revenue.

Winchester Housing Authority Interviews

Present: Richard Rohan, Chairman; Anne Bailey Berman; Catherine Boyle, Karen Courtney

Town Manager informed the Board that the candidates to fill the vacant seat on the Winchester Housing Authority Board of Directors are present. Candidates are: Patrick J. Capobianco, Laura Glynn and Craig R. Miller.

Patrick Capobianco, 7 Middlesex Street informed the Board that he is a mortgage loan officer and has approved thousands of mortgage loans and participated in as many closings. He noted that he has experience with affordable housing issues by virtue of his work. He informed the Board that he was not in attendance at the recent public hearing concerning the group home proposal for Highland Avenue.

Laura Glynn, 20 Churchill Road informed the Board that she is an employee of the City of Medford in their Community Development office, spending years in the affordable housing sector. She pointed out that those who are served by the Housing Authority are those of lower income. She informed the Board that she did not attend the recent hearing held related to the proposed group home for Highland Avenue. Ms. Glynn did question the funding source for this proposal, as well as what would happen in ten years should this property be run by a private developer. Ms. Glynn indicated that she looks at the role of the Housing Authority as being advisory to those who work at the authority on a day to day basis.

- * Motion: That the Board of Selectmen recommend favorable Town Meeting action on Article 12 [repairs at DPW Yard] in the Fall 2009 Town Meeting Warrant.
Howley – Berman All in Favor VOTED.

Article 13: Drainage Improvements at Manchester Field

- * Motion: That the Board of Selectmen recommend favorable Town Meeting action on Article 13 [drainage improvements at Manchester Field] in the Fall 2009 Town Meeting Warrant.
Berman – Howley All in Favor VOTED.

Article 14: Sewer Line Rehabilitation

- * Motion: That the Board of Selectmen recommend favorable Town Meeting action on Article 14 [sewer line rehabilitation] in the Fall 2009 Town Meeting Warrant.
Berman – Howley All in Favor VOTED.

Article 15: Johnson Road sewer main

- * Motion: That the Board of Selectmen recommend favorable Town Meeting action on Article 15 [Johnson Road sewer main] in the Fall 2009 Town Meeting Warrant.
Berman – Howley All in Favor VOTED.

Article 16: Parking Study funded with Parking Meter Account Funds

- * Motion: That the Board of Selectmen recommend favorable Town Meeting action on Article 16 [parking study] in the Fall 2009 Town Meeting Warrant with the source of funding the study identified to Town Meeting Members.
Howley – Berman All in Favor VOTED.

Article 17: Solicitation Bylaw

Town Manager informed the Board that the Moderator has indicated that sections of this bylaw cannot be eliminated at this Town Meeting. It was suggested that the article could be approved as is, then brought back for corrections in the Spring. Board members requested that Town Counsel review the motion as presented. It was the consensus of the Board to vote on a recommendation to Town Meeting Members at Table on the floor of Town Meeting.

Article 18: Wright-Locke Farm Raspberry Sales

- * Motion: That the Board of Selectmen recommend favorable Town Meeting action on Article 18 [Wright-Locke Farm raspberry sales] in the Fall 2009 Town Meeting Warrant.
Howley – Berman All in Favor VOTED.

Article 19: To amend / adjust FY2010 Budgets

Town Manager explained that this article is in the warrant each year and allows adjustment to the current year budget. He noted that since the Town has refinanced its debt, too much money has been appropriated into the Debt Service Budget, something that has to be adjusted at some point. The article does not discuss adjustments only supplemental appropriations. Town Manager indicated that he will ask the Department of Revenue about how this should best be handled.

It was the consensus of the Board to table a recommendation to Town Meeting on Article 19.

Articles 20: Accept Committee Reports/Dissolve Old Committees, etc.:

Article 21: Comply with Proposition 2 ½

Johnson – Berman

All in Favor

VOTED.

CONSENT AGENDA

Request to Close Laraway Road

Chamber of Commerce for Tree Lighting Ceremony

Approval of Contract:

Legal Review of Subdivision Regulations

One Day Alcoholic Beverage Licenses:

Boston's Best Bartending for Next Door Theatre – October 30, 2009;

Boston's Best Bartending for Robyn Bonnett – Sanborn House – October 24, 2009

* Motion: That the Board of Selectmen approve the Consent Agenda for Monday October 19th that includes the Chamber of Commerce request to close Laraway Road for the Tree Lighting Ceremony, approval of a contract for the legal review of Subdivision Regulations and Once Day Alcoholic Beverage Licenses for Boston's Best Bartending on October 30th and October 24, 2009.

Johnson – Berman

All in Favor

VOTED.

Fall Annual Town Meeting Review

Chairman O'Connor noted that Articles 9 through 15 in the Fall Town Meeting Warrant deal primarily with Capital Planning issues. The following is a list of Warrant Articles and the name of the individual who will present that Article to Town Meeting.

Article	Presenter
Article 9 – Report of Capital Planning Com.	Chairman H. Philliou
Article 10 – Capital Projects Appropriation	Part 1: Sel. Berman; Parts 2 & 3: H. Philliou
Article 11 – Muraco School Heating System	Sel. Johnson
Article 12 – DPW Facility Repairs	H. Philliou
Article 13 – Drainage / Manchester Field	Sel. Johnson
Article 14 – Sewer Line rehabilitation	Sel. Johnson
Article 15 – Sewer Main – Johnson Road	Sel. Johnson
Article 16 – Parking Study Funding	Sel. Howley
<u>Article 17</u> – Solicitation and Canvassing Bylaw	Sel. Fontana and Sel. O'Connor
Article 4 – Quinn Bill	Town Manager
Article 5 – Personnel Board Report	Personnel Board
Article 7 – Sanborn House	Sel. Howley
Article 21 – Proposition 2.5 tax limitation	

purposes the premises known as the Sanborn House, being more fully identified on Exhibit A-1 of the lease between the Town of Winchester and the Winchester Historical Society dated March 20, 2006, or take any other action in relation thereto.

Article 8: Amendment to the Code of ByLaws by adding a new chapter – Chapter 19 Solicitations and Canvassing...

Town Manager informed the Board that this article is proposed by the Chief of Police and has been adapted to Winchester. The article will be reviewed by the Committee on Government Regulations and Town Counsel.

In response to the question concerning who will speak to this article at Town Meeting, Town Manager explained that since this is a proposal made by Chief Albertelli, he is prepared to speak to the article to the extent possible, however there are some legal issues that require review by Town Counsel. Selectman Fontana indicated that he would represent the Board's recommendation at Town Meeting.

Town Manager reported that Article 9 will go forward contingent upon receipt of a grant from the State for the Borggaard Beach Project. Selectman Johnson will speak to this article at Town Meeting.

Chairman O'Connor indicated that he will provide the Board's Town Meeting action recommendation regarding the Quinn Bill; Selectman Howley agreed to speak to the parking study; Selectman Johnson agreed to represent the Board's position on Articles 12 through 18, all of which pertain to Capital appropriation requests. He explained that not only will the Town Meeting be voting on these articles, but funding them as well, as some of the appropriation is from grant funding, some from money on hand and some the result of borrowing. The thought process here is because of the present economy bid pricing will be advantageous, as well as completion early in the season. He noted that this is a change in usual Town Meeting practice.

* Motion: That the Board of Selectmen approve the Fall 2009 Town Meeting Warrant subject to the modification of the order of the Articles and any minor verbiage edits made by Town Counsel.

Johnson – Berman

All in Favor

VOTED.

Update: Additional Liquor License Authorization

Chairman O'Connor noted that additional beer and wine restaurant alcohol licenses will be specific to a particular establishment's request. Representative Lewis will take the application to the Floor of the House of Representatives for approval. These licenses will no longer be transferred from owner to owner. Chairman O'Connor noted that this is a change statewide, not specific to Winchester and does not apply to the existing licenses, only the new requests. Selectman Howley noted that under these circumstances, it would not be unusual to have a lease that is contingent upon receipt of a license.

Town Manager informed the Board that there are no restrictions on the all alcohol licenses; these licenses are open to anyone because the Town has not reached its quota here. He noted that any changes to the all alcohol regulations are under the sole jurisdiction of the Board.

Recalling the discussion at the first Community Conversation, Selectman Howley noted that there are uses that are thought to be desirable in terms of capturing more dollars for the Town. He indicated that the use that is most significant is restaurant use. He suggested that the changes are good and likely overdue as the community has changed.

Board members requested that Town Counsel review the ByLaw regarding seating requirements. Selectman Berman requested that Town Counsel provide recommendations for language clarification,

that if the Town was able to reach agreement with the Police Unions to vary from the program, legislative action would be required. This article eliminates the Quinn Bill as it is currently known in Winchester.

Article 6: Capital Planning Committee article for various projects. A number of subsets will be added to this for the various projects.

Article 28: a standard article that allows money to be moved around in FY2010.

Article 29: Personnel Board report that allows a number of personnel issues to be dealt with, including reclassification of jobs and appropriations to meet collective bargaining agreements. The School Committee will be seeking an appropriation under this article.

Article 31: standard housekeeping article; **Article 32** is housekeeping in nature as well.

Placeholder Articles: These articles require some additional work

1. Sign Bylaw – proposed to regulate contractor and political signs.
2. Newsrack Bylaw – proposal previously submitted by the Garden Club.
3. Solicitation Bylaw – proposed by the Chief of Police to regulate solicitation.
4. Local Meals Tax – adoption.
5. FY2010 Capital Plan related articles.
6. PARC Grant – acceptance, if successfully awarded, for renovations at Borggaard Beach.
7. Transfer of money from Planning Board Other Expense Budget to Personal Services Budget to fund Recording Secretary position. Town Manager indicated that this might be covered by the article to move money around within various budgets.
8. Appropriate funds from Water / Sewer retained earnings.
9. High Street – acceptance of a portion of the road as a public way. Vice Chairman Johnson noted that this pertains to High Street extension. He explained that approximately fifteen years ago, the Town accepted this portion of High Street as a public way as it was improved by the developer. The recording was never made by the then Town Clerk, and this has been in limbo ever since. It has been determined that this now has to go back to Town Meeting with an explanation that an error had been made and proper recording was never done.
10. Sanborn House preservation restriction.
11. Teacher Contract Issue – this should be covered under the Personnel Board Article.
12. Winning Farm – this would pertain to the acquisition of those parcels that were being held up because a cleanup was needed.

Vice Chairman Johnson informed his colleagues that he and Selectman Fontana are working with the Chairman of the Planning Board to address the Town Planner issue. He was informed that this would be considered under the Personnel Article.

Selectman Howley suggested that another potential Warrant Article is a request to fund the parking survey from the Parking Meter Fund.

Selectman Berman referenced the letter from the Attorney General to the Town Clerk where that office reviewed the action of the April 27th Spring Annual Town Meeting pertaining to zoning. He noted that the action taken was approved, but cautions were added to some of the contents. Selectman Berman questioned whether the Board needs to include a placeholder article for the Planning Board to allow them to come back with language or administrative changes, bringing the Spring Town Meeting action into compliance with the concerns of the Attorney General. Town Manager informed the Board that he did discuss this with Attorney Bobrowski who felt that all of the notations were standard and routine cautions that referenced case law. Attorney Bobrowski expressed that he did not believe that it was necessary to incorporate this into the bylaw, however it is up to the Planning Board to make this judgment. Selectman Berman suggested that a placeholder article be included to allow time for a Planning Board response. He explained that he would rather clear issues up now than incur legal expenses at a later date. Town Manager noted that there is still another day for warrant article submission.

Selectman Fontana suggested a joint meeting with the School Committee, as once the State gives the go ahead for a particular option there are 120 days in which to act.



Chairman O'Connor also requested that the Town Manager include an article pertinent to a solicitation bylaw in the Fall 2009 Town Meeting Warrant. The other issue of concern relates to the placement of temporary signs and what constitutes this type of sign. He requested that his colleagues bring other issues of concern forward for consideration and inclusion in the Warrant. Selectman Berman recalled that one of the garden clubs brought forward a proposal for a unified news rack structure and asked that the Town Manager research this again.

Vice Chairman Johnson – Coordination of Community Development, Staffing and Consultants

Vice Chairman Johnson informed his colleagues that coordination is coming along slowly and his hope is to have the information ready for discussion in September. He referenced a capital spending issue which is reinforced by the Energy Management Committee, as the Town has realized a substantial savings through the installation of energy efficient systems. Selectman Johnson noted that while efficient systems make sense they are typically more expensive to purchase. Upfront costs must be funded through either the Capital or Building Stabilization Funds. He recommend that the Board consider a new policy, i.e., where the savings realized as a direct result of specific project requests revert back to the capital accounts. He explained that the issue on the forefront relates to the Muraco School boiler, which is efficient and uses energy optimally, as well as being able to accommodate a new building. He suggested that reverting the funds would be one way to supplement the Capital and Stabilization accounts. Selectman Johnson indicated that if there is a savings in energy then the amortized cost is negligible.

Selectman Berman commented that anything that can be done to incentivize efficiency is good however his concern is with the savings realized remaining and reinvested in the operating budget. He explained that this plan proposes an increase for the stabilization accounts. Chairman O'Connor urged Comptroller Keveny to become engaged because moving money around is involved. Vice Chairman Johnson disagreed with the Comptroller's involvement, explaining that the Board could direct the Town Manager to make an increased allocation during budget preparation. Board members agreed that the concept of Vice Chairman Johnson's suggestion is a good one but needs work.

Selectman Howley indicated that the trick is to make a policy based upon theoretical usage and savings. He informed his colleagues that he likes the idea of incentivizing. Town Manager noted that this is the first he has heard of this proposal and agreed that the concept of incentivizing savings is a good one. He explained that up to this point, the program has been more on an operational level. Selectman Fontana indicated that he conceptually agrees with this as well, noting that this might have been the equivalent of a 30-60-90 day project idea before Selectman Johnson came up with his proposal. He suggested that this now has merit to work its way into capital planning and be fleshed out through more analysis. Vice Chairman Johnson indicated that his proposal is in its infancy stage.

Selectman Fontana noted that there could be savings through efficiency as well as through opportunities identified to cost savings and risk avoidance. He explained that there would be an interim report generated prior to commencing on phase two; although as more fact finding unfolds, the realization is not to be too premature. He asked his colleagues not to set their expectations that there are a lot of dollars to be found, as dollars are being spent wisely and more should be spent for a better output and risk avoidance.

Selectman Howley noted that a number of really important projects have been identified. He indicated that in order to realize a return on investment there might be a need to make more of an investment in certain areas. Selectman Fontana noted that a look should be taken at the past as well as the future.

Selectman Fontana – School / Town MIS Coordinator

Selectman Fontana outlined the things that he feels Winchester does well: use of Free Cash in an appropriate manner, cutting / maintaining expenditures where appropriate, and dealing with staff issues, as many towns have had to do layoffs although Winchester has been able to avoid this.

Selectman Fontana indicated that what the Town needs to do a better job with is the structural permanent changes, looking at areas of consolidation, regionalization and re-prioritization, automation and e-government.

Vice Chairman Johnson noted that he and Selectman Fontana have met with individual department heads, and where appropriate the elected / appointed board chairmen. A recommendation will be developed once all meetings are completed in order to outline the issues to be brought back to the Board. The Vice Chairman acknowledged the donation of the Winchester Cooperative Bank to the Board of Health in the amount of \$4,000 to support the Winchester Substance Abuse Coalition No Child Left Behind program at the McCall Middle School.

Chairman O'Connor announced a breakthrough with the Wildwood Cemetery Advisory Committee as regards the reorganization of the Cemetery. He explained that the Chairman of the Conservation Commission and the Chair of the Cemetery Advisory Committee have agreed to work collaboratively. He noted that the 1997 Wildwood Cemetery Expansion Master Plan has been revived, and an effort will be made to get the Historical Commission involved to execute the plan.

TOWN MANAGER REPORT AND COMMENTS

MassHighway Intersections – Cambridge Street

Town Manager reported that the Town is making progress in getting these intersection projects funded. The intersections to be made safer for motorists and pedestrian are Cambridge Street and Everett Avenue, Cambridge Street and High Street, Cambridge Street and Pond Street and Church Street / Bacon Street / Fletcher Street. The 100% design has been fully funded by the State Highway Department, and based upon this a strong pitch has been made to the MPO for inclusion on the Transportation Improvement Program list for next year. Representative Lewis has been asked to provide assistance.

Solicitation ByLaw

Town Manager noted that he has included a communication from the Chief of Police who believes that the Town should develop a bylaw that regulates door – to – door solicitation. The Chief is encouraging adoption of a bylaw that would regulate this activity. Town Manager informed the Board that he will be seeking assistance from Town Counsel and other applicable boards and staff to "T" this up. The goal is to consider this for Fall Annual Town Meeting.

Temporary Signs

Town Manager noted that the Board has been discussing temporary signs in response to an issue with the Post Office, where a request was made to place a number of temporary signs in various areas throughout the Town. The Board did not approve this request and a number of other suggestions were put forward with the hope that the Post Office would take advantage of them. Town Manager indicated that temporary signs on public property are not permitted for any reason and the Town will be proactively regulating this by removing these signs from Town property. The issue of temporary signs on private property needs to be further vetted for an understanding of how they can be regulated.

FY2010 State Budget / State Aid

Town Manager informed the Board that it does appear that the final State Budget has been presented by the Legislative Conference Committee and the Governor has been talking about vetoing various aspects

8.9.8.5 Permits

The Chief of Police or his designee (the Chief), may in his reasonable discretion, issue permits in response to written applications authorizing applicants to perform construction during hours other than those permitted by this bylaw. Such permits may be issued upon a determination by the Chief, in consultation with the Building Inspector, the Town Engineer or other Town staff, that literal compliance with the terms of this bylaw would create an unreasonable hardship and that the work proposed to be done (with or without any proposed mitigative measures) will have no adverse effects of the kind which this bylaw seeks to reduce. Each such permit shall specify the person authorized to act, the dates on which or within which the permit will be effective, the specific hours and days when construction otherwise prohibited may take place, and any conditions required by the Chief to mitigate the effect thereof on the community. The Chief may promulgate a form of application and charge a reasonable fee for each permit. No permit may cover a period of more than thirty (30) days. Mitigative measures shall include notice to residents in the surrounding area, and other mitigation as determined by the Chief. Objections by such residents shall be noted by the Chief and shall be taken into account when considering issuance of such permit.

8.9.8.6 Unreasonable Noise

Regardless of the hour or day of the week, no construction shall be performed within the Town in such a way as to create unreasonable noise. Noise shall be deemed unreasonable if it interferes with the normal and usual activities of residents and businesses in the affected area and could be reduced or eliminated through reasonable mitigative measures.

8.9.8.7 Copy of Bylaw

The Building Inspector shall deliver a copy of this bylaw to each person to whom it issues a building permit, razing permit, electrical permit, plumbing permit, gas permit or mechanical permit at the time that the said permit is issued.

8.9.8.8 Enforcement

In addition to any other means of enforcement, the provisions of this bylaw and the regulations adopted pursuant thereto may be enforced by non-criminal disposition in accordance with the provisions of Section 1.8 of this bylaw, and MGL Chapter 40 Section 21D.

8.9.9 Door-To-Door Solicitors and Canvassers**8.9.9.1 Definitions**

- As used in this section, the terms "solicit" and "canvas" shall mean and include any one or more of the following activities conducted at residences without the previous consent of the owner:
 - Seeking to obtain the purchase, or orders for the purchase of goods, wares, merchandise, foodstuffs or services of any kind, character or description whatever for any kind of consideration whatsoever; or
 - Seeking to obtain subscriptions to books, magazines, periodicals, newspapers and every other type or kind of publication.

8.9.9.2 Applicability

- The provisions of this section shall not apply to officers or employees of the Town, State or Federal government, or any subdivision thereof when on official business, or to neighborhood youth and students who solicit for the shoveling of snow or cutting of lawns or similar services to residents, nor shall it be construed to prevent route salespersons or other persons having established customers to whom they make periodic deliveries from calling upon such customers.
- If any solicitor or canvasser is under the age of eighteen (18) years and is selling goods or periodicals for a commercial purpose, the provisions of MGL Chapter 101 Section 34 shall apply.
- The provisions of this section shall not apply to any person soliciting solely for religious, charitable or political purposes.

8.9.9.3 Registration Required

It shall be unlawful for any person to solicit or canvas or engage in or conduct business as a canvasser or solicitor without first having obtained a Certificate of Registration from the Chief of Police as provided in this section.

8.9.9.4 Application for Certificate of Registration

- Application for a Certificate of Registration shall be made upon a form provided by the Police Department along with a nonrefundable application fee. Said fee to be determined by the Board of Selectmen.
- An authorized representative of the sponsoring organization shall apply to the Chief of Police or his designee either in person or by mail. All statements on the application or in connection therewith shall be under oath. The applicant shall provide all information requested on the application, including:
 - Name, address and telephone number of the sponsoring organization, along with a listing of all officers and directors;
 - State and/or Federal Tax Identification Number of the sponsoring organization;
 - Name, residential and business address, length of residence at such residential address, telephone number, social security number and date of birth of each representative of the sponsoring organization who will be soliciting or canvassing in the Town;
 - Description sufficient for identification of the subject matter of the soliciting or canvassing in which the organization will engage;
 - Period of time for which the Certificate is applied (every Certificate shall expire within one year of date of issue);
 - The date of the most recent previous application for a Certificate under this section;
 - Any previous revocation of a Certificate of Registration issued to the organization or to any officer, director or representative of the organization by any city or town and the reasons therefore;
 - Any convictions or imprisonment for a felony, either state or federal, within five (5) years of the application, by the sponsoring organization, any of its officers or directors, or any representative who will be soliciting or canvassing in the Town;
 - Names of the three (3) communities where the organization has solicited or canvassed most recently;
 - Proposed dates, hours and method of operation in the Town;

- Signature of an authorized representative of the sponsoring organization.
- A photograph or an acceptable photocopy of a photograph of each representative of the sponsoring organization who will be soliciting or canvassing in the Town shall be attached to the application.
- No Certificate of Registration shall be issued to any person, or to any organization having an officer or director, who was convicted of commission of a felony, either state or federal, within five (5) years of the date of the application, nor to any organization or person whose Certificate of Registration has previously been revoked as provided below.
- Fully completed applications for Certificates shall be acted upon within five (5) business days of receipt. The Chief of Police shall cause to be kept in his office accurate records of every application received together with all other information and data pertinent thereto and of all Certificates of Registration issued under this section and of all denials.
- Upon approval of an application, each solicitor or canvasser shall be issued a Certificate of Registration with a photo identification badge to carry upon his person at all times while soliciting or canvassing in the Town and to display the certificate whenever asked by any police officer or any person solicited.

8.9.9.5 Revocation of Certificate

- Any Certificate of Registration issued hereunder may be revoked by the Chief of Police for good cause, including conviction of the holder of the Certificate of a Violation of any of the provisions of this section or a false material statement in the application. Immediately upon such revocation, the Chief of Police shall give written notice to the holder of the Certificate in person or by certified mail addressed to his residence address set forth in the application.
- Immediately upon the giving of such notice, the Certificate of Registration shall become null and void. In any event, every Certificate of Registration shall state its expiration date, which shall be no later than one year from date of Issue.

8.9.9.6 Deceptive Practices

No solicitor or canvasser registered or exempt from registering may use any plan, scheme, or ruse which misrepresents the true status or mission of any person conducting the solicitation or canvas in order to gain admission to the home, office or other establishment of any person in the Town.

8.9.9.7 Duties of Solicitors and Canvassers

It shall be the duty of every solicitor and canvasser going onto any premises in the Town to:

- Display a Town-issued photo identification badge on the outside of their person; and
- First examine whether there is a notice posted stating that no solicitors are welcome. If such notice is present, then the solicitor or canvasser shall immediately and peacefully depart from the premises; and
- Any solicitor or canvasser 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.

8.9.9.8 Enforcement

In addition to any other means of enforcement, the provisions of this bylaw and the regulations adopted pursuant thereto may be enforced by non-criminal disposition in accordance with the provisions of Section 1.8 of this bylaw, and MGL Chapter 40 Section 21D.

8.10 Maintenance of Vacant Buildings and Land

All vacant structures and vacant land within the Town of Reading shall be maintained in a safe, secure and clean condition so as not to compromise the health, safety and general welfare of the community.

8.10.1 Definitions

For purposes of this bylaw the following definitions shall apply:

8.10.1.1 Building

A structure enclosed within exterior walls or firewalls, built, erected, or framed of any materials, and fixed to the ground, having a roof, to form a structure for the shelter of persons, animals or property, or the storage of commercial or industrial personal property.

8.10.1.2 Owner

A person, entity, service company, property manager or real estate broker, who alone or severally with others:

- has legal or equitable title to any building, structure or parcel of land, vacant or otherwise; or
- has care, charge or control of any building or structure, parcel of land, vacant or otherwise, in any capacity including but not limited to agent, executor, executrix, administrator, administratrix, trustee or guardian of the estate of the holder of legal title; or
- is a mortgagee in possession of any such property; or
- is an agent trustee or other person appointed by the courts and vested with possession or control; or
- is an officer or trustee of the association of unit owners of a condominium; each such person being bound to comply with the provisions of these minimum standards as if he were the owner; or
- is a trustee who holds, owns or controls mortgage loans for mortgage backed securities transactions and has initiated a foreclosure process.

8.10.1.3 Vacant

Buildings or property that are unoccupied for a period greater than one hundred eighty (180) days by a person or persons with legal right to occupancy thereof.

8.10.2 Minimum Maintenance Requirements

Owners of vacant properties must fulfill the following minimum adequate maintenance requirements for any such property they own:

- Maintain vacant properties in accordance with all applicable local and state Sanitary Codes, Building Codes and Fire Codes.
- Secure vacant properties to prevent unauthorized entry and exposure to the elements.
- Maintain vacant properties in a manner that ensures their external/visible maintenance, including but not limited to the maintenance of major systems, the removal of trash and debris, and the upkeep of lawns, shrubbery, and other landscape features.

Mawn, Patti

From: Martel, Justin <jmartel@ci.reading.ma.us>
Sent: Friday, May 20, 2016 3:39 PM
To: Mawn, Patti
Subject: Solicitation and Canvassing ByLaw Proposal
Attachments: 2015-06_general_bylaw.pdf

Hi Patti:

My Chief asked me to send you a copy of our Door-to-Door Solicitor Registration bylaw. I have attached that bylaw to this e-mail for your review. Also, by [clicking here](#), you can download our registration package. If you need anything further on this, please let me know. Thank you.

Respectfully,
Justin Martel, Badge 78
Armorer, Licensing Officer, Fleet Manager
Reading Police Department
15 Union Street
Reading, Massachusetts
Desk: (781) 942-6766
Dispatch: (781) 944-1212
Fax: (781) 944-2893

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SOLICITORS OR CANVASSERS

SECTION 40:

Section 1: License required. It shall be unlawful for any solicitor or canvasser, as defined in Section 2 of this by-law to engage in such business in the Town of Wilmington without first obtaining a license in compliance with the provisions of this by-law. Any person who is not properly licensed under this by-law shall be ordered to immediately cease and desist all solicitation in the town until they attain a proper license. Whoever continues to solicit without a proper license after being notified to cease and desist by a police officer, may be summoned for court prosecution and fined up to \$300.00 for each violation.

Section 2: Definition. A canvasser or solicitor is defined as any individual, whether resident of the Town or not, traveling either by foot, motor vehicle, or any other type of conveyance, from place to place, house to house, taking or attempting to take orders for sale of goods, wares, merchandise, personal property of any nature for immediate or future delivery or for services to be furnished or performed immediately or in the future and whether or not he or she collects advance payments on such sales.

This definition shall include any person who, for him or herself, or for another person or firm or corporation hires, leases, uses, or occupies any building, structure, tent, rail car, boat, hotel room, lodging house, apartment, shop or any other place within the Town for the sole purpose of exhibiting samples and taking orders for future delivery.

Section 3: Application. An applicant for a license under this by-law shall file with the Chief of Police, or his designee, a sworn application in writing at least 10 working days prior to the requested starting date for solicitation, on a form provided by the Police Department. Said form shall include, but not be limited to the following information:

- a. Name and physical description, date of birth, social security number of the applicant;
- b. Permanent home address, and full local address of the applicant;
- c. A brief description of the nature of the business and/or goods to be sold;
- d. If employed, name and address of employer, including credentials which establish the exact relationship;
- e. The length of time for which the permit is desired;
- f. Names of manufacturer, of source of merchandise, proposed method of delivery;
- g. Two photographs of the applicant, taken within the past 60 days prior to filing of the application, showing only the head and shoulders of the applicant in a clear and distinguishing manner;
- h. Provide evidence of business responsibility or good character of the applicant;
- i. A statement as to whether or not the applicant has been convicted of any crime, or violation of any municipal by-law, rule or regulation, the nature of the offense and the punishment or penalty assessed therefore.

At the time of filing the application, a fee of \$25.00 per individual applicant payable to the Town of Wilmington shall be submitted to the Police Department to cover the cost of investigation of the facts stated therein. This fee may be waived for individuals representing non-profit organizations.

Section 4: Investigation and Issuance

- A. The Chief of Police shall direct an investigation of the facts contained in the license application to determine the following.
 1. Whether of not fraud, misrepresentation, or false statements have been made on the application.
 2. Whether or not the applicant has been convicted of any crime or misdemeanor involving moral turpitude.

- B. If after investigation the Chief or his designee determines either of the above paragraphs (A1-A2) were answered in the affirmative the application shall be denied, and the applicant so notified.
- C. If after investigation, the character and business responsibility of the applicant has been found to be satisfactory the application shall be approved. The applicant will then be issued a Solicitation Identification Card.

Section 5: Solicitation Identification Card

The Police Department shall issue to each successful applicant an identification card which shall contain the words "Licensed Solicitor", the individual's picture, identification and expiration date of the license. Such Identification Card shall be worn in a conspicuous manner on the outer garment of the licensee during any and all times the licensee is engaged in soliciting. The above requirements may be waived by the Chief of Police for solicitors of non-profit organizations based in the Town of Wilmington.

Section 6: Solicitors and Canvassers are required to exhibit their licenses at the request of any resident.

Section 7: Duty of the Police to Enforce. It shall be the duty of any police officer of the Town to require any person seen soliciting or canvassing and who is not known by such officer to be duly licensed, to produce his or her solicitor's or canvasser's license and to enforce the provisions of this by-law against any person found to be violating the same.

Section 8: Trespass after notice, M.G.L. Chapter 266, Section 120. Notwithstanding the above licensing procedures, no licensee may enter private property after being forbidden to do so either directly by the person in charge of the property, or by a conspicuously posted notice of No Trespassing. Punishment for violations of this section are controlled by M.G.L. Chapter 266, Section 120. A person found committing such a trespass in the presence of a police officer may be arrested without a warrant.

Section 9: Solicitation hours. A properly licensed solicitor or canvasser may solicit between the following hours:

Monday through Friday	8 a.m. through 7 p.m.
Saturday	10 a.m. through 5 p.m.
Sunday	12 noon through 5 p.m.

Section 10: The Chief of Police shall maintain all pertinent records of licenses issued, and violations recorded.

Section 11: Revocation of license.

- A. Licenses issued under the provisions of this by-law may be revoked by the Chief of Police or his designee after notice and hearing for any of the following causes:
 1. Fraud, misrepresentation, or false statement contained in the license application;
 2. Fraud, misrepresentation or false statements made in the course of carrying on the business of solicitation;
 3. Any violation of this by-law;
 4. Conviction of any crime or misdemeanor involving moral turpitude;
 5. Conducting the business of soliciting or canvassing in an unlawful manner or in such a manner as to constitute a breach of the peace, or to constitute a menace to health, safety, or the general welfare of the public;

6. High-pressure tactics, harassment, or a refusal to accept a refusal as an answer, when verified in writing.

B. Notice of hearing for revocation of a license shall be given in writing, setting forth specifically the grounds of the complaint and a time and place of the hearing. Such notice shall be forwarded by certified mail to the licensee at his or her last known address at least five days prior to the hearing date.

Section 12: Expiration of License. All licenses for soliciting in the town shall expire on December 31, each year, regardless of when the license is obtained.

Section 13: Severance Clause. The provisions of this by-law are declared to be severable, and if any section, sentence, clause or phrase of this by-law shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses and phrases of this by-law and they shall remain in effect, it being the legislative intent that this by-law shall stand, notwithstanding the invalidity of any part.

Section 14: This by-law shall take effect 90 days after its passage.

REGULATION OF UTILITY POLES

SECTION 41. No public or private organization or utility company shall place or allow more than one utility pole to exist within five feet of another utility pole on any public or private way within the Town of Wilmington, without the prior written permission of the Selectmen, which permission may contain conditions.

Following a public hearing, the Selectmen may issue an order for the removal, relocation or alteration of any utility pole or poles in excess of one at any given location, upon the determination that more than one utility pole at any given location presents a nuisance, hazard or threat to the public safety, welfare or convenience to the inhabitants of the Town.

Any organization or utility company which owns or is responsible for a utility pole or poles subject to any order issued by the Selectmen shall fully comply with the terms and conditions of any such order within one hundred and eighty (180) days of the date of its issuance unless such period is extended by the Selectmen in its sole and absolute discretion. In the event of noncompliance with the terms of any order issued by the Selectmen, the Selectmen may take whatever enforcement action it deems appropriate, including, without limitation; the imposition of a fine of up to three hundred (\$300.00) dollars per day for each day of noncompliance; the application for an injunction restraining the continued existence of any such pole or poles subject to such order; and any other penalties, impositions or relief as the Selectmen may deem necessary.

SECTION 42. WATER FOWL No person shall feed any water fowl on public land in the Town of Wilmington. No person shall distribute any food or scatter any foodstuffs upon or around any park, recreation area, playing field, beach, or any public land. The fine for any violation of this section shall be \$10.00. The provisions of Chapter 40, Section 21-D of the General Laws of the Commonwealth shall apply and shall authorize the issuance of a citation for any such violation of this section by any police officer, animal control officer, health officer or agent.

SECTION 43.

Municipal Water Supply Use Restriction

Section 1 Authority

This by-law is adopted by the Town under its police powers to protect public health and welfare and its powers under M.G.L. C.40, §21 et seq. and implements the Town's authority to regulate water use pursuant to M.G.L.C. 41, §69B. This by-law also implements the Town's authority under M.G.L.C. 40, §41A, conditioned upon a declaration of water supply emergency issued by the Department of Environmental Protection.

Article II: Solicitors and Canvassers

[Adopted 4-27-1981 ATM (Ch. 5, § 23, of the Bylaws)]

§ 192-7 Permit and license required.

It shall be unlawful for any solicitor or canvasser, as defined in § 192-10 of this bylaw, to engage in such business within the corporate limits of the Town of Lynnfield without first obtaining a permit and license therefor in compliance with the provisions of this bylaw.

§ 192-8 Exceptions.

[Added 10-20-2014 ATM by Art. 16]

The provisions of this bylaw shall not apply to the following persons:

- A. Any person duly licensed under Chapter 101 of the General Laws or any persons exempted under Chapter 101, Chapter 149, § 69, Chapter 180, § 4, or any other General Law;
- B. Any officer or employee of the Town, county, state or federal government on official business; or
- C. Route salespersons or others having established customers making periodic deliveries to such customers or making calls upon prospective customers to solicit orders for periodic route deliveries, including but not limited to news carriers.
- D. Any person or persons canvassing or soliciting for political, religious and philanthropic purposes.

§ 192-9 Hours of operation.

[Amended 10-21-1985 TM]

It shall be unlawful for any solicitor or canvasser, as defined in § 192-10 of this bylaw, to engage in such business within the Town of Lynnfield before the hour of 8:00 a.m. in the morning and (a) after the hour of 8:00 p.m. in the evening during the period when Eastern Standard Time is in effect, and (b) after 9:00 in the evening during the period when Daylight Savings Time is in effect.

§ 192-10 Definitions.

As used in this article, the following terms shall have the meanings indicated:

CANVASSER OR SOLICITOR

Any individual, whether resident of the Town of Lynnfield or not, traveling either by foot, wagon, automobile, motor truck or any other type of conveyance, from place to place, from house to house, or from street to street, distributing sales information in any manner, taking or attempting to take orders for sale of goods, wares and merchandise, personal property of any nature whatsoever for future delivery, or for services to be furnished or performed in the future or soliciting information opinions for surveys or polls, whether or not such individual has, carries or exposes for sale a sample of the subject of such sale or whether he is collecting advance payments on such sales or not; provided that such definition shall include any person who, for himself, or for another person, firm, or corporation, hires, leases, uses, or occupies any building, structure, tent, railroad box car, boat, hotel room, lodging house, apartment, shop or any other place with the Town for the sole purpose of exhibiting samples and taking orders for future delivery. All census enumerators employed by the United States of America, or the Commonwealth of Massachusetts, or the Town of Lynnfield shall not be included in this definition of canvassers and solicitors.

§ 192-11 Application for permit; fee.

- A. All solicitors or canvassers who engage in activities described in § 192-10 hereof for more than one day per month within Lynnfield must file with the Town Clerk a sworn application in writing (in duplicate) on a form to be furnished by the Town Clerk, which shall give the following information:

- (1) Name and description of the applicant;
 - (2) Permanent home address and full local address of the applicant;
 - (3) A brief description of the nature of the business and the goods to be sold, if any;
 - (4) If employed, the name and address of the employer, together with credentials establishing the exact relationship;
 - (5) The length of time for which the right to do business is desired;
 - (6) The place where the goods or property proposed to be sold, or orders taken for the sale thereof, are manufactured or produced, where such goods or products are located at the time said application is filed, and the proposed method of delivery;
 - (7) A photograph of the applicant, taken within 60 days immediately prior to the date of filing of the application, which picture shall be two inches by two inches showing the head and shoulders of the applicant in a clear and distinguishing manner;
 - (8) A statement as to whether or not the applicant has been convicted of any crime, misdemeanor, or violation of any municipal ordinance, the nature of the offense and the punishment or penalty assessed therefor; and
 - (9) If applicant is operating or being transported by a motor vehicle, the year, make, model, color, registration number, state of registration, owner's name and address of each such vehicle.
[Added 10-20-2014 ATM by Art. 16]
- B. At the time of filing the application, a fee of \$10 shall be paid to the Town Clerk to cover the cost of investigation of the facts stated therein.

§ 192-12 Investigation and issuance of permit and license.

- A. Upon receipt of such application, the original shall be referred to the Chief of Police, who shall cause such investigation of the applicant's business and moral character to be made as he deems necessary for the protection of the public good.
- B. If, as a result of such investigation, the applicant's character or business responsibility is found to be unsatisfactory, the Chief of Police shall endorse on such application his disapproval and his reasons for the same, and return the application to the Town Clerk, who shall notify the applicant that his application is disapproved and that no permit and license will be issued.
- C. If, as a result of such investigation, the character and business responsibility of the applicant are found to be satisfactory, the Chief of Police shall endorse on the application his approval, execute a permit addressed to the applicant for the carrying on of the business applied for and return said permit, along with the application to the Town Clerk, who shall, upon payment of the prescribed license fee, deliver to the applicant his permit and issue a license. Such license shall contain the signature and seal of the issuing officer and shall show the name, address and photograph of said licensee, the class of license issued and the kind of goods to be sold thereunder, the amount of fee paid, the date of issuance and the length of time the same shall be operative, as well as the license number and other identifying description of any vehicle used in such soliciting or canvassing. The Clerk shall keep a permanent record of all licenses issued.

§ 192-13 Fees.

- A. The license fee which shall be charged by the Town Clerk for such license shall be \$10 per day, \$7 per week or part thereof, \$30 per month, \$300 per year, per each solicitor.
- B. The annual fees herein provided shall be assessed on a calendar-year basis, and on or after July 1 the amount of such fee for annual license shall be 1/2 the amount stipulated above the remainder of the year.
- C. None of the license fees provided for by this bylaw shall be so applied as to occasion an undue burden upon interstate commerce. In any case where a license fee is believed by a licensee or applicant for license to place an undue burden upon such commerce, he may apply to the Selectmen for an adjustment of the fee so that it shall not be discriminatory, unreasonable, or unfair as to such commerce. Such application may be made before, at, or within six months after payment of the prescribed license fee. The applicant shall, by affidavit and supporting testimony, show his method of

business and the gross volume or estimated gross volume of business and such other information as the Selectmen may deem necessary in order to determine the extent, if any, of such undue burden on such commerce. The Selectmen shall then conduct an investigation, comparing applicant's business with other businesses of like nature and shall make findings of fact from which they shall determine whether the fee fixed by this bylaw is unfair, unreasonable or discriminatory as to applicant's business and shall fix as the license fee for the applicant an amount that is fair, reasonable and nondiscriminatory, or, if the fee has already been paid, shall order a refund of the amount over and above the fee so fixed.

§ 192-14 Badges.

The Town Clerk shall issue to each licensee at the time of delivery of his license a badge which shall contain the words "Licensed Solicitor," the period for which the license is issued and the number of the license, in letters and figures easily discernible from a distance of 10 feet. Such badge shall, during the time such licensee is engaged in soliciting, be worn constantly by the licensee on the front of his outer garment in such a way as to be conspicuous.

§ 192-15 Exhibition of license.

Solicitors and canvassers are required to exhibit their licenses at the request of any citizen.

§ 192-16 Residential property.

[Added 10-20-2014 ATM by Art. 16]

No person shall engage in solicitation or canvassing in or upon any residential property upon which is displayed a sign prohibiting trespassing or solicitation or canvassing.

§ 192-17 Enforcement.

It shall be the duty of any police officer of the Town of Lynnfield to require any person seen soliciting or canvassing, and who is not known by such officer to be duly licensed, to produce his solicitor's or canvasser's license and to enforce the provisions of this bylaw against any person found to be violating the same.

§ 192-18 Records.

The Chief of Police shall report to the Town Clerk all convictions for violation of this bylaw, and the Town Clerk shall maintain a record for each license issued and record the reports of violation therein.

§ 192-19 Revocation of license.

- A. Permits and licenses issued under the provision of this bylaw may be revoked by the Board of Selectmen of the Town of Lynnfield after notice and hearing, for any of the following causes:
- (1) Fraud, misrepresentation, or false statement contained in the application for license;
 - (2) Fraud, misrepresentation, or false statement made in the course of carrying on business as a solicitor or as a canvasser;
 - (3) Any violation of this bylaw;
 - (4) Conviction of any crime or misdemeanor involving moral turpitude; or
 - (5) Conducting the business of soliciting, or of canvassing, in any unlawful manner or in such a manner as to constitute a breach of the peace or to constitute a menace to the health, safety, or general welfare of the public.
- B. Notice of the hearing for revocation of a license shall be given in writing, setting forth specifically the grounds of complaint and the time and place of hearing. Such notice shall be mailed, postage prepaid, to the licensee at his last known address at least five days prior to the date set for hearing.

§ 192-20 Appeals.

Any person aggrieved by the action of the Chief of Police or the Town Clerk in the denial of a permit or license as provided in § 192-12 of this bylaw or the action of the Selectmen in the assessing of the fee as provided in § 192-13C of this bylaw shall have the right of appeal to the Board of Selectmen. Such appeal shall be taken by filing with the Selectmen, within 14 days after notice of the action complained of has been mailed to such person's last known address, a written statement setting forth fully the grounds for the appeal. The Selectmen shall set a time and place for a hearing on such appeal, and notice of such hearing shall be given to the appellant in the same manner as provided in § 192-19 of this bylaw for notice of hearing on revocation. The decision and order of the Selectmen on such appeal shall be final and conclusive.

§ 192-21 Expiration of license.

All annual licenses issued under the provisions of this bylaw shall expire on December 31 in the year when issued. Other than annual licenses shall expire on the date specified in the license.

§ 192-22 Renewal of license.

[Added 10-20-2014 ATM by Art. 16]

A license issued under the provisions of this bylaw may be renewed by the Chief of Police. An applicant requesting a renewal of a license must apply in person for such license renewal, and provide such information and pay such fees as is required to obtain an initial license.

§ 192-23 Violations and penalties.

Any person violating any of the provisions of this bylaw shall, upon conviction thereof, be punished in accordance with Chapter 58, Penalties and Enforcement.

§ 192-24 Severability.

The provisions of these regulations are declared to be severable, and if any section, sentence, clause, or phrase of this bylaw shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses and phrases of this bylaw, but they shall remain in effect, it being the legislative intent that this regulation shall stand notwithstanding the invalidity of any part.

§ 192-25 Repeal of conflicting regulations.

All ordinances or parts of regulations inconsistent with the provisions of this bylaw shall be and the same are hereby repealed.

§ 192-26 Effective date.

These regulations shall take effect from and after May 8, 1981.

Chapter 12

Solicitors, Canvassers, Etc.

State Law Reference - Transient vendors, hawkers, and peddlers, generally, G.L. c. 101, sec. 1-34.

Article I. In General.

Section

- 12-1. Definitions.
- 12-2. Soliciting, peddling, etc., without consent of owner or occupant or registration declared nuisance.
- 12-3. Notice to be posted by owners or occupants.
- 12-4. Duty of solicitors generally.
- 12-5. Uninvited soliciting prohibited.
- 12-6. Hour limitations.
- 12-7. Penalty.

Article II. Registration.

- 12-8. Required.
- 12-9. Information required generally.
- 12-10. Records.
- 12-11. Fees.
- 12-12. Certificates - Issuance generally.
- 12-13. Same - Carrying; display.
- 12-14. Same - Application required.
- 12-15. Same - Application contents.
- 12-16. Revocation.

Article I. In General

Sec. 12-1. Definitions.

For the purposes of this chapter, the following words and phrases shall have the meanings respectively ascribed to them by this section:

Registered solicitor. Any person who has obtained a valid certificate of registration as provided in this chapter, which certificate is in the possession of the solicitor or on his person while employed in soliciting.

Residence. Every separate living unit occupied for residential purposes by one or more persons contained therein, within any type of building or structure.

Soliciting. Any one or more of the following activities:

- (a) Seeking to obtain orders for the purchase of goods, wares, merchandise, foodstuffs, services of any kind, character or description whatever, for any kind of consideration whatever; or
- (b) Seeking to obtain prospective customers for application or purchase of insurance of any type, kind or character; or
- (c) Seeking to obtain subscriptions to books, magazines, periodicals, newspapers and every other type or kind of publication; or
- (d) Seeking to obtain gifts or contributions of money or clothing for any charitable or nonprofit association, organization, corporation or project. (11-12-73, Art. 13)

Sec. 12-2. Soliciting, peddling, etc., without consent of owner or occupant or registration declared nuisance.

The practice of going in and upon private residences in the town by solicitors, peddlers, hawkers, itinerant merchants or transient vendors of merchandise, not having been registered or invited to do so by the owner or occupant of such private residences, for the purpose of soliciting orders for the sale of goods, wares and merchandise or for the purpose of disposing of and or peddling or hawking the same is declared to be a nuisance. (11-12-73, Art. 13)

Sec. 12-3. Notice to be posted by owners or occupants.

Every person desiring to secure the protection provided by the provisions pertaining to soliciting contained in this chapter shall comply with the following directions: Notice of the determination by the occupant of giving invitation to solicitors, or the refusal of invitation to solicitors, to any residence, shall be given in the manner following: A weatherproof card approximately three inches by four inches in size, shall be exhibited on or near the main entrance door to the residence, indicating the determination by the occupant, containing the applicable words as follows:

Only solicitors registered in Stoneham invited

Or:

No solicitors invited

The letters shall be at least one third inch in height. For the purpose of uniformity, the cards shall be provided by the chief of police to persons requesting them at the cost thereof.

Such cards so exhibited shall constitute sufficient notice to any solicitor of the determination by the occupant of the residence of the information contained thereon. (11-12-73, Art. 13)

Sec. 12-4. Duty of solicitors generally.

(a) It shall be the duty of solicitors upon going into any premises in the town upon which a residence is located, to first examine the notice provided for in this chapter, if any is attached, and be governed by the statement contained on any notice. If the notice states "only solicitors registered in Stoneham invited," then the solicitor not possessing a valid certificate of registration as provided in this chapter shall immediately and peacefully depart from the premises; and if the notice states, "no solicitors invited," then the solicitor, even though registered in the town, shall immediately and peacefully depart the premises.

(b) Any solicitor 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. (11-12-73, Art. 13)

Sec. 12-5. Uninvited soliciting prohibited.

It is hereby declared to be unlawful and shall constitute a nuisance for any person to go upon any premises and ring the doorbell upon or near any door or create any sound in any other manner calculated to attract the attention of the occupant of such residence for the purpose of securing an audience with the occupant thereof and engage in soliciting, in defiance of the notice exhibited at the residence in accordance with the provisions of Section 12-4. (11-12-73, Art. 13)

Sec. 12-6. Hour limitations.

It is hereby declared to be unlawful and shall constitute a nuisance for any person, whether registered under this chapter or not, to go upon any premises and ring the doorbell upon or near any door of a residence located thereon, or rap or knock upon any door of a residence located thereon, or create any sound in any other manner calculated to attract attention of the occupant of such residence, for the purpose of securing an audience with the occupant thereof and engage in soliciting as herein defined, prior to 9:00 A.M. or after sundown on any day. (11-12-73, Art. 13; 4-12-76, Art. 23)

Sec. 12-7. Penalty.

Any person violating any of the provisions of this chapter shall upon conviction thereof, be subject to a fine of not more than that which is provided by Section 1-4 of this Code. (11-12-73)

Article II. Registration**Sec. 12-8. Required.**

It shall be unlawful for any person to engage in business as a canvasser or solicitor calling at residences within the town, without the previous consent of the occupant, for the purpose of soliciting orders, sales, subscriptions or business of any kind or seeking donations without first having registered in the office of the chief of police. (11-12-73, Art. 13)

Sec. 12-9. Information required generally.

The registrant shall give his complete identification, his signature, the name of the products or services in which he is interested, the names of manufacturers of such products or of the organization which he is representing and the proposed method of operations in the town. (11-12-73, Art. 13)

Sec. 12-10. Records.

The chief of police shall cause to be kept in his office an accurate record of every applicant and application received and acted upon, together with all other information and data pertaining thereto and all certificates of registration issued under the provisions of this chapter and of the denial of applications.

Applications for certificates shall be numbered in consecutive order as filed, and every certificate issued and any renewals thereof shall be identified with the duplicate number of the application upon which it was issued. (11-12-73, Art. 13)

Sec. 12-11. Fees.

Each registrant shall pay to the town a registration fee of two dollars for the period expiring ninety days after the date of such registration. (11-12-73, Art. 3)

Sec. 12-12. Certificate—Issuance generally.

Each applicant who shows evidence of good character and who pays the fee provided for herein shall be furnished a certificate, indicating that he has registered and showing the date covered by such registration. (11-12-73, Art. 13)

Sec. 12-13. Same—Carrying; display.

Each person shall at all times, while soliciting or canvassing in the town, carry upon his person the registration certificate; and such certificate shall be exhibited by such registrant whenever he is required to do so by any police officer or by any person solicited. (11-12-73, Art. 3)

Sec. 12-14. Same—Application required.

Every person desiring to engage in soliciting as herein defined from persons in residences within this municipality is hereby required to make written application for a certificate of registration as hereinafter provided. (11-12-73, Art. 13)

Sec. 12-15. Same—Application contents.

Applications for certificates of registration shall be made upon a form provided by the town. The applicant shall truthfully state in full the information requested on the application, to wit:

- (a) The name and address of present place of residence and length of residence at such address; also business address if other than present address.
- (b) The age of applicant.
- (c) The physical description of the applicant.
- (d) The name and address of the person whom the person is employed by or represents; and the length of time of such employment or representation.
- (e) The name and address of employer during the past three years if other than the present employer.
- (f) A description sufficient for the identification of the subject matter of the soliciting in which the applicant will engage.
- (g) The period of time for which the certificate is applied.
- (h) The date or approximate date of the latest previous application for certificate under this chapter, if any.

(i) Whether a certificate of registration issued to the applicant under this chapter has ever been revoked.

(j) Whether the applicant has ever been convicted of a felony under the laws of the state or any other state or federal law. (11-12-73, Art. 3)

Sec. 12-16. Revocation.

Any such registration may be revoked by the selectmen or the chief of police because of any violation by the registrant of this chapter or of any other provision of this Code or bylaw of the town or of any state or federal law or whenever the registrant shall cease to possess the qualifications and character required in this chapter for the original registration. (11-12-73, Art. 13)

Town of Lexington, MA Licenses and Permits: § 76-2 Hawkers and peddlers.

Except as otherwise provided by law the Selectmen may grant licenses to owners of vehicles upon such rules and regulations as said Board may deem proper, not inconsistent with these by-laws, to use such vehicles for the conveyance of persons or property for hire, and may designate stands and locations upon the streets of the Town where such vehicles may stand or wait for employment.

Every such license shall be granted to expire on the first day of May next ensuing after the date of its issue and it may be revoked at any time for cause satisfactory to said Board. Each license may cover one or more vehicles belonging to the same owner, shall bear upon its face the date of its issue, the date of its expiration, the name and address of the owner of the vehicle or vehicles to whom the license is issued, and a description of each vehicle so licensed sufficient for its identification. A separate number shall be designated for each vehicle so licensed and the owner shall before using such vehicle for hire have such number plainly marked upon each side thereof, excepting only in the case of motor vehicles duly registered under the laws of this Commonwealth, and in such cases the license issued hereunder shall contain the registration number of such motor vehicle. The fee for each license shall be fixed by the Board of Selectmen for each vehicle covered thereby and no license shall be transferred except with the approval of the Board of Selectmen duly endorsed thereon.



Town of North Reading, MA
Thursday, June 30, 2016

Chapter 131. Peddlers, Solicitors and Transient Vendors

[HISTORY: Adopted by the Town Meeting of the Town of North Reading as indicated in article histories. Amendments noted where applicable.]

GENERAL REFERENCES

Carnivals, fairs and exhibitions — See Ch. 37.

Secondhand dealers and pawnbrokers — See Ch. 143.

Article I. Peddlers and Solicitors

[Adopted 5-3-1971 ATM by Art. 36, approved 6-11-1971]

§ 131-1. Registration required; exceptions.

[Amended 10-17-1977 ATM by Art. 19, approved 2-28-1978; 10-2-1989 ATM by Art. 9, approved 12-7-1989]
No person, firm, or corporation shall offer for sale, solicit funds, or offer services door-to-door within the Town of North Reading without prior registration with the North Reading Police Department, said registration to consist of the name and address of all persons, firms, or corporations, together with a list of all persons to be engaged in said canvassing. Canvassing is to be done during daylight hours only. Provided, nevertheless, the above requirements shall not apply to any political, charitable, or religious organizations duly chartered under the laws of the states or of the Federal Government nor shall they apply to persons running for political office. Each violation of this by-law shall be punishable by a fine of ten (\$10) dollars for each offense.

Article II. Transient Vendors

[Added 3-12-1973 ATM by Art. 2, approved 10-11-1973; amended 10-5-1998 ATM by Art. 13, approved 1-27-1999]

§ 131-2. Definitions.

The term "transient vendor," for the purpose of this by-law, shall be the same as defined in Section 1 of Chapter 101 of the General Laws. The term "outdoor transient vendor" for purposes of this by-law shall mean any person, either principal or agent, who engages in any exhibition and sale of goods, wares, or merchandise, in one locality, which business is not conducted in or under a tent, booth, building or other structure.

§ 131-3. License required; fee; term.

Every transient vendor or outdoor transient vendor, before making any sale of goods, wares, or merchandise in the Town, shall apply to the Board of Selectmen for a license and shall accompany such application with a license fee of twenty-five (\$25) dollars. Thereupon the Board of Selectmen shall issue a license to the applicant, provided that the applicant meets all the requirements that may be established by law. Such license shall authorize the sale of goods, wares, and merchandise, and shall remain in force so long as the licensee shall continuously keep and expose for sale in the Town such stock of goods, wares or merchandise, but not later than January 1 following the date of issuance.

§ 131-4. Compliance with state regulations required.

No license shall be granted under this by-law until the applicant has complied with the provisions of General Laws, Chapter 101, Section 3 and has exhibited to the Board of Selectmen a license by the Director of Standards of the Commonwealth where applicable.

§ 131-5. Revocation of license.

The Board of Selectmen is hereby authorized to revoke any license under the provisions of this by-law where the licensee is guilty of violating any provisions of this by-law or any provisions of laws or by-laws which violation would make such licensee a person unfit to hold the license.

§ 131-6. Sales in open areas or vacant lots.

No person, whether principal or agent, who engages in temporary or transient business shall offer for sale, expose for sale any article in any open area, alley, or vacant lot, and, without limiting the generality of the foregoing, such items as wreaths, flowers, Christmas trees or Christmas decorations, unless such person has first obtained an outside transient vendor license therefore from the Board of Selectmen as provided by § 131-3. This section shall not apply to any person who is assessed or is liable for assessment of personal property taxes on the above referenced goods, as of January 1 in the year in which the sales referred to above are to be made. Religious and charitable institutions shall be exempt from the provisions of this section.

§ 131-7. Severability.

In [sic] any clause, sentence, paragraph or section of this by-law or the application thereof to any person or circumstances shall for any reason be adjudged by a court to be invalid, such judgment shall not affect, impair or invalidate the remainder of this by-law or its application.

SOLICITORS OR CANVASSERS

SECTION 40:

Section 1: License required. It shall be unlawful for any solicitor or canvasser, as defined in Section 2 of this by-law to engage in such business in the Town of Wilmington without first obtaining a license in compliance with the provisions of this by-law. Any person who is not properly licensed under this by-law shall be ordered to immediately cease and desist all solicitation in the town until they attain a proper license. Whoever continues to solicit without a proper license after being notified to cease and desist by a police officer, may be summoned for court prosecution and fined up to \$300.00 for each violation.

Section 2: Definition. A canvasser or solicitor is defined as any individual, whether resident of the Town or not, traveling either by foot, motor vehicle, or any other type of conveyance, from place to place, house to house, taking or attempting to take orders for sale of goods, wares, merchandise, personal property of any nature for immediate or future delivery or for services to be furnished or performed immediately or in the future and whether or not he or she collects advance payments on such sales.

This definition shall include any person who, for him or herself, or for another person or firm or corporation hires, leases, uses, or occupies any building, structure, tent, rail car, boat, hotel room, lodging house, apartment, shop or any other place within the Town for the sole purpose of exhibiting samples and taking orders for future delivery.

Section 3: Application. An applicant for a license under this by-law shall file with the Chief of Police, or his designee, a sworn application in writing at least 10 working days prior to the requested starting date for solicitation, on a form provided by the Police Department. Said form shall include, but not be limited to the following information:

- a. Name and physical description, date of birth, social security number of the applicant;
- b. Permanent home address, and full local address of the applicant;
- c. A brief description of the nature of the business and/or goods to be sold;
- d. If employed, name and address of employer, including credentials which establish the exact relationship;
- e. The length of time for which the permit is desired;
- f. Names of manufacturer, of source of merchandise, proposed method of delivery;
- g. Two photographs of the applicant, taken within the past 50 days prior to filing of the application, showing only the head and shoulders of the applicant in a clear and distinguishing manner;
- h. Provide evidence of business responsibility or good character of the applicant;
- i. A statement as to whether or not the applicant has been convicted of any crime, or violation of any municipal by-law, rule or regulation, the nature of the offense and the punishment or penalty assessed therefore.

At the time of filing the application, a fee of \$25.00 per individual applicant payable to the Town of Wilmington shall be submitted to the Police Department to cover the cost of investigation of the facts stated therein. This fee may be waived for individuals representing non-profit organizations.

Section 4: Investigation and Issuance

- A. The Chief of Police shall direct an investigation of the facts contained in the license application to determine the following.
 1. Whether or not fraud, misrepresentation, or false statements have been made on the application.
 2. Whether or not the applicant has been convicted of any crime or misdemeanor involving moral turpitude.

- B. If after investigation the Chief or his designee determines either of the above paragraphs (A1-A2) were answered in the affirmative the application shall be denied, and the applicant so notified.
- C. If after investigation, the character and business responsibility of the applicant has been found to be satisfactory the application shall be approved. The applicant will then be issued a Solicitation Identification Card.

Section 5: Solicitation Identification Card

The Police Department shall issue to each successful applicant an identification card which shall contain the words "Licensed Solicitor", the individual's picture, identification and expiration date of the license. Such Identification Card shall be worn in a conspicuous manner on the outer garment of the licensee during any and all times the licensee is engaged in soliciting. The above requirements may be waived by the Chief of Police for solicitors of non-profit organizations based in the Town of Wilmington.

Section 6: Solicitors and Canvassers are required to exhibit their licenses at the request of any resident.

Section 7: Duty of the Police to Enforce. It shall be the duty of any police officer of the Town to require any person seen soliciting or canvassing and who is not known by such officer to be duly licensed, to produce his or her solicitor's or canvasser's license and to enforce the provisions of this by-law against any person found to be violating the same.

Section 8: Trespass after notice, M.G.L. Chapter 266, Section 120. Notwithstanding the above licensing procedures, no licensee may enter private property after being forbidden to do so either directly by the person in charge of the property, or by a conspicuously posted notice of No Trespassing. Punishment for violations of this section are controlled by M.G.L. Chapter 266, Section 120. A person found committing such a trespass in the presence of a police officer may be arrested without a warrant.

Section 9: Solicitation hours. A properly licensed solicitor or canvasser may solicit between the following hours:

Monday through Friday	8 a.m. through 7 p.m.
Saturday	10 a.m. through 5 p.m.
Sunday	12 noon through 5 p.m.

Section 10: The Chief of Police shall maintain all pertinent records of licenses issued, and violations recorded.

Section 11: Revocation of license.

- A. Licenses issued under the provisions of this by-law may be revoked by the Chief of Police or his designee after notice and hearing for any of the following causes:
 1. Fraud, misrepresentation, or false statement contained in the license application;
 2. Fraud, misrepresentation or false statements made in the course of carrying on the business of solicitation;
 3. Any violation of this by-law;
 4. Conviction of any crime or misdemeanor involving moral turpitude;
 5. Conducting the business of soliciting or canvassing in an unlawful manner or in such a manner as to constitute a breach of the peace, or to constitute a menace to health, safety, or the general welfare of the public;

6. High-pressure tactics, harassment, or a refusal to accept a refusal as an answer, when verified in writing.

B. Notice of hearing for revocation of a license shall be given in writing, setting forth specifically the grounds of the complaint and a time and place of the hearing. Such notice shall be forwarded by certified mail to the licensee at his or her last known address at least five days prior to the hearing date.

Section 12: Expiration of License. All licenses for soliciting in the town shall expire on December 31, each year, regardless of when the license is obtained.

Section 13: Severance Clause. The provisions of this by-law are declared to be severable, and if any section, sentence, clause or phrase of this by-law shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses and phrases of this by-law and they shall remain in effect, it being the legislative intent that this by-law shall stand, notwithstanding the invalidity of any part.

Section 14: This by-law shall take effect 90 days after its passage.

REGULATION OF UTILITY POLES

SECTION 41. No public or private organization or utility company shall place or allow more than one utility pole to exist within five feet of another utility pole on any public or private way within the Town of Wilmington, without the prior written permission of the Selectmen, which permission may contain conditions.

Following a public hearing, the Selectmen may issue an order for the removal, relocation or alteration of any utility pole or poles in excess of one at any given location, upon the determination that more than one utility pole at any given location presents a nuisance, hazard or threat to the public safety, welfare or convenience to the inhabitants of the Town.

Any organization or utility company which owns or is responsible for a utility pole or poles subject to any order issued by the Selectmen shall fully comply with the terms and conditions of any such order within one hundred and eighty (180) days of the date of its issuance unless such period is extended by the Selectmen in its sole and absolute discretion. In the event of noncompliance with the terms of any order issued by the Selectmen, the Selectmen may take whatever enforcement action it deems appropriate, including, without limitation; the imposition of a fine of up to three hundred (\$300.00) dollars per day for each day of noncompliance; the application for an injunction restraining the continued existence of any such pole or poles subject to such order; and any other penalties, impositions or relief as the Selectmen may deem necessary.

SECTION 42. WATER FOWL. No person shall feed any water fowl on public land in the Town of Wilmington. No person shall distribute any food or scatter any foodstuffs upon or around any park, recreation area, playing field, beach, or any public land. The fine for any violation of this section shall be \$10.00. The provisions of Chapter 40, Section 21-D of the General Laws of the Commonwealth shall apply and shall authorize the issuance of a citation for any such violation of this section by any police officer, animal control officer, health officer or agent.

SECTION 43.

Municipal Water Supply Use Restriction

Section 1 Authority

This by-law is adopted by the Town under its police powers to protect public health and welfare and its powers under M.G.L. C.40, §21 et seq. and implements the Town's authority to regulate water use pursuant to M.G.L.C. 41, §69B. This by-law also implements the Town's authority under M.G.L.C. 40, §41A, conditioned upon a declaration of water supply emergency issued by the Department of Environmental Protection.



8.9.8.5 Permits

The Chief of Police or his designee (the Chief), may in his reasonable discretion, issue permits in response to written applications authorizing applicants to perform construction during hours other than those permitted by this bylaw. Such permits may be issued upon a determination by the Chief, in consultation with the Building Inspector, the Town Engineer or other Town staff, that literal compliance with the terms of this bylaw would create an unreasonable hardship and that the work proposed to be done (with or without any proposed mitigative measures) will have no adverse effects of the kind which this bylaw seeks to reduce. Each such permit shall specify the person authorized to act, the dates on which or within which the permit will be effective, the specific hours and days when construction otherwise prohibited may take place, and any conditions required by the Chief to mitigate the effect thereof on the community. The Chief may promulgate a form of application and charge a reasonable fee for each permit. No permit may cover a period of more than thirty (30) days. Mitigative measures shall include notice to residents in the surrounding area, and other mitigation as determined by the Chief. Objections by such residents shall be noted by the Chief and shall be taken into account when considering issuance of such permit.

8.9.8.6 Unreasonable Noise

Regardless of the hour or day of the week, no construction shall be performed within the Town in such a way as to create unreasonable noise. Noise shall be deemed unreasonable if it interferes with the normal and usual activities of residents and businesses in the affected area and could be reduced or eliminated through reasonable mitigative measures.

8.9.8.7 Copy of Bylaw

The Building Inspector shall deliver a copy of this bylaw to each person to whom it issues a building permit, razing permit, electrical permit, plumbing permit, gas permit or mechanical permit at the time that the said permit is issued.

8.9.8.8 Enforcement

In addition to any other means of enforcement, the provisions of this bylaw and the regulations adopted pursuant thereto may be enforced by non-criminal disposition in accordance with the provisions of Section 1.8 of this bylaw, and MGL Chapter 40 Section 21D.

8.9.9 Door-To-Door Solicitors and Canvassers

8.9.9.1 Definitions

- As used in this section, the terms "solicit" and "canvas" shall mean and include any one or more of the following activities conducted at residences without the previous consent of the owner:
 - Seeking to obtain the purchase, or orders for the purchase of goods, wares, merchandise, foodstuffs or services of any kind, character or description whatever for any kind of consideration whatsoever; or
 - Seeking to obtain subscriptions to books, magazines, periodicals, newspapers and every other type or kind of publication.

8.9.9.2 Applicability

- The provisions of this section shall not apply to officers or employees of the Town, State or Federal government, or any subdivision thereof when on official business, or to neighborhood youth and students who solicit for the shoveling of snow or cutting of lawns or similar services to residents, nor shall it be construed to prevent route salespersons or other persons having established customers to whom they make periodic deliveries from calling upon such customers.
- If any solicitor or canvasser is under the age of eighteen (18) years and is selling goods or periodicals for a commercial purpose, the provisions of MGL Chapter 101 Section 34 shall apply.
- The provisions of this section shall not apply to any person soliciting solely for religious, charitable or political purposes.

8.9.9.3 Registration Required

It shall be unlawful for any person to solicit or canvas or engage in or conduct business as a canvasser or solicitor without first having obtained a Certificate of Registration from the Chief of Police as provided in this section.

8.9.9.4 Application for Certificate of Registration

- Application for a Certificate of Registration shall be made upon a form provided by the Police Department along with a nonrefundable application fee. Said fee to be determined by the Board of Selectmen.
- An authorized representative of the sponsoring organization shall apply to the Chief of Police or his designee either in person or by mail. All statements on the application or in connection therewith shall be under oath. The applicant shall provide all information requested on the application, including:
 - Name, address and telephone number of the sponsoring organization, along with a listing of all officers and directors;
 - State and/or Federal Tax Identification Number of the sponsoring organization;
 - Name, residential and business address, length of residence at such residential address, telephone number, social security number and date of birth of each representative of the sponsoring organization who will be soliciting or canvassing in the Town;
 - Description sufficient for identification of the subject matter of the soliciting or canvassing in which the organization will engage;
 - Period of time for which the Certificate is applied (every Certificate shall expire within one year of date of issue);
 - The date of the most recent previous application for a Certificate under this section;
 - Any previous revocation of a Certificate of Registration issued to the organization or to any officer, director or representative of the organization by any city or town and the reasons therefore;
 - Any convictions or imprisonment for a felony, either state or federal, within five (5) years of the application, by the sponsoring organization, any of its officers or directors, or any representative who will be soliciting or canvassing in the Town;
 - Names of the three (3) communities where the organization has solicited or canvassed most recently;
 - Proposed dates, hours and method of operation in the Town;

- Signature of an authorized representative of the sponsoring organization.
- A photograph or an acceptable photocopy of a photograph of each representative of the sponsoring organization who will be soliciting or canvassing in the Town shall be attached to the application.
- No Certificate of Registration shall be issued to any person, or to any organization having an officer or director, who was convicted of commission of a felony, either state or federal, within five (5) years of the date of the application, nor to any organization or person whose Certificate of Registration has previously been revoked as provided below.
- Fully completed applications for Certificates shall be acted upon within five (5) business days of receipt. The Chief of Police shall cause to be kept in his office accurate records of every application received together with all other information and data pertinent thereto and of all Certificates of Registration issued under this section and of all denials.
- Upon approval of an application, each solicitor or canvasser shall be issued a Certificate of Registration with a photo identification badge to carry upon his person at all times while soliciting or canvassing in the Town and to display the certificate whenever asked by any police officer or any person solicited.

8.9.9.5 Revocation of Certificate

- Any Certificate of Registration issued hereunder may be revoked by the Chief of Police for good cause, including conviction of the holder of the Certificate of a Violation of any of the provisions of this section or a false material statement in the application. Immediately upon such revocation, the Chief of Police shall give written notice to the holder of the Certificate in person or by certified mail addressed to his residence address set forth in the application.
- Immediately upon the giving of such notice, the Certificate of Registration shall become null and void. In any event, every Certificate of Registration shall state its expiration date, which shall be no later than one year from date of issue.

8.9.9.6 Deceptive Practices

No solicitor or canvasser registered or exempt from registering may use any plan, scheme, or ruse which misrepresents the true status or mission of any person conducting the solicitation or canvas in order to gain admission to the home, office or other establishment of any person in the Town.

8.9.9.7 Duties of Solicitors and Canvassers

It shall be the duty of every solicitor and canvasser going onto any premises in the Town to:

- Display a Town-issued photo identification badge on the outside of their person; and
- First examine whether there is a notice posted stating that no solicitors are welcome. If such notice is present, then the solicitor or canvasser shall immediately and peacefully depart from the premises; and
- Any solicitor or canvasser 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.

8.9.9.8 Enforcement

In addition to any other means of enforcement, the provisions of this bylaw and the regulations adopted pursuant thereto may be enforced by non-criminal disposition in accordance with the provisions of Section 1.8 of this bylaw, and MGL Chapter 40 Section 21D.

8.10 Maintenance of Vacant Buildings and Land

All vacant structures and vacant land within the Town of Reading shall be maintained in a safe, secure and clean condition so as not to compromise the health, safety and general welfare of the community.

8.10.1 Definitions

For purposes of this bylaw the following definitions shall apply:

8.10.1.1 Building

A structure enclosed within exterior walls or firewalls, built, erected, or framed of any materials, and fixed to the ground, having a roof, to form a structure for the shelter of persons, animals or property, or the storage of commercial or industrial personal property.

8.10.1.2 Owner

A person, entity, service company, property manager or real estate broker, who alone or severally with others:

- has legal or equitable title to any building, structure or parcel of land, vacant or otherwise; or
- has care, charge or control of any building or structure, parcel of land, vacant or otherwise, in any capacity including but not limited to agent, executor, executrix, administrator, administratrix, trustee or guardian of the estate of the holder of legal title; or
- is a mortgagee in possession of any such property; or
- is an agent trustee or other person appointed by the courts and vested with possession or control; or
- is an officer or trustee of the association of unit owners of a condominium; each such person being bound to comply with the provisions of these minimum standards as if he were the owner; or
- is a trustee who holds, owns or controls mortgage loans for mortgage backed securities transactions and has initiated a foreclosure process.

8.10.1.3 Vacant

Buildings or property that are unoccupied for a period greater than one hundred eighty (180) days by a person or persons with legal right to occupancy thereof.

8.10.2 Minimum Maintenance Requirements

Owners of vacant properties must fulfill the following minimum adequate maintenance requirements for any such property they own:

- Maintain vacant properties in accordance with all applicable local and state Sanitary Codes, Building Codes and Fire Codes.
- Secure vacant properties to prevent unauthorized entry and exposure to the elements.
- Maintain vacant properties in a manner that ensures their external/visible maintenance, including but not limited to the maintenance of major systems, the removal of trash and debris, and the upkeep of lawns, shrubbery, and other landscape features.

Mawn, Patti

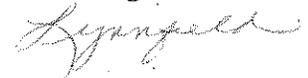
From: Martel, Justin <jmartel@ci.reading.ma.us>
Sent: Friday, May 20, 2016 3:39 PM
To: Mawn, Patti
Subject: Solicitation and Canvassing ByLaw Proposal
Attachments: 2015-06_general_bylaw.pdf

Hi Patti:

My Chief asked me to send you a copy of our Door-to-Door Solicitor Registration bylaw. I have attached that bylaw to this e-mail for your review. Also, by [clicking here](#), you can download our registration package. If you need anything further on this, please let me know. Thank you.

Respectfully,
Justin Martel, Badge 78
Armorer, Licensing Officer, Fleet Manager
Reading Police Department
15 Union Street
Reading, Massachusetts
Desk: (781) 942-6766
Dispatch: (781) 944-1212
Fax: (781) 944-2893

Please Note: When reading or responding to this message, bear in mind that this email is subject to MGL c.66 §10, the Massachusetts Public Records Law. This message is intended only for the use of the individual or entity to which it is addressed and may contain information which is privileged or unlawful to disclose. If you are not the intended recipient, or believe that you have received this communication in error, you must not print, copy, retransmit, disseminate, or otherwise use the information. Please indicate to the sender that you have received this email in error, and delete the copy you received.



Article II: Solicitors and Canvassers

[Adopted 4-27-1981 ATM (Ch. 5, § 23, of the Bylaws)]

§ 192-7 Permit and license required.

It shall be unlawful for any solicitor or canvasser, as defined in § 192-10 of this bylaw, to engage in such business within the corporate limits of the Town of Lynnfield without first obtaining a permit and license therefor in compliance with the provisions of this bylaw.

§ 192-8 Exceptions.

[Added 10-20-2014 ATM by Art. 16]

The provisions of this bylaw shall not apply to the following persons:

- A. Any person duly licensed under Chapter 101 of the General Laws or any persons exempted under Chapter 101, Chapter 149, § 69, Chapter 180, § 4, or any other General Law;
- B. Any officer or employee of the Town, county, state or federal government on official business; or
- C. Route salespersons or others having established customers making periodic deliveries to such customers or making calls upon prospective customers to solicit orders for periodic route deliveries, including but not limited to news carriers.
- D. Any person or persons canvassing or soliciting for political, religious and philanthropic purposes.

§ 192-9 Hours of operation.

[Amended 10-21-1985 TM]

It shall be unlawful for any solicitor or canvasser, as defined in § 192-10 of this bylaw, to engage in such business within the Town of Lynnfield before the hour of 8:00 a.m. in the morning and (a) after the hour of 8:00 p.m. in the evening during the period when Eastern Standard Time is in effect, and (b) after 9:00 in the evening during the period when Daylight Savings Time is in effect.

§ 192-10 Definitions.

As used in this article, the following terms shall have the meanings indicated:

CANVASSER OR SOLICITOR

Any individual, whether resident of the Town of Lynnfield or not, traveling either by foot, wagon, automobile, motor truck or any other type of conveyance, from place to place, from house to house, or from street to street, distributing sales information in any manner, taking or attempting to take orders for sale of goods, wares and merchandise, personal property of any nature whatsoever for future delivery, or for services to be furnished or performed in the future or soliciting information opinions for surveys or polls, whether or not such individual has, carries or exposes for sale a sample of the subject of such sale or whether he is collecting advance payments on such sales or not; provided that such definition shall include any person who, for himself, or for another person, firm, or corporation, hires, leases, uses, or occupies any building, structure, tent, railroad box car, boat, hotel room, lodging house, apartment, shop or any other place with the Town for the sole purpose of exhibiting samples and taking orders for future delivery. All census enumerators employed by the United States of America, or the Commonwealth of Massachusetts, or the Town of Lynnfield shall not be included in this definition of canvassers and solicitors.

§ 192-11 Application for permit; fee.

- A. All solicitors or canvassers who engage in activities described in § 192-10 hereof for more than one day per month within Lynnfield must file with the Town Clerk a sworn application in writing (in duplicate) on a form to be furnished by the Town Clerk, which shall give the following information:

- (1) Name and description of the applicant;
 - (2) Permanent home address and full local address of the applicant;
 - (3) A brief description of the nature of the business and the goods to be sold, if any;
 - (4) If employed, the name and address of the employer, together with credentials establishing the exact relationship;
 - (5) The length of time for which the right to do business is desired;
 - (6) The place where the goods or property proposed to be sold, or orders taken for the sale thereof, are manufactured or produced, where such goods or products are located at the time said application is filed, and the proposed method of delivery;
 - (7) A photograph of the applicant, taken within 60 days immediately prior to the date of filing of the application, which picture shall be two inches by two inches showing the head and shoulders of the applicant in a clear and distinguishing manner;
 - (8) A statement as to whether or not the applicant has been convicted of any crime, misdemeanor, or violation of any municipal ordinance, the nature of the offense and the punishment or penalty assessed therefor; and
 - (9) If applicant is operating or being transported by a motor vehicle, the year, make, model, color, registration number, state of registration, owner's name and address of each such vehicle.
[Added 10-20-2014 ATM by Art. 16]
- B. At the time of filing the application, a fee of \$10 shall be paid to the Town Clerk to cover the cost of investigation of the facts stated therein.

§ 192-12 Investigation and issuance of permit and license.

- A. Upon receipt of such application, the original shall be referred to the Chief of Police, who shall cause such investigation of the applicant's business and moral character to be made as he deems necessary for the protection of the public good.
- B. If, as a result of such investigation, the applicant's character or business responsibility is found to be unsatisfactory, the Chief of Police shall endorse on such application his disapproval and his reasons for the same, and return the application to the Town Clerk, who shall notify the applicant that his application is disapproved and that no permit and license will be issued.
- C. If, as a result of such investigation, the character and business responsibility of the applicant are found to be satisfactory, the Chief of Police shall endorse on the application his approval, execute a permit addressed to the applicant for the carrying on of the business applied for and return said permit, along with the application to the Town Clerk, who shall, upon payment of the prescribed license fee, deliver to the applicant his permit and issue a license. Such license shall contain the signature and seal of the issuing officer and shall show the name, address and photograph of said licensee, the class of license issued and the kind of goods to be sold thereunder, the amount of fee paid, the date of issuance and the length of time the same shall be operative, as well as the license number and other identifying description of any vehicle used in such soliciting or canvassing. The Clerk shall keep a permanent record of all licenses issued.

§ 192-13 Fees.

- A. The license fee which shall be charged by the Town Clerk for such license shall be \$10 per day, \$7 per week or part thereof, \$30 per month, \$300 per year, per each solicitor.
- B. The annual fees herein provided shall be assessed on a calendar-year basis, and on or after July 1 the amount of such fee for annual license shall be 1/2 the amount stipulated above the remainder of the year.
- C. None of the license fees provided for by this bylaw shall be so applied as to occasion an undue burden upon interstate commerce. In any case where a license fee is believed by a licensee or applicant for license to place an undue burden upon such commerce, he may apply to the Selectmen for an adjustment of the fee so that it shall not be discriminatory, unreasonable, or unfair as to such commerce. Such application may be made before, at, or within six months after payment of the prescribed license fee. The applicant shall, by affidavit and supporting testimony, show his method of

business and the gross volume or estimated gross volume of business and such other information as the Selectmen may deem necessary in order to determine the extent, if any, of such undue burden on such commerce. The Selectmen shall then conduct an investigation, comparing applicant's business with other businesses of like nature and shall make findings of fact from which they shall determine whether the fee fixed by this bylaw is unfair, unreasonable or discriminatory as to applicant's business and shall fix as the license fee for the applicant an amount that is fair, reasonable and nondiscriminatory, or, if the fee has already been paid, shall order a refund of the amount over and above the fee so fixed.

§ 192-14 Badges.

The Town Clerk shall issue to each licensee at the time of delivery of his license a badge which shall contain the words "Licensed Solicitor," the period for which the license is issued and the number of the license, in letters and figures easily discernible from a distance of 10 feet. Such badge shall, during the time such licensee is engaged in soliciting, be worn constantly by the licensee on the front of his outer garment in such a way as to be conspicuous.

§ 192-15 Exhibition of license.

Solicitors and canvassers are required to exhibit their licenses at the request of any citizen.

§ 192-16 Residential property.

[Added 10-20-2014 ATM by Art. 16]

No person shall engage in solicitation or canvassing in or upon any residential property upon which is displayed a sign prohibiting trespassing or solicitation or canvassing.

§ 192-17 Enforcement.

It shall be the duty of any police officer of the Town of Lynnfield to require any person seen soliciting or canvassing, and who is not known by such officer to be duly licensed, to produce his solicitor's or canvasser's license and to enforce the provisions of this bylaw against any person found to be violating the same.

§ 192-18 Records.

The Chief of Police shall report to the Town Clerk all convictions for violation of this bylaw, and the Town Clerk shall maintain a record for each license issued and record the reports of violation therein.

§ 192-19 Revocation of license.

- A. Permits and licenses issued under the provision of this bylaw may be revoked by the Board of Selectmen of the Town of Lynnfield after notice and hearing, for any of the following causes:
- (1) Fraud, misrepresentation, or false statement contained in the application for license;
 - (2) Fraud, misrepresentation, or false statement made in the course of carrying on business as a solicitor or as a canvasser;
 - (3) Any violation of this bylaw;
 - (4) Conviction of any crime or misdemeanor involving moral turpitude; or
 - (5) Conducting the business of soliciting, or of canvassing, in any unlawful manner or in such a manner as to constitute a breach of the peace or to constitute a menace to the health, safety, or general welfare of the public.
- B. Notice of the hearing for revocation of a license shall be given in writing, setting forth specifically the grounds of complaint and the time and place of hearing. Such notice shall be mailed, postage prepaid, to the licensee at his last known address at least five days prior to the date set for hearing.

§ 192-20 Appeals.

Any person aggrieved by the action of the Chief of Police or the Town Clerk in the denial of a permit or license as provided in § 192-12 of this bylaw or the action of the Selectmen in the assessing of the fee as provided in § 192-13C of this bylaw shall have the right of appeal to the Board of Selectmen. Such appeal shall be taken by filing with the Selectmen, within 14 days after notice of the action complained of has been mailed to such person's last known address, a written statement setting forth fully the grounds for the appeal. The Selectmen shall set a time and place for a hearing on such appeal, and notice of such hearing shall be given to the appellant in the same manner as provided in § 192-19 of this bylaw for notice of hearing on revocation. The decision and order of the Selectmen on such appeal shall be final and conclusive.

§ 192-21 Expiration of license.

All annual licenses issued under the provisions of this bylaw shall expire on December 31 in the year when issued. Other than annual licenses shall expire on the date specified in the license.

§ 192-22 Renewal of license.

[Added 10-20-2014 ATM by Art. 16]

A license issued under the provisions of this bylaw may be renewed by the Chief of Police. An applicant requesting a renewal of a license must apply in person for such license renewal, and provide such information and pay such fees as is required to obtain an initial license.

§ 192-23 Violations and penalties.

Any person violating any of the provisions of this bylaw shall, upon conviction thereof, be punished in accordance with Chapter 58, Penalties and Enforcement.

§ 192-24 Severability.

The provisions of these regulations are declared to be severable, and if any section, sentence, clause, or phrase of this bylaw shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses and phrases of this bylaw, but they shall remain in effect, it being the legislative intent that this regulation shall stand notwithstanding the invalidity of any part.

§ 192-25 Repeal of conflicting regulations.

All ordinances or parts of regulations inconsistent with the provisions of this bylaw shall be and the same are hereby repealed.

§ 192-26 Effective date.

These regulations shall take effect from and after May 8, 1981.