

INTRODUCTORY LOCAL LAW NO. ____ OF 2018

**A LOCAL LAW AMENDING AND REPLACING CHAPTER 71 ENTITLED
“PEDDLING AND SOLICITING” OF THE CODE OF THE TOWN OF CHESTER,
SAID CHAPTER TO BE RENAMED “PEDDLING, SOLICITING AND DO NOT
KNOCK REGISTRY”**

Be it enacted by the Town of Chester in the County of Orange, as follows:

SECTION 1. Title

This Local Law shall be referred to as "A Local Law Amending and Replacing Chapter 71, entitled “Peddling and Soliciting,” of the Town Code of Chester.

SECTION 2: Purpose and Intent

It is the purpose of this Local Law to amend and replace Chapter 71, entitled “Peddling and Soliciting,” of the Town Code of the Town of Chester, as it relates to peddling and solicitation, and to add regulations which create a “Do Not Knock” registry in an effort to further protect the inalienable right of the residents of the Town of Chester to personal safety, tranquility and privacy.

SECTION 3: Peddling, Solicitation and Do Not Knock Registry

Chapter 71 of the Code of the Town of Chester is hereby amended to read as follows:

Chapter 71. Peddling, Soliciting and Do Not Knock Registry

§71-1. Title.

This Chapter shall be known and may be cited as the “Peddling, Solicitation and Do Not Knock Registry Law of the Town of Chester”. This Chapter amends, replaces and supersedes the former Chapter 71, entitled “Peddling and Soliciting”.

§71-2. Purpose.

The Town Board of the Town of Chester determines that it is in the best interest of the public to afford a just protection from peddlers and solicitors by regulating door-to-door solicitation by licensed sales agents; establishing a Do Not Knock Registry; and promulgating reasonable time and manner restrictions on door-to-door solicitation, including enforcement of the Do Not Knock Registry, and to preserve the private property, good order, peace, health, safety, welfare and comfort of the citizens of the Town of Chester.

§71-3. Definitions

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

APPEALS OFFICER

The Town Board of the Town of Chester, or its designee, responsible for receiving the information from the Town and applicant or licensed solicitor with respect to any denial, suspension or revocation of a license and issuing a decision as required by this Chapter.

CHARITABLE SOLICITOR

A person, corporation or institution engaged in the sale of any merchandise, the proceeds of which sale shall be given in whole or in part to a charitable and/or tax-exempt institution, which solicitation shall include solicitation for funds without the sale of any merchandise.

DO NOT KNOCK REGISTRY

A list of residential addresses in the Town of Chester, organized alphabetically by street name, indicating those residential properties where the owner or occupant has indicated that he or she does not want to be solicited and does not want sales agents to enter onto his or her property.

LICENSING OFFICER

The Town Clerk of the Town of Chester, or other designee of the Town Board of the Town of Chester, responsible for receiving from an applicant or licensed solicitor the completed application and either denying, granting, suspending or revoking the application or license.

PEDDLER

A person commonly referred to as a “peddler” or a “hawker,” who goes from place to place by travelling on streets and/or from house to house and carries with him or her goods, wares or merchandise for the purposes of selling and/or delivering the same to purchasers.

PEDDLING

The vending or hawking, or offering for sale, including the itinerant transporting and/or the exposing or the offering for sale and for concurrent delivery, in any public street or place, or the vending or the hawking by sales calls from residence to residence in the Town of Chester, of any goods, wares, merchandise, provisions, groceries, meats, fish, fruits, vegetables, trees, shrubbery, potted plants and flowers.

SOLICITING

The soliciting upon the residential property in the Town of Chester for the purposes of vending, peddling or soliciting purchase orders for any merchandise, device, book, periodical or printed matter whatsoever; or for services to be performed in the future; or for purposes of seeking to make or facilitate a home solicitation sale; or for purposes of conducting any consumer or other surveys; or for soliciting alms; or for a subscription or contribution to any church, charitable or public institution; or for the purpose of distributing any handbill, pamphlet, tract, notice or advertising matter; or for the purpose of selling or distributing any ticket of chance.

SOLICITOR

One who, either individually, as a principal and on his or her own behalf, or in association with one or more other persons in a partnership or other unincorporated business relation; a corporation; and a person who, as an agent, officer, or employee of some other person or persons, engaged in the act of soliciting.

TOWN

The unincorporated area of the Town of Chester.

TOWN BOARD

The Town Board of the Town of Chester

TOWN CLERK

The Town Clerk of the Town of Chester

TRANSIENT MERCHANT

A person commonly referred to as an “itinerant vendor,” who engages or proposes to engage temporarily in merchandising personal property within the Town of Chester and who occupies a room, building, tent, lot or stand for the purposes of selling goods, wares or merchandise.

§71-4. Exemptions.

- A. The following are exempt from the license requirements of this Chapter:
- 1) Persons specifically invited to a residence by a competent individual prior to the time of the person’s arrival at the residence;
 - 2) Persons soliciting in good faith for the benefit of any bona fide fraternal, educational, religious, or charitable organization such as Girl or Boy Scout programs, Little League, Rotary Club, Lions Club or like-minded civic groups soliciting for the benefit of organizations that shall have otherwise been certified or duly qualified as required by law or by any competent governmental body or organization;

- 3) An honorably discharged veteran who:
 - i. Is physically disabled as a result of injuries received while in the service as set forth in New York General Business Law §35; and
 - ii. Holds a license granted pursuant to New York General Business Law §32.
 - 4) Persons delivering goods to a residence pursuant to a previously made order, or persons providing services at a residence pursuant to a previously made request by a competent individual;
 - 5) Students soliciting contributions to finance extracurricular social, athletic, artistic, scientific or cultural programs; provided, however, that the solicitation has been approved in writing by the school administration and filed with the Town, and that such student solicitors carry current picture student identification from the educational institution for which they are soliciting;
 - 6) A child regularly attending any public or private school within Orange County;
 - 7) Sales conducted pursuant to statute or Court order; and
 - 8) Persons engaged in the sale of cosmetics or household goods within a residence; provided, however, that such sales occur solely and exclusively within a residence by the permission of the owner thereof.
- B. All persons and organizations who are exempted from the license requirements under this Chapter shall maintain and keep records identifying all persons soliciting funds within the Town, and such records shall contain at least the name and address of the person soliciting, the areas solicited and the date or dates of solicitation. Said records shall be made available for inspection by a law enforcement authority or other enforcement official investigating any solicitor or peddler.

§71-5. Solicitation Prohibited.

- A. Unless otherwise authorized, permitted or exempted pursuant to the terms and provisions of this Chapter, the practice of being in and upon a private residence, or property upon which a private residence is located, within the Town by solicitors, for the purpose of home solicitation sales or to provide goods or services is prohibited and punishable as set forth in this Chapter.
- B. It shall be unlawful for any person to solicit within the Town without first having registered with the Town Clerk and having received, and having in force and effect, a license for the same, as provided for in Section §71-6 hereof, if such is required by the Town Clerk.
- C. No person shall engage in the following acts within the Town:
 - 1) Promote, influence or attempt to promote or influence a property owner, occupant, or tenant to list for sale, sell, or remove from a lease of real property by referring to race, color, sexual orientation, ethnicity, or religious affiliation of neighbors, prospective buyers or other occupants or prospective buyers of real property;

- 2) Induce directly or indirectly, or attempt to induce directly or indirectly, the sale or listing for sale of real property by representing that the presence or anticipated presence of persons of any particular race, religion or national origin in the area has resulted in or may result in:
 - i. The lowering of property values;
 - ii. A change in the racial, religious or ethnic composition of the block, neighborhood, or area in which the property is located;
 - iii. An increase in the criminal or antisocial behavior in the area; or
 - iv. A decline in the quality of the schools serving the area.
- 3) Make any representation or misrepresentation concerning the listing for sale or the anticipated listing for sale or the sale of any real property in any residentially zoned areas for the purpose of inducing or attempting to induce the sale or listing for sale of other real property in such area.
- 4) Make any representation to any prospective purchaser that any block, neighborhood or area has, will or might undergo an adverse change with respect to the religious, racial or ethnic composition of the block, neighborhood or area for the purpose of discouraging the purchase of property in a particular area.
- 5) Place, canvas or distribute any letter, sign, note, pamphlet, advertisement, flyer, leaflet, placard or other written material to or upon a private residence purporting an offer for sale or purchase for any property that is not in fact offered for sale by the owner of said property.
- 6) Advertise for sale or rental property which is non-existent or which is not actually for sale or rental.
- 7) Engage in or hire or conspire with others to commit acts or activities of any nature, the purpose of which is to coerce, create or play upon unjustified fear with the purpose of inducing or attempting to induce the sale or listing for sale of real property.
- 8) Solicit or canvas any person whose name and property address is included on the list maintained by the Town Clerk of persons requesting that they not be canvassed or solicited, or to solicit or canvas any occupant of a residence displaying a "No Solicitation" notice or sticker.
- 9) To engage in any economic reprisal or any other form of intimidation against any person because that person has filed a complaint, testified, assisted or participated in any manner in any investigation, proceeding or conference under the terms of this Article.
- 10) To aid, abet, incite, compel or coerce any person to engage in any of the practices forbidden by this Article or to obstruct or prevent any person from complying with the provisions of this Article.
- 11) Refer, directly or indirectly or by implication, to race, color, creed, ethnicity or sexual orientation in any advertisement or other solicitation offering real property for sale or rental.

- 12) Solicit or attempt to solicit the sale or rental or the listing for sale or rental of real property without furnishing in written form to the owner or occupant of such real property the name of the person or organization soliciting such sale, rental or listing.
- 13) Solicit on sidewalks.
- 14) Maintain any booth or stand, or place any barrels, boxes, crates or other obstruction upon any street, sidewalk or public place for the purpose of conducting business without the express advanced approval of the Code Enforcement Officer or the Town Board.
- 15) Willfully misstate any fact about any article offered for sale.
- 16) Willfully offer for sale any article of an unwholesome or defective nature.
- 17) Call attention to goods by blowing a horn, ringing a bell, other than a house doorbell, by shouting or crying or by any loud or unusual noise, except that peddlers of ice cream and ice cream products for immediate consumption are exempted from the foregoing prohibition of the use of a bell.
- 18) Frequent any street, sidewalk or public place so as to cause a private or public nuisance.
- 19) Fail to keep any vehicle or receptacle used by him in his licensed business in a sound, clean and/or sanitary condition.
- 20) Fail to keep any edible articles offered for sale well-protected from dirt, dust and insects.
- 21) Fail to deliver to every person to whom a sale is made or from whom an order is taken a legibly written receipt, signed and dated by the licensee, setting out the total price, a description of the goods or services sold or rendered and a statement of any payment received by the licensee.
- 22) Fail to leave the premises promptly upon request of any occupant of such premises.
- 23) Solicit or selling during hours other than between the hours of 9:00 a.m. and 7:00 p.m.
- 24) Conduct business in a Town right-of-way or on Town property.
- 25) Conduct activities in such a manner as to interfere with the pedestrian or vehicular use of the public streets and places.
- 26) Cause or permit the public streets and places to be littered with papers, wrappings or other debris or refuse.
- 27) Conduct business within one hundred (100) feet of a street intersection.

D. All solicitors shall immediately move from a location if so ordered by any police officer or Town officer on grounds that the location is unsafe. Refusal to obey such order shall be grounds for suspension or revocation of the license. Such order may be appealed to the Town Board in the manner set forth herein.

§71-6. Deceptive Solicitation Practices Prohibited.

- A. No solicitor shall intentionally make any materially false, fraudulent or otherwise misleading statement in the course of soliciting.
- B. A solicitor shall immediately disclose to the consumer during face-to-face solicitation the following information:
 - 1) The name of the solicitor;
 - 2) The name and address of the entity with whom the solicitor is associated; and
 - 3) The purpose of the solicitor's contact with the resident or occupant.
- C. The requirements of subsection (B) of this section may be satisfied through the use of a badge and informational flyer.
- D. No solicitor shall use a fictitious name, an alias or any name other than his or her true and correct name.
- E. No solicitor shall represent directly or by implication that the granting of a license implies any endorsement by the Town of the solicitor's goods or services or of the individual solicitor.
- F. The provisions of this section shall also apply to solicitors who are exempt from licensing requirements pursuant to the provisions of this Chapter.

§71-7. Do Not Knock Registry.

- A. A Do Not Knock Registry shall be established and maintained by the Town Clerk's office. Residents may submit their property addresses for inclusion on this list by submitting a form, the contents of which shall be approved by the Town Board. This form shall be made available to the public at the Town Clerk's office. The Do Not Knock Registry shall be updated quarterly and the updated registry shall be provided to the Town of Chester Police Department on a quarterly basis.
- B. Any resident who has requested to register their property address on the Do Not Knock Registry shall be able to purchase from the Town Clerk's office, for a nominal fee, a sticker for display at the premises, indicating enlistment on the Do Not Knock Registry. Display of this sticker shall be on or near the main entrance door of the residence. The display of such sticker shall constitute notice to any solicitor that the inhabitant of the residence does not desire to receive and/or does not invite solicitors.
- C. Upon approval and issuance of a license for solicitation as provided for in this Chapter, each licensed solicitor shall be provided with a copy of the Do Not Knock Registry. The licensee shall not solicit at any premises identified in the most current registry.

§71-8. Registration of Solicitors and Application for License.

Unless otherwise exempt under this Chapter, all persons, corporations or institutions desiring to engage in door-to-door solicitations within the Town, prior to doing so, shall file with the Town Clerk an application, in a form to be determined by the Town Board, upon which the applicant shall give such information under oath as the application may require. Licenses shall be issued in a form prescribed by the Town Board and a record thereof shall be kept by the Town Clerk. Any false statement made on any application shall be grounds for denial or revocation of the license.

§71-9. License Fees.

- A. A license fee for peddlers shall be \$2 per day or \$10 per week or \$15 per month.
- B. The license fee for transient merchants shall be the sum of \$45 for the period of three months or any portion thereof.
- C. No license shall be required for a charitable solicitor's license. Upon an application duly made in accordance with the provisions of this Chapter for the same, the Town Clerk shall issue an annual license to any charitable solicitor seeking the same, provided that the charitable solicitor has an office or a residential address within the Town, including the incorporated area of the Town. Such annual license shall be issued on a calendar-year basis and will subject to all of the provisions contained in this Chapter.

§71-10. Denial, Suspension or Revocation of License.

- A. A license may be denied, suspended or revoked by the Town Board upon the following conditions:
 - 1) Any violation of the terms of such license;
 - 2) Information submitted by the applicant is found to be incomplete or incorrect;
 - 3) Since submission of the application, the applicant is subject to a previously undisclosed or unknown disqualifying status;
 - 4) Failure to remit the requisite payment of fees;
 - 5) Since the submission of the application, the Town has received a substantiated report regarding past or present conduct of the applicant;
 - 6) Since the submission of the application, the Town or other governmental entity has either criminally convicted or obtained a civil injunction against the applicant for violating this Chapter or similar federal, state or municipal laws in a manner rising to the level of disqualifying status; or
 - 7) Since the submission of the application, a final civil judgment has been entered against the applicant indicating that the applicant had either engaged in fraud or intentional misrepresentation or that a debt of the applicant was non-dischargeable in bankruptcy pursuant to 11 U.S.C. §§523(a)(2), (a)(4), (a)(6) or (a)(19).

- B. The action of the Town Board shall be made at a regular or special meeting of the Town Board upon notice to the applicant or holder of the license.
- C. The Town shall cause written notice to be mailed to the applicant or holder of such license, at the address as set forth in the application, at least three (3) days prior to the regular or special meeting at which such denial, suspension or revocation of license is to be so considered. In the event that the Town deems it necessary to shorten the three (3) day period, personal service upon the applicant or holder or the license of a written notice of the Town Board meeting to be held less than three days from the date of the notice shall be deemed sufficient.
- D. The applicant or holder of the license shall have the right to be heard at the Town Board meeting at which such denial, suspension or revocation is to be considered.

§71-11. Appeals.

- A. An applicant or licensed solicitor whose license has been denied, suspended or revoked shall have the right to appeal to the Town Board or its designee. Any appeal must be submitted by either the applicant, the responsible person or entity, or legal counsel for either who: (i) documents the relationship with the applicant or responsible person or entity or is licensed, or (ii) is authorized by the State of New York to do so and makes the assertion of an agency relationship.
- B. Any appeal must be submitted in writing to the Town Clerk, with a copy of to any Licensing Officer, within ten (10) business days of the decision from which the appeal is taken. Such appeal shall describe in detail the nature of the appeal, the action complained of and the grounds for appeal.
- C. Upon the request of the applicant or licensed solicitor, within one (1) business day, the Town will make available any information upon which it relied in making the determination to either deny, suspend or revoke the license.
- D. The Appeals Officer of the Town shall review, de novo, all written information submitted by the applicant or licensed solicitor to the licensing officer, any additional information relied upon by the licensing officer as the basis for denial, suspension or revocation, and any additional information supplied by the Town, applicant or licensed solicitor. Any additional information submitted by any party to the appeal shall be simultaneously submitted to the opposing party. If desired, any party shall have three (3) business days to submit rebuttal documentation to the appeals officer regarding the additional information submitted by the opposing party.
- E. The Appeals Officer of the Town will render a decision no later than fifteen (15) calendar days from the date the appeal was taken, unless an extension of time is agreed upon by the parties. In the event that any party to the appeal submits a rebuttal as allowed in subsection (D) of this section, fifteen (15) calendar days shall be extended to include the additional three (3) days for rebuttal.
- F. The denial, suspension or revocation shall be reversed upon appeal if the Appeals Officer of the Town finds that the Licensing Officer made a material mistake of law or fact in denying the application or suspending or revoking the application or license.

- G. If the written appeal and information submitted indicates that the Licensing Officer properly denied the application or suspended or revoked the license, the denial, suspension or revocation shall be affirmed and will constitute a final denial, suspension or revocation.
- H. After the ruling of the Appeals Officer, the applicant or licensed solicitor shall be deemed to have exhausted all administrative remedies within the Town.
- I. Nothing herein shall impede or interfere with the applicant or solicitor's, or Town's right to seek relief in a court of competent jurisdiction.

§71-12. Penalties for Offenses.

Any person, corporation or institution violating any of the provisions of this Chapter shall be punished by a minimum fine of \$2,500.00 to a maximum fine of \$5,000.00 in the first offense; a minimum fine of \$5,000.00 to a maximum fine of \$7,500.00 for a second offense within two years of a prior conviction; and a minimum fine of \$7,500.00 to a maximum fine of \$10,000.00 for a conviction of a third offense within two years of a prior conviction, and/or a jail sentence not to exceed 15 days. These penalties and fines may be amended from time to time by resolution of the Town Board at the annual reorganizational meeting. In addition, the Town Board shall have the right to apply for and secure injunctive relief against any person, corporation or institution found to have violated the provisions of this Chapter.

§71-13. Enforcement.

Any police department with jurisdiction in the Town of Chester and/or the Town Code Enforcement Officer or other enforcement official as may be designated by the Town Board, is charged with enforcing the provisions of this Chapter and shall have the power, right and authority to issue an appearance ticket for the violation of any of the provisions of this Chapter.

SECTION 4: Severability

If any clause, sentence, paragraph, subdivision, or part of this Local Law or the application thereof to any person, firm or corporation, or circumstance, shall be adjusted by any court of competent jurisdiction to be invalid or unconstitutional, such order or judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, or part of this Local Law or in its application to the person, individual, firm or corporation or circumstance, directly involved in the controversy in which such judgment or order shall be rendered.

SECTION 5: Effective Date

This local law shall take effect immediately upon filing with the Secretary of State.