

**CITY OF RYE  
LOCAL LAW NO. 2010**

**A local law to amend Chapter 144, Peddling and Soliciting  
of City Code of the City of Rye as follows:**

**Chapter 144 Peddling and Soliciting**

Be it enacted by the City Council of the City of Rye as follows:

**Section 1.**

**§144-1 Definitions**

**CHARITABLE** means the purpose of an organization which has received a letter of determination approving tax exempt status under Title 26 of the United States Code Section 501(c) (3) or the purpose of a school club, recognized and affiliated with a public or private school, having a program with annual campaigns to support the public or private school club.

**COMMERCIAL** means the purpose of solicitation which is not noncommercial, as defined in this Section.

**CORPORATION** shall take on the meaning consistent with the New York State Business Corporations Law and the New York State Not for Profit Business Law.

**ESTABLISHED PLACE OF BUSINESS** means a building or store in which or where the person transacts business and deals in the goods, wares and merchandise he hawks, peddles or solicits for during regular business hours.

**HAWKER AND PEDDLER** means any person, either principal or agent, who, from any boat or in any public street or public place or by going from house to house or place of business to place of business, on foot or on or from any animal or vehicle, sells or barter, offers for sale or barter or carries or exposes for sale or barter any goods, wares or merchandise, except milk, newspapers, periodicals, books and pamphlets.

**NONCOMMERCIAL** means the purpose of solicitation which is charitable, as defined in this Section, religious or political.

**PERSON** means any individual, firm, partnership, joint venture, association, social club, league, fraternal organization, joint stock company, estate, trust, business trust, receiver, trustee, syndicate or any other group acting as a unit. The word "person" shall include the definition of corporation.

**SOLICITOR** means any person whether a resident of the City or not, engaged in solicitation.

**SOLICITATION** includes the act of any person, whether a resident of the City or not, traveling by foot, vehicle or any other type of conveyance who goes from house to house, business to business, from place to place or in or along any highway, street or sidewalk within the City either;

1. requesting, either directly or indirectly, money, credit, funds, contributions, personal property or anything of value;
2. taking or attempting to take orders for the sale of any goods, wares, merchandise or services of any kind, or description for future delivery or for services to be performed in the future, either in person or by distributing flyers and leaflets; and
3. selling and making immediate delivery of any goods, wares, merchandise or services of any kind or description, commonly referred to as “peddling.”

Solicitation shall not include the following so long as the person is not requesting, either directly or indirectly, money, credit, funds, contributions, personal property or anything of value:

- a. A person communicating or otherwise conveying ideas, views or beliefs or otherwise disseminating oral or written information to a person willing to directly receive such information, provided that such information is of a political, religious or charitable nature;
- b. A person seeking to influence the personal belief of the occupant of any residence or business in regard to any political or religious matter;
- c. A person seeking to obtain, from an occupant of any residence or business, an indication of the occupant’s belief in regard to any political or religious matter,
- d. A person conducting a poll, survey or petition drive in regard to any political matter; and
- e. A person carrying, conveying, delivering or transporting dairy products, newspapers, or other goods to regular customers on established routes or to the premises of any person who had previously ordered such products, goods or services and is entitled to receive the same.

#### **§144-2 Exemptions**

Nothing contained in this chapter shall be deemed to apply to any of the following:

- A. A sale conducted pursuant to an order of any court.
- B. A wholesaler selling articles to dealers or merchants who have an established place of business in the City of Rye.

- C. A child 18 years of age or under who resides within the City or Rye and who solicits or peddles on behalf of a charitable, religious, athletic, social, educational or civic organization, including but not limited to the Boy Scouts, Girl Scouts, Cub Scouts, Brownie Scouts, clubs, classes or organizations sponsored by any school located within the City of Rye of which such child is a member.
- D. The peddling of meats, fish, fruit and farm produce by farmers and persons who produce such commodities on their own land, provided that they have otherwise complied with all applicable licensing and health and safety requirements of any other competent governmental body or agency, as well as the Zoning Code of the City, and the sale takes place from a stationery location upon property owned or leased by the seller of such goods.
- E. A not-for-profit organization's sale of food ancillary to a fundraising event, such as a picnic or carnival, that lasts no longer than five consecutive days. This exemption shall not apply to any door-to-door peddling or soliciting.
- F. Any person holding a license pursuant to Section 32 of the General Business Law "Licenses to veterans of the Armed Forces of the United States."

#### **§144-3 License Required**

It shall be unlawful for any person to act as a hawker, peddler or solicitor, as herein defined, without first having obtained a license from the Clerk. The license shall be carried on the person of the licensee at all times while engaging in peddling or soliciting and shall be exhibited by the licensee to any person on demand. A picture of the licensee shall appear on the valid license.

#### **§144-4 Certificate as to equipment**

The application for a license shall be accompanied by a certificate from the Sealer of Weights and Measures of the County of Westchester, certifying that all weighing and measuring devices to be used by the applicant have been examined and approved.

#### **§144-5 License Application**

To obtain a license to solicit, peddle or hawk within the City of Rye, a person shall make a written application to the Clerk in a form prescribed by the Clerk and provide the following information:

- A. The full name of the applicant, including any nicknames commonly used, home address, telephone number, any mobile telephone number or email address used on a regular basis, date of birth and social security number.
- B. A valid driver's license with a clearly delineated license number and state of issuance or other acceptable proof of identification;
- C. If the applicant works for another person or entity of any nature, the name, address, telephone number, email address, and website address, of the person or entity to the extent such exists;

- D. A brief description of the solicitation business to be conducted, and the intended area where the business is to be conducted if less than the entire residential area of the City;
- E. Two photographs, two inches by two inches in size, full face on a white background, taken of the applicant within the prior sixty (60) day period of time which accurately reflect the appearance of the applicant on the date of the application;
- F. An affidavit that the applicant is not disqualified because of prior criminal history and whether the applicant has ever been convicted of a crime and, if so, under what name, with a listing of such conviction, including crime jurisdiction, date and sentence imposed.
- G. If the solicitor is a minor (under the age of 16), a notarized authorization by the applicant's parent or legal guardian. The authorization form is part of the application form.
- H. A description of the vehicle which the applicant wishes to use in carrying out his business or occupation as well as the name of the vehicle owner and registration details.
- I. County Health Department permit number, if a food vendor.
- J. If peddling or soliciting for a corporation, the state in which it is incorporated and the names of its officers along with a copy of its certificate of incorporation.

#### **§144-5.1 Criminal Background Check**

This section shall only apply to commercial solicitation.

1. The City of Rye shall initiate a criminal history background check of prospective solicitors, including those persons acting on behalf of an employer or other person.
2. The criminal background check shall not be initiated without the written consent of the person.
3. A license shall not be issued to any person who refuses to consent to or cooperate in the securing of a criminal history record background check.
4. Each applicant shall submit two sets of fingerprints and any other necessary information to L-1 Identity Solutions (or other outsourcing agency under contract with the New York State Division of Criminal Justice Services (DCJS)) for processing. In addition, a certified check or money order, in the amount specified by and made payable to DCJS to cover the cost of processing fingerprints, shall accompany the application.
5. The City of Rye Police Commissioner and/or his designee shall be responsible for reviewing the criminal history record information (CHRI) disseminated by DCJS. All applicants requiring a background check must have the results of their background check reviewed by the Police Commissioner and/or his designee prior to submitting their application to the City Clerk.
6. If a prospective applicant has been convicted of a specified criminal activity, any decision regarding such prospective applicant's fitness for a

license must be made upon consideration of new York State Correction Law §§701-703-b and §§751-753.

#### **§144-5.2 Expiration – Renewal – Revocation – Denial - Appeal**

The following provisions shall apply to licenses for commercial solicitation:

1. All licenses granted under the provisions of this Chapter shall be reviewed annually and may be renewed thereafter, unless sooner revoked.
2. Prior to the expiration of a license and upon application for renewal of the license, the Clerk shall determine if the applicant, peddler or solicitor has acted in compliance with the applicable provisions of this Chapter and conditions of the license.
3. The license may be renewed upon a determination that the solicitor or peddler has substantially complied with the terms and conditions of the permit and the requirements of this Chapter.
4. Renewal fees shall be established by a resolution of the City Council and may be amended from time to time.
5. If it is determined that the solicitor or peddler has not been in compliance with any of the provisions of this Chapter the license shall not be renewed.
6. The Clerk may revoke any license granted under the provisions of this Chapter for any of the following reasons:
  - a. The applicant provided false, misleading or misrepresented information in procuring the license;
  - b. The applicant or any person who worked on behalf of or with the applicant failed to comply with the requirements of this Chapter;
  - c. The applicant or any person working on behalf of or worked on behalf of or with the applicant is convicted of violating any federal, state or local law while in the course of operating under the license;
  - d. The activities for which the license was granted were or are being conducted in a manner that is detrimental to the public health, safety, peace or welfare.
7. When a license has been revoked, no other license shall be issued under the provisions of this Chapter to the same applicant within one (1) year of the date of revocation.
8. An application for a license under this Chapter may be denied for the following reasons:
  - a. The applicant fails to cooperate or consent to the criminal background check as stated in this Chapter.
  - b. An applicant's background check reveals a conviction for any criminal offense including but not limited to, violent crimes, sexual assault, and possession of a controlled substance, theft, fraud or burglary.
  - c. Fraud, misrepresentation or false statement in the application for the license.

- d. Fraud, misrepresentation or false statement made in the course of carrying out the applicant's trade, business or occupation.
- e. Any violation of this chapter.
- f. Carrying out of the licensed business, trade or occupation in an unlawful manner or in such a way as to breach the peace or to constitute a menace to the health, welfare or safety of the public.
- g. The license shall not be transferable or assignable. In the event that a licensee shall permit any other person to possess or use such license, such license shall automatically be revoked, and the licensee shall thereby be guilty of violating this Chapter, and no application for a further license may be made for a period of one year from the date of revocation.
- h. Any applicant who has had a license denied or revoked by the Clerk may appeal to the City Manager, in writing, within 30 days of the receipt of the denial or revocation. The City Manager will thereafter hold a hearing within 45 days of receipt of the demand for such hearing to review the determination of the Clerk.

**§ 144-6 License Fee**

The annual license fees shall be set annually by resolution of the City Council before adoption of the budget for the following year for each license issued pursuant to this Chapter.

**§144-7 Name and address on vehicle**

Every vehicle used by a licensed hawker, peddler or solicitor in or about his or her business shall have the name of the licensee and his or her address plainly, distinctly and legibly painted in letters and figures at least two inches in height in a conspicuous place on the outside of the sides of every such vehicle, and such name and address shall be kept so painted plainly and distinctly at all times while such vehicle is in use during the continuance of the license.

**§144-8 Restrictions**

A licensed hawker, peddler or solicitor shall:

- A. Not falsely or fraudulently misrepresent the quantity, character or quality of any article offered for sale; or offer for sale any unwholesome, tainted or diseased provisions or merchandise.
- B. Keep the vehicle and receptacles used by him in a clean and sanitary condition and the foodstuffs and edibles offered for sale well covered and protected from dirt, dust and insects.
- C. Not blow a horn, ring a bell or use any other noisy device to attract public attention to his or her wares, or shout or cry out his or her wares.

- D. Not stand nor permit the vehicle used by him or her to stand in one place in any public place or street for more than 10 minutes or in front of any premises for any time if the owner or lessee of the ground floor thereof objects.
- E. Not sell any confectionery or ice cream within 250 feet of any school property between the hours of 8:00 a.m. and 4:00 p.m. on school days.
- F. Not permit any vehicle used by him or her to stop or remain on any crosswalk.
- G. Not create or maintain any booth or stand, or place any barrels, boxes, crates or other obstructions, upon any street or public place for the purpose of selling or exposing for sale any goods, wares or merchandise

#### **§144–8.1 Hours Restricted**

No person while conducting the activities of peddler or solicitor shall enter upon any private residence, knock on doors, or otherwise disturb persons in their residence between the hours of 8:00 p.m. and 9:00 a.m.

#### **§144–9 When written orders required; duplicates**

All orders taken by licensed solicitors, who demand, accept or receive payment or deposit of money in advance of final delivery shall be in writing, in duplicate, stating the terms thereof and the amount paid in advance, and one copy shall be given to the purchaser at the time the deposit of money is paid to the solicitor.

#### **§144–10 “Do Not Knock” Registry**

- A. Any owner or occupant of property located in the City who wishes to prohibit soliciting on the premises shall complete a form available in the City Clerk’s office and on the City’s website. The completion of the form will allow the owner/occupant’s premises to be included on a list of properties that do not permit solicitation (herein referred to as the “Do Not Knock Registry” or “Registry”).
- B. In order to be removed from the Registry, the owner and/or occupant must complete a form indicating that he/she does not want he/her property to be included on the Registry.
- C. Any owner and/or occupant who has requested enlistment on the Do Not Knock Registry, pursuant to this chapter shall be able to purchase from the City, for a nominal fee, a sticker or sign for display indicating enlistment on the Do Not Knock Registry.
- D. All solicitors shall obtain the current Do Not Knock Registry at the time of issuance of a permit or at the time of registration to solicit pursuant to the provisions of this Chapter.

- E. Solicitors shall not solicit at any premises identified on the then current Do Not Knock Registry.
- F. It shall be the responsibility of the solicitor to check each residence for the presence of such signage and to obtain updated copies of the Registry.

**§141-11 Unwanted Solicitations Prohibited**

- A. It is unlawful for any person to go upon, ring the bell, knock on the door of or attempt to gain admission to the premises of any residence, dwelling or apartment in the City of Rye where the owner, adult occupant or other person in control thereof has expressed his objecting to such activity either by explicit instructions, oral or written, or by posting a sticker or sign indicating the location is listed on the City's Do Not Knock Registry pursuant to Section 144-10, or by posting a sign or decal bearing the words "No Solicitation" or words of similar import such as: "No Solicitors", "No Solicitation", "No Soliciting", "No Peddlers", or "No Trespassing", provided the signage has letters at least one (1) inch in height, and is posted conspicuously so that it can be seen by persons approaching the front entry of the residence or at the front doorway, or by persons assisting a solicitor who has such a visual impairment as to be unable to see the sign.
- B. Activities related to a service requested by the owner or occupant of the property and undertaken in the ordinary course of business, including but not limited to deliveries of utility notices, telephone directory deliveries, regular newspaper deliveries, work order notices and service inquiries, are presumed to be requested or invited for the purpose of this Section.
- C. Nothing in this Section shall be construed to prohibit the distribution of leaflets, pamphlets or other literature such as commercial, political or religious material distributed in a lawful manner.

**§144-11.1 Penalty**

Any violation of the provisions of this Chapter shall be punishable as provided in Section 1-15 of the Code of the City of Rye and as otherwise provided herein.

**Section 2. Severability**

If any section of this local law shall be held unconstitutional, invalid, or ineffective, in whole or in part, such determination shall not be deemed to affect, impair, or invalidate the remainder thereof.

**Section 3.**

This local law shall take effect on January 1, 2011.

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