



ARTICLE 4: BY-LAW AMENDMENT: Chapter 265 (TRANSIENT MERCHANTS)

§ 265-1 Definitions.

For the purpose of this bylaw, the following terms shall have the meanings indicated below:

PEDDLER

Any person who sells and makes immediate delivery of, or offers for sale and immediate delivery of, any goods, wares or merchandise, in possession of the seller, at any place within the Town of Ayer other than from a fixed place of business.

PERSON

Includes the singular and the plural and shall also mean and include any person, firm or corporation, association, club, partnership or society, or any other organization.

SOLICITOR

Any person who sells or takes orders or offers to sell or take orders for goods, wares, or merchandise for future delivery, or for services to be performed, at any place within the Town of Ayer other than a fixed place of business.

TRANSIENT MERCHANT

Any person, firm, or corporation, whether as owner, agent, or employee, whether a resident of the Town or not, who engages in or transacts any temporary business within the Town, either in one location or by moving from one place to another, selling or buying goods, wares, merchandise, or services, or who solicits for orders, sales, subscriptions or business of any kind, or who solicits for information or donations and shall include all peddlers, canvassers and solicitors.

§ 265-2 Permit required.

Every Person intending to engage in soliciting or canvassing door-to-door as a Transient Merchant in the Town of Ayer must apply for a permit with the Chief of

Police at least fourteen (14) business days in advance by filing an application form with the Chief of Police for a permit.

§ 265-3 Exceptions.

This bylaw shall not apply to:

- A. Persons, firms or corporations selling services, goods, wares, merchandise or materials at wholesale to dealers in such articles.
- B. Newspaper Delivery.
- C. Persons vending and delivering goods, wares, or merchandise to regular customers on established routes in the regular course of business.
- D. Sales in private residences of the owner's household goods and belongings.
- E. Any activity for religious, political, or public policy purposes or other non-commercial purposes, regardless of whether such activity includes acts that would otherwise constitute soliciting or canvassing.
- F. Governmental officers or employees of the Town, county, state or federal government, or any subdivision thereof, when on official business.
- G. Insurance companies authorized to do business in Massachusetts.
- H. Individual registration shall not be required for minors under the age of 18 except in connection with canvassing or soliciting on behalf of a profit organization, newspaper carriers excepted.

§ 265-4 Application for permit.

- A. Each applicant hereunder shall obtain from and file with the Police Department an application for a transient merchant permit and accompany said application with an investigation fee to cover the cost of investigating the applicant in an amount set from time to time by the Select Board.
- B. The written application shall contain the required information:
 - a. Applicant Name, permanent address and telephone number, and temporary address if any.
 - b. Applicant date of birth

- c. Applicant height, weight, color of hair and eyes.
- d. Make, model and registration number and owner of any vehicle to be used by the applicant while soliciting or canvassing.
- e. Period of time for which the permit is needed.
- f. Brief description of nature of business and goods to be sold.
- g. Name, address and telephone number of the person or organization whom the applicant represents and the length of time the applicant has been associated with or employed by that person or organization.

C. A permit fee structure shall be issued for one (1) day, one (1) week, one (1) Month, or one (1) Year. The fees for each duration shall be set from time to time by the Select Board. One Year duration permits will be pro-rated from the set fee if not obtained in the month of January.

§ 265-5 Investigation of applicant; issuance or denial of permit.

- A. Upon receipt of each such application, , the Police Department shall initiate an investigation of the applicant as the Department deems necessary for the protection of the public good, subject to all applicable legal requirements, including authorized criminal history background checks.
- B. The Chief of Police, or in their absence, the Chief's designee, shall endorse their approval or disapproval upon said application within five (5) business days after it has been filed with said Department.
- C. The Police Chief or their designee shall refuse to register an organization or individual whose registration has been revoked for violation of this bylaw within the previous two-year period, or who has been convicted of murder/manslaughter, rape, robbery, arson, burglary/breaking and entering, assault, larceny, as such persons pose a substantial degree of danger to minors and other persons vulnerable to becoming victims of the violent crimes so listed. The Police Chief or their designee shall also refuse to register a person who is a sex offender required to register with the Sex Offenders Registry Board and who is finally classified as Level 2 or Level 3 Sex Offender, as such persons have been found to have a moderate to high risk of re-offense and pose a substantial degree of danger to minors and other persons vulnerable to becoming victims of sex crimes.

§ 265-6 Permits.

- A. Permits shall be issued, or denied, by the Chief no later than five (5) business days after the application therefore is made in writing to the Police Department.
- B. All permits shall clearly indicate the dates of issuance and expiration and the name and address of the permittee.
- C. All permits issued under this bylaw are personal; they shall not be transferable. Any holder who allows a permit to be used by any other person shall be guilty of a violation of this bylaw.
- D. Permittees under this bylaw shall carry their permit with them while engaged in permitted activities and shall display such permit to any police officer or any person being solicited upon request.
- E. Annual permits shall expire on December 31st of the year issued.

§ 265-7 Time limit for operations.

No permittee under this bylaw shall sell, peddle, or solicit between the hours of 7:00 p.m. and 9:00 a.m. or on Sundays and legal holidays, unless invited to do so by the owner or occupant of any private residence in the Town.

§ 265-8 No Solicitation List.

A No Solicitation List shall be established and maintained by the Ayer Police Department to prohibit the practice of going in or upon the private property or residence of such owner or occupant by Transient Merchants as defined. Residents may submit their property for inclusion on the list without charge. Upon approval of the issuance of a license as provided herein, each such licensed entity or individual shall be provided with a copy of the No Solicitation List and may not solicit or canvass such property.

§ 265-9 Revocation of permit; appeals

- A. Permits issued under this bylaw may be revoked by the Chief of Police for any of the following causes:
 - a. Fraud, misrepresentation, or false statements contained in the application for a permit.
 - b. Fraud, misrepresentation, or false statements in the course of carrying on his business or transient merchant.

- c. Any violation of this bylaw.
- d. Commission or conviction of a felony.
- e. Commission or conviction of any crime or misdemeanor of moral turpitude.
- f. Conducting the business of soliciting, or of canvassing, in a threatening, abusive or illegal fashion so as to constitute a menace to the health, safety, or general welfare of the public.

B. Notice of the revocation of the permit shall be given in writing, setting forth the grounds of complaint and the opportunity to appeal the decision of revocation. Such notice shall be made in-person or mailed to the permittee at their last known address, or at an address contained in the application for a permit.

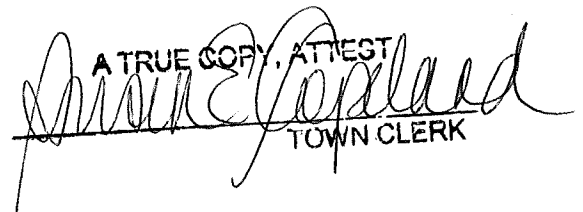
Any Person who is denied a permit or whose permit has been revoked may appeal by filing a written notice of appeal with the Select Board. Such appeal must be filed within five (5) days after receipt of the notice of denial or revocation. The Select Board shall hear the appeal at its next scheduled meeting after the filing of the written notice of appeal, provided, however, that if the Select Board fails to make a determination within thirty (30) days after the filing of the appeal, the registration shall be deemed granted or reinstated as the case may be.

§265-10 Violations and penalties.

Any person, firm, or corporation violating any provisions of this bylaw shall be fined not more than \$300 for each offense, except as otherwise provided herein; and a separate offense shall be deemed committed on each day during or on which a violation occurs or continues.

§265-11 Severability

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

A TRUE COPY, ATTEST

TOWN CLERK