

Braintree Town Council

ORDER NO: 14 022 (R)

DATE FILED: FEBRUARY 16, 2016

REQUEST OF: COUNCIL PRESIDENT

**CHAPTER 5-565 PEDDLING AND SOLICITING**

**BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF BRAINTREE THAT THE TOWN COUNCIL VOTE TO AMEND ITS GENERAL ORDINANCES SECTION 5.565.050 SOLICITATION AND CANVASSING ESTABLISHED WITH THE TOWN'S MUNICIPAL CODE BE AMENDED AS FOLLOWS:**

**Section 5.565.050 Solicitation and Canvassing (Former By-law Chapter 5.32)**

**SECTION 5.565.010 Peddling of Goods, Wares and Merchandise-License Required**

No person shall hawk or peddle goods, wares or merchandise within the limits of the Town, except as otherwise authorized by law, without first obtaining a license therefor from the Commonwealth of Massachusetts in accordance with the provisions of Chapter 101 of the General Laws.(ATM 5-10-2005 Art. 37 (part); prior code§ 99-1)

**SECTION 5.565.020 Transient Vendors-Local License Required**

A person licensed by the Commonwealth of Massachusetts as a transient vendor under the provisions of Chapter 101, Section 3 of the General Laws shall, before making any sales of goods, wares or merchandise within the limits of the town, make application to the Board of License Commissioners for a local license; such local license shall be subject to such reasonable rules and regulations and to the payment of a license fee in accordance with the provisions of Chapter 101, Section 5 of the General Laws. (Prior code§ 99-3)

**SECTION 5.565.030 Hawkers and Peddlers-Permit Required**

A person licensed by the Commonwealth of Massachusetts as a hawker or peddler under the provisions of Chapter 101, Section 22 of the General Laws shall, before making any sale of goods, wares or merchandise within the limits of the Town, apply for a permit from the Board of License Commissioners; such permit shall be subject to such reasonable rules and regulations as may from time to time be made by the Board of License Commissioners. (Prior code § 99-4)



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### SECTION 5.565.040 Temporary Licenses for Charitable Organizations and Veterans

The Board of License Commissioners may from time to time make reasonable rules and regulations governing the granting of temporary licenses to any organization engaged exclusively in charitable work, or to a post of any incorporated organization of veterans who served in the military or naval service of the United States in time of war or insurrection for the sale of flags, badges, medals, buttons, flowers, souvenirs and similar small articles, in accordance with the provisions of Chapter 101, Section 33 of the General Laws.(Prior code § 99-6)

### SECTION 5.565.050 Solicitation and Canvassing

#### A. Purpose.

The purpose of this ordinance is to protect the citizens of Braintree from crime, undue annoyance and fraudulent door-to-door solicitors and canvassers by requiring those who wish to engage in such activity to register with the Braintree Police Department.

#### B. Definitions.

1. "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, whether for salary, commission or other remuneration, whether on behalf of oneself or another person, business, firm, corporation, organization or other entity, and (a) selling, leasing or taking orders for the sale of any goods, wares, merchandise or services whatsoever, including, but not limited to, 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 (b) seeking or requesting donations of money, goods or services for any for-profit entity or nonprofit entity; even if the original solicitation is made in writing, by telephone or any electronic communication;
2. "Residential property" includes without limitation each individual dwelling unit.



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### C. Prohibition and Requirements.

1. No person shall engage in solicitation or canvassing in or upon any private residential property in the Town of Braintree, and no business, 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 ten business days before commencing such solicitation or canvassing and obtaining from the Chief of Police a certificate evidencing such registration.
2. Persons engaged in solicitation or canvassing shall “prominently display around their neck a fluorescent orange lanyard and attached card holder, and a (5”x7”) Identification card visible at all times on the chest area. The solicitor or company is responsible to provide said lanyard and create an identification card, which shall be inserted into the lanyard card holder. The identification-card will contain an 1) identification number (assigned by the company or entity soliciting), 2) company name, 3) solicitor’s name, 4) signature, 5) current photo, 6) phone number and name of company official responsible for the canvassing or soliciting operation in case of emergency or other immediate contact needs, 7) start date and expiration date (not to exceed 30 days), and shall have the approved 8) Braintree Police certificate of registration inserted in back of the identification card, and shall produce such certificate upon request. Failure to wear the provided lanyard and card holder shall result in a violation of \$300 per individual. 9) \$300 per primary employing entity per violation per day and shall be considered separate from item #8. If a fine is issued to any party or entity, said party will be prohibited from soliciting in the Town of Braintree until the fine is paid.
3. 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/her business, and if he/she is representing an organization, firm, or other entity.
4. Each person engaged in solicitation or canvassing in or upon any residential premises shall immediately leave such premises upon the request of the occupant.
5. 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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6. No person engaging in solicitation or canvassing shall misrepresent in any way his/her true objective, status or mission or that of any organization on behalf of which he/she is so engaged.
7. 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 Chapters 93, 93A and 255D of the Massachusetts General Laws. Braintree Police shall provide all applicants with a copy of Chapter 5-565 - PEDDLING AND SOLICITING and highlight Section 5.565.50.
8. Anyone applying to canvas or solicit must provide a direct contact name and telephone number of the direct supervisor or person responsible for the management of all those canvassing or soliciting. This direct contact must be accessible via phone at all times should issues arise.
9. No person shall place, deposit or throw or cause to be placed, deposited or thrown upon or into a motor vehicle, which is parked on any street, lane, parking lot or other public place, any leaflet, pamphlet, poster, handbill, flyer or any paper containing printed or written matter, whether advertising or not, with the exception of any violation ticket or summons issued pursuant to lawful authority (Ref. G. Penalty).

### D. Registration.

1. Application. Persons seeking registration certificates in accordance with this ordinance shall apply therefore not less than ten business days before commencing solicitation or canvassing in the Town of Braintree. 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:
  - a. Applicant's name, home address and telephone number;
  - b. Name of applicant's business, firm, corporation, organization, or other entity represented, business address and telephone number;
  - c. Applicant's date of birth;
  - d. Applicant's Social Security Number;



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- e. Applicants must produce a copy of their driver's license or a photograph will be taken by the Braintree police department at the time of registering;
  - f. Length of time for which applicant seeks to conduct business in the town of Braintree;
  - g. 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;
  - h. 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;
  - i. Each applicant or individual canvasser/solicitor must sign a release authorizing the Town of Braintree, acting by and through the Police Department or the Licensing Coordinator for the Board of License Commissioners, to process a Criminal Offender Record Information (C.O.R.I.) report for each individual canvasser/solicitor that has been completed in the past 60 days. Each C.O.R.I. will cost the applicant or entity \$75.00, payable to the Town of Braintree. If any applicant or individual canvasser/solicitor is from outside of Massachusetts, said applicant. Individual canvasser or solicitor shall provide a certified copy of said individual canvasser's or solicitor's equivalent Criminal Offender Record Information issued by said canvasser's or solicitor's state of resident for each of the seven years preceding the date of application. Applicants or individual canvassers/solicitors who have been convicted (found guilty) of any of the following offenses within the past seven years are prohibited from canvassing or soliciting in Braintree: burglary, drug distribution, level 2 and level 3 sex offenders, breaking and entering, larceny, robbery, receiving stolen property, assault, fraud, sexual misconduct, and unlawfully carrying weapons;
2. Contents of Certificate: Each certificate of registration shall contain the signature of the Chief of Police or his/her designee and shall show the name, address and photograph of the holder of the certificate, date of issue and registration number.
  3. Expiration of Certificate: Each certificate of registration issued pursuant to this ordinance shall expire thirty (30) days from the date of issue. Certificates must be returned to the Braintree Police Department when the applicant has concluded his/her or her solicitation activities in the Town of Braintree.



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4. **Transfer of Certificate:** No certificate of registration may be transferred to any other person or entity.
5. **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 ordinance or for providing false information on the application.
6. **Duties of Police Department:** The Police Department shall keep a record of all certificates of registration, including registration numbers, and applications therefor for a period of six years after application or such time as the public records retention laws may provide, whichever is longer. Enforcement authority of this ordinance shall be by the Braintree Police Department.

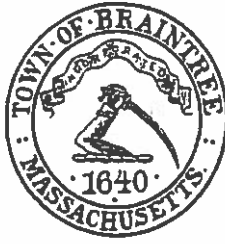
E. **Exception:**

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

1. Any person duly licensed under Chapter 101 of the General Laws, or to any person exempted under Chapters 101, Chapter 149, Section 69, and Chapter 180, Section 4 of the General Laws, or any other General Law.
2. Any officer or employee of the town, county, state or federal government on official business; or
3. 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.
4. Individuals seeking to engage in exclusively Non-Commercial Communication.
5. Exempted entities include but not limited to religious organizations, political entities, charitable and fraternal organizations and other non-commercial community groups.

F. **Severability:**

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



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G. Penalty.

Whoever violates any provision of this ordinance shall be liable to a penalty of not less than three hundred dollars (\$300.00) for each offense, or take any other action relative thereto. (STM 10-8-2002 Art.18;STM 5-6-1996 Art. 15;prior code§ 99-7).


YEAS: Bowes, Clifford, Hume, Kokoros, Mullaney, O'Brien, Owens, Powers, Ryan

NAYS: NONE

ABSENT: NONE

PASSED IN COUNCIL: MARCH 2, 2016  
PRESENTED TO MAYOR: MARCH 4, 2016

A True Record, Attest:

  
James M. Casey, Town Clerk

3-5-16  
Date Approved  
  
Joseph C. Sullivan, Mayor