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TOWN OF HARRISON
VILLAGE OF HARRISON

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JACKIE GREER
Town Village Clerk

TO: Ronald W. Belmont, Supervisor
Members of the Town Board

FROM: Jacqueline Greer, Town Clerk

DATE: February 10, 2010

RE: Do Not Knock Registry

Request from Town Clerk Jacqueline Greer for the Board to consider enacting a complete revision to Chapter 183 of the Town Village Code to establish a Do Not Knock Registry.

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Chapter 183. PEDDLING, SOLICITING AND DO NOT KNOCK REGISTRY

[HISTORY: Adopted by the Town Board of the Town of Harrison 7-12-1934; amended in its entirety 5-17-1995. Subsequent amendments noted where applicable.]

GENERAL REFERENCES

Auctions and auctioneers — See Ch. 95.

Fees — See Ch. 137.

Handbills and advertising materials — See Ch. 159.

Noise — See Ch. 177.

Secondhand dealers — See Ch. 198.

Streets and sidewalks — See Ch. 201.

§ 183-1. Purpose.

This chapter is designed to afford a just protection from peddlers and solicitors to merchants who maintain local business establishments, thereby bearing their share, either directly or indirectly, of local municipal tax burdens, to regulate door-to-door solicitation by licensed sales agents; establishes a DO NOT KNOCK REGISTRY; and promulgates reasonable time and manner restrictions on door-to-door solicitation including enforcement of the DO NOT KNOCK REGISTRY and to provide additional revenues and to protect the citizens of the town against crime and to preserve the private property, peace and comfort of the occupants of private residences in the town.

§ 183-2. Definitions.

The following terms, when the same are used herein, shall have the meanings indicated:

PEDDLER

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

PEDDLING

The vending or the hawking, namely 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 calls from house to house, in this town, of any goods, wares, merchandise,

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provisions, groceries, meats, fish, fruits, vegetables, trees, shrubbery, potted plants and flowers.

SOLICITING

The soliciting upon private residential property in the Town of Harrison for the purpose of vending, peddling or soliciting orders for any merchandise, device, book, periodical or printed matter whatsoever; or for services to be performed in the future; or for the purpose of conducting any consumer or other surveys whatsoever; or for the purpose of soliciting alms; or for a subscription or contribution to any church, charitable or public institution whatsoever; 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 whatsoever.

SOLICITOR

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

SALES PERSON

Any person engaged in door-to-door sales of goods or services for present or future delivery.

SALES ORGANIZATION

Any entity engaged in the supervision, recruitment, retention or employment of a sales person or persons engaged in door-to-door sales.

CHARITABLE

The purpose of door-to-door solicitation 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 any Harrison volunteer organization or service organizations, if the merchandise being sold is for the support of a not for profit organization which the sales person participates in, such as, including but not limited to school-sponsored activities, boy, cub and girls scouts, church organizations, Volunteer Fire Departments, community service organizations and the like.

DOOR-TO-DOOR SOLICITATION

The in-person solicitation of sales of goods or services for present and future delivery by entry upon residential property. Including multi-family or duplex residential property, or by soliciting persons located on residential property from the street, sidewalk, or other adjacent property, without the prior invitation of the person to be solicited.

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SOLICITATION PERMIT

A permit issued to a sales agent to engage in door-to-door sales in accordance with this chapter.

DO NOT KNOCK REGISTRY

A list of residential addresses in the Town, organized alphabetically by street name, indicated those residential properties placed on a list at the request of the owner or occupant indicated that they do not want sales agents to enter their property.

§ 183-3. Administration

The Town of Harrison solicitation and peddler permit process shall be administered by the Office of the Town Clerk in conjunction with the Town of Harrison Police Department for the express purpose of criminal record checks and enforcement of this chapter. The Town Clerk is hereby authorized and is instructed to issue permits to peddle or solicit in this town pursuant to the provisions of this chapter, which permits, in order to be valid, shall be signed by the Town Clerk, shall be sealed with the Town Seal and shall specify the trade which thereby is authorized, the kind of commodities which such permit may peddle or solicit and the amount of the permit fee which has been paid.

§ 183-4. Application Requirements.

A. Each sales person or peddler must apply individually to the Office of the Town Clerk during posted administrative hours by submitting a completed application, which will require:

1. Government issued photographic identification with printed name and sex.
2. Date of birth.
3. Social Security number.
4. Permanent residential address.
5. Home telephone number.
6. Temporary home address.
7. Current cell phone number.
8. Sales organization information.
9. Sales supervisor identity.
10. Make, model, color, registration number and proof of insurance of any vehicle (s) used to transport the sales agent, his/her supervisor, or sales materials.
11. Such other verifying information as may be reasonably required by the Town Clerk.

B. The Town of Harrison Police Department shall conduct a Criminal Records Search of each applicant for a solicitation or peddlers permit to determine the applicant's fitness and suitability to conduct solicitation sales or to peddle wares. The Town Clerk will forward each application to the Harrison Police Department. The Harrison Police Department will return to the Town Clerk, within three (3) business days, the result of the Criminal Records Search and the Town of Harrison's Police Chief's Determination as to fitness.

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C. A person whose criminal record history record background check reveals a conviction for any criminal offence including, but not limited to, violent crimes, sexual assault, possession of a controlled substance, theft, fraud, or burglary shall be disqualified from receiving a permit to solicit or peddle within the town. The Harrison Chief of Police will make the determination of the applicants fitness to receive the applied for permit.

§ 183-5. Permit required; exemptions; restrictions.

A. It shall be unlawful for any person to engage in the act of peddling or soliciting in this town without first obtaining a valid permit therefore.

B. Veterans exempted. No provision contained in this chapter, except the provisions contained in Subsections E and F, respectively, of this section, shall be applicable to any person who shall have obtained and who lawfully shall be in possession of a valid subsisting permit which shall have been issued pursuant to the provisions of § 32, as amended, of the General Business Law of this state.

C. Certain merchandise exempted. No provision contained in this chapter, except the provisions contained in Subsections E and F, respectively, of this section, shall be applicable to the peddling or soliciting of meats, fish, fruit and farm produce by farmers and persons who produce such commodities.

D. Local merchants and sales to local merchants exempted. No provision contained in this chapter, except the provisions contained in Subsections E and F, respectively, of this section, shall be applicable to sales, at wholesale prices, of personal property to local merchants of this town. For the purpose of this chapter, a "local merchant" hereby is defined as a merchant who maintains in this town an established place of business; and for the purpose of this chapter, an "established place of business" hereby is defined as a building or a portion thereof, located in this town, wherein a local merchant transacts business and deals in such commodities as are referred to in this chapter.

E. Time limitations.

(1) Peddling hereby is prohibited altogether on Sundays and holidays and on other days except between the hours of 7:30 a.m. and 7:00 p.m., respectively, either standard time or daylight saving time, whichever then is effective, as the case may be.

(2) Soliciting hereby is prohibited altogether on Sundays and holidays and on other days except between the hours of 9:00 a.m. and 7:00 p.m., respectively; either standard time or daylight saving time, whichever then is effective, as the case may be.

F. No peddling or soliciting near stores. Peddling and soliciting is hereby prohibited within a distance of two 250 feet of any store in this town wherein, at the time, there is being offered for sale any commodity of any nature whatsoever and which comes under any of the classes of commodities which are enumerated in the definitions of "peddling" or "soliciting" in § 183-2.

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G. Such permit requirements shall not apply to sales of or taking orders by charitable organizations as defined in § 183-2.

H. Charitable Organizations must abide by Time Limitations as defined in § 183-5-E-1 and 2.

I. This chapter shall not apply to political candidates.

§ 183-4. Issuance of Permits.

A. Form of Permits. The Town Clerk is hereby authorized and is instructed to issue permits to peddle or solicit in this town pursuant to the provisions of this chapter, which permits, in order to be valid, shall be signed by the Town Clerk, shall be sealed with the Town Seal and shall specify the trade which thereby is authorized, the kind of commodities which such permitee may peddle or solicit and the amount of the permit fee which has been paid.

B. Separate Permit. No permit shall be issued for the peddling or soliciting of more than one of the following general classes of commodities:

(1) Dry goods.

(2) Groceries.

(3) Fruits and vegetables.

(4) Meats.

(5) Fish.

(6) All other articles of merchandise and commodities not hereinabove specified. More than one permit may be issued to the same person, however, upon payment of an additional permit fee or fees prescribed therefor, for the peddling or soliciting of such other classes of commodities

§ 183-7 Permit period.

No permit shall be issued and none shall be valid for a period longer than thirty (30) days from the date of issuance thereof, for soliciting. No permit shall be issued and none shall be valid for a period longer than one (1) year for peddlers.

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§ 183-8. Nontransferability of Permits.

No permit issued under the provisions of this chapter shall be transferable, and any holder of such a permit who allows it to be used by any other person, and the person who uses such a permit, shall be deemed to be guilty of a violation of the provisions of this chapter.

§ 183-9. Permit fees.

A. An application fee of $150.00 (or adjusted from time to time) shall accompany each Town of Harrison solicitation Sales permit.

B. A fee of $150.00 per permit badge (or as adjusted from time to time) for each solicitation person shall be paid upon approval of an individuals permit application.

§ 183-10. Vehicles; vehicle sign required.

Any person who procures a permit pursuant to the provisions of this chapter shall be entitled, without being required to pay to this town any additional permit fee for such privilege, to use, in conducting the particular peddling or soliciting business for which he holds such license, one vehicle answering the description of a pushcart, a handcart or a motor vehicle automobile or truck; provided, however, that there appears upon at least one side of such vehicle, legibly, in paint and in the English language, the following data, in letters and numerals of not less than 2 1/2 inches in height:

A. The permitee's full name.

B. The permitee's residence or business address, stating the building number, the street and municipality and the state.

C. The permitee's peddling permit number.

§ 183-11. Display of permit required.

Each permitee, under the provisions of this chapter, shall carry such permit at all times while engaged in peddling or soliciting and shall produce and exhibit the same at any such time upon demand therefor being made by any police officer of this town or by any citizen who resides in this town. A refusal of compliance with the provisions of this section shall constitute presumptive evidence that such person, so refusing, is peddling or soliciting without having procured a license therefor pursuant to the requirements of this chapter, and such a refusal shall be deemed to be a violation of the provisions of this chapter.

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§ 183-12. Do Knock Registry.

A. The Do Not Knock Registry shall be established and maintained by the Village Clerk's Office. Residents may submit their property address for inclusion on the list without charge. An updated list will be provided to the Chief of the Harrison Police Department monthly.

B. Upon approval and issuance of a Town of Harrison solicitation permit, each sales person shall be provided with a copy of the Do Not Knock Registry.

C. Solicitors or peddlers shall not solicit or peddle wares at any premise on the Do Not Knock registry.

§ 183-13. Solicitation Sales Regulations.

A. No Sales Person shall engage in door-to-door sales without first having applied for and received a Town of Harrison solicitation permit

B. No Sales Organization shall allow any Sales Person to engage in door-to-door sales that has not applied for and received a Town of Harrison solicitation permit.

C. No Sales Supervisor shall direct or supervise, or allow any Sales Person to engage in door-to-door sales that has not applied for and received a Town of Harrison solicitation permit.

D. No Sales Person shall enter within the perimeter of any residential property included on the Do Not Registry, or any residence where a "No Soliciting," "No Trespassing" or similar sign is posted at or near the entrance (s) to such a residence.

E. No Sales Person shall solicit sales from a person situated within a residential property included on the Do Not Knock Registry from a street, sidewalk or other adjacent property.

F. No Sales Person shall engage in abusive solicitation, including but not limited to:

1) Blocking or impeding the passage of the person solicited;
2) Repeating the solicitation after the person solicited has indicated his or her objection to the solicitation;
3) Threatening the person solicited with physical harm by word or gesture;
4) Touching the solicited person without consent.

§ 183-14. Penalties and Enforcement.

A. A person who violates any permitting or registration provision of this chapter shall be punishable by a fine of not less than $500 and/or imprisonment for not more than 15 days, or both, except that after the first violation, the person shall be punishable by a fine not less than $1,000 and/or imprisonment for a period of time not to exceed 15 days, or both.

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B. A person who violates any other provision of this chapter shall be punishable by a fine of not less than $500.00 and no more than $1000.00 and/or imprisonment for not more than 15 days, or both, except that after the first violation, the person shall be punishable by a fine not less than $1000.00 to exceed $1500.00 and/or imprisonment for a period of time not to exceed 15 days, or both.

C. Each day on which any violation continues shall constitute a separate offense.

D. The Harrison Police Department is the enforcement agency of the chapter.

§ 183-15. Additional legislation.

All permitees which may be issued pursuant to the provisions of this chapter and all such permitees, at all times, shall be subject to such additional reasonable rules, regulations and ordinances in respect to the conducting of the business of peddling or soliciting, as hereafter may be adopted by the Town Board of this town.

§ 183-16. Disposition of moneys received.

All moneys which shall be received by the Town Clerk pursuant to the provisions of this chapter forthwith shall be paid by the Town Clerk to the Supervisor in the same manner as the Town Clerk is required to remit other town moneys