



CITY OF GARDNER POLICE DEPARTMENT

200 Main Street
Gardner, Massachusetts 01440
Phone: (978) 632 5600
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Door to Door Solicitor Application

City Code Chapter 428: Door to Door Solicitors is available for your review on the City Website www.gardner-ma.gov

Applicant _____

(provide 2 2"x2" photographs showing head and shoulders)

Date of Birth _____ SS# _____ Phone # _____

Home Address _____

Temporary Address (if any) _____

Name of Business (provide copy of company ID) _____

Address of Business _____

Supervisor's Name & Phone # _____

Product to be Sold or Solicited _____

Names of Manufacturer, of Source of Merchandise, and Proposed Method of Delivery _____

Driver's License #/State Identification Card # (provide copy) _____

Vehicle Make _____ Year _____ Reg. # _____ State _____

Expected Dates & Hours of Operation _____

Have you ever been convicted of any crime listed in § 428-11 of the chapter or are you a level 2 or 3 sex offender required to register with the Sex Offender Registry Board? _____

The Gardner Police Department has been certified by the Criminal History Systems Board for access to all conviction data. As an applicant to conduct door to door solicitation, I understand that a record check will be conducted for conviction information only and that it will not necessarily disqualify me as a candidate for the position.

Release and Indemnity Agreement

I, the undersigned Applicant, hereby agree to release, discharge and hold harmless, the City of Gardner a municipal corporation of the Commonwealth of Massachusetts and its officers, employees, agents, and servants from all actions, causes of action, claims, demands, damages, costs, loss of service, expenses and compensation associated with the undersigned's conduct under this Permit as described herein.

Applicant's Signature _____ Date _____

Do Not Write Below This Line

DATE _____ APPROVED _____ DENIED _____ \$100.00 (Nonrefundable) _____

REASON FOR DENIAL _____

City of Gardner, MA
Thursday, June 14, 2018

Chapter 428. Hawkers and Peddlers

Article III. Door-to-Door Solicitors

[Adopted 6-20-2016 by Ord. No. 1592]

§ 428-7. Purpose.

It is the purpose of this article to regulate persons or organizations engaged in door-to-door soliciting in the City of Gardner through the issuance and imposition of other limitations on such conduct for the purpose of protecting the City's residents from disruption of the peaceful enjoyment of their residences and from crime and fraud, and further, to allow reasonable access to residents in their homes by persons or organizations who wish to engage in commercial solicitation.

§ 428-8. Definitions.

A "door-to-door solicitor" or "solicitor," as used herein, is defined as any individual, whether a resident of the City of Gardner or not, traveling either by foot, motor vehicle, or any other type of conveyance, from place to place, house to house, taking or attempting to take orders for sale of goods, wares, merchandise, personal property of any nature for immediate or future delivery, or for services or utilities to be furnished or performed immediately or in the future on behalf of themselves or another person or business and whether or not he or she collects advance payments on such sales.

§ 428-9. License required.

- A. It shall be unlawful for any solicitor as defined in § 428-8 of this article to engage in such business in the City of Gardner without first obtaining a license in compliance with the provisions of this article. Such license shall be obtained from the Chief of Police, and upon payment of a one-hundred-dollar license fee. This requirement shall not apply to any door-to-door solicitation of newspapers, religious publications, ice, flowering plants and flowers, and wild fruits, nuts and berries. This requirement shall further not apply to an individual licensed by the commonwealth pursuant to MGL c. 101, § 22 and conducting sales in accordance with said license, provided that such licensees shall be subject to § 428-13 and 428-15 of this article and any other applicable City ordinance or regulation.
- B. Any person who is not properly licensed under this article shall be ordered to immediately cease and desist all solicitation in the City until they attain a proper license.
- C. Nothing in this article shall be construed to impose any license requirement or otherwise restrict or in any way regulate any activity for noncommercial purposes, including but not limited to any activity for religious, charitable, civic or political purposes, regardless of whether such activity includes acts that would otherwise constitute soliciting, nor shall anything in this article be construed to impose any license requirement or otherwise restrict or in any way regulate any person under the age of 18 who is not engaged in an organized business, either individually or as an employee, from conducting any activity related to taking or attempting to take orders for sale of personal services (such as babysitting,

snow shoveling, lawn mowing, or yard maintenance) to be furnished or performed immediately or in the future.

§ 428-10. Application and fee.

- A. Each individual applicant for a license under this article shall submit to the Chief of Police or his/her designee an application along with a fee of \$100 (per individual applicant), payable to the City of Gardner, which will be used to cover the cost of processing permits and conducting the investigation of the application.
- B. Each applicant must complete a sworn application, in writing, at least 10 working days prior to the requested starting date for solicitation, on a form provided by the Police Department. Said form shall include the following information:
- (1) Name, physical description, and date of birth;
 - (2) Social security number of the applicant;
 - (3) Permanent home address, as well as full local address for the applicant;
 - (4) A brief description of the nature of the business and/or goods to be sold;
 - (5) If employed, name and address of employer, including credentials which establish the exact relationship;
 - (6) The length of time for which the license is desired (not to exceed 90 days);
 - (7) Names of manufacturer, of source of merchandise, and proposed method of delivery;
 - (8) Two photographs of the applicant, taken within the past 60 days prior to filing of the application, showing only the head and shoulders of the applicant in a clear and distinguishing manner;
 - (9) A statement as to whether or not the applicant has been convicted of any crime listed in § 428-11 of this article or is a Level 2 or Level 3 sex offender required to register with the Sex Offender Registry Board.

§ 428-11. Investigation and issuance of license.

- A. If, after an investigation into the facts contained in the license application, the Police Chief is satisfied the applicant is of suitable character, the Police Chief, or his designee, shall grant the requested license.
- B. The Police Chief or his designee shall refuse to issue a license to any organization or individual whose license has been revoked for violation of this article within the previous two-year period or who has been convicted of murder/manslaughter, rape, robbery, arson, burglary/breaking and entering, felony assault, or larceny over \$250, as such persons pose a substantial degree of dangerousness to minors and other persons vulnerable to becoming victims of the violent crimes so listed. The Police Chief shall also refuse to grant a license to a person who is a sex offender required to register with the Sex Offender Registry Board and who is finally classified as a 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 dangerousness to minors and other persons vulnerable to becoming victims of sex crimes.

§ 428-12. Identification card.

The Police Department, after a review of the information contained in the license application, but in no event more than 10 working days after receipt of a fully completed application, shall issue to each qualified applicant an identification card which shall contain the words "licensed solicitor," the individual's picture, identification and expiration date of the license. Persons engaged in solicitation or peddling as defined in this article must carry the registration card while soliciting or peddling and present the card to any police officer or person solicited upon request.

§ 428-13. Solicitation hours and daily check-in.

A properly licensed solicitor shall check in with the Gardner Police Department on each day during which he or she seeks to solicit to provide the geographic area of the City in which the solicitation will take place. On such days, the solicitor may only solicit between the following hours:

- A. Monday through Friday: 9:00 a.m. through 7:00 p.m.
- B. Saturday, Sunday and holidays: 10:00 a.m. through 6:00 p.m.

§ 428-14. Records.

The Chief of Police shall maintain all pertinent records of licenses issued and violations recorded.

§ 428-15. Enforcement; violations and penalties.

- A. Whoever continues to solicit in the City in willful violation of this article, by continuing to solicit after being informed by a police officer to cease and desist, may be arrested without a warrant by a police officer in accordance with the provisions of MGL c. 272, § 59, and subject to a fine of three times the application fee up to, but not to exceed, \$300 for each violation.
- B. Notwithstanding the above licensing procedures, no licensee may enter private property after being forbidden to do so, either directly by the person in charge of the property or by a conspicuously posted notice of "No Trespassing" or "No Soliciting." Such trespass violations are controlled by MGL c. 266, § 120, which authorizes the arrest (without a warrant) of a person found committing such a trespass in the presence of a police officer.
- C. After investigation by a police officer, licenses issued under the provisions of this article may be revoked by the Chief of Police or his designee after notice and hearing; provided, however, that a license may be suspended immediately, without notice and a hearing, if the public safety or welfare so requires, for any of the following causes:
 - (1) Fraud, misrepresentation, or false statement contained in the license application;
 - (2) Fraud, misrepresentation, or false statements made in the course of carrying on the business of solicitation;
 - (3) Any violation of this article;
 - (4) Conviction of any crime listed in § 428-11 of this article or classification as a Level 2 or Level 3 sex offender;
 - (5) Conducting the business of soliciting or peddling in an unlawful manner or in such a manner as to constitute a breach of the peace, or to constitute a menace to health, safety, or the general welfare of the public; and
 - (6) High-pressure tactics, harassment, or a refusal to accept a refusal as an answer, when verified in writing.

- D. If a license is suspended under the provisions of this section, notice of a hearing with regard to the same shall be given forthwith in accordance with the following subsections:
- (1) Notice of hearing for revocation or suspension of a license shall be given in writing, setting forth specifically the grounds of the complaint and a time and place of the hearing.
 - (2) Such notice shall be hand delivered to the licensee or forwarded by certified mail to the licensee at his or her last known address at least five days prior to the hearing date.
- E. The liability for any fine instituted in accordance herewith shall be joint and several between the individual and any other individual or entity on whose behalf the solicitation is being conducted.
- F. Pursuant to MGL c. 40, § 21D, in lieu of a criminal disposition of any violation of this article the City of Gardner, by and through its Police Department, may give to any offender a notice to appear before the Clerk of the Gardner District Court not later than 21 days after the date of the notice to appear

§ 428-16. Expiration of license.

All licenses for soliciting in the City are valid only for the particular dates or time period specified thereon, and in no case for longer than 90 days.

§ 428-17. Appeals.

Any person or organization who is denied a license or whose license has been revoked may appeal by filing a written notice of appeal with the City of Gardner Police Chief or his or her designee. Such appeal must be filed within five days after receipt of the notice or denial or revocation. Within five business days, the Chief or his or her designee shall hear the appeal; provided, however, that if the Chief or his or her designee fails to make a determination within 30 days after the filing of the appeal, the license shall be deemed granted or reinstated, as the case may be.

§ 428-18. Severability.

The provisions of this article are declared to be severable, and if any section, sentence, clause or phrase of this article shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses and phrases of this article and they shall remain in effect, it being the legislative intent that this article shall stand, notwithstanding the invalidity of any part .