

BY TITLE ONLY - FIRST READING

DATE OF INTRODUCTION  
DATE OF PUBLICATION  
DATE OF FINAL ADOPTION

ORDINANCE NO. 484

**AN ORDINANCE GOVERNING DOOR TO DOOR COMMERCIAL SOLICITATION  
IN THE BOROUGH OF MANTOLOKING, OCEAN COUNTY, NEW JERSEY**

Now, therefore, BE IT ORDAINED by the Borough Council of the Borough of Mantoloking, in the County of Ocean, State of New Jersey, as follows :

SECTION 1: Statement of Purpose. It is the purpose of this Ordinance to protect the safety of residents of the Borough of Mantoloking, to prevent fraud from being perpetrated upon them and to protect their privacy, while balancing such interests against the opportunity for commercial, political, religious, charitable, and nonprofit organizations to exercise their rights of free speech.

SECTION 2: Word Usage and Definitions.

A. Word Usage. For the purpose of this Ordinance, certain words or phrases shall be interpreted in the following manner:

- (1) Words used in the present tense include the future tense.
- (2) Words used in the singular include the plural, and conversely words in the plural include the singular.
- (3) The word “shall” is mandatory and not discretionary.
- (4) The use of the masculine gender shall include the feminine gender.

B. Definitions. Unless specifically defined below, words or phrases used in this Ordinance shall be interpreted so as to give them the meaning they have in common usage and to give this Ordinance its most reasonable application.

“Applicant” means a person or entity seeking to obtain a permit for solicitation from the Borough of Mantoloking.

“Borough” means the Borough of Mantoloking, Ocean County, New Jersey.

“Employer” means any individual or entity providing compensation, in any form whatsoever, to an individual engaged in solicitation within the Borough of Mantoloking.

“Permit” means a permit for solicitation issued by the Borough of Mantoloking pursuant to the provisions of this Ordinance.

“Solicitation” means to go in or upon private property in the Borough of Mantoloking without having been invited to do so by the owner or occupant, for the purpose of (1) advertising, promoting, or selling any product, goods, or service; or (2) conducting market research or a market or opinion survey regarding commercial products or services. By way of illustration and not of limitation, solicitors shall include peddlers, hawkers, itinerant merchants and transient vendors of goods or services. Solicitation shall also include the placement upon private property of

handbills or other written material advertising goods or services for sale. Solicitation shall also include the sale of goods or services which the solicitor promises to donate or delivery to a charitable or other nonprofit institution on behalf of the purchaser. Solicitation shall not include the entry upon private property without prior invitation of the owner or occupant by any person representing an entity which (1) qualifies for tax-exempt status under the Internal Revenue Code; (2) qualifies for exemption from property tax under N.J.S.A. 54:4-3.6; (3) qualifies for exemption from sales tax under N.J.S.A. 54:32B-9; or (4) was created under or is otherwise subject to the provisions of Title 15A of the New Jersey Statutes.

SECTION 3: Permit Required. No person or entity shall engage in solicitation within the Borough of Mantoloking without first having obtained a permit pursuant to the provisions of this Ordinance. Failure to obtain a permit prior to solicitation shall constitute a violation of this Ordinance. Each day of solicitation without a valid permit shall constitute a separate violation of the Ordinance.

SECTION 4: Exemptions from Provisions of Ordinance. Door to door canvassing, solicitation, campaigning, advocacy, education, proselytizing, handbill distribution, or other entry upon private property by individuals representing any entity which (1) qualifies for tax-exempt status under the Internal Revenue Code; (2) qualifies for exemption from property tax under N.J.S.A. 54:4-3.6; (3) qualifies for exemption from sales tax under N.J.S.A. 54:32B-9; or, (4) was created under or is otherwise subject to the provisions of Title 15A of the New Jersey Statutes, shall be exempt from the provisions of this Ordinance. Solicitation of donations by any such organizations shall not constitute solicitation as defined in this Ordinance. Individuals representing such organizations may request a copy of the Borough's "Do Not Solicit" list for their information , but no penalties shall be imposed if they enter in or upon a property identified on the "Do Not Solicit" list or a property which has posted a "No Solicitation" sign.

SECTION 5: Application for Permit.

- A. Any person seeking to engage in solicitation within the Borough of Mantoloking shall apply to the Borough Police Department for a solicitation permit.
- B. An applicant for a solicitation permit shall be required to provide the following information in writing:
  - i. The name of each individual who will engage in solicitation within the Borough of Mantoloking;
  - ii. The present address of each individual who will engage in solicitation within the Borough of Mantoloking;
  - iii. As to each such individual, whether the individual has ever been convicted of a crime, and if so, the nature of the conviction, where convicted, the date of conviction, and the penalty imposed;
  - iv. The employer or organization for which solicitation will be made;
  - v. The address of the employer or organization;
  - vi. The telephone number of the employer or organization;

- vii. The name of a contact person at the offices of the employer or organization;
  - viii. The type of goods or services to be sold, or the type of survey or research to be conducted;
  - ix. As to any vehicle to be used by the applicant, the make, model, year, color and license plate information of the vehicle; and
  - x. The expected dates of solicitation within the Borough of Mantoloking.
- C. An applicant for a solicitation permit shall also be required to produce photo identification, which the Borough Police will photocopy and attach to the application form.
  - D. The application form shall be signed by the applicant, under penalty of perjury.
  - E. Application forms, including photographic identification, shall be retained by the Borough Police Department.
  - F. There shall be no fee for a solicitation permit.
  - G. Misrepresentation, false statements, or failure to disclose information on the solicitation permit application form shall constitute a violation of this Ordinance.

SECTION 6: Issuance of Permit. The Chief of Police, or in his absence, the officer in charge of the police department, shall issue a permit upon completion of solicitation permit application form. A permit shall issue to any and all applicants who complete the application form and provide photo identification. A separate permit shall be issued to each individual who engages in solicitation within the Borough. The permit shall be signed by the Chief of Police or, in his absence, the officer in charge of the police department. The permit shall state the name of the individual, the business or organization for which solicitation is made, and the date the permit was issued.

SECTION 7: Carrying and Displaying Solicitation Permit. Each individual engaging in solicitation within the Borough shall carry the permit issued to him upon his person at all times while soliciting within the Borough of Mantoloking, and shall produce the permit if requested to do so by the police or any resident. Failure to carry the permit during solicitation shall constitute a violation of this Ordinance.

SECTION 8: Time Limits on Solicitation.

- A. A solicitation permit shall be effective for three months after the date it is issued. Solicitation without a valid permit in effect shall constitute a violation of this Ordinance.
- B. Solicitation shall take place within the Borough of Mantoloking only between the hours of 9 a.m. and 9 p.m. Solicitors are encouraged to wear reflective clothing and/or to carry flashlights if soliciting after dark.

SECTION 9: “Do Not Solicit” List

- A. Notwithstanding the provisions of any other section of this Ordinance, any person or entity owning property within the Borough may register such property on a “Do Not Solicit” list.
- B. Registration for the “Do Not Solicit” list shall be made as follows:
  - i. The “Do Not Solicit” list shall be maintained by the Borough Police Department.
  - ii. It shall consist solely of property addresses, and shall include no further identifying information concerning the ownership of each property.
  - iii. The Borough Tax Assessor shall notify the Police Department of any change in ownership of property within the Borough. The Police Department shall remove from the “Do Not Solicit” list any property which has changed ownership.
- C. The Chief of Police or, in his absence, the officer in charge of the department, shall provide a copy of the “Do Not Solicit” list to each and every applicant to whom a permit is issued pursuant to this Ordinance. Upon request, the Chief of Police or his alternate shall also make available a copy of the “Do Not Solicit” list to any individual or entity otherwise exempt from the provisions of this Ordinance which intends to engage in door to door canvassing, solicitation, campaigning, advocacy, education, proselytizing, or handbill distribution.
- D. Solicitation at any address identified on the “Do Not Solicit” list shall constitute a violation of this Ordinance. Each and every solicitation at an address identified on the “Do Not Solicit” list shall constitute a separate violation of the Ordinance.

SECTION 10: “No Solicitation” Signs.

- A. In addition to registration of private property on the Borough’s “Do Not Solicit” list, any person or entity owning property within the Borough may place on such property a sign indicating that the owners or occupants do not wish to be disturbed by solicitation.
- B. A “No Solicitation” sign shall not exceed two and one half square feet in area.
- C. A resident shall be permitted to post a “No Solicitation” sign in addition to the number and types of signs permitted under the Borough’s Land Use Ordinance.
- D. Solicitation at any address at which a “No Solicitation” sign is posted shall constitute a violation of this Ordinance. Each and every solicitation at a property at which a “No Solicitation” sign is posted shall constitute a separate violation of the Ordinance.

SECTION 11: Penalties. Any person, firm or corporation that violates any provisions of this Ordinance shall, upon conviction thereof by any court authorized by law to hear and determine the matter, be fined a sum not exceeding five hundred dollars (\$500.00), as the Municipal Court of the Borough of Mantoloking in its discretion may impose; or, if the party convicted is a natural person, the person may be imprisoned for a term not exceeding ninety (90) days, as the court in its discretion may impose, or be fined a sum not exceeding five hundred dollars (\$500.00), as the court in its discretion may impose; or the natural person may be both imprisoned and fined not

exceeding the maximum limits set forth herein, as the court in its discretion may impose. Each violation of a provision of the Ordinance shall constitute a separate offense.

SECTION 12: Validity. If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and its validity or unconstitutionality shall not affect the validity of the remaining portions of the Ordinance.

SECTION 13: Effective Date. This Ordinance shall become effective upon its final passage and publication as required by law.

#### **NOTICE**

NOTICE IS HEREBY GIVEN that the foregoing Ordinance was introduced and passed upon first reading at a regular meeting of the Mayor and Council for the Borough of Mantoloking, in the County of Ocean and State of New Jersey, held on June 21, 2004 , 2004, and said Ordinance will be considered for final passage at the Borough Hall, Downer Avenue, Mantoloking, New Jersey, at 8:00 p.m. on July 19, 2004, or as soon thereafter as said matter may be reached, at which time and place all persons interested will be given an opportunity to be heard.

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Irene H. Ryan, RMC