

**ORDINANCE NO. 4-2015**

**AN ORDINANCE AMENDING CHAPTER 6, ARTICLE 3 OF THE MUNICIPAL CODE OF THE TOWN OF WELLINGTON, COLORADO, RELATED TO CANVASSING, SOLICITING OR PEDDLING FOR RESIDENTIAL SALES OF PROPERTY OR OPERATION OF A PUBLIC AUCTION, LICENSING THEREOF AND PENALTIES THEREFORE**

**BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF WELLINGTON, COLORADO:**

Section 1. Adoption. Chapter 6, Article 3 of the Wellington Municipal Code is amended and readopted in its entirety in the following form:

Chapter 6, ARTICLE 3

**Auctions and Peddling**

Canvassing, Soliciting or Peddling for Residential Sales of Property or operation of a Public Auction.

Sec. 6-3-10	License required
Sec. 6-3-20	Definitions
Sec. 6-3-30	Application for License
Sec. 6-3-40	Issuance of License; duration
Sec. 6-3-50	Display of License; return
Sec. 6-3-60	Trespassing in violation of posted signs
Sec. 6-3-70	Revocation of License

**Sec. 6-3-10. LICENSE REQUIRED.**

Any person, including any company, engaged in Canvassing, soliciting or peddling in operating any Public Auction as defined in this Article shall be required to obtain from the Town a license therefore. It shall further be unlawful for any person or company:

- (a) to sell any property at public auction in the Town without first having obtained a license therefor as provided in this Article.
- (b) sell, offer for sale or in any manner assist in or about any sale or offer of sale of any goods, wares or merchandise within the corporate limits of the Town by hawking or peddling the same without first having obtained a license therefor, as provided in this Article.
- (c) distribute indiscriminately to the public any cards, circulars, handbills, samples of merchandise or similar advertising matter on any public street or sidewalk or other public place in the Town, or by leaving the same at stores, offices, houses and residences in the Town, without first having secured a permit from the Town Administrator/ Clerk.
- (d) The provisions of this Article shall not apply to distribution of newspapers published and distributed on a regular basis, either daily, weekly or otherwise.

Each applicant for a License shall, not less than five nor more than fifteen days prior to the commencement of canvassing, solicitation or peddling, furnish the Town Administrator/Clerk with the

following information on forms provided by the Town.

**Sec. 6-3-20. DEFINITIONS.**

As used in this Article:

- (a) "Canvassing," "soliciting" or "peddling," unless expressly provided for otherwise, means traveling from residence to residence within the Town, without having a previous appointment to visit the residence or residences visited for the purpose of hawking or exposing or offering for inspection or sale, goods, wares, merchandise, foodstuffs or any other property, tangible or intangible, or services, or for the purpose of taking or attempting to take orders for the purchase of services, goods, wares, merchandise, foodstuffs or other property, tangible or intangible for future delivery. "Canvassing," "soliciting" or "peddling" also means the soliciting of funds or other property for charitable or other purposes anywhere within the Town.
- (b) "Canvasser," "solicitor" or "peddler" means any person who engages in canvassing, soliciting or peddling.
- (c) "Public auction" means any auction sale occurring within the Town and open to the public, but does not include sales made under and by virtue of legal processes or under and by virtue of any power contained in mortgages, trust deeds or similar instrument.

**Sec. 6-3-30. LICENSE APPLICATION.**

Any application for a License under this section shall require but shall not necessarily be limited to the following information:

- (a) Name, age and physical description of applicant or any person acting within the Town on behalf of the applicant.
- (b) Complete permanent and local address of applicant and each person acting within the Town on behalf of the applicant.
- (c) Name and address of the person, firm, corporation or association for whom the canvassing, soliciting or peddling is presently being made and any other person, firm, corporation or association for whom the applicant and each person acting within the Town on behalf of the applicant has solicited during the past three years.
- (d) A general description of the nature of the business and the goods, services or wares to be sold, or otherwise sufficient to identify the subject matter of the canvassing, soliciting, peddling or public auction in which the applicant and any person acting within the Town on behalf of the applicant will engage.
- (e) The names of all other municipalities in which the applicant and any person acting within the Town on behalf of the applicant has conducted canvassing, soliciting, peddling or public auction activities during the past twelve months.
- (f) Whether the applicant or any person acting within the Town on behalf of the applicant has ever had a license issued under this article revoked, including the time

and place of such revocation.

- (g) Whether the applicant or person acting within the Town on behalf of the applicant has ever been convicted of a felony violation including the time and place of such conviction.
- (h) The proposed dates and times of the canvassing, solicitation, peddling or public auction.
- (i) The make, model, year, color and license plate number of automobile(s) used by the applicant or any person acting within the Town on behalf of the applicant during the period of canvassing, soliciting or peddling within the Town, and the number of applicant's driver's license and state of issuance.
- (j) An identification badge, issued by the Town, to be worn by the applicant acting and any person acting within the Town canvassing, soliciting or peddling within the Town on behalf of the applicant in a conspicuous manner.
- (k) Submission to fingerprinting, if requested, by applicable the law enforcement agency for law enforcement files and for the purpose of determining the criminal record, if any, of the applicant or any person acting within the Town on behalf of the applicant..
- (l) Submission of information adequate to establish that applicable sales tax liability will be paid by applicant or any person acting within the Town on behalf of applicant. Information may include past proof of payment of sales tax obligations owed to the Town by the applicant/licensee.

**Sec. 6-3-40. ISSUANCE OF CERTIFICATE; DURATION.**

- (a) Issuance of Certificate. Not more than five days after completion of the application form provided in Section 6-3-30 the Town Administrator/Clerk, shall, except as otherwise provided herein, issue an appropriate license to each applicant unless it is determined by the Town Administrator/Clerk:
  - i. That the applicant or person designated as acting in the Town for the applicant has misrepresented his identity or intention or made a false, misleading or deceptive statement in providing the information required under Section 6-3-40.
  - ii. That the applicant or any person designated as acting in the Town for the applicant has been convicted, during five years preceding the date of application, of a felony considered to be of a nature to present a danger to a Town resident.

The annual fee for a license issued in accordance with this Article shall be an amount established by resolution by the Board of Trustees to offset the Town's costs except that no fee shall be required for those persons excluded as a charitable, religious or educational organization under applicable Colorado law.. And upon payment of the license will be valid for one year. The Board of Trustees may provide that the license fee for any license issued under this Chapter may be paid weekly, quarterly or annually.

any person other than the person or the person acting for the applicant/licensee to whom issued and shall be valid for a period of the issued license.

**Sec. 6-3-50. DISPLAY OF LICENSE; RETURN.**

Each applicant or person acting for such applicant who is canvassing, soliciting or peddling in the Town shall carry the License certificate or badge issued by the Town when engaged in the licensed activity and shall exhibit it to any resident or Town official upon request. Any person conducting a public auction shall post the license in a prominent place at the auction location while any auction activities are being conducted. At the conclusion of the period for which the License certificate was issued, the License certificate shall be void.

**Sec. 6-3-60. TRESPASSING IN VIOLATION OF POSTED SIGNS.**

No person while engaged in any for-profit or nonprofit canvassing, solicitation or peddling, shall knock at the door or ring the bell of any home, apartment, apartment building or other dwelling unit in the Town upon which is displayed at the entrance a notice indicates No Canvassers, No Solicitors or No Peddlers Allowed, or which otherwise clearly purports to prohibit canvassers, solicitors or peddlers on the premises, unless such canvasser, solicitor or peddler is, or has been invited upon the premises by the owner, lessee or occupant thereof.

**Sec. 6-3-70. REVOCATION OF LICENSE.**

A License issued under this Chapter shall be revoked by the Town Administrator/.Clerk for any of the following causes:

- (a) A determination that the applicant or any person acting on behalf of the applicant provided false, misleading or deceptive information in completing the application set forth in Section 6-3-30, or has violated the provisions of this Chapter.
- (b) The applicant or any person acting on behalf of the applicant is convicted of a felony violation considered to be of a nature to present a danger to a Town resident.
- (c) The applicant or any person acting on behalf of the applicant convicted of a violation of any provision of this Chapter.
- (d) Failure to pay applicable sales tax.

Notice shall be given to the applicant/license holder in person or by certified mail of such revocation of any license issued pursuant to this Article together with the reason for the revocation.

Section 2. Penalties. The following penalties, herewith set forth in full, shall apply to this ordinance:

**Sec. 10-1-40. VIOLATIONS of the Wellington Town Code** is amended to add a violation of Sec. 6-3-10 at subsection (c), as a noncriminal violation, which subsection provides:

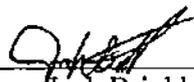
- (c) The following sections of this Code are designated noncriminal violations. Any person charged with violating any provision of this Code so designated shall not be subject to incarceration upon conviction. Further, such person shall not be entitled to a trial by jury.

Code §	Violation
Sec. 6-3-10	failure to obtain Canvassing, Soliciting or Peddling for Residential Sales of Property or operation of a Public Auction

Section 3. Validity. If any part or parts of this ordinance are for any reason held to be invalid such decision shall not affect the validity of the remaining portions of this ordinance. The Town Board hereby declares that it would have passed this ordinance and each part or parts thereof, irrespective of the fact that any one part or parts be declared invalid.

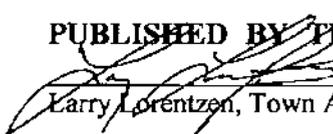
Section 4. Repeal. Existing or parts of ordinances (identifying ordinance number may be cited) covering the same matters as embraced in this ordinance are hereby repealed and all ordinances or parts of ordinances inconsistent with the provisions of this ordinance are hereby repealed, except that this repeal shall not affect or prevent the prosecution or punishment of any person for any act done or committed in violation of any ordinance hereby repealed prior to the taking effect of this ordinance.

**PASSED AND ADOPTED** by the Board of Trustees of the Town of Wellington and ordered published by title the 10<sup>th</sup> day of March, 2015, to become effective thirty (30) days following publication.

  
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Jack Brinkhoff, Mayor

ATTEST:

  
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Larry Lorentzen, Town Administrator/Clerk

**PUBLISHED BY TITLE IN THE "COLORADOAN" ON THE 16<sup>th</sup> DAY OF March, 2015.**  
  
Larry Lorentzen, Town Administrator/Clerk