

ORDINANCE NO. 504

**BOROUGH OF PARKESBURG
CHESTER COUNTY, PENNSYLVANIA**

AN ORDINANCE OF THE BOROUGH OF PARKESBURG PROVIDING FOR THE HEALTH, SAFETY AND WELFARE OF ITS RESIDENTS AND VISITORS, BY ESTABLISHING CERTAIN REGULATIONS AND LICENSE FEES REGULATING THE ESTABLISHMENT AND OPERATION OF TRANSIENT RETAIL BUSINESSES WITHIN THE BOROUGH OF PARKESBURG INCLUDING FOOT PEDDLERS, VEHICLE PEDDLERS, DOOR-TO-DOOR SALESPERSONS, SOLICITORS, CANVASSERS AND TRANSIENT RETAIL OR WHOLESALE BUSINESSES

WHEREAS, pursuant to the provisions of the Borough Code of the Commonwealth of Pennsylvania, Act of February 1, 1966, as amended to date, the Parkesburg Borough Council is empowered to enact, ordain, and enforce suitable ordinances and regulations to provide for the general health, safety and welfare of the residents and visitors to the Borough of Parkesburg; and

WHEREAS, after receiving public comment regarding concerns about the manner and operation of transient retail business including foot peddlers, vehicle peddlers, door-to-door salespersons, solicitors, canvassers and transient retail or wholesale businesses within the Borough of Parkesburg and after review and recommendation by Borough Council, Parkesburg Borough Police Department and the Office of the Mayor, it has been deemed appropriate and advisable by Parkesburg Borough Council to establish regulations, procedures and license fees governing the establishment and operation of such businesses and/or persons within Parkesburg Borough's borders.

NOW THEREFORE, be it ENACTED and ORDAINED by the Borough of Parkesburg, County of Chester and Commonwealth of Pennsylvania and it is hereby ENACTED and ORDAINED by authority of same as follows:

SECTION 100. LEGISLATIVE INTENT

This Ordinance is adopted and intended to regulate the establishment and operation of transient retail and wholesale business including foot peddlers, vehicle peddlers, door-to-door salespersons, solicitors, canvassers and transient retail or wholesale businesses within the Borough of Parkesburg, Chester County, Pennsylvania by imposing certain appropriate time, place and manner regulations and license fees to provide for the health, safety and welfare of Parkesburg Borough residents and visitors thereto.

SECTION 101. DEFINITIONS AND INTERPRETATIONS

A. Foot Peddler. Any person engaged in the peddling, buying, selling, or taking of orders, either by sample or otherwise, of any personal property or services within the

municipality, with or without the use of a pushcart or carried display tray, while standing, walking or otherwise on foot.

B. Vehicle Peddler. Any person engaging in the peddling, buying, selling or taking of orders, either by sample or otherwise, of any personal property or services in the municipality using a vehicle either in a stationary position on private or public property or in a moving position on the public streets.

C. Door-to-Door Salesperson. Any person engaging in the peddling, buying, selling, soliciting or taking of orders, either by sample or otherwise, of any personal property or services in the municipality when the activity involves the movement of the salesperson from building to building, whether by vehicle or on foot and the sales activity is proposed to any occupant of such building.

D. Solicitor. Any person engaging in the solicitation of money as a donation or tickets and coupon books or similar material with or without distribution by such solicitor of literature, samples, free gifts or other materials within the municipality, whether on foot or within a structure, or by use of the vehicle or by use of telephone or in any other manner. Included within this definition are all persons engaged in such activities as members of religious organization or charitable groups.

E. Canvasser. Any person engaging in the activity of questioning persons for the purposes of obtaining information, data or opinions from such persons contacted for any reason whatsoever, including political, religious or educational reasons within the municipality and whether on foot or from within a structure or by use of vehicle or by use of telephone or in any other manner.

F. Transient Retail or Wholesale Business. Any person operating or conducting a business enterprise within the Borough of Parkesburg by selling, soliciting or taking orders for any goods, wares or merchandise from either a fixed location within the Borough of Parkesburg on a temporary or seasonal use basis; and/or engaging in such endeavor upon any street, alley, sidewalk, public grounds or by house-to-house contact within the Borough of Parkesburg, except for established generally recognized charitable endeavors or similar undertakings hereinafter accepted from the provisions of this Ordinance.

G. The foregoing definitions apply equally to all persons, whether a resident or non-resident of the municipality, whether such person is engaged in another business or not.

H. Exceptions. None of the foregoing definitions shall be deemed to include either of the following activities:

1) Any sale or the solicitation thereof or the taking of orders for personal property or services at a pre-arranged appointment with the potential customer.

2) The collection of money for payment for previously sold property or services by a salesperson with or without a pre-arranged appointment.

SECTION 102. LICENSE REQUIRED

Every person defined herein as a foot peddler, vehicle peddler, door-to-door salesperson, solicitor, canvasser or transient retail or wholesale business, whether acting on his own behalf as principal or as the employee or agent of another, shall obtain a license as hereinafter provided.

- A. **Application.** Application for a foot peddler, vehicle peddler, door-to-door salesperson, solicitor, canvasser or transient retail or wholesale businesses license shall be on forms provided by the municipality and available at the municipal building. The application shall be completed and signed by the applicant and shall be filed with the Parkesburg Borough Police Department and the Borough Manager, Borough Secretary or Designated Borough Representative, together with two photographs of the face of the applicant, accurately depicting the applicant's appearance, approximately 2 x 3 inches in size. Each person who wishes to actively engage in peddling or door-to-door sales shall file a separate application, provide photographs and obtain a license. Group or joint applications or licenses shall not be permitted except as provided in Section 102.G.
- B. **Information Required on Application.** The application for a foot peddler, vehicle peddler, door-to-door salesperson, solicitor, canvasser or transient retail or wholesale businesses license shall contain the following information:
- 1) **Name.** The name of the person making application for peddling or door-to-door sales within the municipality.
 - 2) **Address.** The permanent address and local address, if any of the applicant.
 - 3) **Other Information.** The identifying physical features of each applicant, date of birth, social security number, together with information of any previous convictions of criminal offenses. The description of any motor vehicle(s) proposed to be used by any person referred to in this Section together with the license plate number and the names of the registered owners thereof.
 - 4) **Nature of Peddling or Door-to-Door Sales.** A complete and accurate description of the nature, type and location of activity to be conducted including procedures and methods to be used in contacting persons, the hours and days of the activity and the lengths of time for which the license is being requested.

- C. **Waiting Period for Action on the Application.** A 3-day waiting period not including weekends or holidays shall be required between the submission of the application for a temporary peddlers/salespersons license and action on it by the Police Department, Borough Manager, Borough Secretary or Designated Borough Representative. This waiting period may only be waived by Borough Council.
- D. **Responsibility of the Chief of Police and/or Police Representative.** During the 3-day waiting period specified in Section C, the Chief of Police and/or Police Representative shall cause a determination to be made concerning previous convictions of crimes, if any, of the applicant and shall transmit such information to the Borough Manager, Borough Secretary or Designated Borough Representative. The Chief of Police and/or Police Representative shall also investigate the organization/applicant to confirm it is doing business from the address listed on the application and shall advise the Borough Manager, Borough Secretary or Designated Representative of the results of his investigation in writing.
- E. **Responsibility of the Applicant Where Goods or Items are Proposed to be Sold for Human Consumption.** Where goods or items are proposed to be sold for human consumption, it shall be the responsibility of the applicant to provide proof of Federal Department of Agricultural approval and proof of compliance with all applicable federal, state and local health regulations at the time of submission of the application on such goods.
- F. **Responsibility of the Borough Manager, Borough Secretary, or Designated Borough Representative.** After the 3-day waiting period but within five (5) day of submission of an application, the Borough Manager, Borough Secretary or Designated Borough Representative shall grant approval or disapproval of the issuance of a peddler's or door-to-door salesperson's license after receiving a written report from the Police Department confirming the aforementioned background check. The Borough Manager, Borough Secretary or Designated Borough Representative shall have the right to disapprove any application for any reason, including the following:
- 1) If the applicant has been previously convicted of a felony.
 - 2) If the applicant has given false information on the application.
 - 3) If the applicant proposes to sell goods or items for human consumption and has not received approval from the Health Officer or designated agency.

- 4) If the applicant has violated the terms of this Ordinance or the Municipal Ordinance regulating temporary retail dealers or soliciting and canvassing within one year prior to this application.

G. License. When the Police and Borough Representatives have approved the issuance of a peddler's or door-to-door salesperson's license, the applicant shall be issued a license. The license shall contain the information required on the application, the expiration date and one of the photographs which was submitted with the application shall be attached. The license shall be carried by each peddler or door-to-door salesperson at all times when engaged in such activity and shall be exhibited for inspection to any person approached for purposes of peddling or selling.

The Police or Borough Representative shall have the right to permit a group application for a peddler's or door-to-door salesperson's license under the following conditions:

- 1) The applicant is an organization exempt from the payment of license fees;
- 2) The organization has a permanent location or address within the municipality or within five miles of the municipality;
- 3) The peddling or sales will be conducted during a period of time not to exceed one month; and
- 4) Each individual participating in such peddling or sales is a resident of the above described area.

Examples may be Girl Scout cookie sales and similar types of activity. In such cases, an application shall be made on behalf of the organization and the peddlers or salespersons indicated by general description.

SECTION 103. LICENSE TERMS AND LICENSE FEES:

The term of the each peddler's or door-to-door salesperson's license shall be specified on the license issued and shall not exceed one year.

The fees for a peddler's or door-to-door salesperson's license shall be:

One month (covers any period up to a month with no reduction in the amount due to lesser usage)	\$100.00
Each additional week in excess of four (4) weeks	\$ 30.00

No fee shall be charged for a peddler's or door-to-door salesperson's license when such peddler or door-to-door salesperson is a charitable, religious or educational

organization. Exemption from taxation by the United States Treasury Department to such business shall be sufficient to establish exemption from payment of fees set forth in this Section. No fees shall be charged to farmers selling their own produce nor to any business which is a manufacturer or producer in the same of bread or bakery products, meat and meat products or milk and milk products, nor to any business whose sole owner is a Pennsylvania resident and is a disabled military service veteran.

SECTION 104. LIMITATIONS:

The license for peddling or door-to-door sales shall be valid in all districts within the municipality subject to the following limitations for certain days, districts and activities:

- A. Civil Events. No foot peddler, vehicle peddler, door-to-door salesperson, solicitor, canvasser or transient retail or wholesale business shall conduct such activities upon the grounds of any organized civic event unless such activity is authorized by the civic organization sponsoring such event.

- B. Days of the Week; Districts
 - 1) Sundays. Food peddling, vehicle peddling and door-to-door sales shall be permitted on Sundays between the hours of 1:00 p.m. to 5:00 p.m. in all districts.

 - 2) Monday through Saturday. Foot peddling, vehicle peddling, door-to-door sales, canvasser or transient retail or wholesale business shall be permitted in all residential districts and residential buildings in commercial districts between the hours of 9:00 a.m. and 7:00 p.m.

- C. Special Requirements
 - 1) There shall be no physical contact by the foot peddler, vehicle peddler, door-to-door salesperson, solicitor, canvasser or transient retail or wholesale business with anyone being approached for sales purposes without the person's consent. This shall be deemed to include not only physical force or restraint, but also the act of placing objects on the person or person's clothing.

 - 2) Foot peddlers, vehicle peddlers, door-to-door salesperson, solicitor, canvasser or transient retail or wholesale business shall not occupy a fixed location on any public sidewalk or street. There shall be no interference with or blocking of movement of any pedestrians or vehicles by the foot peddler, vehicle peddler, door-to-door salesperson, solicitor, canvasser or transient retail or wholesale business.

- 3) If a pushcart is used by any foot peddler, vehicle peddler, door-to-door salesperson, solicitor, canvasser or transient retail or wholesale business, it shall not be permitted to remain in a fixed (non-moving) location on any public sidewalk or street at any time except when an actual sale is taking place.
- 4) Foot peddlers may occupy a fixed location in the setback areas of a building or lot provided they have the permission of the affected property owner to do so. Such permission shall be in writing and must be carried by the foot peddler when in such a fixed location and available for inspection by the municipal officers.
- 5) Foot peddlers, vehicle peddlers, door-to-door salespersons, solicitors, canvassers or transient retail or wholesale businesses licensed under this Ordinance shall not be permitted to make or cause to be made any loud noises to attract attention for any other purpose. Such noises may including, but shall not be limited to, shouting, use of loud speakers, horns, drums, musical instruments or other sound devices.
- 6) Vehicle peddling from a fixed location in any residential district of the municipality is prohibited at all times.
- 7) A transient retail or wholesale business operating from a fixed location or within a temporary building, structure or tent, along or abutting any state highway or road shall first obtain all necessary highway occupancy permits and all other necessary permits from the Pennsylvania Department of Transportation and deliver evidence of the same to the Police and Borough Representatives at the time the application for a transient business license is made.
- 8) A transient retail or wholesale business shall not engage in any business activity from a fixed location or within a temporary building, structure or tent without first securing from the designated Police or Borough Representative a temporary use occupancy permit, certifying that any fixed location or temporary building, structure or tent, conforms with all zoning regulations relating to the business use in the zone in which the business is located in specific respect to setback lines, yard area, requirements, sufficiency of off-street parking and permitted use within the zoning district.

SECTION 105. RESPONSIBILITY FOR PAYMENT OF TAXES:

It shall be the responsibility of every foot peddler, vehicle peddler, door-to-door salesperson, solicitor, canvasser or transient retail or wholesale business licensed under this Ordinance to pay the municipality the proper taxes for himself or any employee on income earned as result of the sales.

SECTION 106. SUSPENSION OR REVOCATION OF LICENSES:

The Borough Manager, Borough Secretary, Borough Police Department or Designated Borough Representative is hereby authorized to revoke or to suspend, for a specific period of time, any license under this Ordinance under the following circumstances:

- A. If the licensee is convicted of a felony or misdemeanor during the license period.
- B. If the Borough Manager, Borough Secretary, Borough Police Department or Designated Borough Representative determines the goods or items being sold are unsafe or harmful to the public.
- C. If it is determined the licensee has given false information on the application.
- D. If it is determined the approval of the Health Officer or designated agency is revoked.

SECTION 107. APPEALS:

Any person whose application for a peddler's or door-to-door salesperson's license is disapproved by the Borough Manager, Borough Secretary or Designated Borough Representative or whose license is revoked or suspended by the Borough Manager, Borough Secretary or Designated Borough Representative may appeal such action to the Borough Council. Such appeal shall be in writing and signed by the person and filed in the office of the Borough Manager, Borough Secretary or Designated Borough Representative within ten (10) days of the date of such action appealed from. The Borough Council shall conduct a hearing at a public meeting within 40 days of the filing of such appeal and shall notify such person by written letter mailed to the permanent address of the person shown on the application, such mailing to occur 15 days or more prior to such hearings. In lieu of mailing such notice, it may be delivered to such person. The President of Borough Council shall preside over the hearing and shall administer oath to all witnesses. The Board shall affirm the action appealed from or reverse such action or may modify the Borough Manager, Borough Secretary or Designated Borough Representative's action. Any reversal or modification of the Borough Manager, Borough Secretary or Designated Borough Representative's actions shall be by majority vote of the Borough Council members present, providing a quorum is present. The Borough Manager, Borough Secretary or Designated Borough Representative shall not participate in the making of such decision, but shall be permitted to testify or present evidence.

SECTION 108. PENALTIES:

Any person who shall violate any of the provisions of this Ordinance shall on conviction thereof be sentenced to pay a fine of not less than \$150.00, no more than \$300.00 plus costs and on failure to pay such fine and costs, to imprisonment for not more

than ten (10) days. Each day's continuance of a violation of any provision of this Ordinance shall constitute a separate offense.

SECTION 109. REPEALS:

This Ordinance repeals any prior Ordinances concerning peddlers in its entirety.

ORDAINED and ENACTED by the Parkesburg Borough Council this *19th* day of *November*, 2012.

PARKESBURG BOROUGH COUNCIL

Kathleen M. Rick
KATHLEEN M. RICK, President

ATTEST:

W.A. Keegan
WENDY A. KEEGAN, Secretary

Approved this *19th* day of *November*, 2012.

John P. Hagan, II
JOHN P. HAGAN, II, Mayor