

ORDINANCE NO. 117 OF 1987 "SOLICITATION ORDINANCE"

ORDINANCE NO. 117 OF 1987

Borough of Sugarcreek

Venango County Pennsylvania

"AN ORDINANCE DEFINING REGULATING AND LICENSING PEDDLERS, CANVASSERS AND SOLICITORS; PROVIDING PENALTIES FOR THE VIOLATION THEREOF; PROVIDING FOR INFORMATION TO BE SUPPLIED IN THE APPLICATION FOR LICENSE; PROVIDING FOR THE ISSUANCE AND FORM OF LICENSE AND PROVIDING FOR THE PAYMENT, PRIOR TO ISSUANCE OF LICENSE, OF A FEE OF TWENTY-FIVE DOLLARS (\$25.00) TO COVER THE COST OF INVESTIGATION, ISSUANCE OF LICENSE AND REGULATION OF LICENSED ACTIVITY DURING A ONE YEAR PERIOD."

BE IT ENACTED AND ORDAINED by the Borough of Sugarcreek in Council assembled and it is hereby enacted and ordained by authority of the same:

SECTION 1.

(a) A peddler, canvasser or solicitor, as used in the Ordinance is defined as any person, whether resident of the Borough of Sugarcreek or not, traveling by foot, vehicle, or any type of conveyance from place to place, from house to house or from street to street offering and exposing for sale, making sales and delivery articles to purchasers, taking or attempting to taker orders for sale of goods, wares and merchandise, personal property of any nature whatsoever for future delivery, or for services to be furnished or performed in the future, whether or not such person has, carries or exposes for sale a sample of the subject of such sale or whether he is collecting advance payments on such sales or not, provided, however, that the term peddler, canvasser or solicitor, as used herein, shall not apply (1) to farmers selling their own produce (2) to persons selling goods, wares and merchandise, donated by the owners thereof, the proceeds whereof are to be applied to any charitable, civic or philanthropic purpose, or (3) to any manufacturer or producer in the sale of bread and bakery products, meat and meat products, or milk or milk products. Or (4) to boys legally engaged in the sale of and delivery of newspapers.

(b) The word "person" as used in this ordinance shall mean any person, association, partnership, firm or corporation.

(c) In this ordinance, the singular shall include the plural and the masculine shall include the feminine and the neuter.

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SECTION 2.

No person shall engage in peddling, canvassing or soliciting in the Borough of Sugarcreek without first having taken out a license as herein provided.

SECTION 3.

Application: Applicants for permits and licenses under this ordinance must file with the Secretary a sworn application executed in duplicate on a form to be furnished by the Secretary which shall give the following information.

- (a) Name and description of applicant;
- (b) Address (legal and local);
- (c) A brief description of the nature of the business and the goods to be sold and in the case of products of farm or orchard, whether produced or grown by the applicant;
- (d) If employed, the name and address of the employer, together with credentials establishing the exact relationship;
- (e) The length of time for which the right to do business is desired;
- (f) If a vehicle is to be used, a description of the same, together with license number or other means of identification;
- (g) A photograph of the applicant taken within sixty (60) days immediately prior to the date of the filing of the application, which picture shall be two (2") inches by two (2") inches, showing the head and shoulders of the applicant in a clear, distinguishing manner;
- (h) Fingerprints of the applicant and the name of at least two reliable property owners of Venango County, Pennsylvania, who will certify as to the applicants good character and business responsibility, or in lieu of the names of references, any other available evidence as to the good character and business responsibility of the applicant as will enable an investigator to properly evaluate

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such character and business responsibility;

- (i) A statement as to whether or not the applicant has been convicted of any crime, misdemeanor or violation or any municipal ordinance, the nature of the offense and the punishment or penalty assessed therefor;
- (j) A copy of any printed contract; agreement, or order form used in the transaction, as well as any printed material advertising or describing the subject of the transaction;
- (k) At the time of filing the application, a fee of twenty-five (\$25.00) dollars shall be paid to the Secretary to cover the cost of processing and investigation.

SECTION 4.

- (a) Upon receipt of such application, the original shall be referred to the Chief of Police, who shall cause such investigation of the applicant's business and moral character to be made as he deems necessary for the protection of the public good.
- (b) If as a result of such investigation the applicant's character or business responsibility is found to be unsatisfactory, the Chief of Police shall endorse on such application his disapproval and his reasons for the same, and return said application to the Secretary, who shall notify the applicant that his application is disapproved and that no permit and license will be issued.
- (c) If as a result of such investigation, the character and business responsibility of the applicant are found to be satisfactory, the Chief of Police shall endorse on the application, his approval, and return said application to the Secretary, who shall, upon payment of the prescribed license fee, deliver to the applicant his permit and issue a license. Such license shall contain the signature and seal of the issuing officer and shall show the name, address and photograph of the licensee, the class of license issued, and the type of goods to be sold thereunder, the amount of fee paid, the date of issuance and the length of time the same shall be operative, as well as the license number and any

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other identifying description of any vehicle used by the licensee. The Secretary shall keep a permanent record of all licenses issued.

(d) No license issued hereunder shall be transferable from one person to another.

SECTION 5.

Fees. No license shall be issued under this ordinance until the proper fee, payable to the Borough of Sugarcreek for the use of the Borough, shall be paid namely, twenty-five (\$25.00) dollars. The permit is good for one (1) year unless otherwise revoked.

SECTION 6.

Badges. The Secretary shall issue to each license at the time of delivery of his license a badge bearing the words "licensed peddler", containing the photograph of the licensee and indicating the period for which the license is issued and the number of the license in letters and figures plainly discernible. Every peddler, canvasser and solicitor shall at all times when engaged in peddling, soliciting and canvassing within the Borough of Sugarcreek carry such license upon his person and shall exhibit the same upon request to all police officers and citizens.

SECTION 7.

Loud Noises and Speaking Devices. No peddler, nor any person in his behalf, shall shout, make any cry out, blow a horn, ring a bell, or use any sound device, including and loud-speaking radio or sound amplifying system upon any of the streets, alleys, parks or other public places of Borough of Sugarcreek, or upon any private premises in the Borough where sound of sufficient volume is emitted or produced therefrom to be capable of being plainly heard upon the streets, avenues, alleys, parks or other public places, for the purpose of attracting attention to any goods, wares or merchandise which such licensee purposes to sell.

SECTION 8.

Hours. No person licensed hereunder shall engage in peddling, canvassing or soliciting at anytime on Sunday, or upon any other day of the week before the hour of

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nine o'clock a.m. or after six o'clock p.m.

SECTION 9.

Location. No person licensed as a peddler, canvasser or solicitor shall be permitted a stationary location upon the public streets nor shall he be permitted to operate in any congested area where his operations might impede or inconvenience the public. For the purpose of this ordinance, the judgment of a police officer, exercised in good faith, shall be deemed conclusive as to whether the area is congested or the public impeded or inconvenienced.

SECTION 10.

Duty of Police to Enforce. It shall be the duty of any police officer of the Borough of Sugarcreek to require any person seen peddling, and who is not known by such officer to be duly licensed, to produce his peddler's license and to enforce the provisions of this ordinance against any persons found to be violating the same.

SECTION 11.

Revocation of Licenses.

- (a) Permits and licenses issued under the provisions of this ordinance may be revoked by the Mayor of the Borough of Sugarcreek or his authorized deputy, after notice and hearing, for any of the following causes:
 - (1) Fraud, misrepresentation, or false statement contained in the application for license;
 - (2) Fraud, misrepresentation, or false statement made in the course of carrying on his business as peddler;
 - (3) Any violation of this ordinance;
 - (4) Conviction of any crime or misdemeanor involving moral turpitude;

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- (5) Conducting the business of peddling, canvassing or soliciting in an unlawful manner or in such manner as to constitute a breach of the peace or a menace to the health, safety or general welfare to the public.

- (b) Any license issued under the provisions of this ordinance may be suspended at any time upon well-founded complaint of any resident or police officer of the Borough of Sugarcreek and shall be forthwith surrendered upon demand to the Secretary or to any police officer of the Borough of Sugarcreek and following a hearing of said complaint within twenty-four (24) hours after suspension of the license, the Mayor may, for proper cause shown, revoke the license. The licensee shall present himself before the Mayor upon notice to do so by any police officer and his failure to appear shall be sufficient cause for revocation of the license.

SECTION 12.

Appeal. Any person aggrieved by the action of the Chief of Police or the Secretary in the denial of an application for permit or license, as provided in the ordinance, or in the decision with reference to the revocation of a license as provided in this ordinance, shall have the right of appeal to the Borough Council. Such appeal shall be taken by filing with the Council within thirty (30) days of the action complained of, a written statement setting forth fully the grounds for the appeal. The Council shall set the time and place for a hearing on such appeal and shall give timely notice of such hearing to the appellant. The decision and order of the Council on such an appeal shall be final and conclusive.

SECTION 13.

Expiration of License. All annual licenses issued under the provisions of this ordinance shall expire on the 31st day of December in the year when issued. Other than annual licenses shall expire on the date issued specified in the license.

SECTION 14.

Penalty. Any person violating any of the provisions of this ordinance shall, upon conviction thereof, be punished by a fine not to exceed one hundred (\$100.00) dollars and costs of prosecution or by imprisonment not to exceed thirty (30) days, or both fine and imprisonment.

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SECTION 15.

Severability. The provisions of this ordinance shall be severable and if any section, sentence, clause or phrase of this ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not effect the validity of the remaining sections, sentences, clause and phrases of this ordinance, but they shall remain in effect. It is hereby declared as a legislative intent that this ordinance shall stand, notwithstanding the invalidity of any part.

SECTION 16.

Repeal of Conflicting Ordinances. All ordinances or parts of ordinances inconsistent with the provisions of this ordinance are hereby repealed.

SECTION 17.

Effective Date. This ordinance shall take effect from and after its passage and publication as provided by law.

Adopted May 6, 1987