

Chapter 131

PEDDLING AND SOLICITING

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- § 131.14. Expiration of licenses.
- § 131.15. Persons exempted. *[Amended 6-21-06 by Ord. No. 991]*

[HISTORY: Adopted by the BOROUGH COUNCIL 3-21-79 as Ord. No. 590. Section 131.13 amended at time of adoption of CODE; see Ch. 1, General Provisions, Art. I. Other amendments noted where applicable. Amended June 21, 2006 by Ord. No. 991; Amended 07-18-07 by Ord. 1002, Amended 08-03-16 by Ord. 1090]

- § 131.0. Purpose. *[Added 6-21-06 by Ord. No. 991]*

It is the intent, purpose and scope of this chapter to protect the privacy of the residents of the Borough of Whitehall, to protect the residents of the Borough of Whitehall from undue annoyance, and to prevent fraud and crime.

§ 131.1. License required. [Amended 6-21-06 by Ord. No. 991]

It shall be unlawful for any PEDDLER, HAWKER or SOLICITOR as defined in this chapter to engage in such activity within the BOROUGH without first obtaining a permit and license therefore in compliance with the provisions of this chapter.

§ 131.2. Definitions. [Amended 6-21-06 by Ord. No. 991; 07-18-07 by Ord. No. 1002]

As used in this chapter, the following terms shall have the meanings indicated:

CANVASSER - A person traveling either by foot, wagon, automobile, truck, or any other type of conveyance who travels from street to street, place to place or who attempts to make personal contact with a resident at his/her residence without prior specific invitation or appointment from the resident, for the primary purpose of (1) attempting to enlist support for or against a particular religion, philosophy, political party, issue or candidate, even if incidental to such purpose the canvasser accepts the donation of money for or against such cause, or (2) distributing a handbill or flyer advertising a non-commercial event or service.

HAWKER OR PEDDLER - A person traveling either by foot, wagon, automobile, truck, or any other type of conveyance who travels from street to street, place to place or who attempts to make personal contact with a resident at his/her residence without prior specific invitation or appointment from the resident, for the primary purpose of attempting to sell a good or service. A "peddler" does NOT include a person who distributes handbills or flyers for a commercial purpose, advertising and event, activity, good or service that is offered to the resident for purchase at a location away from the residence or at a time different from the time of visit. Such a person is a "solicitor."

SOLICITOR - A person traveling either by foot, wagon, automobile, truck, or any other type of conveyance who travels from street to street, place to place or who attempts to make personal contact with a resident at his/her residence without prior specific invitation or appointment from the resident, for the primary purpose of (1) attempting to obtain a donation to a particular patriotic, philanthropic, social service, welfare, benevolent, educational, civic, fraternal, charitable, political or religious purpose, even if incidental to such purpose there is the sale of some good or service, or (2) distributing a handbill or flyer advertising a commercial event or service.

§ 131.3. Application for license. [Amended 6-21-06 by Ord. No. 991, Amended 8-3-16 by Ord. No. 1090, Amended 7-5-17 by Ord. No. 1098]

A. Application for License

Applicants for permits and licenses under this chapter must file with the Chief of Police or his designee a sworn application in writing on a form to be furnished, which shall give the following information:

- 131.3.1. Name of applicant.
- 131.3.2. Permanent home address and full local address of applicant.

131.3.3. Brief description of the nature of the business and goods to be sold.

131.3.4. If employed, the name and address of the employer.

131.3.5. Length of time for which the right to do business is desired.

131.3.6. Place where the goods or property proposed to be sold or orders taken for the sale thereof are manufactured or produced, where such goods or products are located at the time said application is filed and the proposed method of delivery.

131.3.7. In the case of solicitation for contributions or payment of money or goods to a religious, charitable or eleemosynary group or purpose, the full name and address of the true beneficiary and a statement of the eleemosynary purpose.

131.3.8. Type of vehicle or vehicles to be used.

131.3.9. The number of helpers to be used by the applicant and a complete application filled out for helper.

131.3.10. A statement as to whether or not the applicant has been convicted of any crime, any misdemeanor or any violation of this chapter, the nature of the offense and the punishment or penalty assessed therefor.

B. Background Checks

Every applicant and helper shall obtain a criminal history record background check from the Pennsylvania State Police, and from the applicable state police department or other governmental entity of the State or County of their respective residence, dated no earlier than one year prior to the date of application, and submit this background check with his or her application. The applicant shall be responsible for any cost related to obtaining background checks. In addition, the applicant and helper shall execute any and all documentation authorizing the release of personal information permitting the Chief of Police to conduct further background investigations. Such documentation shall be provided by the Chief of Police. The Chief of Police shall, upon receipt of the application including the background check, issue the license to the applicant or helper unless there is reason to deny the license as listed below. The Chief of Police shall deny the applicant the license if the applicant or helper has: **[Amended 7-5-17 by Ord. No. 1098]**

- (a) Committed any act consisting of fraud or misrepresentation;
- (b) Committed any act, which if committed by a licensee, would be grounds for revocation of a license;
- (c) Within the previous ten (10) years, been convicted of a felony directly relating to his or her fitness to engage in the conduct of a licensee, and including, but not limited to, those felonies involving moral turpitude, fraud or misrepresentation;
- (d) Been charged with a felony of the type defined in subdivision (c) of this subsection, and disposition of that charge is pending;

- (e) Been refused a license under the provisions of this Article; provided, however, that any applicant denied a license under the provisions of this Article may reapply if and when the reasons for denial no longer exist; or
- (f) Made any false or misleading statements in the application.

§ 131.4. Fees.

The Council of the BOROUGH shall, from time to time, by resolution, set a schedule of fees to be charged by the Mayor for the issuance of a license or permit, and such schedule shall be available for review in the office of the BOROUGH Secretary, the office of the Mayor and in the Police Department.

§ 131.5. Issuance of license; possession and display.

Upon the filing of the application and payment of the applicable fees, a license or permit shall be issued. Such license or permit shall contain the information required to be given upon the application therefor. The permit shall be carried upon the person to whom it is issued and shall be displayed on any vehicle to which it is issued.

§ 131.6. Prohibited hours and days; Prohibited Activities. [Amended 6-21-06 by Ord. No. 991]

131.6.1. No SOLICITOR under this chapter shall engage in the licensed activity at any time on Sunday or upon any other day of the week before 9:00 A.M. or after 9:00 P.M., except by prior appointment. No PEDDLER OR HAWKER under this chapter shall engage in the licensed activity at any time on Sunday or upon any other day of the week before 9:00 A.M. or after 6:00 P.M., except by prior appointment. No CANVASSER shall engage in the activity of canvassing before 9:00 A.M. or after 9:00 P.M. except by prior appointment.

131.6.2. No Peddler, Hawker, Canvasser or Solicitor or any other person:

- A. Shall sell any product or type of product not mentioned in the issued license.
- B. Shall conduct activities at a private residence or business premises exhibiting a sign read "no solicitors" or words of a similar meaning. A sign reading "no solicitors" or similar sign, not to exceed one hundred square inches in size may be placed on a residential or business premises and for the purposes of this chapter shall be conspicuously displayed near the entrance or doorway.
- C. Shall refuse to leave the premises when asked to do so by the occupant of the premises.
- D. Shall conduct activities in an unlawful, fraudulent or criminal manner or so as to constitute a breach of the peace.

§ 131.7. Crying of wares; use of loudspeaking devices.

No person licensed under this chapter shall hawk or cry his wares upon any of the streets or sidewalks in the BOROUGH, nor shall he use any loudspeaker, horn or other device for announcing his presence by which use the public is annoyed.

§ 131.8. Parking of vehicles.

Any vehicle used by any person licensed under this chapter shall, when stopped to exercise any right or privilege granted by a license issued under this chapter, be parked abutting the curb, and no vehicle shall be stopped in the middle of any street, alley or roadway.

§ 131.9. Use of fixed locations.

No person licensed under this chapter shall occupy any fixed location upon any of the streets, alleys or sidewalks of the BOROUGH for the purpose of peddling, with or without any stand or counter.

§ 131.10. Use of vehicles.

No person licensed under this chapter shall park any vehicle upon any of the streets or alleys of the BOROUGH in order to sort, rearrange or clean any of his goods, wares or merchandise; nor may any such person place or deposit any refuse upon any of such streets or alleys; nor may any such person maintain or keep a street or curbstone market by parking any vehicle on any street or alley in the BOROUGH for longer than necessary in order to sell therefrom to persons residing in the immediate vicinity.

§ 131.11. Record of licenses; enforcement.

The Mayor shall cause a record of all licenses issued under this chapter to be kept, and the Mayor and Chief of Police shall supervise the activities of all holders of said licenses or permits.

§ 131.12. Suspension of license. [Amended 6-21-06 by Ord. No. 991; 7-18-07 by Ord. No. 1002]

131.12.1. In addition to any penalties authorized by ordinance or by any other law, the Chief of Police or his designee is authorized to suspend, deny or revoke any license issued under this chapter when he finds that the applicant:

- A. Violated any of the provisions of this chapter or gave false information upon any application for a license hereunder.
- B. Refused to leave a premises when asked to do so by the occupant of premises.
- C. Conducted licensed activity in an unlawful manner or in a manner so as to constitute a breach of the peace.
- D. Conducted licensed activity at residential premises or business posted with "no solicitors" or similar signs or at the residential or business premises.

131.12.2. License denials, suspensions or revocations must be in writing. All denials, suspensions and revocations shall be in writing, state the grounds therefore and advise of the opportunity to file an appeal therefrom with the Mayor of the Borough of Whitehall within ten (10) days from the date of the denial, suspension or revocation. Appeals from any denial, suspension, or revocation of a license may be made to Mayor of the Borough of Whitehall at any time within ten (10) days after such suspension, revocation or denial and a hearing shall be held within thirty (30) days of the filing of such appeal. No part of a license fee shall be refunded to any person whose license shall have been suspended or revoked.

§ 131.13. Violations and penalties.¹ *[Amended 6-21-06 by Ord. No. 991]*

Any person who shall violate any of the provisions of this chapter shall, upon conviction thereof, be subject to a fine as follows:

131.13.1. A first offense under this Chapter shall be a fine not to exceed \$100.

131.13.2. A second offense under this Chapter shall be a fine not to exceed \$500.

131.13.3. A third or subsequent offense under this Chapter shall be a fine not to exceed \$1000.

§ 131.14. Expiration of licenses.

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

§ 131.15. Persons exempted. *[Amended 6-21-06 by Ord. No. 991]*

The provisions of this Chapter shall not be applicable to children under the age 18 years of age who take orders for and deliver newspapers, greeting cards, candy, bakery products and other similar items on behalf of any exclusively youth groups or organizations. CANVASSERS and SOLICITORS are not required to pay a fee under this Ordinance or to submit to a background check under this Ordinance.

¹ Editor's Note: Amended at time of adoption of CODE; see Ch. 1, General Provisions, Art. I.