

ORDINANCE NO. 2018-05

AN ORDINANCE OF THE TOWNSHIP OF SILVER SPRING, CUMBERLAND COUNTY, PENNSYLVANIA REPEALING ORDINANCE NO. 2015-06 AND ADOPTING NEW PROVISIONS RELATED TO PEDDLING AND SOLICITING

WHEREAS, the provisions of Ordinance No. 2015-06, provide for the establishment of standards and procedures related to Transient Merchants; and

WHEREAS, the Board of Supervisors of Silver Spring Township believes it is in the best interest of the residents of Silver Spring Township that the provisions of Ordinance No. 2015-06, be repealed and replaced to adopt the provisions as hereinafter set forth.

NOW, THEREFORE, be it **ORDAINED** and **ENACTED** by the Board of Supervisors of Silver Spring Township as follows:

SECTION 1. Ordinance No. 2015-06 is hereby repealed.

SECTION 2. The following is hereby enacted.

- A. **Definitions.** As used in this Ordinance, the following terms shall have the meanings indicated:
- a. Applicant - an individual desiring to Solicit or Peddle within Silver Spring Township on behalf of any Person as hereinafter defined.
 - b. Application - the written request to solicit and/or peddle within Silver Spring Township on an Application form approved by the Chief of Police of Silver Spring Township or his/her designee.
 - c. Chief or Chief of Police - the Chief of Police of Silver Spring Township, or his or her designee.
 - d. License - written permission to Peddle and Solicit within Silver Spring Township.
 - e. Peddler - any person who shall engage in peddling as herein defined.
 - f. Peddling - the selling or offering for sale of any goods, wares, services, or merchandise, products for immediate delivery or the taking of orders or the execution of an Application for goods, wares, services or merchandise to be delivered at a later time which the person is selling or offering for sale and may carry with him or her or has in his/her possession or control upon any of the streets or sidewalks or from house to house or by the visitation to private residences or by entering in or upon private property within said Township. For the purpose of this definition, a carrying of a written contract for the purchase of goods, wares, services or merchandise or similar product shall also constitute peddling.

- g. Person - any natural person, association, partnership, firm, organization, corporation or any other business organization.
- h. Point of Sale - the actual location of Peddling or Soliciting activity, primarily characterized by the point of sale occurring on private property within Silver Spring Township.
- i. Soliciting - the seeking or execution of contracts or orders for any goods, wares, services or merchandise for future delivery or for subscriptions or contributions upon any of the streets or sidewalks or from house to house or by visitation to private residences or by entering in or upon private property with the Silver Spring Township, and further, the seeking or taking of contracts or orders for home or other building repairs, improvements and alterations and also orders or contracts for any mechanical, electrical, plumbing or heating device or equipment or other building improvements or repairs upon or from the places aforesaid within said Township. Soliciting shall not, however, include the canvassing of a private residence for political, religious or other charitable purpose where the charitable purpose is the primary purpose of the canvassing.
- j. Solicitor - any person who shall engage in Soliciting as herein defined.
- k. Township - the Township of Silver Spring, Cumberland County, Pennsylvania.
- l. Transient Merchant - any person, whether principal or agent, who offers for sale any goods, wares or merchandise under the terms and conditions specified in Article XVIII of the Second Class Township Code (53 P.S. §66801).
- m. Transient Retail Merchant - any person, who offers for sale any goods, wares or merchandise as herein defined.
- n. Street Sales - the activity of a person selling any goods from any type of portable stand, table or in a vehicle located on any street, roadway or public right-of-way, except on a sidewalk abutting a property of which such person is the owner or lawful occupant thereof.

B. License Required.

- a. All persons wishing to engage in Peddling and Soliciting in the Township must complete and file an application and be issued a License by the Chief of Police prior to the commencing of any Peddling or Soliciting activity within the Township.

- b. No person shall engage in Peddling or Soliciting in the Township without a valid license.
- c. Any Licenses issued pursuant to this Ordinance are not transferrable from one individual to another or from one person to another person and no individual and/or person shall transfer or permit the transfer of a License from one individual to another individual or person.

C. Fees & Expiration.

- a. A License fee shall be determined by resolution of the Board of Supervisors of Silver Spring Township, from time to time.
- b. Any License granted pursuant to this Ordinance shall be valid for ninety (90) days after the date of issuance of such License, and upon the expiration of any such License, if the person who was issued said License desires to continue Soliciting or Peddling, he/she shall file a new application for a permit and pay the License fee.

D. Application and License Procedure.

- a. Every person subject to the provisions of this Ordinance shall file, in person, with the Township Police Department an application, in writing, on a form furnished by that office, at least fifteen (15) business days in advance of the beginning of Soliciting or Peddling activities in the Township.
- b. If the applicant shall also be required to obtain a License from any officer or official of Cumberland County, he/she shall upon making an application to the Township, supply a valid copy or exhibit of the License issued by Cumberland County.
- c. A separate application shall be filed and a separate fee shall be paid by each individual who shall actually conduct the Soliciting or Peddling and shall apply where an employer shall secure a License for his/her/its employees, agents or servants which may be more than one (1) in number. Any fee or fees shall accompany the application.
- d. The submitted application shall contain at a minimum the following information:
 - (1) The full name and identifying information of the applicant as outlined on the form;
 - (2) The applicant's permanent address and local address if the applicant lives out of the area;
 - (3) Proof of identity (driver's license or other legal form of photo identification);

- (4) The name and address of the employer for whom the Soliciting will be conducted on behalf of; or a statement that such applicant is self-employed;
- (5) The nature of the goods, wares, services or merchandise offered for sale;
- (6) A statement as to whether or not the applicant has ever been convicted of any crime, and if the answer is in the affirmative, the nature of the offense or offenses and the punishment or punishments imposed;
- (7) The type of vehicle to be used, the color and/or Pennsylvania or other State License Number;
- (8) A statement by the applicant verifying the validity of the applications which shall read as follows:

I, <INSERT NAME>, hereby state the facts above set forth are true and correct to the best of my knowledge, information and belief. I understand that the statements herein are made subject to the penalties of 18 Pa.C.S. §4904 (relating to unsworn falsification to authorities).

Date: <INSERT DATE>

Signature: _____

- (9) Applicants shall furnish a photograph;
- (10) In the event that the applicant is a minor, the Applicant's parent or guardian must verify or affirm the information and sign the application;
- (11) No License under this Ordinance shall be transferable from one (1) person to another; or
- (12) Upon receipt of an application, the Chief of Police shall review the application and conduct the appropriate investigation prior to the issuance of the License. If the application is found to be satisfactory by the Chief of Police, the License will be issued to the applicant.

E. Denial of License. Upon review of the application, the Chief of Police may refuse to issue a license to the applicant for any of the following reasons:

- a. If the application is incomplete;
- b. If the information provides a reasonable basis for determining that the public health, safety, and welfare of Township residents will be threatened by the issuance of a License to the applicant;

- c. If there are misrepresentations in the application, or if any fraud or deceit is identified within the application, or if fraud or deception has been identified in the practices of the applicant, organization or agent thereof;
 - d. Failure to comply with any law concerning Soliciting, peddling, consumer sales, of the General Business Law of the Commonwealth of Pennsylvania;
 - e. Sale or offering for sale of illegal merchandise;
 - f. Employment of a felon or wanted person;
 - g. Conviction for any crime involving moral turpitude; or
 - h. The prior violation of this Ordinance by the individual issued the license.
- F. License Suspension or Revocation. Any license issued under this Ordinance may be revoked or suspended by the Chief of Police or the designee for any of the following reasons:
- a. Fraud, misrepresentation or false statement contained in the application for a license;
 - b. Fraud, misrepresentation or false statement made by the licensee in the course of Peddling or Soliciting;
 - c. Peddling or Soliciting in violation of this Ordinance or contrary to the provisions contained in the license;
 - d. Conviction for any crime involving moral turpitude; or
 - e. Peddling or Soliciting in such a manner as to create a public nuisance, a breach of the peace, endanger the health, safety or general welfare of the public, or otherwise in violation of local, state or federal law.
- G. License Exemptions. The provisions of this Ordinance shall not apply to:
- a. The sale of goods, wares and merchandise donated by the owners thereof, the proceeds whereof are to be applied to any charitable or philanthropic purpose within the meaning of Section 501(c)(3) of the Internal Revenue Code.
 - b. The seeking or taking of orders by insurance agents or brokers licensed under the insurance laws of the Commonwealth of Pennsylvania for insurance.
 - c. Persons, corporations, partnerships and associations, their agents or employees who have complied with the provisions of the Act of the General Assembly of the Commonwealth of Pennsylvania of 1963, P.L. 628, as amended, *Editor's Note: For current provisions, see the*

Solicitation of Funds for Charitable Purposes Act, 10 P.S. §621.1 et seq. governing solicitations for charitable, benevolent, patriotic or other purposes.

- d. Any volunteer fire company or volunteer emergency services unit.
- e. Any persons not receiving compensation and acting on behalf of any organization holding an exemption for federal income tax under Section 502(c)(3) of the Internal Revenue Code.
- f. Persons, corporations, partnerships and associations otherwise licensed by the Township to conduct business within the Township.
- g. Farmers selling their own produce.
- h. Persons seeking local, county, state or federal elective office or persons engaged on behalf of a candidate for local, county, state or federal elective office or engaged in any other political activity.
- i. Any persons, organizations or corporations that have received approval from the Township to conduct a special event within the Township shall be responsible for the vendors participating within the boundaries of that event. Registered vendors will receive permission to operate their stands for that special event only. No other vendors will be permitted within the boundary area of such event during the time period designated for the special event.
- j. Applications may be made by a school, group or organization, regularly engaged in fund-raising activities throughout the year for charitable, nonprofit, sports or educational purposes. Said application will be without fee.

H. License: Contents and Display.

- a. Such License when issued shall include, *inter alia*:
 - (1) Type of products to be sold or services to be rendered by the licensee.
 - (2) Name of Licensee.
 - (3) Photograph of Licensee.
 - (4) Expiration date of License.
 - b. Every solicitor or peddler shall at all times when engaged in Soliciting or Peddling within the Township carry and prominently display such license upon his/her person so that the Licensee may be easily recognized.
- I. Hours. No person shall engage in Soliciting or Peddling between the hours of 5:00 p.m. and 9:00 a.m., or at any time on Sundays.

- J. Primary Entrance. It shall be unlawful for any person while either Peddling or Soliciting to knock, ring the doorbell, or otherwise attempt to gain the attention of the occupant(s) of the residence other than at the primary entrance to the residence.
- K. Entry Upon Signed Premises Unlawful.
- a. It shall be unlawful for any person while either Peddling or Soliciting to knock, ring the doorbell, or otherwise attempt to gain the attention of the occupant(s) of a residence in the Township where the owner, occupant, or person legally in charge of the premises has posted at the primary entrance to the premises, or at the entry to the principal building on the premises, a sign bearing the words "No Peddlers," "No Solicitors," or words of similar import.
 - b. Persons violating this section may be charged criminally under the provision of Title 18 Pa. C.S.A. §3503(b)(1) [Defiant Trespasser].
- L. Aggressive Peddling or Soliciting Prohibited.
- a. It shall be unlawful for any person to engage in Peddling or Soliciting in an aggressive manner. As used in this section, "aggressive manner" means either approaching a person present at the residence or continuing the Peddling or Soliciting activity after the person has made a negative response, whether before or after being invited into the residence, in a manner that:
 - (1) Is likely to cause a reasonable person to fear imminent bodily harm or the commission of a criminal act upon property in a person's possession or in or about the residence;
 - (2) Is intended to or is likely to intimidate the person into responding affirmatively to the Peddling or Soliciting activity;
 - (3) To refuse to display a permit to the person being solicited;
 - (4) To refuse to leave premises upon being told to do so by the owner, tenant, occupant or person in control of the property;
or
 - (5) In violation of a sign properly posted on said property that prohibits solicitations.
 - b. Aggressive Peddling or Soliciting is punishable as a summary offense and upon conviction thereof shall be subject to a fine of at least \$250 and not to exceed \$1,000, or imprisonment of not more than ninety (90) days, or both such fine and imprisonment.

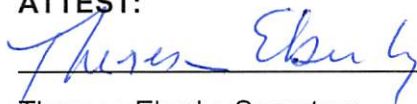
- M. Parking of Vehicles. No person licensed as a Solicitor or Peddler under this Ordinance shall park any vehicle upon any of the streets, highways or alleys of the Township in order to sort, rearrange or clean any of his goods, wares, services or merchandise; nor shall any such person place or deposit any refuse on any such streets, highways or alleys; nor shall any such person maintain or keep a street or curbstome market by parking any vehicle upon any street or alley in the Township for longer than necessary in order to sell therefrom to persons residing in the immediate vicinity.
- N. Use of Streets and Sidewalks. No person licensed as a Solicitor or Peddler under this Chapter shall occupy any fixed location upon any of the streets, highways, alleys or sidewalks of the Township for the purpose of Soliciting or Peddling with or without any stand or counter, except as may be provided by other law, regulation, or ordinance of the Commonwealth of Pennsylvania or the Township.
- O. Record: Supervision of Activities. The Chief of Police shall keep a record of all Licenses issued under this Ordinance, and he shall supervise the activities of all holders of such Licenses.
- P. Violations and Penalties.
 - a. Except for penalties associated with violating subsection L of this Ordinance, any person who shall violate any of the provisions of this Ordinance shall, upon the conviction thereof, be sentenced to pay a fine of not more than \$600 and costs of prosecution for each and every offense or, in default of the payment of such fine and costs, to undergo imprisonment for a term not to exceed thirty (30) days.
 - b. All fines or penalties recovered under this Ordinance shall be paid to the Township for the general use of the Township.

SECTION 3. Severability and Repealer: The provisions of this Ordinance are severable and if any section, subsection, clause, sentence or portion of same shall be held or declared invalid, illegal or unconstitutional by any court of competent jurisdiction, the decision shall not affect or impair any of the remaining sections, subsections, clauses, sentences, or parts thereof, of this ordinance; it is hereby declared to be the intent of the Board of Supervisors that this ordinance would have been adopted if such illegal, invalid, or unconstitutional section, subsection, clause, sentence or part thereof had not been included herein.


SECTION 4. This Ordinance shall be effective five (5) days after enactment.

ORDAINED AND ENACTED this 27th day of June, 2018.

ATTEST:


 Theresa Eberly, Secretary

SILVER SPRING BOARD OF SUPERVISORS


 David R. Lenker, II, Chair