

Chapter 146

PEDDLING AND SOLICITING

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| § 146-1. Short title. | § 146-6. Investigations and granting of authorization. |
| § 146-2. Definitions and interpretation. | § 146-7. Prohibited acts. |
| § 146-3. License required; conditions of issuance; fee. | § 146-8. Denial or revocation of authorization. |
| § 146-4. Representation by promoter; fee. | § 146-9. Appeal from denial or revocation of authorization. |
| § 146-5. Application for authorization required. | § 146-10. Violations and penalties. |

[**HISTORY:** Adopted by the Board of Supervisors of the Township of North Middleton 3-4-1982 by Ord. No. 82-3; amended in its entirety 10-2-2008 by Ord. No. 2008-05. Subsequent amendments noted where applicable.]

GENERAL REFERENCES

Disorderly conduct — See Ch. 102.
Loitering — See Ch. 126.

Zoning — See Ch. 204.

§ 146-1. Short title.

This chapter shall be known and may be cited as the "Peddlers, Canvassers and Transient Retail Business Ordinance."

§ 146-2. Definitions and interpretation.

As used in this chapter, the following terms shall have the meanings indicated, unless a different meaning clearly appears from the context. In this chapter, the singular shall include the plural; the plural shall include the singular; and the masculine shall include the feminine and the neuter.

AUTHORIZATION — License shall be a tangible document to be carried or possessed by the licensee at all times when conducting any transient retail business within North Middleton Township.

LEGAL HOLIDAY — New Year's Day, Memorial Day, Easter, Independence Day, Labor Day, Thanksgiving Day and Christmas Day.

PERSON — Includes any natural person, partnership, association, firm, corporation or other legal entity.

PROMOTER — Any person who organizes the gathering of five or more persons engaged in transient retail business.

TRANSIENT RETAIL BUSINESS — Includes the following:

- A. Engaging in peddling, canvassing, soliciting or taking orders, either by sample or otherwise, for any goods, wares or merchandise, upon any street or alley, sidewalk or public ground, or from house to house, within the Township of North Middleton; and
- B. Selling, soliciting or taking orders for any goods, wares or merchandise from a fixed location within the Township, on a temporary basis, which shall include, but shall not be limited to, such activities conducted at the time of special occasions or celebrations, for seasonal purposes, or for or in advance of specific yearly holidays or legal holidays.
- C. Transient retail business shall not apply to:
 - (1) Farmers selling their own produce.
 - (2) For 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.
 - (3) Children under the age of 18 years who take orders for and deliver newspapers, greeting cards, candy, bakery products and the like for any school-approved activity or who represent the Boy Scouts or Girl Scouts or similar organizations or nonprofit groups.
 - (4) A person who has complied with the provisions of the Solicitation of Funds for Charitable Purposes Act, 10 P.S. § 162.1 et seq., as hereafter amended, supplemented, modified or reenacted by the General Assembly of Pennsylvania.
 - (5) Transient retail business shall not include sidewalk sales when held by authority of the ordinance governing the same.

§ 146-3. License required; conditions of issuance; fee.

- A. No person shall engage in any transient retail business within the Township of North Middleton without first having obtained from the Police Chief or his delegate authorization to do so, for which the following fees, which shall be for the use of the Township, shall be charged, to be set from time to time by resolution of the Board of Supervisors for each category below:
 - (1) One week.
 - (2) One month.
 - (3) One year.
- B. No fee shall be charged under this section for any exception to a transient business as set forth in § 146-2, Subsection C, of the definition of "transient retail business."
- C. Any person dealing in both exempt categories and nonexempt categories of goods shall be subject to the payment of the authorization fee fixed by this section for his activities

in connection with peddling, canvassing, soliciting or taking orders for goods, wares and merchandise not in such exempted categories.

- D. The Board of Supervisors, or their designated agent or representative, may similarly exempt from payment of the authorization fee, but not from registering, persons working without compensation and selling or taking orders for goods, wares or merchandise for the sole benefit of any nonprofit corporation.
- E. Every authorization granted under the provisions of this chapter shall be granted on an individual basis to persons engaging in such business; every person shall obtain an authorization, granted in that person's name, and the authorization fee hereby imposed shall be applicable to every such authorization.

§ 146-4. Representation by promoter; fee.

- A. In lieu of the requirements imposed by § 146-3 of this chapter, a promoter representing five or more persons engaged in transient retail business may, on behalf of such persons, obtain the authorization provided for in § 146-3 of this chapter, in which case such authorization shall be granted to such promoter in his name, for which the following fees, as may be set by resolution of the Board of Supervisors from time to time, and which shall be for the use of the Township, shall be charged, for each category below:
 - (1) For one day for every person represented by such promoter, up to and including 100 persons.
 - (2) For one day for every person represented by such promoter in excess of 100 persons.
- B. The fee exemptions set forth in § 146-3 of this chapter shall apply in instances where a group of persons engaged in transient retail business falling into one or more of the exempted categories are represented by a promoter subject to the same limitation as set forth in § 146-3C.

§ 146-5. Application for authorization required. ¹

Every person desiring to engage in a transient retail business within the Township shall first make application to the Police Chief or his delegate for authorization on a form to be furnished by the Township. The application, when completed, shall be verified by an oath or affirmation. Where a person makes application for himself and one or more other persons, an application form shall be completed for each person, even in the case of a promoter. The required fee of \$10 per person for the PSP patch background check shall accompany the application. A receipt shall be issued in return for each fee. Such receipt is not and shall not ever constitute a permit.

1. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

§ 146-6. Investigations and granting of authorization.

- A. Upon receipt of such application, the Chief of Police or his delegate shall cause such investigation of the applicant's business or organization and moral character to be made as he deems necessary for the protection of the public welfare. Such investigation may include, but shall not be limited to, a criminal background check and verification of employment.
- B. If, as a result of such investigation, the applicant's business or organization or moral character is found to be unsatisfactory to ensure the protection of the public health, safety and welfare, the Chief of Police or his delegate shall endorse on such application his disapproval and his reasons for the same, and return said application to the applicant.
- C. All applicants for selling hot, cooked or prepared food for public consumption shall obtain and present for review adequate licensing from the Pennsylvania Department of Health for operation of such food vending, preparation and sale.
- D. If, as a result of such investigation, the business or organization and moral character of the applicant are found to be satisfactory, the Chief of Police or his delegate shall endorse on the application his approval and record the name of the applicant, date, duration of authorization, and other data of public interest which he deems relevant in a book of "Peddling Authorizations Granted," which shall be available for public inspection at reasonable times. The Chief or his delegate shall keep a permanent record of all applications made, authorizations granted, and authorizations refused. No evidence of authorization shall, however, be issued in tangible form to the person authorized.
- E. Proof of authorization and permission to occupy any specific location signed by owner must be presented.

§ 146-7. Prohibited acts.

No person engaging in any transient retail business, when working from house to house, shall engage in such business at any time on Sundays or official holidays, or upon any other day of the week prior to 10:00 a.m., prevailing time, and shall cease at sunset or 7:00 p.m., prevailing time, whichever shall first occur, except that this prohibition shall not apply to any person who shall have made an advance appointment with a prospective customer for a specific day and hour or who shall apply for and be approved to operate at other specific times, which approval shall be noted on the issued permit to be authorized.

§ 146-8. Denial or revocation of authorization.

Authorization may be denied, or authorizations granted under the terms of this chapter may be revoked, by the Chief of Police or his delegate for any of the following causes:

- A. Fraud, misrepresentation, or false statement contained in the application for authorization;
- B. Fraud, misrepresentation or false statement made in the course of the business of the person authorized or seeking authorization;

- C. Any violation of this chapter;
- D. Conviction of a crime involving moral turpitude; or
- E. Conduct of a person authorized, or seeking authorization, in an unlawful manner or in such a manner as to constitute a breach of the peace or to constitute a menace to the health, safety or general welfare of the public.
- F. Failure to comply with all federal, state and local ordinances, including, but not limited to, Township zoning, signs, setback requirements, proper ingress/egress, clear site triangles and sufficient parking.

§ 146-9. Appeal from denial or revocation of authorization.

Any person aggrieved by the action of the Chief of Police or his delegate in denying authorization, or in the decision with reference to the revocation of authorization, shall have the right of appeal to the Board of Supervisors of North Middleton Township. Such appeal shall be taken by filing with the Board, within five days after notice of the action complained of has been mailed to such person's last address or otherwise placed in his possession, a written statement setting forth the grounds for the appeal. The Board of Supervisors shall set a time and place for a hearing on such appeal, which hearing shall be held not later than 30 days after the date of such filing. The Board of Supervisors may take whatever action with respect to the matter that it deems appropriate and shall have 30 days from the last hearing on the appeal to provide a written decision.

§ 146-10. Violations and penalties. ²

Any person who violates or permits a violation of this chapter shall, upon conviction in a summary proceeding brought before a Magisterial District Judge under the Pennsylvania Rules of Criminal Procedure, be guilty of a summary offense and shall be punishable by a fine of not more than \$1,000, plus costs of prosecution. In default of payment thereof, the defendant may be sentenced to imprisonment for a term not exceeding 90 days. Each day or portion thereof that such violation continues or is permitted to continue shall constitute a separate offense, and each section of this chapter that is violated shall also constitute a separate offense.

2. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

