

**OFFICIAL
BOROUGH OF FRANKLIN PARK
ORDINANCE NO. 620-2014**

**AN ORDINANCE OF THE BOROUGH OF FRANKLIN PARK,
ALLEGHENY COUNTY, PENNSYLVANIA, AMENDING
CHAPTER 154, "PEDDLING AND SOLICITING," IN THE
CODE OF THE BOROUGH OF FRANKLIN PARK TO AMEND
AND RESTATE THE REGULATIONS FOR RESIDENTIAL
DOOR-TO-DOOR PEDDLING AND SOLICITING, TO
ESTABLISH TRANSIENT RETAIL BUSINESS LICENSES,
AND TO ESTABLISH FINES AND PENALTIES**

WHEREAS, Chapter 29 of the Borough Code, 8 Pa.C.S. §§2901 - 2906, empowers the Borough of Franklin Park to regulate and license peddlers engaged in any transient retail business within the Borough whether conducted from house to house or at a fixed location; and

WHEREAS, 1205(5) of the Borough Code, 8 Pa.C.S. §1202(5), grants the Borough of Franklin Park the specific power to make such regulations as may be necessary for the health, safety, morals, general welfare and cleanliness and the beauty, convenience, comfort and safety of the Borough; and

WHEREAS, the Borough previously enacted Ordinance No. 394-92, as amended and restated by Ordinance No. 521-03, to regulate peddlers, solicitors and canvassers, transient merchants, and itinerant vendors, which is codified as Chapter 154 in the Code of the Borough of Franklin Park, "Peddling and Soliciting"; and

WHEREAS, in the interests of the health, welfare and safety of the public the Borough wishes to revise and restate the regulations on peddlers, solicitors, canvassers, and transient retail businesses.

NOW, THEREFORE, BE IT ORDAINED and enacted by Borough Council of the Borough of Franklin Park, Allegheny County, Pennsylvania, as follows:

SECTION 1. Chapter 154 of the Code of the Borough of Franklin Park, "Peddling and Soliciting," is amended by restating Chapter 154 in its entirety as set forth in the attached document.

SECTION 2. All prior ordinances, including but not limited to Ordinance Nos. 394-92 and 521-03, are hereby repealed in whole or in part to the extent inconsistent herewith.

SECTION 3. If any section, subsection, sentence, clause or phrase of this Ordinance is, for any reason, held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this Ordinance. The Borough Council hereby declares that it would have passed this Ordinance, and each section, subsection, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases be declared unconstitutional.

SECTION 4. This Ordinance shall take effect in accordance with applicable law.

ORDAINED AND ENACTED into law by Borough Council of the Borough of Franklin Park, Allegheny County, Pennsylvania, at its meeting held on the 21st day of January, 2015.

ATTEST:

BOROUGH OF FRANKLIN PARK

Cathy Kimmel
Staff

By: Jamel D. Hopy
Vice President

Approved by me this 21st day of January, 2015

Dennis E. O'Keefe
Mayor

CHAPTER 154

PEDDLING AND SOLICITING

- § 154-1. Definitions.**
- § 154-2. Residential Door-to-Door Peddling and Soliciting.**
- § 154-3. Transient Retail Business Licenses.**
- § 154-4. Fees.**
- § 154-5. Violation and penalties.**

§154-1. Definitions.

For the purposes of this Chapter, the following terms shall have the meanings set forth below, unless a different meaning clearly appears from the context:

BOROUGH

The Borough of Franklin Park.

BOROUGH STAFF

Any Borough employee designated by the Borough Manager to administer this Chapter.

CANVASS

The act of going upon property or approaching people to discuss or explain issues, which shall include religious proselytizing, exercising an individual's freedom of speech or campaigning for political votes, that does not include the request for contributions or donations or the sale of goods or products.

CANVASSER

A person who engages in canvassing.

CANVASSING

To canvass.

PEDDLE

The act of going upon property or approaching people to sell goods, services or products.

PEDDLER

A person who engages in peddling.

PEDDLING

To peddle.

TRANSIENT RETAIL BUSINESS

Shall include the following:

(1) Engaging in peddling, soliciting or taking orders, either by sample or otherwise, for any goods, wares or merchandise upon any street, alley, sidewalk and/or public ground within the Borough.

(2) Selling, soliciting or taking orders for any goods, wares or merchandise from a fixed location within the Borough, on a temporary basis, including, but not 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.

SOLICIT

The act of going upon property or approaching people to ask for, request or seek monetary contributions, donations or support.

SOLICITING

To solicit.

SOLICITOR

A person who engages in soliciting.

The singular shall include the plural and the masculine shall include the feminine and neuter.

§154-2. Residential Door-to-Door Peddling and Soliciting.

A. Registration Required.

1. It shall be unlawful for any person to go upon residential property within the Borough, without being invited to do so by the owners or occupants of the subject property, to peddle and/or solicit Borough residents by knocking upon residential doors, or by ringing doorbells, or otherwise so as to cause or attempt to cause residents to open their doors unless the person doing the

peddling or soliciting activity has first registered at the Borough Building and has received an identification card from the Borough Staff. Canvassers are not required to register at the Borough Building or receive an identification card from the Borough Staff before canvassing.

2. The following individuals shall be exempt from the registration requirement set forth in Section 154-2(A)(1) above and the identification card requirements in Section 154-2(B) below:

(a) Individuals 18 years of age and younger soliciting or peddling on behalf of a non-profit, school, or governmental organization.

(b) Persons soliciting on behalf of a non-profit or neighborhood organization for either donations to, or membership in, such organization.

(c) Persons peddling donated merchandise on behalf of a non-profit organization where the proceeds of the sale are used for a charitable purpose.

(d) Persons peddling on behalf of a religious organization where the proceeds of the sale are used to support such organization or for a charitable purpose.

3. No identification card shall be issued to a peddler or solicitor unless the following information is given by the applicant:

(a) Full identification, including proof thereof by vehicle operator's license or some other accepted method of identification containing applicant's photograph and residence.

(b) The name of the organization for which the applicant is peddling and/or soliciting, together with the address of that organization.

(c) The length of time the peddling and/or soliciting is to be carried on.

(d) Any criminal record which the applicant may have.

4. Fees for registration under this Section hereof shall be established, from time to time, by resolution of the Borough Council.

B. Identification Card.

1. *Issuance.* Peddlers and solicitors regulated by this Chapter shall carry their identification card, which shall be issued by the Borough Staff without charge, at all times while peddling and/or soliciting within the Borough and shall

show their identification card to residents in order to identify themselves prior to any actual peddling or soliciting activities. All identification cards shall expire on December 31 of the year of issuance.

2. *Denial and Revocation.* Borough Staff shall develop the application form and is authorized to conduct any necessary background investigation to confirm the information given by the applicant, and may require the applicant to submit additional information including, but not limited to, the results of a Pennsylvania State Police Request for Criminal Records Check or a Federal Criminal History Report. In the event that any peddler or solicitor is found to have been convicted of any felony or misdemeanor involving moral turpitude, he or she may be denied an identification card or the identification card may be revoked or canceled by the Borough Staff. In the event that any peddler or solicitor provides any false or misleading information concerning his or her identification or the identity of the organization for which the peddling or soliciting is being done, the identification card issued to that peddler or solicitor may be revoked by the Borough Staff. A peddler or solicitor may appeal the denial or revocation of an identification card by the Borough Staff under this subsection to the Borough Council, which shall hold a public hearing thereon and render a decision under the Local Agency Law. No portion of a registration fee shall be refunded to any person whose license has been denied, suspended, or revoked.

C. *Hours.* All peddling, soliciting, or canvassing activities shall, in the case of residential door-to-door or house-to-house calling, be restricted to the following hours:

1. From November 16 through March 31: between the hours of 9 a.m. to 5 p.m., prevailing time, including Saturdays and Sundays.

2. From April 1 through November 15: between the hours of 9 a.m. to 9 p.m., prevailing time, including Saturdays and Sundays.

D. *No-Soliciting/Peddling/Canvassing Signs and List.*

1. Borough residents may post or display "No Soliciting / Peddling / Canvassing" or similar signs, not to exceed 80 square inches in size, on the front door of their dwelling or residence. It shall be a violation of this Chapter for any peddler, solicitor or canvasser to go upon any property that the owner or resident has posted a "No Soliciting / Peddling / Canvassing" or similar signs.

2. Unless otherwise permitted by law, no person shall fasten or deposit in any manner any notice, poster or other advertising or promotional material upon any private property, including personal property, without having permission to do so from the owners or occupants of such property. Permission

to so fasten or deposit such materials shall be implied from the presence of an improved walkway, including a driveway, connecting such property directly to a public right-of-way unless:

(a) Access to such walkway is physically restricted by a fence, gate, or other permanent structure; or

(b) A "No Trespassing" or "No Soliciting / Peddling / Canvassing" sign or a sign prohibiting posting is posted at or near the entrance(s) to such property, in such a manner that said sign is clearly visible to a reasonable person.

3. The Borough Staff shall maintain a list of the addresses of Borough residents who have notified the Borough in writing that they do not wish peddlers or solicitors to enter upon their property. A copy of this "No Soliciting/Peddling List" shall be provided along with and as part of any identification card issued under Section 154-2(B). It shall be a violation of this Chapter for a peddler or solicitor to go upon any property listed on the "No Soliciting/Peddling List."

4. Violations of this Section are subject to the penalties set forth in Section 154-5, in addition to any other appropriate actions in law or equity, including prosecution for criminal trespass pursuant to the Pennsylvania Crimes Code, 18 Pa.C.S. §3503, as amended.

§154-3. Transient Retail Business Licenses.

A. *License Required.* No person shall engage in any transient retail business within the Borough without first obtaining a license from the Borough Staff and paying the applicable license fees established, from time to time, by resolution of the Borough Council. All licenses shall expire on December 31 of the year of issuance.

B. *Application for License.*

1. Every person desiring a license under this Section shall first make application to the Borough Staff on a form established from time to time by the Borough Staff.

2. The completed application for a license shall, at a minimum, contain the following information and/or documentation:

(a) Name and address of applicant, including the present and permanent addresses.

- (b) Name and address of applicant's employer.
- (c) Recent photograph of the applicant.
- (d) Type of goods, wares, merchandise the applicant wishes to deal with in such business.
- (e) The applicant's prior criminal record.
- (f) The type and license of every vehicle to be used, if any.
- (g) A valid copy of any required State or County license.
- (h) Any other information deemed necessary by the Borough.

C. Issuance of License; Custody, Display or Exhibit.

1. Upon receipt of such application and the prescribed fee, the Borough Staff, if he or she shall find such application to be complete, shall issue the license required under this Chapter. Such license shall contain the information required to be given on the application. Borough Staff is authorized to conduct any necessary background investigation to confirm the information given by the applicant, and may require the applicant to submit additional information including, but not limited to, the results of a Pennsylvania State Police Request for Criminal Records Check or a Federal Criminal History Report.

2. The issuance of a license by the Borough under this Section shall in no way be considered the Borough's authorization, approval or acquiescence for the sale of goods and products subject to copyright or trademark protections. The applicant and license holder shall be responsible for obtaining all necessary certificates, permissions and approvals for the sale of goods and products subject to copyright or trademark protections.

3. Every transient merchant shall carry such license upon his person while engaged in transient retail business in the Borough, with an additional copy of the license displayed at the fixed location where the transient business is occurring. The license holder shall exhibit such license, upon request, to all police officers, Borough officials and employees, and citizens or residents of the Borough.

D. Prohibited Acts.

- 1. No transient retail business shall:
 - (a) Be conducted on or within public property, public roads and rights-of-way, sidewalks, private roads, access drives or driveways.

(b) Be conducted on or within setback areas, off-street parking areas and landscape/buffer areas established and required by Chapter 184 in the Code of the Borough of Franklin Park, "Subdivision and Land Development," as amended or Chapter 212 in the Code of the Borough of Franklin Park, "Zoning," as amended.

(c) Involve loud noises or sound devices so as to be heard beyond the premises where the transient retail business is occurring or to cause a public nuisance.

(d) Impede vehicular traffic on public or private streets.

2. No person in any transient retail business shall:

(a) Sell any product or type of product not mentioned in his/her license.

(b) Hawk or cry his/her wares upon any of the streets, alleys, sidewalks or public grounds in the Borough.

(c) Park any vehicle upon any of the streets or alleys in the Borough for the purpose of sorting, rearranging or cleaning any of his/her goods, wares, or merchandise or of disposing of any carton, wrapping, material or of any stock or wares or foodstuffs which have become unsalable through handling, age or otherwise.

(d) Conduct transient retail business outside the time periods referenced in subsection E below.

E. *Hours.* All licensed transient retail business activities shall be restricted to the following hours:

1. From November 16 through March 31: between the hours of 9 a.m. to 5 p.m., prevailing time, including Saturdays and Sundays.

2. From April 1 through November 15: between the hours of 9 a.m. to 9 p.m., prevailing time, including Saturdays and Sundays.

F. *Supervision; Records and Reports.* The Borough Staff and Borough Police Department shall supervise the activities of all persons holding licenses under this Section and shall keep a record of all licenses hereunder.

G. *Denial, Suspension and Revocation of License; Appeal.* The Borough Staff is hereby authorized to suspend or revoke any license issued under this Section when he/she deems such suspension or revocation to be beneficial to the public health, safety or morals for violation of any provision of this Chapter or for giving false information

upon any application for license hereunder or to any Borough official related thereto. Appeals from any license denial, suspension and/or revocation may be made to the Borough Council within ten (10) days after such license denial, suspension and/or revocation. No portion of a license fee shall be refunded to any person whose license has been denied, suspended, or revoked.

§154-4. Fees.

A. *Fees Established.* All license, registration and other fees related to this Chapter shall be established, from time to time, by resolution of the Borough Council.

B. *Exceptions.* No license or registration fees shall be charged under this Chapter to:

1. Farmers selling their own produce.
2. 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. Any manufacturer or producer in the sale of bread and bakery products, meat and meat products, or milk or milk products, provided that milk and milk products shall not include or apply to ice cream or other frozen desserts.
4. Any person taking orders for merchandise by sample, from dealers or merchants, for individuals or companies who pay a license or mercantile tax at their chief places of business.
5. Any insurance company or its agents, or insurance broker, authorized to transact business under the laws of the Commonwealth of Pennsylvania.

Any solicitor, peddler or transient merchant dealing in one (1) or more of the excepted categories and selling other goods, wares and merchandise not excepted shall be subject to the relevant registration or license fees referenced in this Chapter for its activities in connection with the sale of goods, wares and merchandise not in any of the excepted categories. Any solicitor, peddler or transient merchant excepted from payment of a license or registration fee must nevertheless register with the Borough and is otherwise subject to all other provisions of this Chapter.

§154-5. Violations and Penalties.

Any person, firm or corporation who shall violate any provision of this Chapter, or fails to comply therewith, or with any of the requirements thereof, upon conviction thereof in an

action brought before a magisterial district judge in the manner provided for the enforcement of summary offenses under the Pennsylvania Rules of Criminal Procedure, shall be sentenced to pay a fine of not less than \$100 nor more than \$1,000 plus costs, including reasonable attorney fees incurred by the Borough, and, in default of payment of said fine and costs, to a term of imprisonment to the extent permitted by law for the punishment of summary offenses. A separate offense shall arise for each day or portion thereof in which a violation of this Chapter is found to exist or for each section of this Chapter found to have been violated. The Borough may also commence appropriate actions in equity or other to prevent, restrain, correct, enjoin, or abate violations of this Chapter. All fines and penalties collected for violation of this Chapter shall be paid to the Borough Treasurer. The initial determination of ordinance violation is hereby delegated to the Borough Manager, the Police Department, the Borough Staff, the Borough Code Official/Building Inspector, the Code Enforcement Officer, the Zoning Officer, the authorized designee of the Borough Manager and to any other officer or agent that the Borough Manager or the Borough Council shall deem appropriate.