

BOROUGH OF BALDWIN

ORDINANCE NO. 898

AN ORDINANCE AMENDING BOROUGH OF BALDWIN ORDINANCE 553, AS AMENDED BY ORDINANCES 607, 775, AND 856 DEALING WITH PEDDLING AND SOLICITING IN THE BOROUGH OF BALDWIN.

WHEREAS, the Borough of Baldwin enacted Ordinance 553 on January 21, 1985 and amended same on June 19, 1989 through Ordinance 607, on March 17, 2003 through Ordinance 775; and on August 12, 2014 through Ordinance 856; and,

WHEREAS, said Ordinance must be further amended.

NOW THEREFORE, BE IT ORDAINED and ENACTED, by the Borough Council of Baldwin, Allegheny County, Pennsylvania, and it is ORDAINED and ENACTED as follows:

SECTION 1:

Chapter 127 shall now read as follows:

CHAPTER 127. PEDDLING AND SOLICITING

§ 127-1. Permit or registration required; application; issuance.

- A. It shall be unlawful for any person, firm or corporation to sell or offer to sell, by personal solicitation or by printed or written cards, circulars or any other artifices whatsoever, any goods, wares, merchandise, literary products, magazines, periodicals, fruit, fish, vegetables, produce, oysters, milk or any other article of trade whatsoever from house-to-house or in the public streets or alleys within the

limits of the Borough of Baldwin, or to circulate, distribute, and/or indiscriminately deliver from house-to-house advertising flyers or pamphlets (except in the ordinary course of mail) without first having procured a permit or license from the Department of Police of the Borough of Baldwin for such privileges. Nothing in this section shall preclude the distribution of political or religious flyers, pamphlets or tracts at no cost, or require that individuals merely engaging in religious or political speech be required to register under this act. In addition, the solicitation of funds on residential property from Borough residents for any religious, charitable, or nonprofit cause is not precluded by this section, nor is there a requirement for these individuals to register under this act.

- B. For the protection of the public against fraud and imposition, all persons making sales or soliciting orders of goods, wares or merchandise as set forth heretofore shall first provide to the Department of Police with the following information in order to obtain an identification card for these purposes.
 - (1) Full identification, including proof thereof by a voter's registration card, vehicle operator's license or some other accepted method of identification, with residence and an office address.
 - (2) The name of the organization for which the applicant is soliciting, together with the address of that organization.
 - (3) The purpose of the solicitation in the Borough.
 - (4) The periods and times during which the solicitation is to be conducted.
 - (5) A certified Pennsylvania police criminal records check and a certified police criminal records check from the state the applicant currently resides. Both criminal records checks shall be current, that is they shall have been obtained within 30 days of the date of the solicitation application.
- C. The application shall be accompanied by two photographs of the applicant not larger than two inches by two inches, one of which shall be attached to the written request or application and the other to be attached to the certificate given by the Department.
- D. (Reserved)
- E. After examination of the applicant and his application and, where deemed necessary, after verification of the references or other means, the Department of Police may issue to the applicant the required certification.
- F. The application for a permit shall be kept on file by the police and shall be available for public inspection. Permits issued pursuant to this chapter shall be valid for no more than three (3) months from the date of issuance.

- G. The Chief of Police may deny the application for a Borough Permit if the application is incomplete, is not accompanied by a fee, or if applicant or applicant's organization has been convicted of or has plead guilty or no lo contender to (i) violating the provisions of this Chapter 127 within a period of one (1) year prior to the date of the application, or (ii) any burglary, violent crime, or any felony or misdemeanor involving fraud or misrepresentation.
- H. An application for a Borough Permit shall be approved or rejected within a period of five (5) days from the date it is submitted. If an application for a Borough Permit is rejected, the Chief of Police shall set forth the reasons therefore in writing.
- I. The police department shall keep a permanent record of all permits issued and all applications rejected under this Chapter.

§ 127-2. Exceptions.

- A. There shall be exempt from the provisions of § 127-1 hereof persons selling personal property at wholesale to dealers in such articles, and the provisions of this chapter shall not apply to newsboys nor to the acts of merchants or their employees in delivering goods in the regular course of business, nor shall the terms of this chapter be held to include or apply to any farmer or truck gardener who shall vend, sell or dispose of or offer to sell, vend or dispose of the products of the farm or garden occupied and cultivated by him; nor shall it apply to any manufacturer or producer in the sale of bread and bakery products, meat and meat products or milk or milk products. Nothing contained in this chapter shall be held to prohibit any sale required by statute or by order of any court or to prevent any person conducting a bona fide auction sale pursuant to law.
- B. In addition, this chapter shall not apply to boys or girls under the age of 18 years who take orders for and deliver newspapers, greeting cards, candy and the like, or who represent the Boy Scouts and Girl Scouts or similar organizations and take orders for and deliver cookies and the like.
- C. Individuals who are seeking or the taking of orders by insurance agents or brokers licensed under the insurance laws of the Commonwealth of Pennsylvania are expressly exempt from registration under § 127-1 hereof.
- D. Any person soliciting funds for any religious, charitable, or nonprofit cause is not required to register under this act.

§ 127-3. Conduct of Solicitations

In the course of a solicitation, each solicitor shall comply with the following:

- A. No solicitor shall solicit at any residence which has a “No Solicitation” sign posted on the residence.
- B. If no signs pursuant to §127-3A are posted at a residence, no solicitor shall solicit before 9:00 a.m. or after 8:00 p.m.
- C. The solicitor shall,
 - (1) if requested by a resident of the Borough, provide to the resident, the name and address or telephone number of a representative of the soliciting organization to whom inquiries can be addressed; and
 - (2) provide to each resident a full and fair description of the purpose for which the solicitation is being made.
- D. The solicitor shall comply with all applicable laws, statutes, regulations, rules or ordinances of the United States of America, the Commonwealth of Pennsylvania, Allegheny County, and the Borough of Baldwin.
- E. No solicitor shall make any untrue statement or misrepresentation in the course of soliciting, or omit to state any material fact necessary to prevent any statement made from being misleading. No solicitor shall utilize any unfair or deceptive acts or practices in the course of soliciting. In determining whether or not a practice is unfair or deceptive under this subsection, definitions, standards or interpretations relating thereto under the Pennsylvania Unfair Trade Practices and Consumer Protection Law, as amended from time to time, shall apply.
- F. Persons regulated by this chapter shall carry their identification cards, which shall be issued by the Chief of Police, at all times while soliciting within the Borough and shall show their identification cards to residents or police when requested in order to identify themselves prior to any actual solicitation of funds. Any loss of such identification card shall be immediately reported to the Department of Police by the person to whom such card was issued.

§ 127-4. Revocation of Permit

- A. Borough Permits issued under this Chapter may be revoked by the Chief of Police, after notice and hearing, for any of the following causes:
 - (1) Fraud misrepresentation, or false statement contained in, or material fact omitted from, the application for a Borough Permit;
 - (2) Fraud, misrepresentation, false statement, or material omission made in the course of soliciting;
 - (3) Failure to observe a “No Solicitation” notice posted by a resident or “No Solicitation” list provided by the Borough;

- (4) Any other violation of this Chapter 127;
 - (5) Conviction, whether before issuance of the Borough Permit or during the term of the Borough Permit, of any burglary, violent crime or any felony or misdemeanor involving fraud or misrepresentation.
- B. Notice of the hearing for revocation of a Borough Permit shall be given in writing, setting forth specifically the grounds of complaint and the time and place of hearing. Such notice shall be transmitted by certified mail, postage prepaid, to the permittee at his last known address at least seven (7) days prior to the date set for hearing.

§ 127-5. Appeals

Any person aggrieved by the action of the Chief of Police in the denial of a Borough Permit as provided in §127-1, shall have the right of appeal to the Borough Council of Baldwin. Such appeal shall be taken by filing with the Borough Manager, within fourteen (14) days after notice of denial has been mailed to such person's last known address, a written statement setting forth fully the grounds for the appeal. The Borough Council shall set a time and place for a hearing on such appeal and notice of such hearing shall be given to appellant in the same manner as provided in §127-4 for notice of hearing on revocation.

§127-6. Fees.

Concurrently with the submission of the solicitation application, the applicant shall pay a fee in an amount as established from time to time by resolution of the Borough Council.

§ 127-7. Noise restrictions.

No licensee or any person in his or her behalf shall shout, cry out, blow a horn, ring a bell or use any sound or amplifying device upon any of the streets, alleys, parks or other public places in the Borough of Baldwin or upon private premises 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 proposes to sell.

§ 127-8. Location of business.

No licensee shall have any exclusive right to any location in the public streets nor shall any be permitted a stationary location thereon nor shall any be permitted to operate in a congested area where such operation might impede or inconvenience the public use of such streets or sidewalks.

§ 127-9. License required for business premises.

Every person, whether principal or agent, entering into or desiring to conduct a transient retail business in the Borough for the sale of the goods, wares or merchandise and who hires, leases or occupies a room, apartment, store, shop, building or other place or structure for the exhibition and sale of such goods, wares or merchandise shall, before commencing such business, take out a license to do so from the Chief of Police. The fee for such license shall be \$25 per month or fractional part thereof, and shall be paid monthly in advance to the Department of Police.

§ 127-10. Definitions.

For the purpose of interpreting this chapter, words used herein shall have the following definitions:

PERSON

Any individual, association, partnership, firm, or corporation, however styled.

SOLICIT

To go from door to door in the Borough (i) soliciting contributions or pledges for contributions, or (ii) selling or attempting to sell subscriptions, products or services, or taking orders or attempting to take orders for subscriptions, products or services from or to an occupant of a residence.

SOLICITATION

Acts of individual solicitors on behalf of a particular person.

SOLICITOR

A person who solicits.

TRANSIENT VENDOR

Includes any person, corporation, partnership, association or any agent thereof who conducts a business in the Borough, either from door-to-door or in any other manner where the vendor does not have either a residence or a business office within the geographic limits of the Borough.

§ 127-11. Refuse and waste; stopping longer than necessary.

No transient vendor shall deposit any refuse or waste on the streets or alleys or any private or public property in the Borough, nor may he or she be parked or stopped for a longer time than is necessary for the reasonable conduct of his or her business.

§ 127-12. Violations and penalties.

Any person, firm or corporation violating any provision of this chapter shall be subject to prosecution before a Magisterial District Judge and, upon conviction, shall be fined not more than \$300 plus costs of prosecution. Each day that a violation occurs or is committed

shall constitute a separate offense. Violations may also result in the revocation of the violator's permit, as specified in §127-4.

§ 127-13. List of homes not wishing to be solicited.

Any resident of the Borough of Baldwin may register with the Borough of Baldwin Police Department by signing a registration list or application indicating that such owner or resident of such home does not wish to be solicited. The Borough of Baldwin shall place the name of such individual upon a registration list for the same and provide that individual with a "NO SOLICITATION" sticker, which that party may display on the upper left-hand side of his or her front door. Any person seeking a licensing permit under the provisions of this chapter shall, in signing the application to obtain the same, agree that he or she will not solicit homes whose owners or residents have signed a registration list which indicates that such owner or resident of such home does not wish to be solicited. Such a list shall be made available to the residents of the Borough and shall be held by the Department of Police, and a copy thereof shall be given to each person obtaining a license and identification card under the provisions of this chapter. In the event that such person soliciting within the boundaries of the Borough shall fail to recognize the wishes of the homeowner or the resident of such home as expressed in the notice, then any such attempt to solicit such home shall result in a revocation of the solicitor's license and identification card after a hearing held before the Borough Council of the Borough of Baldwin.

SECTION 2:

That all other provisions of Ordinance 553, as amended, shall remain in full force and effect and this amended ordinance shall take effect immediately.

ORDAINED AND ENACTED INTO LAW, this ____ day of _____,
2019.

ATTEST:

BOROUGH OF BALDWIN

Borough Manager

By: _____
Edward Moeller, President of Council

APPROVED AS TO FORM:

Examined and approved this _____ day of
_____, 2019.

Borough Solicitor

David Depretis, Mayor