

Chapter 154. Peddling and Soliciting

§ 154-1. Definitions; word usage.

- A. 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.

FARMERS' MARKET

Shall have the same meaning as defined in Chapter 212 in the Code of the Borough of Franklin Park, Zoning.

FOOD TRUCK

A food establishment that is located upon a vehicle or which is pulled by a vehicle, where food is cooked, prepared, and served for individual portion service such as a mobile food kitchen.

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.

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.

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.
- B. 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.
- (2) Canvassers are not required to register at the Borough Building or receive an identification card from the Borough staff before canvassing, but are required to abide by "No Canvassing" signs posted by residents in accordance with § 154-2D below.
- (3) The following individuals shall be exempt from the registration requirement set forth in § 154-2A(1) above and the identification card requirements in § 154-2B below:
 - (a) Individuals 18 years of age and younger soliciting or peddling on behalf of a nonprofit, school, or governmental organization.
 - (b) Persons soliciting on behalf of a nonprofit or neighborhood organization for either donations to, or membership in, such organization.
 - (c) Persons peddling donated merchandise on behalf of a nonprofit 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.
 - (e) Canvassers.
- (4) No identification card shall be issued to a peddler or solicitor unless the following information, at a minimum, is given by the applicant:

- (a) Full identification, including proof thereof by vehicle operator's license or some other accepted method of identification containing the 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.
- (5) Fees for registration under this section 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 federal criminal history record information from the FBI. Any criminal record report provided by the applicant shall not be more than one year old. 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.^[1] No portion of a registration fee shall be refunded to any person whose license has been denied, suspended, or revoked.

[1] See 2 Pa.C.S.A. §§ 551 et seq. and 751 et seq.

C. Hours. All peddling and soliciting activities shall, in the case of residential door-to-door or house-to-house calling, be prohibited on New Year's Day, Martin Luther King Jr. Day, Easter, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Christmas Eve, and Christmas Day. 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 9:00 a.m. and 5:00 p.m., prevailing time, including Saturdays and Sundays.
- (2) From April 1 through November 15: between the hours of 9:00 a.m. and 9:00 p.m., prevailing time, including Saturdays and Sundays.

D. No-soliciting/peddling/canvassing signs and list.

- (1) Borough residents may post or display any variation of a "No Soliciting/Solicitation/Solicitors/Peddlers/Peddling/Canvassers/Canvassing" 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 or solicitor to cause or attempt to cause residents to open their doors if the owner or resident has posted a "No Soliciting/Solicitation/Solicitors/Peddlers/Peddling" signs. It shall be a violation of this chapter for any canvasser to cause or attempt to cause residents to open their doors if the owner or resident has posted a "No Canvassers/Canvassing" sign.

- (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 § 154-2B. 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 § 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.A. § 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. The sponsor or operator of a farmers' market shall be required to secure a license under this section, but the individual vendors at a farmers' market shall be exempt from the license requirements in this section. The sponsor or operator of a farmers' market shall only be required to provide the Borough with the list of vendors, proof of Allegheny County Health Department permits, and insurance information.
- 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 the applicant, including the present and permanent addresses.
 - (b) Name and address of the 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.
- (3) Food trucks. The Borough staff shall establish a separate application form for food trucks which shall allow for an annual license upon the applicant providing proof of insurance and an Allegheny County Health Department permit. The application form shall include a signed statement that the licensee shall hold harmless the Borough, its officers and employees and shall indemnify the Borough, its officers and employees for any claims or damage to property or injury to persons which may be occasioned by any activity carried on under the terms of the license. The licensee shall furnish and maintain vehicle insurance and such public liability, food products liability, and property damage insurance as will protect the permittee and the Borough from all claims for damage to property or bodily injury, including death, which may arise from operations under the permit or in connection therewith. Such insurance shall provide coverage for bodily injury for each person, for each occurrence and for property damage per occurrence, as prescribed by the Borough staff. Such insurance shall be without prejudice to coverage otherwise existing therein and shall name as additional insured the Borough, its officers and employees, and shall further provide that the policy shall not terminate or be cancelled prior to the expiration date of the permit without 30 days' written notice to the Borough Manager.

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 federal criminal history record information from the FBI. Any criminal record report provided by the applicant shall not be more than one year old.
- (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. This prohibition shall not apply to food trucks.
 - (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, except that a farmers' market may occupy an off-street parking area.
 - (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 9:00 a.m. and 5:00 p.m., prevailing time, including Saturdays and Sundays.
 - (2) From April 1 through November 15: between the hours of 9:00 a.m. and 9:00 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 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.

- (1) As required by Chapter 29 of the Borough Code, 8 Pa.C.S.A. §§ 2901 through 2906, as amended, no license or registration fees shall be charged under this chapter to:
 - (a) Farmers selling their own produce.
 - (b) The sale of goods, wares and merchandise, donated by the owners thereof, the proceeds whereof to be applied to any charitable or philanthropic purpose.
 - (c) 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.
 - (d) 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.
 - (e) Any insurance company or its agents, or insurance broker, authorized to transact business under the laws of the Commonwealth of Pennsylvania.
- (2) Any solicitor, peddler or transient merchant dealing in one 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.

- A. In any case where a solicitor, peddler, or transient merchant is found to be soliciting, peddling, or conducting transient retail business without complying with this chapter, any police officer shall be empowered to issue a notice of violation to the individual in the form of a Borough ticket and order the individual to pay a fine of \$25 payable to the Borough Treasurer within seven days. If the responsible party fails to pay the fine within seven days of issuance of the Borough ticket, the Borough may issue a citation to the responsible party as provided in Subsection B.
- B. 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.