

**NORTH MIDDLETON TOWNSHIP
CUMBERLAND COUNTY, PENNSYLVANIA
ORDINANCE NO. 2008-05**

AN ORDINANCE OF NORTH MIDDLETON TOWNSHIP,
CUMBERLAND COUNTY, PENNSYLVANIA, AMENDING THE
NORTH MIDDLETON TOWNSHIP CODE CHAPTER 146 PEDDLING
AND SOLICITING, IN ITS ENTIRETY

BE IT HEREBY ENACTED AND ORDAINED and it is hereby enacted and ordained by the Board of Supervisors in and for North Middleton Township, Cumberland County, Pennsylvania, as follows:

SECTION 1. TEXT OF AMENDMENT.

The text of Chapter 146 shall be deleted and hereby replaced and amended in its entirety with the following text.

Section 146.1. Short title.

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

Section 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:

- (1) 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
- (2) 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.
- (3) 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 non-profit 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.

Section 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(A)(3).

C. Any person dealing in both exempt categories and non-exempt 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.

Section 146-4. Representation by promoter; fees.

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 § 146-3(C).

Section 146-5. Application for authorization.

A. Application required.

- (1) Except as provided in Subsection B of this section, 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 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.

Section 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.

Section 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.

Section 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, set-back requirements, proper ingress/egress, clear site triangles and sufficient parking.

Section 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 thirty (30) days from the last hearing on the appeal to provide a written decision.

Section 146-10. Violations and penalties.

Any person who violates or permits a violation of this chapter shall, upon conviction in a summary proceeding brought before a District Justice under the Pennsylvania Rules of Criminal Procedure, be guilty of a summary offense and shall be punishable by a fine of not less than \$200 nor 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.

SECTION 2. INTENT.

The purpose of this Ordinances is to amend in full Chapter 146 of the Code of North Middleton Township.

SECTION 3. SEVERABILITY.


The provisions of this Ordinance are severable. Should any part of the Ordinance be declared by final court order with jurisdiction to be illegal or otherwise invalid, the balance of the Ordinance shall be unaffected by such declaration.

SECTION 4. EFFECTIVE DATE.

This Ordinance shall become effective by operation of law pursuant to the Second Class Township Code of the Commonwealth of Pennsylvania.

ADOPTED AND ORDAINED this 2nd day of October, 2008.

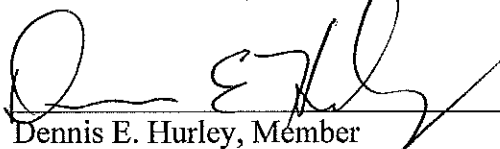
ATTEST:


Township Secretary


NORTH MIDDLETON TOWNSHIP
BOARD OF SUPERVISORS

Richard A. Bucher, Chairman


Robert H. Shearer, Vice Chairman


Dennis E. Hurley, Member


Harry Kelso, Member


Robert A. Reisinger, Member

CERTIFICATE

I, the undersigned, Secretary of the Township of North Middleton, Cumberland County, Pennsylvania (the "Township"), certify that: the foregoing is a true and correct copy of an Ordinance of the Board of Supervisors of the Township (the "Board"), which duly was enacted by affirmative vote of a majority of the members of the Board at a meeting held on October 2, 2008; said Ordinance duly has been recorded in the Ordinance Book of the Township; said Ordinance duly has been published as required by law; and said Ordinance remains in effect, unaltered and unamended, as of the date of this Certificate.

IN WITNESS WHEREOF, I set my hand and affix the official seal of the Township, this 10th day of October, 2008.


Secretary

(SEAL)