

OFFICIAL  
BOROUGH OF SEWICKLEY HILLS  
ORDINANCE NO. 2-2004

AN ORDINANCE OF THE BOROUGH OF SEWICKLEY HILLS,  
ALLEGHENY COUNTY, PENNSYLVANIA, FOR THE LICENSING OF PEDDLERS,  
SOLICITORS AND CANVASSERS, TRANSIENT MERCHANTS AND ITINERANT  
VENDORS IN THE BOROUGH OF SEWICKLEY HILLS PROVIDING FOR  
DISPLAYING OF LICENSES, REVOCATION OF LICENSES AND PROVIDING  
PENALTIES FOR THE VIOLATION HEREOF.

SECTION 1 - PURPOSE

it is the purpose of this Ordinance to regulate peddlers, solicitors and canvassers, transient merchants and itinerant vendors who come into the Borough of Sewickley Hills to sell or attempt to sell, to take orders or attempt to take orders or to solicit contributions, pledges or subscriptions or attempt to solicit contributions, pledges or subscriptions, such regulation being in the interest and for the protection of residents of the Borough of Sewickley Hills and further requiring license fees to offset the cost of regulation and administration of this Ordinance.

SECTION 2- DEFINITIONS

When used in this Ordinance, the following terms shall have the following meanings:

CANVASSER - See "Solicitor."

CHIEF OF POLICE - The Chief of Police of Ohio Township Police Department or its successors.

CLERK - The Secretary of the Borough of Sewickley Hills or its successor.

DEPARTMENT - The Ohio Township Police Department or its successor.

ITINERANT VENDOR - See "transient merchant."

PEDDLER - Any person, whether a resident of the Borough of Sewickley Hills or not, travelling by foot, wagon, automotive vehicle or any other type of conveyance from place to place, from house to house or from street to street, carrying, conveying or transporting goods, wares, merchandise, fish, vegetables, meats or fruits, offering and exposing the same for sale or making sales and delivering articles to purchasers or who, without travelling from place to place, shall sell or offer the same for sale from a wagon, automotive vehicle, railroad car or other vehicle or conveyance, and further provided that one who solicits orders and as a separate transaction makes delivery to purchasers as part of a scheme or design to evade the provisions of this Ordinance shall be deemed a "peddler" subject to the provisions of this Ordinance. The word "peddler" shall include "hawker" and "huckster."

SOLICITOR or CANVASSER - Any person, whether a resident of the Borough of Sewickley Hills or not, travelling by foot, wagon, automobile, motor truck or any other type of conveyance from place to place, person to person, house to house or from street to street, taking or attempting to take orders for the sale of goods, wares and merchandise or personal property of any nature whatsoever for future delivery or for services to be furnished or performed in the future or for subscriptions, contributions or any other kind of support, whether or not such individual has, carries or exposes for sale a sample of the subject of such sale or whether such person is collecting advance payments on such sale or not, provided that such definition shall include any person who, for himself or for another person, firm or corporation, hires, leases, uses or occupies any building, structure, room, apartment, shop or any other place within the Borough of Sewickley Hills for the sole purpose of exhibiting samples and taking orders for future delivery, and further provided that such definition shall include any person who, without necessarily having the intention of making a direct sale, distributes literature, pamphlets, handbills, samples and the like for the purpose of information advertising or for other purposes such as the furtherance of public, economic or social beliefs,

doctrines, systems or projects

**TRANSIENT MERCHANT or ITINERANT VENDOR** - Any person, whether as an owner, agent, consignee or employee, whether a resident of the Borough of Sewickley Hills or not, who engages in a temporary business of selling and delivering goods, wares and merchandise within the Borough of Sewickley Hills and who, in furtherance of such purpose, hires, leases, uses or occupies any building, structure, room, apartment, shop or any other place within the Borough of Sewickley Hills for the exhibition and sale of such goods, wares or merchandise, either privately or at public auction. The person so engaged shall not be relieved from compliance with the provisions of this Ordinance merely by reason of associating temporarily with any local dealer, trader, merchant or auctioneer or by conducting such transient business in connection with, as a part of or in the name of any local dealer, trader, merchant or auctioneer.

#### **SECTION 3- LICENSE REQUIRED.**

It shall be unlawful for any person to engage in the business of peddler, solicitor, canvasser, transient merchant or itinerant vendor, as defined in Section 2 of this Ordinance within the Borough of Sewickley Hills without first obtaining a license therefor as provided in this Ordinance.

#### **SECTION 4- EXEMPT PERSONS AND ACTIVITIES.**

The terms of this Ordinance, as defined in Section 2. shall not be held to include the acts of persons selling personal property at wholesale to dealers in such articles; nor to newspaper persons; nor to the acts of merchants or their employees in delivering goods in the regular course of business; nor shall the terms of this Ordinance be held to include or apply to any farmer or truck gardener who shall vend, sell or dispose of the products of the farm or garden occupied and cultivated by him from premises occupied by him; nor shall it apply to any manufacturer or producer in the sale of bread and bakery products or milk and milk products. Nothing contained in this Ordinance shall be held to prohibit any sale required by statute or by order of any court or to prevent any person conducting bona fide auction sale pursuant to law.

#### **SECTION 5- LICENSE APPLICATION.**

A. For a license under this Ordinance, the applicant must file with the Clerk a sworn application, in writing, which shall give the following information:

- (1) The name and physical description of the applicant.
- (2) The complete permanent home and full local address of the applicant and, in the case of transient merchants and itinerant vendors, the local address from which proposed sales will be made.
- (3) A brief description of the nature of the business and the goods to be sold.
- (4) If employed, the name and address of the employer and the name and address of the employee's immediate supervisor, together with credentials establishing the exact employment relationship.
- (5) The length of time for which the right to do business is desired.
- (6) If a vehicle is to be used, a description of the same, together with the license number or other means of identification.
- (7) The source of supply of the goods or property proposed to be sold or orders taken for the sale thereof and the proposed method of delivery.
- (8) A recent photograph of the applicant which shall be approximately two by two (2x2) inches, showing the head and shoulders of the applicant in a clear and distinguishing manner.
- (9) A statement as to whether or not the applicant has been convicted of any crime or violation of any municipal ordinance, the nature of the offense and the punishment or penalty assessed therefor.

B. At the time of filing the application, a license application investigation fee of \$15.00

- shall be paid to the Clerk to cover the cost of the investigation.

#### SECTION 6- INVESTIGATION OF APPLICANT: ISSUANCE OF LICENSE.

A. Upon receipt of such application, the original shall be referred to the Chief of Police, who shall cause such investigation of the applicant's business and moral character to be made as he deems necessary for the protection of the public good.

B. If, as a result of such investigation, the applicant's character or business responsibility is found to be unsatisfactory, the Chief of Police shall endorse on such application his disapproval and his reasons therefor and return said application to the Clerk, who shall notify the applicant of the disapproval and that no license will be issued.

C. If as a result of such investigation, the character and business responsibility of the applicant are found to be satisfactory, the Chief of Police shall endorse on such application his approval and return said application to the Clerk, who shall, upon payment of the prescribed fee, execute and deliver to the applicant a license for the carrying on of the business applied for.

D. Such license shall contain the signature of the Clerk and shall show the name, address and photograph of said licensee, the class of license issued and the kind of goods to be sold thereunder, the amount of fee paid, the date of issuance and the length of time the same shall be operative, as well as the license number and other identifying description of any vehicle to be used.

E. The Clerk shall keep a permanent record of all licenses issued and those rejected.

#### SECTION 7- EXEMPT ORGANIZATIONS.

A. Any religious, charitable, patriotic, political, philanthropic, public interest or community service organization, society, association or corporation desiring to solicit or have solicited in its name money, donations of money or property of financial assistance of any kind or desiring to sell or distribute any item of literature, various types of tokens or merchandise for which a fee is charged or solicited from persons other than members of such organization, upon the streets, in office buildings, by house-to-house canvas or in public places for a religious, charitable, patriotic, political, philanthropic, public interest or community purpose, shall be exempt from the provisions of Section 5 and Section 8 of this Ordinance, provided that there is filed, upon the request of the Borough, with the Clerk a sworn application, which shall give the following information:

(1) The name and purpose of the cause of which the license is sought.

(2) The names and addresses of the officers and directors of the organization, as well as any local sponsor.

(3) The period of times during which solicitation is to be conducted.

(4) A list of the names and addresses of all the members of the organization who shall participate in the solicitation.

(5) Whether or not any commissions, fees or wages are to be expensed with such solicitation and the amount thereof

B. When the organization, association or corporation has established that its nature is religious, charitable, patriotic, political, philanthropic, public interest or community service, the Clerk shall issue a license without charge.

#### SECTION 8- FEES.

A. Every applicant to whom a license is granted under this Ordinance to engage in the business of peddling, canvassing or soliciting shall pay a license fee in the amount of \$ 30.00. Helpers or assistants to those using vehicles must also procure a license as herein provided for peddlers, solicitors or canvassers.

B. Every applicant to whom a license is granted under this Ordinance to engage in the business of transient merchant or itinerant vendor shall pay a license fee in the amount of \$ 30.00. Helpers and assistants need not procure a license as herein provided for transient

merchants and itinerant vendors.

C. None of the license fees provided for by this Ordinance shall be so applied as to occasion any undue burden upon interstate commerce. In any case where a license fee is believed by a licensee or applicant for a license to place an undue burden upon such commerce, he may apply to the governing body of the Borough of Sewickley Hills for an adjustment of the fee so that it shall not be discriminatory or unreasonable or unfair as to such commerce.

#### SECTION 9- LOUD NOISES AND SOUND AMPLIFIERS.

No licensee, nor any person in his 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 of the Borough of Sewickley Hills 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.

#### SECTION 10- NON-TRANSFERABILITY OF LICENSE.

No license issued under the provisions of this Ordinance shall be used at any time by any person other than the one to whom it was issued.

#### SECTION 11- RESTRICTIONS.

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

B. Licensees shall be prohibited from operating on Sunday and before 9:00 a.m. or after 5:00 p.m. on Monday through Saturday.

C. No licensee shall engage in the business of peddling, soliciting or canvassing upon any premises displaying a sign prohibiting such activity.

D. Any applicant receiving a license pursuant to Section 6 shall also receive a list of addresses that are members of the "No Knock" group referred to in Section 11.C. Licensees who solicit members of the "No Knock" group may be subject to violations and penalties as set forth in Section 18.

#### SECTION 12- DISPLAY OF LICENSE TO CITIZENS.

It shall be the duty of any peddler, solicitor, canvasser, transient merchant or itinerant vendor to produce his license upon request of any resident of the Borough of Sewickley Hills with whom he does or proposes to do business.

#### SECTION 13- DISPLAY OF LICENSE TO POLICE.

It shall be the duty of any peddler, solicitor, canvasser, transient merchant or itinerant vendor to produce his license upon request of any police officer of the Department.

#### SECTION 14- RECORDS.

The Clerk shall maintain a record for each license issued and a record of the reports of violations.

#### SECTION 15- REVOCATION OF LICENSE.

A. Licenses issued under the provisions of this Ordinance 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 the application for license.
- (2) Fraud, misrepresentation or false statement made in the course of carrying on his business as solicitor, peddler, canvasser or transient merchant or itinerant vendor.
- (3) Any violation of this Ordinance.
- (4) Conviction of any crime involving moral turpitude.
- (5) Conducting his business in an unlawful manner or 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 general public.

B. Notice of the hearing for revocation of a license 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 licensee at his last known address at least seven (7) days prior to the date set for hearing.

#### SECTION 16- APPEALS.

Any person aggrieved by the action of the Clerk in the denial of a license as provided in Section 6 of this Ordinance or in the revocation of a license as provided in Section 15 shall have a right to appeal to the governing body of the Borough of Sewickley Hills. Such appeal shall be taken by filing with the governing body of the Borough of Sewickley Hills within fourteen (14) days after notice of the action complained of has been mailed to such person's last known address, a written statement setting forth the grounds of the appeal. The governing body of the Borough of Sewickley Hills shall set a time and place for hearing on such appeal, and notice of such hearing shall be given to the person aggrieved in the same manner as provided in Section 15 of this Ordinance for notice of hearing on revocation.

#### SECTION 17- EXPIRATION OF LICENSE.

All licenses issued under the provisions of (his Ordinance shall expire on the date specified in the license.

#### SECTION 18- VIOLATIONS AND PENALTIES.

Any person, firm or corporation who or which shall violate any of the provisions of this Ordinance shall, upon conviction thereof, be punished by fine for each and every separate offense a sum of not less than one hundred dollars (\$100.00) nor more than six hundred dollars (\$600.00) plus the costs of prosecution, to be sued for and recovered as other fines and penalties are now by law recoverable and, in default of payment of the fine and costs of prosecution, shall be committed to the countyjail for a period not to exceed thirty (30) days. Each day any person, finn or corporation engages in the business of a peddler, solicitor, canvasser, transient merchant or itinerant vendor in violation of this Ordinance shall constitute a separate offense.

Further, if any person, firm or corporation violates Section 11 .C. of this Ordinance, that violation shall be deemed a defiant trespass and shall be punishable in accordance with the Pennsylvania Crimes Code for defiant trespass, 18 Pa. C.S.A. § 3503. This penalty is in addition to any other penalties for other violations of this Ordinance.

#### SECTION 19

This Ordinance shall he effective five (5) days after enactment.

NOW THEREFORE, BE IT ORDAINED AND ENACTED, by the Council of the Borough of Sewiekley Hills, Allegheny County, Pennsylvania, and it is hereby ORDAINED and ENACTED by and with the authority of same:

APPROVED THIS 7 DAY OF \_\_\_\_JUNE, 2004.

MAYOR: Richard Laird

Secretary: LuAnn Barna

President: Thomas Klixbull

#### CERTIFICATION

I, LuAnn Barna. Secretary of the Council of the Borough of Sewickley Hills, do hereby certify that the foregoing is a true and correct copy of an Ordinance passed at a regular meeting of the Borough Council held on the 7th day of \_JUNE, 2004 .as the same appears on the minutes of said meeting and not rescinded.

IN WITNESS WHEREOF, I have set my hand and affixed the seal of said Borough this \_7th day of JUNE, 2004.

LuAnn Barna. Secretary

BOROUGH SEAL