

**EAST MARLBOROUGH TOWNSHIP
CHESTER COUNTY, PENNSYLVANIA**

ORDINANCE NO. 2019-01

AN ORDINANCE REPEALING ORDINANCE No. 2013-02 AND CREATING NEW PEDDLING AND SOLICITING REGULATIONS AS CONTAINED HEREIN.

UNDER AND BY VIRTUE OF THE AUTHORITY OF THE SECOND CLASS TOWNSHIP CODE, INCLUDING, BUT NOT LIMITED TO SECTIONS 1506, 1527, 1532 AND 1601 OF THE SECOND CLASS TOWNSHIP CODE, THE BOARD OF SUPERVISORS OF EAST MARLBOROUGH TOWNSHIP DOES HEREBY ENACT AND ORDAIN AS FOLLOWS:

SECTION 1. REPEAL.

Ordinance No. 2013-02 is hereby repealed in its entirety.

SECTION 2. PEDDLING AND SOLICITING ORDINANCE

Section 2.1. Short Title.

This Ordinance shall be known as the "East Marlborough Township Peddling and Soliciting Ordinance."

Section 2.2. Purpose.

To regulate the distribution of certain materials and services, peddling, soliciting, canvassing and related activities within East Marlborough Township for the protection and maintenance of the health, safety and welfare of the inhabitants of the Township, to deter or prevent dishonest business practices and/or criminal activity in the Township, and to safeguard the privacy of residents.

Section 2.3. Definitions.

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

DISTRIBUTING

All activities ordinarily performed by a distributor as indicated under the definition of "distributor" herein.

DISTRIBUTOR

Any person, whether a resident of the Township or not, who distributes or causes to be distributed any samples of merchandise, handbill, advertisement, circular, card, pamphlet

or printed material of any kind other than a regularly delivered newspaper, magazine, periodical or similar publication, including, without limitation, by delivering by hand or by distributing or throwing upon doorsteps or into doorways or vestibules, placing upon doorknobs or fences, casting into yards or anywhere else, handbills, advertising and printed matter of any nature whatsoever.

MERCHANDISE

All goods, wares, food, beverages, magazines, periodicals, printed materials, farm products, services and orders, or contracts for orders, home improvements or alterations and anything that may be sold or distributed by peddlers, solicitors or distributors as defined herein.

PEDDLER

Any person, whether a resident of the Township or not, who goes from house to house, from place to place or from street to street traveling by foot, automotive vehicle or any other form of conveyance, carrying or transporting merchandise for the purpose of selling or delivering the merchandise to customers.

PEDDLING

All activities ordinarily performed by a peddler as indicated under the definition of "peddler" herein.

PERSON

Includes both male and female; the plural as well as the singular; and any association, partnership, corporation, firm, joint venture or any other entity whatsoever.

SOLICITING

All activities ordinarily performed by a solicitor as indicated under the definition of "solicitor" herein.

SOLICITOR

Any person, whether a resident of the Township or not, who goes from house to house or from place to place traveling by foot, automotive vehicle or any other form of conveyance, soliciting, taking or attempting to take orders for the sale of merchandise or services of any kind for future performance or delivery or soliciting or attempting to secure contributions to various causes, whether or not he/she be collecting advance payments of such sales, orders or contributions, or who engages in these types of activities in any street, sidewalk or other publicly owned property in the Township. The word "solicitor" shall include "canvasser," "transient merchant" or any person who goes from door to door or place to place as described herein for the purpose of soliciting in any form.

Section 2.4. Restrictions.

No person shall act a peddler, distributor, or solicitor within the Township without first having obtained from the Chief of Police or designee a license, including any application fee or related

fees, in an amount set by resolution of the Board of Supervisors. Nothing herein shall extinguish or modify the requirements placed on persons engaged in refuse collection or the service of septic systems or rights and obligations created by other ordinances of the Township; the same are intended to continue in full force and effect.

Section 2.5. Exempt Parties.

The following persons, although subject to all other provisions of this ordinance, are exempt from the license and application requirements when engaging in the activities described herein:

- A. Persons soliciting contributions on behalf of charitable organizations exempted from the provisions of, or duly registered pursuant to, the Solicitations of Funds for Charitable Purposes Act (10 P.S. 162.1 et. seq.), as amended, who while soliciting, must possess a card or other written evidence of their appointment or authority to solicit for said organization or corporation.
- B. Any person engaged in door-to-door canvassing, political speech or religious activities, as protected under the First Amendment of the United States Constitution, or engaged in the distribution of handbills.
- C. Minors who take orders for and deliver newspapers, greeting cards, candy and the like or who are involved in school-sanctioned activities or who represent a civic organization such as the Boy Scouts, Girl Scouts or similar organization and take orders for and deliver cookies and the like.
- D. Any common carrier, courier service, manufacturer's or vendor's representative or other persons engaged in regular services and deliveries associated therewith.
- E. Persons who are currently licensed by the Commonwealth of Pennsylvania to engage in soliciting/peddling activity, including, without limitations, real estate, insurance or securities brokers and salesmen.
- F. Farmers primarily selling the produce of their own farms.
- G. Persons selling goods, wares or merchandise donated by the owners, all proceeds of which are to be applied to any charitable or philanthropic purpose.
- H. Persons soliciting information when such information is pursuant to a legislative mandate, such as a census.
- I. Persons soliciting political petitions pursuant to the Pennsylvania Election Code.
- J. Manufacturers or producers of bread or bakery products, meats or meat products, or milk or milk products.

Section 2.6. Prohibitions.

No person involved in peddling, distributing or soliciting shall:

- A. Sell any good or service not listed on their license application, where such a license is required.
- B. Refuse to display a license when requested, where such license is required.
- C. Engage in any activities, except by prior appointment, except between the hours of 9 a.m. and 30 minutes after sunset.
- D. Enter or attempt to enter any dwelling or business or remain upon any private property without invitation or permission of the occupant or owner or fail to immediately leave any premises upon the request of the owner or occupant to do so.
- E. Knock, ring the doorbell or otherwise attempt to gain the attention of the occupants of a residence or business where the property is posted at the primary entrance to the premise or the entry to the principal building on the premise with a sign bearing the words "No Peddlers," "No Solicitors", "No Soliciting", or similar words.
- F. Conduct any activities in any geographic location within the Township where such activity would present an unsafe condition to the public.
- G. Represent that he or his organization is endorsed by the Township.

Section 2.7. Application for license; fee; issuance.

- A. Any person, not exempted by Section 2.5, desiring to obtain a license to engage in soliciting, peddling or distribution, shall make application therefor in person to the Township Police Chief.
- B. The applicant shall submit the following information, signed and certified by the applicant to be true and correct:
 - 1. The applicant's full name, date of birth, local address, permanent address, telephone number and proof of identification.
 - 2. A current photograph of the applicant.
 - 3. Address to which notices under this ordinance shall be directed.
 - 4. Name, address, telephone number and Tax ID of employer or principal, if any.

5. Nature of business or activity in which applicant wishes to engage with the Township; a description of the merchandise to be sold or the services to be performed.
 6. If a vehicle is to be utilized, a description of the vehicle, the vehicle license number and expiration date and the operator's driver's license number and expiration date.
 7. Statement as to whether the applicant has been convicted in the jurisdiction of any crime other than of minor traffic violations and, if so, of what crime or crimes, the penalty or punishment imposed, the date and place of the offense and other pertinent details.
 8. Proof of possession of any license or permit which the applicant is required to have under federal, state, county or other local law in order to conduct the proposed activity.
 9. An acknowledgement that the applicant is aware of and understands the regulations set forth in this ordinance.
 10. If the applicant intends to utilize assistants, all applicable information shall also be supplied for each assistant, and each assistant will be required to obtain his/her own license.
- C. Upon receipt of such application and the prescribed fee, the Chief of Police or designee shall have ten business days to review and verify the information provided.
- D. If Chief of Police or designee finds such application in order, he shall issue the license to the applicant.
- E. The Chief of Police or designee may deny a license if: 1) the application is incomplete; 2) the information provides a reasonable basis for determining that the public health, safety and welfare will be threatened by the issuance of the license to the applicant; 3) if there are misrepresentations in the application; 4) if any fraud or deceit is identified in the application; 5) prior failure to comply with any law concerning soliciting, peddling or distribution; 6) the sale or offering for sale of illegal merchandise or services is proposed; or 7) for the reasons set forth in Section 2.8.A.
- F. Every license holder shall carry and display the license upon his person while engaged in peddling or soliciting within the Township. The license holder shall exhibit such license, upon request, to all police officers, Township officials and citizens or residents of the Township.
- G. The license shall be valid for a period of six months from the date of issuance.

Section 2.8. Denial; suspension; revocation.

- A. The Chief of Police or designee is hereby authorized to suspend or revoke any license if the holder fails to comply with the standards of conduct or responsibilities set forth in this ordinance. A license may also be suspended or revoked upon the basis of:
1. Fraud, misrepresentation or false statements in the license application;
 2. Fraud, misrepresentation or false statements by the licensee in the course of peddling, distributing or soliciting;
 3. Peddling, distributing or soliciting in violation of this ordinance or in a manner that violates federal, state or local law or regulations or the terms of any other license involved in the peddling, distributing or soliciting;
 4. Conviction of a crime involving moral turpitude; or
 5. Peddling, distributing or soliciting in a manner as to create a public nuisance, a breach of peace, or endanger the health, safety or general welfare of the public.
- B. Appeals from any denial, suspension or revocation of a license may be made to the Township's Board of Supervisor within 10 days after such denial, suspension, or revocation. All appeals shall be in writing and shall be heard by the Board of Supervisors at a regular meeting scheduled more than five days after receipt of the appeal.
- C. Following the appellant's presentation of his position, the Board of Supervisors may decide to reinstate or issue the license, affirm the denial, suspension or revocation of the license, or modify the suspension of the license. The decision of the Board of Supervisors shall be final and binding on all parties.
- D. No part of a license fee shall be refunded to any person whose license shall have been denied, suspended, or revoked.

Section 2.9. Violations; penalties.

Any person who violates or permits a violation of this ordinance shall, upon conviction in a summary proceeding brought before a Magisterial District Judge under the Pennsylvania Rules of Criminal Procedure, be guilty of a summary offense and shall be punishable by a fine of not more than \$1,000, plus costs of prosecution, including reasonable attorneys' fees. In default of payment thereof, the defendant may be sentenced to imprisonment for a term not exceeding 30 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 ordinance that is violated shall also constitute a separate offense.

Section 2.10. Interpretations.

This Ordinance shall not be applied so as to place any undue burden upon interstate commerce with respect to any business or activity referred to herein. It is the purpose of this Ordinance to protect the health, safety and welfare of the inhabitants of the Township but not to unduly regulate or control the proper conduct of any person, business or commercial property.

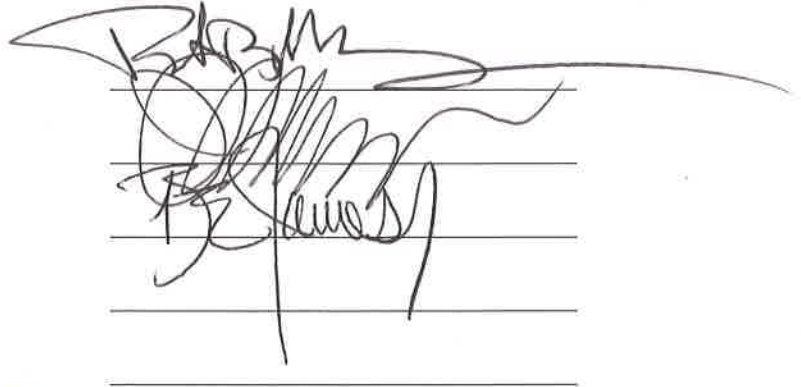
SECTION 3. The provisions of this Ordinance shall be severable, and if any provision or phrase shall be held to be unconstitutional or otherwise invalid, such portion shall be deemed a separate, distinct, and independent provision and shall not affect the validity of any of the remaining provisions or phrases hereof, it being the express intention of the Supervisors to enact and adopt each section independently of every other section.

SECTION 4. All ordinances or parts of ordinances are hereby repealed insofar as they may be inconsistent herewith.

SECTION 5. This Ordinance shall become effective five (5) days after the adoption and enactment hereof.

ENACTED AND ORDAINED this 3rd day of June, 2019.

**BOARD OF SUPERVISORS
EAST MARLBOROUGH TOWNSHIP**

A large, stylized handwritten signature in black ink is written over a set of five horizontal lines. The signature is highly cursive and appears to be the name of a member of the Board of Supervisors.

Attest:

A handwritten signature in blue ink is written over a horizontal line. The signature is cursive and appears to be the name of the Secretary.

Secretary