ORDINANCE NO. 909

AN ORDINANCE OF BUTLER TOWNSHIP, BUTLER COUNTY, PENNSYLVANIA AMENDING THE PROVISIONS OF CHAPTER 214, PEDDLING AND SOLICITING, AND ADOPTING NEW REGULATIONS RELATED TO PEDDLING AND SOLICITATION WITHIN BUTLER TOWNSHIP.

WHEREAS, Butler Township has the duty and authority to enact rules, regulations, ordinances and resolutions it deems necessary or beneficial for the common health, safety, and welfare of its citizens; and

WHEREAS, the provisions of Chapter 214, Peddling and Soliciting, establish standards and procedures related to peddling and solicitation within the Township; and

WHEREAS, Butler Township desires to protect its residents from criminal activity which may occur in connection with or under the guise of peddling or solicitation at the homes of Township residents; and

WHEREAS, Butler Township acknowledges the legitimate rights of solicitors and peddlers to engage in door-to-door sales and solicitations; and

WHEREAS, Butler Township believes it is in the best interest of the Township and its residents to amend the provisions of Chapter 214 in an effort to balance the interests of residents and rights of solicitors and peddlers.

NOW, THEREFORE, BE IT ORDAINED AND ENACTED by the Board of Commissioners of Butler Township, Butler County, Pennsylvania, that the Township Code of Ordinances, Chapter 214 is hereby deleted in its entirety and replaced with the following:

§ 214-1. Purpose.

It is the purpose of this chapter to regulate peddlers, solicitors and transient merchants who engage in any form of sale or attempted sale, solicitation, or the taking of orders for goods, services, pledges, or subscriptions or attempt to do the same, such regulations being for the protection of the residents of Butler Township. It is Butler Township's intention to protect the privacy of its residents and protect its residents from fraudulent or criminal activity that may be perpetrated in connection with, or under the guise of, door-to-door solicitation or peddling.

§ 214-2. Definitions.

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

FLEA MARKET — The occasional or periodic sale conducted in an open area or within a structure, or any combination of an open area and a structure or structures, where a group of 10 or more sellers offer new or used goods for sale to the public and where there are no long-term leases between the sellers and the operators and where there are no permanent fixtures for the display and sale of merchandise.

PEDDLER or SOLICITOR — Any person, whether a resident of Butler Township or not, traveling by foot, wagon, automotive vehicle or any other type of conveyance from place to place, from

house to house, or from street to street, and engaged in any form of sale or solicitation of any goods, services, pledges or subscriptions, including but not limited to the following activities:

1. carrying, conveying or transporting personal property, goods, wares, merchandise, or food, offering and exposing the same for sale or making sales and delivering articles to purchasers;
2. 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 attempting to take or taking orders 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 or 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;
3. without necessarily having the intention of making a direct sale, distribution of 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.

§ 214-3. License required.

It shall be unlawful for any person to engage in peddling or solicitation within Butler Township without first obtaining a license as provided in this chapter.

§ 214-4. Exemptions.

The regulations of this Chapter shall not be applicable to the following:

A. Sales conducted pursuant to statute.

B. Sales conducted pursuant to order of any court of law or equity.

C. Any person selling personal property at wholesale to dealers and such articles.

D. Any person who sells or disposes of farm or garden produce from the site where the produce is grown.

E. The sale of personal property owned by the owner or occupant of any residential structure by means of a garage, yard, porch or similar sale for no more than four days in any calendar year commencing January 1 and terminating December 31 of each year.

F. The sale of newspapers.

G. The sale of personal property at a flea market, as defined herein.

H. Fundraising sales conducted by the following types of groups:

(1) Individuals or groups associated with organizations of public school districts (i.e., P.T.O.).

(2) Boy Scouts and Girl Scouts and their affiliated organizations.

(3) Butler Township youth sport groups.

§ 214-5. Application for license.

A. Applicants for a license under this chapter must file with the Manager a sworn application, in writing, on a form to be furnished, which shall give the following information:

(1) The name and physical description of the applicant.

(2) A 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/or the goods to be sold.

(4) If employed, the name and address of the employer, 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) One recent photograph of the applicant, which shall be approximately one inch by one inch, 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, an investigation fee shall be paid to the Manager to cover the cost of the investigation. The Board of Commissioners shall establish the amount of the fee by resolution.

§ 214-6. Investigation of application and issuance of license.

A. Upon receipt of such application, the original shall be referred to the Butler Township Chief of Police, who shall cause such investigation of the applicant's business and moral character to be made as he or she 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 Manager, 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 Manager, 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 Manager and shall show the company name, company address and photograph of said licensee, and the kind of goods to be sold thereunder, the date of issuance and the length of time the permit shall be operative.

E. The Butler Township Police Department shall keep a permanent record of all licenses issued and those rejected.

§ 214-7. Fees; duration of license.

A. The nonrefundable fee for each license application pursuant to this chapter shall be established by resolution of the Board of Commissioners and shall be set forth on the schedule of fees on file with the Township Manager's office.

B. Licenses shall be issued on a daily, weekly, semi-annual, or annual basis, with the requested duration being selected in the application.

C. These fees are in addition to the earlier referenced investigation fee.

D. None of these license fees provided for by this chapter shall be applied 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 Butler Township for an adjustment of the fee so that it shall not be discriminatory or unreasonable or unfair as to such commerce.

§ 214-8. Certain organizations exempt.

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 or 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 § 214-7 of this chapter.

B. The applicants under this heading must also be investigated by the Chief of Police, in the same manner as described by § 214-6. The investigation fee, however, may be waived by the Manager for applicants who fall within this section.

§ 214-9. Loud noises and sound amplifiers.

No licensee, nor any person on 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, parts or other public places of Butler Township 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.

§ 214-10. Transfer of license.

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

§ 214-11. Use of streets; time restrictions; peddling prohibited on premises displaying a sign.

A. No licensee shall have the exclusive right to any location in the public streets or sidewalks, nor shall any licensee be permitted to operate at a stationary location thereof, 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, nor shall any licensee be permitted to stand at or in intersections or roadways.

B. Licensees are permitted to operate between the hours of 9:00 a.m. to sunset, Monday through Saturday. Door-to-door peddling and solicitation is prohibited on Sundays and holidays.

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

D. Roadside peddlers shall be considered those vendors engaged in sales, peddling, or solicitation, from a structure, temporary structure, plot of ground, or vehicle, situated within the right-of-way of any public street, highway, or thoroughfare located in Butler Township, and shall be subject to the following additional restrictions:

(1) No temporary or permanent structures shall be permitted within the right-of-way of any public street, highway or thoroughfare.

(2) Parking shall be provided off the paved portion of any public street, highway or thoroughfare adequate to prevent the interference with traffic traveling on the paved portion of any public street, highway or thoroughfare.

(3) Sight distance shall be provided to assure that any person stopping to purchase items or persons traveling on the public street, highway or thoroughfare shall be adequate to assure the safe movement of vehicles and pedestrians.

(4) Written permission or a lease shall be provided, signed and notarized by the owner of the land whereon the place of business is established, authorizing the person to establish the place of business in such location.

(5) No person shall have any exclusive right to any location in the public street, highway or thoroughfare, nor shall any location be permitted in a congested area where such operation might impede, inconvenience, or pose a threat to the public use of such streets, thoroughfares or highways.

§ 214-12. Display of license to citizens.

It shall be the duty of any peddler, solicitor, or transient merchant to prominently display his license upon his person at all times.

§ 214-13. 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 Butler Township Police Department.

§ 214-14. Records.

The Butler Township Police Department shall maintain a record for each license issued and a record of the reports of violations.

§ 214-15. Revocation of license.

A. Licenses issued under the provisions of this chapter may be revoked by the Chief of Police after notice and hearing, based upon any of the following:

(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, or transient merchant;

(3) Any violation of this Chapter;

(4) Conviction of any crime involving moral turpitude; or

(5) Conducting his business 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 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 notices shall be transmitted by certified mail, postage prepaid, to the licensee at his last known address at least seven days prior to the date set for hearing.

C. The Hearing shall be held in front of the Butler Township Manager, the Chief of Police, and one Commissioner selected by the Board of Commissioners.

§ 214-16. Appeals.

Any person aggrieved by the action of the Manager in not waiving an investigation fee as provided in § 214-5, or in the denial of a license as provided in § 214-6, or in the revocation of a license as provided in § 214-15, shall have a right to appeal to the governing body of Butler Township. Such appeal shall be taken by filing with the governing body of Butler Township, within 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 for the appeal. The governing body of Butler Township shall set a time and place for hearing on such appeal, and notice of hearing shall be given to the person aggrieved in the same manner as provided in § 214-15 of this chapter for notice of hearing on revocation.

§ 214-17. Expiration of license.

All licenses issued under the provisions of this chapter shall expire on the date specified in the license.

§ 214-18. Violations and penalties.

Any person, firm or corporation that shall violate any of the provisions of this chapter shall, upon conviction thereof, be punished by fine for each and every separate offense a sum of not less than $100 nor more than $600, 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 county jail for a period not to exceed 30 days. Each day any person, firm or corporation engages in the business of a peddler, solicitor, or transient merchant, or otherwise engages in activities set forth in §214-2: Peddler or Solicitor, 1-3, in violation of this chapter shall constitute a separate offense.

ORDAINED AND ENACTED into law by the Board of Commissioner of the Township of Butler, Butler County, Pennsylvania, at its meeting held on the 6th day of May, 2019.

BUTLER TOWNSHIP BOARD OF COMMISSIONERS

BY: Dave Zarnick, President

ATTEST:

Theresa Giesler, Township Secretary

I, Theresa Giesler, Secretary of the Butler Township Board of Commissioners, Butler County, PA, do hereby certify that the foregoing is a true and correct copy of the Ordinance duly adopted at a regular meeting of the Butler Township Board of Commissioners held on May 6, 2019.

Theresa Giesler