

ORDINANCE NO. 233
CONEWAGO TOWNSHIP
YORK COUNTY, PENNSYLVANIA

AN ORDINANCE OF CONEWAGO TOWNSHIP, YORK COUNTY, PENNSYLVANIA REGULATING SOLICITING AND PEDDLING WITHIN THE TOWNSHIP, REQUIRING SOLICITORS AND PEDDLERS TO OBTAIN A CERTIFICATE OF REGISTRATION, ESTABLISHING REGISTRATION FEES, PROVIDING FOR THE ENFORCEMENT THEREOF AND PENALTIES FOR THE VIOLATION THEREOF.

BE IT ENACTED AND ORDAINED by the Township of Conewago, York County, Pennsylvania, and it is hereby ordained and enacted as follows:

PREAMBLE

The solicitation for sales of goods and services and actual sales of same door to door, and in or on streets, sidewalks, parks, and other public areas of the municipality creates varied and sundry risks to the health, safety and welfare of the community.

Specifically, local criminal history evidences a great risk of fraud, deception, coercion, and unfair trade practices in uninvited door to door solicited sales by sometimes itinerant merchants. Additionally, such activities risk invasion of the customer's privacy within his residence.

Solicitation and sales in or on public places creates the added risks of injury, delay, property damage, and nuisance in traffic, parking, foot travel, and emergency services.

Such solicitation and sales, however, serve legitimate business purposes and needs of both suppliers and consumers, and are constitutionally protected against vague, overly broad, and content based, unequal restriction.

For these reasons, this ordinance is enacted in order to protect the health, safety, and welfare of the community, through the exercise of municipal police power, to meet those legitimate government objectives, utilizing content-neutral restrictions, offering equal protection to those affected,

through measures designed to be the least restrictive means available to meet those objectives.

SECTION 1. DEFINITIONS.

For the purpose of this ordinance, the following words used herein shall be considered to have the meaning set forth in this section:

1. “Soliciting” shall mean and include any one or more of the following activities, when initiated by the caller, without advance invitation by the person contacted:
 - a) Seeking to obtain orders for the purpose of selling goods, wares, merchandise, foodstuffs, services of any kind, character or description whatever, for any kind of consideration whatever, for immediate or future delivery; or
 - b) Seeking to obtain prospective customers for application or purchase of insurance of any type, kind, or publication; or
 - c) Seeking to obtain subscriptions to books, magazines periodicals, newspapers and every other type or kind of publication; or
 - d) Seeking to obtain gifts or contributions of money, clothing, or any other valuable thing for the support or benefit of any charitable or nonprofit association, organization, corporation, or project, not otherwise exempted by the provisions of this ordinance, unless the principal purpose of the contact and communication is for the purpose of dissemination religious, political, or philosophical beliefs protected by the First Amendment of the Constitution.
2. “Peddling” shall mean a person who travels about selling to consumers goods, wares, merchandise, foodstuffs, or services, in his possession, for immediate delivery. It shall not include delivery of orders pursuant to contracts previously executed, nor solicitation or sales made, in conjunction with, the principal activity of, disseminating religious, political, or philosophical beliefs protected by the First Amendment of the Constitution.
3. “Residence” shall mean and include every separate living unit occupied for residential purposes by one or more persons, contained within any type of building or structure.

4. “Registered solicitor or peddler” shall mean and include any person who has obtained a valid certification of registration as provided in this Ordinance, which certificate is in the possession of the solicitor or peddler while engaged in Soliciting or Peddling.

5. “Person” shall mean any natural person, association, partnership, firm, organization or corporation.

6. “Public Place” shall mean any of the street, sidewalks, curbs, parks, and any other lands dedicated to the use of, or owned by, this municipality, the Commonwealth of Pennsylvania, or the federal government, and over which this municipality has any police jurisdiction or authority.

SECTION 2. CERTIFICATE OF REGISTRATION

Every person desiring to engage in Soliciting or Peddling, at Residences or on Public Places within the municipality unless exempted by the provisions of Section 3 of this ordinance, is hereby required to make written application for a certificate of registration as provided in this ordinance. Such certificate shall be carried by the solicitor or peddler at all times while engaged in Soliciting or Peddling within Conewago Township. Failure to procure a certificate of registration, or to engage in Soliciting or Peddling without a certificate shall constitute a violation of this ordinance.

SECTION 3. EXEMPTIONS

The registration requirement of Section 2 of this ordinance shall not be applicable to the following:

1. Farmers seeking or taking orders for the sale of products they produce;
2. The seeking or taking of orders be any manufacturer or producer for the sale of bread and bakery products, meat and meat products, or milk and milk products;
3. Any person taking orders for merchandise from dealers or merchants for resale to an ultimate consumer;
4. Public or charitable activities in which the municipality is a participant, the activities being conducted for the enjoyment and well-being of the community;
5. Charitable organizations exempted from the registration requirements of Act of the Assembly of the Commonwealth of Pennsylvania of April 30, 1986, P. L. 107, 10 P.S. Sec. 161.1 et seq.

6. School students enrolled in a school district serving the municipality, peddling or soliciting for the benefit of their school or an organization thereof, or for any private, non-profit social club or organization, to which they belong, such as Boy Scouts or Girl scouts.
7. Persons contacting and/or communicating with persons for the principal purpose of disseminating their religious, political or philosophical beliefs protected by the First Amendment of the Constitution, even if contributions or sales of goods are solicited in conjunction with such principal protected activity.

SECTION 4. APPLICATION FOR CERTIFICATE OF REGISTRATION.

Every person desiring to engage in Soliciting or Peddling in the municipality shall first make application to the municipal Manager or Permit Officer for a certificate of registration. The application shall be made upon a form provided by the municipality and shall contain at least the following information verified by oath or other affirmation:

- A. Full name, home address, and telephone number of the applicant and local address, if any.
- B. Name, address and telephone number of applicant's employer or sponsor or a statement that such applicant is self-employed.
- C. The nature of the goods, wares, services or merchandise offered for sale, and/or the purpose of the organization and the nature of the solicitations to be made.
- D. A statement as to whether or not the applicant has ever been convicted of any crime, and if the answer is in the affirmative, the dates and nature of the offense or offenses and the punishments imposed therefor.
- E. The description by make, model, year, color, title number, and license plate number of vehicle to be used, if any.
- F. The applicant shall furnish a current photograph of himself.
- G. A statement as to whether or not the applicant's business or profession is licensed by the Commonwealth of Pennsylvania or the federal government, or any of its agencies; and if so, a copy of a current license for the applicant shall be provided.
- H. A statement from all applicants intending to engage in charitable soliciting, as to whether or not the applicant, his employer, and/or his sponsor is, or is not, licensed under the Solicitation of Funds for

Charitable Purposes Act (1990) 10 P.S. Sec. 162.1; and if so licensed, a copy of the current license for the applicant shall be provided; and, if not so licensed, an explanation of the basis for any applicant's claimed exemption from such registration.

- I. Any other information required by the municipality to perform the duties described herein, and contained in the permit application form as revised from time to time.

Each person desiring to Solicit or Peddle shall apply individually for licenses. Certificates under this article shall not be transferable from one person to another.

SECTION 5. CERTIFICATE FEE.

No certificate shall be issued under this article until the sum of Fifteen Dollars (\$15.00) shall be paid to the municipality. Said fee represents a reasonable estimate of the municipality's cost of, and shall be for the use of, the municipality in defraying the costs and expenses of investigation, documentation, and enforcement of this Ordinance. A separate application shall be filed and a separate permit fee shall be paid by each person who shall actually conduct the Soliciting and Peddling, and shall apply where an employer desired to secure certificates for his employees, agents or servants. The permit fee may be changed or modified from time to time by resolution of the Board of Supervisors as necessary to approximate costs to the municipality.

SECTION 6. TERM

The certificate granted pursuant to this article shall be valid for thirty (30) days after the date of such certificate and, upon the expiration of any certificate, if the person holding the same shall desire to continue or renew Soliciting or Peddling, he/she shall be required to file a new application for a permit and pay a new fee. Such certificates may be issued, in advance, for consecutive thirty (30) day periods not exceeding twelve (12) in number, upon payment, in advance of the Fifteen Dollar (\$15.00) fee for each thirty (30) day period provided in Section 5.

SECTION 7. CERTIFICATE OF REGISTRATION ISSUANCE OR DENIAL.

A Certificate of Registration shall be issued or denied by the municipality within three (3) working days of receipt of a fully completed application for a Certificate of Registration.

A Certificate of Registration shall be denied by the municipality only for the following reasons:

(a) The municipality determined that any of the information provided on the application is false or omitted.

(b) The municipality, upon consultation with the chief of police, determines that any of the conduct or activities described in the permit application, if enacted, would constitute a violation of the municipality's ordinances, or state or federal statutes or regulations.

(c) The municipality determines that the applicant fails to hold any license required under any other local ordinance, or state or federal statutes or regulations.

A Certificate of Registration shall not be denied because of the products, services, content, message, philosophy objective, or purpose of the Soliciting or Peddling; the possible or anticipated public reaction to same, the character of persons involved in the Soliciting or Peddling; or the method of Soliciting or Peddling, except to the extent that, if conducted in accordance with the information disclosed on the face of the application, it would constitute an illegal act under any of the municipality's other ordinances, or state or federal statutes or regulations.

Any denial of a permit shall be made in writing by the municipality, addressed to the applicant, and shall set forth the specific facts and reasons for the denial. Same may be mailed first class and/or hand delivered to the applicant.

Copies of any Certificate of Registration issued shall immediately be mailed or hand delivered to:

- (1) Chief of Police
- (2) Fire Chief
- (3) Municipal Manager
- (4) All Members of the municipality's governing body

Applicant shall be under a continuing obligation for the term of the certificate's validity, to immediately provide written notification to the municipality of any change in the facts stated in the application.

SECTION 8. REVOCATION OF CERTIFICATE OF REGISTRATION.

Any Certificate of Registration issued may, nevertheless, be revoked summarily, for the same reasons an application may be denied, should the municipality determine that the permit was issued in error, or that the information provided in the application is no longer true and correct, or if a notification be received from the applicant, amending the application in such fashion that denial of the Certificate of Registration would be justified for the reasons set forth in this ordinance.

SECTION 9. APPEAL OF DENIAL OF CERTIFICATE OF REGISTRATION.

Should a Certificate of Registration be denied or revoked, the applicant may appeal the municipality's decision to the governing body of the municipality by providing written notice of his desire to appeal, not later than ten (10) days after issuance of the notice of denial or revocation, to the municipality's governing body. Upon receipt of such notice of appeal, the matter will be scheduled for hearing by the governing body of the municipality within thirty (30) days.

SECTION 10. CERTIFICATE EXHIBITION.

Such certificate, when issued, shall state, inter alia, the products or services to be sold or rendered, and/or charitable contributions to be solicited or peddled by the applicant. Every solicitor or peddler shall at all times, when engaged in Soliciting or Peddling within the municipality, carry such certificate upon his/her person and shall exhibit it, upon request, to all police officers, municipal officials and initially upon introduction to citizens contacted. No solicitor or peddler shall engage in selling any product or service, or seeking charitable contributions, not identified on such certificate.

SECTION 11. NOTICE REGULATING SOLICITING.

Persons occupying Residences may enjoy protection from undesired Soliciting and Peddling by posting a notice in the following fashion.

Notice of a determination by the occupant of any Residence, of the refusing invitation to solicitors or peddlers to a Residence, shall be given, by exhibiting a card, at least three inches by four inches in size, upon or near the main entrance door to the Residence, containing the words “No Solicitors Invited” or “No Solicitors” or “No Soliciting” or some other phrase that shall give notice to Solicitors and Peddlers. The letters shall be at least one third inch in height and such card so exhibited shall constitute sufficient notice to any solicitor or peddler of the determination by the occupant of the residence of the information contained thereon.

SECTION 12. DUTY OF SOLICITORS OR PEDDLERS.

It shall be the duty of every Solicitor or Peddler, upon approaching or arriving at any Residence, to first look for any notice posted pursuant to Section 11 above, and examine the notice provided for in this ordinance, if any is attached, and be governed by the statement contained on any notice. If such a notice is posted, then the Solicitor or Peddler shall immediately and peacefully depart from the Residence without contacting the occupants. Any Solicitor or Peddler who has gained entrance to any Residence, whether invited or not, and whether posted with a notice or not, shall immediately and peacefully depart from a Residence when requested to do so by an occupant.

SECTION 13. UNINVITED SOLICITING OR PEDDLING PROHIBITED.

It is hereby declared to be a violation of this Ordinance to engage in Soliciting or Peddling in defiance of any notice exhibited at a Residence in accordance with the provisions of Section 11 of this ordinance, or to fail to immediately and peacefully depart from a Residence when requested to do so by an occupant.

SECTION 14. RESTRICTED HOURS FOR SOLICITING AND PEDDLING.

It is hereby declared to be a violation of this ordinance and shall constitute a public nuisance, for any Person, whether registered under this ordinance or not, to engage in Soliciting or Peddling, and/or, to go upon any premises and ring the doorbell upon or near any door of a Residence located thereon or rap or knock upon any door to create any sound in any other manner calculated to attract the attention of the occupant of such Residence, for the purpose of securing an audience with the occupant thereof, for the

purposes of Soliciting or Peddling, prior to 9:00 AM or after 8:00 PM of any workday, or at any time on a Sunday, or on a state or national holiday. Such time shall be the prevailing time, whether Eastern Standard Time or Daylight Saving Time.

SECTION 15. SOLICITING OR PEDDLING IN PUBLIC PLACES.

No person shall engage in Soliciting or Peddling in or on any Public Place, whether possessing a certificate of registration or not. No person engaged in Soliciting or Peddling shall permit their vehicle to remain standing or parked at any one location in or on a Public Place for more than thirty (30) minutes at a time.

SECTION 16: CRYING WARES; USING NOISEMAKERS PROHIBITED.

No person engaged in Soliciting or Peddling shall use any loud speaker, bell, whistle, or other device for announcing his/her presence as a result of which, the public health, safety and welfare is placed at risk or a public nuisance is created thereby, whether possessed of a certificate of registration or not.

SECTION 17: SEVERABILITY.

The provisions of this ordinance shall be severable, and if any of the provisions or sections shall be declared unconstitutional or illegal by a court of competent jurisdiction, the decision of such court shall not affect the validity of the remaining provisions or sections of this ordinance. It is hereby declared to be the legislative intent that this ordinance would have been adopted had such illegal or unconstitutional provisions not been included herein.

SECTION 18: PENALTY.

Whosoever violates any provision of this ordinance shall, upon conviction before a district judge thereof, be guilty of a summary offense, and be subject to a criminal fine not to exceed one thousand (\$1000.00) dollars per violation plus costs and reasonable attorney fees incurred by the Township, to a term of imprisonment to the extent allowed by law for the punishment of summary offenses, or to a term of imprisonment for the failure to pay a fine pursuant to the Pennsylvania Rules of Criminal Procedure.

A separate offense shall arise for each day or portion thereof in which a violation is found to exist or for each section of ordinance which is found to have been violated.

[Amended 3-3-1997 by Ord. No. 245, approved 3-3-1997]

SECTION 19: REPEALER.

Ordinance No. 174 as amended by Ordinance No. 196 are hereby repealed in their entirety.

SECTION 20: EFFECTIVE DATE.

This ordinance shall become effective ten (10) days after date of passage as provided by law.

ORDAINED and ENACTED this 20th, day of February, 1995.

Chairman /s/ Mark Jordan

Vice Chairman /s/ Ray E. Hykes

Supervisor /s/ Rick L Fink

ATTEST: /s/ Lou Ann Bostic, Secretary