

BOROUGH OF UNION CITY
ERIE COUNTY, PENNSYLVANIA
ORDINANCE NO. 1060

**PEDDLER, DOOR-TO-DOOR SALESPERSON AND
TRANSIENT RETAIL BUSINESS LICENSE**

AN ORDINANCE OF THE BOROUGH OF UNION CITY, ERIE COUNTY, PENNSYLVANIA; PROVIDING FOR DEFINITIONS; ESTABLISHING REQUIREMENTS FOR THE LICENSING OF PEDDLERS, DOOR-TO-DOOR SALES PERSONS AND TRANSIENT RETAIL BUSINESSES AND PROVIDING FOR FEE RESOLUTIONS; AUTHORIZING APPLICATION FORMS; REQUIRING A WAITING PERIOD, AUTHORIZING AN INVESTIGATION AND REQUIRING THE CUSTODY, DISPLAY AND EXHIBIT OF THE LICENSE; PROVIDING FOR EXCEPTIONS TO LICENSE REQUIREMENTS; PROHIBITING CERTAIN ACTS BY LICENSEES; DESIGNATING SUPERVISORY OFFICIALS; AUTHORIZING THE DENIAL, SUSPENSION OR REVOCATION OF LICENSES AND APPEALS THEREFROM; ESTABLISHING PENALTIES FOR VIOLATION; PROVIDING FOR A REPEALER; PROVIDING FOR SEVERABILITY AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the Union City Borough Council believes it to be in the best interest of the residents of the Borough of Union City to require peddlers, door-to-door sales persons and transient retail businesses that operate within the Borough to be licensed with the Borough and to pay a fee for such license; and

WHEREAS, such licensure is designed to protect the public health, safety and morals of the Borough of Union City; and

WHEREAS, Union City Borough Council desires to formalize the requirements for licensure and to provide penalties for the violation thereof;

NOW THEREFORE IT IS HEREBY ENACTED AND ORDAINED by the Borough Council of the Borough of Union City, Erie County, Pennsylvania as follows:

SECTION 1. Purpose. The Borough Council of the Borough of Union City, Erie County, Pennsylvania, intending to protect the public's health, safety and morals, finds it to be in the best interest of the residents of the Borough of Union City that peddlers, door-to-door sales persons, and transient retail businesses that engage in such acts within the Borough of Union City be required to be licensed with the Borough and pay a fee for such license, prior to engaging in such activities.

SECTION 2. Definitions, Interpretations and Exceptions.

A. The following words, terms and phrases, as used in this Ordinance, whether or not capitalized, shall have the following meanings, unless the context clearly indicates otherwise:

A. The Borough Secretary may deny, suspend or revoke any license issued, or applied for under this Ordinance when he deems such denial, suspension or revocation to be beneficial to the public health, safety or morals of the residents of the Borough, or for violation of any provision of this ordinance, or for giving false information upon any application for a license hereunder.

B. In the event that a license or application is denied, revoked or suspended, the Borough Secretary must send written notice of such to the applicant and the applicant's employer(s) within five (5) days of the denial, revocation or suspension. The notice shall state the reasons the license or application was denied, revoked or suspended, and shall inform the applicant of the ability to appeal such a determination.

C. An applicant has the ability to appeal a notice of denial, revocation or suspension to the Borough Council. An applicant has ten (10) days from the receipt of the notice to submit, in writing to the Borough Secretary, an intent to appeal and a request for a hearing. Upon receipt of such, Borough Council shall hold a public hearing on the issue within thirty (30) days.

D. The decision of the Borough Council shall be rendered following the close of the hearing. If the Borough Council shall uphold the denial, revocation or suspension, the Board shall state the reasons therefore in writing, and send the written decision to the applicant within ten (10) days of the hearing.

E. No part of a license fee shall be refunded to any person whose license or application was denied, revoked or suspended.

SECTION 10. Violation and Penalties.

A. Any person who shall violate any provision of this Ordinance, or who permits the violation of any provisions of this Ordinance, shall commit a summary offense, and upon conviction thereof, shall pay a fine of up to \$600, and, in default of payment of said fines and costs, may serve a term of imprisonment not to exceed thirty (30) days. Each separate day that a violation shall occur, and each violation of any provision of this article shall constitute a separate and distinct violation.

B. Any person who violates or permits the violation of any provision of this Ordinance shall, upon being found guilty thereof, pay the fine prescribed by this Ordinance, plus all court costs and fees, and expenses of the Borough of Union City, including reasonable attorney and other professional fees.

C. In enforcing the provisions of this Ordinance, the Borough of Union City may avail itself of any other remedy it may have at law or in equity.

SECTION 11. Repealer.

Borough Ordinance Number 670, passed on or about September 3, 1963, is hereby repealed in full. Any other ordinances, rules or resolutions, or parts of ordinances, rules or resolutions, in conflict herewith shall be, and the same are hereby, repealed. All other sections,

- A. engage in peddling, door-to-door sales or transient retail business activities without a valid license issued pursuant to this Ordinance;
- B. engage in such licensed activity at any time on Sunday or a legal holiday, or upon any other day except during reasonable daylight hours; if such licensed activity is to take place on a Sunday, a legal holiday or during non-reasonable daylight hours, the license holder shall obtain specific written approval of the Borough Secretary;
- C. hawk or cry his wares upon any of the streets, alleys, sidewalks or public grounds of the Borough, nor shall he use any loud speaker, horn or any device for announcing his presence, drums, musical instruments, or other sound devices;
- D. when operating from a vehicle, stop or park such vehicle upon any of the streets, alleys or public grounds in the Borough for longer than necessary in order to sell therefrom to persons in the immediate vicinity;
- E. park a vehicle upon any of the streets, alleys or public grounds of the Borough, except in the immediate vicinity of the license holders residence if his residence is located within the Borough, for the purpose of sorting, rearranging or cleaning any of his goods, wares or merchandise, or improperly disposing of any carton, wrapping material, stock, wares or foodstuffs which have become unsaleable through handling, age or otherwise;
- F. enter into any physical contact with anyone being approached for sales purposes without the person's consent. This shall be deemed to include not only physical force or restraint, but also the act of placing objects on the person or the person's clothing;
- G. interfere with or block movement of any pedestrians or vehicles;
- H. occupy a space which is a public ground, sidewalk, street or alley without having such a space notated on his license;
- I. occupy a space, which is private property, without the written permission of the property owner. The license holder is to carry such permission with him at all times and exhibit such permission upon request by all police officers, Borough officials, citizens or residents;
- J. engage in peddling, selling, soliciting or taking of orders, either by sample or otherwise, of any personal property, goods or services, wares or merchandise of any kind not mentioned on the license issued pursuant to this Ordinance.

SECTION 8. Supervision, Records and Reports.

The Borough Secretary shall supervise the activities of all persons holding licenses under this Ordinance. He shall keep a record of all licenses issued hereunder and shall be prepared to make a written report thereof to Borough Council upon request.

SECTION 9. Denial, Suspension or Revocation of License, Appeals.

3 inches in size, which does accurately depict the applicant's appearance, in addition to a photocopy of the applicant's drivers license; and,

(13) A complete and accurate description of the nature, type and location of the activity to be conducted, including procedures and methods to be used in contacting persons, the visitation frequency per address, and the hours and days of the activity.

SECTION 5. Waiting Period, Investigation, Custody, Display and Exhibit.

A. **Waiting Period.** A five (5) business day waiting period shall be required between the submission of the application and a final determination by the Borough Secretary.

B. **Investigation.** Upon receipt of a completed application and the prescribed fee, the Borough Secretary shall conduct a reasonable investigation which includes making a determination of the eligibility, reliability and responsibility of the applicant, determining whether the applicant, or activities of the applicant, are a risk to the public health, safety or morals of the residents of the Borough, determining whether the applicant has a criminal record, whether the organization which the applicant does business for is in good standing, and whether false information has been given on the application.

C. **Custody, Display and Exhibit.** Every peddler, door-to-door salesperson and transient retail business license holder shall, at all times when engaged in such activity within the Borough, carry such license on his person and shall exhibit such license upon request by all police officers, Borough officials, citizens or residents. If a license holder is engaged in such business from a fixed location, the license shall be displayed in a readily visible location.

SECTION 6. Exceptions.

A. No license need be applied for by, and no fee shall be charged to:

- (1) Farmers selling produce grown on their lands, and
- (2) Children eighteen (18) years of age or under who take orders for and deliver newspapers, greeting cards, candy, bakery products and the like, or who represent the Boy Scouts or Girl Scouts, or similar organizations.

B. The Borough Secretary may waive the required application and license fee for other such activities from which the entire proceeds, less a reasonable allowance for expenses, inure to the benefit of a recognized charity or charitable purpose.

SECTION 7. Prohibited Acts.

No peddler, door-to-door salesperson, or person engaged in any transient retail business, shall:

SECTION 3. License Required.

A. No person shall engage in any peddling, transient retail business, or as a door-to-door salesperson, whether acting on his own behalf, as principal, or as the employee or agent of another, without first having obtained from the Borough Secretary a license, for which a fee shall be charged, said fee to be in such amount established from time to time by Resolution of the Borough Council. In the event an organization or company governed by this Ordinance has more than one representative working within the Borough, each representative shall obtain a separate license and pay the required fee.

SECTION 4. License Application.

A. Every person desiring a license under this Ordinance shall make application to the Borough Secretary for such license. He shall make such application on forms provided by the Borough, and which are available at the Borough Secretary's office.

B. The application shall require:

- (1) The applicant's name;
- (2) The applicant's residential address;
- (4) The applicant's residential telephone number;
- (3) The applicant's social security number;
- (4) The applicant's date of birth;
- (5) The applicant's criminal record, if any;
- (6) The name, address, and telephone number of the applicant's employer;
- (7) The type of personal property, goods or services, wares or merchandise of any kind he wishes to peddle, sell door-to-door, or deal with in a transient retail business;
- (8) The length of time he wishes such license to be valid;
- (9) The type of vehicle used, if any, during the peddling, door-to-door sales or transient retail business;
- (10) The license number of the vehicle referred to above;
- (11) The number of employees had by the applicant, if any;
- (12) A photocopy of the applicant's drivers license, so long as such drivers license has a picture of the applicant which accurately depicts the applicant's appearance. If the photo on the drivers license does not accurately depict the applicants appearance, the applicant is to provide a photograph, approximately 2 x

BOROUGH - The Borough of Union City, Erie County, Pennsylvania.

DOOR-TO-DOOR SALES PERSON - Any person engaging in the peddling, selling, soliciting or taking of orders, either by sample or otherwise, of any personal property, goods or services, wares or merchandise of any kind, within the Municipality, when the activity involves the movement of the salesperson from building-to-building, whether by vehicle or on foot, and the sales activity is proposed to any occupant of such building.

LEGAL HOLIDAY - New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Christmas Eve, and Christmas Day.

PEDDLERS - Any person engaged in the peddling, selling, soliciting or taking of orders, either by sample or otherwise, of any personal property, goods or services, wares or merchandise of any kind, within the Borough, either using a vehicle in a stationary position on private or public property, or in a vehicle which is in a moving position on the public streets, or by foot, with or without the use of a pushcart or carried display tray, while standing, walking or otherwise on foot.

PERSON - any natural person, partnership, association, corporation or other legal entity.

TRANSIENT RETAIL BUSINESS - selling, soliciting or taking orders for any personal property, goods or services, wares or merchandise of any kind, from a fixed location within the Borough, on a temporary basis, which shall include, but not be limited to, such activities conducted at the time of special occasion or celebrations, for seasonal purposes or for yearly holidays.

B. The singular shall include the plural; the plural shall include the singular; and the masculine shall include the feminine and the neuter.

C. Exceptions. None of the foregoing definitions shall be deemed to include the following activities:

(1) Any sale, or the solicitation thereof, or the taking of orders for personal property or services at a pre-arranged appointment with the potential customer; and

(2) The collection of money for payment for previously sold property or services by a salesperson, with or without a pre-arranged appointment.

parts and provisions of the Ordinances of the Borough of Union City shall remain in full force and effect as previously enacted and amended.

SECTION 12. Severability.

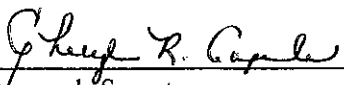
In the event any provision, section, sentence, clause or part of this Ordinance shall be held to be invalid, illegal or unconstitutional by a court of competent jurisdiction, such invalidity, illegality or unconstitutionality shall not affect or impair the remaining provisions, sections, sentences, clauses or parts of this Ordinance, it being the intent of Borough Council that the remainder of the Ordinance shall be and shall remain in full force and effect.

SECTION 13. Effective date.

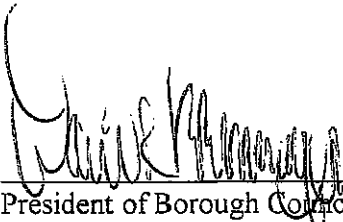
This Ordinance shall take effect and be in force five (5) days after its enactment.

DULY ORDAINED AND ENACTED this 12th day of June, 2007, by the Borough Council of the Borough of Union City, Erie County, Pennsylvania, in lawful session duly assembled.

ATTEST:

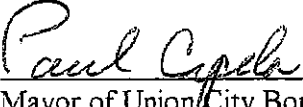


Borough Secretary



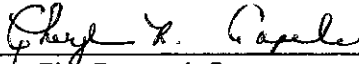
President of Borough Council

APPROVED this 12th day of June, 2007.



Mayor of Union City Borough

I certify that the above is a true copy of the Borough of Union City, Erie County, Pennsylvania, Ordinance No. 1060 adopted by the Union City Borough Council on June 12th, 2007 and advertised in the *Times-Leader* on May 26th, 2007.



Union City Borough Secretary

BOROUGH OF UNION CITY

13 South Main Street

Union City, PA 16438

(814) 438-2331 Phone

(814) 438-7115 Fax

Permit Number: _____

APPLICATION FOR TRANSIENT RETAIL BUSINESS PERMIT

Union City Borough Ordinance No. 1060 requires that any person engaging in door-to-door sales, peddling or a transient retail business, as defined by Borough Ordinance No. 1060, must obtain a license from the Borough Secretary prior to initiation of such activity. A copy of the Transient Retail Business Ordinance can be reviewed at the Borough office.

You must accurately complete the following application to assist the Borough Secretary in his or her determination as to whether or not a license should be issued.

Fees for a Transient Retail Sales Permit are as follows:

Daily	\$ <u>5.00</u>	Monthly	\$ <u>75.00</u>
Weekly	\$ <u>20.00</u>	Yearly	\$ <u>200.00</u>

PAYMENTS

Mail or drop off completed Application with Check or Money Order made payable to:

Borough of Union City
13 South Main Street
Union City, PA 16438
(814) 438-2331 Phone
(814) 438-7115 Fax

Please allow five (5) business days for the review and approval or disapproval of this application. We thank you for your cooperation.

Section A

Date

Applicant's Name

Applicant's Residential Address

Applicant's Residential Telephone Number

Applicant's Social Security Number

Applicant's Date of Birth

Applicant's Criminal Record

Name of Applicant's Employer

Address of Applicant's Employer

Telephone Number of Applicant's Employer

Section B

The type of personal property, goods or services, wares or merchandise of any kind he wishes to peddle, sell door-to-door, or deal with in a transient retail business;

The length of time he wishes such license to be valid;

The type of vehicle used, if any, during the peddling, door-to-door sales or transient retail business;

The license number of the vehicle referred to above;

The number of employees had by the applicant, if any;

A photocopy of the applicant's drivers license, so long as such drivers license has a picture of the applicant which accurately depicts the applicant's appearance. If the photo on the drivers license does not accurately depict the applicants appearance, the applicant is to provide a photograph, approximately 2 x 3 inches in size, which does accurately depict the applicant' appearance, in addition to a photocopy of the applicant's drivers license;

and, a complete and accurate description of the nature, type and location of the activity to be conducted, including procedures and methods to be used in contacting persons, the visitation frequency per address, and the hours and days of the activity.

Section C

List the political municipalities where you have recently conducted your business or sales.

Section D

Complete the following information for each individual who will be engaged in transient retail business for your business or firm (a permit will be required for each individual).

Name

Address

Driver's License Number

Name

Address

Driver's License Number

Section E
Permit Approval

Borough Secretary

Date

726411

PROHIBITED ACTS

NO PEDDLER, DOOR-TO-DOOR SALESPERSON, OR PERSON ENGAGED IN ANY TRANSIENT RETAIL BUSINESS, SHALL:

1. engage in peddling, door-to-door sales or transient retail business activities without a valid license issued pursuant to this Ordinance;
2. engage in such licensed activity at any time on Sunday or a legal holiday, or upon any other day except during reasonable daylight hours; if such licensed activity is to take place on a Sunday, a legal holiday or during non-reasonable daylight hours, the license holder shall obtain specific written approval of the Borough Secretary;
3. hawk or cry his wares upon any of the streets, alleys, sidewalks or public grounds of the Borough, nor shall he use any loud speaker, horn or any device for announcing his presence, drums, musical instruments, or other sound devices;
4. when operating from a vehicle, stop or park such vehicle upon any of the streets, alleys or public grounds in the Borough for longer than necessary in order to sell therefrom to persons in the immediate vicinity;
5. park a vehicle upon any of the streets, alleys or public grounds of the Borough, except in the immediate vicinity of the license holders residence if his residence is located within the Borough, for the purpose of sorting, rearranging or cleaning any of his goods, wares or merchandise, or improperly disposing of any carton, wrapping material, stock, wares or foodstuffs which have become unsaleable through handling, age or otherwise;
6. enter into any physical contact with anyone being approached for sales purposes without the person's consent. This shall be deemed to include not only physical force or restraint, but also the act of placing objects on the person or the person's clothing;
7. interfere with or block movement of any pedestrians or vehicles;
8. occupy a space which is a public ground, sidewalk, street or alley without having such a space notated on his license;
9. occupy a space, which is private property, without the written permission of the property owner. The license holder is to carry such permission with him at all times and exhibit such permission upon request by all police officers, Borough officials, citizens or residents; or
10. engage in peddling, selling, soliciting or taking of orders, either by sample or otherwise, of any personal property, goods or services, wares or merchandise of any kind not mentioned on the license issued pursuant to this Ordinance.

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