

ORDINANCE NO 2015-02**AN ORDINANCE OF THE BOROUGH OF GREENCASTLE, FRANKLIN COUNTY,
PENNSYLVANIA AMENDING CHAPTER 141 ENTITLED "PEDDLING AND
SOLICITING" OF THE CODE OF THE BOROUGH OF GREENCASTLE**

WHEREAS, the Borough of Greencastle desires to amend various provisions of its ordinance regulating peddling and soliciting within the Borough of Greencastle; and

WHEREAS, the Council of the Borough of Greencastle deems it in the best interest, and for the general welfare of the citizens and residents of the Borough to amend certain provisions of Chapter 141 of the Borough of Greencastle.

NOW THEREFORE, BE IT ENACTED AND ORDAINED by the Mayor and Borough Council of the Borough of Greencastle, Franklin County, Pennsylvania, and it is enacted and ordained as follows:

SECTION I: Chapter 141 of the Code of the Borough of Greencastle, entitled "Peddling and Soliciting", Section 1 thereof, entitled "Definitions and word usage", is hereby amended to modify the definition for "Person" and "Transient Retail Business" as follows:

TRANSIENT RETAIL BUSINESS

Any person(s) which engages in peddling, canvassing, soliciting or taking of orders, either by sample or otherwise, for any goods, wares or merchandise, service, subscriptions, or seeking to obtain gifts or contributions, upon any public street, public alley, public sidewalk or public ground or from house to house within the Borough of Greencastle. It shall not include floral displays, open sidewalk cafes, or sidewalk sales or displays otherwise permitted by the provisions of this Code.

PERSON

Includes any natural person, partnership, association, firm, trust, corporation, or other legal entity.

SECTION II: Chapter 141 of the Code of the Borough of Greencastle, entitled "Peddling and Soliciting", Section 1 thereof; entitled "Definitions and word usage", is hereby amended to add the definition for "Individual Applicant", "Promoter" and "Authorization", which shall read as follows:

INDIVIDUAL APPLICANT

A natural person employed by, representing, or engaged in a transient retail business.

PROMOTER

Any person, as defined in this chapter, who organizes the gathering of five or more persons, as defined in this chapter, engaged in transient retail business.

AUTHORIZATION

Approval, granted by the Chief of Police, in accordance with the provisions of this Chapter, after submission of an application as required by this Chapter.

SECTION III: Chapter 141 of the Code of the Borough of Greencastle, entitled "Peddling and Soliciting", Section 2 thereof, entitled "License required; conditions of issuance", is hereby amended by changing the title to "Authorization required; fee; badges" and Section 2 shall be amended in its entirety to read as follows:

- A. No person shall engage in any transient retail business within the Borough of Greencastle without first having obtained from the Police Chief or his or her delegate authorization to do so, after submission of the required application and fee as set forth in this Chapter.
- B. Every authorization granted under the provisions of this Chapter shall be granted on an individual basis to individual applicants engaging in transient retail business and every individual shall obtain an authorization, granted to him or her in his or her name, and the authorization fee hereby imposed shall be applicable to every such individual authorization.
- C. All persons engaged in a transient retail business shall wear a badge prepared and issued by the Greencastle Police Department, which badge shall be worn at all times while such persons are so engaged. Failure to wear the badge will be subject to revocation of permit.
- D. Authorization to engage in a transient retail business shall not include properties that display "No Solicitation", "No Trespassing" or other similar signs indication that peddlers or solicitors are not welcome.

SECTION IV: Chapter 141 of the Code of the Borough of Greencastle, entitled "Peddling and Soliciting", Section 3 thereof, entitled "Exceptions", is hereby amended in its entirety to read as follows:

- A. No fee shall be charged for an application for authorization under this section for the following transient retail businesses:
 - (1) To farmers selling their own produce or products grown, raised, or processed at the farmers agricultural property.

(2) For the sale of housewares, baskets, household items, baked good, or food items donated by the owners thereof, the proceeds whereof are to be applied to any charitable or philanthropic purpose.

(3) a charitable organization exempt from taxation under the Internal Revenue Code, Section 501(c)(3), if all of the proceeds from the transient retail business activity are remitted to said organization to further its charitable purpose.

B. All persons exempted hereby from the payment of the fee accompanying the application for authorization shall be not be exempt from the requirement to obtain authorization from the Police Chief or his or her delegate; provided, however, that the exemption only applies to a transient retail businesses activities meeting one of the exemption criteria above and any other activities of a transient retail business not meeting the exemption criteria shall be subject to the applicable application fee.

SECTION V: Chapter 141 of the Code of the Borough of Greencastle, entitled "Peddling and Soliciting", Section 4 thereof, entitled "License Application", is hereby amended by changing the title to "Application for Authorization" and amending the contents of Section 4 in its entirety to read as follows:

- A. A person desiring to engage in a transient retail business within the Borough shall appear in person at the Greencastle Police Department during normal business hours to obtain an application for authorization, in a form established by the municipality from time to time, which will, at a minimum, require the following information:
1. A copy of a valid photo ID of the person engaged in the transient retail business if such person is 18 years of age or older; and
 2. The name and address of the individual applicant's employer or organization that the individual applicant is representing;
 3. The period of time for which the individual is seeking authorization to engage in transient retail business within the Borough;
 4. Whether the individual applicant has ever been convicted of a felony or a crime of moral turpitude under the law of the Commonwealth of Pennsylvania, any other state, or the United States of America.

The application, when completed, shall be verified by an oath or affirmation. An application for authorization shall be required for each individual applicant who will be engaged in the transient retail business. Application fee(s), in an amount(s) established by the Council of the Borough of Greencastle, from time to time by resolution shall accompany the application for authorization, unless the transient retail business qualifies for an exemption as set forth in this Chapter. Submission of an application for authorization and payment of the required fee shall not constitute approval to engage in a transient retail business, and the individual applicants shall not engage in such transient retail business until such time as the individual applicant receives written approval of the application from the Chief of Police along with the required badge.

B. In the event the transient retail business is represented by a promoter, the promoter may appear at the Greencastle Police Department during normal business hours to obtain an application for authorization for the transient retail business and the five or more individual applicants who will be engaged in the transient retail business, and may submit such application on behalf of the individual applicants; however, the promoter shall be jointly and severally liable for any violations of this Chapter committed by any of the individual applicant for which the promoter submitted said application. The promoter shall complete the required application for each individual applicant in the form required in subsection A. above. An application fee, in an amount established by the Council of the Borough of Greencastle, from time to time by resolution shall accompany the application for authorization, unless the transient retail business qualifies for an exemption as set forth in this Chapter. Submission of an application for authorization and payment of the required fee shall not constitute approval to engage in a transient retail business, and the individual applicants shall not engage in such transient retail business until such time as the individual applicant receives written approval of the application from the Chief of Police along with the required badge.

SECTION VI: Chapter 141 of the Code of the Borough of Greencastle, entitled "Peddling and Soliciting", Section 5 thereof, entitled "Issuance of license; display", is hereby amended by changing the title to "Review of Application; action on application; display of badge" and amending the contents of Section 5 in its entirety to read as follows:

- A. Upon receipt of a fully completed application for authorization, the Chief of Police or his or her delegate shall review the background of the individual applicant's and transient retail business' as he or she deems necessary for the protection of the public welfare.
- B. No individual applicant shall be issued authorization to engage in a transient retail business if the individual applicant has been convicted of any of the following: a crime of moral turpitude, a sexual offense of any manner, any offense requiring registration on Megan's List (42 Pa.C.S § 9799.32(1)), a felony offense within the last five (5) years, or a misdemeanor within the last five years.
- C. If as a result of such background review, the individual applicant business or transient retail business is found to be unsatisfactory, the Chief of Police or his or her delegate shall note on such application his or her disapproval and the reasons for the same and return said application to the applicant and shall inform the individual applicant or the promoter, if applicable, of the denial.
- D. If, as a result of such background review, the individual applicant and transient retail business satisfies the criteria of this Chapter, the Chief of Police or his or her delegate shall endorse on the application his or her approval and record the name of the applicant, date, duration of authorization and other data of public interest which he or she deems relevant in a file entitled "Peddling Authorizations Granted," which shall be available for public inspection at reasonable times. The Chief or his or her delegate shall keep a record

of all applications made, authorizations granted and authorizations denied for at least seven years from the date of the application of approval.

- E. No authorization shall be granted until such background review is complete, but in no event shall authorization be granted later than three full business days from the date of receipt of the application by the Greencastle Police Department.
- F. Upon authorization, the individual applicant shall, when engaged in transient retail business, display a badge provided by the Greencastle Police Department.

SECTION VII: Chapter 141 of the Code of the Borough of Greencastle, entitled "Peddling and Soliciting", Section 6 thereof, entitled "Prohibited acts", is hereby amended by amending the contents of Section 6 in its entirety to read as follows:

- A. No person engaging in any transient retail business shall engage in such business at any time on Sunday, legal holidays, or upon any other day of the week prior to 10:00 a.m. and after 6:00 p.m., prevailing time.
- B. No person shall engaged in any transient retail business without authorization, and no individual application or transient retail business shall peddle, canvas, solicit or take orders, either by sample or otherwise, for any goods, wares or merchandise, service, subscriptions, or seeking to obtain gifts or contributions not specifically contained in the authorization.

SECTION VIII: Chapter 141 of the Code of the Borough of Greencastle, entitled "Peddling and Soliciting", Section 7 thereof; entitled "Supervision; records and reports", is hereby amended by changing the title to "Fixed location prohibited; exceptions" and amending the contents of Section 7 in its entirety to read as follows:

No transient retail business shall be conducted for any length of time from a fixed location within the Borough of Greencastle. Notwithstanding the foregoing prohibition, a transient retail business shall be permitted to occupy a fixed location under either of the following circumstances:

At a parade, as defined and authorized by the Borough Council pursuant to the provisions of Parades, provided that the individual applicant shall:

- (1) Position himself or herself on the sidewalk, off the cartway of any street or alley and at least 25 feet from the intersection of streets; and
- (2) Remain stationary until completion of the parade or until departing from the event.

SECTION IX: Chapter 141 of the Code of the Borough of Greencastle, entitled "Peddling and Soliciting", Section 8 thereof, entitled "Suspense and revocation of license, appeal", is hereby amended by changing the title to "Suspense and revocation of authorization, appeal" and amending the contents of Section 8 in its entirety to read as follows:

- A. Authorizations granted under the terms of this Chapter may be revoked, by the Chief of Police or his or her delegate for any of the following causes:
1. Fraud, misrepresentation or false statement contained in the application for authorization.
 2. Fraud, misrepresentation or false statement made in the course of the transient retail business activity.
 3. Any violation of this chapter.
 4. Conduct of a transient retail business that constitutes a breach of the peace or to constitute a menace to the health, safety or general welfare of the public.
- B. Any person aggrieved by the action of the Chief of Police or his or her delegate in denying authorization or revocation of authorization shall have the right of appeal to the Council of the Borough of Greencastle. Such appeal shall be taken by filing with the Council, within five days after notice of the action complained of has been mailed to such person's last address or otherwise placed in his or her possession, a written statement setting forth the grounds for the appeal. Borough Council shall set a time and place for a hearing on such appeal, which hearing shall be held not later than 30 days after the date of such filing. Borough Council may take whatever action with respect to the matter that it deems appropriate.

SECTION X: Chapter 141 of the Code of the Borough of Greencastle, entitled "Peddling and Soliciting", Section 9 thereof, entitled "Violations", is hereby amended by amending the contents of Section 9 in its entirety to read as follows:

Any person who shall violate any provision of this chapter shall, for each and every such violation, upon conviction thereof, be sentenced to pay a fine of not more than \$1,000 and costs of prosecution including court costs and reasonable attorney fees, and, in default of payment of such fine and costs, to imprisonment for not more than 30 days. Each day's violation of any provision of this chapter shall constitute a separate violation.

SECTION XI: REPEALER. All provisions of previous Ordinances of the Borough of Greencastle which are contrary to this Ordinance are expressly repealed.

SECTION XII: SAVINGS CLAUSE. In all other respects, Chapter 205 of the Code of the Borough of Greencastle shall remain as previously enacted and ordained.

SECTION XIII: SEVERABILITY. The provisions of this Ordinance are severable and if any of its sections, clauses, or sentences shall be held illegal, invalid, or unconstitutional, such provisions shall not affect or impair any of the remaining sections, clauses or sentences.

SECTION XIV: EFFECTIVE DATE. This Ordinance shall take effect immediately.

ENACTED, ORDAINED, AND APPROVED this day of , 2015.

Borough Council of the Borough of
Greencastle, Franklin County, Pennsylvania

By: *Paul R. Eckman*
President

ATTEST:

Erica Fright
Secretary

Robert E. Shely
Mayor of the Borough of Greencastle