

BOROUGH OF JESSUP
ORDINANCE NO. ____-2021

**AN ORDINANCE OF THE BOROUGH OF JESSUP, LACKAWANNA COUNTY
PENNSYLVANIA REGULATING SOLICITING AND PEDDLING WITHIN JESSUP
BOROUGH, REQUIRING SOLICITORS AND PEDDLERS TO OBTAIN A
CERTIFICATE OF REGISTRATION, ESTABLISHING REGISTRATION FEES, AND
PROVIDING FOR THE ENFORCEMENT THEREOF AND PENALTIES FOR THE
VIOLATION THEREOF**

WHEREAS, the Jessup Borough Council has determined that an Ordinance prohibiting soliciting and peddling within Jessup Borough, except under certain circumstances, is essential to ensure the health and safety of the residents of Jessup Borough and to protect public and private property; and

WHEREAS, the Jessup Borough Council believes that it is in the best interests of Jessup Borough to prohibit soliciting and peddling within Jessup Borough, except under certain circumstances.

THEREFORE, BE IT ENACTED AND ORDAINED, and it is hereby enacted and ordained by the Jessup Borough Council under authority of law as follows:

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:

- A. **SOLICITING** – Shall mean and include any one or more of the following activities:
1. Seeking to obtain orders for the purchase of goods, wares, merchandise, foodstuffs, services of any kind, character, or description whatever, for any kind of consideration whatever, for future delivery; or
 2. Seeking to obtain prospective customers for application or purchase of insurance of any type, kind, or publication; or
 3. Seeking to obtain subscriptions to books, magazines, periodicals, newspapers, and every other type or kind of publication; or
 4. 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.

- B. PEDDLING – Shall mean the selling of any goods, wares, merchandise, foodstuffs, or services for immediate delivery, but shall not include delivery of regular orders taken previously.
- C. 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.
- D. REGISTERED SOLICITOR OR PEDDLER – Shall mean and include any person who has obtained a valid certificate of registration as provided in this Ordinance, which certificate is in the possession of the Solicitor or Peddler while engaged in soliciting or peddling.
- E. PERSON – Shall mean any natural person, association, partnership, firm, organization or corporation.

Section 2 – Certificate of Registration. Every person desiring to engaged in soliciting or peddling, as herein defined, unless exempted by the provisions of Section 3 of this Ordinance, from Persons in Residences or upon the roads, highways, sidewalks or alleys within Jessup Borough 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 Jessup Borough.

Section 3 – Exemptions. The registration requirements in Section 2 of this Ordinance shall not be applicable to the following:

- A. Farmers seeking or taking orders for the sale of their own products;
- B. Public or charitable activities within Jessup Borough or that serves and specifically benefits the residents of Jessup Borough, when the activities are being conducted for the enjoyments and well-being of the community;
- C. Charitable organizations exempted from the registration requirements of Act of the Assembly of the Commonwealth of Pennsylvania of April 30, 1986, P.L. 107, as amended, 10 P.S. Section 162.1, et seq.
- D. Boy Scout, Girl Scout, and similar scouting or other youth organizations sponsored by non-profit organizations, municipal, or school district.
- E. Candidates, or their representatives, who are duly authorized in writing, seeking a public office that serves the residents of Jessup Borough.
- F. Snowball, snow cone, ice-cream or similar vans or trucks, where the point of sale of snowballs, snow cones, ice-cream, or frozen treats is in the street at the sidewalk, and not at the door of a person's residence.

Section 4 – Application for Certificate of Registration. Every person desiring to engage in soliciting or peddling in Jessup Borough shall first make application to the Jessup Borough Municipal Office, to the attention of the Secretary, Borough Manager, or other duly authorized representative of Jessup Borough for a certificate of registration. The application shall be made upon a form provided by Jessup Borough and shall contain at least the following information about the applicant verified by oath or affirmation:

- A. Full name and local address, if any.
- B. Permanent address.
- C. Name of employer or a statement that such applicant is self-employed.
- D. Contact and personal information, including, but not limited to, a cellular telephone number, email address, and social security number for the applicant and any person who will be in the Borough.
- E. The nature of the goods, wares, services or merchandise offered for sale, or the purpose of the organization and the nature of the solicitations being made.
- F. 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 nature of the offense or offenses and the punishments imposed therefor. The Borough reserves the right to investigate the criminal background of the applicant, at the applicant's cost. By submitting an application, the applicant authorizes such investigation.
- G. The type of vehicle(s) to be used, if any.
- H. Upon request, the applicant shall also submit to finger printing, which shall be conducted at the cost of Jessup Borough, and furnish a photograph.
- I. Produce verification, license, or identification.

Denials. When applying for a certificate of registration, the applicant shall authorize Jessup Borough to verify the information provided upon the form. The applicant also shall agree that the certificate of registration may be denied if the Secretary, Borough Manager, or other duly authorized representative of Jessup Borough determines that the applicant has:

- A. Failed to complete the registration form.
- B. Provided fraudulent information on the registration form.
- C. Made false or fraudulent statements or misrepresentations while soliciting or peddling.
- D. Violated any local, state, or federal laws.

E. Trespassed while soliciting or peddling.

F. Ceased to possess the qualifications required to obtain the permit.

Non-transferrable. Where a person makes application for himself/herself and one or more helpers, all applicable personal information specified above shall be given by him/her, and an individual certificate shall be required for each helper. No certificate under this article shall be transferable from one person to another.

Jessup Borough shall attempt to process all applications for certificate of registration within five (5) business days of the receipt thereof.

Applicant may challenge denial of the permit by requesting in writing a hearing before Borough Council.

Section 5 – Certificate Fee. No certificate shall be issued under this Ordinance until the sum of Twenty-Five Dollars (\$25.00) shall be paid to Jessup Borough (the “Certificate Fee”). This Certificate Fee may be changed from time to time by Jessup Borough Council by resolution. A separate application shall be filed and a separate Certificate Fee shall be paid by each person who shall actually conduct the soliciting or peddling, including where an employer desires to secure certificates for his employees, agents, or servants. If the Borough incurs any additional costs in processing the application, the applicant shall reimburse them.

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 four (4) in number, upon payment, in advance, of the Certificate Fee for each thirty (30) day period provided in Section 5.

Section 7 – Certificate Exhibition. Such certificate, when issued, shall state, inter alia, the products to be sold or services rendered by the holder. Every Solicitor or Peddler shall at all times, when engaged in soliciting or peddling within Jessup Borough, carry such certificate upon his/her person and shall exhibit it upon request to all police officers, Borough officials, and citizens. No Solicitor or Peddler shall engage in selling any product or service not mentioned on such certificate.

Section 8 – Notice Regulating Soliciting. Every person desiring to secure the protection provided by the regulations pertaining to soliciting or peddling contained in this Ordinance, including those exempted from registration, shall comply with the following:

Notice of the determination by the occupant of any residence of the refusal of invitation to Solicitors, Peddlers, or uninvited guests to the residence shall be given by exhibiting a card or sign 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 or Peddlers. The card or sign exhibited shall constitute sufficient notice to any Solicitor, Peddler, or uninvited guest of the determination by the occupant of the residence of the information contained thereon.

Section 9 – Duty of Solicitors or Peddlers. It shall be the duty of every Solicitor or Peddler whether or not required to secure a certificate of registration upon going into any premises in Jessup Borough upon which a residence is located to first 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 premises. Any Solicitor or Peddler who has gained entrance to any residence, whether invited or not, shall immediately and peacefully depart from the premises when requested to do so by the occupant. The applicant, and any person who is a solicitor or peddler, shall be available by cellular phone during said activities or if not by cellular telephone, then by other means as directed by the Borough, including, but not limited to, periodically checking in with the Borough to provide updates during the term of the Certificate. The Borough may impose additional duties following written notice to the applicant, which written notice may be done by resolution or motion adopted prior to submission of an application or in correspondence with the applicant during the application process.

Section 10 – Uninvited Soliciting or Peddling Prohibited. It is hereby declared to be unlawful and shall constitute a nuisance for any person to go upon any premises and ring the doorbell upon or near any door, or 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 and engage in soliciting or peddling in defiance of the notice exhibited at the residence in accordance with the provisions of Section 8 of this Ordinance.

Section 11 – Time Limit. It is hereby declared unlawful and shall constitute a nuisance for any person whether registered under this Ordinance or not, 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 or 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 and engage in soliciting or peddling prior to 9:00 A.M. or after 7:00 P.M. of any weekday and Saturday, or at any time on a Sunday or on a state or national holiday.

Section 12 – Parking Vehicles On Street; Littering. No person, whether or not registered as a Solicitor or Peddler under this Ordinance, shall park any vehicle upon any of the streets, highways, or alleys of Jessup Borough in order to sort, rearrange or clean any of his goods, wares, services, or merchandise. No such person shall place or deposit any refuse on any such street, highways, or alleys. No such person shall maintain or keep a street or curbstone market by parking any vehicle upon any street or alley in Jessup Borough for any longer than necessary in order to sell therefrom to persons residing in the immediate vicinity.

Section 13 – Fixed Location Prohibited. No person licensed as a Solicitor or Peddler under this Ordinance shall occupy any fixed location upon any of the sidewalks of the streets, highways, alleys, or sidewalks of Jessup Borough for the purpose of soliciting or peddling with or without any stand or counter.

Section 14 - Revocation of Certificates. Any certificate issued under this Ordinance may be suspended or revoked at any time by any authorized enforcement officer for violation of any of the terms and conditions set forth herein.

Section 15 – Crying Wares; Using Noisemakers Prohibited. No person registered as a Solicitor or Peddler under this Ordinance shall hawk or cry his/her wares or services upon any of the streets or sidewalks of Jessup Borough, nor shall he/she use any loudspeaker, bell, whistle, or other device for announcing his/her presence by which the public is annoyed.

Section 16 – Penalties. Any person who shall violate any of the provisions of this Ordinance shall, upon conviction thereof, be fined not more than Five Hundred Dollars (\$500.00) and costs of prosecution for each and every separate offense. For purposes of this Ordinance, there may be multiple violations in a day, for each individual violation of any one of more sections thereof.

Section 17 – Enforcement. The provisions of this Ordinance shall be enforced by the Jessup Borough Zoning Officer, any Jessup Borough official appointed from time to time by resolution of the Borough Council or by any police officer having authority within Jessup Borough.

Section 18 – 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 19 – Repealer. All Ordinances or parts of Ordinances inconsistent herewith are hereby repealed to the extent of such inconsistency.

Section 20 – Effective Date. This Ordinance shall become effective ten (10) days after the date of its enactment as provided by law.

ENACTED AND ORDAINED on this _____ day of _____, 2021 at a duly advertised public hearing of Jessup Borough Council.

Jessup Borough Council

By: _____
President

Attest: Secretary

Examined and Approved this ____ day of _____, 2021

Joseph Buckshon
Mayor of Jessup

Approved as to form.

Christopher J. Szewczyk, Esq.
Borough Solicitor