

RESOLUTION R-2011-07

**A RESOLUTION OF THE TOWNSHIP OF HOPEWELL, BEAVER COUNTY,
PENNSYLVANIA ESTABLISHING A STANDARD PERMIT FEE AND DAILY FEE
FOR ALL PEDDLING AND SOLICITING ACTIVITIES IN HOPEWELL TOWNSHIP
IN ACCORDANCE WITH ORDINANCE NO. 2011-01**

BE IT RESOLVED by the Board of Commissioners of the Township of Hopewell, a Municipal Corporation situated in the County of Beaver and the Commonwealth of Pennsylvania, and it is hereby resolved:

SECTION 1 That the permit fee of One Hundred dollars \$100.00 and a daily fee of Fifty \$50.00 is hereby adopted as the standard fee for Peddling and Soliciting within the boundaries of Hopewell Township in accordance with Hopewell Township Ordinance 2011-01.

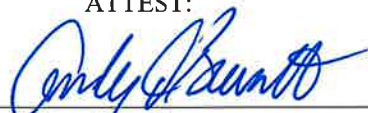
SECTION 2 It is hereby declared that the intent of this fee is to defray the costs involved in reviewing and administering the application and undertaking the required security background testing as administered by the Hopewell Township Police Department.

SECTION 3 Any Resolution or provision of any Resolution conflicting with the fee herein established is hereby repealed to the extent that said fee is inconsistent with the fee established by this Resolution.

THIS RESOLUTION shall be effective February 14, 2011

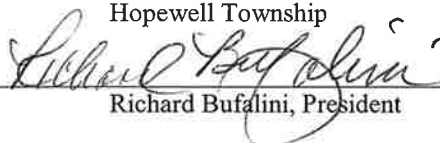
APPROVED BY THE BOARD OF COMMISSIONERS THIS 14TH DAY OF FEBRUARY 2011.

ATTEST:



Andy J. Brunette, Township Manager/Controller

Board of Commissioners
Hopewell Township



Richard Bufalini, President

ORDINANCE NO. 2011-01

AN ORDINANCE OF HOPEWELL TOWNSHIP, BEAVER COUNTY,
PENNSYLVANIA ESTABLISHING PROCEDURES AND REGULATIONS FOR
ALL PEDDLING AND SOLICITING ACTIVITIES FOR THE PROTECTION AND
MAINTENANCE OF HEALTH, SAFETY AND WELFARE OF THE
INHABITANTS OF THE TOWNSHIP

NOW THEREFORE, BE IT ENACTED AND ORDAINED as follows:

1. This Ordinance shall be known as the Peddling and Soliciting Ordinance.
2. Purpose.

To regulate the distribution of certain materials, peddling, soliciting and related activities within Hopewell Township. The registration of persons engaged in the above-mentioned activities is required so that the identity of persons going door-to-door or distributing materials within the Township may be established, so that general regulations may be more effectively enforced for the protection and maintenance of the health, safety and welfare of the inhabitants of the Township and to prevent dishonest business practices and deter criminal activity in the Township.

3. Definitions.

Distributor – Any person who distributes or causes to be distributed on any public place within the Township any handbill, advertisement, circular, card, pamphlet or printed material of any kind other than a regular delivered newspaper, magazine or periodical.

Merchandise – All goods, wares, food, meat, fish, ice cream, fruit, vegetables, magazines, periodicals, printed materials, farm products, services and orders, or contracts for orders, home improvements or alterations and anything that may be sold or distributed by peddlers, solicitors or distributors as defined herein.

Peddler – Any person, whether a resident of the Township or not, who goes from house to house, from place to place or from street to street traveling by foot, automotive vehicle or any other type of conveyance, carrying or transporting merchandise for the purpose of selling or delivering the merchandise to customers.

Person – Any natural person, partnership, association, firm or corporation.

Solicitor – Any person, whether a resident of the Township or not, who goes from house to house or from place to place traveling by any form of conveyance, soliciting, taking or attempting to take orders for the sale of merchandise or services of any kind for future performance or delivery, whether or not he/she be collecting advance payments of such sales or orders, or who engages in these types of activities in any public place, The word “solicitor” shall include “canvasser”, “peddler”, “transient

merchant” or any person who goes from door to door as described herein for the purpose of soliciting in any form.

4. Registration Required.

It shall be unlawful for any peddler, solicitor, distributor or transient merchant to sell, offer for sale or distribute merchandise, printed material or services within the Township without first filing an application for registration and obtaining permission from the Township.

5. Permits.

Upon obtaining a permit, a peddler, solicitor, distributor or transient merchant may conduct his/her activities within the Township only so long as he/she adheres to the regulations as set forth herein and carries the permit upon his/her person at all times during the conduct of services. The permit shall identify the person and the type of activity for which registered and shall be shown to any citizen upon request. All permits shall expire upon the dates shown thereon. The Township Manager is hereby authorized to suspend or revoke any permit issued hereunder when not in full compliance with this ordinance or when deemed beneficial to the health, safety and welfare of the Township and its inhabitants or for providing false information on the application for said permit. Any person aggrieved by the action of the Manager in denying or revoking/suspending a permit under this ordinance shall have the right to appeal such action to the Township Board of Commissioners. Every such appeal shall be in writing, setting forth the matters objected to, and shall be filed with the Township Manager no later than Ten (10) days after the action being appealed. Such appeal shall be heard by the Board of Commissioners at its next regular meeting or within 10 days following the filing of the appeal whichever shall occur later. No refund for fees paid shall be issued in the event of a revocation or suspension unless said revocation or suspension is reversed on appeal.

6. Permit & Application.

Every applicant for a permit shall file with the Township a written application which shall give the following information and/or documents:

- (1) The name and description of the applicant and/or organization.
- (2) The permanent home address and full local address of the applicant.
- (3) A statement of the nature of the activity and a description of all materials or services to be offered.
- (4) If employed, the name and address of the employer including credentials establishing the exact relationship.
- (5) The length of time for which the permit is desired.
- (6) If a vehicle is to be used, a description of it and license information.
- (7) A copy of Photo Identification.

7. Fees.

The fee to be paid in conjunction with the issuance of a permit, payable at the time of issuance of the permit, shall be set by Resolution of the Board of Supervisors of the Township. Such fees as

imposed shall be for the purpose of defraying the costs of administering and enforcing the provisions of this Ordinance.

8. Issuance of Permit.

Upon receipt of the completed application and payment of the required fee, a permit may be issued by the Township. The permit shall give appropriate information to identify the applicant and the activity of involvement. The decision to issue or deny a permit shall be made no later than Five (5) days following submission of all information required by this ordinance and payment of the required fee.

9. Restrictions.

No person shall:

- (1) Peddle, solicit or distribute merchandise EXCEPT between the hours of 9:00a.m. and 5:00 p.m. Monday through Saturday (with the exception of members or representatives of religious or political organizations which are exempt by the First Amendment) unless specifically invited or having made an appointment.
- (2) Attempt to peddle, solicit or distribute merchandise or printed material without first identifying oneself and displaying the required permit.
- (3) Have exclusive right to any location wherein the operation may impede or inconvenience the public health, safety and welfare.
- (4) Conduct oneself in such a manner as to become objectionable or to annoy an occupant of any residence.
- (5) Enter any residence of the Township without an express invitation from the occupant of the residence.
- (6) Distribute any merchandise or printed material which advocates unlawful conduct.
- (7) Litter any areas within the Township with any merchandise or printed materials.
- (8) Violate any Ordinance of the Township or Law of the Commonwealth of Pennsylvania.
- (9) Peddle, solicit or distribute on holidays.

10. Exemptions.

The following persons or organizations are exempt from the payment of fees upon compliance with all other provisions of this ordinance and submission of applicable information to support the claim of exception:

- (1) Any charitable or religious society that shall conduct solicitations or sales of personal property when the proceeds thereof shall be applied to charitable or religious object for which the society exists.
- (2) Any person engaged in door-to-door canvassing, religious proselytizing, anonymous political speech and the distribution of handbills of a noncommercial nature deemed to be protected speech under the First Amendment to the United States Constitution.

- (3) Any person engaged in the delivery of goods or merchandise in the regular course of business.
- (4) Any school, political or civic organization, benevolent society, service club or organization, not for profit.
- (5) Persons conducting a bona - fide auction sale pursuant to law or a sale required by statute or by order of any court.
- (6) Minors (Township resident/school children under 16 years old) involved in the sale or solicitation, provided however, that such persons are working as agents for an organization.

11. Interpretations.

This ordinance shall not be applied so as to place any undue burden upon interstate commerce with respect to any business or activity referred to herein. It is the intent of this ordinance to protect the health, safety and welfare of the inhabitants of the Township and not to unduly regulate or control the proper conduct of any business or commercial property.

12. Enforcement Remedies.

The following enforcement remedies shall be available to the Township:

- A. Any person, partnership or corporation who or which has violated or permitted the violation of the provisions of this ordinance shall, upon being found liable therefore in a civil enforcement proceeding commenced by the Township, pay a judgment of not more than \$ 500.00 plus all court costs, including reasonable attorney's fees incurred by the Township as a result thereof:
 - (1) No judgment shall commence or be imposed, levied or payable until the date of the determination of a violation by the District Justice.
 - (2) If the defendant neither pays nor timely appeals the judgment, the Township may enforce the judgment pursuant to the applicable rules of civil procedure.
 - (3) Each day that a violation continues shall constitute a separate violation, unless the District Justice determining that there has been a violation further determines that there was a good faith basis for the person, partnership or corporation violating the ordinance to have believed that there was no such violation, in which event there shall be deemed to have been only one such violation until the fifth day following the date of the determination of a violation by the District Justice and thereafter each day that a violation continues shall constitute a separate violation.
 - (4) All judgments, costs and reasonable attorney's fees collected from the violations of the ordinance shall be paid to the Township.
- B. The Court of Common Pleas, upon petition, may grant a order of stay, upon cause shown, tolling per diem fine pending a final adjudication of the violation and judgment.

C. Nothing contained in this section shall be construed or interpreted to grant to any person or entity other than the Township the right to commence any action for enforcement pursuant to this section.

13. Severability.

The provisions of the ordinance are severable, and if any section, clause, sentence or part or provision thereof shall be held illegal, invalid or unconstitutional, the decision of the court shall not affect or impair the remaining parts and provisions of this ordinance.

14. Repealer.

Any ordinance, chapter, section, subsection, paragraph, sentence or phrase of any ordinance conflicting with the provisions of this ordinance shall and the same is hereby repealed to the extent of such conflict. This provision specifically repeals Ordinance No. 75-3.

ENACTED AND ORDAINED into law this 24th day of January, 2011.

ATTEST:

TOWNSHIP OF HOPEWELL

BY: Andy Brunette
Andy Brunette, Manager
Hopewell Township

Board of Commissioners

BY: Richard Bufalini
Richard Bufalini, President