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**NORTH APOLLO BOROUGH
TRANSIENT MERCHANT ORDINANCE**

ORDINANCE NO. 277 OF 2002

ARMSTRONG COUNTY AND
MUNICIPALITY PA

**AN ORDINANCE OF THE BOROUGH OF NORTH APOLLO
REGULATING PEDDLERS, SOLICITORS, AND TRANSIENT
MERCHANTS.**

I. SHORT TITLE

This Ordinance shall be hereinafter known as and titled "Transient Merchant Ordinance".

II. PURPOSE

This Ordinance shall define, regulate, and provide procedures for lawful peddling and solicitation within North Apollo Borough, including licensing, application process, investigation, hours permitted, activities prohibited and sanctions available, subject to due process and hearing procedures.

III. AUTHORITY

This Ordinance is enacted pursuant to Section 47901 of the Borough Code, 53 P.S. §47901.

IV. DEFINITIONS

The following words and terms when used in this Ordinance, unless the context clearly indicates otherwise, shall have the following meanings ascribed to them:

1. *Application.* The official application which was enacted as a part of this Ordinance and which is available at North Apollo Borough Municipal Building.
2. *Borough.* Borough of North Apollo, County of Armstrong and Commonwealth of Pennsylvania.

3. *Non-transferable.* Not subject to change of ownership by way of purchase, gift or any other means.

4. *Peddler.* Peddler shall mean any person, whether a resident of this Borough or not who travels by foot, motor vehicle, or any other conveyance, from place to place, from house to house, or street to street, carrying, offering or exposing goods, wares, merchandise or food products for sale or taking or soliciting orders for goods, wares, products and merchandise for future delivery, whether the person collects advanced payment for such sales, or not; or who, without traveling from place to place, sells or offers for sale from a wagon, motor vehicle, temporary stand or other conveyance stationed upon public or private property, goods, wares, merchandise or food products.

5. *Permanent Merchant.* A direct seller who, for at least one year, has continuously operated an established place of business in this Borough or has continuously resided in the Borough for at least one year and now legally does business from his residence.

6. *Person.* Person includes an individual person, a firm, corporation, partnership or associations, whether owner, agent, bailee, co-signee or employee.

7. *Solicitor.* Solicitor is any person who solicits or attempts to solicit from house to house or upon public streets orders for commercial goods, wares, subscriptions, publications, periodicals, merchandise or services to be delivered or fulfilled at a future date.

8. *Temporary.* Any business which operates for less than three (3) days per week on a monthly basis.

9. *Transient Merchant.* A transient merchant includes every merchant, whether an individual person, a firm, corporation, partnership, or association, who brings or causes to be brought within the Borough any goods, wares, or merchandise of any kind, nature, or description, within the intention of temporarily or intermittently selling or offering to sell at retail such goods, wares, or merchandise. Temporary association with a local merchant, dealers, trader or auctioneer for conducting such transient business and connection with, as a part of, or in the name of any local merchant, dealer, trader or auctioneer does not exempt any such person, firm, or corporation from being considered a transient merchant.

V. HOURS OF SOLICITATION

Peddlers, solicitors, and/or transient merchants shall conduct business between the hours of 8:00 A.M. and 8:00 P.M. or dusk, whichever occurs earlier, each day and no peddlers, solicitors and/or transient merchants shall conduct business on Sundays or legal holidays.

VI. LICENSE REQUIRED

No person shall engage in business as a peddler, solicitor, or transient merchant in this Borough without first having obtained a license as herein provided, except that no license shall be required for the following:

1. Farmers selling their own produce;
2. Any person offering for sale goods, wares, food, merchandise, services or subscriptions in conjunction with a charitable or other civic non-profit club or organization the proceeds of which are to be applied to any charitable or philanthropic purpose;
3. A garage sale on the premises of a homeowner in which the items offered for sale are primarily items belonging to the homeowner;
4. Any individual employed by or representing a church, Borough civic association, scouting organization or school;
5. Delivery of newspapers, fuel, or other printed materials, on established routes;
6. Delivery of dairy products, baked goods or other prepared food products on established routes; and
7. Persons selling at wholesale to business establishments, professional offices or institutions, exclusively.

VII. LICENSE APPLICATION

Every person desiring to engage in peddling, solicitation, or transient retail business in the Borough shall first make application to the police department and remit a \$25.00 investigation fee at the time of filing said application. Said \$25.00 investigation fee will be credited to applicant's license fee in the event the application is approved. The application shall, at a minimum, contain the following information:

1. Name, permanent residence, social security number of the applicant;
2. Address while in the area;
3. Name, address and phone number of the firm, corporation, partnership or association for whom applicant is conducting business, if any;
4. Address of location where business will be conducted or the manner in which the business will be conducted;
5. Date of proposed sale;

6. Description of products, merchandise, etc. being sold;
7. The make, model, year, license number and state of registration of any vehicle being used in connection with said business;
8. Name of the most recent three (3) previous communities in which licensed or operated;
9. Statement as to whether applicant has been convicted of any crime or ordinance violation related to applicant's transient merchant business within the last five years;
10. The nature of the offense and place of conviction; and
11. Whether or not applicant has ever applied for a license within this Borough.

VIII. LICENSE FEES

The following license fees shall be paid to North Apollo Borough by the applicant at the time the license is issued:

1. \$2.00 per day;
2. \$10.00 per week;
3. \$50.00 per month;

No license shall be issued or granted for a period of more than one (1) year.

IX. LICENSE EXHIBITION

Each person issued shall, at all times while doing business this Borough, keep in his or her possession and display publicly at his or her place of doing business, his or her license and shall upon the request of a prospective customer, exhibit the license as evidence that he or she has complied with all of the requirement of this Ordinance.

X. LICENSES NON-TRANSFERABLE

Licenses issued under this Ordinance are non-transferable and applicable only to the persons filing and listed on the application.

XI. PROHIBITED PRACTICES, PUBLIC DISRUPTION

1. No licensee under this Ordinance shall, within the Borough boundaries, call attention to licensee's business, nor to the goods, wares, merchandise, or related services, which is being sold or offered for sale, by crying them out, by blowing any horns, by ringing loud bells, by public address speaker system, or other loud or unusual noise or disruptive or disturbing sounds. This section is not intended to prohibit the playing of music or ringing bells on motorized carts associated with neighborhood seasonal sales of frozen dairy products by street vendors.
2. No licensee of this Ordinance shall, within the Borough boundaries, allow to remain, overnight, any items, materials, debris, vehicles or any other evidence that the licensee was operating any type of a transient merchant business within the Borough boundaries. Any violation of this Section shall be considered as a basis for a license revocation pursuant to the requirements of Section XV herein.

XII. EXCLUSIONS BY RESIDENTS

Any resident or other entity of the Borough who wishes to exclude peddlers, solicitors and/or transient merchants from premises occupied by him or her may place upon or near the usual entrance to such premises a printed placard or sign bearing the following notice:

“PEDDLERS AND SOLICITORS PROHIBITED”

Such placard shall be at least four inches (4”) long and six inches (6”) inches wide and the printing thereon shall be clear and legible. No peddler shall enter in or upon any premises or attempt to enter in or upon any premises where placard or sign is placed and maintained.

XIII. REMOVAL FROM PRIVATE PROPERTY

Any licensee under this Ordinance shall immediately remove themselves from private property when requested to do by the owner or occupant thereof.

XIV. USE OF STREETS OR SIDEWALKS

No peddler, solicitor and/or person engaged in a transient retail business shall:

1. Have any exclusive right to any location on any of the streets, alleys or sidewalks in the Borough;
2. Be permitted a stationary location;

3. Be permitted to operate in a congested area where his operations might impede traffic or inconvenience the public.

For the purpose of this Section, the judgment of a police officer, exercised in good faith, shall be deemed conclusive as to whether the area is congested, the traffic impeded or the public inconvenienced.

XV. LICENSE REVOCATION

1. Licenses issued under the provisions of this Ordinance may be revoked by North Apollo Borough after notice and hearing for any of the following causes:

- a. Fraud, misrepresentation or false statement contained in the application for license;
- b. Fraud, misrepresentation or false statement made in the course of carrying on such licensed business;
- c. Any violation of this Ordinance;
- d. Conduct of the business in any unlawful manner or in such a manner as to constitute a menace to health, safety or general welfare of the Borough's citizens.

2. Revocation of any license shall bar the licensee from being eligible for any license under this Ordinance for a period of two (2) years from the date of revocation.

3. Notice of the hearing for the revocation of a license shall be given in writing, setting forth specifically the grounds of the complaint and the time and place of the hearing. Such notice shall be mailed, postage prepaid, to the license holder at the address set forth in the application as licensee's permanent address, at least five (5) days prior to the date set for the hearing.

XVI. APPEAL

Any person aggrieved by the denial of an application for license or a decision with reference to the revocation of a license shall have the right of appeal to the North Apollo Borough Council. Such appeal shall be taken by filing with the North Apollo Borough Secretary, within ten (10) days after notice of the action complained of shall have been mailed to such persons last known address, a written statement setting forth fully the grounds for the appeal. The North Apollo Borough Secretary shall set a time and place for a hearing on such appeal and notice of such hearing shall be given to the appellant in the same manner as provided in this Ordinance for notice of hearing on revocation. The decision and order of the North Apollo Borough Council on such appeal shall be final and conclusive.

XVII. VIOLATION, PENALTY

Any person violation the provisions of this Ordinance shall, upon conviction, be subject to a fine not exceeding \$100.00. Each day the violation continues to exist shall constitute a separate offense.

XVIII. SEVERABILITY

If any sentence, clause, section or part of this Ordinance is for any reason found to be unconstitutional, illegal or invalid such unconstitutionality, illegality or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses, sections or parts of this Ordinance. It hereby declared as the intent of North Apollo Borough Council that this Ordinance would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein.

ORDAINED AND ENACTED THIS 31st DAY OF June, 2002.

Eugene T Burns
EUGENE T. BURNS, President

ATTEST:

Edward T Stitt Jr
EDWARD STITT, Borough Secretary

APPROVED:

Edward Adams Jr
Mayor

I HEREBY CERTIFY THAT THE FOREGOING
IS A TRUE AND CORRECT COPY OF N. Apollo
Transient Merchant Ordinance
FILED AT NO. 2002-0183-Misc
Brenda C George MCA
PROTHONOTARY & CLERK OF COURTS
MY COMM. EXPIRES 1ST

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