

CITY OF JOHNSTOWN,
CAMBRIA COUNTY, PENNSYLVANIA
ORDINANCE NO. 5198

Bill No. 13 of 2016

Introduced in Council
March 23, 2016

AN ORDINANCE AMENDING ORDINANCE NO. 4390, PASSED SEPTEMBER 10, 1986, ORDINANCE 4670, PASSED JULY 13, 1994, ORDINANCE 4698, PASSED DECEMBER 21, 1994, ORDINANCE 4937, PASSED APRIL 28, 2004, AND ORDINANCE 5148, PASSED MAY 14, 2014 AS "CHAPTER 834 PEDDLERS AND SOLICITORS TO REVISE AND UPDATE THE REQUIREMENTS IN THE CITY OF JOHNSTOWN.

CHAPTER 834
Peddlers and Solicitors

834.01 Definitions.

834.02 License required.

834.03 License applications.

834.04 Investigations; reasons for disapproval of applications.

834.05 License revocation.

AMEND 834.06 License posting; exhibition of badges; ~~blanket licenses for nonprofit organizations; waivers.~~

834.07 Exceptions to chapter.

834.08 Loud noises and amplifying devices.

834.09 Use of streets and sidewalks; hours.

834.10 Effective period of license.

AMEND 834.11 License fee; ~~deposit; mercantile tax; bond; exemption.~~

834.12 Prohibited soliciting.

834.13 Non-Liability of City.

834.14 Telephone solicitations.

834.99 Penalty.

CROSS REFERENCES

Licensing of peddlers - see 3rd Class § 2601

Licensing of transient retail merchants - see 3rd Class §§ 2620 et seq.

Transient photographers - see B.R. & T. 836.07 et seq.

Transient performances - see B.R. & T. 844.05

Transient retail businesses - see B.R. & T. Ch. 850

Sales on sidewalks - see S.U. & P.S. 1022.07

834.01 DEFINITIONS.

As used in this chapter:

- (a) "Business" means the business carried on by any person who is an itinerant merchant, peddler or solicitor.
- (b) "Goods" means merchandise of any kind, including, but not limited to, wares and foodstuffs.
- (c) "Itinerant merchant" means any person, whether as owner, agent or consignee, who engages in the temporary business of selling goods within the City and who, in the furtherance of such business, uses any building, structure, vehicle or place within the City.
- (d) "Peddler" means:
 - (1) Any person who travels from place to place, by any means, carrying goods for sale, making sales or making deliveries; or
 - (2) Any person who, without traveling from place to place, sells or offers goods for sale from any public place within the City. A peddler is not an itinerant merchant.
- (e) "Solicitor" means any person who travels, by any means, from place to place, taking or attempting to take orders for the sale of goods to be delivered in the future, or for services to be performed in the future, or seeking information or donations. A solicitor is not a peddler.

(Ord. 4390. Passed 9-10-86.)

834.02 LICENSE REQUIRED.

No itinerant merchant, peddler or solicitor shall ply his or her trade in the City without first obtaining a license therefor, as provided in this chapter.

(Ord. 4390. Passed 9-10-86.)

834.03 LICENSE APPLICATIONS.

AMEND (a) Each applicant for a license required by this chapter shall file a written, sworn application with the Department of Police Community and Economic Development. Such application shall be signed by the applicant if an individual, by a partner if a partnership, or by a duly authorized

signatory if a corporation. Applications shall be made on forms available in the office of the Director/Chief of Police Department of Community and Economic Development. The application shall state:

ADD Street Vendor Registration:

- (1) Vendor Set-Up Location and proof of location approval
- (2) Proposed Date(s)
- (3) General Business Information
- (4) General Information on Person Managing the Street Vendor Space
- (5) Applicable License Fees
- (6) Copy of PA Food Employee Certification Card for supervising staff person
- (7) Proof of Pennsylvania Department of Agriculture Mobile Food Facilities Certification
- (8) Detailed listing of proposed foods and/or menu

ADD Peddler's License for Special Events Registration:

- (1) Event Name
- (2) Proposed Event Date(s)
- (3) General Business Information
- (4) General Information on Person Managing the Vendor Space during the Event
- (5) Name(s) of Other Person(s) Working the Event
- (6) Applicable License Fees
- (7) Copy of PA Food Employee Certification Card for supervising staff person
- (8) Proof of Pennsylvania Department of Agriculture Mobile Food Facilities Certification
- (9) Detailed listing of proposed foods and/or menu

ADD Solicitor Registration:

- (1) Proposed Locations for Solicitation
- (2) Proposed Date(s)
- (3) General Business Information
- (4) General Information on Person(s) Supervising the Solicitors
- (5) Name(s) of All Persons who will be Soliciting
- (6) Background Check from Home State for All Persons who will be Soliciting

- (7) Applicable License Fees
- (8) Detailed listing of proposed items to be solicited
- (9) Description of any vehicle used and its license number

~~DELETE (1) The name and address of the applicant;~~

~~(2) The name of the individual having management authority or supervision of the applicant's business during the time that it is proposed to be carried on in the City; the local address of such individual, if any; the permanent address of such individual; and the capacity in which such individual will act;~~

~~(3) The name and address of the person, if any, for whose purpose the business will be carried on and, if a corporation, the state of incorporation;~~

~~(4) The time period during which it is proposed to carry on the business;~~

~~(5) The nature, character and quality of the goods or services to be offered for sale or delivered and, if goods, their invoice value and whether they are to be sold by sample as well as from stock, where and by whom such goods are manufactured or grown, and where such goods are at the time of application;~~

~~(6) The nature of the advertising proposed to be done for the business; and~~

~~(7) Whether or not the applicant or the person identified in paragraph (a)(2) or (3) hereof has been convicted of any crime or misdemeanor and, if so, the nature of each offense and the penalty assessed for each offense.~~

~~(b) Each application for a license required by this chapter shall contain, in addition to the statements required by subsection (a) hereof:~~

~~A description of the applicant; and~~

~~A description of any vehicle proposed to be used in the business, including its registration number, if any.~~

~~(c) Each applicant for a license required by this chapter shall attach to his or her application the following:~~

~~(1) Two letters of recommendation from any person residing or doing business in the County, certifying the applicant's good moral character and business responsibility or, in lieu of such letters, other evidence which may be used by the Director/Chief of Police to satisfy his or her duties under Section 834.04;~~

~~(2) If required by the Director/Chief of Police, copies of all advertising proposed to be used in connection with the applicant's business; and~~

~~(3) Credentials from the person, if any, for whom the applicant proposes to do business, authorizing the applicant to act as such representative.~~

~~(d) Each applicant who proposes to handle foodstuffs shall also attach to his or her application, in addition to attachments required by subsection (c) hereof, a statement from a~~

~~licensed physician, dated not more than ten days prior to the date of the application, certifying that the applicant is free of any contagious or communicable disease.~~

~~(e) Upon receipt of the application, the Director/Chief of Police shall cause a set of the applicant's fingerprints and a picture of the applicant to be taken and attached to the application.~~

(Ord. 4390. Passed 9-10-86.) Amended Ordinance XXXX., Passed XX-XX-2016

834.04 INVESTIGATIONS: REASONS FOR DISAPPROVAL OF APPLICATIONS.

AMEND (a) Upon receipt of an application for a license required by this chapter, the ~~Director/Chief of Police~~ Director of Community and Economic Development shall cause an investigation to be made of the applicant's business reputation and moral character. The ~~Director/Chief of Police~~ Director of Community and Economic Development is limited to ten days to conduct this investigation.

AMEND (b) The ~~Director/Chief of Police~~ Director of Community and Economic Development shall approve the application unless such investigation discloses tangible evidence that the conduct of the applicant's business would pose a substantial threat to the public health, safety, morals or general welfare. In particular, tangible evidence of any of the following will constitute a valid reason for disapproval of an application:

- (1) The applicant has been convicted of a crime involving moral turpitude.
- (2) The applicant has made willful misstatements in the application.
- (3) The applicant has committed prior violations of ordinances pertaining to itinerant merchants, peddlers, solicitors and the like.
- (4) The applicant has committed prior fraudulent acts.
- (5) The applicant has a record of continual breaches of solicited contracts.
- (6) The applicant has an unsatisfactory moral character.

(Ord. 4390. Passed 9-10-86.) Amended Ordinance XXXX., Passed XX-XX-2016

834.05 LICENSE REVOCATION.

AMEND (a) Any license granted under this chapter may be revoked by the ~~Director/Chief of Police~~ Director of Community and Economic Development, after notice and hearing, pursuant to subsection (b) hereof. Notice of the hearing for revocation 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 to the licensee at his or her last known address, at least ten days prior to the date set for the hearing.

- (b) A license granted under this chapter may be revoked for any of the following reasons:

- (1) Any fraud or misrepresentation contained in the license application;
- (2) Any fraud, misrepresentation or false statement made in connection with the business being conducted under the license;
- (3) Any violation of any of the provisions of this chapter;
- (4) Conviction of the licensee for any felony or any misdemeanor involving moral turpitude; or
- (5) Conducting the business licensed in an unlawful manner or in such a way as to constitute a menace to the health, safety, morals or general welfare of the public.

(Ord. 4390. Passed 9-10-86.) Amended Ordinance XXXX., Passed XX-XX-2016

AMEND 834.06 LICENSE POSTING; EXHIBITION OF BADGES; ~~BLANKET LICENSES FOR NONPROFIT ORGANIZATIONS; WAIVERS.~~

AMEND (a) Any license issued to an itinerant merchant Street Vendor or Peddler under this chapter shall be posted conspicuously in or at the place named therein. If more than one place within the City is used to conduct the business licensed, a separate license shall be issued for each place.

~~DELETE (b) The Director/Chief of Police shall issue a badge to each peddler or solicitor licensed under this chapter. The badge shall contain the words "licensed peddler" or "licensed solicitor," the licensee's picture, the expiration date of the license and the number of the license. Such badge shall be worn conspicuously by the licensee during such time as he or she is engaged in the business licensed.~~

AMEND (c) A peddler or solicitor shall exhibit his or her license at the request of any resident of the City a company photo identification badge that clearly shows the company name, individual's name and their photo. This photo ID badge shall be worn conspicuously by the solicitor during such time as he or she is engaged in the business licensed.

~~DELETE (d) Nonprofit organizations may secure, by formal letter, a blanket license by applying to the City Manager, giving the purpose and date upon which solicitations or canvassing will be made. The City Manager may waive the requirements of this chapter or parts thereof for such organizations. If no waiver is granted, the nonprofit organization must comply fully with this chapter. A nonprofit organization shall be registered with the State Attorney General before any license is granted to such organization under this subsection.~~

ADD (d) If applicable, vendors shall obtain a license from the Pennsylvania Department of Agriculture that states all equipment meets the standards for Mobile Food Facilities. The license shall be attached in a conspicuous location to the vendor's vehicle and visible to the public and City of Johnstown Code Enforcement Officers.

(Ord. 4670. Passed 7-13-94.) Amended Ordinance XXXX., Passed XX-XX-2016

834.07 EXCEPTIONS TO CHAPTER.

- (a) This chapter does not apply to an officer or employee of the Municipal, County, State or Federal Government, or any subdivision thereof, when on official business.
- (b) This chapter shall not apply to farmers selling their own produce, to the sale of goods, wares and merchandise donated by the owners thereof, the proceeds of which are applied to any charitable or philanthropic purpose, or any manufacturer or producer in the sale of bread and bakery products, meat and meat products or milk or milk products, provided that they are sold in a fixed location in the City. Peddlers of such merchandise shall sign an affidavit attesting to the fact that all products offered for sale at such location are solely grown, produced, or manufactured by the peddler.

(Ord. 4390. Passed 9-10-86; Ord. 4937. Passed 4-28-04.)

834.08 LOUD NOISES AND AMPLIFYING DEVICES.

AMEND No person who has been granted the license required by this chapter, nor any person in his or her behalf, shall shout, cry out, blow a horn, ~~ring a bell~~ or use any sound or amplifying device, except a ring of a bell, upon any of the streets, alleys, parks or other public places of the City, or upon private premises where sound of sufficient volume is emitted or produced therefrom to be capable of being plainly heard upon the streets, avenues, alleys, parks or other public places, for the purpose of attracting attention to goods, wares or merchandise which such licensee proposes to sell.

(Ord. 4390. Passed 9-10-86.) Amended Ordinance XXXX., Passed XX-XX-2016

834.09 USE OF STREETS AND SIDEWALKS; HOURS.

- AMEND (a) No person who has been granted the license required by this chapter shall have an exclusive right to any location on the public streets and sidewalks, or be permitted a stationary location thereon or be permitted to operate in a congested area where such operations might impede or inconvenience the public use of such streets or sidewalks, unless approved in writing by the Director of Community and Economic Development.
- (b) No person who has been granted the license required by this chapter shall solicit on Sundays or holidays, nor before 9:00 a.m. or after 6:00 p.m., weekdays.
- ADD (c) No permitted location shall be used by a vendor selling an item like or similar to the primary items sold by a business or another vendor within fifty (50) feet of the permitted location, except for instances such as a Special Event. The vendor will be required to maintain a fifteen (15) foot minimum distance from the entrance of a business.

- (d) No peddler or solicitor, whether licensed or not, shall use any public space to sell goods in an area that obstructs, interferes with or prevents the free flow of pedestrians or vehicular traffic.

(Ord. 4390. Passed 9-10-86.) Amended Ordinance XXXX., Passed XX-XX-2016

834.10 EFFECTIVE PERIOD OF LICENSE.

~~DELETE No license issued under this chapter shall be valid for more than one month from the date of issuance.~~

ADD Licenses issued under this chapter shall be valid for the following period of time from the date of issuance:

- 1) Street Vendor:
 - a) Daily Permits – Valid from 9 am – 6 pm on the last day specified on registration.
 - b) Monthly Permits – Valid for thirty (30) calendar days.
 - c) Annual Permits – Expire on December 31 of the registration year and are not prorated.
- 2) Peddler's License for Special Event – All Peddler's Licenses for a Special Event expire on the last day of the registered event.
- 3) Solicitor – All Solicitor Licenses expire on the last day specified on registration.

(Ord. 4390. Passed 9-10-86.) Amended Ordinance XXXX., Passed XX-XX-2016

AMEND 834.11 LICENSE FEE; ~~DEPOSIT; MERCANTILE TAX; BOND; EXEMPTION.~~

AMEND (a) The fee for the license required by this chapter is ~~one hundred sixty dollars (\$160.00)~~-is as follows:

- 1) Street Vendor:
 - a) Daily Permits – \$20 per day, per vendor space
 - b) Monthly Permits – \$100 per thirty (30) calendar days
 - c) Annual Permits – \$500 per year
- 2) Peddler's License for Special Event:
 - a) \$20 per day, per vendor space
- 3) Solicitor:
 - a) Daily Permits – \$20 per day, per vendor space
 - b) Monthly Permits – \$100 per thirty (30) calendar days
 - c) Annual Permits – \$500 per year

~~AMEND (b) Any vendor who wishes to receive an expedited permit as defined by the City Manager in coordination with any event sponsor must pay an amount of two hundred and sixty dollars (\$260.00). A license that is submitted less than seven (7) days prior to the start date or event date must pay a \$100 late fee in addition to the applicable license fee.~~

~~DELETE (c) In addition to the fee set forth in subsection (a) hereof, an applicant shall deposit twenty five dollars (\$25.00) with the City at the time he or she files his or her license application. This sum will be returned to the applicant when he or she returns the badge issued to such person under Section 834.06.~~

(d) Payment of a license fee under this chapter shall not exempt the licensee from payment of the mercantile license tax under Chapter 880 of the Business Regulation and Taxation Code.

~~AMEND (e) Any and all person(s) desiring to engage in door-to-door peddling, canvassing, soliciting or selling shall first file with the City Finance Department a bond with sufficient surety in the amount of two thousand dollars (\$2,000), payable to the City and conditioned upon the faithful compliance by such person with all rules, regulations, laws and ordinances of the City. If such person fails to comply with any rule, regulation, law or ordinance of the City, the principal of the bond shall be forfeited to the City. Upon receipt of such bond, the City Finance Department shall notify the Director/Chief of Police of the City. are required to submit a background check for the Manager/Supervisor and all person(s) soliciting door-to-door in the City of Johnstown.~~

(f) There shall be no fee charged for the free distribution of literature.

(Ord. 4698. Passed 12-21-94; Ord. 5148. Passed 5-14-14.) Amended Ordinance XXXX., Passed XX-XX-2016

834.12 PROHIBITED SOLICITING.

(a) Definitions. As used in this section:

- (1) "Residence" means a domicile and includes every separate living unit occupied for residential purposes by one or more persons, contained within any type of building or structure.
- (2) "Soliciting" means and includes any one or more of the following activities:
 - i. Seeking to obtain orders for the purchase of goods, wares, merchandise, foodstuffs or services of any kind, character or description, for any kind of consideration;
 - ii. Seeking to obtain prospective customers for the application for or purchase of insurance of any kind;

iii. Seeking to obtain subscriptions to books, magazines, periodicals, newspapers and every other kind of publication; or

iv. 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.

(b) Notice Regulating Soliciting. Every person desiring to secure the protection intended to be provided by the regulations pertaining to soliciting in this section shall comply with the following directions:

(1) Notice of the determination by the occupant to refuse to invite solicitors to any residence shall be given in the following manner:

A weatherproof card, approximately three inches by four inches in size, shall be exhibited upon or near the main entrance door to the residence, indicating the determination by the occupant, containing the applicable words, as follows:

NO SOLICITORS

(2) Such a card, so exhibited, shall constitute sufficient notice to any solicitor of the determination by the occupant of the residence of the information contained thereon.

(c) Duties of Solicitors. Every solicitor, upon going onto any premises in the City upon which a residence is located, shall first examine the entrance area thereof to determine if a notice as set forth in subsection (b) hereof is attached. If so, he or she, whether licensed or not, shall immediately and peacefully depart from the premises.

Any solicitor 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 thereof.

(Ord. 4390. Passed 9-10-86.)

834.13 NON-LIABILITY OF CITY.

All itinerant merchants, peddlers and solicitors, including nonprofit corporations and agencies, shall hold harmless the City from any liability, damage or injury which is causally related to an act of ordinary negligence on the part of such itinerant merchant, peddler or solicitor.

(Ord. 4390. Passed 9-10-86.)

834.14 TELEPHONE SOLICITATIONS.

The provisions of this chapter shall apply to any person engaged in retail or wholesale sales within the City whose primary lead, reference or contact of prospective purchasers is by telephone.

(Ord. 4390. Passed 9-10-86.)

834.99 PENALTY.

(EDITOR'S NOTE: See Section 202.99 for general Code penalty if no specific penalty is provided.)

PASSED FINALLY IN COUNCIL:

April 20, 2016

By the following vote:

Yeas: Mr. Johncola, Mrs. Mock, Mr. Vitovich, Mr. Vizza, Mayor Janakovic. (5)

Nays: Mrs. Stanton, Mr. Williams (2)

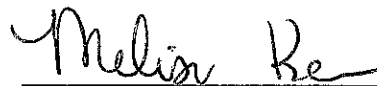
/s/

Frank J. Janakovic, Mayor

Peter Vizza, Deputy Mayor

ATTEST:

I do hereby certify that the foregoing is a true and correct copy of Ordinance No. **5198** as the same adopted by the City Council of the City of Johnstown, Pennsylvania.



Melissa Komar, Interim City Manager