

PART 3

TRANSIENT RETAIL BUSINESS

§301. Definitions and Interpretations.

BUSINESS — the operation of any itinerant, merchant, peddler, solicitor or transient business.

MANAGER — the Manager of the City of Hermitage or his designee.

PEDDLER — any person, whether a resident of the City of Hermitage or not, traveling by foot, wagon, automotive vehicle or any other type of conveyance, from place to place, from house to house or from street to street, carrying, conveying or transporting goods, wares, merchandise, meats, fish, vegetables, fruits, garden truck, farm products or provisions, offering and exposing the same for sale, or making sales and delivering articles to purchasers, or who, without traveling from place to place, shall sell or offer the same for sale from a wagon, automotive vehicle, railroad car, or other vehicle or conveyance and, further provided, that one who solicits orders as a separate transaction, makes deliveries to purchasers as a part of a scheme or design to evade the provisions of this Part shall be deemed a peddler subject to the provisions of this Part. The word “peddler” shall include “hawker” and “huckster.”

PERSON — shall include the singular and the plural and shall also mean and include any person, firm or corporation, association, club, copartnership or society, or any other organization.

SOLICITOR — any person, whether a resident of the City or not, traveling either by foot, wagon, automobile, motor truck or any other type of conveyance, from place to place, from house to house, or from street to street, taking or attempting to take orders for sale of goods, wares, merchandise, personal property of any nature whatsoever for future delivery or for services to be furnished or performed in the future, whether or not such individual has, carries or exposes for sale a sample of the subject of such sale or whether he is collecting advance payments on such sales or not; provided, that such definition shall include any person who for himself or for another person, firm or corporation, hires, leases, uses or occupies any building, structure, tent, railroad boxcar, hotel room, motel room, lodging, house, apartment, shop or other place within the City for the sole purpose of exhibiting samples and taking orders for future delivery.

TRANSIENT MERCHANT, ITINERANT MERCHANT OR ITINERANT VENDOR — any person, firm or corporation, whether as owner, agent, consignee or employee, whether a resident of the City of Hermitage or not, who engages in a temporary business of selling and delivering goods, wares and merchandise within said City, and who, in furtherance of such purpose, hires, leases, uses or occupies any building, structure, motor vehicle, tent, railroad boxcar, boat, public room in

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motels or hotels, lodging houses, apartments, shops or any street, alley or other place within the City, for the exhibition and sale of such goods wares and merchandise, either privately or at public auctions; provided, that such definition shall not be construed to include any person, firm or corporation who, while occupying such temporary location, does not sell from stock, but exhibits samples only for the purpose of securing orders for future delivery only. The person, firm or corporation so engaged shall not be relieved from complying with the provisions of this Part merely by reason of associating temporarily with any local dealer, trader, merchant or auctioneer, or by conducting such transient business in connection with, as a part of, or in the name of any local dealer, trader, merchant or auctioneer.

In this Part, the singular shall include the plural, the plural shall include the singular, and the masculine shall include the feminine and the neuter.

(Ord. 5-82, 6/9/1982, §1)

§302. License Required.

It shall be unlawful for a transient merchant, itinerant vendor, peddler or solicitor as defined in §301 to engage in such a business within the City of Hermitage without first obtaining a license therefor in compliance with the provisions of this Part.

(Ord. 5-82, 6/9/1982, §2)

§303. Application for License.

Applicants for licenses under this Part, whether a person, partnership, firm or corporation, shall file a written sworn application signed by the applicant if an individual, a partner authorized to do business on behalf of the partnership, and by the president or designated officer if a corporation. The application shall be filed with the City Manager or his designee and shall include the following: [Ord. 11-98]

- A. The name or names of all persons having the management or supervision of the applicant's business during the time it will be located within the City; the local address or addresses of such person or persons while engaged in such business; the permanent address or addresses of such person or persons; the capacity in which such person or persons will act (whether a proprietor, agent or otherwise); the name and address of the person, firm or corporation for whose account the business will be carried on, if any; and if a corporation, under the laws of what state it is incorporated.
- B. The fingerprints of the person or persons having the management or supervision of the applicant's business or, in lieu thereof, at least three letters of recommendation from reliable property owners in the County of Mercer, Pennsylvania, certifying as to the applicant's good character and business

responsibility. In addition, a statement of whether the person or persons having the management or supervision of the applicant's business, or their agents, employees or who will be acting on behalf of the applicant's business within the City of Hermitage have ever been convicted of any crimes of record and, if so, to state specifically the date, jurisdiction, type of offense and disposition thereof.

- C. The place or places in the City of Hermitage where it is proposed to carry on applicant's business, and the length of time during which it is proposed said business shall be conducted.
- D. The place or places, other than the permanent place of business of the applicant, where the applicant within a six month period preceding the date of said application conducted a transient business, stating the nature thereof and giving the post office and street address of any building or office in which such business was conducted.
- E. A statement of the nature, character and quality of the goods, wares or merchandise to be sold or offered for sale by the applicant in the City of Hermitage, the invoice value and quality of such goods, wares and merchandise, whether the same are proposed to be sold from stock in possession or from stock in possession and by sample; at auction, by direct sale or by indirect sale and by taking orders for future delivery; where the goods or property proposed to be sold are manufactured or produced and where such goods or products are located at the time said application was filed.
- F. A brief statement of the nature and character of the advertising done or proposed to be done in order to attract customers or donations, and if required, copies of all said advertising whether by handbills, circulars, newspaper advertising or otherwise, shall be attached to said application as exhibits thereto.
- G. Credentials from the person, firm or corporation for which the applicant proposes to do business, authorizing the applicant to act as such representative.
- H. Such other reasonable information as to the identity or character of the person or persons having the management or supervision of the applicant's business or the method or plan of doing such business as the Manager or his designee may deem proper to fulfill the purpose of this Part in the protection of the public good. [Ord. 11-98]

(Ord. 5-82, 6/9/1982, §1; as amended by Ord. 11-98, 9/23/1998)

§304. Issuance of License.

Upon receipt of such application and the prescribed fee, if applicable, the City Manager or his designee shall cause such investigation of the applicant's business responsibility or moral character to be made as the Manager or his designee deems necessary for the protection of the public good. If, as a result considering the information contained in the application and the investigation, the applicant's character and business responsibility are found to be unsatisfactory, the application shall be denied. If, as a result of such investigation, the character and business reputation appear to be satisfactory, the City Manager or his designee shall so certify in writing, and a license shall be issued by the City Manager or his designee. The City Manager or his designee shall keep a full record in his office of all licenses issued. Such license shall set forth the number of license, the date the same is issued, the nature of the business authorized to be carried on, the amount of the license fee paid, the expiration date of said license, the place where said business may be carried on under said license, and the name or names of the person or persons authorized to carry on the same.

(Ord. 5-82, 6/9/1982, §1; as amended by Ord. 11-98, 9/23/1998)

§305. Bonds and Fees.

1. Bond. Unless exempted by this Part, before any license, as provided, shall be issued for engaging in a transient or itinerant business, solicitation or peddling, as defined in §302 of this Part within the City of Hermitage, such applicant shall be required to file with the City Manager or his designee a bond in favor of the City of Hermitage in the sum of 10% of the value of the items to be sold. The amount of said bond shall be limited to a maximum of \$1,000 and it shall be executed by the applicant, as principal, and a surety upon which service of process may be made in the State of Pennsylvania; said bond to be approved by the City, conditioned that the applicant shall comply fully with all provisions of the ordinances of the City and the statutes of the State of Pennsylvania, regulating and concerning the sale of goods, wares and merchandise, and taking of orders for goods, wares and merchandise, and will pay all judgments rendered against said applicant for any violation of said ordinances or statutes or any of them, together with all judgments and costs that may be recovered against the applicant by any person or persons for damages growing out of any misrepresentation or deceptive practices on any person transacting such business or solicitation with such applicant, whether said misrepresentation or deception were made or practiced by the owners or by their servants, agents or employees, either at the time of making the sale or through any advertisement of any character whatsoever, printed or circulated with reference to the goods, wares and merchandise sold or the nondelivery of any goods, wares or merchandise not delivered as ordered, or any part thereof. Action on the bond may be brought in the name of the City to the use of the aggrieved person.
2. Fees. Licenses under this Part shall pay a fee as established from time to time by resolution of the Board of Commissioners. [Ord. 11-98]

(Ord. 5-82, 6/9/1982, §1; as amended by Ord. 11-98, 9/23/1998)

§306. Display or Exhibit of License.

The license issued under this Part shall be posted conspicuously in the place of the business named therein. In the event that such person or persons applying for said license shall desire to do business in more than one place within the City, separate licenses may be issued for each place of business, and shall be posted conspicuously in each place of business. In addition, every license holder shall carry such license upon his person, if engaged in a transient business from house to house or upon any of the streets, alleys, sidewalks or public grounds. The applicant shall also exhibit such license, upon request, to all police officers, City officials, and citizens or residents of the City.

(Ord. 5-82, 6/9/1982, §1)

§307. Transfer of License.

No license shall be transferred without written consent from the City Manager or his designee as evidenced by an endorsement on the face of the license by the City Manager showing to whom the license is transferred and the date of such transfer.

(Ord. 5-82, 6/9/1982, §1; as amended by Ord. 11-98, 9/23/1998)

§308. Expiration of License.

All licenses issued under the provisions of this Part shall expire 90 days after the date of issuance thereof unless a prior date is affixed therein.

(Ord. 5-82, 6/9/1982, §1)

§309. Prohibited Acts.

1. The permits and licenses issued pursuant to this Part may be revoked by the Manager or his designee of the City of Hermitage, after notice for any of the following causes: [Ord. 11-98]
 - A. Any fraud, misrepresentation or false statement contained in the application for license.
 - B. Any fraud, misrepresentation, false statement or harassment made in connection with the selling of goods, wares or merchandise; or in connection with any solicitation.

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- C. Any violation of this Part.
 - D. Conviction of the licensee of any felony or of a misdemeanor involving moral turpitude.
 - E. Selling any product or type of product, or taking of orders for any product or merchandise not mentioned in his license.
 - F. Hawking his products or merchandise upon any of the streets, alleys, sidewalks or public grounds of the City.
 - G. When conducting business from a motor vehicle, stopping or parking such vehicle upon any of the streets or alleys in the City.
 - H. Parking any vehicle upon any of the streets or alleys in the City for the purpose of sorting, rearranging or cleaning any of his goods, wares or merchandise or of disposing of any cartons, wrapping materials or of any stock or wares or foodstuffs which have become unsalable through handling, age or otherwise.
 - I. Engaging in any business activity prohibited in the City by general or special law applicable thereto.
 - J. Prohibiting vendors from approaching vehicles stopped at intersections, conforming to 75 Pa.C.S.A. §3545(2). [Ord. 11-98]
 - K. Engaging in any house to house activity, except by prior appointment, at any time on a Sunday, or legal holiday, or at any time other than between 9:00 a.m. and 6:00 p.m. any day of the week other than a Sunday or legal holiday.
2. Loud Noises and Speaking Devices. No licensee under this Part, nor anyone in his behalf, shall shout, make any outcry, blow a horn, ring a bell or use any other sound device including any loud speaking radio or amplifying system upon any of the streets, alleys, parks or other public places of the said City or upon any private premises in the said City where sound of sufficient volume is emitted or produced therefrom capable of being plainly heard upon the streets, avenues, alleys or parks or other public places for the purpose of attracting attention to any goods, wares or merchandise which such licensee proposes to sell.
3. Advertising. No licensee shall exhibit more than two freestanding signs not to exceed more than 16 square feet each. The sign(s) must be set back at least 10 feet from the edge of the roadway shoulder and must be placed so as to not impair visibility. The sign(s) cannot have any lights or electrical connections and must not be exhibited outside of the hours of operation for the transient business. This Section is applicable only to properly licensed transient businesses. [Ord. 13-2000]

4. Display of Merchandise. No licensee shall display, whether on the ground or within a motor vehicle, any merchandise in any fashion as to create a traffic safety hazard through sight restriction or obstruction.

(Ord. 5-82, 6/9/1982, §1; as amended by Ord. 11-98, 9/23/1998; and by Ord. 13-2000, 9/27/2000, §1)

§310. Exemptions.

No bond need be posted nor license fee shall be charged:

- A. To farmers selling their own produce.
- B. For the sale of goods, wares and merchandise, donated by the owners thereof, the proceeds whereof are to be applied to any charitable or philanthropic purpose.
- C. To any manufacturer or producer in the sale of bread and bakery products, meat and meat products, or milk and milk products.
- D. To children under the age of 18 years who take orders for and deliver newspapers, greeting cards, candy, bakery products, and the like, or who represent the Boy Scouts or Girl Scouts or similar organizations.
- E. To any honorably discharged member of any of the armed services who complies with the Act of 1867, April 8, P.L. 50, 60 P.S. §61, as hereafter amended, supplemented, modified or reenacted by the General Assembly of Pennsylvania, and who procures from the Prothonotary a certificate pursuant to the Act of 1867.
- F. To the seeking or taking of orders by insurance agents or brokers licensed under the insurance laws of the Commonwealth of Pennsylvania.
- G. To a person who has complied with the provisions of the Charitable Organizations Reform Act, 10 P.S. §160-1 et seq., as hereafter amended, supplemented, modified or reenacted by the General Assembly of Pennsylvania.
- H. For taking orders for merchandise, by sample, from dealers or merchants for individuals or companies who pay a license or business privilege tax at their chief place of business.

But all persons exempted hereby from the payment of the license fee shall be required to register with the City Manager or his designee and obtain a license without fee; provided, any person dealing in one or more of the above mentioned exempted categories, and dealing with other goods, wares, or merchandise not so exempted, shall be subject to the payment of the license fee fixed by this Part for his activities in connection with the sale of goods,

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wares and merchandise not in such exempted categories. Provided, further, the City Manager or his designee may similarly exempt from payment of the license fee, but not from registering with him, persons working without compensation and selling goods, wares or merchandise for the sole benefit of a nonprofit corporation.

(Ord. 5-82, 6/9/1982, §1; as amended by Ord. 11-98, 9/23/1998)

§311. Enforcement and Supervision.

The Manager, or any person designated by the Manager, shall supervise the activities of all persons holding licenses under this Part. He shall keep a record of all licenses issued hereunder, and shall make a report thereof as necessary. And it shall also be the responsibility of the Manager or his designee to enforce all provisions of this Part.

(Ord. 5-82, 6/9/1982, §1; as amended by Ord. 11-98, 9/23/1998)

§312. Suspension and Revocation of License.

The Manager or his designee is hereby authorized to suspend or revoke any license issued under this Part when he deems such suspension or revocation to be beneficial to the public health, safety or morals, or for violation of any of the provisions of this Part, or for giving false information upon any application for a license hereunder. Appeals from any suspension or revocation may be made to the Board of Commissioners at any time within 10 days after such suspension or revocation. No part of a license fee shall be refunded to any person whose license shall have been suspended or revoked.

(Ord. 5-82, 6/8/1982, §1; as amended by Ord. 11-98, 9/23/1998)

§313. Notice of Violations.

1. The operation of any transient business, itinerant merchant, peddling or soliciting, contrary to the terms herein and any other applicable laws or ordinances shall not be permitted. Upon notice of such unlawful operation, the Manager or his designee shall serve a written or verbal notice of such violation immediately upon the operator or agent to remove such violation. In the event that such violation is removed within said period to the satisfaction of the City Manager or his designee serving such notice, he shall note same accordingly upon his copy of such notice. [Ord. 11-98]
2. In the event such violation or unlawful operation is not terminated within said period, then the license for such operation may be revoked. In case of revocation of such license, any further operation shall require the filing for a new license.

3. In the event that any person shall conduct any business as defined in this Part, prior to the securing of a proper license, the Manager or his designee shall order the person or persons to cease any such operation or business until a license has been acquired in compliance with this Part. [Ord. 11-98]

(Ord. 5-82, 6/9/1982, §1; as amended by Ord. 11-98, 9/23/1998)

§314. Penalty for Violation.

Any person, firm or corporation who shall violate any provision of this Part shall, upon conviction thereof, be sentenced to pay a fine of not less than \$5 nor more than \$600 plus costs and, in default of payment of said fine and costs, to a term of imprisonment not to exceed 30 days. Each day that a violation continues shall constitute a separate offense.

(Ord. 5-82, 6/9/1982, §1; as amended by Ord. 11-98, 9/23/1998)