

ORDINANCE NO. 3-2020  
EXETER BOROUGH

VENDORS, PEDDLERS AND SOLICITING

WHEREAS, Council of the Borough of Exeter has determined that its existing Ordinance at Chapter 97 of the Borough Code of Ordinances, pertaining to Peddling and Soliciting is out of date, and needs to be updated to take into consideration changes in the way transient vending, peddling and soliciting within the Borough of Exeter has evolved over the years. The original Ordinance was enacted to protect the general welfare, in order to ensure that the citizens of Exeter Borough, were not victimized by vendors of ill intent or ill repute, and to regulate any such person or entity operating within the Borough, by requiring a license to operate.

WHEREAS, Council continues to believe that it is in the best interests, safety and welfare of the citizens of Exeter Borough to provide the protections and safeguards, with regard to solicitors of business, sales and purveyors of goods, food and to require that any such persons operating in the Borough obtain a license to do so.

WHEREAS, Council recognizes that the costs of administering the regulations herein will require the assessment of a licensing fee to any vendor who wishes to conduct itinerant, nonpermanent business within the Borough. Council also recognizes that the use of Borough resources may vary, depending on the type of vendor's license sought, and the type of activity being regulated.

COUNCIL DOES HEREBY ORDAIN AS FOLLOWS:

That the existing Chapter 97 of the Borough Code of Ordinances, entitled Peddling and Soliciting, and any amendments thereto, are hereby REPEALED, and REPLACED with the new ordinance and regulations identified in Chapter 97 of the Borough Code of Ordinances as follows:

CHAPTER 97  
VENDORS, PEDDLING and SOLICITING

- 97-1. Definitions.
- 97-2 License required for peddlers, solicitors, vendors, transient business operators and itinerant merchants.
- 97-3 License required for transient retail merchants.
- 97-4 Exemptions from license fee.
- 97-5 Exemptions from the licensing requirement.
- 97-6 License fees.
- 97-7 Application for license.
- 97-8 Conduct of licensee.
- 97-9 Prohibited hours; exceptions
- 97-10 Record of licenses; supervision of licensees.
- 97-11 Revocation of license.
- 97-12 Notice of revocation.
- 97-13 Appeal of revocation.
- 97-14 Violations and penalties.

GENERAL REFERENCES

Licensed Occupations- see Ch. 79  
Fireworks and Explosives- See Ch. 61

## 97-1. DEFINITIONS

As used in this chapter, the following terms shall have the meanings indicated:

**ITINERANT MERCHANT-** A person or entity which travels from place to place selling goods in the streets or other places, including persons who offer or exposes such goods for sale, whether or not from tents, pushcarts, temporary facilities, food truck or other mechanically or automotively driven vehicles.

**PEDDLER-** A person or entity which conveys or transports goods, wares, food products or merchandise and offers or exposes the same for sale or conducts sales thereof by going door to door, or place to place.

**PERSON-** Any natural person or persons, partnership, association, company, firm, corporation, limited liability company, trust or any other entity recognized as a person under law, or any agent or employee thereof.

**SOLICITOR-** Any person who canvasses from door to door or place to place for purposes of attempting to obtain donations or contributions in any form and for any purpose; or for the purposes of seeking to receive money or take orders from individuals for the promise of performing services or sales of items, or for the sale of services, contracting or construction services, goods or merchandise of any kind, including without limitation, magazines, food, candy, cookies, or any other item of any nature whatsoever.

**SPECIAL EVENTS-** events sponsored by the municipality, or any agency thereof, or by a non-profit entity recognized as such under the Internal Revenue Code, or by a church, for the purpose of gathering members of the community for charitable or community benefit.

**TRANSIENT RETAIL BUSINESS-** Any retail business or enterprise which has no permanent place of business operations within the Borough and which conducts operations on premises not owned by the operator thereof and which is operated for six (6) months or less of each and every year. Examples of such transient retail business include, without limitation, storerooms, market, fruit and vegetable stands, flower or firework tents, and like businesses which conduct retail at a tent, temporary movable facility or the like, for the sale of products, goods, food, wares or merchandise or to offer or expose the same for sale or for future delivery and sale.

## 97-2. License required for peddlers, solicitors, itinerant merchants and operators of transient retail businesses.

Every person desiring to conduct business within the Borough of Exeter as a peddler, solicitor, itinerant merchant and operator of a transient retail business shall, before starting operations, apply for, pay the license fee and obtain a license from the Mayor, as herein provided.

**97-3. License required for transient retail merchants and Special Events.**

Every person desiring to conduct a transient retail business within the Borough of Exeter, shall before starting operations, apply for pay the license fee and obtain a license from the Mayor, as herein provided.

Any person or organization desiring to conduct a Special Event within the Borough of Exeter, shall be required to apply for and obtain a license from the Mayor, as herein provided.

**97-4. Exemptions from the License and License Fee; Registration Required.**

No person engaging in peddling, soliciting, conducting an Itinerant Business, Special Events or a Transient Retail Business on behalf of a bona fide religious, political or charitable organization shall be required to pay a licensing fee or obtain a license. However, such persons are required to register with the Mayor in advance of their activities, indicating the names and addresses of the persons conducting the activities, the organization on whose behalf they are conducting the activities, and the begin and end dates of the activities.

Even though the operators of a Special Event are not required to obtain a license and pay a licensing fee, the vendors and operators of any Transient Retail Business or Itinerant Business (e.g., food trucks, merchandise tents, etc.) to participate in the Special Event are required to apply for and obtain a license from the Mayor as set forth herein, except that such operators at the Special Event shall not be required to pay a licensing fee.

**97-4. Exemptions from Licensing requirement.**

- A. The sale of goods, wares and merchandise donated by the owners thereof, the proceeds from such sales shall be applied to any charitable or philanthropic purchase.
- B. Persons conducting a yard sale, on their property, not to exceed two (2) consecutive days.
- C. Any resident of Exeter who sells, in or about the streets of the Borough of Exeter, produce, vegetables or animal products produced or raised on said resident's land located within the Borough of Exeter.

**97-5. Limitations on operations within the Borough limits.**

Operators of Transient Retail Business and Itinerant Business, including without limitation, food trucks, tents, and the like, shall not be permitted to conduct any activities along U.S. Highway 11, Wyoming Avenue corridor, within Exeter Borough, within a distance of 175 feet from the centerline of said U.S. Highway 11, Wyoming Avenue. Such operators shall be permitted to conduct such operations at any locations located beyond 175 feet from the centerline of U.S. Highway 11, Wyoming Ave within the Borough, provided that ordinances do not prevent such activities.

#### **97-6. License Fees.**

No license shall be issued under this Chapter until a complete application has been submitted, and the proper fee shall have been paid.

Applicants under this Chapter shall be required to pay a licensing fee, which may differ depending on the activity for which they are seeking a license.

The license fees hereunder shall be established by Resolution of Council, and may be modified from time to time as deemed necessary by Council.

#### **97-7. Application for License.**

Every person required to obtain a license under this Chapter, or who may be required to Register hereunder, shall provide the following information to the Mayor, and submit same on such Application form required by the Mayor:

A.

- (1) Name, address, phone number and email of the Applicant.
- (2) Name and address of the business or organization on which the Applicant is applying.
- (3) The dates of operation (begin date and end date) of the proposed activity for which the Applicant is seeking a license.
- (4) A brief description of the nature of the activity or business to be conducted, including the type of vending unit (e.g., food truck, tent, etc.), the products to be sold (in the case of food sale, a proposed menu), the source of the food products to be sold, the source of other products to be sold, and any other information which the Mayor or Police Chief may reasonably require.
- (5) If the Applicant is working on behalf of an employer, provide the name of the employer, the applicant's proper credentials and evidence that he or she is authorized to act on behalf of the employer.
- (6) If the activity is to be conducted on property not owned by the Applicant, provide a copy of the lease, license or other written statement from the owner indicating that the Applicant shall have permission to operate on the dates requested.
- (7) If a vehicle is to be used while conducting the activity, a description of the vehicle, together with license plate number and vehicle registration, and evidence of insurance.
- (8) Evidence of insurance, extending coverage for the activities and dates for which the Applicant is seeking a license. Evidence of insurance covering property damage and

personal injury caused by such activities in a minimal amount of \$1,000,000.00. is required.

- (9) A photograph of the Applicant taken within the last one year immediately prior to the date of the filing of the application. Said picture shall be two inches by two inches, in color showing the head and the shoulders of the applicant in a clear and distinguishable manner.
  - (10) Applicant shall provide the Mayor with copies of all other licenses which may be required to operate its business, from the Commonwealth of Pennsylvania, or other government entity or agency which may regulate such activities. Examples of such other license include Department of Health certificates for food truck operators, and any other licenses or permits which may be required for the sale of any other good or merchandise.
  - (11) A statement as to whether the applicant has been convicted of any crime or misdemeanor. The Mayor or Chief of Police may require that a criminal background check be completed as a requirement of the application.
- B. The Mayor may reject the application if the information provided is not satisfactory or incomplete.
  - C. At the time of filing, and as a condition of issuance of the license, the Applicant shall pay the license fee as may be in effect.

#### **97-8. Conduct of Licensee.**

Failure of the Licensee to comply with acceptable conduct stated herein may result in the revocation of the license, and immediate cessation of licensed activities. Every person to whom a license is issued hereunder shall comply with the following rules:

- A. Licensee shall display the license where it is clearly visible and shall maintain a copy of said license in its possession. Licensee shall be required to present the license if required to do so by the Mayor, Police Chief or authority of Exeter Borough.
- B. Licensee shall comply with the laws of the United States, the Commonwealth of Pennsylvania, and any and all local laws in the conduct of its activities.
- C. Licensee shall not permit any other person to have possession of the license. If the license is lost, Licensee shall report same to the Mayor or Police Chief.
- D. Licensee shall not alter or deface the license or permit others to do so.

- E. Licensee shall not represent that the license constitutes an endorsement of the Licensee, or the quality of goods or services of his or her principal or employer.
- F. Licensee shall not enter or attempt to enter any dwelling without an invitation or permission of the occupant and shall leave immediately upon request.
- G. Licensee shall immediately surrender its license upon revocation thereof.
- H. Licensee shall not conduct the business or activity licensed hereunder in an unlawful manner or in such a manner as to constitute a breach of the peace or constitute a menace to the health, safety or general welfare of the public.

**97-9. Prohibited Hours.**

No person licensed hereunder shall call upon or go upon private residences in the Borough of Exeter on Sundays or before 9:00 o'clock a.m. or after sundown on all other days without having been requested or invited to do so by the occupant(s) of said private residence.

**97-10. Record of licenses; supervision of licensees.**

The Chief of Police shall keep a record of all licenses issued and registrations collected under this Chapter. The Mayor and Chief of Police shall supervise the activities of all registrants and licensees.

**97-11. Revocation of license.**

- A. The Mayor is hereby authorized to revoke any license under this Chapter:
  - (1) For the failure of the licensee to comply with the rules set forth in Sections 97-8 and 97-9 hereof;
  - (2) For violation of any of the provisions of this Chapter;
  - (3) For giving false information upon any application for a license, or registration, hereunder;
  - (4) Upon such licensee having been arrested and convicted for any crime involving moral turpitude.
- B. Such revocation may be in addition to any fine which may be imposed as a result of such arrest and conviction.

**97-12. Notice of Revocation of License.**

Notice of revocation of the license hereunder shall be given by written notice to the licensee, personally served or sent by certified mail to the address provided by licensee.

**97-13. Right to appeal Revocation of License.**

- A. Any person whose license has been revoked shall be entitled to appear, with counsel if desired, before the Exeter Borough Council at a regular or special meeting and show cause why the license should not have been revoked.
- B. The Borough Council is authorized to reinstate the license if it is satisfied that the license should not have been revoked.

**97-14. Violations and penalties.**

Any person or entity who shall violate any provision of this Chapter, upon conviction thereof, shall pay a fine of \$1,000.00 per occurrence, plus costs of prosecution, and in default thereof, be sentenced to a term of imprisonment of not more than 30 days. Each day that a violation occurs shall constitute a separate offense.

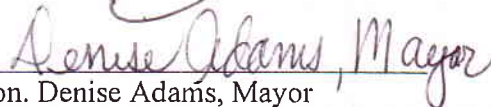
THIS ORDINANCE, DULY ENACTED THE 3 DAY OF March, 2020.

Attest

  
Debra Serbin, Secretary

Council of Borough of Exeter

  
Joseph Pizano, Chairman

  
Hon. Denise Adams, Mayor