

# **BOROUGH OF DURYEA ORDINANCE NO. 2008-8**

## **AN ORDINANCE PROVIDING FOR THE REGULATION OF THE BUSINESS OF PEDDLING, SELLING OR SOLICITING THE SALE OF GOODS, WARES MERCHANDISE OR SERVICES AT RESIDENCES AND ALONG STREETS WITHIN THE BOROUGH OF DURYEA**

### **SECTION 1. ORDAINING CLAUSE:**

**NOW THEREFORE**, be it enacted and ordained and **IT IS HEREBY ENACTED AND ORDAINED**, by the Duryea Borough Council, as follows: As of the effective date, as hereinafter provided, it shall be unlawful for any person, firm or corporation to engage in the business of peddling, hawking, selling or soliciting for the sale of any types of goods, services, merchandise or wares, at any residence or along any street within the confines of the Borough of Duryea, or conduct any other type of temporary commercial activity without first having secured a temporary sales permit.

### **SECTION 2. DEFINITIONS:**

- 1) BOROUGH – Shall mean the Borough of Duryea, Luzerne County, Commonwealth of Pennsylvania, a municipal corporation of the Commonwealth of Pennsylvania, acting by and through its council or in appropriate cases, acting through its authorized representative.
- 2) PEDDLING, HAWKING, SELLING or SOLICITING – Any commercial activity conducted by any business or person in which goods, services, wares or merchandise is offered for sale or barter.
- 3) PERMANENT STRUCTURE – Shall mean any building or structure supported by columns or walls, used or intended to be used for the shelter of persons or property, and is not capable of being moved or relocated, and is not constructed to be used without a permanent foundation.
- 4) STREET – Shall mean and include any street, road, lane, court, alley, cul-de-sac, public way or public square, either for or intended for public use and/or travel and shall include the cartway, sidewalk, gutter, and/or right-of-way area, whether or not such street, or any part thereof, is owned in fee by others than the Borough, and whether the street is opened or unopened.
- 5) TEMPORARY COMMERCIAL ACTIVITY – Activity of peddling, hawking, selling or soliciting of/for the sale of any types of goods, services, wares or merchandise, at any residence or along any street within the confines of the Borough of Duryea, which shall be conducted on a temporary or seasonal basis, and is not conducted from a permanent structure; provided however,

that such use is not accessory to a permanently permitted business use.

**SECTION 3. APPLICATION:**

Application for such permit shall be submitted to the Borough Manager or Borough Secretary, on a form approved by the Borough Council. Such permit shall state thereon the name and address of the applicant, the date submitted, the name and address of the applicant's principal or employer, if any, the specific type or types of merchandise or services to be sold or solicited, and shall be accompanied by the required permit fee.

**SECTION 4. PERMIT FEE:**

The fee for such a permit shall be in the amount of Twenty-five (\$25.00) Dollars per person for each day of intended activity as described herein. This fee is subject to change by Resolution of the Borough Council.

**SECTION 5. EXCEPTIONS:**

The provisions of this ordinance shall not apply to any person, firm, organization or corporation selling or soliciting the sale of goods, wares, services or merchandise solely for charitable or non-profit purposes, nor any religious organization while engaged in religious activity, nor shall the provisions hereof apply to officers or employees of any municipal, state or federal government, or any subdivision or agency thereof, while on official business.

**SECTION 6. LICENSE RESTRICTIONS:**

- 1) Duration – No license shall be issued to any applicant for the same retail sales activity for a period greater than Thirty-one (31) days at any one time.
- 2) Multiple licenses – A license may be issued to the same person, organization, firm or corporation for the same retail sales activity for a period of not more than Thirty-one (31) days upon the expiration of the previous license, and may continue to be issued in Thirty-one (31) day increments by the Borough Manager or Secretary.
- 3) No person licensed under this Ordinance shall hawk, cry or advertise their wares, services, merchandise or goods upon any street in the Borough, nor shall they use any loudspeaker or horn or any other device for announcing their presence, or advertising, by which they create a public nuisance.
- 4) No person licensed under this Ordinance shall engage in peddling, hawking, selling or soliciting during the following times:
  - a) At an time on a legal holiday, or at any residence on Sunday;
  - b) Before ten o'clock A.M. (10:00 A.M.) nor after seven o'clock P.M. (7:00 P.M.) on Monday through Saturday, at any residence within the Borough of Duryea;
  - c) Before seven o'clock A.M. (7:00 A.M.) or after ten o'clock P.M.

(10:00 P.M.) along the streets of the Borough of Duryea.

- 5) No person licensed under this Ordinance shall park any vehicle(s) upon any of the streets of the Borough of Duryea in order to sort, rearrange or clean any of his goods, wares or merchandise; nor shall any such person place or deposit any refuse upon any of such streets; nor shall any such person maintain or keep a street or curbstone market by parking any vehicle(s) upon any street in the Borough longer than necessary in order to sell therefrom to persons residing in the immediate vicinity.
- 6) Any license issued pursuant to this Ordinance may be suspended or revoked where such action is deemed by the Duryea Borough Code Enforcement Officer, Borough Council, or the Mayor, to be beneficial to the public health, safety or morals, or for the violation of any of the provisions of this ordinance, or for giving false and/or misleading information upon any application for a license hereunder.

**SECTION 7. SUBSTANTIAL COMPLIANCE:**

- 1) Compliance with Zoning Requirements – Any such use which shall involve a structure, such as a temporary tent, shall show evidence of a zoning permit with any application for a temporary business license. Such uses shall only be licensed if they are to be located within a zoned district where such business use is permitted.
- 2) Compliance with Subdivision and Land Development Requirements – Any such use which shall involve a structure such as a temporary tent, shall be considered as a land development and shall show evidence of compliance with the Subdivision and Land Development Requirements as set forth by Luzerne County.
- 3) Compliance with other Borough Codes and Ordinances – Any such use which shall involve a structure such as a temporary tent, shall conform with all other Borough Codes and Ordinances.

**SECTION 8. FINES/PENALTIES:**

Any person, firm, organization or corporation violating any provision of this Ordinance shall upon conviction thereof be fined not more than Three Hundred (\$300.00) Dollars, plus costs, for each such offense, and in default of payment shall be imprisoned for a period of not more than Thirty (30) days, and each day that a violation occurs or continues shall be deemed a separate offense.

**SECTION 9. ENFORCEMENT:**

Any provision of this Ordinance may be enforced by the Boroughs Code Enforcement officer, or any Borough Police Officer.

**SECTION 10. REPEALER:**

All Ordinances, or parts of Ordinances, to the extent they are inconsistent herewith, are hereby repealed.

**SECTION 11. SEVERABILITY:**

Should any sentence, Section, clause, part of provision of this Ordinance be declared by a Court of competent jurisdiction to be invalid, the same shall not affect the validity of this Ordinance as a whole, or any part thereof, other than the part declared to be invalid.

**SECTION 12. EFFECTIVE DATE:**

This Ordinance shall take effect Thirty (30) days from the date of enactment of this Ordinance.

***DULY ENACTED AND ORDAINED*** into law this 11<sup>th</sup> day of November, 2008.