

**BOROUGH OF JERMYN**

**ORDINANCE NO. 3-98**

**AN ORDINANCE REGULATING CANVASSING AND SOLICITING WITHIN THE BOROUGH OF JERMYN; PROVIDING AND ESTABLISHING REGISTRATION AND FEES; PROVIDING FOR CERTAIN STATED EXCEPTIONS FROM SUCH REGULATIONS; AND FIXING PENALTIES FOR VIOLATIONS HEREOF.**

By the powers granted to the Borough of Jermyn, County of Lackawanna, Commonwealth of Pennsylvania (hereinafter "the Borough") by the Pennsylvania Borough Code, 53 P.S. Section 45101 et seq., including, but not limited to, the power to amend such ordinances as it shall deem beneficial to the Borough, 53 P.S. Section 46006(3), be it **ENACTED** and **ORDAINED** by the Borough Council of the Borough, and it is hereby **ENACTED** and **ORDAINED** by the authority of the Jermyn Borough Council as follows:

**Section I.**

This Ordinance shall be known as the "Canvassing and Soliciting Ordinance."

**Section II.**

Pursuant to its authority under 53 P.S. Section 46202(17), as amended, to regulate the streets, public squares, common grounds, sidewalks and curbs of the Borough; pursuant to its authority under 53 P.S. Section 46202(6), as amended, to make such regulations as may be necessary for the health, safety and general welfare of the Borough and its residents; pursuant to its authority under 53 P.S. Section 46202(6), as amended, to impose fines and penalties; pursuant to its authority under 53 P.S. Section 46202(74), as amended, to make and adopt all such ordinances as may be expedient or necessary for the proper management, care or control of the Borough and the maintenance of peace, good government, safety and welfare of the Borough and its citizens; and pursuant to its

authority under 53 P.S. Section 46006(3), as amended, to enact and amend such ordinances as it shall deem beneficial to the Borough and to provide for the enforcement of same, the Jermyn Borough Council enacts the within Ordinance.

It is the desire and intent of the Jermyn Borough Council to ensure that the safety and general welfare of the Borough and its citizens is in the best possible condition for both safety and financial reasons. Therefore, in order to provide for the health, safety and general welfare of the Borough and its citizens, the Jermyn Borough Council enacts the within Ordinance.

### **Section III.**

No person, association, partnership, firm, corporation or other group or entity shall, either directly or indirectly sell goods, wares, merchandise, magazines, periodicals, books or other personal property, or service, by canvassing or soliciting, or solicit or canvass for contribution, in the Borough without first having registered with the Borough of Jermyn Police Department (hereinafter "Police Department") and having obtained an identification card from the Borough.

### **Section IV.**

Any person desiring to engage in canvassing and soliciting shall submit a written application to the Police Department on a form to be furnished by the Borough, accompanied by two photographs (2" x 3" minimum) of himself taken within six (6) months before the date of the application.

The applicant shall state in such written application his name, age, sex, home address, business address, name and address of employer, if any, what he desires to canvass and solicit for, the length of time he wishes to engage in this work, the make and type of vehicle, if any, he will use, its registration number, the driver registration number, certificate of automobile liability coverage and whether he has ever been convicted of a felony, misdemeanor or of a crime of any kind.

In addition, the application shall contain the signature of the employer as well as of the applicant and shall contain therein the stipulation and agreement on the part of the employer, in consideration of the issuance of such license or permit, to become liable and responsible for any and all acts of such solicitor while within the Borough, in violation of law or otherwise. Such employer liability and responsibility shall be construed to have no application to bona fide charitable organizations.

An identification card will not be issued to any person who has been convicted of a felony, misdemeanor or of a crime of any kind involving moral turpitude, and such person shall not be allowed to engage in canvassing and soliciting in the Borough.

An identification card will be valid for a period of four (4) consecutive months from the date on which it is issued and upon expiration of said period of time the validity of the identification card shall expire. Such identification card may not be transferred from one person to another and shall be considered a personal permit or license.

#### **Section V.**

Promptly upon receiving any application for a permit to canvass or solicit within the Borough, the Police Department Chief of Police (hereinafter "Chief of Police") shall cause such application and applicant to be thoroughly investigated by the Police Department. In the event that such investigation should indicate that the granting of such permit would or might be injurious to the public interest, or to the public health, safety or morals, the Chief of Police shall have, and is hereby given, the power and authority to refuse to issue such license or permit. In any instance where the Chief of Police should deem it necessary or advisable to secure and check the fingerprints of any such applicant, refusal of such applicant to voluntarily furnish such fingerprints shall constitute, in and of itself, sufficient and valid ground for refusal to issue such license. The Chief of Police will issue to the applicant an identification card (to which one of the applicant's photographs shall be affixed) within ten (10) days from the date of filing of the application.

## Section VI.

Every person to whom an identification card has been issued shall in the conduct of his activity comply with the following standards of conduct.

- A. He shall carry his identification card at all times and exhibit it upon request to any police officer, ordinance officer of the Borough or to any other person whom he shall call upon or with whom he shall talk.
- B. He shall not permit any other person to have possession of his identification card and shall immediately report its loss to the Police Department. He shall not cause or permit his identification card to be altered or defaced in any way.
- C. He shall not enter or attempt to enter any dwelling without the invitation or permission of the occupant or owner of said dwelling and shall immediately leave any premises upon request of the occupant or owner of same.
- D. He shall engage in canvassing and soliciting only between the hours of 9:00 a.m. to 5:00 p.m., Monday through Friday, and 9:00 a.m. to 12:00 Noon on Saturdays, legal holidays being excepted therefrom. Such activities at any other time being hereby expressly declared unlawful.
- E. He shall not be guilty of any false pretense or misrepresentation and, particularly, he shall not represent his identification to be an endorsement of himself, or his goods or services, or of goods or services of his employer.
- F. He shall immediately surrender his identification card to the Chief of Police upon revocation thereof.

## Section VII.

Any identification card may be revoked by the Chief of Police if the holder fails to comply with the standards of conduct contained in this ordinance, or of any ordinance or law of the Borough, of the Commonwealth of Pennsylvania, or of the United States of America, or upon ascertainment by the Chief of Police that the holder has made a false statement in his application.

### **Section VIII.**

This ordinance shall not apply to boys or girls under the age of sixteen (16) years, who take orders for and deliver newspapers, greeting cards, candy and the like, or who represent the Boy Scouts and Girl Scouts or similar organizations and take orders for and deliver cookies and the like.

Any person who works for an organization which has been registered with the Pennsylvania Department of State, as required by Act No. 337, approved August 9, 1963, known as the "Solicitation of Charitable Funds Act," shall not have to register with the Borough of Jermyn, but such organization shall cause notice to be given to the Chief of Police that such person will be canvassing and soliciting in the Borough; any such person shall carry an appropriate identification card issued by the organization for which he works.

Any person soliciting funds for a charitable cause which is not within the purview of the "Solicitation of Charitable Funds Act" and not registered thereunder shall be required to file an application as required under this ordinance, except that the Chief of Police may, at his option, waive the requirements from the submission of photographs of the applicant. Further, recognizing that no profit is derived by any individual by such activity, no fee shall be charged for the issuance of a license to solicit for bona fide charitable contributions.

### **Section IX.**

This ordinance shall not apply to canvassing or soliciting by invitation. Any person canvassing or soliciting the sale of goods or services at a resident's home by invitation of the resident, or any person doing same at the place of business of a borough merchant by invitation of the merchant, or any person doing same within the borough by invitation of the governing body of the borough, shall not have to register with the Borough of Jermyn. Any such person shall carry an appropriate identification card issued by the organization or entity for which he works or represents.

**Section X.**

Every person engaged in canvassing and soliciting in the Borough, and not exempted from the requirements of this ordinance, shall pay a registration of Twenty-five (\$25.00) Dollars per person and One (\$1.00) Dollar for each motor vehicle registered to be used in canvassing and soliciting.

**Section XI.**

That any person, firm or corporation or other group or entity violating any of the provisions of this ordinance, upon conviction thereof before the Mayor of the Borough of Jermyn or before any District Justice, shall be fined a sum of not more than One Hundred (\$100.00) Dollars plus costs of prosecution and in default of payment of same shall be sentenced to imprisonment in the Lackawanna County Prison for a period of not more than thirty (30) days or until such fine and costs shall be paid. Each day of violation shall constitute a separate offense.

**Section XII.**

The provisions of this ordinance are declared to be severable, and if any section, sentence, clause or phrase of this ordinance shall for any reason be held to be invalid or unconstitutional, illegal or invalid, then such unconstitutionality, illegality or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses and phrases of this ordinance, but they shall remain in effect, it being the legislative intent that this ordinance shall stand notwithstanding the invalidity of any part.

**Section XIII.**

All ordinances or parts of ordinances conflicting with the provisions of this ordinance are hereby repealed, insofar as the same may affect this ordinance.

**Section XIV.**

This ordinance shall become effective thirty (30) days from the date of its enactment herein.

ORDAINED AND ENACTED into law this 12th day of MARCH 1998.

BOROUGH COUNCIL OF THE  
BOROUGH OF JERMYN

Philip M. Marra  
PRESIDENT

ATTEST:

Adrian Moran  
SECRETARY

SEAL

EXAMINED AND APPROVED this 12 day of MARCH 1998.

James W. Bushing  
MAYOR