

Chapter 80
PEDDLING AND SOLICITING

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[HISTORY: Adopted by the Borough Council of the Borough of Heidelberg 5-18-2010 by Ord. No. 591. Amendments noted where applicable.]

§ 80-1. Statement of purpose.

It is the purpose of this chapter is to regulate persons who solicit in the Borough of Heidelberg, whether on behalf of a charitable organization, a commercial enterprise or otherwise.

§ 80-2. Permit required.

It shall be unlawful for any person to solicit in the municipality without first obtaining a permit.

§ 80-3. Definitions.

The following terms shall have the following meanings:

CHARITABLE SOLICITATION ACT — The Solicitation of Funds for Charitable Purposes Act enacted by the Commonwealth of Pennsylvania, 10 P.S. 162.1 et seq., as such act may be amended from time to time.

COMMERCIAL COVENTURER — The meaning set forth in the Charitable Solicitation Act.

MUNICIPALITY — The Borough of Heidelberg.

PERSON — Any individual, organization, corporation, association, partnership, trust, foundation or other entity, however styled, including but not limited to charitable organizations, business organizations, commercial coventurers, professional fundraising counsel, professional solicitors and volunteer fundraisers and solicitors.

PROFESSIONAL FUNDRAISING COUNSEL — The meaning set forth in the Charitable Solicitation Act.

PROFESSIONAL SOLICITOR — The meaning set forth in the Charitable Solicitation Act.

SOLICIT — To go from door to door in the municipality (1) soliciting contributions or

pledges for contribution, or (2) selling or attempting to sell subscriptions, products or services, or taking orders or attempting to take orders for subscriptions, products or services from or to an occupant of a residence.

SOLICITATION — Acts of individual solicitors on behalf of a particular person.

SOLICITING ORGANIZATION — The person, firm or organization on whose behalf solicitors are acting.

SOLICITOR — A person who solicits.

STATE PERMIT — A permit issued by the Bureau of Charitable Organizations of the Department of State, pursuant to the terms of the Charitable Solicitation Act.

§ 80-4. Application for municipal permit.

Applicants for a municipal permit must file with the Police Department of the municipality a sworn application in writing on a form to be furnished by the municipality, which shall give the following information:

- A. The name of the soliciting organization, and any other name or names under which solicitors acting on behalf of the soliciting organization will solicit.
- B. The principal address and telephone number of the soliciting organization and the addresses and telephone numbers of any offices of the soliciting organization in the Commonwealth of Pennsylvania.
- C. The names and addresses of the officers, directors, trustees and principal salaried executive officers of the soliciting organization.
- D. The names and addresses of any professional solicitors, professional fundraising counsel and commercial coventurers who have agreed to act on behalf of the soliciting organization.
- E. The names and addresses of each individual who will be soliciting in the municipality on behalf of the soliciting organization.
- F. The purpose of the solicitation in the municipality.
- G. The period and times during which the solicitation is to be conducted.
- H. In the case of goods or subscriptions to be offered for sale, a brief description of the nature of the business of the soliciting organization and the goods or subscriptions to be offered for sale.
- I. The application for a municipal permit shall be accompanied by the original, or a copy, of the soliciting organization's State permit as well as the State permit of any commercial coventurer, professional fundraising counsel or professional solicitor acting on behalf of the soliciting organization, or a sworn, written statement of the applicant indicating that such applicant is (1) exempt from the registration requirements of the Charitable Solicitation Act, or (2) not subject to the Charitable Solicitation Act.

§ 80-5. Issuance of permit.

- A. Upon receipt of a duly completed application, the fee prescribed by resolution, the original, or copy, of the soliciting organization's current and valid State permit (if applicable) and the current and valid State permit of any commercial coventurer, professional fundraising counsel or professional solicitor acting on behalf of the soliciting organization, the Borough Manager shall issue municipal permits to each of the soliciting organization, any commercial coventurers, professional fundraising counsel, professional solicitors and each individual person soliciting on behalf of the soliciting organization, whether as an employee or independent contractor of the soliciting organization, commercial coventurer, professional fundraising counsel or professional solicitor or as a volunteer. Each municipal permit issued to an individual shall contain the name and address of such individual, along with the name and address of the soliciting organization.

The application for a municipal permit shall be kept on file by the Borough Manager and the Police Department and shall be available for public inspection. The municipal permits issued pursuant to this chapter shall be valid until December 31 of the year when issued.

- B. The Borough Manager or on the recommendation of the Chief of Police may deny the application for a municipal permit if the application is incomplete, is not accompanied by all required State permits, is not accompanied by a fee or if the soliciting organization, commercial coventurers, professional fundraiser or professional solicitor has been convicted of or has plead guilty or nolo contendere to (1) violating the provisions of this chapter within a period of one year prior to the date of the application, or (2) any burglary, violent crime or any felony or misdemeanor involving fraud or misrepresentation. In addition, a municipal permit may be denied to any individual listed on the application who has been convicted of or has plead guilty or nolo contendere to (1) violating the provisions of this chapter within a period of one year prior to the date of the application, or (2) any burglary, violent crime or any felony or misdemeanor involving fraud or misrepresentation.

An application for a municipal permit shall be approved or rejected within a period of five days from the date it is submitted. If an application for a municipal permit is rejected, the Borough Manager shall set forth the reasons therefore in writing.

- C. The Borough Manager and the Police Chief shall keep a permanent record of all municipal permits issued and all municipal permit applications rejected and shall issue a monthly report thereon to the commission.

§ 80-6. Fees.

The fee for each municipal permit shall be set by an annual resolution of the municipality and shall be in an amount necessary to reimburse the municipality for its costs in conducting a criminal records check on the person seeking the municipal permit, and for the costs of preparing the municipal permit; provided, however, that the fee shall be waived for persons conducting solicitation only one time within any calendar year.

§ 80-7. Conduct of solicitation.

In the course of a solicitation each solicitor shall comply with the following:

- A. No solicitor shall solicit without a current, valid municipal permit, and if required to

register under the Charitable Solicitation Act, without a current, valid State permit.

- B. No solicitor shall solicit at any residence at any time which has a “No Solicitation” sign posted on the residence.

No solicitor shall solicit before 10:00 a.m. or after dusk at any residence which has a “No Evening Solicitation” sign posted on the residence.

- C. The solicitor shall:
- (1) If requested by a resident of the municipality, provide to the resident, the name and address or telephone number of a representative of the soliciting organization to whom inquiries can be addressed.
 - (2) Provide to each resident a full and fair description of the purpose for which the solicitation is being made.
 - (3) In the case of a charitable organization only, provide if requested by a resident of the municipality, the source from which a financial statement may be obtained.
- D. The solicitor shall comply with all applicable laws, statutes, regulations, rules or ordinances of the United States of America, the Commonwealth of Pennsylvania and the municipality.
- E. No solicitor shall make any untrue statement or misrepresentation in the course of soliciting, or omit to state any material fact necessary to prevent any statement made from being misleading. No solicitor shall utilize any unfair or deceptive acts or practices in the course of soliciting. In determining whether or not a practice is unfair or deceptive under this chapter, definitions, and standards or interpretations relating thereto under the Pennsylvania Unfair Trade Practices and Consumer Protection Law, as amended from time to time, shall apply.
- F. If no signs pursuant to § 80-7.B are posted at a residence, no solicitor shall solicit before 10:00 a.m. or after dusk.
- G. Every person soliciting in the municipality shall have his or her municipal permit in such person’s possession at all times in the course of soliciting. Any solicitor requested to do so by a resident or the police shall display to such resident or the police his or her municipal permit containing such person’s name and address and a copy of such person’s driver’s license containing a picture of such person.

§ 80-8. Transfer of permit.

No municipal permit shall be used at any time by any person other than the person to whom it is issued.

§ 80-9. Records.

The Chief of Police shall report to the manager of the municipality all convictions for violations of this chapter, and the Police Department shall maintain a record for each municipal permit issued and record the reports of violation therein.

§ 80-10. Violations.

Any person who violates any provision of this chapter shall, upon conviction thereof, be subject to a fine not to exceed \$300. Each day that a violation occurs or is committed shall constitute a separate offense. Violations may also result in the revocation of the violator's municipal permit, as specified in § 80-11 below.

§ 80-11. Revocation of permit.

- A. Municipal permits may be revoked by any magistrate having jurisdiction with respect to soliciting in the municipality, after notice and hearing, for any of the following causes:
- (1) Fraud, misrepresentation, or false statement contained in, or material fact omitted from, the application for a municipal permit or State permit.
 - (2) Fraud, misrepresentation, false statement or material omission made in the course of soliciting.
 - (3) Failure to observe a "No Solicitation" or "No Evening Solicitation" sign posted by a resident.
 - (4) Soliciting in the municipality without a current and valid State permit.
 - (5) Any other violation of this chapter.
 - (6) Conviction, whether before issuance of the municipal permit or during the term of the municipal permit, of any burglary, violent crime or any felony or misdemeanor involving fraud or misrepresentation.
- B. Notice of the hearing for revocation of a municipal permit shall be given in writing, setting forth specifically the grounds of complaint and the time and place of hearing. Such notice shall be transmitted by certified mail, postage prepaid, to the permittee at his last known address at least seven days prior to the date set for hearing.

§ 80-12. Appeals.

Any person aggrieved by the action of the Borough Manager or the Chief of Police of the Police Department in the denial of a municipal permit so provided in § 80-5 of this chapter, shall have the right of appeal to Borough Council. Such appeal shall be taken by filing with the Borough Manager, within 14 days after notice of the denial has been mailed to such person's last known address, a written statement setting forth fully the grounds for the appeal. The Borough Manager shall set a time and place for a hearing on such appeal and notice of such hearing shall be given to the appellant in the same manner as provided in § 80-11 of this chapter for notice of hearing on revocation.

§ 80-13. Expiration of permit.

All permits issued under the provisions of this chapter shall expire on December 31 in the year when issued.

§ 80-14. Failure to comply.

In addition to the penalties provided above for violation of this chapter, all contracts made by any solicitor who has failed to procure a municipal permit as required by this chapter, shall be voidable at the option of the resident who entered into the contract.

§ 80-15. Posting of signs.

A property owner or his authorized agent may post a decal or sign on the residence reading “No Solicitation” or “No Evening Solicitation.” Such signs shall be displayed on or as close as possible to the front door of the residence. For purposes of this chapter, “No Evening Solicitation” shall mean no solicitation before 10:00 a.m. or after dusk.