



TITLE #: 44
Ordinance #: 05-02-12-035

Date: October 26, 2022

ORDINANCE
to Define Regulations for
Peddlers, Solicitors, Street Vendors
and Professional Promoters within the
Corporate Limits of the Town of Cheswold

DESCRIPTION: This Ordinance shall be known as the “No Solicitation Ordinance”, as it documents the requirements for or prohibition for the issuance of a Business License for Peddlers, Solicitors, Street Vendors and Professional Promoters, within the corporate limits of the Town of Cheswold.

Section 1. PURPOSE The purpose of this Ordinance is to define the regulations, processes, applications, requirements, fees and fines to obtain a Business License to authorize door-to door, (house-to-house), sales, offers, trades or trafficking in tangible or intangible goods or services, and to provide for the safety of Town residents and property owners through the pre-identification of such persons engaged in such services. The Ordinance shall also specify situations and conditions in which street vendors may offer goods and services for purchases and the requirements for the services of a Professional Promotor to and for charitable organizations.

Section 2. AUTHORITY TO ACT

Section 4.2.25 of the Town Charter of the Town of Cheswold provides that the Town Council may provide for and preserve the health, peace, safety, cleanliness, ornament, good order and public welfare of the Town and its inhabitants and additionally provides in Section 4.2.26 that the Town Council may prohibit, restrain, license or regulate all public sports, exhibitions, shows, parades, productions, circuses or other public performances, amusements and games.

Section 4.2.48 provides that the Town Council may make, adopt, and establish, alter and amend all such Ordinances, Regulations, Rules and By-Laws, not contrary to the laws of the State and the United States, as the Town Council may deem necessary to carry into effect any of the provisions of this Charter or any other law of the State relating generally to municipal corporations or which they may deem proper and necessary for the order, protection and good government of the Town, the protection and preservation of persons and property, and of the public health and welfare of the Town and its inhabitants.....

Section 3. APPLICABILITY

This Ordinance shall apply to any person or representative of a corporation or entity that engages in the sale, offer, trade or trafficking of tangible or intangible goods or services, through door-to-door solicitation; peddling by approaching individuals on the street; through street vending or the various methods employed by professional promoters. This Ordinance shall not apply as specified in Section 17 – Exemptions.

Section 4. DEFINITIONS – For purposes of this Ordinance the following words shall have the specified meaning:

- 4.1 Business License** – is a document issued by the State of Delaware to authorize companies within the State to operate business activities. In addition, such a license Department of Public Works fro which serves as the approved document to engage in specified business activities within the corporate limits of the Town of Cheswold and a license from the State of and is known or referred to as the License.
- 4.2 Canvasser** - any person who shall sell, offer for sale or expose for sale; or who shall trade, deal or traffic in any goods or services in the Town by going from door-to-door or from place-to-place or by indiscriminately approaching individuals. May also be known and used interchangeably with the term solicitor or canvasser. (*See Section 4.18.1 and 4.18.2 for additional information*)
- 4.3 Charitable** – solicitation activities which can be deemed patriotic, philanthropic, social service, welfare, benevolent, educational, civic or fraternal, whether actual or purported.
- 4.4 Contributions** – shall mean and include the words alms, food, clothing, money, subscription, property or donations under the guise of a loan of money or property.
- 4.5 Door-to-Door** - is a sales technique in which a salesperson walks from the *door* of one house to the *door* of another trying to sell a product or service to the general public. May also be known and use interchangeably with the term house-to-house.
- 4.6 Hawking** – is the loud, repeated oral solicitation of business by the vendor or an assistant.
- 4.7 House-to-House** - is a sales technique in which a salesperson walks from the *door* of one house to the *door* of another trying to sell a product or service to the general public. May also be known and used interchangeably with the term door-to-door.
- 4.8 Individual** – any person within the corporate limits of the Town of Cheswold, whether a property owner, resident or visitor.

Section 4. DEFINITIONS – “continued”

- 4.9 Intangible** – a product/s that cannot be touched.
- 4.10 Motorized Mobile Vending Unit** – a truck, van or other motorized vehicle that incorporates a kitchen or other food preparation area from which prepared or pre-packaged food may be sold.
- 4.11 Non-Motorized Mobile Vending Unit** – a cart, kiosk or other device capable of being pushed by one person, with at least two, (2), functional wheels and positive locking devices.
- 4.12 Peddler** - any person who shall sell, offer for sale or expose for sale; or who shall trade, deal or traffic in any goods or services in the Town by going from door-to-door or from place-to-place or by indiscriminately approaching individuals. May also be known and used interchangeably with the term solicitor or canvasser. (*See Section 4.18.1 and 4.18.2 for additional information*)
- 4.13 Person** – any physical human being, firm, co-partnership, corporation, company, association, joint stock association, church, religious sect, religious denomination, society organization or league, or other entity and includes any trustee, receiver, assignee, agent or other similar representative thereof.
- 4.14 Product/s** – something that is made or grown to be sold, traded, trafficked or used.
- 4.15 Promoter** – any person who promotes, manages, supervises, organizes, or attempts to promote, manage, supervise or organize a campaign of solicitation, who is paid for such service and who is not a regular employee of the charitable organization for which the solicitation is being held.
- 4.16 Regular Employee** – shall mean a person employed on a full time basis and who has been employed by the charitable organization at least 90 days prior to the solicitation.
- 4.17 Religious / Religion** – as used herein shall not mean and include the word “charitable”, as herein defined, but shall be given their commonly accepted definitions.
- 4.18 Solicit / Solicitation** – the request, directly or indirectly of money, credit, property, financial assistance or other thing of value on the plea or representation that such money, credit, property, financial assistance or other thing of value will be used in exchange for a product, service or good of at least equal value or for a charitable purpose.

Section 4. DEFINITIONS – “continued”

4.19 Solicitor – any person who shall sell, offer for sale or expose for sale; or who shall trade, deal or traffic in any goods or services in the Town by going from door-to-door or from place-to-place or by indiscriminately approaching individuals. May also be known and used interchangeably with the term peddler or canvasser.

4.19.1 Sales by sample or for future delivery, and executory contracts of sale by solicitors or peddlers are included in this definition, provided, however, that this definition shall not be deemed applicable to any salesman, peddler, or canvasser who solicits trade or sales as regular employees of wholesale or retail dealers in the Town.

4.19.2 Any person who, while selling or offering for sale any goods, services or anything of value, stands in a doorway, any unenclosed lot; parcel of land; or in any other place not used by such person as a permanent place of business shall be deemed a solicitor or peddler within the meaning of this Ordinance, except as noted in Section 4.18.1, of this section.

4.20 Street Vendor – any person who shall sell food, flowers, non-alcoholic beverages only, and/or other goods or services from either a motorized or non-motorized mobile vending unit.

4.21 Tangible – a product/s that can be touched.

NOTE: *Any words not specifically defined in Section 4, shall have the most common understood definition.*

Section 5. BUSINESS LICENSE REQUIREMENTS – a Business License is required prior to conducting any activity associated with peddling; soliciting; vending or promoting, as associated with this Ordinance.

5.1 Said Business License must be obtained from the Town of Cheswold Public Works Department, personally by the individual engaged in peddling, soliciting, vending or promoting or by his or her employer.

5.2 All individuals acting as a peddler, solicitor, vendor or promotor shall comply with all laws, ordinances, and regulations of the Town of Cheswold, Kent County Levy Court and State of Delaware Health and Social Service requirements.

5.3 A separate Business License is required for each individual engaged in peddling, soliciting, vending or promoting.

Section 5. BUSINESS LICENSE REQUIREMENTS – “continued”

- 5.4 All peddlers, solicitors, vendors and/or promoters must report any sales made within the Town of Cheswold to the State of Delaware Department of Revenue as sales that have occurred within the corporate limits of the Town of Cheswold.
- 5.5 The cost of a Business License shall be \$25.00 annually until such time as this Ordinance and/or Ordinance 07-02-2018-051 is revised otherwise.

Section 6. BUSINESS LICENSE APPLICATION REQUIREMENT – to obtain a Business License to authorize soliciting, peddling, street vending or professional promoting activities, information required on Business License Application Form **#PW 09-13-2010-001** must be provided and submitted to the Public Works Department for processing and approval as is usual and practice for all Business License Applications, but only after review and receipt of recommendation from the Chief of Police or his/her designee.

Section 7 – APPLICANT BACKGROUND CHECK - it shall be the duty of the Chief of Police or his/her designee to investigate each applicant made under Section 6 of this Ordinance, in which investigation the Chief of Police shall determine the following:

- 7.1 The legality of all credentials presented by the applicant and/or the individual solicitor, peddler or street vendor and the reliability of the product or services;
- 7.2 If the applicant and/or its solicitor, peddler or street vendor has a criminal record;
- 7.3 The truth of the facts set forth in the application; and
- 7.4 If the applicant, solicitor, peddler or street vendor proposes to engage in a lawful and legitimate commercial or professional enterprise.

Section 8 – STREET VENDOR REQUIREMENTS – The following shall apply all applications to operate as a Street Vendor within the corporate limits of the Town of Cheswold:

- 8.1 In addition to the requirement for a Business License all Street Vendors are required to obtain a street use permit.
- 8.2 The cost of a street use permit shall be \$15.00 for a single event or \$75.00 for a seasonal permit, (April 1 through October 31), until such time as this Ordinance and/or Ordinance 07-02-2018-051 is revised otherwise.

Section 8 – STREET VENDOR REQUIREMENTS – “continued”

- 8.3** All advertising shall be placed on the non-motorized mobile vending unit and will be allowed on the street or sidewalk. The maximum sign area is 10 square feet.
- 8.4** The vending site shall be kept clean and orderly at all times and the vendor must provide a refuse and a recycling container.
- 8.5** No portion of a vendor’s inventory, sales equipment, or any other structure or equipment used in the sales or solicitation process shall be left overnight upon any un-enclosed portion of any lot or site within the Town, nor upon any public street or right-of-way.
- 8.6** All street vendors must comply with all applicable Kent County and State of Delaware vending requirements.
- 8.7** If a street vendor is to be located on private property, the applicant shall submit with the application a copy of the written approval for the vending site from the property owner.
- 8.8** **No mechanical audio or noise making devices and no hawking.**
(Ice Cream trucks?????)
- 8.9** A receipt shall be supplied to the purchaser for all point of contact sales upon request by the purchaser.

Section 9 - PERMITTED LOCATIONS of STREET VENDORS – The Town of Cheswold reserves the right to prohibit the locations for which street vendors are permitted to offer their wares or services; and to revise this Ordinance to change those locations dependent upon the proven need to do so, based on the safety, health and welfare of the residents and property owners of the Town.

The Town additionally retains the right to revise this Ordinance to set a limit to the number of street vendors permitted to operate within the corporate limits of the Town of Cheswold at such time as they deem it necessary to make such a revision.

The following applies to the permitted and/or non-permitted locations of street vendors within the corporate limits of the Town of Cheswold:

- 9.1** Street vendors locating in a parking lot, must provide a site plan with their permit application indicating the location of their vending vehicle, which must not impede traffic or provide a safety hazard to potential customers.
- 9.2** Street vendors cannot and will not be permitted to locate and operate on a sidewalk or any public street right-of-way.

Section 9 - PERMITTED LOCATIONS of STREET VENDORS - “continued”:

- 9.3** Street vendors may operate in parks, if they have a concession agreement with the Town of Cheswold to operate on a specific park property, for a specific date and time period.
- 9.4** No portion of a vendor’s inventory, sales equipment, or any other structure or equipment used in the sales or solicitation process shall be located overnight upon any un-enclosed portion of any lot or site within the Town, nor upon any public street or right-of-way.
- 9.5** In the event that the proposed location is on or abuts property owned by the Town of Cheswold, the applicant shall be required to obtain the Town’s approval. All associated requests shall be forwarded to the Town Administrator for review and approval.
- 9.6** In the event that the proposed location is on or abuts publicly owned property, (i.e., Kent County; State of Delaware organizations; Federal Government agencies), the applicant shall be required to obtain the review and approval of the owning agency representative.
- 9.7** In the event the location for which approval is sought abuts vacant land, the applicant shall make reasonable written attempts to secure the approval of the property owner.
 - 9.7.a** If the applicant is unable to do so, the Town may accept written proof of such attempts and issue a conditional permit.
 - 9.7.b** If a complaint is later received from the owner of the land, the license shall be revoked.
 - 9.7.c** The granting of such a conditional license shall vest no right in the applicant.
- 9.8** When locating within a parking lot of a private location, which used by the public, the property owner shall provide a written document certifying that the location of the mobile vending unit and provide a circulation plan.
 - 9.8.a** The location and circulation plan shall require approval by the Town’s Police Department, to ensure the vending unit will not interfere in any way with vehicular or pedestrian traffic or safety or interfere with the ability of the public to park.

Section 10 - ISSUANCE / EXPIRATION of BUSINESS LICENSE – the Chief or Police or his/her designee, within a reasonable time, determine from investigation that the facts set forth in the application are true, that the purpose of the applicant and its solicitors, peddlers or street vendors is to engage in lawful and legitimate commercial or professional enterprise.

Section 10 - ISSUANCE / EXPIRATION of BUSINESS LICENSE – “continued”:

- 10.1** Having determined these facts, the Police Department shall then approve the application and forward it to the Administrative Clerk to issue the applied for license.
- 10.2** Such license shall expire on the thirty-first day of December of the year in which such license has been issued.
- 10.3** Except as hereinafter provided, no license shall be issued until the conclusion of the aforesaid investigation.

Section 11. REQUIREMENT to CARRY and DISPLAY BUSINESS LICENSE – Such license shall be carried at all times by each solicitor, peddler or street vendor for whom it is issued, when they are engaged in soliciting, canvassing or street vending in the Town of Cheswold.

- 11.1** It shall be exhibited by any such solicitor, peddler or street vendor whenever and wherever he or she shall be requested to do so by any police officer, code enforcement officer or any person solicited.

Section 12 – REVOCATION of BUSINESS LICENSE -Such Business License may be revoked either by the Town of Cheswold violation/s by either the employer of; or the solicitor, peddler or street vendor of any of the Ordinances of the Town of Cheswold.

The Town of Cheswold may also revoke a license for a street vendor under the following conditions:

- 12.1** Failure to comply with the terms of this Ordinance.
- 12.2** Misrepresentation of facts in the Business License application for the necessary permits.
- 12.3** Failure to comply with the terms of a valid street use permit.
- 12.4** Creation of a hazard to the public health or safety.
- 12.5** Failure to comply with the instructions or directions of a Police or Code Enforcement Officer.

Section 13 – APPEAL PROCEDURE - The following shall be applied as the Appeal Procedure:

13.1 Whenever the Code Enforcement Officer or his/her designee determines that there is cause for denying any License Application/Permit or revoking any License/Permit issued pursuant to this Ordinance, shall notify the person holding the License/Permit using at least one of the following methods:

13.1.a Registered Mail - return receipt requested

13.1.b Certified Mail - return receipt requested

13.1.c Personal Service delivery to address on the License/Permit

13.2 Notice mailed to the address on the License/Permit shall be deemed received three days after mailing.

13.3 The notice shall specify the grounds for the denial or revocation of the License/Permit.

13.4 The applicant or licensee may appeal the decision of the Code Enforcement Officer to deny or revoke a License/Permit by filing a written notice of appeal to the Town Administrator within 48 hours of the Code Enforcement Officer's decision.

13.5 Upon the timely receipt of the notice of appeal, the Town of Administrator will review the reason given by the Code Enforcement Officer for the denial or revocation and make provide a response to the applicant with ten, (10), working days of his or her decision to confirm or reverse the decision of the Code Enforcement Officer, by the same means identified in Section 13.1 of this Ordinance.

Section 14. DOOR to DOOR SOLICITATION - Door to Door Solicitation is strictly prohibited in the following communities within the corporate limits of the Town of Cheswold as a result of their written request of such prohibition, as the legal property owner or legal representative of record:

- PARKERS RUN
- STONINGTON
- FOX POINTE
- NOBLES POINTE
- BLANTON'S TRAILER HOMES
- STRIMMEL'S TRAILER HOMES

Section 14. DOOR to DOOR SOLICITATION – “continued”

Additionally, Door to Door Solicitation is expressly prohibited at or on any property displaying a No Trespassing or No Soliciting sign on the property.

Failure to comply with these restrictions may result in arrest and/or a fine.

Section 15. PENALTIES and FINES - Any person who violates any provisions of this Ordinance shall be fined \$50 for the first offense and \$100 for each subsequent offense.

Section 16. PROFESSIONAL CHARITABLE SOLICITATIONS - Legal charitable organizations, (as recognized by the submission of a tax exempt-status letter from the IRS and/or Office of the State of Delaware Treasurer and/or is recognized by a majority vote of the Town Council as a charitable organization), are exempt from the requirements of this Ordinance except for the submission of a statement to the Town Administrator which includes:

- Name, Address, Phone Number and E-Mail Address of Charitable Organization
- Name, Address, Phone Number and E-Mail Address of Organization Contact Person
- Beginning and ending dates of the solicitation event
- Synopsis of event details

Section 17. EXEMPTIONS – the following shall be exempted from the regulations, processes and procedures of this Ordinance:

17.1 The provisions of this Ordinance shall not apply to any person/s selling, grains, fruits, garden vegetables or similar produce grown upon the land of the person/s offering the same for sale.

17.2 Persons representing a non-profit organization, (confirmed by a valid 501C3 certificate), shall not be required to comply with this Ordinance, except for insurance, as associated with the Business License Application, (*see Section 6*), if in the opinion of the Town Attorney and/or Town Insurance Agent, such insurance is required for the protection of the Town and as described in Section 16.

17.2.a Nothing in this Section shall exempt any person or organization from complying with Section 16 - Professional Charitable Solicitor.

Section 17. EXEMPTIONS – “continued”

17.3 Persons officially participating in community events sponsored by the Town of Cheswold.

17.4 Persons 21 years or younger who are not a regular employee of a corporation, business or legal entity and perform grass cutting, lawn mowing or trash removal or like services.

Section 18. – SEVERABILITY – Should any section, clause or provision of this Ordinance be declared by the courts to be invalid, the same shall not affect the validity of the Ordinance as a whole, or any part thereof, other than the part declared to be invalid.

Section 19. - EFFECTIVE DATE

This ordinance and the rules, regulations, provisions, requirements, orders, administration and management and matters established and adopted hereby shall take effect and be in full force and effective _____ from and after the date of its final passage and adoption.

Ordinance No. **05-02-12-035** known as the “No Solicitation Ordinance”, was duly adopted by a majority vote of the Cheswold Town Council at the Council meeting held on _____, at which a quorum was present and legally voting throughout.

I, Santo Faronea, Mayor of the Town of Cheswold, do hereby certify that the foregoing is a true and correct copy of the Act passed by affirmative vote of all elected Members of the Cheswold Town Council at a regularly scheduled Town Council Meeting, (or Special Meeting), held on _____, at which a quorum was present and voting throughout, and that the same is still in force and effect.

Certified: _____
Mayor Santo Faronea

Date:

ATTEST: _____
Secretary/Treasurer Theon E. Callender

Date:

Agreed: _____
Vice-Mayor Michael Wysong

Date:

Agreed: _____
Councilperson Judith Johnson

Date:

Agreed: _____
Councilperson Max Wysong

Date:

Agreed: _____
Councilperson Maxwell Amoako

Date:

NOTARIZED: _____
Town Clerk Shadina Jones

Date:

Sponsored by: Theon E. (Sam) Callender – Town Administrator
Introduction: October 27, 2022

Co-Sponsor: _____ - Councilperson

REVIEWS & READINGS:

Town Council Review	October 26, 2022
Attorney Review (Gary Junge, Esquire)	October 26, 2022
Town Council – 1 st Reading	
Town Council – 2 nd Reading	
Town Council – Vote	

REVISION LOG

<u>DATE</u>	<u>REV. #</u>	<u>REASON for REVISION</u>