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## Chapter 97 — Business and Nonprofit Activities

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### Article I — Peddling and Soliciting

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## Article I — Peddling and Soliciting

### § 97-101 Short Title.

This Article shall be known, and may be cited, as the “Alburtis Peddling and Soliciting Ordinance”.

### § 97-102 Definitions.

For purposes of this Article, the terms defined in this Section shall have the meanings indicated, whether with or without initial capital letters, unless the context in which they are used clearly indicates a different meaning:

(a) **Peddler.** The term “Peddler” shall mean any person who shall engage in peddling.

(b) **Peddling.** The term “Peddling” shall mean engaging in peddling, canvassing, soliciting or taking of orders, either by sample or otherwise, for the sale or distribution of any goods, wares or merchandise upon any of the streets or sidewalks or from house to house within the Borough of Alburdis. No exception is made for:

(1) farmers selling their own produce;

(2) the sale of goods, wares and merchandise, donated by the owners thereof, the proceeds of which are to be applied to any charitable or philanthropic purpose; or

(3) any manufacturer or producer in the sale of bread and bakery products, meat and meat products or milk and milk products.

However, the term “peddling” does *not* include any activity which is not commercial (such as religious proselytizing, political speech, and the distribution of noncommercial handbills) *and* does not involve the solicitation of funds.

(c) **Person.** The term “Person” shall mean any natural person, association, partnership, firm or corporation

### § 97-103 Word Usage.

In this Article the singular shall include the plural, and the masculine shall include the feminine and the neuter.

### § 97-104 License Required.

No person shall engage in peddling in the Borough of Alburdis without first having taken out a license as provided by this Article. No peddlers license shall be valid without the signature of the Borough Manager and the Chief of Police or his designate.

### § 97-105 Application Procedure.

(a) **In General.** Every person desiring to engage in peddling in the Borough of Alburdis shall first make application to the Borough Manager for a license. If such person shall also be required to obtain a license from any county officer, he shall, when making such application, exhibit a valid county license. If unknown to the Borough Manager, an applicant may first be required to establish his or her identity by the display of a valid driver’s license, birth certificate, or baptismal certificate. Following identification, the applicant shall give his name; address; the

name of the person for whom he works, if any; the type of goods, wares and merchandise he wishes to peddle; the length of time for which he wishes to be licensed; the type of vehicle he uses, if any; and the number of helpers he has. Where a person makes application for himself and one (1) or more helpers, all applicable personal information specified above shall be given for each helper and an individual license shall be required for each helper. No license issued under this Article shall be transferable from one person to another.

**(b) Criminal Background Check.** Except as provided in subsection (c), each license application under this section shall include a report of criminal history record information from the Pennsylvania State Police for each applicant and helper included in the application, or a statement from the Pennsylvania State Police that the State Police central repository contains no such information relating to the person. Such criminal history record information shall be limited to that which is disseminated pursuant to 18 PA. CONS. STAT. § 9121(b)(2). Each report or statement shall be dated no earlier than one (1) year before the date the license application is submitted. The Chief of Police or his delegate may request additional information from the applicant to clarify or supplement information disclosed by the criminal history record information reports. The Borough shall maintain the confidentiality of the information provided under this subsection (b), except to the extent necessary to defend an appeal or claim relating to the denial of a license to the person.

**(c) Exemption.** Criminal history record information reports or clearance statements under subsection (b) shall not be required for any person who is an elementary or secondary school student, or for persons soliciting funds for organizations engaged in charitable or philanthropic purposes which regularly conduct non-solicitation activities in the Borough.

## § 97-106 License Fees.

No license shall be issued under this chapter until the proper fee, as follows, which shall be for the use of the borough, shall be paid to the Borough Manager:

**(a)** Except as provided in subsection (b), the fee for each peddler (and for each helper included in a single application), whether operating on foot or from a motor vehicle, shall be Twenty-five Dollars (\$25.00) for each period of up to five (5) consecutive calendar days for which a license is sought.

**(b)** Organizations located within the Borough of Albury engaged in charitable or philanthropic enterprises, as well as all farmers and any manufacturer or producer in the sale of bread and bakery products, meat and meat products or milk and milk products, organized and existing or resident within the Borough of Albury, shall be issued a license annually for a fee of One Dollar (\$1.00) per annum.

## § 97-107 Issuance and Contents of License; Use.

**(a) In General.** Except as provided in subsection (b), upon making application therefor and paying the proper fee as herein specified, a license shall be issued to every peddler. Such license shall contain the information required to be given upon application therefor, other than information provided under § 97-105(b) (relating to Criminal Background Check). Every

peddler shall at all times when engaged in peddling in the Borough carry such license upon his person and shall exhibit such license upon request to all police officers, Borough officials and citizens. No peddler shall engage in selling any product not mentioned upon such license, nor shall any person having a foot peddler's license operate from or with any motor vehicle.

**(b) Denial of License.** The Chief of Police or his delegate may deny a license under this Article to any person if any information provided in connection with the application is false or misleading, or there is a reasonable basis for the Chief of Police or his delegate to conclude that approval would constitute an unnecessary risk to public safety, including, but not limited to, past criminal activity inconsistent with the role of a peddler. All denials under this subsection (b) may be appealed for a hearing before and adjudication by Council pursuant to the Local Agency Law, 2 PA. CONS. STAT. § 551 *et seq.*, by filing a request for hearing with the Borough Manager within fifteen (15) days after the mailing date of the denial.

### **§ 97-108 Noise Restrictions.**

No person licensed as a peddler under this Article shall hawk or cry his wares upon any of the streets or sidewalks of the Borough, nor shall he use any loudspeaker or horn or any other device for announcing his presence by which the public is annoyed.

### **§ 97-109 Littering.**

No person licensed as a peddler under this Article shall place or deposit any refuse upon any streets or alleys.

### **§ 97-110 Curbstone Markets.**

No person licensed as a peddler under this Article shall maintain or keep a street or curbstone market by parking any vehicle upon any street or alley in the Borough for longer than necessary in order to sell therefrom to persons residing in the immediate vicinity.

### **§ 97-111 Use of Fixed Location.**

No person licensed as a peddler under this Article shall occupy any fixed location upon any of the streets, alleys or sidewalks of the Borough for the purpose of peddling, with or without any stand or counter.

### **§ 97-112 Records of Licenses; Supervision.**

The Borough Manager shall keep a record of all licenses issued under this Article, and the Chief of Police shall apply to the Borough Manager for a list of all licenses issued hereunder.

The Borough Manager and the Chief of Police shall supervise the activities of all holders of such licenses.

### § 97-113 Suspension of License.

The Borough Manager is hereby authorized to suspend any license issued under this Article when he deems such suspension to be beneficial to the public health, safety, or morals or for violation of any of the provisions of this Article, or for giving false information upon any application for a license hereunder.

### § 97-114 Violations and Penalties.

Any person who violates any provision of this Article shall be subject to prosecution before a magisterial district judge in the same manner as provided for a summary offense under the Pennsylvania Rules of Criminal Procedure, and upon conviction thereof, shall be sentenced to pay a criminal fine of One Hundred Dollars (\$100.00) for each violation, plus court costs and reasonable attorney fees incurred by the Borough in the enforcement proceedings, or, upon default in payment of the fine and costs, by imprisonment in the county jail for a period not to exceed thirty (30) days. Each day that a violation occurs or continues shall constitute a separate offense, and each violation of a separate section, subsection, paragraph, or other division of this Article shall constitute a separate offense.

## Appendix

### ¶ 97-A Disposition of Ordinance 198.

<u>Ordinance 198</u>	<u>1981 Code</u>	<u>2003 Codified Ordinances</u>
§ 1(a)-(c)	§ 88-1(A)	§ 97-102
§ 1(d)	§ 88-1(B)	§ 97-103
§ 2 (intro)	§ 88-2 (intro)	§ 97-104
§ 2(a)	§ 88-2(A)	§ 97-106(d)
§ 2(b)	§ 88-2(B)	§ 97-104
§ 3	§ 88-3	§ 97-105
§ 4	§ 88-4	§ 97-106 (intro), (a)-(c)
§ 5	§ 88-5	§ 97-107
§ 6	§ 88-6	§ 97-108
§ 7	§ 88-7	§§ 97-109, 97-110
§ 8	§ 88-8	§ 97-111
§ 9	§ 88-9	§ 97-112
§ 10	§ 88-10	§ 97-113

<u>Ordinance 198</u>	<u>1981 Code</u>	<u>2003 Codified Ordinances</u>
§ 11	§ 88-11	§ 97-114
§ 12 (repealer; severability)		

### **¶ 97-B Disposition of 1981 Code, Chapter 88.**

<u>1981 Code</u>	<u>2003 Codified Ordinances</u>
§ 88-1(A)	§ 97-102
§ 88-1(B)	§ 97-103
§ 88-2 (intro)	§ 97-104
§ 88-2(A)	§ 97-106(d)
§ 88-2(B)	§ 97-104
§ 88-3	§ 97-105
§ 88-4	§ 97-106 (intro), (a)-(c)
§ 88-5	§ 97-107
§ 88-6	§ 97-108
§ 88-7	§§ 97-109, 97-110
§ 88-8	§ 97-111
§ 88-9	§ 97-112
§ 88-10	§ 97-113
§ 88-11	§ 97-114

### **¶ 97-C Source Ordinances.**

Ordinance 103	06-03-1963
Ordinance 198	09-13-1978
Ordinance 215	11-11-1981
Ordinance 410	09-10-2003
Ordinance 415	10-29-2003
Ordinance 421	01-28-2004
Ordinance 518	03-12-2014
Ordinance 526	01-28-2015
Ordinance 545	04-25-2018

**§ 97-D Prior Ordinances Concerning Related Subject Matter.**

Ordinance 15	08-01-1916	Circuses, Exhibitions, Performances
Ordinance 28	07-05-1933	Weighing Coal and Coke
Ordinance 104	06-03-1963	Circuses, Exhibitions, Performances