

**BOROUGH OF ALBURTIS
LEHIGH COUNTY, PENNSYLVANIA**

Ordinance No. 410

(Duly Adopted September 10, 2003)

AN ORDINANCE REVISING AND CLARIFYING THE BOROUGH'S PEDDLING AND SOLICITING ORDINANCE, CHAPTER 88 OF THE CODE OF THE BOROUGH OF ALBURTIS (1981), TO INSURE THAT LICENSING REQUIREMENTS DO NOT APPLY TO PERSONS EXERCISING CONSTITUTIONAL RIGHTS TO FREEDOM OF RELIGION.

WHEREAS, the United States Supreme Court, in *Watchtower Bible and Tract Society of New York, Inc. v. Village of Stratton* (2002), determined that it is unconstitutional for a municipality to impose a licensing requirement on door-to-door canvassing as it applies to religious proselytizing, anonymous political speech, and the distribution of handbills, as opposed to commercial transactions and the solicitation of funds; and

WHEREAS, Chapter 88 of the Code of the Borough of Albutis requires a license for "peddling," which is defined in terms of the sale or distribution of goods, wares or merchandise, rather than noncommercial activities; and

WHEREAS, Borough Council desires to make it clear that Chapter 88 does not apply to activities protected from licensing in the *Village of Stratton* case;

NOW, THEREFORE, be it **ORDAINED** and **ENACTED** by the Borough Council of the Borough of Albutis, Lehigh County, Pennsylvania, as follows:

SECTION 1. The definition of "peddling" in section 88-1(A) of the Code of the Borough of Albutis, shall be amended as follows (with deletions indicated in ~~strike-outs~~ and insertions indicated by double underlining):

§ 88-1. Definitions

A. Definitions. As used in this chapter, the following terms shall have the meanings indicated:

* * *

PEDDLING — 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 Alburkis, ~~provided that the word “peddling” shall also apply~~ No exception is made for:

(1) To farmers selling their own produce; or

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

(3) To 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.

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DULY ORDAINED and **ENACTED** by the Borough Council of the Borough of Al-
burtis, this 10th day of September, 2003, in lawful session duly assembled.

**BOROUGH COUNCIL
BOROUGH OF ALBURTIS**

Steven R. Hill, President

Attest:

Melanie Hansen, Secretary

AND NOW, this 10th day of September, 2003, the above Ordinance is hereby
APPROVED.

Russell J. Afflerbach, Mayor