

**AVOCA BOROUGH
LUZERNE COUNTY, PENNSYLVANIA**

ORDINANCE NO. 3 OF 2013

**AN ORDINANCE PROVIDING FOR THE REGULATION OF THE BUSINESS
OF PEDDLING, SELLING OR SOLICITING THE SALE OF GOODS, WARES
MERCHANDISE OR SERVICES AT RESIDENCES AND ALONG STREETS
WITHIN THE BOROUGH OF AVOCA**

SECTION 1. ORDAINING CLAUSE:

NOW THEREFORE, be it enacted and ordained and IT IS HEREBY ENACTED AND ORDAINED, by the Avoca Borough Council, as follows: As of the effective date, as hereinafter provided, it shall be unlawful for any person, firm or corporation to engage in the business of peddling, hawking, selling or soliciting for the sale of any types of goods, services, merchandise or wares, at any residence or along any street within the confines of the Borough of Avoca, or conduct any other type of temporary commercial activity without first having secured a temporary sales permit

SECTION 2. DEFINITIONS:

- 1) BOROUGH - Shall mean the Borough of Avoca, Luzerne County, - Commonwealth of Pennsylvania, a municipal corporation of the Commonwealth of Pennsylvania, acting by and through its council or in appropriate cases, acting through its authorized representative.
- 2) PEDDLING, HAWKING, SELLING or SOLICITING - Any commercial activity conducted by any business or person in which goods, services, wares or merchandise is offered for sale or barter.
- 3) PERMANENT STRUCTURE - Shall mean any building or structure supported by columns or walls, used or intended to be used for the shelter of persons or property, and is not capable of being moved or relocated, and is not constructed to be used without a permanent foundation.
- 4) STREET - Shall mean and include any street, road, lane, court, alley, cul-de-sac, public way or public square, either for or intended for public use and/or travel and shall include the cart way, sidewalk, gutter, and/or right-of-way area, whether or not such street, or any part thereof, is owned in fee by others than the Borough, and whether the street is opened or unopened.
- 5) TEMPORARY COMMERCIAL ACTIVITY - Activity of peddling, hawking, selling or soliciting of/for the sale of any types of goods, services, wares or merchandise, at any residence or along any street within the confines the Borough of Avoca, which shall be conducted on a temporary or season basis, and is not conducted from a permanent structure; provided however,

that such use is not accessory to a permanently permitted business use.

SECTION 3. APPLICATION:

Application for such permit shall be submitted to the Borough Secretary, on a form approved by the Borough Council. During this time a valid form of identification must be presented. Such permit shall state thereon the name and address of the applicant, as well as the name and address of each individual employee of applicant, the date submitted, the name and address of the applicant's principal or employer, if any, the specific type or types of merchandise or services to be sold or solicited, and shall be accompanied by the required permit fee,

SECTION 4. PERMIT FEE:

The fee for such a permit shall be in the amount of Thirty (\$30.00) Dollars per person for each day of intended activity as described herein. This fee is subject to change by Resolution of the Borough Council.

SECTION 5. EXCEPTIONS:

The provisions of this ordinance shall not apply to any person of any religious organization while engaged in religious activity, or any school or organization soliciting the sale of goods solely for charitable or non-profit purposes, nor shall the provisions hereof apply to officers or employees of any municipal, state or federal government, or any subdivision or agency thereof; while on official business.

SECTION 6. LICENSE RESTRICTIONS:

- 1) Duration - No license shall be issued to any applicant for the same retail sales activity for a period greater than Thirty-one (31) days at any one time.
- 2) Multiple licenses - A license may be issued to the same person, organization, firm or corporation for the same retail sales activity for a period of not more than Thirty-one (31) days upon the expiration of the previous license, and may continue to be issued in Thirty-one (31) day increments by the Borough Secretary.
- 3) No person licensed under this Ordinance shall hawk, cry or advertise theft wares, services, merchandise or goods upon any street in the Borough, nor shall they use any loudspeaker or horn or any other device for announcing their presence, or advertising, by which they create a public nuisance.
- 4) No person licensed under this Ordinance shall engage in peddling, hawking, selling or soliciting during the following times:
 - a) At any time on a legal holiday or at any residence on Sunday;
 - b) Before ten o'clock A.M. (10:00 AM.) nor after seven o'clock P.M. (7:00 P.M.) on Monday through Saturday, at any residence within the Borough of Avoca;
 - c) Before seven o'clock A.M. (7:00 A.M.) or after ten o'clock P.M.

(10:00 P.M.) along the streets of the Borough of Avoca.

5) No person licensed under this Ordinance shall park any vehicle(s) upon any of the streets of the Borough of Avoca in order to sort, rearrange or clean any of his goods, wares or merchandise; nor shall any such person place or deposit any refuse upon any of such streets; nor shall any such person maintain or keep a street or curbstone market by parking any vehicle(s) upon any street in the Borough longer than necessary in order to sell therefrom to persons residing in the immediate vicinity.

6) Any license issued pursuant to this Ordinance may be suspended or revoked where such action is deemed by the Avoca Police Department, Borough Code Enforcement Officer, Borough Council, or the Mayor to be beneficial to the public health, safety or morals, or for the violation of any of the provisions of this ordinance, or for giving false and or misleading information upon any application for a license hereunder.

SECTION 7. SUBSTANTIAL COMPLIANCE:

1) Compliance with Zoning Requirements - Any such use which shall involve a structure, such as a temporary tent, shall show evidence of a zoning permit with any application for a temporary business license. Such uses shall only be licensed if they are to be located within a zoned district where such business use is permitted.

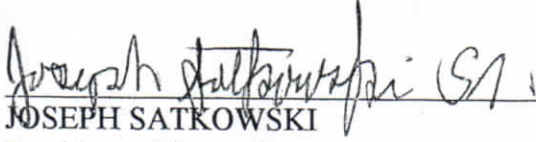
2) Compliance with Subdivision and Land Development Requirements - Any such use which shall involve a structure such as a temporary tent, shall be considered as a land development and shall show evidence of compliance with the Subdivision and Land Development Requirements as set forth by Luzerne County.

3) Compliance with other Borough Codes and Ordinances - Any such use which shall involve a structure such as a temporary tent, shall conform with all other Borough Codes and Ordinances.

SECTION 8. FINES/PENALTIES:

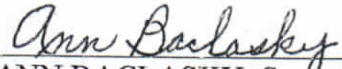
Any person, firm, organization or corporation violating any provision of this Ordinance shall upon conviction thereof be fined not more than Five Hundred (\$500.00) Dollars, but not less than Three Hundred (\$300.00) Dollars, plus costs, for each such offense, and in default of payment shall be imprisoned for a period of not more than Thirty (30) days, and each day that a violation occurs or continues shall be deemed a separate offense.

ENACTED AND ORDAINED by the Borough Council of Avoca Borough this 13th
day of June, 2013.



JOSEPH SATKOWSKI
President of Council


ATTEST:



ANN BACLASKY, Secretary

(SEAL)

THE FOREGOING ORDINANCE is hereby approved by the Mayor of the Borough of
Avoca, this 13th day of June, 2013.



ROBERT MULLEN, Mayor

**AVOCA BOROUGH
LUZERNE COUNTY, PENNSYLVANIA**

ORDINANCE NO. 7 OF 2014

AN ORDINANCE OF THE BOROUGH OF AVOCA, LUZERNE COUNTY, PENNSYLVANIA, AMENDING SECTION 6 LICENSE RESTRICTIONS, PARAGRAPH 4), SUBPARAGRAPHS b) & c) OF ORDINANCE NO. 3 OF 2013, DATED JUNE 13, 2013, PROVIDING FOR THE REGULATION OF THE BUSINESS OF PEDDLING, SELLING OR SOLICITING THE SALE OF GOODS, WARES, MERCHANDISE OR SERVICES AT RESIDENCES AND ALONG STREETS WITHIN THE BOROUGH OF AVOCA.

Enacted On: January 6, 2014

Effective On: January 6, 2014

Copies of this Ordinance are on file in the Office of the Secretary of the Borough of Avoca, being marked and designated as the "ORDINANCE TO AMEND ORDINANCE FOR PEDDLING, SELLING OR SOLICITING THE SALE OF GOODS, WARES, MERCHANDISE OR SERVICES AT RESIDENCES AND ALONG STREETS WITHIN THE BOROUGH.

NOW, THEREFORE, be it **ENACTED AND ORDAINED** and it is hereby **ENACTED AND ORDAINED** by the Council of the Borough of Avoca that Section 6 License Restrictions, Paragraph 4), Subparagraphs b) & c) of Ordinance No. 3 of 2013 dated June 13, 2013 regulating the business of peddling, selling or soliciting the sale of goods, wares, merchandise or services at residences and along streets within the Borough of Avoca are hereby amended to read as follows:

SECTION 6. LICENSE RESTRICTIONS:

- 4) b) Before ten o'clock A.M. (10:00 AM.) nor after five o'clock P.M. (5:00 PM.) on Monday Through Saturday, at any residence with the Borough of Avoca;
- c) Before seven o'clock A.M. (7:00 AM.) or after five o'clock P.M. (5:00 PM.) along the streets of the Borough.

This Ordinance shall take effect immediately upon enactment.

All Ordinances, or parts thereof, inconsistent herewith are hereby repealed to the extent of the inconsistency.

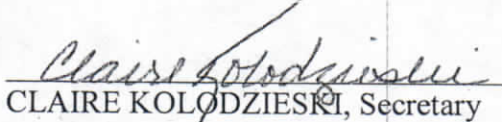
If any clause, provision or portion of this Ordinance shall be held invalid or unconstitutional by any Court of competent jurisdiction, such decision shall not affect any other clause, provision or portion of this Ordinance.

ENACTED AND ORDAINED by the Borough Council of Avoca Borough this 6th day of January, 2014.



JOSEPH SATKOWSKI
President of Council

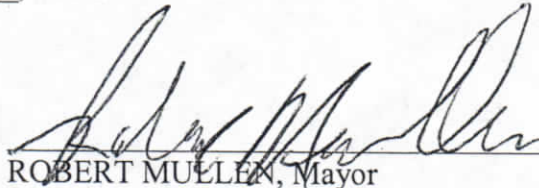
ATTEST:



CLAIRE KOŁODZIESKI, Secretary

(SEAL)

THE FOREGOING ORDINANCE is hereby approved by the Mayor of the Borough of Avoca, this 6th day of January, 2014.



ROBERT MULLEN, Mayor