

ORDINANCE #2 of 2022

AMENDING ORDINANCE #7 of 1992

THROOP BOROUGH

LACKAWANNA COUNTY PENNSYLVANIA

**AN ORDINANCE OF THE BOROUGH OF THROOP AMENDING AND RESTATING
THE CANVASSING AND SOLICITING ORDINANCE**

WHEREAS, the Throop Borough has previously enacted Ordinance #7 of 1992 relating to Canvassing and Soliciting; and

WHEREAS, the Borough has decided that certain amendments to such Ordinances are desirable or necessary.

NOW, THEREFORE, the Borough of Throop hereby ordains as follows:

Section One. Short Title and Purposes. This Ordinance shall be known as the "Throop Borough Canvassing and Soliciting Ordinance." It is enacted for the following purposes: to prevent fraud, burglary (including preparation for burglary by learning which residents are home and at what hours) and other crime; to prevent unethical and dishonest business practices; to protect the privacy interests of the residents of the Borough, including the right to not be unduly annoyed in their homes and to be able to exclude trespassers from private property; and to otherwise promote the health, safety and welfare of the residents of the Throop Borough.

Section Two. Definitions. The following words shall be construed to have the meanings set forth below; and, throughout this Ordinance, the singular shall include the plural, and the masculine gender shall include the feminine and neuter:

CANVASS - the practice of going from dwelling unit to dwelling unit to (a) conduct surveys for research purposes (other than those conducted by an agency of the State or Federal government), (b) to make analyses, to take opinion polls, to compile rating data, (c) to obtain or seek contributions or donations for any person or organization or cause, (d) to advance personal, religious or political causes and advocating with regard thereto, or (e) to conduct any similar work which, by its nature, involves door-to-door or place-to-place activity, including distribution of circulars.

MERCHANDISE or SERVICES - any goods or services including, but not limited to, magazines, periodicals, books, orders or contracts for services, home improvements or alterations.

REGISTRANT - any canvasser or solicitor required to apply for a registration certificate under this Ordinance. Such term shall include all agents and employees of the canvasser or solicitor which is required to register.

SOLICIT - the practice of going from dwelling unit to dwelling unit selling, causing to be sold, offering for sale or taking orders for present or future delivery of merchandise or services. Canvass or Solicit does not include a series of licensed entries on private property (e.g., milkman making normal deliveries).

Section Three. Registration. No person desiring to canvass or solicit in the Throop Borough whose purposes include commercial solicitation or seeking contribution of funds, excluding charitable non-profit solicitation, shall do so without first having obtained a registration certificate from the Throop Police Department. Individuals who solicit door to door for charitable, religious or political groups are not required to obtain a permit.

Section Four. Procedure. Any person required to obtain a registration certificate shall submit a written application to the Police on a form furnished by the Borough. The Chief of Police, or his delegate, will issue to the applicant a registration certificate within twenty-four (24) hours from the date of filing of the application, provided that the application is complete and accurate. A registration certificate will be valid for the balance of the calendar year in which it is issued. Such certificate may not be transferred from one (1) person to another.

Section Five. Fees. No fees will be charged for the issuance of a registration certificate for the solicitation or canvassing on behalf of a charitable nonprofit agency. Fees will be charged for the issuance of a registration certificate to persons desiring to canvass or solicit in Throop Borough for the purpose of commercial solicitation.

Section Six. Display. Each registrant shall carry the registration certificate at all times when in the Borough. In addition, the registrant will exhibit the certificate to any Borough citizen or resident or Borough official upon request.

Section Seven. Appeal. In the event an application for a registration certificate is disapproved by the Chief of Police or his delegate, the appellant may, within five (5) days of the denial, appeal the decision to the Borough Council which shall set a time and place for a hearing. This hearing shall be held within thirty (30) days after the appeal is taken by the appellant, at which hearing the appellant will be given an opportunity to present reasons why the registration certificate should be issued. The decision of the Borough Council shall be made within ten (10) days of the appeal hearing.

Section Eight. Prohibitions.

A. Hours. No person shall canvass or solicit in the Borough between the hours of 7:00 p.m. and 9:00 a.m. the next day. This restriction shall apply to all persons, including those to whom a registration certificate has been issued.

B. List. No person who is required to obtain a registration certificate shall canvass or solicit in the Borough without first obtaining from the Borough Chief of Police or his delegate a list of all residences (address only) and dwelling units in the Borough where the owner/occupant of the residence or dwelling unit has notified the Borough in writing that they do not wish to be visited on their premises at any time by any person performing any canvassing and/or soliciting activity. No registrant or person required to register, may canvass or solicit at any dwelling unit designated on such list. Any registrant who is canvassing or soliciting in the Borough must carry such list while canvassing or soliciting. Any such written notice from an owner/occupant may be revoked in writing at any time by such owner/occupant.

C. Signs. No person, whether or not a registrant, shall conduct any canvassing or soliciting activity at any private property which has posted a "No Solicitation" or "No Solicitors" or "No Trespassing" sign or any other similar warning sign. Such sign shall be reasonably visible to persons entering the property at the driveway or sidewalk, if any.

Section Nine. Revocation. The Borough Chief of Police, or his delegate, may revoke the registration certificate of any registrant found to be in violation of any provision of this Ordinance.

Section Ten. Exemptions. This Ordinance shall not be applicable to:

- (a) Persons selling goods pursuant to an Order of Process of a Court or competent jurisdiction.
- (b) Persons acting in accordance with their powers and duties as public officials.
- (c) Sales by bona fide charitable, elementary, educational, cultural, governmental, civic, service clubs, religious or fraternal societies, or other tax-exempt organizations; provided, the burden of proof to establish the exemption under this sub-section shall be on the organization or institution claiming such exemption. No exemption shall be effective unless the individual or organization shall register prior to engaging in the aforementioned activity with the Borough Administrator's Office.
- (d) Persons selling goods for a period not longer than 24 hours and not more than once a year from a premises on which the reside (i.e. "garage sales").
- (e) Farmers selling their own produce.
- (f) Manufacturers or producers in the sale of bread and bakery products, meat and meat products, or milk or milk products, however, any person, persons or entity engaged in the above must register prior to engaging in business with the Borough and are subject to any and all other provisions of this Ordinance except the payment of license fees. The terms "milk or milk products" shall not apply to ice cream or other frozen desserts.

Further provided that any person, persons or entities selling one of the accepted categories and selling other goods as well, shall not be excepted and shall be subject to the license fee fixed by this Ordinance.

Section Eleven. Penalties. Any person violating this Borough, whether as an individual, principal, agent, employer or employee of another, shall upon conviction by the District Magistrate be subject to a fine not to exceed five hundred dollars (\$500.00) plus costs of prosecution, in the discretion of the District Magistrate. Each entry upon private property which does not comply with the provisions of this Ordinance shall constitute a separate offense.

Section Twelve. Invalidation. Should any section or sections hereof be held for any reason to be invalid, the remaining sections shall remain in full force and effect.

Section Thirteen. Repealer. This Ordinance repeals in its entirety and supersedes Borough Ordinance #7 of 1992.

Section Fourteen. Effective Date. This Ordinance shall be effective upon approval.

SECTION 1.

If any section, 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 section, clause, provision or portion of this Ordinance so long as it remains legally enforceable minus the invalid portion. The Borough of Throop reserves the right to amend this Ordinance or any portion thereof from time to time as it shall deem advisable in the best interests of the promotion of the purposes and intent of this Ordinance and the effective administration thereof.

SECTION 2.


This ordinance shall become effective immediately upon its enactment.

SECTION 3.

This Ordinance is enacted by the Council of the Borough of Throop under the authority of the Act of the Legislative, as amended, December 12, 1990, P.L. 1994, No. 220, and any other applicable law arising under the laws of the Commonwealth of Pennsylvania.

Enacted this 29th day of March 2022.


Richard Kucharski
President of Council

ATTEST:

Renee O'Malley
Secretary


Joe Tropiak
Mayor

Certificate No. _____

THROOP BOROUGH

APPLICATION FOR CANVASSERS AND SOLICITORS REGISTRATION CERTIFICATE

Pursuant to the provisions of Throop Borough Ordinance No. 2 of 2022, the undersigned herewith applies for a Canvassers-Solicitors Registration Certificate.

All applicants must provide their **current, complete Criminal History within 30 days** from the Pennsylvania State Police.

Full Legal Name: _____ Phone No. _____

Permanent Address: _____

Local Address: _____

Name and Address of Organization: _____

Nature of Canvassing or Solicitation: _____

Dates of Permit Usage: _____

Since your 18th birthday, have you ever been convicted or entered a guilty plea or nolo contendere to a felony or misdemeanor? Yes _____ No _____

If yes, list day and charge(s): _____

Are there any current felony or misdemeanor charges pending against you? Yes _____ No _____

If so, list charge(s): _____

Vehicle Information: Make: _____ Model: _____

Year: _____ Color: _____ License No: _____ State: _____

Date of Birth: _____ Driver's License No.: _____ State: _____

Fees: For-Profit per Individual: **Per current Throop Borough Fee Resolution**

Non-profit or Charitable: **No Fee Required**

<i>Borough Use Only</i>	
Fee Paid: _____	Date: _____
Approved By: _____	

Applicant Signature Date

NOTE TO SOLICITOR: Soliciting is contingent upon the approval of the property owner or resident. If a property is posted "No Soliciting" or a property is included on the **NO SOLICITATION LIST** provided by the Throop Borough, you are not to enter the property. Such a violation may be considered criminal trespass. Violators of Throop Borough Ordinance No. 2 of 2022, are subject to fines and/or arrest and/or revocation of permits with no refund of fees. Solicitation is only permitted between the hours of 9:00 a.m. to 7:00 p.m., Monday through Saturday.

THROOP BOROUGH
436 SANDERSON STREET
THROOP, PA 18512
PHONE: 570-489-8311 FAX: 570-383-7122

NO SOLICITATION REQUEST

_____ I do not wish to have solicitors or canvassers visit my property and/or residence and would like to be included on the No Solicitation List, which will be given to solicitors and canvassers issued a Solicitation Permit by Throop Borough. The list will only include the address of the property.

Please print clearly: Name(s): _____

Address: _____

Phone #: _____

Signature: _____

Date: _____

This form should be returned to the Throop Borough Municipal Building at 436 Sanderson Street, Throop, PA 18512.