



Town of Milton

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ORDINANCE NO. 2022-012

TO AMEND TOWN CODE CHAPTER 93 RELATED TO BUSINESS LICENSES

WHEREAS, the Town Charter of the Town of Milton, Delaware ("Town") provides in Section 29, that, "the Town Council is vested by this Charter with the following powers, to be exercised by the Town Council in the interest of good government, and the safety, health and public welfare of the Town, its inhabitants and affairs"; and

WHEREAS, Section 29 authorizes the Town Council to license, tax, and collect fees for any and all municipal purposes of such various amounts as the Town Council from time to time shall fix from any individual, firm, association, or corporation carrying on or practicing any business, profession, or occupation within the limits of the Town; and

WHEREAS, Milton Town Code Chapter 93 authorizes the issuance of business licenses for a fee in accordance with the currently effective fee schedule; and

NOW, THEREFORE, BE IT ENACTED AND ORDAINED by the Mayor and Town Council of the Town of Milton, a majority thereof concurring, that the following revisions hereby incorporated into Chapter 93 of the Town Code, entitled "Business Licenses".

Section 1. Amend §93-2, entitled "Definitions" with deletions shown by strike-through and additions shown by underline:

CHARITABLE or CHARITABLE PURPOSE

Includes the words "patriotic," "philanthropic," "social services," "welfare," "benevolent," "educational," "civic", "religious" or "fraternal," either actual or purported.

CHARITABLE ORGANIZATION

Any benevolent, philanthropic, patriotic, religious or eleemosynary entity or one purporting to be such for solicitation and collection of funds for charitable purposes, including any local, county, or area division within this state of such charitable organization.

CHARITABLE SOLICITATION

Solicitation engaged in or for a charitable purpose.

ESTABLISHMENT

A building or part thereof from which any product, merchandise or commodity is dispensed or facilities or services are provided to members or the general public.

KIOSK

A small structure, located within an establishment, usually open in front, used as a newsstand or a place for selling goods or conducting transactions.

PERSON or PERSONS

Individuals, partnerships, firms, companies, associations and corporations.

PLACE OF BUSINESS

To include any motored vehicle, horse drawn and/or human drawn vehicle or each stand at or from which any product, merchandise or commodity is dispensed or facilities or services are provided to members or the general public.

POLITICAL SOLICITATION

Solicitation engaged in for the purpose of lobbying, campaigning, promoting, advancing, espousing or benefiting a political cause, party or candidate for political office.

PROFESSIONAL SERVICE

Any occupation or profession where the individual holds a separate professional license required for their individual profession, such as a physician, dentist, lawyer, engineer, architect, accountant, insurance or real estate agent, plumber, electrician, barber, beautician or similar occupation.

SOLICITING and PEDDLING

A. **SOLICITING** The seeking or taking without invitation of contracts or orders for any goods, wares, merchandise or service for future delivery or for subscriptions or contributions upon any streets or sidewalks or from house to house within the Town.

B. **PEDDLING** The selling or offering for sale without invitation of any goods, wares, merchandise or service for immediate delivery which the person selling or offering for sale carries with him/her in traveling or has in his/her possession or control upon any streets or sidewalks or from house to house within the Town.

SOLICITOR or PEDDLER

Any person who shall engage in soliciting or peddling, respectively, as hereinabove defined.

YARD SALE

The sale of personal property owned by the owner or lessee of the land and the principal building located on the parcel where the sale is to be conducted dawn to dusk.

Section 2. Amend §93-8, entitled "Appeals" with deletions shown by strike-through and additions shown by underline:

Any person aggrieved by a decision of the Code Enforcement Officer may, within 15 days, take ~~make~~ an appeal to the Mayor and Town Council by giving written notice ~~of the aggrieved person's election so to do~~ to the Town Manager, or designee, ~~Hall~~ and ~~upon~~ payment of a fee, if any, as established in the currently ~~effective~~ Town of Milton Fee Schedule. The Town Manager, or designee, shall notify the ~~Secretary of the~~ Town Council and shall transmit ~~to the Secretary of the Town Council~~ all the papers constituting the record upon which the decision appealed from was taken. ~~Council~~ The Town Manager, or designee, shall set a date, time and place for the hearing of the appeal, ~~which time and date shall be at the regular Council meeting,~~ so long as the applicable notice and time requirements may be met; ~~if such applicable notice and time requirements cannot be met, then the appeal shall be held at either a special meeting or at the next regular Council meeting.~~ Notice of the appeal shall be sent to the appellant ~~and published in a newspaper of local circulation~~ at least seven days prior to the scheduled hearing. The decision of the Mayor and Town Council shall be final, and any review shall be by writ of certiorari to the Superior Court of the State of Delaware.

Section 3. Amend §93-9, entitled "License to be posted or carried" with deletions shown by strike-through and additions shown by underline:

All licenses issued under this chapter shall be posted in a public place in the establishment, at the place of business for which it is issued, or, ~~as the case may be,~~ shall be carried on the person of the licensee.

Section 4. Amend §93-10, entitled "Exceptions to license requirements" with deletions shown by strike-through and additions shown by underline:

A. No license fee shall be charged for a license issued to any of the following:

(1) A charitable organization.

(2) Political solicitation.

(3) A public service institution, association, club or body not organized and conducted for private gain.

B. Nothing herein shall be construed to make it mandatory upon any resident of the State of Delaware to apply for a license in order to sell in the Town any form of produce or products grown upon a farm owned by such resident or any member of his/her family with whom he/she resides.

C. Nothing herein shall be construed to make it mandatory for anyone less than 18 years of age to apply for a license in order to perform grass cutting and lawn mowing.

D. No license is required for yard sales conducted on the premises for the sale of personal property owned by the owner or lessee of the parcel where the sale is to be conducted; provided, however, that not more than two yard sales, other than the Town-wide yard sale shall be conducted in each calendar year on said premises.

Section 5. Amend §93-11, entitled "Hours of business" with deletions shown by strike-through and additions shown by underline:


No establishment of business within the Town of Milton hereafter shall be open to the public to conduct business between the hours of 2:00 a.m. and 6:00 a.m. Peddlers, hawkers, political solicitation, charitable solicitation and door-to-door sales will not be conducted between the hours of ~~8:00~~ 5:00 p.m. and 9:00 a.m., prevailing time. No door-to-door sales will be permitted on Sundays or the Town of Milton holidays. This section shall not be applicable to the following:

- A. Industrial or manufacturing businesses and activities which are not open to the public.
- B. The owners, employees, or agents may be on the premises of the business between the hours of 2:00 a.m. and 6:00 a.m., as long as they are only conducting the affairs of the business and are not open to the public.
- C. Emergency situations where there would exist a substantial likelihood that failure to provide the goods or services would result in danger of substantial injury to health, person, or property.
- D. This does not restrict the Council from issuing an exemption.

Section 6. Amend §93-12, entitled "Violations and penalties" with deletions shown by strike-through and additions shown by underline:

~~Any person violating any provision of this chapter shall be subject to such penalties and pay such fines as set forth in Chapter 1, Article II, General Penalty. Any person violating the provisions of this chapter shall, upon conviction, be punished by a fine of not less than \$100 nor more than \$500 or imprisonment for such a period not to exceed 30 days, or by both such fine and imprisonment, at the discretion of the court.~~

I, **John Collier**, Mayor of the Town of Milton, hereby certify that the foregoing is a true and correct copy of the Ordinance adopted by the Mayor and Town Council of the Town of Milton at its meeting held on the 3rd day of October, **2022**, during a duly noticed meeting at which a quorum was present and voting throughout, and that the same is still in full force and effect.


MAYOR

SYNOPSIS

This Ordinance amends Town Code Chapter 93 regarding Business License regulations. Specifically, the ordinance adds language to regulate door-to-door solicitation and aligns violations and penalties with those of other codes.