

ORDINANCE NO. 683

AN ORDINANCE OF THE TOWNSHIP OF CUMRU, COUNTY OF BERKS, COMMONWEALTH OF PENNSYLVANIA, ESTABLISHING REGULATIONS REGARDING THE CONDUCT OF BUSINESS OPERATIONS BY PEDDLERS, SOLICITORS AND TRANSIENT MERCHANTS WITHIN THE CORPORATE BOUNDARIES OF SAID TOWNSHIP; REQUIRING THE LICENSURE OF SUCH COMMERCIAL OPERATIONS; ESTABLISHING LICENSE FEES FOR SUCH COMMERCIAL OPERATIONS; RESTRICTING THE DAYS AND HOURS OF SUCH COMMERCIAL OPERATIONS; EXEMPTING CERTAIN PERSONS AND ORGANIZATIONS FROM THE LICENSURE REQUIREMENT; PROHIBITING CERTAIN ACTS BY LICENSEES; ESTABLISHING APPELLANT PROCEDURES FOR PERSONS WHO HAVE BEEN DENIED LICENSES; ESTABLISHING PENALTIES FOR VIOLATIONS OF THE TERMS OF THIS ORDINANCE; DECLARING THE VARIOUS PROVISIONS OF THIS ORDINANCE TO BE SEVERABLE; AND, REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES THAT ARE IN CONFLICT WITH THIS ORDINANCE.

WHEREAS, the Board of Commissioners of the Township of Cumru, County of Berks, Commonwealth of Pennsylvania, desire to establish regulations regarding the conduct of business operations by peddlers, solicitors and transient merchants who propose to operate, and who do operate, within the corporate limits of said Township; and,

WHEREAS, said Board have determined that by so regulating the conduct of these business operations, the health, safety and welfare of the citizens of the Township and of the public at large are better insured; and,

WHEREAS, the authority to so regulate the business operations of peddlers, solicitors and transient merchants is granted to said Board pursuant to the terms of Article XXIX, Licenses and License Fees, of the First Class Township Code, Act of June 24 (P.L. 1206, No. 331) Reenacted and amended May 27, 1949 (P.L. 1955, No. 560) As Amended.

NOW THEREFORE, BE IT ENACTED AND ORDAINED, and it hereby is enacted and ordained by said Board of Commissioners of the Township of Cumru, as follows:

SECTION 1. DEFINITIONS

The following words and/or phrases, when used in this Ordinance shall have the meanings ascribed to them in this Section 1, unless the context clearly indicates a different meaning. The use of the masculine shall include the feminine, the singular the plural, and vice versa.

1. Authorization – License, permit or registration
2. Flea Market – A bazaar, or sales venue, often but not necessarily held out of doors, at which persons offer for sale, trade or barter an amalgamation of inexpensive wares, curios and products, both new and used
3. Peddler – Any person who shall engage in peddling, as defined herein.
4. Peddling – The selling or offering for sale any goods, wares, services or merchandise for immediate delivery which the person selling or offering for sale carries with him in traveling, or has in his possession or control, upon any of the streets or sidewalks; or, from house to house; or, by visitation to private residences; or, by entering upon private property within Cumru Township.
5. Person – Any natural person, partnership, association, firm or corporation.
6. Promoter – Any person, as defined herein, who organizes the gathering of five (5) or more persons for the purpose of engaging in peddling, soliciting and/or transient retail business, as defined herein.
7. Soliciting – The seeking or taking of contracts or orders for any goods, wares, services or merchandise for future delivery, or for subscriptions or contributions, upon any of the streets, sidewalks, or other public ways of the Township; or, from house to house; or, by visitation to private residences; or, by entering upon private property within the Township; and, shall further mean, seeking or taking of contracts or orders for home or other building repairs, improvements and alterations; and, also orders or contracts for new mechanical, electrical, plumbing or heating devices or equipment for buildings, or other improvements or repairs upon the aforesaid structures within the Township.
8. Temporary – A period of time equal to, or less than, thirty (30) days.
9. Transient Retail Business –
 - A. Includes the following:

- (1) Engaging in peddling, canvassing, soliciting or taking of orders, either by sample or otherwise, for any goods, wares or merchandise, upon any street, alley, sidewalk, public way and/or public ground; or, from house to house, within Cumru Township.
- (2) Selling, peddling, soliciting or taking orders for any goods, wares or merchandise from a fixed location within the Township on a temporary basis, which shall include, but shall not be limited to, such activities conducted at the time of special occasions or celebrations, for seasonal purposes or for, or in advance of, specific yearly holidays. Flea markets are specifically included as a transient retail business.

B. "Transient Retail Business" shall not include sidewalk sales as conducted by merchants on the sidewalks and public ways located to the fronts of their establishments, provided that the regular business of such merchants are non-temporary in nature and fixed in location at their said addresses.

C. "Transient Retail Business" shall not include businesses conducted by persons having a permanent place of business within the Township, or a business that is operated within the operator's place of abode and in full compliance with all applicable codes and ordinances of the Township.

10. Transient Retail Merchant – Any person who shall engage in transient retail merchandising, as defined herein, including agents and employees thereof.

SECTION 2. LICENSURE

1. License Required

A. Every person desiring to engage in any transient retail business, peddling or soliciting in Cumru Township first shall file application with the Township Police Department, and tender the Application/License Fee as established pursuant to the terms of this Ordinance. If such person shall also be required to obtain a license or authorization from any officer of Berks County, Pennsylvania, he shall, upon making such application to the Police Department, exhibit a valid County license. Said application shall be made upon the form provided by the Department for such purpose and shall contain, at minimum, the following information, verified, and made subject to penalties of 18 Pa. C.S.A § 4904, relating to un-sworn falsification to authorities:

- (1) Full name of the applicant and local address, if any
- (2) Permanent address
- (3) Name of employer or promoter, or a statement that such applicant is self-employed
- (4) The nature of the goods, wares, merchandise or services being offered for sale
- (5) A statement as to whether or not the applicant ever has been convicted of any crime, and if the answer is in the affirmative, the nature of the offense and the punishment or punishments imposed therefore, and the identification of the jurisdiction where the crime and conviction took place.
- (6) A description of the make, model and color of all vehicles, if any, that are to be used in the conduct of the business operation. The description of each vehicle shall include also the plate number and state/district of registration
- (7) The date upon which the commercial activities are proposed to commence and the date upon which such activities shall terminate
- (8) Upon request of the Police Department, the applicant also shall submit to fingerprinting and photographing

B. Provided, where a person makes application for himself and one or more agents, employees and/or helpers, all applicable personal information, as specified above, shall be given for each agent, employee and/or helper, and personally verified by such additional agent, employee and/or helper.

2. Individual Licensure

Every license granted under the provisions of this Ordinance shall be granted on an individual basis to persons engaging in such business, and every individual shall be licensed, in his name, and the fee hereby imposed shall be applicable as established hereunder.

3. Licensure of Promoters

A Promoter, as defined herein, who organizes and coordinates five or more persons engaged in transient retail operations, shall, on behalf of such persons, apply for and obtain the license as required in Subsection A, above; and, in which case, such license shall be approved for each such person in each such person's name, and for which a fee, in an

amount equal to that established hereunder, shall be paid by the Promoter at the time of application.

4. Approval of License

Upon the receipt of the required application and specified fees, as set forth hereunder, upon finding said application and fees to be complete and in their entirety, the Police Department shall undertake an investigation of reasonable and necessary scope to determine if the issuance of the license, as sought, would be detrimental to the health, safety and welfare of the citizens of Cumru Township and/or the public at large. Upon finding that such issuance would not be so detrimental, the Chief of Police, or his designee, shall approve the license application, and cause the license to issue.

5. Denial of License

Should the investigation of the Chief of Police or his designee reveal that the issuance of the license, as sought, would be to the detriment of the citizens of the Township or to the public at large, the application for such license shall be denied. Upon such denial, the applicant shall be provided with a Notice of Denial, which shall state the reason(s) for the denial. Upon the denial of a license, the fee tendered by the applicant shall be returned to the applicant, less the sum, equal to the amount as established pursuant to the terms of this Ordinance, which shall be retained by the Township as a processing fee. Licenses may be denied, and once approved, licenses may be revoked for any of the following causes:

- A. Fraud, misrepresentation or false statement contained in the application for licensure
- B. Fraud, misrepresentation or false statement made in the course of the conduct of the business operations
- C. Any violation of the terms of this Ordinance
- D. Past or present conduct of a person seeking licensure pursuant to the terms of this Ordinance, or one who has been so licensed in an unlawful manner, or in such a manner as to constitute a breach of the peace, or to constitute a menace to the health, safety or general welfare of the public

SECTION 3. LICENSE FEES & PERIODS OF VALIDITY

No application shall be accepted and no license shall be approved pursuant to the terms of this Ordinance until the Application/License Fee have been paid to the Township. Applications shall be filed for all persons who conduct transient retail business activities, and shall apply where an employer or promoter desires

to secure licenses for his employees, agents and/or helpers. The Application/License Fees shall be as follows:

1. For those persons who propose to conduct transient retail business activities from a fixed location, within a building, or on a specific lot, parcel or space, the license fee hereby is established by Resolution of the Board of Commissioners. Such license as may issue under this Subsection shall be valid for a period as established by Resolution of the Board of Commissioners.
2. For those persons who propose to conduct transient retail business activities throughout the Township, having no fixed location within a building, at a particular site, on a specific lot, parcel or space; but rather to operate as a street vendor or from door to door, location to location, the license fee hereby is established by Resolution of the Board of Commissioners. Such license as may issue under this Subsection shall be valid for a period as established by Resolution of the Board of Commissioners.
3. There shall be no pro-ration for licenses issued pursuant to applications for licenses for periods of time less than those periods of license validity set forth at Section 3, Subsections 1 and 2, above.
4. Upon the denial of an application for licensure under the terms of this Ordinance, the Township shall retain a sum as established by Resolution of the Board of Commissioners from the application fee so tendered as an administrative/processing fee.

SECTION 4. PROHIBITED ACTS

1. No person licensed under this Ordinance shall park any vehicle upon any of the streets, alleys, sidewalks or public ways of the Township in order to sort, rearrange, or clean any of his goods, wares, services or merchandise.
2. No person licensed under this Ordinance shall place or deposit any refuse on any of the streets, alleys, sidewalks or public ways of the Township.
3. No licensed person shall keep and maintain a street or "curbstone" market by parking any vehicle upon any street, alley, sidewalk or public way of the Township for a period longer than is necessary to sell therefrom to persons residing in the immediate vicinity.
4. No licensed person shall hawk or cry his wares or services upon the streets, alleys, sidewalks or public ways of the Township, nor shall he use

any recording, electronic or otherwise, nor any loudspeaker, bell, whistle or other device for announcing his services, to the point of annoyance of the general public.

5. No person engaging in any transient retail business, when working from house to house, shall engage in such business upon any day of week prior to 9:00 A.M. or after 7:00 P.M.; except that this prohibition shall not apply to any person who shall have made an advance appointment with a prospective customer for a specific day and hour. There shall be no house to house sales or canvassing on Sundays and/or holidays.

SECTION 5. EXEMPTION FROM LICENSURE REQUIREMENTS

1. No license or permit shall be required, and no fee shall be charged under this Ordinance:

- A. To farmers selling their own produce.
- B. For 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.
- C. To any manufacturer or producer in the sale of milk or milk products, bread and bakery products or meat and meat products.
- D. To the seeking or taking of orders by insurance agents or brokers licensed under the insurance laws of the Commonwealth of Pennsylvania for insurance.
- E. To person, their agents or employees, who have complied with the provisions of the Solicitation of Funds for Charitable Purposes Act, December 19, 1990, P.L. 1200, No. 202, 10 P.S. § 162.1 et seq., as amended, supplemented, modified or reenacted by the General Assembly of Pennsylvania.
- F. To any person taking orders for merchandise from dealers or merchants for resale to an ultimate consumer.
- G. To the collection or delivery of laundry or dry cleaning.
- H. To children under the age of 18 years taking order for, and delivery of, newspapers, greeting cards, candy, bakery products and the like, or who represent the Boy Scouts, Girls Scouts or similar, nonprofit organizations, the proceeds of which are provided to such nonprofit organizations.

2. Any person dealing in one or more of the above-mentioned, exempted categories, and dealing with other goods, wares, merchandise or services not so exempted, shall be subject to the application requirements and payment of the licensure fees fixed by the Ordinance for such person's activities in connection with a transient retail business, peddling, canvassing, soliciting or taking orders for goods, wares, merchandise, and services, not included in such exempted categories.
3. The Board of Commissioners may exempt from payment of the license fee, but not from registering, persons working without compensation and selling or taking orders for goods, wares or merchandise for the sole benefit of any nonprofit corporation.

SECTION 6. MODIFICATION OF FEES SCHEDULE

The License Fees, as established at Section 3, License Fees & Periods of Validity, above, may be modified from time to time, pursuant to the adoption of a Resolution to that effect by the Board of Commissioners.

SECTION 7. VIOLATIONS AND PENALTIES

Any person who shall violate any provision of the Ordinance, upon conviction thereof in an action brought before a district justice, in the manner provided for the enforcement of summary offenses under the Pennsylvania Rules of Criminal Procedure, shall be sentenced to pay a fine of not more than Three Hundred Dollars (\$300.00), plus costs. Each day that a violation of the terms of this Ordinance continues, or each section of this Ordinance which shall be found to Have been violated, shall constitute a separate offense, and the violator shall be subject to the penalties imposed herein for each and every separate offense.

SECTION 8. EFFECTIVE DATE

This Ordinance shall become effective at the earliest date permitted under law.

SECTION 9. SEVERABILITY

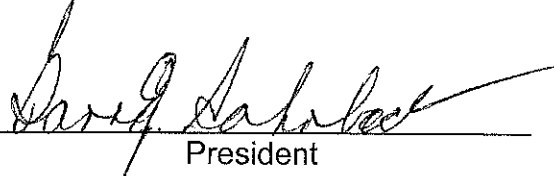
Should any section, paragraph, sentence, clause or phrase of this Ordinance be declared unconstitutional or invalid, for any reason, such unconstitutionality or invalidity shall not affect the other provisions or applications of this Ordinance that can be given effect without the unconstitutional or invalid provisions or applications; and, to this end, the provisions and applications of this Ordinance are declared to be severable.

SECTION 10. REPEALER

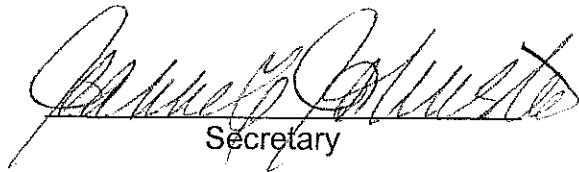
All ordinances, or parts of ordinances, inconsistent with the provisions of this Ordinance be, and the same hereby are, repealed.

ENACTED AND ORDAINED by the Board of Commissioners of the Township of Cumru, this 18th day of November, 2008.

TOWNSHIP OF CUMRU
BERKS COUNTY, PENNSYLVANIA

By: 
President

ATTEST:


Secretary

