

RUSH TOWNSHIP, SCHUYLKILL COUNTY  
COMMONWEALTH OF PENNSYLVANIA

ORDINANCE NO. 184

AN ORDINANCE OF RUSH TOWNSHIP, SCHUYLKILL COUNTY, COMMONWEALTH OF PENNSYLVANIA, AMENDING CERTAIN PROVISIONS OF RUSH TOWNSHIP ORDINANCE NO. 112-94, TITLED TRANSIENT RETAIL BUSINESS ORDINANCE.

WHEREAS, on September 8, 1994, Rush Township adopted Ordinance No. 112-94 titled Transient Retail Business Ordinance of Rush Township; and

WHEREAS, the Rush Township Board of Supervisors, recognizing the present need for the protections underlying Ordinance No. 112-94, such as the prevention of fraud upon unwary citizens, the prevention of crime, and the protection of citizens' privacy rights in their home, also recognizes the need to amend or modify certain provisions of Ordinance No. 112-94 to better offer those protections and adjust to changes in procedure brought on by passage of time since September 8, 1994 (for example criminal background checks now need to be performed by a non-police officer official of Rush Township via the internet, the website available for such checks requires the payment of a fee to perform the search, and this adds increased administrative expense to Rush Township);

NOW, THEREFORE, be it ORDAINED as follows:

1. Section 3 of Rush Township Ordinance No. 112-94, titled "LICENSE REQUIRED: FEE", is hereby amended to require the fee to be paid to obtain a license to be ~~twenty-five~~ (~~25.00~~) Dollars for one calender month or fractional part thereof, and Three Hundred (\$300.00) Dollars for one calender year or fractional part thereof.
2. Section 4 of Rush Township Ordinance No. 112-94, titled "APPLICATION FOR LICENSE", is hereby amended to add one additional requirement that the applicant shall set forth on the application, namely that the applicant sign the application after verifying all facts stated therein to be true under penalty of unsworn falsification to authorities pursuant to 18 Pa.C.S.A. §4904. The standard license application form to be completed by each applicant is attached to this Ordinance.
3. Section 5 of Rush Township Ordinance No. 112-94, titled "INVESTIGATION BY POLICE DEPARTMENT", is hereby amended to be titled "INVESTIGATION BY TOWNSHIP OFFICIAL", and is hereby amended in its entirety to now read as follows:

Upon receipt of the application and the prescribed fee, the Township Secretary or Designated Official shall conduct such investigation deemed necessary to verify the information on the application, including but not limited to a criminal background check via the internet. If after investigation the Township Secretary or Designated Official cannot verify the accuracy of the applicant's information, the Township Secretary or Designated Official may contact the applicant to provide more information or suspend the license until the information is satisfactorily provided, or may take any other action as is authorized under this Ordinance.

4. Section 6 of Rush Township Ordinance No. 112-94, titled "ISSUANCE OF LICENSE", is hereby amended in that the word "immediately" is deleted.

5. Section 9 of Rush Township Ordinance No. 112-94, titled "DISPLAY OF LICENSE", is hereby amended to add the following additional language:

Additionally, each license holder shall also carry upon his/her person a form of photo identification which matches the name on the license which he/she shall exhibit, upon request, to all police officers, Township officials and citizens or residents of the Township.

6. Section 10 of Rush Township Ordinance No. 112-94, titled "PROHIBITED ACTS", is hereby amended to add an additional subpart (j) which shall read as follows:

(j) Enter upon the property of any resident of Rush Township which has added his/her name and address to a list of residents who do not desire to have persons engaged in transient retail businesses on their property, and who consider any such entry to be trespassing pursuant to 18 Pa.C.S.A. §3503(b). The list shall be maintained by the Township Secretary, and a copy of the list shall be handed out to each license applicant with the license if the license application is approved and the license issued.

7. Section 10 subpart (g) of Rush Township Ordinance No. 112-94 is hereby amended to read as follows:

(g) Occupy any fixed location upon any of the streets, alleys, or sidewalks of the Township for the purpose of conducting any transient retail business without any stand or counter.

8. Section 12 of Rush Township Ordinance No. 112-94, titled "PENALTY FOR VIOLATION", is hereby amended to read as follows:

Any person violating any provision of this Ordinance is subject to prosecution by action brought before a district justice in the same manner provided for the enforcement of summary offenses under the Pennsylvania Rules of Criminal Procedure. The Municipal Solicitor may assume charge of the prosecution without the consent of the District Attorney. Any person found to be in violation of any provision of this Ordinance shall pay a fine of not less than One Hundred (\$100.00) Dollars nor more than Three Hundred (\$300.00) Dollars, plus court costs, and/or may be imprisoned either for a violation of any provision of this Ordinance or for failure to pay a fine or costs imposed under this Section for a term not to exceed Ninety (90) days. A separate offense shall arise for each day or portion thereof in which a violation is found to exist.

9. The rest and remainder of Rush Township Ordinance No. 112-94 shall remain in full force and effect.

10. If any section, part, sentence, clause or portion of this Ordinance is found by a court of competent jurisdiction to be illegal or unenforceable, the rest and remainder of this Ordinance shall be given full force and effect as if adopted by the Township without the section, part, sentence, clause or portion found illegal or unenforceable.

11. All prior Township Ordinances or provisions thereof inconsistent with this Ordinance are hereby repealed to the extent necessary to give effect to this Ordinance.

12. This Ordinance shall be effective immediately upon enactment or on the first day allowed by law thereafter, whichever occurs first.

ENACTED and ORDAINED this 19<sup>th</sup> day of September, 2013.

ATTEST:

Dalene Fenstermacher  
Secretary

RUSH TOWNSHIP  
BOARD OF SUPERVISORS

Sam Birrell  
Alan [unclear]  
Jeanine Motson