

ORDINANCE NO. 112 -94

RUSH TOWNSHIP, SCHUYLKILL COUNTY, PENNSYLVANIA

AN ORDINANCE REGULATING TRANSIENT RETAIL BUSINESS WITHIN THE TOWNSHIP OF RUSH, SCHUYLKILL COUNTY, PENNSYLVANIA, REQUIRING PERSONS OPERATING A TRANSIENT RETAIL BUSINESS TO OBTAIN LICENSES, AND PRESCRIBING PENALTIES FOR VIOLATIONS.

BE IT ENACTED AND ORDAINED by the Board of Supervisors of Rush Township, Schuylkill County, Pennsylvania; and it is hereby ordained and enacted by authority of same;

SECTION 1. TITLE

This Ordinance shall be known and may be cited as the TRANSIENT RETAIL BUSINESS ORDINANCE of Rush Township.

SECTION 2: DEFINITIONS AND INTERPRETATION

The following words when used in this Ordinance shall have the following meanings ascribed to them in this section, except in those instances where the context clearly indicates otherwise:

(a) "transient retail business" shall mean and include the following:

(1) Engaging in peddling, canvassing, soliciting or taking orders, either by sample or otherwise, for any goods, wares or merchandise, upon any street or alley, sidewalk or public ground, or from house to house, within the Township of Rush; and

(2) Selling, soliciting or taking orders for any goods, wares or

merchandise, from a fixed location within Rush 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, or conducting business at a regular location which is not owned by the retail business operator and does not constitute a fixed address of the retail business, or any such business that is open less than four (4) days per week and fifty (50) weeks per year.

(b) The word "person", as used in this ordinance, shall mean any natural person, partnership, association, firm or corporation.

(c) In this ordinance, the singular shall include the plural, the plural shall include the singular, and the masculine shall include the feminine and the neuter.

(d) The terms "calendar month" shall mean any recognized standard month such as January, February, March, etc., whether consisting of 28, 30 or 31 days; "calendar year" shall mean a twelve (12) month period beginning with January 1 and ending on December 31 and designated as 1994, 1995, etc.

SECTION 3. LICENSE REQUIRED: FEE

No person shall engage in any transient retail business within Rush Township without first having obtained from the Township Secretary or Designated Official a license, for which the following fee, which shall be for the use of the Township, shall be paid:

Twenty-Five Dollars (\$25.00) for one calendar month or fractional part thereof.

Two Hundred Fifty (\$250.00) Dollars for one calendar year or fractional part thereof.

PROVIDED: No license fee shall be charged under this section:

(a) To farmers selling their own produce;

(b) For the sale of goods, wares and merchandise donated by the owner thereof, the proceeds of which are to be applied to any charitable or philanthropic purpose; or

(c) But all persons exempt hereby from payment of the license fee shall be required to register and to obtain a license without fee.

PROVIDED FURTHER: Any person dealing in one or more of the hereinabove mentioned exempted categories, and selling other goods, ware or merchandise not so exempted, shall be subject to the payment of the license fee fixed by this section for his activity in connection with the sale of goods, wares and merchandise not in such exempted categories.

PROVIDED FURTHER: The Township Secretary or Designated Official may similarly exempt from payment of the license fee, but not from registering with the Secretary or Designated Official persons working without compensation and selling goods, wares and merchandise for the sole benefit of any nonprofit corporation.

PROVIDED FURTHER: Every license issued under the provisions of this ordinance shall be issued on an individual basis to persons engaging in such business; every individual shall obtain a separate license, issued to him in his name; and the license

fee hereby imposed shall be applicable to every such individual license.

SECTION 4. APPLICATION FOR LICENSE

Every person desiring a license under this ordinance shall first make application to the Township Secretary or designated official for such license. The Township may by Resolution adopt regulations designating other application procedures including but not limited to other persons authorized to accept applications and collect license fees. If an applicant shall also be required to obtain a license from any Commonwealth or County officer he shall, when making such application, exhibit a valid license from such Commonwealth or County officer. The applicant shall set forth on the application:

His/Her name and address;

His/Her previous criminal record, if any;

The name of the person by whom he/she is employed;

The type of goods, wares and merchandise he/she wishes to
deal with in such transient retail business;

The length of time for which such license is to be issued; and

The type and license number of the vehicle to be used by him in
such transient retail business, if any.

SECTION 5. INVESTIGATION BY POLICE DEPARTMENT

Upon receipt of the application and the prescribed fee, the Township Secretary or Designated Official shall immediately transmit the application to the Township Police Department, which shall at its discretion conduct such investigation as it deems necessary to verify the information on the application. If the Police Department after investigation

cannot verify the accuracy of the applicant's information, the Police Department may contact the applicant to provide more information or suspend the license until the information is satisfactorily verified or both, or other such action as is authorized under this Ordinance.

SECTION 6. ISSUANCE OF LICENSE.

The Township Secretary or designated official, upon receipt of any application under this ordinance, shall immediately notify the applicant of the approval or disapproval, and if the application shall have been approved, the Township Secretary or Designated Official shall forthwith issue a license in accordance with the application.

SECTION 7. SUPERVISION OF ACTIVITIES: RECORD

The Police Department and other officials designated by the Township Supervisors shall supervise the activities of all persons holding licenses under this Ordinance. The Township Secretary or Designated Official shall keep a record of all licenses issued hereunder, and shall make a report thereof each month to the Township Board of Supervisors.

SECTION 8. SUSPENSION AND REVOCATION OF LICENSE

The Township Secretary or Designated Official is hereby authorized to suspend or revoke any license issued under this Ordinance when he shall deem such suspension or revocation to be beneficial to the health, safety or morals of the Township and its inhabitants, or for violation of any provision of this Ordinance, or for giving false information on the application for the license hereunder.

PROVIDED: Any person intentionally submitting false information on an application shall

also be guilty of a separate summary offense punishable under Section 12.

SECTION 9. DISPLAY OF LICENSE

Every license holder shall carry such license upon his person, if engaged in a transient retail business from house to house or upon any street, alley, sidewalk or public ground, or shall display such license at the location where he shall engage in such business if doing so at a fixed location. He shall exhibit such license, upon request, to all police officers, Township officials and citizens or residents of the Township.

SECTION 10. PROHIBITED ACTS

No person engaged in any transient retail business shall:

- (a) Sell any product or type of product not mentioned in his license;
- (b) Hawk or cry his wares upon any street, alley, sidewalk or public ground;
nor use any loudspeaker or horn or any other device for announcing his presence by which the public is annoyed;
- (c) When selling from a vehicle, stop or park such vehicle upon any street or alley in the Township for longer than necessary in order to sell therefrom to persons residing in the immediate vicinity;
- (d) Park any vehicle upon any street or alley in the Township for the purposes of sorting, rearranging or cleaning any of his goods, wares or merchandise or of disposing of any cartons or wrapping material or of any stock of wares or foodstuffs which may have become unsalable through handling, age or otherwise;
- (e) Engage in any house-to-house business, at any

time on Sunday, or on any day of the week at any time before eight o'clock A.M. or after five o'clock P.M., except on advance appointments;

(f) Go in or upon any private residence in the Township without having been requested or invited to do so by the owner or occupant of such residence;

(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, with or without any stand or counter.

(h) Permit any other person to have possession of his/her license and shall immediately report its loss to the Police Department.

(i) Represent that the license is an endorsement of the licensee or his/her goods or services or of his/her employer.

SECTION 11. APPEALS

Any person aggrieved by the action of the Police Department or the Township Secretary or Designated Officials in granting or refusing to grant a license , or suspending or revoking a license, under this Ordinance, or by the township Secretary in suspending or revoking a license, shall have the right of appeal from such action to the Township Board of Supervisors.

Every such appeal shall be in writing, setting forth the matters objected to, and shall be filed with the Township Secretary or Designated Official within ten (10) days after the action appealed from. Such appeal shall be heard by the Township Board of Supervisors at its next regular meeting or within ten (10) days following the filing of the appeal,

whichever shall be later, and the decision of the Board of Supervisors shall be communicated to the applicant within five (5) days thereafter. In case of suspension or revocation of a license, no part of the license fee shall be refunded to the person whose license shall have been suspended or revoked.

SECTION 12. PENALTY FOR VIOLATION

Any person who shall violate any of the provisions of this ordinance shall, for each violation, upon conviction before a District Justice, shall be sentenced to pay a fine of not less than Fifty (\$50.00) Dollars nor more than Two hundred (\$200.00) Dollars, and the costs of suit; and upon failure to pay said fines and costs, to be imprisoned for a period of time not to exceed thirty (30) days.

PROVIDED: Each day's violation of any of the provisions of the ordinance shall constitute a separate offense.

SECTION 13. SEVERABILITY

The provisions of this Ordinance shall be severable, and if any section, part of section or provision thereof shall be held to be unconstitutional, illegal or otherwise invalid, such decision shall not affect the validity of any of the remaining sections, parts of sections or provisions of this Ordinance. It is hereby declared as a legislative intent that this Ordinance would have been adopted had such unconstitutional, illegal or otherwise invalid provision not been a part hereof.

SECTION 14. REPEALS

All Ordinances and parts of Ordinances inconsistent with this Ordinance are hereby repealed in so far as they may be inconsistent herewith. Specifically Ordinance No. 45 is

hereby repealed in full.

SECTION 15. EFFECTIVE DATE

This Ordinance shall be effective January 1, 1995.

ENACTED AND ORDAINED as an Ordinance this 8th day of
September, 1994.

BOARD OF SUPERVISORS OF RUSH TOWNSHIP

BY: Ronald T. Warner
Royal D. B...
Ken ...

ATTEST:

Carol Ann Opet (SEAL)
Township Secretary

Raymond R. Boyer
Vice Chairman

Deza Diny
Supervisor

ATTEST:

Carol Ann Ogit
Secretary