

RUSH TOWNSHIP, SCHUYLKILL COUNTY
COMMONWEALTH OF PENNSYLVANIA
ORDINANCE NO. 198

AN ORDINANCE OF RUSH TOWNSHIP, SCHUYLKILL COUNTY, COMMONWEALTH OF PENNSYLVANIA, REQUIRING A LICENSE TO ENGAGE IN TRANSIENT RETAIL BUSINESS IN THE TOWNSHIP; OUTLINING AN APPROPRIATE APPLICATION; CREATING EXCEPTIONS; GOVERNING ISSUANCE; DESCRIBING PROHIBITED ACTS; ALLOWING REVOCATION; ESTABLISHING A REVIEW PROCESS; AND PRESCRIBING PENALTIES FOR VIOLATIONS.

WHEREAS, the Rush Township Board of Supervisors desires to regulate transient retail businesses within the Township to lessen the potential for fraud upon unwary citizens, particularly a significant elderly population, to lessen the chance of crime, and to protect the privacy rights of citizens in their homes; and

WHEREAS, the regulation desired by the Township is sanctioned by Section 1532 of the Pennsylvania Second Class Township Code, 53 P.S. §66532;

NOW, THEREFORE, the Board of Supervisors of Rush Township hereby ORDAINS the following:

Section 1. Title.

This Ordinance shall be known and may be cited as the Rush Township Transient Retail Business Ordinance.

Section 2. Definitions and Interpretation.

The following words when used in this Ordinance shall have the meanings ascribed to them in this Section, unless the context clearly indicates otherwise; in addition, the singular shall include the plural, the plural shall include the singular, and the masculine shall include the feminine and neuter.

“Township” - Rush Township, Schuylkill County, Commonwealth of Pennsylvania.

“Person” - any natural person, partnership, firm, association, corporation or legal entity of any kind.

“Transient Retail Business” - engaging in peddling, canvassing, soliciting or taking orders, either by sample or otherwise, for any goods, wares, services or merchandise, upon any street, sidewalk, or public ground, or from house to house, within the Township; and selling, soliciting or taking orders for any goods, wares, services or merchandise, from a fixed location within the Township, where such location is fixed only on a temporary basis, which shall include, but 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 business operator and does not constitute a fixed address of the business.

Section 3. License Required.

- A. Except as provided in Section 5 of this Ordinance, no Person shall engage in any Transient Retail Business within the Township without a valid license issued pursuant to this Ordinance to engage in Transient Retail Business within the Township.
- B. Each separate Person engaging in a Transient Retail Business in the Township shall obtain a separate license of his/her own, even if more than one such Person is employed by the same employer.
- C. Each Person engaging in a Transient Retail Business in the Township shall carry with him/her, and be able to produce to each potential customer or any Township official or police officer, and shall produce same upon request, his/her license and some form of photo identification listing a name that matches the name on the license.

Section 4. License Application

- A. A license application shall be made to the Township Secretary or to any other official who may be designated by the Township from time to time by Resolution to receive such applications.
- B. Any Person seeking to obtain a license to engage in Transient Retail Business in the Township shall, at the time of application therefor to the Township Secretary or designated official, pay an application fee of \$25.00 for each one calendar month or fractional part thereof, or \$300 for one calendar year, which fee is amendable from time to time by Resolution.
- C. Any Person seeking to obtain a license shall accurately complete any Application required by the Township, and at a minimum shall accurately provide the following information in writing to the Township Secretary or designated official: his/her name; his/her address; his/her date of birth; whether he/she has any prior criminal convictions for burglary, robbery, theft, receiving stolen property, or any sexual related offense for which registration is required pursuant to 42 Pa.C.S.A. §9799.10 through §9799.41 (or the law of any other state commonly referred to as "Megan's Law"), and a reference to the year of each such conviction and the County and State in which any such conviction occurred; the name of the entity by whom the applicant is employed; the business address of the applicant or his/her employer; the type of goods, wares, services or merchandise he/she wishes to attempt to sell; the length of time (up to 12 months) for which such license is requested; the type of vehicle and the license plate number thereof to be used by him/her in conducting the Transient Retail Business. Any information provided pursuant to this Sub-Section shall be updated in writing to the Township Secretary or designated official if any of the information changes during the validity of the license.

Section 5. Exceptions to License Requirement

A. No Person who is under the age of 18 and who is seeking to sell/provide goods, wares, services or merchandise in the nature those described in the following Sub-parts 1 through 3 shall be required to obtain a license pursuant to this Ordinance.

1. Items sold to raise funds for organizations to which children belong such as girl scouts or little league;
2. Items sold to benefit a school or to fund a school related activity;
3. Lawn mowing, snow shoveling, or other similar property maintenance activities.

B. The following Persons are exempt from the requirement to obtain a license to engage in Transient Retail Business in the Township: farmers selling their own produce, or to any sale of goods, wares or merchandise donated by the owners thereof, the proceeds of which are to be applied to any charitable or philanthropic purpose or the imposition or collection of any license fee upon insurance companies or their agents or insurance brokers authorized to transact business under the insurance laws of the Commonwealth.

Section 6. Issuance of License

A. Upon receiving the information in writing required by Section 4C of this Ordinance, and the fee required by Section 4B of this Ordinance, the Township Secretary or designated official shall issue the applicant a license, on a form approved by the Township, unless the Township Secretary or designated official concludes that the issuance of the license would be detrimental to the health, safety or welfare of the citizens or residents of the Township.

B. The Township Secretary or designated official, or any other Township official, may verify the criminal background information contained in the license application via internet criminal background check. The Person to whom a license has been issued may be asked to provide additional information to facilitate such an internet criminal background check.

C. Any license issued under this Section shall be issued for the period of time either requested by the applicant in the application, or for the period of time granted in the discretion of the Township Secretary or designated official when the Secretary or official concludes that a lesser period of time is necessary to protect the health, safety or welfare of the citizens or residents of the Township, but in no instance shall the license be issued for a period in excess of 12 months.

D. The Township Secretary or designated official shall keep records of all applications received and licenses issued, and copies of all licenses issued.

Section 7. Prohibited Acts

A. No Person with a license issued pursuant to this Ordinance shall do any of the acts stated in the following Sub-parts 1 through 6.

1. Attempt to sell any goods, wares, services or merchandise not mentioned or generally described in his/her license;
2. Enter upon the property of any resident of the Township who 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) (this list shall be maintained by the Township Secretary, and a copy of the list shall be handed to each license applicant with an issued license);
3. Enter upon the property of any resident of the Township for the purpose of attempting to sell/provide goods, wares, services or merchandise prior to 8:00 a.m., or after 7:00 p.m., except by advance appointment;
4. Permit any other Person to use his/her license for said other Person to conduct Transient Retail Business in the Township;
5. Represent that the license is an endorsement by the Township of either the Person issued the license, or the goods, wares, services and merchandise being sold by the Person issued the license.
6. 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 a stand or counter.

Section 8. Revocation of License

A. The Township Secretary or designated official may revoke a license for any of the reasons stated in the following sub-parts 1 through 3.

1. Providing false information on the written license application required by Section 4C of this Ordinance;
2. If the Person issued the license fails to reasonably cooperate pursuant to Section 6B of this Ordinance;
3. If the Person issued the license engages in any of the acts prohibited by Section 7A1-6 of this Ordinance.

B. Revocation of an issued license is effective either when the Township Secretary or designated official, or a Township Code Enforcement Officer or police officer, verbally informs the licensee that his/her license is revoked and the reason therefor, or 3 days after a first class mailing of notice of revocation and the reason therefor to the licensee's address provided pursuant to Section 4C of this Ordinance.

Section 9. Review

Any Person aggrieved by a denial to obtain a license, or by a revocation of a license, may provide the Township Secretary with a written request for a hearing pursuant to the Local Agency Law. The Township shall thereafter conduct a hearing consistent with the requirements of 2 Pa.C.S.A. §§551-555.

Section 10. Penalties

Any Person violating any provision of this Ordinance is subject to prosecution by action brought before a Magisterial District Judge in the same manner provided for the enforcement of summary offenses under the Pennsylvania Rules of Criminal Procedure. Any Person found in violation of any provision of this Ordinance shall pay a fine not less than \$100.00 nor more than \$1,000.00, 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 previously imposed for a term not to exceed 90 days. A separate offense shall arise for each day or portion thereof in which a violation of any provision of this Ordinance exists.

Section 11. Severability

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.

Section 12. Repealer


All prior Township Ordinances or portions thereof inconsistent with the provisions of this Ordinance are hereby repealed to the extent necessary to give effect to this Ordinance. This Ordinance specifically repeals Rush Township Ordinance 112-94, Rush Township Ordinance 184 and Rush Township Ordinance 45.

Section 13. Effective Date

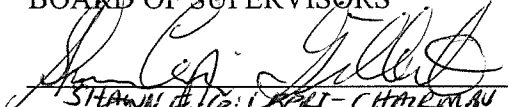
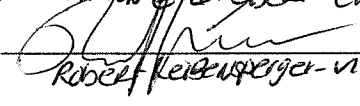
This Ordinance shall be effective immediately upon enactment or on the first day allowed by law thereafter, whichever occurs first.

ENACTED and ORDAINED this 24th day of July, 2018.

ATTEST:


Secretary Deborah Sel Franco

RUSH TOWNSHIP
BOARD OF SUPERVISORS


SHAWN J. GALT - CHAIRMAN

ROBERT KEISER - VICE-CHAIRMAN