

MARION TOWNSHIP ORDINANCE NO. 2001 - 41

AN ORDINANCE REGULATING THE BUSINESS OF TRANSIENT MERCHANTS WITHIN THE TOWNSHIP OF MARION, CENTRE COUNTY, PENNSYLVANIA, REQUIRING TRANSIENT MERCHANTS TO OBTAIN LICENSES, ESTABLISHING LICENSE FEES, PROVIDING FOR THE ENFORCEMENT OF THE PROVISIONS OF THE ORDINANCE AND PENALTIES FOR VIOLATIONS THEREOF.

BE IT ORDAINED AND ENACTED by the Board of Supervisors, of the Township of Marion, Centre County, Pennsylvania, and it is hereby ORDAINED and ENACTED as follows:

SECTION 1. PURPOSE

The purpose of this ordinance is to promote and protect the safety and health, and property and assets, of the people of Marion Township, Pennsylvania, by requiring that those with intent to solicit obtain a license with an authorized agent of the Township government. By so doing the Township government will maintain information on the identity and business affiliations of people engaged in soliciting in the Township.

SECTION 2. SCOPE

No person shall engage in soliciting or peddling or in the business of Transient Merchant in the Township of Marion without first having secured a license as herein provided.

SECTION 3. DEFINITIONS

A. The word "soliciting" as used in this Ordinance shall mean 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 or sidewalks, or from house to house, or by visitation to private residences, or by entering in or upon private property, within the Township of Marion and shall further mean the seeking or taking of contract or orders for home or other building repairs, improvements and alterations, and also orders or contracts for any mechanical, electrical, plumbing, or heating device or equipment for house, or other building improvements or repairs, upon or from the places aforesaid within the said Township.

B. The word "peddling" as used in this Ordinance shall mean the selling or offering for sale of 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 in or upon private property, within the said Township.

C. Any persons who is engaged in the business of "soliciting" and/or "peddling" shall be termed a "transient merchant".

D. The word "person" as used in this Ordinance, shall mean any natural person, association, partnership, firm, organization, or corporation.

SECTION 4. GENERAL REGULATIONS

A. Scope and Applicability

No person shall engage in soliciting or peddling or in the business of Transient Merchant in the Township of Marion without first having secured a license as herein provided.

Such license when issued shall state among other things the products to be sold or services to be rendered by the licensee. Every Transient Merchant shall at all times, when engaged in soliciting or peddling in the Township of Marion, carry such license upon his person and shall exhibit it upon request, to all police officers, township officials and citizens.

The words "soliciting" and "peddling" shall not apply:

- (1) To farmers seeking or taking orders for the sale of their own products.
- (2) To 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.
- (3) To persons, corporations, partnerships and associations, their agents or employees, who have complied with the provisions of the Act of Assembly of the commonwealth of Pennsylvania of 1935, P.L. 64, as amended, governing solicitations for charitable, benevolent, patriotic or other purposes.
- (4) The word soliciting and peddling shall not apply to guests, contractors, trades people and others invited on the property for services rendered.

B. Standards of Conduct

The Transient Merchant shall conform to the following standards of conduct:

- (1) No Transient Merchant shall engage in selling any product or service not specified on his license.
- (2) No Transient Merchant shall enter or attempt to enter any dwelling house without invitation or permission of the occupant and shall immediately leave any premises or property upon request.
- (3) No peddling or soliciting of business shall occur on Sundays or official holidays.
- (4) No peddling or soliciting of business shall occur prior to 9:30 a.m., prevailing time, and shall cease at sunset.
- (5) No person licensed as a Transient Merchant under this Ordinance shall occupy any fixed location upon any of the sidewalks, streets, highways or alleys of the Township for the purpose of soliciting or peddling with or without any stand or counter.

(6) No person licensed as a Transient Merchant under this Ordinance shall hawk or cry his wares or services upon any of the streets or sidewalks of the Township nor shall he use any loud speaker, bell, whistle or other device for announcing his presence by which the public is annoyed.

SECTION 5. LICENSES

Every person desiring to engage in the business of Transient Merchant in the Township of Marion shall first make application to the Zoning Enforcement Officer or other authorized agent of the Township for a license. If such person shall also be required to obtain a license from any county officer, he shall, on making such application exhibit a valid county license. The application shall be upon a form prescribed by the Township Supervisors and shall contain at least the following information:

- A. Full name of the applicant and local address, if any.
- B. Permanent address.
- C. Name of employer or a statement that such applicant is self-employed.
- D. The nature of the goods, wares, services or merchandise offered for sale.
- E. A statement as to whether or not the applicant has ever been convicted of any crime, and if the answer is in the affirmative, the nature of the offense or offenses and the punishment or punishments imposed there.
- F. The type of vehicle to be used, if any, and license plate number.

G. Present proof of identification i.e. drivers license or any other ID with photograph. If a person makes application for himself and one or more employees, agents or servants, all applicable personal information specified above shall be given for each employee, agent or servant and verified or affirmed by oath or affirmation by the applicant and an individual license shall be required for each employee, agent or servant. No license under this Ordinance shall be transferable from one person to another.

No license to engage in the business of Transient Merchant shall be issued under the Ordinance until the required license fee shall be paid to the Township of Marion. Such fees shall be in accordance with the schedule of fees then in effect in the Township and established by resolution of the Board of Supervisors. A separate application shall be filed and a separate license fee shall be paid by each person who shall actually conduct the soliciting or peddling and shall apply where an employer desires to secure licenses for his employees, agents or servants.

The Fee Schedule adopted by the Board of Supervisors may provide for different fees for different periods of times. No license shall be issued for a period of time in excess of one (1) year. Should the Transient Merchant desire to continue his activities for a period longer than one year, a new application must be filed and the appropriate fee paid. All fees shall be non-refundable and non-transferable.

The Zoning Enforcement Officer or other authorized agent of Marion Township shall keep a record of all licenses issued under the Ordinance and shall supervise the activity of all holders of such licenses.

SECTION 6. VIOLATIONS

Any license which has been issued under the terms of this Ordinance may be suspended by the Zoning Enforcement Officer or other authorized agent of the Township upon the filing of complaints by two (2) or more residents of the Township regarding the misconduct or adverse behavior of any licensed Transient Merchant. The license shall be revoked or reinstated within seven (7) days following an investigation into the merits of the complaints by the Zoning Enforcement Officer.

Any license which has been issued under the terms of this Ordinance may be revoked by the Zoning Enforcement Officer or other authorized agent of the Township upon failure of the licensee to comply with the standards of conduct established herein or upon ascertainment that the licensee has made a false statement in his application for a license hereunder, or that the licensee was convicted of a crime after the issuance of such license or was convicted of disorderly conduct under any law of the Commonwealth of Pennsylvania or any Ordinance of the Township of Marion. Notice of revocation shall be given by written notice personally served or sent by certified mail to the address designated for this purpose in the application for license.

Any person whose license has been revoked shall be entitled to appear, with counsel, if he so desires, before the Board of Supervisors at any regular or special meeting and be heard in behalf of a request for reinstatement of his license.

SECTION 7. PENALTIES

Any person who shall violate any of the provisions of this Ordinance, or who permits the violations of this Ordinance by any of his helpers, shall, by civil enforcement proceeding, be subject to a penalty of \$500 per violation with each separate day to constitute a separate violation. The Violator shall also be liable for all court costs and reasonable attorney's fees incurred by the Township in the enforcement proceeding. In addition or in lieu of civil actions, the Township may enforce this ordinance in equity.

SECTION 8. SEVERABILITY

The provisions of this Ordinance shall be severable and if any of the provisions or sections, shall be declared unconstitutional or illegal by the Court of competent jurisdiction, the decision of such Court shall not affect the validity of the remaining sections or provisions, of this Ordinance, being declared by the Board of Supervisors that it would have been their legislative intent that this Ordinance would have been adopted had such illegal or unconstitutional provisions not been included therein.

ENACTED AND ORDAINED this 10th day of April, 2001.