

ORDINANCE NO. 94, 1993

AN ORDINANCE OF THE TOWNSHIP OF TILDEN, BERKS COUNTY, PENNSYLVANIA, DEFINING, REGULATING AND LICENSING TRANSIENT RETAIL BUSINESSES AND PROVIDING FOR EXCEPTIONS; AUTHORIZING APPLICATION FORMS AND FEE SCHEDULES; REQUIRING THE CUSTODY, DISPLAY AND EXHIBIT OF THE LICENSE; DESIGNATING SUPERVISORY AND ENFORCEMENT OFFICIALS AND PROHIBITING CERTAIN ACTS BY LICENSEES; AUTHORIZING THE DENIAL, SUSPENSION OR REVOCATION OF LICENSES AND APPEALS THEREFROM; AND PRESCRIBING PENALTIES FOR VIOLATION.

The Board of Supervisors of Tilden Township hereby ordains:

Section 1. Definitions. As used in this ordinance, the following terms shall have the meanings indicated, unless a different meaning clearly appears from the context:

LEGAL HOLIDAY - New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas.

PERSON - any natural person, partnership, association, corporation, or other legal entity.

TRANSIENT RETAIL BUSINESS -

1. engaging in peddling, soliciting, or taking orders, either by sample or otherwise, for any goods, wares, or merchandise upon any street, alley, sidewalk, or public ground, or from house to house, within the Township; or
2. selling, 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 not be limited to, such activities conducted at the time of special occasions or celebrations, for seasonal purposes, or for yearly holidays.

The singular shall include the plural; the plural shall include the singular; and the masculine shall include the feminine and the neuter.

Section 2. License Required; Conditions of Issuance; Fee. No person shall engage in any transient retail business within the Township without first having obtained from the Township Secretary a license, for which a fee, which shall be for the use of the Township, shall be charged, established pursuant to a Resolution of the Board of Supervisors.

Section 3. Exceptions. No license fee shall be charged:

1. to farmers selling their own produce;
2. for the sale of goods, wares, and merchandise, donated by the owners thereof, the proceeds whereof are to be applied to any charitable or philanthropic purpose;
3. to any manufacturer or producer in the sale of bread and bakery products, meat and meat products, or milk and milk products;
4. to children under the age of eighteen (18) years who take orders for and deliver newspapers, greeting cards, candy, bakery products, and the like, or who represent the Boy Scouts or Girl Scouts or similar organizations;
5. to any honorably discharged member of any of the armed services who files with the Township Secretary a valid copy of his or her DD Form 214;
6. to the seeking or taking of orders by insurance agents or brokers licensed under the insurance laws of the Commonwealth of Pennsylvania;
7. to any person who has complied with the provisions of the Solicitation of Charitable Funds Act, August 9, 1963, P.L. 628, 10 P.S. §160-1 et seq. (1982), as hereafter amended, supplemented, modified or reenacted by the General Assembly of Pennsylvania; or
8. for taking orders for merchandise, by sample, from dealers or merchants for individuals or companies who pay a license or business privilege tax at their chief place of business.

But all persons exempted hereby from the payment of the license fee shall be required to register with the Township Secretary and obtain a license without fee; provided, any person dealing in one or more of the above mentioned exempted categories, and dealing with other goods, wares, or merchandise not so exempted, shall be subject to the payment of the license fee fixed by this section for his activities in connection with the sale of goods, wares,

and merchandise not in such exempted categories. Provided further, the Township Secretary may similarly exempt from payment of the license fee, but not from registering with him, persons working without compensation and selling goods, wares, or 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 any person or 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, except that a representative of a charitable organization may obtain licenses for the applicants.

Section 4. License Application. Every person desiring a license under this ordinance shall first make application to the Township Secretary for such license. He shall, when making such application, exhibit a valid license from any state or county officer, if such license is also required. The applicant shall state:

1. his criminal record, if any;
2. name and address of the person by whom he is employed;
3. type of goods, wares, and merchandise he wishes to deal with in such transient retail business;
4. length of time for which license is to be issued;
5. type and license number of the vehicle to be used, if any.

Section 5. Issuance of License; Custody, Display and Exhibit. Upon receipt of such application and the prescribed fee, the Township Secretary upon finding such application in order, shall issue the license required under this ordinance. Such license shall contain the information required to be given on the application therefor. Every license holder shall carry such license upon his person if engaged in transient retail business from house to house or upon any of the streets, alleys, sidewalks, or public grounds, 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, municipal officials, and citizens or residents of the Township.

Section 6. Prohibited Acts. No person in any transient retail business shall:

1. sell any product or type of product not mentioned in his license;
2. hawk or cry his wares upon any of the streets, alleys, sidewalks, or public grounds in the Township;
3. when operating from a vehicle, stop or park such vehicle upon any of the streets or alleys in the Township for longer than necessary in order to sell therefrom to persons residing or working in the immediate vicinity;
4. park any vehicle upon any of the streets or alleys in the Township for the purpose of sorting, rearranging, or cleaning any of his goods, wares, or merchandise or of disposing of any carton, wrapping material, or stock, wares or foodstuffs which have become unsalable through handling, age or otherwise;
5. engage in any business activity, except by prior appointment, at any time on a Sunday or legal holiday or at any time before 9 A.M. or after 6 P.M. on any day of the week other than a Sunday or legal holiday.

Section 7. Supervision; Records and Reports. The Township Secretary shall supervise the activities of all persons holding licenses under this ordinance. He shall keep a record of all licenses issued hereunder and shall make a report thereof each month to the Board of Supervisors of Tilden Township.

Section 8. Denial, Suspension and Revocation of License; Appeal. The Township Secretary is hereby authorized to deny, suspend or revoke any license issued under this ordinance when he deems such denial, suspension or revocation to be beneficial to the public health, safety, or morals, or for violation of any provision of this ordinance, or for giving false information upon any application for a license hereunder. Appeals from any suspension, revocation or denial of a license may be made to the Board of Supervisors of the Township at any time within ten (10) days after such suspension, revocation or denial and a hearing shall be held within thirty (30) days of the petition for appeal.

No part of a license fee shall be refunded to any person whose license shall have been suspended or revoked.

Section 9. Penalties. Any person, firm or corporation who shall violate any provision of this ordinance shall, upon conviction thereof, be sentenced to pay a fine of not more than five hundred dollars (\$500.00), and in default of payment, to imprisonment for not more than thirty (30) days. Each day that a violation of this ordinance continues shall constitute a separate offense.

Section 10. Repealer. All ordinances or parts of ordinances which are inconsistent herewith are hereby repealed. The following ordinances or parts thereof are specifically repealed:

Section 11. Severability. If any sentence, clause, section, or part of this ordinance is for any reason found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses, sections or parts of this ordinance. It is hereby declared as the intent of the Board of Supervisors of Tilden Township that this ordinance would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein.

Section 12. Effective Date. This ordinance shall become effective on September 13, 1993.

TILDEN TOWNSHIP  
BOARD OF SUPERVISORS

Wellington R. Setzer  
David J. Miller  
Ray W. Barker

Attest:

Anna M. Shollenberger  
Anna M. Shollenberger, CMC