

ORDINANCE NO. 71

AN ORDINANCE REGULATING TRANSIENT RETAIL BUSINESSES, IMPOSING LICENSE REQUIREMENTS, SETTING FORTH LICENSE APPLICATION PROCEDURES, ESTABLISHING VERIFICATION OF APPLICATION, REGULATING LICENSEES, PROVIDING FOR APPEAL PROCEDURES AND PROVIDING PENALTIES FOR THE VIOLATION THEREOF.

WHEREAS, the Board of Supervisors of Washington Township, Westmoreland County, Pennsylvania desires to protect the health, safety and general welfare and to secure the safety of persons and property of the citizens of Washington Township, Westmoreland County, Pennsylvania; and

WHEREAS, the Board of Supervisors of Washington Township, Westmoreland County, Pennsylvania desires to obtain positive identification and purposes of persons who are engaged in transient retail businesses within Washington Township, Westmoreland County, Pennsylvania; and

WHEREAS, the Board of Supervisors of Washington Township, Westmoreland County, Pennsylvania desires to insure that persons engaged in transient retail businesses within Washington Township conduct their activities in a proper and lawful manner; and

WHEREAS, the Board of Supervisors of Washington Township, Westmoreland County, Pennsylvania desires to protect persons engaged in transient retail businesses from undue or improper suspicions or mistrust by citizens of Washington Township, Westmoreland County, Pennsylvania,

NOW, THEREFORE, BE IT RESOLVED and ORDAINED by the authority of the Board of Supervisors of Washington Township, Westmoreland County,

Pennsylvania and it is hereby RESOLVED and ORDAINED by the authority of the same as follows:

SECTION 1: DEFINITIONS

(a) Peddler: One who sells tangible commodities from house to house, store to store, or on the streets or in any public place; his sales are not made from one established spot excepting where they are made in a street or other public place and he makes delivery at the time of the sale. Whether or not he collects funds at the same time is immaterial.

(b) Solicitor: One who takes orders for future deliveries, or for intangible services, or solicits subscriptions, or solicits contributions of money, services or goods in public places or from house to house and not from an established place on private premises provided that solicitation of funds or orders by telephone is not considered soliciting.

(c) Transient Merchant: One who sells commodities from private premises but remains at one place for the purpose of temporary periods only--generally not more than six (6) weeks.

(d) Transient Retail Business: Peddling, soliciting or being engaged as a transient merchant.

(e) Person: Any natural person, association, partnership, firm or corporation.

SECTION 2: LICENSE REQUIRED

(a) No person shall engage in any transient retail business within the Township of Washington, Westmoreland County, Pennsylvania without first obtaining from the Township a license as herein provided for provided, however, that

no license is required by nor shall any license fee be charged to the following:

1. To farmers selling their own produce.
2. For 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 any person taking orders for merchandise from dealers or merchants for resale by such dealer or merchant.
4. To the seeking or taking of orders pursuant at the invitation of the party from whom an order is sought.

(b) No person shall engage in any transient retail business within the Township of Washington, Westmoreland County, Pennsylvania without first obtaining from the Township a license as herein provided for provided, however, that no license fee shall be charged to the following:

1. To any charitable organization, its agents or employees.
2. To any benevolent organization, its agents or employees.
3. To any educational organization, its agents or employees.
4. To any philanthropic organization, its agents or employees.
5. To any humane organization, its agents or employees.
6. To any patriotic organization, its agents or employees.
7. To any political organization, its agents or employees.
8. To any religious organization, its agents or employees.
9. To any non-profit organization, its agents or employees.

(c) Provided, however, that any transient retail business dealing in one or more of the excepted categories and selling other goods, wares, merchandise

or services not excepted shall be subject to the licensing requirement and license fee fixed by this Ordinance for said person's activities in connection with the sale of goods, services or merchandise not in any of the excepted categories.

(d) Every license issued under the provisions of this Ordinance shall be issued on an individual basis to a natural person engaging in a transient retail business as herein defined, each individual being required to obtain a separate license issued to said person and the license fee imposed hereunder shall be applicable to each individual license.

SECTION 3: APPLICATION FOR LICENSE

Every person desiring a license under this Ordinance shall first make application to the Washington Township Secretary for such license and the application shall be on a form provided by the Township Secretary. The application shall contain the following information:

- (a) Full name of the applicant.
- (b) Local address of the applicant, if any.
- (c) Permanent address of the applicant.
- (d) Name and address of the employer of the applicant.
- (e) The nature of the goods, merchandise or services to be offered for sale.
- (f) Previous criminal record of applicant, if any.
- (g) The period of time for which the license is requested, not to exceed one (1) month.
- (h) The year, make, model and license number of any vehicle to be used.

- (i) Two passport-size photographs of the applicant.
- (j) A license fee of Twenty-five (\$25.00) Dollars shall accompany the application when submitted to the Township Secretary and if in the form of a negotiable instrument shall be made payable to the Township of Washington.

SECTION 4: VERIFICATION OF APPLICATION INFORMATION BY
POLICE DEPARTMENT

(a) Upon receipt of the application and the prescribed fee, the Township Secretary shall immediately transmit the application to the Township Police Department, which Department shall, within ten (10) days, take such action as may be necessary to verify the identity and character of the applicant and to verify the statements and information contained in the application.

(b) Upon completion of the Township Police Department investigation, the Township Police Chief, if he is satisfied that the applicant is of good character and that the business of the applicant is as represented in the application, shall endorse his approval upon the application and return the application to the Township Secretary forthwith.

(c) Upon completion of the Township Police Department investigation, the Police Chief, if not satisfied that the applicant is of good character and that the applicant's business is as represented in the application, shall endorse his disapproval upon the application and his reasons for disapproval and shall return the application to the Township Secretary forthwith.

SECTION 5: ISSUANCE OF LICENSE

The Township Secretary, upon receipt of any application from the Township Police Chief shall immediately notify the applicant of the action of

the Township Police Chief and if the application shall have been approved, the Township Secretary shall forthwith issue a license to the applicant.

SECTION 6: REGULATIONS OF LICENSEE

Each licensee when engaged in a transient retail business shall:

- (a) Carry the license upon his person.
- (b) Exhibit said license upon request to all police officers, township officials and citizens.
- (c) Sell only the product or service mentioned in his license.
- (d) Not use any loudspeaker or horn or any other device for announcing his presence by which the public might be annoyed.
- (e) Not place or deposit any refuse upon any of the streets, alleys or public lands of the Township.
- (f) Not, when selling from a vehicle, stop or park such vehicle upon any of the streets, alleys or public places of the Township longer than necessary in order to sell therefrom to persons residing in the immediate vicinity.
- (g) Leave the premises of any resident when requested to do so by the resident.
- (h) Not occupy any fixed location upon any of the streets, alleys, sidewalks or public places in the Township for the purpose of conducting business, with or without a stand or counter.

SECTION 7: REVOCATION OF LICENSE

Any license issued under this Ordinance may be revoked at any time

by the Chief of Police of the Township for violation of any of the provisions of this Ordinance or for the giving of false information on any application for a license or for the licensee being charged with or convicted of any crime, other than a traffic violation, after the issuance of such license or if the licensee has engaged in a fraudulent transaction or enterprise after the issuance of such license.

SECTION 8: APPEAL PROCEDURES

(a) Any person aggrieved by the refusal of issuance or revocation of license may, in writing, within thirty (30) days from the date of such refusal of issuance or revocation, appeal to the Board of Supervisors of Washington Township.

(b) Upon receiving an appeal from a revocation, the Board of Supervisors of Washington Township shall schedule and hold a hearing on the merits of such refusal of issuance or revocation within thirty (30) days.

(c) Within thirty (30) days of holding of a hearing on the refusal of issuance or revocation appeal, the Board of Supervisors shall issue a written decision either reversing or sustaining the refusal of issuance or revocation. The written decision shall contain all of the reasons for the action of the Board of Supervisors.

(d) Any person aggrieved by the action of the Board of Supervisors may, in writing, within thirty (30) days from the date of such action of the Board of Supervisors, appeal to the Court of Common Pleas of Westmoreland County, Pennsylvania.

SECTION 9: SEVERABILITY

The provisions of this Ordinance shall be severable, and if any

provision thereof shall be held to be unconstitutional, invalid or illegal, by any court of competent jurisdiction, such decision shall not affect the validity of any other remaining provisions of this Ordinance. It is hereby declared as a legislative intent that this Ordinance would have been enacted had such unconsitutional, invalid or illegal provision not been included therein.

SECTION 10: PENALTY

Any person who shall violate any of the provisions of this Ordinance shall, upon summary conviction thereof before a District Magistrate, be sentenced to pay a fine of not more than Six Hundred (\$600.00) Dollars and costs of prosecution and, in addition thereto, may be sentenced to a term of imprisonment of not more than ninety (90) days.

SECTION 11: REPEALS

All Ordinances or parts of Ordinances inconsistent herewith are hereby repealed.

ORDAINED and ENACTED into law by the Board of Supervisors of the Township of Washington, Westmoreland County, Pennsylvania, in lawful session assembled this 12th day of January, 1989.

TOWNSHIP OF WASHINGTON

Ireland T. Gice
Chairman
Burl L. Hangerhaust
Vice Chairman
Herbert J. Coulter
Member

(Township Seal)

ATTEST:

Audrey A. Seltner
Township Secretary