

ORDINANCE NO. 2019-1

AN ORDINANCE OF MARION TOWNSHIP, BERKS COUNTY, PENNSYLVANIA, ESTABLISHING RULES AND REGULATIONS GOVERNING PEDDLING AND SOLICITING FOR BUSINESS OR OTHER PURPOSES WITHIN THE TOWNSHIP, INCLUDING DEFINITIONS AND INTERPRETATION; LICENSE REQUIREMENTS, CONDITIONS OF ISSUANCE AND FEES; EXEMPTIONS; RESTRICTIONS OF LICENSEE; APPLICATION FOR LICENSE; ISSUANCE, CUSTODY, DISPLAY OR EXHIBIT OF LICENSE; PROHIBITED ACTS; LOUD NOISES AND SPEAKING DEVICES; RESTRICTED HOURS OF OPERATION; SUSPENSION AND REVOCATION OF LICENSE; VIOLATIONS AND PENALTIES; NONLIABILITY OF TOWNSHIP; SEVERABILITY; REPEALER; AND EFFECTIVE DATE.

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

Section 1. Definitions and Interpretation. The following words, when used in this Ordinance, shall have the following meanings:

TOWNSHIP - Marion Township, Berks County, Pennsylvania.

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

PEDDLER - Any Person with no fixed place of business, who goes from house to house, from place to place, or from street to street, by any means, carrying or transporting goods, wares, or merchandise and offering or exposing the same for sale, or making sales and deliveries for purchase.

PERSON - Any natural Person, partnership, association, corporation, or other legal entity.

SOLICITOR - Any Person who goes from house to house, from place to place, or from street to street, soliciting or taking or attempting to take orders for any goods, wares, or merchandise, including but not limited to books, periodicals, magazines, or personal property of any nature whatsoever for future delivery, or services, including but not limited to lawn care, alarm system service, or cleaning services. A Solicitor is not a Peddler.

TRANSIENT RETAIL BUSINESS - Any business conducted in the Township for the sale of goods, wares or merchandise whatsoever for a period of less than ninety (90) calendar days. Transient Retail Business includes Peddlers and Solicitors, and any Person engaged in Transient Retail Business from a fixed location on private property.

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 a license, for a fee in the amount of Seventy-Five Dollars (\$75.00), which fee shall be for use by the Township, and shall be charged and paid to the Township. Said fee amount may be amended from time to time by Resolution of the Township Board of Supervisors. At the expiration of any license, if the Person holding the license shall desire to continue the Transient Retail Business, he or she shall be required to file a new application for a license and pay the license fee then in effect.

Section 3. Exemptions. No permit or fee is required as it applies under this Section to:

A. Religious proselytizing, political speech, and the distribution of handbills, so long as the principal purpose of solicitation activities is the expression of religious, political or other philosophical beliefs, as opposed to the sale or distribution of goods and merchandise;

B. Farmers selling their own produce;

C. 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;

D. Any manufacturer or producer in the sale of bread and bakery products, meat and meat products, or milk and milk products;

E. 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;

F. A Person who has registered with the Department of State for the Commonwealth under the provisions of the Solicitation of Funds for Charitable Purposes Act, 10 P.S. §162.1, *et seq.*, as hereafter amended, supplemented, modified or re-enacted by the General Assembly of Pennsylvania, or who is expressly exempted from such registration under such Act;

G. For taking orders for merchandise, by sample, from dealers or merchants for individuals or companies who pay a license and business privilege tax to the Township at their chief place of business; or

H. Itinerant vendors and temporary vendors operating in the Township with a permit pursuant to the other Township ordinances, rules or regulations.

Any Person claiming any exemption outlined above shall provide the Township with documentation demonstrating that Person qualifies for said exemption.

Section 4. Restrictions of Licensee. No Person, licensed under this Ordinance, shall park any vehicle upon any of the streets or alleys of the Township in order to sort, rearrange or clean any of his or her goods, wares or merchandise; nor may any such Person place or deposit any refuse upon any of such streets or alleys; nor may such Person maintain or keep a street or curbside marked by parking any vehicle upon any street or alley in the Township for longer than necessary in order to sell or distribute therefrom to Persons residing in the immediate vicinity.

No Person, licensed under this Ordinance, shall occupy any fixed location upon any of the streets, alleys, sidewalks or public grounds, with or without any stand or counter.

Section 5. Application for License. Each Person intending to engage in peddling or soliciting must first obtain a license at least five (5) business days in advance of the beginning of the time period for which the intended peddling or soliciting will occur. A Person desiring a license under this Ordinance shall first make application to the Township for such license. If such Person shall also be required to obtain a license from any state or county officer, he or she shall, when making such application, exhibit a valid license from such state or county officer. The applicant shall state to the Township the following:

- A. His or her permanent address, telephone number and cell phone number;
- B. His or her criminal record, if any;
- C. The name and address of the Person by whom he or she is employed together with his or her supervisor's or contact Person's name and telephone number;
- D. The type of goods, wares, and merchandise he or she wishes to deal with in such Transient Retail Business;

E. The location on private property where sales will be conducted, if a fixed location is to be used. Compliance with all applicable zoning and building code regulations is required;

F. The length of time for which the license is to be issued;

G. The type and license number of the vehicle to be used, if any; and

H. Applicant shall produce a State driver's license or other State or government issued picture identification card.

Section 6. Issuance of License; Custody, Display or Exhibit. Upon receipt of such application and the prescribed fee, the Township shall issue the license required under this Ordinance if such license application is in order. Such license shall contain the information required to be given on the application. Every license holder shall carry such license upon his or her Person if engaged in Transient Retail Business from house to house or upon any of streets, alleys, sidewalks or public grounds. The license holder shall exhibit such license, upon request, to all police officers, municipal officials and citizens or residents of the Township. The license holder shall only be entitled to carry said license for the length of time for which the license is issued. When the time period for the license has expired, the license holder shall apply for a new license and pay a new license fee then in effect.

Section 7. Prohibited Acts. No Person in any Transient Retail Business shall:

A. Sell any product or type of product not mentioned in their license.

B. Hawk or cry his or her wares upon any of the streets, alleys, sidewalks or other public grounds in the Township.

C. 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.

D. Park any vehicle upon any of the streets or alleys in the Township for the purpose of cleaning any of his or her goods, wares, or merchandise or of disposing of any carton, wrapping material or of any stock or wares or food stuffs which have become unsaleable through handling, age or otherwise.

E. Enter or attempt to enter any dwelling without the invitation or permission of the occupant and shall immediately leave any premises upon request of the occupant.

F. Permit any Person to have possession of his or her license and shall immediately report its loss to the Township.

G. Make any untrue statements or misrepresentations in the course of soliciting, or omit to state any material fact necessary to prevent any statement made from being misleading.

H. Utilize any unfair or deceptive acts or practices in the course of soliciting. In determining whether or not a practice is unfair or deceptive under this Section, definitions, standards, or interpretations relating thereto under the Pennsylvania Unfair Trade Practices and Consumer Protection Law, 73 P.S. §201-1 *et seq.*, as amended from time to time, shall apply.

Section 8. Loud Noises and Speaking Devices. No license holder nor any Person in his or her behalf shall shout, cry out, blow a horn, ring a bell or use any sound or amplifying device upon any of the streets of the Township or upon private premises for the purpose of attracting attention to any goods, wares or merchandise which such license holder proposes to sell. The Chief of Police may at his or her discretion, if deemed conducive to traffic safety, permit ice cream trucks to play music at an agreed-upon volume.

Section 9. Restricted Hours of Operation. Transient Retail Businesses may not engage in any business activity, except by prior appointment, at any time on a Sunday or Legal Holiday; from October 1 through April 30, at any time before 9:00 a.m. or after 6:00 p.m. on any day; or from May 1 through September 30, at any time before 9:00 a.m. or after 8:00 p.m. on any day.

Section 10. Suspension and Revocation of License. The Chief of Police and / or Township Manager are hereby authorized to suspend or revoke any license issued under this Ordinance when he or she deems such suspension or revocation to be beneficial to the public health, safety, or morals, for violation of any provision of this Ordinance, or if false information is given in any application for a license hereunder. No part of a license fee shall be refunded to any Person whose license shall have been suspended or revoked. Any Person whose license is suspended or revoked shall immediately surrender his or her license to the Township. If a company or other entity has more than one (1) Person engaging in solicitation in the Township, and the permit issued to any one (1) such Person is revoked, the permits for all Solicitors working for that company may be revoked. In the event that a license is revoked under this Section, no administrative or other fees shall be refunded to the licensee.

Section 11. Violations and Penalties. Any Person, firm or corporation who shall violate any provision of this Ordinance, upon conviction thereof in an action brought before a magisterial district judge in the manner provided for the enforcement of

summary offenses under the Pennsylvania Rules of Criminal Procedure, shall be sentenced to pay a fine of not more than One Thousand and 00/100 Dollars (\$1,000.00) plus costs and, in default of payment of said fine and costs, to a term of imprisonment not to exceed ninety (90) days. Each day that a violation of this Ordinance continues or each Section of this Ordinance which shall be found to have been violated shall constitute a separate offense.

Section 12. Nonliability of Township. All Peddlers and Solicitors, including nonprofit corporations and agencies, shall hold harmless the Township from any liability, damage or injury which is causally related to an act of ordinary negligence on the part of such Peddler or Solicitor.

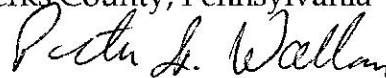
Section 13. Severability. If any sentence, clause, section or part of this Ordinance is, for any reason, found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses, sections or parts of this Ordinance. It is hereby declared, as the intent of the Board of Supervisors of Marion 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 14. Repealer. All ordinances or parts of ordinances conflicting with the provisions of this Ordinance are hereby repealed.

Section 15. Effective Date. This Ordinance shall become effective five (5) days after enactment.

DULY ENACTED AND ORDAINED this 25th day of July, 2019.

MARION TOWNSHIP
Berks County, Pennsylvania

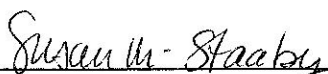


Peter I. Wallace, Chairman



Peter McCarthy, Vice Chairman

Franklin M. Troutman, Supervisor

Attest: 
Susan M. Staaby, Secretary

CERTIFICATE OF ENACTMENT

I, Susan M. Staaby, Secretary of Marion Township, Berks County, Pennsylvania, do hereby certify that the foregoing Ordinance No. 2019-1 was advertised in the *Reading Eagle*, a daily newspaper of general circulation in the Marion Township, on July 17, 2019 and was duly enacted and approved as set forth at a regular meeting of the Board of Supervisors held on July 25, 2019.

[SEAL]



Susan M. Staaby, Secretary