

ORDINANCE NO. 165, 2006

AN ORDINANCE OF THE TOWNSHIP OF TILDEN, BERKS COUNTY, PENNSYLVANIA, AMENDING CHAPTER XVII, ENTITLED "LICENSES, PERMITS AND GENERAL BUSINESS REGULATIONS", TO ESTABLISH REGULATIONS FOR TEMPORARY ROADSIDE STANDS, DEFINITIONS FOR TEMPORARY ROADSIDE STANDS, TO PROVIDE FOR STANDARDS AND SPECIFICATIONS, TO PROVIDE FOR LICENSE REQUIREMENTS, TO PROVIDE FOR EXCEPTIONS TO LICENSE REQUIREMENTS, TO PROVIDE FOR LICENSE APPLICATIONS, TO PROVIDE FOR THE ISSUANCE OF LICENSES, TO PROVIDE FOR PROHIBITED ACTS, TO PROVIDE FOR THE SUPERVISION OF RECORDS, TO PROVIDE TO THE DENIAL, SUSPENSION, APPEAL AND REVOCATION OF LICENSES, TO PROVIDE FOR PENALTIES FOR VIOLATION, AND TO PROVIDE FOR SEVERABILITY; AND AMENDING CHAPTER XVII, ENTITLED "LICENSES, PERMITS AND GENERAL BUSINESS REGULATIONS", TO REMOVE TEMPORARY BASIS SELLING OF GOODS, WARES AND MERCHANDISE

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

SECTION 1. Chapter XVII, entitled "Licenses, Permits and General Business Regulations", of the Code of Ordinances of the Township of Tilden is hereby amended by adding thereto the following new Part:

**"Part 3  
Temporary Roadside Stands**

Section 301. Definitions. As used in this Subpart, the following terms shall have the meanings indicated, unless a different meaning clearly appears from the context:

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

Roadside Stand. Selling, soliciting or taking orders for any goods, wares or merchandise from a fixed location within the Township, on a temporary or seasonal 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 302. Standards and Specifications.

(a) Size. The total area of the Roadside Stand shall not exceed eight hundred square feet (800'), and shall include all buildings and/or tents.

(b) Location. The Roadside Stand shall be located at least fifty feet (50') from any and all intersections and shall be at least thirty feet (30') from any and all existing right-of-way lines.

(c) Removal in off-season. All Roadside Stands shall be portable, shall be maintained in good condition and shall be removed during seasons when goods, wares or merchandise are not being offered for sale, except as allowed herein.

(d) Exception. A Roadside stand may remain in place throughout the year without being removed if it would be located a minimum of one hundred feet (100') from the existing right-of-way line.

(e) Parking. Parking for vehicles shall be provided outside of the existing right-of-way and in compliance with the provisions of the Chapter XXXII, entitled "Zoning". A minimum of four (4) vehicle parking spaces shall be provided.

(f) Fresh Produce. A minimum of fifty percent (50%) of all fresh produce offered for sale shall have been produced within the Township.

(g) Ordinances. Roadside Stands must comply with all Township Ordinances and Zoning Ordinances.

Section 303. License Required/Conditions of Issuance/Fee. No person shall engage in any Roadside Stand, except a farmer selling produce on his or her own property, within the Township without first having obtained from the Township Secretary a license for which a fee shall be charged, established pursuant to a Resolution

of the Board of Supervisors.

Section 304. Exceptions. No license fee shall be charged:

- (a) To farmers selling their own produce at a location on or off the farmer's own property;
- (b) 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;
- (c) To any manufacturer or producer in the sale of bread and bakery products, meat and meat products, or milk and milk products;
- (d) 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;
- (e) 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;
- (f) To the seeking or taking of orders by insurance agents or brokers licensed under the insurance agents or brokers licensed under the insurance laws of the Commonwealth of Pennsylvania;
- (g) 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
- (h) 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 here by 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 part 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 305. License Application. Every person desiring a license under this Subpart shall first make application to the Township Secretary for such license a minimum of forty-five (45) days prior to opening of a Roadside Stand. 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:

- (a) His criminal record, if any;
- (b) Name and address of the person by whom he is employed;
- (c) Type of goods, wares and merchandise he wishes to deal with in such Roadside Stand;
- (d) Length of time for which license is to be issued; and
- (e) Detailed drawing of the Roadside Stand showing size of the Roadside Stand, location from existing intersections, roads and right-of-ways, and parking.

Section 306. Issuance of License; Custody; Display and Exhibit. Upon receipt of such application and the prescribed fee, the Township Secretary, upon review of the Board of Supervisors and upon finding such application in order, shall issue the license required under this Subpart. Such license shall contain the information required to be given on the application therefor. Every license holder shall display such license at the Roadside Stand in plain sight.

Section 307. Prohibited Acts. No person in any Roadside Stand shall:

- (a) Sell any product or type of product not mentioned in his license;
- (b) Sell any hazardous materials, contraband, or shall contain, display or store any hazardous materials or contraband.
- (c) Hawk or cry his wares upon any of the streets, alleys, sidewalks or public grounds in the Township;

(d) Engage in any business activity at any time before 6:00 A.M. or after 11:00 P.M.

(e) Allow a Roadside Stand to be used as overnight accommodations.

Section 308. Supervision; Records and Reports. The Township Secretary shall supervise the activities of all persons holding licenses under this Part. 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 309. Denial, Suspension and Revocation of License; Appeal. The Township Secretary or Township Code Enforcement Officer 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 Subpart, 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 310. Penalties for Violation. Any person, partnership, corporation or other entity who or which has violated or permitted the violation of the provisions of this Subpart shall be subject to a penalty of at least One Hundred and 00/100 Dollars (\$100.00) and not more than One Thousand and 00/100 Dollars (\$1,000.00) plus all court costs, including reasonable attorney fees incurred by the Township as a result thereof, and in the event the penalty imposed for the violation of this Subpart is not voluntarily paid to the Township, the Township shall initiate a civil enforcement proceeding before a District Justice. The civil enforcement proceeding shall be initiated by complaint or by such other means as may be provided by the Pennsylvania Rules of Civil Procedure.

Section 311. Severability. If any sentence, clause, section or part of this Subpart 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 Subpart. It is hereby declared as the intent of the Board of Supervisors of Tilden Township that this Subpart would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein."

SECTION 2. Part 2, entitled "Solicitation/Peddling of Chapter XVII, entitled "Licenses, Permits and General Business Regulations", of the Code of Ordinances of the Township of Tilden is hereby amended and restated in its entirety as follows:



## **"Part 2**

### **Solicitation/Peddling**

#### **Subpart A. Transient Retail Business.**

Section 201. Definitions. As used in this Subpart, the following terms shall have the meanings indicated, unless a different meaning clearly appears from the context:

**Person.** Any natural person, partnership, association, corporation or other legal entity.

**Transient Retail Business.** 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.

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

Section 202. 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 that shall established pursuant to a Resolution of the Board of Supervisors.

Section 203. Exceptions. No license fee shall be charged:

- (a) To farmers selling their own produce;
- (b) 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;
- (c) To any manufacturer or producer in the sale of bread and bakery products, meat and meat products, or milk and milk products;
- (d) 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;
- (e) 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;

(f) To the seeking or taking of orders by insurance agents or brokers licensed under the insurance agents or brokers licensed under the insurance laws of the Commonwealth of Pennsylvania;

(g) 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

(h) 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 here by 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 part 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 204. License Application. Every person desiring a license under this Subpart 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:

- (a) His criminal record, if any;
- (b) Name and address of the person by whom he is employed;
- (c) Type of goods, wares and merchandise he wishes to deal with in such transient retail business;

- (d) Length of time for which license is to be issued; and
- (e) Type of license number of the vehicle to be used, if any.

Section 205. 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 Subpart. 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. He shall exhibit such license, upon request, to all police officers, municipal officials and citizens or residents of the Township.

Section 206. Prohibited Acts. No person in any transient retail business shall:

- (a) Sell any product or type of product not mentioned in his license;
- (b) Hawk or cry his wares upon any of the streets, alleys, sidewalks or 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 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 unsaleable through handling, age or otherwise;
- (e) Engage in any business activity, except by prior appointment, at any time before 9 A.M. or after 6 P.M. on any day of the week.

Section 207. Supervision; Records and Reports. The Township Secretary shall supervise the activities of all persons holding licenses under this Part. 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 208. 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 Subpart, 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 revokes.

Section 209. Penalties for Violation. Any person, partnership, corporation or other entity who or which has violated or permitted the violation of the provisions of this Subpart shall be subject to a penalty of at least One Hundred and 00/100 Dollars (\$100.00) and not more than One Thousand and 00/100 Dollars (\$1,000.00) plus all court costs, including reasonable attorney fees incurred by the Township as a result thereof, and in the event the penalty imposed for the violation of this Subpart is not voluntarily paid to the Township, the Township shall initiate a civil enforcement proceeding before a District Justice. The civil enforcement proceeding shall be initiated by complaint or by such other means as may be provided by the Pennsylvania Rules of Civil Procedure.

Section 210. Severability. If any sentence, clause, section or part of this Subpart 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 Subpart. It is hereby declared as the intent of the Board of Supervisors of Tilden Township that this Subpart would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein."

SECTION 3. 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 the 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 4. All ordinances or parts of ordinances conflicting with the provisions of this Ordinance are hereby repealed insofar as they are inconsistent with this Ordinance.

SECTION 5. This Ordinance shall become effective in accordance with law.

SECTION 6. The Code of Ordinances of the Township of Tilden, Berks County, Pennsylvania, as amended, shall be and remain unchanged and in full force and effect

except as amended, supplemented and modified by this Ordinance. This Ordinance shall become a part of the code of Ordinances of the Township of Tilden, Berks County, Pennsylvania, as amended, upon adoption.

DULY ENACTED AND ORDAINED this 10th day of June,  
2006.

TOWNSHIP OF TILDEN  
BOARD OF SUPERVISORS

Troy R. Hatt

Russell H. Verby

Judy E. Romig

Attest: Cheryl A. Haus  
Secretary