

**AN ORDINANCE OF THE TOWNSHIP OF EAST LAMPETER
REGULATING TRANSIENT RETAIL BUSINESSES, INCLUDING
MOBILE FOOD VENDORS, PEDDLING AND SOLICITING, AND
PROVIDING FOR LICENSING REQUIREMENTS AND
EXCEPTIONS, AS WELL AS ENFORCEMENT OF THE
ORDINANCE.**

Background: The Board of Supervisors of East Lampeter Township ("Township") recognizes that the citizens of the Township are at risk of being victimized by unscrupulous persons who can approach Township citizens on or near public ways and in their homes under the guise of selling the citizens retail goods or services or soliciting contributions. The Board of Supervisors further recognizes that one method of protecting its citizens results from a licensing structure whereby people who approach its citizens for legitimate purposes are properly identified and may be properly monitored. The Board of Supervisors further desires to provide specific regulations relating to mobile food vendors. The regulation of mobile vendors on public and private property is necessary to promote the health and safety of the Township's citizens, as well as the orderly and efficient use of streets, to prevent undue interference with established businesses and to assure the performance of essential utility, traffic control and emergency services.

In consideration of the foregoing and being authorized by the Second Class Township Code to adopt regulations in furtherance of the health, safety and welfare of its citizens, the Board of Supervisors hereby enacts and ordains the following:

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.

MOBILE VENDOR - A person who sells, or intends to sell, or offers to sell food products from a mobile vending unit.

MOBILE VENDOR LICENSE - Written authorization issued by the Township to operate a mobile vendor unit on the street. The license must be displayed prominently on each unit.

MOBILE VENDOR UNIT - Any motorized or nonmotorized vehicle, including but not limited to carts, stands, kiosks, any other device designed to be portable and not permanently attached to the ground and ancillary equipment from which food products are sold or intended to be sold by a mobile food vendor.

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

PUBLIC RIGHT OF WAY - Any place of any nature which is legally open to public use and used and/or intended for vehicular or pedestrian traffic, including public streets, alleys, sidewalks, and roadways, but excluding any public property of the East Lampeter Township.

TRANSIENT RETAIL BUSINESS -

- A. engaging in peddling, soliciting or taking orders, either by sample or otherwise, for any goods, wares, merchandise or services, or asking or soliciting in person, whether verbally or written, for an immediate donation of money or objects of value, with the intention that the money or object be transferred at that time and at that place, for charity or personal gain, upon any street, alley, sidewalk or public place, or from house to house, within East Lampeter Township; or
- B. selling, soliciting or taking orders for any goods, wares or merchandise, from a fixed location within East Lampeter Township, on a temporary basis, which shall include, but not be limited to, mobile food vending, and such activities conducted at the time of special occasions or celebrations, for seasonal purposes, or for yearly holidays; provided, however that "Transient Retail Business" shall not include temporary sales activities, in the nature of what are commonly known as "sidewalk sales" and "tent sales", conducted from a fixed location by the operator or operators of the primary business or businesses at that fixed location and which involves sales of goods which are of the same general nature as those offered for sale at that fixed location.

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. Except as noted below, no person shall engage in any transient retail business within the Township without first having obtained from the Township Police Department a license, for which a fee shall be charged, established pursuant to a Resolution of the Board of Supervisors, which fee may be modified from time to time by resolution. Mobile vendor applicants shall not be subject to a fee.

Section 3. Exceptions. No license shall be required for the following:

- A. Persons soliciting funds or selling goods, wares or merchandise donated by the owner thereof, where the funds or the proceeds of sale are to be applied exclusively for a charitable or philanthropic purpose on behalf of an organization which is registered as a charitable organization with the Commonwealth of Pennsylvania or United States Government, and where such person can produce valid documentation of such current registration.

B. Representatives and members of Boy Scouts of America, Girl Scouts of America, Lions, Rotary, Kiwanis, American Association of Retired Persons, Disabled American Veterans, Young Women's Christian Association (YWCA) and Young Men's Christian Association (YWCA), Red Cross, Salvation Army and other similar national or international service organization or association existing for the primary benefit of young, aged, handicapped or stricken persons and which are involved in soliciting or selling for the purpose of self-perpetuation of such organization which is registered as a charitable organization with the Commonwealth of Pennsylvania or United States Government.

C. School children not over the age of eighteen (18) years selling goods, wares or merchandise where the funds or proceeds of the sale are to be applied exclusively for a function or organization sponsored or approved by the public or private school which such children attend.

D. Any honorably discharged soldier, sailor or marine who complies with the Act of Assembly of the Commonwealth of Pennsylvania of 1867, April 8, P.L. 50, 60 P.S. §61 (1982), now 60 P.S. §22, as amended from time to time and who procures from the Prothonotary of any court in this Commonwealth a certificate in compliance with the said Act.

E. To farmers selling their own produce;

F. To children not over the age of eighteen (18) years who take orders for or deliver newspapers (or anyone taking orders for or delivering newspapers).

G. To the seeking or taking of orders by insurance agents or brokers licensed under the insurance laws of the Commonwealth of Pennsylvania.

H. To any person who has complied with the provisions of the Solicitation of Funds for Charitable Purposes Act, December 19, 1990, Act 202, 10 P.S. §162.1 et seq. (1990), as hereafter amended, supplemented, modified or reenacted by the General Assembly of Pennsylvania, and produce proof of such current registration; or

Section 4. License Application. Every person desiring a license under this ordinance shall first make application to the Township Police Department, and shall provide the following information which may be reasonably required by the Township Police Department:

A. Legal name, proof of age, and address of the applicant, (P.O. Boxes will not be a permitted address), and photo identification of the applicant, to be provided through the applicant's driver's license, or other legally recognized form of identification, and the name and address of the employer or other sponsor of the person doing the soliciting. The Township Police Department may require that each person seeking a license be photographed and fingerprinted for the purpose of identification, and submit to a criminal background check; provided, however, that mobile vendors shall be exempt from such photograph, fingerprinting, and background check requirements.

B. A brief description of the nature, character and quality of goods, wares, merchandise or services to be sold or solicited and business or activity to be conducted as well as the requested location where it will be conducted.

C. A listing of all vehicles to be used in the peddling or soliciting activities, including a description of the vehicle together with the proof of valid motor vehicle registration number, insurance, the license plate number and valid driver's license.

D. Proof of possession of any license or permit which the applicant is required to have under federal, state, county or local law in order to conduct the proposed business.

E. With respect to mobile vendors, proof of the license or certification issued by the Pennsylvania Department of Agriculture permitting the applicant to conduct such business, as well as a copy of the food vendors license issued by the Pennsylvania Department of Agriculture allowing for the use of on-unit heating, cooking, water, electrical or cooling devices, if applicable. Utility connections to neighboring properties shall be prohibited.

F. Mobile vendors shall provide a certificate of insurance providing general liability insurance of not less than \$1,000,000 per occurrence, listing the Township as additionally insured. The owner shall indemnify the Township against any and all such claims, losses, injuries or damages to person or property, including attorney's fees and court costs, arising out of or related to the mobile vending operation, for any reason, whether incurred as a result of the intentional actions, inactions, or negligence of the Township, the owner or their employees, agents, guests, and invitees.

Section 5. Application Review; License Issuance or Denial; License Nontransferable.

A. Following the submission of a complete application pursuant to Section 3 herein, the Township Police Department shall have seventy-two (72) hours from receipt thereof to investigate the applicant and application, and to grant or deny the license. The application will be reviewed so as to ensure the protection of the public health, safety and general welfare of the public.

B. The Township Police Department, through its Chief of Police or authorized Deputy, may refuse to issue a license in cases where: the application is incomplete; investigation provides a reasonable basis for determining that the health, safety and general welfare of the public disclose will be threatened by issuance of the license; there are misrepresentations in the application, or if any fraud or deceit is identified within the application, or if fraud or deception has been identified in the practices of the applicant, organization or agent thereof; or the investigation reveals a criminal record indicating, within the past ten years, conviction of delivery or possession with intent to deliver a controlled substance, a conviction of a felony, or that the applicant is the subject of an active warrant for arrest.

C. The Township Police Department, acting through its Chief of Police or authorized Deputy is hereby authorized to suspend or revoke any license issued under this chapter when he or she deems such suspension or revocation to be in the interest of the public health, safety or

morals or for the violation of any of the provisions of this chapter of for giving false information upon any application for a license.

D. Except with respect to mobile vendor licenses, any license so issued shall be valid for a period of time desired by the applicant, not to exceed thirty (30) days. Mobile vendor licenses shall be valid for a period of time not to exceed one (1) calendar year.

E. All licenses issued pursuant to this Ordinance shall be in the individual's possession while engaged in solicitation and shall be exhibited upon request to all police officers, Township officials and residents of the Township.

F. The license issued shall permit the holder to engage in the acts authorized by the license only between 9:00 a.m. and 8:00 p.m., unless expressly provided otherwise by the Township Police Department during the license approval process. With respect to mobile vendors, the Township Police Department may approve operation times in excess of the foregoing times at its sole discretion.

G. No license issued in this chapter shall be transferable from one person to another.

H. Separate license applications shall be filed by each person who will conduct the soliciting or peddling. Any employer desiring to secure licenses for multiple employees, agents or servants must submit a separate application for each such person.

I. Separate mobile vendor licenses are required for each mobile vendor unit (if separate or multiple mobile vendor units are desired). Mobile vendors shall file separate license applications for each desired private property location.

J. Any appeal from the refusal to issue a license or denial or from the suspension or revocation of any issued license, shall be made within ten (10) days to the Board of Supervisors of the Township by filing a written notice of appeal with the Township. Any such appeal shall be heard and acted upon by the Board of Supervisors following a hearing conducted pursuant to the provisions of the Act of April 28, 1978, P.L. 202, No. 53, 2 Pa. C.S.A. §551, et seq., known as the "Local Agency Law."

Section 6. License Renewal. Any request for a license renewal shall be made as follows:

A. If the holder desires to continue or renew the license, the holder must submit a new application prior to or upon termination of the then-current license. A new application must be submitted for each additional person involved in the transient retail business upon any addition of personnel or change in personnel; provided, that this requirement shall not apply to mobile vendor licenses.

B. Any non-mobile vendor license may be issued in advance for consecutive thirty (30) day periods, not to exceed six (6) months.

Section 7. Mobile Vendor Requirements

A. Approved mobile vendors may locate the mobile vending unit in any public right of way in the Township, unless otherwise limited as a condition of license approval, provided that they may not remain stationary for more than four (4) consecutive hours.

B. No mobile vendor shall locate on any private property without written, signed permission from the property owner to do so, and must comply if asked to leave by the property owner. Such written permission must be supplied at the time of application for a license, along with a contact phone number for verification.

C. No mobile vendor shall be allowed to operate in such a way that violates the Township's Zoning Ordinance or any other Township ordinance.

D. When operating in the public right-of-way, the vehicle or conveyance shall face the correct direction of travel, and the vending window must face the sidewalk at all times.

E. Mobile vendors are required to keep all areas within 20 feet of the mobile vending unit clean of grease, trash, paper, wrappers, bottles, cans or other refuse. Additionally, a mobile vendor shall provide a refuse container for all customers to deposit their refuse, which shall be removed by the mobile vendor at the close of each vendor's business day. Under no circumstances shall a mobile vendor use a container or receptacle provided for the use of the general public.

F. Mobile vending units shall be maintained in a safe, clean and sanitary condition at all times. Mobile vending units licensed hereunder to sell food products shall be subject to inspection at any time.

G. Vending shall not occur on the median strip of a divided roadway.

H. Vending shall not occur within 25 feet of any fire hydrant or fire escape.

I. Mobile vendors may not operate within 30 feet of any loading zone, bus stop, intersection or pedestrian crosswalk, or otherwise in a location that adversely affects safe site distances. The Township Police Department reserves the right to require an approved mobile vendor to relocate to a location that complies with this subsection.

J. Mobile vendors may not operate in any area within 25 feet of a building entrance or exit to any restaurant or food establishment serving similar food products without obtaining written permission from the business owner(s).

K. Mobile vending units shall be removed from the vending location on a daily basis unless located on private property and written permission for overnight parking is given by the property owner and provided to the Township during the approval process. Unattended mobile vending units are prohibited and shall be considered a public safety hazard.

L. No mobile food vendor shall sell or offer for sale any food or nonfood products and services in a manner that would substantially obstruct a public right-of-way, impair the movement of pedestrians or vehicles, or pose a hazard to public safety.

M. All mobile vendors shall position themselves at least 50 feet from another mobile vendor and shall locate the mobile vending unit at the curb in such a way as to cause a line which forms along the curb.

N. The Township Police Department reserves the right to temporarily move a mobile food vendor to a nearby location if the approved location needs to be used for emergency purposes, snow removal, construction, or other public benefit or if the location is required for a Township sanctioned event.

O. All vendors shall comply with all applicable PA Department of Agriculture regulations regarding smoke and odor control, and all federal or state food safety rules and regulations, including any rules, regulations, or orders issued by the Centers for Disease Control and Department of Health.

Section 8. Prohibited Acts. No person in any transient retail business shall:

A. Conduct such transient retail business without being in possession of a valid license.

B. Sell any product, type of produce or service or solicit contributions not identified on the license.

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

D. 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.

E. 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.

F. Engage in any transient retail business, except by prior appointment, at any time before 9:00 a.m. or after 8:00 p.m., unless otherwise approved on the issued license. This restriction shall not apply to a license for a food vendor who or which has applied for or received a temporary zoning permit from the Township zoning officer.

Section 9. Penalties. Any person, firm or corporation who shall violate any provision of this ordinance shall, upon conviction thereof, in a summary proceeding, pay a fine of not less than Two Hundred and 00/100 (\$200.00) Dollars, nor more than One Thousand and 00/100

(\$1,000.00) Dollars for each offense, together with the costs of prosecution. Each day or portion thereof in which a violation exists shall be considered a separate violation of this ordinance, and each section of this ordinance which is violated shall be considered a separate violation. In default of payment of such fine, such person shall be liable for imprisonment for a period not exceeding thirty (30) days.

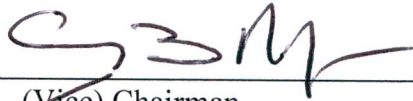
Section 10. Repealer. This Ordinance shall hereby repeal and replace Township Ordinance No. 312, enacted on or about June 1, 2015, Ordinance No. 294, enacted on or about February 19, 2013, and Ordinance No. 298 enacted on or about June 18, 2013.

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 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 be effective five (5) days after its enactment.

DULY ORDAINED AND ENACTED the 15th day of June 2020, by the Board of Supervisors of East Lampeter Township, Lancaster County, Pennsylvania, in lawful session duly assembled.

BOARD OF SUPERVISORS OF
EAST LAMPETER TOWNSHIP
LANCASTER COUNTY, PENNSYLVANIA

By: 
(Vice) Chairman

Attest:


(Asst. Secretary)

I, Ralph M. Hutchison, Secretary of the Board of Supervisors of East Lampeter Township, Lancaster County, Pennsylvania, hereby certify that the foregoing is a true and correct copy of an ordinance duly adopted at a legally constituted meeting of the Board of Supervisors of East Lampeter Township held on June 15, 2020, at which meeting a quorum was present and voted in favor thereof.



Ralph M. Hutchison, Secretary