

CAERNARVON TOWNSHIP  
BERKS COUNTY, PENNSYLVANIA

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ORDINANCE NO. 2018 - 293

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AN ORDINANCE OF CAERNARVON TOWNSHIP, BERKS COUNTY, PENNSYLVANIA REPEALING AND REPLACING ORDINANCE NO. 29; ESTABLISHING REGULATIONS FOR TRANSIENT RETAIL BUSINESSES BY REQUIRING LICENCES, PROVIDING REGULATIONS REGARDING THE CONDUCT OF TRANSIENT RETAIL BUSINESSES, LICENCE APPLICATION CRITERIA, IDENTIFYING PROHIBITED ACTS AND PENALTIES AND PROVIDING CRITERIA AND PROCEDURES FOR THE ISSUANCE, SUSPENSION AND REVOCATION OF TRANSIENT RETAIL BUSINESS LICENSES.

BE AND IT IS HEREBY ORDAINED AND ENACTED by the Supervisors of Caernarvon Township, Berks County, Pennsylvania, that Ordinance No. 29, enacted May 2, 1969 shall be repealed and replaced with the following:

Section 1. Short Title.

This Ordinance shall be known as the Caernarvon Township Solicitation Ordinance.

Section 2. Findings and Purpose.

A. Findings. The Caernarvon Township Board of Supervisors has determined that the safety and privacy of Township residents, particularly the elderly, may be jeopardized by fraudulent schemes to sell Goods and services to Township residents, and that it is in the best interest of the Township to establish standards and regulate Peddlers and Solicitors.

B. Purposes. It is the purpose and intent of this Ordinance to provide the Township with standards defining and regulating Peddling and Soliciting. These standards are intended to protect the safety and privacy of the residents of Caernarvon Township by regulating the behavior of Peddlers and Solicitors and by limiting Peddler's and Solicitor's access to residents who do not wish to interact with them.

Section 3. Definitions and word usage.

A. As used in this Ordinance, the following terms shall have the meanings indicated:

GOODS - Any Personal property, possessions or movable effects, Wares, foodstuffs, merchandise or services offered for sale, whether or not displayed.

PERSON - Any natural Person, association, partnership, firm or corporation.

PEDDLER - Any Person who goes upon any of the streets or alleys, sidewalks or public grounds or from house to house, not having been invited by the occupant or owner thereof, carrying or transporting Goods, Wares, merchandise or Personal property of any nature and offering the same for sale. The term "peddler" shall include a street vendor and a Transient Merchant.

PEDDLING - The selling or offering for sale of any Goods, Wares, merchandise or services for immediate delivery, in which the Person selling or offering for sale has the Goods, Wares, merchandise or services in his or her possession or control.

RESIDENCE - Any separate living unit occupied for residential purposes by one or more Persons, contained within any type of building or structure.

SOLICITOR - Any Person who goes upon any of the streets or alleys, sidewalks or public grounds or from house to house, not having been invited by the occupant or owner thereof, for the purpose of taking or attempting to sell or take orders for the sale of Goods, merchandise, Wares, or other Personal property of any nature for future delivery, or for services to be performed in the future.

SOLICITING - The selling or attempting to sell Goods or services, or to take or attempt to take orders for services or Goods to be performed or furnished in the future. A soliciting transaction shall not include a sale made pursuant to a pre-existing retail charge agreement, or a sale made pursuant to prior negotiations between the parties at a business establishment at a fixed location where goods or services are offered or exhibited for sale; or a sale of realty in which transaction the purchaser is represented by a licensed attorney or in which the transaction is being negotiated by a licensed real estate broker.

SPECIAL EVENT - Any occasion including but not limited to a fair, festival, show, exhibition or Township-wide celebration taking place within a specifically designated area of the Township.

TOWNSHIP - Caernarvon Township, Berks County, Pennsylvania

TRANSIENT MERCHANT - A Person who engages or proposes to engage temporarily in a merchandising business and occupies a room, building, tent, lot stand or other premises for the purpose of selling, trading or bartering Goods, Wares or merchandise.

TRANSIENT RETAIL ACTIVITY - Any activity conducted by a Peddler, vendor, Solicitor, Transient Merchant in his or her conduct of a Transient Retail Business.

TRANSIENT RETAIL BUSINESS:

(1) Engaging in Peddling, canvassing, Soliciting and taking orders, either by sample or otherwise, for any Goods, Wares or merchandise, upon any of the streets or alleys, sidewalks or public grounds or from house to house in the Township; and/or

(2) Selling, vending, Soliciting or taking orders for any Goods, Wares or merchandise from a fixed location in the Township on a temporary basis, which shall include, but shall not be limited to, such activities conducted for seasonal purposes or for or in advance of specific yearly holidays.

WARES – Articles of merchandise or manufacture including, but not limited to, intangible items such as services or products of artistic or intellectual creativity.

B. In this section, the masculine shall include the feminine and the neuter, the singular shall include the plural, and the plural shall include the singular.

Section 4. License required; exemptions.

A. It shall be unlawful to engage in any Transient Retail Activity within the Township without first obtaining a license from Caernarvon Township.

B. No license shall be required from the following:

- (1) Farmers selling their own produce; provided that at least half of all products sold must be produced on the premises.
- (2) Insurance and real estate agents and brokers licensed by the Commonwealth of Pennsylvania.
- (3) Sale of Goods, Wares or merchandise donated by the owners themselves, the proceeds of which are to be applied to any charitable purpose.
- (4) When the Solicitor is on the property by invitation of the Person residing on such premises.
- (5) Sales made to dealers by commercial travelers or sales agents in the usual course of business, calling upon or dealing with manufacturers, wholesalers, distributor or retailers at their places of business.
- (6) Persons who work for an organization which has registered with the Pennsylvania Department of State under the Solicitation of Charitable Funds Act, Act of August 9, 1963, P.L. 628, and produce proof of such current registration.
- (7) Representatives and members of Boy Scouts of America, Girl Scouts of America, Rotary, Lions, Kiwanis, Disabled American Veterans, YWCA and YMCA, Red Cross, Salvation Army and other national and international service organizations and associations existing for the benefit of young, aged, handicapped or stricken

Persons and Soliciting or selling for the purpose of self-perpetuation and which may be registered as charitable organizations with the State or Federal government.

- (8) School children 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 school where such children attend.
- (9) Goods, Wares, or merchandise temporarily deposited on the sidewalk in the ordinary course of delivery, shipment or transfer.
- (10) The placing and maintenance of unattended stands or sales devices for the sale, display or offering for sale of newspapers, magazines, periodicals and paperbound books
- (11) The distribution of free samples of Goods, Wares and merchandise by any individual from his Person.
- (12) Any sale or distribution permitted by statute or order of a Court of competent jurisdiction.
- (13) Peddling or Soliciting that occurs at a Special Event.

C. No Person under the age of eighteen (18) shall be permitted to engage in Peddling or Soliciting activities except as provided below.

- (1) A license shall be obtained by a sponsor over the age of eighteen (18) on behalf of the minor.
- (2) The sponsor shall be responsible for supervising and controlling the conduct of all Persons under the age of eighteen (18) in all Peddling or Soliciting under the sponsor's license.

#### Section 5. Application for license.

Every Person or authorized sponsor of a Person(s) desiring to engage in any Transient Retail Business shall submit a written application to the Township Administrator, which shall include:

- A. Proof of the identity, including date of birth, photo I.D., home address of the applicant and the name and address of the employer or firm which such applicant represents;
- B. A description of the nature, character and quality of the Goods, Wares or merchandise to be sold;

C. If employed by another, the name, address and telephone number of the employer, or if acting as an agent, the name, address and telephone number of the principal who is being represented, with credentials in written form establishing the relationship and the authority of the employee or agent to act for the employer or principal as the case may be;

D. If a motor vehicle is to be used, a description of the vehicle together with the motor vehicle registration number and the license number;

E. If such Person shall also be required to obtain a license from any state or county offices, he or she shall, when making such registration, exhibit a valid license from such state or county offices.

F. A description of the proposed location(s) of the Transient Retail Activity;

G. The hours and location for which the license to engage in Transient Retail Activity is desired;

H. The names of other communities in which the applicant has worked as a Solicitor or Peddler in the past twelve (12) months; and if the applicant was employed by a different company in those communities, the name of those companies shall also be stated;

I. Whether the applicant or any agent of applicant has been convicted within the last five (5) years for any criminal offense against Persons or property, theft, breach of the peace, or any crime against or involving a minor;

J. A statement as to whether or not the applicant has been convicted of a felony, misdemeanor or ordinance violation (other than traffic violations), the nature of the offense or violation, the penalty or punishment imposed, the date when and place where such offense occurred, and other pertinent details;

K. A Criminal Record Check report by the Pennsylvania State Police (Form SP-4-164) issued within thirty (30) days from the date of the application, which shall evidence the criminal history of the applicant. The cost for the criminal record check report shall be borne exclusively by the applicant;

L. Proof of sales tax permit issued by the State or proof that the Goods sold are not subject to such sales tax; and

M. Written proof of his authority to represent the company or individual he states he represents.

#### Section 6. License fee.

The application shall be accompanied by a fee in the required amount, as established by Resolution from time to time by the Board of Supervisors of Caernarvon Township. No

license shall be issued until such fee(s) has been paid by the applicant. A separate license fee shall be paid for each Person engaged in a Transient Retail Business.

Section 7. Term of license.

A. A license issued under this Ordinance shall be valid for the length of time requested, not to exceed ninety (90) days.

B. Upon expiration of a license, the Solicitor, Peddler, merchant or other Person engaged in a Transient Retail Business may apply for a license renewal subject to the same terms, procedures and conditions at set forth herein for licensing. The application for license renewal shall be accompanied by a license renewal fee in the required amount as established by Resolution from time to time by the Board of Supervisors of Caernarvon Township. No renewal license shall be issued until the application fee(s) has been paid by the applicant for each Person engaged in a Transient Retail Business. No license shall be renewed if there has been a change in the requested activity, or if the applicant has violated any provision of this Ordinance.

Section 8. Investigation of applicant, license issuance, records.

A. Upon receipt of such application, the Township Administrator shall cause an investigation to be made as to all matters contained in the application to ensure the protection of the public health, safety and general welfare.

B. The Township Administrator shall endorse on such application his or her disapproval and his reasons for the same, and shall notify the applicant that the application is denied and that no license will be issued, if the result of the investigation determines that:

- (1) The application is incomplete; or
- (2) There has been a misrepresentation of any material fact in the application; or
- (3) The applicant has been convicted within the last five (5) years any criminal offense against Persons or property, theft, breach of the peace, or any crime against or involving a minor; or
- (4) The applicant or his proposed activity poses a substantial risk of injury to the public health, safety or general welfare.

C. If upon investigation of the application the information contained therein is verified and there is no evidence that the applicant has been convicted of any offense described in subsection (B) above or that his proposed activity poses a substantial risk of injury to the public health, safety or general welfare, the Township Administrator shall approve the application and issue a license addressed to the applicant for the carrying on of the business applied for. The license shall contain the signature and seal of Caernarvon Township and shall show the name and address of the licensee, the kind of Goods to be sold thereunder, the area within which the activity will be

conducted, the amount of fee paid, the date of issuance and the period for which the same shall be operative, as well as the license number and other identifying description of any vehicle used. The Township Administrator shall also notify the Caernarvon Township Police Department of all licenses issued.

D. The Township Administrator shall issue or deny such a Transient Retail Business license to solicit or sell or take orders for such Goods, Wares, services or merchandise set forth in the applicant's application within ten (10) calendar days of the receipt of a completed application and payment of the prescribed fee.

Section 9. Appeal from denial of license.

Any Person aggrieved by a determination of the Township Administrator made under this Ordinance shall have the right of appeal to the Caernarvon Township Board of Supervisors. The appeal shall be taken by filing written notice of appeal with the Chair of the Board of Supervisors within ten (10) calendar days of the determination by the Township Administrator. The notice of appeal shall identify with specificity the grounds for appeal. A hearing on the denial shall be scheduled for the next regular meeting of the Board of Supervisors following the receipt of appellant's notice of appeal. Said hearing shall be held in accordance with the Local Agency Law, §5 (2 Pa.C.S.A. § 551, *et seq.*).

Section 10. License identification badge; display.

A. Upon approval of an application, Caernarvon Township shall issue a license identification badge to the applicant. Such license identification badge shall contain the name of the licensee, the license number, and date of expiration, the Goods, Wares or merchandise to be solicited together with an identification of any limitation of area within the Township authorized for the licensed Transient Retail Business.

B. A license identification badge shall be displayed by the licensee such that it is conspicuous at all times while the licensee is engaged in a Transient Retail Business from house to house or upon any of the streets, alleys, sidewalks or public grounds.

C. A licensee shall display such identification badge or other certificate issued by Caernarvon Township at the location where he or she shall engage in such business if doing so from a fixed location. He or she shall display the certificate, upon request, to all police officers, Township officials and citizens and residents of the Township.

Section 11. Operating regulations, prohibited acts.

It shall be unlawful for any Person while engaged in a Transient Retail Business to:

A. Engage in any such business without first obtaining a license therefor in compliance with the provisions of this Ordinance.

B. Engage in a Transient Retail Activity between the hours of 8:00 p.m. and 8:00 a.m., unless said activity is as a result of a request or an appointment made by the occupant.

C. Knock, ring the doorbell, or otherwise attempt to gain the attention of the occupant(s) of a building other than at the primary entrance to the building.

D. Knock, ring the doorbell, or otherwise attempt to gain the attention of the occupant(s) of a Residence in the Township where the owner, occupant, or Person legally in charge of the premises has posted at the primary entrance to the premises, or at the entry to the principal building on the premises, a sign bearing the words "No Peddlers," "No Solicitors," or words of similar import; provided, that the provisions of this section shall not apply to any Solicitor, Peddler or canvasser who knocks at any door, or rings any bell at the invitation or with the consent of some member of the household at which he or she so applied for admission.

E. Engage in a Transient Retail Business in an aggressive manner. As used in this section, "aggressive manner" means either approaching a Person present at a Residence or continuing the Peddling or Soliciting activity after the Person has made a negative response, whether before or after being invited into the Residence, in a manner that (1) is likely to cause a reasonable Person to fear imminent bodily harm or the commission of a criminal act upon property in a Person's possession or in or about the Residence, or (2) is intended to or is, likely to intimidate the Person into responding affirmatively to the Peddling or Soliciting activity.

F. Engage in Peddling or Soliciting activities from any vehicle while the vehicle is located upon any street, avenue, boulevard or alley within the Township. This section shall not apply to the delivery of previously ordered merchandise.

G. Misrepresent the purpose of the solicitation;

H. Continue efforts to solicit from an individual once that individual informs the Peddler or Solicitor that he or she does not wish to make a purchase;

I. Represent the issuance of a license issued under this Ordinance as an endorsement or recommendation of the Township.

J. Solicit in the Township without displaying the required license badge on his Person.

K. Solicit at locations other than those listed in his or her application for a license.

L. Fail or refuse to display such license identification badge upon the request of any Person demanding the same.

M. Duplicate, copy, forge or otherwise display a facsimile of a license badge issued under this Ordinance.

N. Alter, modify or forge the Criminal Record Check report required to be submitted in Section 5 of this Ordinance.



O. Engage in any activity that interferes with the safe and convenient movement of Persons and vehicles, creates any hazardous condition or is detrimental to the public health safety or general welfare.

Section 12. Hours of Operation.

Unless the license specifically provides otherwise, Soliciting, Peddling or taking orders whether by sample or otherwise for any Goods, Wares or merchandise from house to house in the Township shall be permitted only between the hours of 8 a.m. and 8 p.m., Monday through Saturday. There shall be no Soliciting, Peddling or taking orders on Sundays or holidays.

Section 13. Soliciting Restrictions.

No Solicitor or Peddler shall be permitted to operate:

- A. On any public space, within twenty five (25) feet of any street, intersection or pedestrian crosswalk.
- B. Within any parking lot of an existing business that would reduce the number of parking spaces available for customers of the business.
- C. Within twenty five (25) feet of any loading zone or bus stop, intersection or pedestrian crosswalk.
- D. Within two hundred (200) feet of another vending location assigned to another vendor on a public sidewalk.
- E. In any area within one hundred (100) feet of a building entrance or exit or, in the case of a hotel or motel, within two hundred fifty (250) feet of building entrances or exits.
- F. On the median strip of a divided roadway.
- G. Against display windows of fixed location businesses.
- H. Any area within one thousand (1,000) feet of a hospital, college, university, elementary school, middle school or high school.
- I. Within twenty five (25) feet of any fire hydrant or fire escape.
- J. Within twenty five (25) feet of any parking space or access ramp designated for Persons with disabilities.

Section 14. Transfer prohibited.

No license issued under the provisions of this Ordinance shall be transferred.

Section 15. Supervision; records and reports.

Caernarvon Township shall monitor the activities of all Persons holding licenses issued under this Ordinance and shall keep a record of all applications issued hereunder.

Section 16. License revocation, appeal.

A. Licenses issued under this Ordinance may be revoked by the Township Administrator for any of the following causes:

- (1) Fraud, misrepresentation or false statement contained in the application for license.
- (2) Fraud, misrepresentation or false statement made in the course of carrying on the business.
- (3) A violation of any of the provisions of this Ordinance.
- (4) Conviction of any criminal offense against Persons or property, theft, breach of the peace or any crime against or involving a minor.
- (5) Conducting the business in an unlawful manner or such a manner as to constitute a breach of the peace or to constitute a menace to the health, safety or general welfare of the public.

B. Any Person aggrieved by a decision of the Township Administrator to revoke a license shall have the right of appeal to the Board of Supervisors of Caernarvon Township. The appeal shall be taken by filing a written notice of appeal with the Chair of the Board of Supervisors within ten (10) calendar days after notice of the decision to revoke the license. The notice of appeal shall identify with specificity the grounds for appeal. A hearing on the revocation shall be scheduled for the next regular meeting of the Board of Supervisors following the receipt of notice of appeal. Said hearing shall be held in accordance with the Local Agency Law, §5 (2 Pa.C.S.A. § 551, *et seq.*).

Section 17. Compliance with Zoning required.

Nothing herein shall be construed to replace, supersede or otherwise amend any provision or regulation of the Caernarvon Township Zoning Ordinance, as amended.

Section 18. Violations and penalties.

Any Person who violates any of the provisions of this Ordinance shall, upon conviction thereof, be sentenced to pay a fine of not more than six hundred dollars (\$600.00), together with the costs of prosecution, and, in default of payment of such fine and costs, to imprisonment for not more than thirty (30) days.

Each day or portion thereof in which a violation exists shall be considered a separate violation. Each Section of this Ordinance that is violated shall be considered a separate violation.

Section 19. Repealer.

All ordinances or parts of ordinances that are inconsistent herewith including, specifically, Ordinance No. 29, are hereby repealed.

Section 20. Severability.


The provisions of this Ordinance are declared to be severable. If any section, sentence, clause, or phrase of this Ordinance shall for any reason be held to be invalid, illegal or unconstitutional by a court of competent jurisdiction, such decision(s) shall not affect the validity of any of the remaining sections, sentences, clauses, and phrases of this Ordinance. It is hereby declared as the legislative intent that this Ordinance would have been enacted had such unconstitutional, invalid or illegal provision not been included therein.

Section 21. Effective Date.

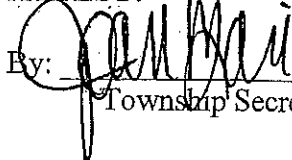
This Ordinance shall take effect and be in force five (5) days after its enactment by the Board of Supervisors of Caernarvon Township.

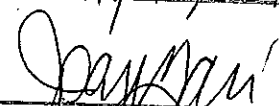
**DULY ENACTED AND ORDAINED** the 10<sup>th</sup> day of July, 2018, by the Supervisors of Caernarvon Township, Berks County, Pennsylvania, in lawful session duly assembled.

**BOARD OF SUPERVISORS  
CAERNARVON TOWNSHIP  
BERKS COUNTY, PENNSYLVANIA**

By:   
Allen Styer, III, Chairman

ATTEST:

By:   
Township Secretary

This a true and correct copy of Ordinance # 293 that was adopted by the Caernarvon Township Board of Supervisors on July 10, 2018  
  
Township Secretary