

**TOWNSHIP OF UPPER SAUCON
LEHIGH COUNTY, PENNSYLVANIA
ORDINANCE NO. 160**

**AN ORDINANCE OF THE BOARD OF SUPERVISORS OF THE TOWNSHIP
OF UPPER SAUCON, LEHIGH COUNTY, PENNSYLVANIA, REGULATING
SALES AND SOLICITATIONS ON THE STREETS AND ROADS OF THE
TOWNSHIP AND THROUGH DOOR-TO-DOOR VISITATION TO PRIVATE
HOMES AND RESIDENCES IN THE TOWNSHIP; DEFINING RELEVANT
WORDS AND PHRASES; ESTABLISHING A LICENSING PROGRAM;
PROVIDING FOR EXEMPTIONS AND PROVIDING FOR PENALTIES FOR
VIOLATION THEREOF**

Legislative Findings

WHEREAS, Article XV of the Second Class Township Code, Section 1506, titled "General Powers," grants to the Board of Supervisors (hereinafter, "Supervisors") the power to adopt ordinances for among other things, the maintenance of peace, trade and commerce; and

WHEREAS, Section 1527, titled "Public Safety," authorizes the Supervisors to adopt ordinances to secure the safety of persons or property; and

WHEREAS, Section 1532, titled "Regulation of Business," at sub-section (a), authorizes the Supervisors to license and regulate certain business activities within the Township, including certain, transient merchants; and

WHEREAS, Section 1532(b) authorizes the establishment of a licensing program and imposition of fees in connection with regulated business activities; and

WHEREAS, the Supervisors acknowledge the requirements of the Solicitation of Funds for Charitable Purposes Act (10 P.S. 162.1 *et. seq.*, hereinafter, "Act"); and

WHEREAS, Section 202 of the Act authorizes the Township to further regulate the solicitation of contributions, provided that such regulation does not alter any obligations set forth in the Act; and

WHEREAS, the Supervisors find that certain, transient business and other activities involving the use of streets and roads for solicitations and sales, as well as door-to-door solicitations and sales, creates hazards for motorists and pedestrians as well as unwanted intrusions and invasions of the privacy of residents, as well as the possibility of bodily harm; and

WHEREAS, the Supervisors find that that door-to-door solicitations may encourage or give rise to practices involving fraud, misrepresentation, deception and the

like, both as to the nature of the product or service promoted and the identity and reputation of the provider; and

WHEREAS, the Supervisors find that a reasonable licensing program should be established to require that persons engaged in sales and solicitations in the Township act safely, honestly and fairly in the promotion of goods and services and respect the privacy and security of residents.

NOW THEREFORE, the Supervisors of Upper Saucon Township hereby enact and ordain the following:

1. Definitions.

(a). The following words and phrases are defined as follows:

(1). Licensee. A person who submits an application for a license under this Ordinance and receives approval therefore. Where a licensee is a person other than an individual, every agent, servant or employee of the licensee conducting regulated activities in the Township shall also be a licensee and shall have all of the obligations attendant thereto.

(2). Person. Any individual, partnership, limited liability partnership, firm, company, limited liability company, corporation, association, or any other legal entity and with respect to each, its agents, servants and employees. This definition shall include for profit and not for profit entities.

(3). Regulated activity. Except as otherwise exempted by this Ordinance, any activity involving in whole or in part selling or offering for sale, canvassing, soliciting or the taking of orders, either by sample or otherwise, for any goods, wares, services or merchandise, including but not limited to: subscriptions for magazines and other printed material, the obtaining of contracts for home or building services, repairs or improvements, and the securing of contributions to various causes or organizations, upon any of the streets, sidewalks or rights-of-way of the Township or by house to house or visitation to private residences in the Township.

(4). Township. The Township of Upper Saucon, Lehigh County, Pennsylvania.

(b). Construction and interpretation.

(1). As used in this Ordinance and unless the context clearly indicates to the contrary, words in the singular include the plural and vice versa and words in one gender include all genders and the neuter.

(2). Any headings appearing in connection with sections, subsections or any parts of this Ordinance are for convenience only, are not intended to be full or precise

descriptions of the text to which they refer and are not to be considered part of this Ordinance.

2. **License Required.** Any person desiring to undertake a regulated activity shall first apply for, and obtain from the Township, a license in accordance with the requirements of this Ordinance.

3. **Application for License and Renewal.**

(a). Unless exempt pursuant to Section 7, below, any person desiring to engage in a regulated activity shall complete and file with the Township for review and approval an application for a license on a form to be provided by the Township.

(b). The application shall contain at a minimum the following information:

(1). If the applicant is an individual, he shall supply his full name; his business, home and temporary addresses (exclusive of post office boxes) and all telephone numbers to be used in the course of sales and solicitations in the Township;

(2). If the applicant is a person other than an individual, the agent completing the application shall supply the applicant's full name, business address (exclusive of post office boxes) and telephone number to be utilized in the course of sales and solicitations in the Township, together with the full name and home and business addresses (exclusive of post office boxes) of each agent, servant or employee conducting or expected to conduct regulated activities on behalf of the applicant in the Township and for each agent, servant or employee provide the information required by sub-sections (3), (5), (6) and (8), below;

(3). The applicant's address(es) for service and receipt of notices or process (exclusive of post office boxes) in connection with the license application and the performance of subsequent activities in connection therewith;

(4). A detailed description of the nature of the applicant's business, the activities proposed to be conducted in the Township and the specific products, services or other solicitations to be conducted;

(5). Proof of compliance with all licensing or certification requirements applicable to the applicant's business;

(6). A description of each conviction involving a non-summary offense, the date of each conviction and the jurisdiction in which the conviction occurred;

(7). A warning that the applicant's responses, statements and submissions are subject to 18 Pa. C.S.A. Section 4904, relating to "Unsworn Falsification to Authorities;" and

(8). A criminal history background check provided by the applicant.

(c). The applicant or its authorized agent, servant or employee shall submit in person to the Township an application, and at such time he shall provide for inspection and photocopying by the Township a lawful driver's license or other official form of identification, containing his picture. In addition, he shall pay the application fee as set forth in Section 7 of this Ordinance.

(d). Upon submission of the application and the payment of a fee, the Township shall accept the application for review and processing, which may include an investigation into the history or business of the applicant, his employer or his principal. Any application deemed incomplete shall be rejected and returned to the applicant with the fee.

(e). Within ten (10) business days of the date of submission of the application, the Township shall either approve the application and issue the license or deny the application and state the reasons therefore. Grounds for denial shall include, but are not limited to, those acts or omissions specified in Sections 4 and 5, below.

(f). The approval of the application and the issuance of the license shall cover only those activities expressly described in the application. The license shall be effective for a period of one year, commencing on the date of issuance.

(g). A license may be renewed, provided that the applicant shall file and submit for review and approval an application following the procedure required above. The Township may utilize a short form application for renewal. It shall be grounds for denial of any renewal application that the applicant has violated or is in violation of the law or any of the requirements of this or any other Township Ordinance.

(h). All licenses issued hereunder shall be personal to the applicant if an individual, or if other than an individual, personal to the agents, servants or employees specifically identified in the application. No license issued hereunder shall be transferable or assignable.

(i). At all times while conducting or engaging in regulated activities, a licensee shall maintain in his or her possession the original license issued by the Township or a true and correct copy thereof and shall upon request produce the same for inspection together with picture identification, if so requested.

4. Prohibited Acts. It shall be a violation of this Ordinance for any licensee to:

(a). Engage in regulated activities on legal holidays or on Sundays;

(b). Engage in regulated activities between the hours of 9:00 p.m. and 8:00 a.m., prevailing time on Monday through Saturday;

- (c). Disregard any sign prohibiting soliciting, sales, peddling or the like;
- (d). Conduct or engage in any activities beyond the express scope of the application or license;
- (e). Fail to have on his person at all times while engaged in regulated activities the original, or true and correct copy of, the license and an official form of picture identification;
- (f). Fail or refuse to produce upon request for inspection the original, or true and correct copy of, the license and an official form of picture identification;
- (g). Obstruct, be or present a hazard to pedestrian or vehicular traffic on the public streets, roads, sidewalks or other rights of way within the Township;
- (h). Erect or use any structure, whether temporary or permanent, in connection with any regulated activities;
- (j). Fail or refuse to leave or exit the premises of another upon request;
- (k). Engage in any acts or practices prohibited by the laws of this Commonwealth relating to unfair trade practices and consumer protection;
- (l). Solicit or attempt to solicit at any property identified on the “Do Not Solicit List;” and
- (m). Violate any of the provisions of this Ordinance.

5. License Suspension or Revocation. The following shall constitute grounds for the revocation or suspension of a license issued hereunder:

- (a). The making of any false statement by an applicant in connection with the procurement of the license;
- (b). The commission of a prohibited act by the licensee;
- (c). The conviction of the licensee of any offense involving a violent crime, a crime of *crimen falsi* or a crime which is punishable by a term of incarceration of one (1) year or more, regardless where committed;
- (d). A judicial determination that the licensee has violated any law or regulation relating to unfair trade practices, consumer protection or the solicitation of charitable contributions regardless where committed; and
- (e). With respect to the licensee’s employer or principal, any of the acts or omissions described in (a) through (d), above.

6. "Do Not Solicit List." The Township Manager is hereby authorized to establish, publicize and maintain a list of properties which, at the request of the owner or occupant, shall not be subject to solicitation. The Township shall provide a copy of the list to every person receiving a license under this Ordinance. The list shall identify only the properties and shall otherwise contain no personal information regarding the property owners or occupants.

7. Exempt Persons. The following persons shall be exempt from the requirements of this Ordinance:

- (a). Farmers selling their own produce;
- (b). Persons selling goods, wares and merchandise donated by the owners thereof, the proceeds whereof are to be applied to any charitable or philanthropic purpose;
- (c). Insurance agents or brokers authorized to transact business under the insurance laws of this Commonwealth;
- (d). Persons engaged in regulated activities on private property with the consent of the owner of that property; and
- (e). Persons engaged in protected, speech under the First Amendment to the Constitution of the United States of America and Article 1, Section 7 of the Constitution of the Commonwealth of Pennsylvania.

8. Setting of Fees. The application fee for obtaining a license under this Ordinance shall be fifty (\$50) dollars. The dollar amount of the application fee shall be subject to modification upon resolution of the Supervisors. The following licensees are exempt from payment of a fee:

- (a) Charitable or non-profit organizations and persons serving as volunteers on behalf of charitable or non-profit organizations who are then acting in the course and scope of fundraising activities for and on behalf of such organizations; and
- (b) Persons acting in full compliance with, and subject to, the Solicitation of Funds for Charitable Purposes Act of 1990, 10 P.S. Section 162.1 et. seq.

9. Appeals. Any person who upon submission of an application is denied a license or any licensee who has his license suspended or revoked may appeal such action to the Supervisors within 30 days of the date of such action by the Township. Upon receipt of an appeal hereunder, the parties shall proceed in accordance with the Local Agency Act, 2 Pa. C.S.A. Section 102, et. seq., and the requirements of Township Resolution 2005-38, or any successor ordinances or resolutions thereto.

10. Penalties for Violation. Any person who shall violate any provision of this Ordinance shall, upon conviction thereof before a District Justice, be subject to a penalty or fine in an amount not less than \$100.00 and not more than \$1000.00, together with the costs of prosecution and attorney fees; and in default of payment of such penalty, fine or costs, to imprisonment for a term not to exceed thirty (30) days for each such violation. Each day or portion thereof that such violation continues shall constitute a separate offense. The provisions of this Ordinance shall be enforced in the same manner as provided for the enforcement of summary offenses under the Pennsylvania Rules of Criminal Procedure.

11. Repealer. Ordinance 46, as amended, is specifically repealed, together with all ordinances or parts of ordinances inconsistent with the provisions hereof.

12. Invalidity. To the extent that any word, portion or provision of the text hereof is found by any court of competent jurisdiction to be invalid or void on constitutional or other grounds, such word, phrase, portion or provision shall, if possible, be deemed to be repealed and those valid portions of the text shall remain in full force and effect if the same can be accomplished without the structure of the ordinance having been destroyed by the elimination of that word, phrase, portion or provision found to be invalid or void.

13. Effective Date. This Ordinance shall become effective five (5) days after enactment by the Board of Supervisors of Upper Saucon Township.

DULY ENACTED AND ORDAINED this 13th day of October, 2014, by the Board of Supervisors of Upper Saucon Township, Lehigh County, Pennsylvania, in lawful session duly assembled.

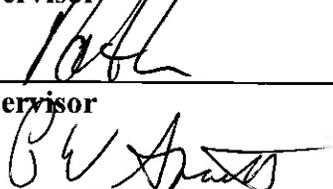
Chairman



Vice Chairman



Supervisor



Supervisor

Supervisor

ATTEST:



Secretary