

**ORDINANCE NO. 1 OF 2007**

**TOWNSHIP OF UPPER BURRELL  
WESTMORELAND COUNTY, PENNSYLVANIA**

An ordinance of the Township of Upper Burrell regulating and licensing certain transient retail businesses and prescribing penalties for violation.

The Board of Supervisors of the Township of Upper Burrell hereby ordains:

Definitions. As used in this Ordinance, 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 –

1. Engaging in peddling, soliciting, or taking orders, either by sample or otherwise, for flowers, any goods, wares, or merchandise upon any street, alley, sidewalk, or public ground, or from house to house, within the Township of Upper Burrell; or
2. Selling, soliciting, or taking orders for flowers, any goods, wares, or merchandise, from a fixed location within the Township of Upper Burrell, on a temporary basis, which shall include, but not be limited to, such activities conducted at the time of special occasions or celebrations, for seasonable purposes, or for or in advance of specific yearly holidays.

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

1. License Required: Conditions of Issuance; Fee. No person shall engage in any transient retail business described herein within the Township of Upper Burrell without first having obtained from the Police Chief a license, for which a fee, which shall be for the use of the Township of Upper Burrell, shall be charged:

\_\_\_\_\_ (\$75.00) for one day/per site

\_\_\_\_\_ (\$225.00) for one week/per site

\_\_\_\_\_ (\$375.00) for one month/per site  
\_\_\_\_\_ (\$900.00) for one year/per site

The Board of Supervisors may set and change the fees for permits under this Ordinance by Resolution.

2. 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, sell and the like, and who represent the Boy Scouts or Girl Scouts or similar organizations;
  - E. To any honorable discharged member of any of the armed services who complies with the Act of 1867, April 8, P.L. 50, 60 P.S. 61 (1982), hereafter amended, supplemented, modified or re-enacted by the General Assembly of Pennsylvania, and who procures from the Prothonotary a certificate in pursuance of the Act of 1867;
  - F. To the seeking or taking of orders by 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 re-enacted 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.
  - I. To any permanent resident of the Township of Upper Burrell or any individual who owns a business or headquarters in Upper Burrell.

Provided, any person dealing in one or more of the above mentioned 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 section for his activities in connection with the sale of goods, wares, and merchandise not in such exempted categories. Provided further: the Police Chief may similarly exempt from payment of the license fee, but not from registering with him, persons working without compensation and selling non-exempt 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 therein.

3. License Application. Every person desiring a license under this ordinance shall first make application to the Police Chief 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 and license number of the vehicle to be used, if any.
  
4. Issuance of License: Custody, Display and Exhibit. Upon receipt of such application and the prescribed fee, the Police Chief, if he shall find such application in order, shall issue the license required under this ordinance. Such license shall contain the information required to be given on the application therefore. 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, or shall display such license at the location where he shall engage in such business if doing so at a fixed location. He shall exhibit such license, upon request, to all police officers, municipal officials and citizens or residents of the Township of Upper Burrell.
  
5. 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, alley, sidewalks, or public grounds in the Township of Upper Burrell
  - c. When operating from a vehicle, stop or park such vehicle upon any of the streets or alleys in the Township of Upper Burrell for longer than necessary in order to sell there from to persons residing or working in the immediate vicinity

- d. Park any vehicle upon any of the streets or alleys in the Township of Upper Burrell 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 unsalable through handling, age or otherwise
    - e. Engage in any business activity, except by prior appointment, at any time prior to dawn or after dusk
6. Supervision: Records and Reports. The Police Chief shall supervise the activities of all persons holding licenses under this ordinance. He shall keep a record of all licenses issued hereunder and shall make a report thereof each month to the Supervisors.
7. Suspension and Revocation of License: Appeal. The Police Chief is hereby authorized to suspend or revoke any license issued under this ordinance when he deems such suspension or revocation to be beneficial to the public health, safety, or morals, for violation of any provision of this ordinance, or for giving false information upon any application for a license hereunder. Appeals from any suspension or revocation may be made to the Township Supervisors at any time within ten (10) days after such suspension or revocation. No part of a license fee shall be refunded to any person whose license shall have been suspended or revoked.
8. Penalties. Any person, firm or corporation who shall violate any provision of this ordinance shall, upon conviction thereof, be sentenced to pay a fine not more than One Thousand Dollars (\$1,000.00), and/or imprisonment for not more than thirty (30) days. Each day that a violation of this ordinance continues shall constitute a separate offense.
9. Repealer. All ordinances or parts of ordinances that are inconsistent herewith are hereby repealed.
10. 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 Supervisors that this ordinance would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein.
11. Effective Date. This ordinance shall become effective on August 11, 2007.

**ORDAINED AND ENACTED** into an Ordinance this 6th day of August 2007.

TOWNSHIP OF UPPER BURRELL

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Ross G. Walker, III, Chairman

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Peter F. Dombroski, Jr., Vice-Chairman

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Thomas C. Baker, Supervisor

ATTEST:

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Kimberly Rittiger, Secretary

**PERMIT TO SOLICIT APPLICATION**

NOTE: The Applicant must answer all questions in detail and appear in person for permit

**Full Name:** \_\_\_\_\_ **Phone:** ( ) \_\_\_\_\_

**Address:** \_\_\_\_\_

**Date of Birth:** \_\_\_\_\_ **S.S. #** \_\_\_\_\_

**Driver's Lic. #** \_\_\_\_\_ **State:** \_\_\_\_\_

**Sex:** M \_\_\_\_\_ F \_\_\_\_\_ **Age:** \_\_\_\_\_ **Height:** \_\_\_\_\_ **Weight:** \_\_\_\_\_

**Hair Color:** \_\_\_\_\_ **Eye Color:** \_\_\_\_\_

**Race:** \_\_\_\_\_

**Business Name:** \_\_\_\_\_

**Business Address:** \_\_\_\_\_

**Supervisor Contact Phone Number:** \_\_\_\_\_

**Location of Soliciting:** \_\_\_\_\_

**Type of Soliciting:** \_\_\_\_\_

**Dates of Permit:** \_\_\_\_\_

**Charitable Organization:** \_\_\_\_\_

**\*\*\*Must have a copy of Grant of Exemption**

**Vehicle:** \_\_\_\_\_ **Registration Plate:** \_\_\_\_\_ **State:** \_\_\_\_\_  
(Make) (Model) (Color)

**Have you ever been arrested, indicted, or convicted of any violation of law?** \_\_\_\_\_  
**If so, state each occasion and disposition of such charges:**

\_\_\_\_\_  
\_\_\_\_\_

**Are you an Upper Burrell resident?** \_\_\_\_\_

**Do you have a business in Upper Burrell?** \_\_\_\_\_

**I understand that providing false information on this application could subject me to a \$1,000 fine for violating Upper Burrell Township Ordinance No. 1 of 2007.**

**Signature:** \_\_\_\_\_ **Date:** \_\_\_\_\_

**FEES: \$75 per day/ per site - \$225 per week/per site - \$375 per month/per site - \$900 per year/per site (The Board of Supervisors may set and change the fees for permits by Resolution)**

**NOTE: Fees do not apply to Upper Burrell residents or businesses**

**\*\*\*\*\*PHOTO IDENTIFICATION MUST ACCOMPANY APPLICATION\*\*\*\*\***

**Approved** \_\_\_\_\_ **Date** \_\_\_\_\_  
**Kenneth Pate, Chief of Police**

**Disapproved** \_\_\_\_\_ **Date** \_\_\_\_\_  
**Kenneth Pate, Chief of Police**