

GORDON BOROUGH, SCHUYLKILL COUNTY
COMMONWEALTH OF PENNSYLVANIA
ORDINANCE NO. 06102014

AN ORDINANCE OF GORDON BOROUGH, SCHUYLKILL COUNTY, COMMONWEALTH OF PENNSYLVANIA, REQUIRING A LICENSE TO ENGAGE IN TRANSIENT RETAIL BUSINESS IN THE BOROUGH; OUTLINING AN APPROPRIATE APPLICATION; CREATING EXCEPTIONS; GOVERNING ISSUANCE; DESCRIBING PROHIBITED ACTS; ALLOWING REVOCATION; ESTABLISHING A REVIEW PROCESS; AND PRESCRIBING PENALTIES FOR VIOLATIONS.

WHEREAS, Gordon Borough Council desires to regulate transient retail businesses within the Borough to lessen the potential for fraud upon unwary citizens, particularly a significant elderly population, to lessen the chance of crime, and to protect the privacy rights of citizens in their homes; and

WHEREAS, criminal background checks can be performed by Borough officials via the internet on persons seeking to engage in transient retail business within the Borough, but the performance of such checks would cost the Borough a fee; and

WHEREAS, the regulation desired by the Borough is sanctioned by Sections 46202(20) and 46203 of the Pennsylvania Borough Code, 53 P.S. §§46202(20),46203;

NOW, THEREFORE, the Council of Gordon Borough hereby ORDAINS the following:

Section 1. Title.

This Ordinance shall be known and may be cited as the Gordon Borough Transient Retail Business Ordinance.

Section 2. Definitions and Interpretation.

The following words when used in this Ordinance shall have the meanings ascribed to them in this Section, unless the context clearly indicates otherwise; in addition, the singular shall include the plural, the plural shall include the singular, and the masculine shall include the feminine and neuter.

“Borough” - Gordon Borough, Schuylkill County, Commonwealth of Pennsylvania.

“Person” - any natural person, partnership, firm, association, corporation or legal entity of any kind.

“Transient Retail Business” - engaging in peddling, canvassing, soliciting or taking orders, either by sample or otherwise, for any goods, wares, services or merchandise, upon any street, sidewalk, or public ground, or from house to house, within the Borough; and selling, soliciting or taking orders for any goods, wares, services or merchandise, from a fixed location within the Borough, where such

location is fixed only on a temporary 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 or in advance of specific yearly holidays, or conducting business at a regular location which is not owned by the business operator and does not constitute a fixed address of the business.

Section 3. License Required.

A. Except as provided in Section 5 of this Ordinance, no Person shall engage in any Transient Retail Business within the Borough without a valid license issued pursuant to this Ordinance to engage in Transient Retail Business within the Borough.

B. Each separate Person engaging in a Transient Retail Business in the Borough shall obtain a separate license of his/her own, even if more than one such Person is employed by the same employer.

C. Each Person engaging in a Transient Retail Business in the Borough shall carry with him/her, and be able to produce to each potential customer or any Borough official or police officer, and shall produce same upon request, his/her license and some form of photo identification listing a name that matches the name on the license.

Section 4. License Application

A. A license application shall be made to the Borough Secretary or to any other official who may be designated by the Borough from time to time by Resolution to receive such applications.

B. Any Person seeking to obtain a license to engage in Transient Retail Business in the Borough shall, at the time of application therefor to the Borough Secretary or designated official, pay an application fee of \$50.00, which fee is amendable from time to time by Resolution. The fee required by this Sub-Section may be waived by the Borough Secretary or designated official if the Person seeking the license will engage in Transient Retail Business which will wholly benefit a charitable or non-profit purpose, or if the applicant is a farmer seeking to sell only produce which he/she produced or grew himself/herself.

C. Any Person seeking to obtain a license shall accurately provide the following information in writing to the Borough Secretary or designated official: his/her name; his/her address; his/her date of birth; whether he/she has any prior criminal convictions for burglary, robbery, theft, receiving stolen property, any sexual related offense for which registration is required pursuant to 42 Pa.C.S.A. §9799.10 through §9799.41 (or the law of any other state commonly referred to as "Megan's Law"); the name of the entity by whom the applicant is employed; the business address of the applicant or his/her employer; the type of goods, wares, services or merchandise he/she wishes to attempt to sell; the length of time (up to 6 months) for which such license is requested; the type of vehicle and the license plate number thereof to be used by him/her in conducting the Transient Retail Business. Any

information provided pursuant to this Sub-Section shall be updated in writing to the Borough Secretary or designated official if any of the information changes during the validity of the license.

Section 5. Exceptions License Requirement

A. No Person who is under the age of 18 and who is seeking to sell/provide goods, wares, services or merchandise in the nature those described in the following Sub-parts 1 through 3 shall be required to obtain a license pursuant to this Ordinance.

1. Items sold to raise funds for organizations to which children belong such as girl scouts or little league;
2. Items sold to benefit a school or to fund a school related activity;
3. Lawn mowing, snow shoveling, or other similar property maintenance activities.

Section 6. Issuance of License

A. Upon receiving the information in writing required by Section 4C of this Ordinance, and any fee required by Section 4B of this Ordinance, the Borough Secretary or designated official shall issue the applicant a license, unless the Borough Secretary or designated official concludes that the issuance of the license would be detrimental to the health, safety or welfare of the citizens or residents of the Borough.

B. The license shall be in the form provided by Exhibit A to this Ordinance. The form required by this Sub-section may be amended from time to time by Resolution.

C. The Borough Secretary or designated official, or any other Borough official, may verify the criminal background information contained in the license application via internet criminal background check. The Person to whom a license has been issued may be asked to provide additional information to facilitate such an internet criminal background check.

D. Any license issued under this Section shall be issued for the period of time either requested by the applicant in the application, or for the period of time granted in the discretion of the Borough Secretary or designated official when the Secretary or official concludes that a lesser period of time is necessary to protect the health, safety or welfare of the citizens or residents of the Borough, but in no instance shall the license be issued for a period in excess of 6 months.

E. The Borough Secretary or designated official shall keep records of all applications received and licenses issued, and copies of all licenses issued.

Section 7. Prohibited Acts

A. No Person with a license issued pursuant to this Ordinance shall do any of the acts stated in the following Sub-parts 1 through 5.

1. Attempt to sell any goods, wares, services or merchandise not mentioned or generally described in his/her license;
2. Enter upon the property of any resident of the Borough who has added his/her name and address to a list of residents who do not desire to have Persons engaged in Transient Retail Businesses on their property, and who consider any such entry to be trespassing pursuant to 18 Pa.C.S.A. §3503(b) (this list shall be maintained by the Borough Secretary, and a copy of the list shall be handed to each license applicant with an issued license);
3. Enter upon the property of any resident of the Borough for the purpose of attempting to sell/provide goods, wares, services or merchandise prior to 8:00 a.m. or after 7:00 p.m. except by advance appointment;
4. Permit any other Person to use his/her license for said other Person to conduct Transient Retail Business in the Borough;
5. Represent that the license is an endorsement by the Borough of either the Person issued the license, or the goods, wares, services and merchandise being sold by the Person issued the license.

Section 8. Revocation of License

A. The Borough Secretary or designated official may revoke a license for any of the reasons stated in the following sub-parts 1 through 3.

1. Providing false information on the written license application required by Section 4C of this Ordinance;
2. If the Person issued the license fails to reasonably cooperate pursuant to Section 6C of this Ordinance;
3. If the Person issued the license engages in any of the acts prohibited by Section 7A1-5 of this Ordinance.

B. Revocation of an issued license is effective either when the Borough Secretary or designated official, or a Borough Code Enforcement Officer or police officer, or when the Borough Mayor, verbally informs the licensee that his/her license is revoked and the reason therefor, or 3 days after a first class mailing of notice of revocation and the reason therefor to the licensee's address provided pursuant to Section 4C of this Ordinance.

Section 9. Review

A. Borough Council reserves the right to itself to mandate the issuance of a license denied or not issued, to reinstate a license revoked, or to alter the period of time a license is issued for, by the Borough Secretary or designated official.

B. Any Person aggrieved by a denial, non-issuance, revocation, or an issuance for a period time less than that requested, may seek relief from Borough Council by either:

1. Appearing before Borough Council at a public meeting and requesting relief; or
2. Submitting a written letter requesting relief and stating the reasons therefor to the Borough Secretary. If the Borough Secretary receives such a written request, he/she shall present such letter to the Borough Council at the next public meeting following receipt.

Section 10. Penalties

Any Person violating any provision of this Ordinance is subject to prosecution by action brought before a Magisterial District Judge in the same manner provided for the enforcement of summary offenses under the Pennsylvania Rules of Criminal Procedure. Any Person found in violation of any provision of this Ordinance shall pay a fine not less than \$100.00 nor more than \$1,000.00, plus court costs, and/or may be imprisoned either for a violation of any provision of this Ordinance or for failure to pay a fine or costs previously imposed for a term not to exceed 90 days. A separate offense shall arise for each day or portion thereof in which a violation of any provision of this Ordinance exists.

Section 11. Severability

If any section, part, sentence, clause or portion of this Ordinance is found by a court of competent jurisdiction to be illegal or unenforceable, the rest and remainder of this Ordinance shall be given full force and effect as if adopted by the Borough without the section, part, sentence, clause or portion found illegal or unenforceable.

Section 12. Repealer

All prior Borough Ordinances or portions thereof inconsistent with the provisions of this Ordinance are hereby repealed to the extent necessary to give effect to this Ordinance.

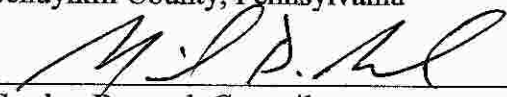
Section 13. Effective Date

This Ordinance shall be effective immediately upon enactment or on the first day allowed by law thereafter, whichever occurs first.

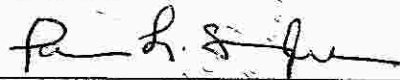
ENACTED and ORDAINED this 10th day of June, 2014.

BOROUGH OF GORDON
Schuylkill County, Pennsylvania

BY: _____


Gordon Borough Council
President Michael D. Rader

ATTEST:



Paul L. Snyder, Secretary

Approved this 10th day of June, 2014



Mayor
George D. Brocius

EXHIBIT "A"

TO GORDON BOROUGH

ORDINANCE NO. 06102014

LICENSE

This License allows _____ to engage in Transient Retail Business as
Name of Licensee

defined in Gordon Borough Ordinance No. 06102014 in Gordon Borough for the purpose of attempting

to sell, peddle, solicit, or take orders for the following goods, wares, services or merchandise: _____

This License is issued on _____

and is valid for a period of _____ months.

Secretary or Designated Official