

ORDINANCE 10-4
[Formerly Ordinance 188]

AN ORDINANCE REGULATING AND LICENSING EACH AND EVERY PERSON OR OTHER BUSINESS ENTITY ENGAGED IN ANY TRANSIENT RETAIL BUSINESS WITHIN THE BOROUGH OF MERCERSBURG FOR THE SALE OF GOODS, WARES, OR MERCHANDISE; PROVIDING FOR FEES FOR SUCH LICENSING, AND PROVIDING FOR PENALTIES FOR VIOLATION OF SUCH ORDINANCE, AND REPEALING ORDINANCE NO. 34.

Be it enacted and ordained by the Mayor and Borough Council of the Borough of Mercersburg, and it is hereby enacted by authority of the same:

SECTION 1: This ordinance shall be known as "The Transient Retail Business Licensing Ordinance of the Borough of Mercersburg."

SECTION 2: As used in this ordinance, the following terms shall have the following meanings:

- A. "Person" -- Any natural person, firm, partnership, or corporation whether engaging in business in its own name or in any registered or unregistered fictitious name.
- B. "Transient Retail Business"-- The sale of goods, wares, or merchandise by any person by peddling, soliciting, or taking of orders from house to house whether or not such person also maintains a fixed location within or without the Borough for the conduct of each business.
- C. "Secretary" -- The Borough Secretary or other employee of the Borough designated by the Borough secretary to process license applications under this Ordinance.

SECTION 8: No person shall hereafter engage in any transient retail business within the Borough of Mercersburg unless and until such person has procured a Transient Retail Business License from the Borough Secretary. The engaging in any transient retail business within the Borough of Mercersburg without hereby first having procured such license is hereby declared to be unlawful.

SECTION 4: Any person may apply to the Borough secretary for a Transient Retail Business License on forms to be supplied by him for that purpose. The applicant shall provide the following information:

- (1) The name, home address and social security number of the applicant;
- (2) The name and address of the firm represented by the applicant if the applicant is not the sole proprietor;
- (3) The name, home address, and social security number of each person who will solicit under the license;
- (4) The name, address, and phone number of three persons who can vouch for the business integrity of applicant; and
- (5) The length of time (not to exceed one year) during which applicant intends to conduct a transient retail business in the Borough.

The applicant shall sign and verify the application.

SECTION 6: At the time of applying for the license, each applicant (unless otherwise exempted) shall pay to the Borough Secretary a license fee of \$26.00.

SECTION 6: The Borough Secretary shall issue or deny a Transient Retail Business License within ten days following receipt of the application for the same. The license shall be issued unless the Borough Secretary finds from the facts available to him that to do so would result in fraudulent solicitation.

SECTION 7: In the event a license is denied by the Borough Secretary, he shall notify the applicant of such denial. Such applicant shall have the right to file a written protest to the refusal. The Borough Secretary shall hold a hearing within five days after receipt of the written protest, and shall permit the applicant to offer such testimony or other evidence as he sees fit. Within five days after hearing, and based upon such facts as shall have been raised at the hearing by any person present at the hearing, the Borough Secretary shall issue the license or shall again deny the same. Any person denied such license shall have the right to appeal the same to any court of record.

SECTION 8: If the license is denied, the sum of fifteen (\$15.00) dollars shall be refunded to the applicant at the time of denial. If, after hearing or appeal, the license is subsequently issued, the applicant shall repay the said sum to the Borough.

SECTION 9: The Borough Secretary may summarily revoke the license issued to any person upon receiving any complaint which he believes to be true showing that any person to whom a license has been issued has engaged in any fraudulent practice, or made any false representation, or has engaged or attempted to engage in any improper dealing, or has made a nuisance of himself. Any person whose license has been so revoked shall be notified of the revocation, and shall have the right to request a hearing before the Borough Secretary within ten days of the revocation. If, after such hearing and after consideration of all facts brought forth at such hearing, the Borough Secretary shall not rescind his revocation of the license the person aggrieved may appeal as aforesaid.

SECTION 10: All hearings required to be held by this ordinance shall be conducted in an orderly manner, and the person aggrieved shall have the fullest opportunity to present his position to the Borough Secretary. However, the technical rules of evidence shall not apply to such a hearing.

SECTION 11: Although a license shall be required no license fee shall be charged under this Ordinance:

- (1) To persons engaged in any transient retail business where the entire profit therefrom goes to any church, school, school class, charity, community activity, and the like.
- (2) To farmers selling their own produce;

(3) To any manufacturer or producer in the sale of bread and bakery products, meat and meat products, or milk and milk products (except that ice cream and frozen dessert shall not be deemed to be milk or a milk product).

SECTION 12: At the time of issuing a license, the Borough Secretary shall also provide the person receiving the same with a sufficient supply of forms for such person to make appropriate returns for the "Wage and Net Profits Tax" of this Borough.

SECTION 13: Any person violating any provision of this ordinance shall, upon summary conviction before a District Justice, be sentenced to pay a fine not in excess of one hundred (\$100.00) dollars for each violation, or to imprisonment in the county jail for not more than thirty (30) days, or both.

SECTION 14: Ordinance No. 34 of this Borough is hereby repealed.

Enacted and ordained as an ordinance this sixth day of March, 1972.

RICHARD KAUFFMAN
Pres. Mercersburg Borough Council

ATTEST:

W. N. KAUFFMAN
Borough Secretary.

MAYOR'S APPROVAL

AND NOW, this 6th day of March 1972, this Ordinance is hereby approved.

RALPH E. KEEFER
Mayor of Mercersburg

**MERCERSBURG BOROUGH
TRANSIENT RETAIL BUSINESS LICENSE
APPLICATION**

Date of Application ____/____/____

Name of Applicant _____

Social Security # Applicant ____ - ____ - ____ Applicant Phone (____) ____ - ____

Applicant Home Address _____

Applicant Drivers License Number & State _____

Name of Firm Represented _____

Name, home address, phone, driver's license number and social security number of each person who will solicit under the license:

Name _____

Drivers License Number & State _____

Phone: (____) ____ - ____ Social Security Number ____ - ____ - ____

Home Address _____

Name _____

Drivers License Number & State _____

Phone: (____) ____ - ____ Social Security Number ____ - ____ - ____

Home Address _____

Name _____

Drivers License Number & State _____

Phone: (____) ____ - ____ Social Security Number ____ - ____ - ____

Home Address _____

Length of time (not to exceed 1 year) during which applicant intends to conduct transient retail sales in the Borough.

Start Date: ____/____/____ Finish Date ____/____/____

Printed Name: _____ Applicant Signature _____

Supply three (3) persons who can vouch for the business integrity of applicant.

NAME: _____

ADDRESS: _____

PHONE: _____

NAME: _____

ADDRESS _____

PHONE: _____

NAME: _____

ADDRESS: _____

PHONE: _____

This section to filled out by Borough Personnel

Application ___ Approved or Denied _____

Reason for Denial _____

Borough representative signature _____ Printed Name _____

Date ___/___/___

Fee Paid (\$26.00) YES _____ Exempt _____