

BOROUGH OF GLEN OSBORNE

ORDINANCE No. 407

AN ORDINANCE OF THE BOROUGH OF GLEN OSBORNE, ALLEGHENY COUNTY, PENNSYLVANIA, PROHIBITING THE SOLICITATION OF CONTRIBUTIONS AND THE SELLING, PURCHASING, OR SOLICITING THE SALE OR PURCHASE OF GOODS AND SERVICES FROM HOUSE TO HOUSE AND ON THE PUBLIC STREETS OF THE BOROUGH OF GLEN OSBORNE WITHOUT A TRANSIENT RETAIL MERCHANT'S LICENSE; PROVIDING FOR THE APPLICATION AND CONDITIONS FOR SUCH LICENSES; ESTABLISHING PROCEDURES FOR CONDUCT IN CARRYING ON SUCH REGULATED ACTIVITY; PROVIDING FOR REVOCATION OF LICENSES IN CERTAIN CASES; EXEMPTING CERTAIN PERSONS FROM THE LICENSE REQUIREMENTS; FIXING PENALTIES FOR VIOLATIONS OF THE ORDINANCE; AND REPEALING PRIOR INCONSISTENT ORDINANCES

WHEREAS, the BOROUGH OF GLEN OSBORNE desires to protect the public health, safety and welfare of the residents of the Borough, to prevent fraudulent sales activity, prevent crime, and protect the privacy of residents of the Borough, all by restricting the ability of certain persons to go from door-to-door in the Borough;

WHEREAS, the BOROUGH OF GLEN OSBORNE adopted and approved Ordinance NO. 274 for the purpose of regulating the conduct of door-to-door commercial salespersons and charitable solicitors by the use of a revocable license and application procedure, and provide for certain rules of conduct, procedures for the application for a permit, and certain fines for violations hereof, and

WHEREAS, the BOROUGH OF GLEN OSBORNE has decided that it would be in the best interest of the Borough and its residents to amend Ordinance No. 274 and update it with a new Ordinance that contains substantial modifications designed to accommodate changes in the law and the community since Ordinance No. 274 was first enacted;

NOW, THEREFORE, BE IT ORDAINED AND ENACTED by the Borough of Glen Osborne, Allegheny County, Pennsylvania, and it hereby is ordained and enacted by the authority of the same as follows:

SECTION 1: From and after the enactment of this Ordinance, it shall be unlawful for any person who is not the holder of a valid and unexpired license issued pursuant to this Ordinance, or otherwise exempt from this Ordinance, to sell, purchase, or solicit the sale or purchase of food, printed matter, building and construction services, and all other services, goods, wares, or merchandise of any kind or description, or to solicit contributions, gifts, or pledges of money or any other thing of value, by visiting the private homes or residences or on the streets or highways of the Borough of Glen Osborne.

SECTION 2: A. Any person desiring to obtain a license to engage in the activities described in SECTION 1 shall make application in person to the Borough Secretary of the

Borough of Glen Osborne, or to his or her designated employee, at the Borough of Glen Osborne Office during the hours set forth for this purpose by the Borough.

B. The applicant shall supply, on a written form provided by the Borough of Glen Osborne, the following information over the applicant's signature subject the penalties of 18 Pa. C.S.A. Section 4904 relating to unsworn falsification to authorities:

- (1) the applicant's name;
- (2) the applicant's place and date of birth;
- (3) the applicant's temporary address;
- (4) the applicant's residence address;
- (5) the address at which the applicant will receive notices under this Ordinance;
- (6) the name and address of the applicants employer or principal, if any, and the nature of the business activity thereof,
- (7) the nature of the business or activity in which the applicant wishes to engage within the Borough of Glen Osborne, being as specific as possible;
- (8) a statement as to whether the applicant has been convicted in any jurisdiction of any crime other than of minor traffic violations and, if so, of what crime or crimes and what punishment was imposed;
- (9) if a motor vehicle is to be used by the applicant to enter, leave or travel upon the streets of the Borough of Glen Osborne, the make, model, color and registration number of the motor vehicle;
- (10) the applicant shall submit to the Borough Secretary a written description of the applicant and the applicant's photograph, approximately two inches by two inches in size showing the head and shoulders of the applicant in a clear and distinguishing manner;
- (11) the applicant shall submit a legible photocopy of his or her state vehicle operator's license or other state photo identification.

C. The applicant shall pay a fee to the Borough of Glen Osborne in the amount set forth below:

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|-------------------------|--------|
| For a one week permit: | \$ 100 |
| For a one month permit: | \$ 400 |

D. The Borough Secretary shall cause a record of the application to be kept on file and made available as needed to enforce the provisions of this Ordinance.

E. After submission of the completed application, the fee, and the supporting evidence set forth above, the Borough Secretary shall cause to be made an investigation into the accuracy and completeness of the information provided in the application and the character and business responsibility of the applicant. If the information provided is correct and if the applicant's character and business responsibility are satisfactory, the Borough Secretary shall grant the application and issue the license in writing over his or her signature. If the information provided is not accurate or if the Borough Secretary finds that the applicants character or business responsibility is unsatisfactory, the Borough Secretary shall deny the application in writing over his or her signature, stating all of the reasons therefore and shall notify the applicant at the address set forth in the application. An issued license shall entitle the licensee to engage in the activities described in SECTION 1 for the period for which the appropriate fee has been paid from the date of issuance. A denied application shall entitle the applicant to appeal as set forth below.

F. Licensees may renew their licenses periodically by paying the fee set forth in this section and by updating their applications to reflect any changes in the information provided.

SECTION 3: Every person to whom a license has been issued shall, in the carrying on of the licensed business activities in the Borough of Glen Osborne, comply with the following rules of conduct:

A. The licensee shall carry the license card at all times and exhibit it upon request to any police officer or any person upon whom he or she shall call, or with whom he or she shall talk in carrying on the licensed activities.

B. The licensee shall not permit any other person to have possession of the license card and shall immediately report its loss or theft to the Secretary of the Borough of Glen Osborne or to the police. The licensee shall not cause or permit the license card to be altered or defaced. The license is personal to the applicant and may not be transferred, given or assigned to any other person.

C. The licensee shall not enter, or attempt to enter any dwelling house without invitation or permission of the occupant and shall immediately leave any premises upon request. The licensee shall not engage in any conduct licensed under this Ordinance upon any premises displaying a sign prohibiting such activity.

D. The licensee shall not represent the license card to be an endorsement of the licensee or his or her goods or services or of the goods or services of the principal or employer.

E. The licensee shall immediately surrender the license card upon revocation of the license as hereinafter provided.

F. Licensees are permitted to operate Monday through Saturday between the hours of 9:00 a.m. and 8:00 p.m. local prevailing time. There shall be no soliciting under this Ordinance at any time on Sundays or on any holiday on which the Allegheny County Courts are closed.

G. No licensee hereunder shall have the exclusive right to any location in the public streets or sidewalks, nor shall any licensee hereunder be entitled to a stationary location thereon.

SECTION 4: Any license hereafter issued may be revoked by the Borough of Glen Osborne after notice and a hearing for any of the following reasons:

A. Upon failure of the licensee to comply with the standards of conduct established under SECTION 3 hereof;

B. For fraud, material misrepresentation or false statement in the application for license hereunder;

C. For any violation of this Ordinance;

D. For conviction of any crime or misdemeanor involving moral turpitude;

E. Conducting business in an unlawful manner or in such a manner as to constitute a breach of the peace or to constitute a menace to the health, safety or welfare of the public.

Notice of a hearing shall be given in writing setting forth the grounds for revocation. Notice shall be personally served or sent by registered mail to the address designated for this purpose in the application for license. Notice shall be given at least seven days prior to the hearing. Any person subject to a license revocation hearing shall be entitled to appear, with or without counsel, and offer documentary and witness evidence.

SECTION 5: Any person aggrieved by the action of the Borough Secretary in denying a license may appeal to the Borough of Glen Osborne by written application setting forth the grounds for the appeal and filed within 14 days after notice of the action complained of has been mailed to the address set forth in the application. Application for appeal shall be accompanied by an appeal fee of \$100.00. The Borough of Glen Osborne shall set a time and place for the hearing. Notice of the hearing shall be given to the applicant by writing mailed to the address on the application.

SECTION 6: The following persons shall not be required to conform their conduct to the provisions of SECTION 3 when engaged in activities set forth in SECTION 1:

A. Persons soliciting contributions on behalf of organizations or non-profit corporations exempted from the provisions of, or duly registered pursuant to, the act of December 19, 1990, P.L. 1200, 10 P.S. 162.1 et seq (The Solicitation of Funds for

Charitable Purpose Act), as amended; who, while soliciting, are organizations or non-profit corporations exempted from the provisions of, or duly registered pursuant to, the act of December 19, 1990, P.L. 1200, 10 P.S. 162.1 et seq (The Solicitation of Funds for Charitable Purpose Act), as amended; who, while soliciting, are possessed of a card or other evidence of their appointment or authority to solicit for said organization or corporation.

B. Persons who have been licensed by the Commonwealth of Pennsylvania to engage in an activity described in SECTION 1 hereof, when so engaged; including, without limitation, real estate, insurance or securities brokers and salespersons.

SECTION 7: The following persons shall not be required to obtain a license described in SECTION 2, but shall be required to conform their conduct to the provisions of SECTION 3 when engaged in activities set forth in SECTION 1:

All persons who are eighteen years of age or under who are otherwise engaged in activity regulated by this Ordinance on behalf of:

All persons, organizations or non-profit corporations granted tax exempt status under section 501(c3) of the Internal Revenue Code of 1986 (Public Law 99-154), 26 U.S. Code 501(c) (3); and

All persons, organizations or non-profit corporations exempt from the registration requirements of the Act of December 19, 1990 P.L. 12200, 10 P.S. 1616 (The Solicitation of Funds for Charitable Purposes Act), provided the conditions of section 162.6 are met.

SECTION 8: If any section, provision or part of this Ordinance shall be held unconstitutional, such unconstitutionality shall not affect the validity of the remaining sections, provisions or parts of this Ordinance. The Borough of Glen Osborne hereby declares that it would have enacted and ordained the remaining sections, provisions or parts of this Ordinance if it had known that such sections, provisions or parts thereof would be declared unconstitutional.

SECTION 9: The Borough of Glen Osborne hereby declares its intention that this Ordinance shall apply only to commercial conduct and speech and the solicitation of money or other things of value. This Ordinance is specifically not intended to, and shall not be interpreted to:

- A. Limit or affect the constitutionally-protected pamphleteering, political or religious speech or conduct;
- B. Apply to persons selling wholesale to dealers in such goods;
- C. Apply to merchants or their employees delivering goods or services in the regular course of business;
- D. Prohibit any sale required by statute or order of court;

E. Prevent any licensed auctioneer from conducting a bona fide auction-sale subject to the auctioneer's law.

SECTION 10: Any person who shall violate any provision of this Ordinance shall, upon conviction thereof before a District Magistrate, be subject to a penalty or fine of not more than Five Hundred Dollars (\$500.00), together with costs of prosecution for each such violation and in default of the payment of the Fine and costs of prosecution, shall be committed to the County Jail for a period not to exceed thirty (30) days. Each day that any person, firm, organization or corporation engages in conduct in violation of this Ordinance shall constitute a separate offense.

Section 11: This Ordinance shall become effective immediately upon its adoption by Borough Council.

Section 12: All Ordinances inconsistent with this Ordinance are hereby repealed.

Date:

By: 



Barbara Carrier, Mayor

Borough of Glen Osborne:

By: 

Thomas Huddleston, President

July 21, 2015


By: 
Diane Vierling, Secretary