

ORDINANCE NO. 599

**AN ORDINANCE OF THE TOWNSHIP OF LOWER
SOUTHAMPTON, COUNTY OF BUCKS, COMMONWEALTH OF
PENNSYLVANIA, CHAPTER 13, PART 1,
TRANSIENT RETAIL BUSINESS**

WHEREAS, Lower Southampton Township is a township of the second class, organized and operating in accordance with the laws of the Commonwealth of Pennsylvania; and

WHEREAS, pursuant to the Second Class Township Code of the Commonwealth of Pennsylvania, the Board of Supervisors of Lower Southampton Township (“Board”) has the authority to enact and amend provisions of the Lower Southampton Township Code (the “Code”) at any time it deems proper; and

WHEREAS, the Board has determined that Chapter 13, Part 1, the Transient Retail Business Ordinance should be amended.

NOW, THEREFORE, be it **ORDAINED** and **ENACTED** as follows:

1. Chapter 13, Part 1. Transient Retail Business, Sections 101 through 109 are hereby renumbered and/or amended going forward, as more fully set forth in the attachment.
2. If any sentence, clause, section or part of this Ordinance is found, for any reason, to be unconstitutional, illegal or invalid, by a Court of competent jurisdiction, such unconstitutionality, illegality or invalidity should not affect or impair any remaining provisions, clauses, sentences, sections or parts of this Ordinance. It is hereby declared the intent of the Township by its Board of Supervisors that this Ordinance would have been adopted even if such unconstitutionality, illegality or invalidity had not been included there.
3. All other ordinances, portions of ordinances, or any section of the Code inconsistent with this Ordinance are hereby repealed to the extent of the inconsistency.
4. This Ordinance shall become effective five (5) days after enactment.

ORDAINED AND ENACTED this 11 day of May, 2022.

TOWNSHIP OF LOWER SOUTHAMPTON

ATTEST:

Assistant Secretary

Chapter 13. Licenses, permits and General Business Regulations

Part 1. TRANSIENT RETAIL BUSINESSES

§ 13-101. Definitions

- A. As used in this chapter, the following terms shall have the meaning indicated, unless a different meaning clearly appears from the context:

FOOD ESTABLISHMENT

Business operation that stores, prepares, packages, serves, vends or otherwise provides food for human consumption as set forth in the Food Code issued by the Pennsylvania Department of Agriculture, 7 Pa Code §46.1 et seq., as amended from time to time.

FOOD PRODUCTS

Includes and shall be limited to such foods intended for immediate consumption following sale without threat or danger to public health.

HEALTH OFFICER

The Health Officer shall be the County of Bucks.

LEGAL HOLIDAY

New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and Christmas

MOBILE FOOD COMMISSARY

A licensed food establishment in which food, containers, or supplies are stored, kept, handled, prepared and packaged and directly from which mobile food vehicle operations are serviced and where mobile food trucks report to for all food and supplies for all cleaning and sanitizing of units and equipment.

MOBILE FOOD PREPARER

Any person who, by traveling from place to place upon the public streets of the Township prepares and serves food from a mobile food truck.

MOBILE FOOD TRUCK

A mobile food truck is a transient retail business.

MOBILE FOOD VEHICLE

A food establishment that is located on a minimum four-wheeled self-contained motorized vehicle where food or beverage is cooked and/or prepared and served for individual portion service, such as a mobile food kitchen. Food

establishments that are not self-contained and must be pulled by another vehicle are not considered a mobile food vehicle.

PERSON

Any natural person, partnership, association, corporation or other legal entity.

PUBLIC PROPERTY

The public right-of-way, Township-owned property and the Lower Southampton Township established right-of-way, including sidewalks.

RESTAURANT

Any public place at a fixed location kept, used, maintained, advertised and held out to the public as a place where food and drink is prepared and served for the public for consumption on or off the premise pursuant to the required licenses of Lower Southampton Township and the Commonwealth of Pennsylvania. Such establishments may include, but are not limited to, restaurants, cafes, coffee shops, cafeterias, dining rooms, eating houses, short-order cafes, luncheonettes, grills, pubs, tea rooms and sandwich shops.

TRANSIENT RETAIL BUSINESS

- (1) Engaging in peddling, soliciting or taking orders, either by sample or otherwise, for any goods, wares or merchandise upon any street, alley, sidewalk or public ground, or from house to house within Lower Southampton Township.
- (2) Selling, soliciting or taking orders from any goods, wares or merchandise from a fixed location with the Township 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 yearly holidays.

B. The singular shall include the plural, the plural shall include the singular, and the masculine shall include the feminine and the neuter.

§ 13-102. License required; conditions of issuance; fee.

[Ord. 28, 8/9/1954; as revised by Ord. 355, 12/17/1986; and as amended by Ord. 381, 7/19/1989]
No person shall engage in any transient retail business within the Township without first having obtained from the Zoning Department a license for each location from which sales will be conducted; a fee in an amount as established by resolution of the Board of Supervisors shall be paid.

§ 13-103. Mobile Food Trucks

A. Scope

- (1) The provisions of §13-103 shall apply to mobile food operations engaged in the business of cooking, preparing and distributing food or beverage with or without charge from mobile food trucks on or in public, private or restricted spaces.
- (2) This section shall not apply to canteen, coffee, or ice cream trucks that move from place to place and are stationary in the same location for no more than 30 minutes at a time or food vending push carts and stands which are governed under other sections of Chapter 13. Further this section does not apply to private parties where the food truck is parked and servicing a private property.

B. Mobile food truck health license and permit required.

- (1) No person or business entity, including a religious or charitable organization, shall operate a mobile food truck in any public, private or restricted space without a permit issued by the Township.
- (2) A separate mobile food truck permit is required for each and every mobile food truck operated within the Township by an individual, partnership, corporation or limited-liability company.
- (3) In addition to the Township permit, an operator of a mobile food truck must have the required health licenses and any other required approvals from the Commonwealth of Pennsylvania and/or County of Bucks which regulate mobile food trucks. Copies of all approvals required by the Commonwealth of Pennsylvania and/or its agencies, the County of Bucks shall be provided to the Township Code Enforcement Officer at the time the permit application is submitted to the Township.

C. Application for a permit.

- (1) Application. There shall be made available by the Township a permit application form to apply for each mobile food truck permit. The permit application shall provide the following:
 - (a) A description of necessary inspections and fees;
 - (b) A description of areas of the Township where the operation of mobile food trucks is limited or prohibited.

- (2) Submission of materials. Each application shall indicate on its face, in addition to other requirements as may be determined by the Township Code Enforcement Officer, the below following materials which shall be submitted by the applicant:
 - (a) The name of the business and its owner or owners and the mailing address of the business.
 - (b) If the operator intends to establish a predetermine route, the proposed service route and hours of operation, along with a detailed schedule of times and locations where the mobile food truck will be stationary and serving food.
 - (c) Certification that the mobile food truck has passed all the necessary inspections required by the Commonwealth of Pennsylvania, and/or designated state agencies and the County of Bucks.
 - (d) Mobile food truck interior design showing all features, locations of required handwashing sink for employees, location of propane tanks or generators, etc. The design and final mobile food truck must comply with all applicable provisions of the Pennsylvania Department of Agriculture Retail Food Code, Title 7, Agriculture, Chapter 46.
 - (e) A certificate of insurance providing general liability insurance of not less than \$1,000,000 per occurrence, listing the Township as additionally insured. A mobile food truck permit shall be issued only for the explicit time covered by the effective date of the general liability insurance policy. The owner shall indemnify the Township against any and all such claims, losses, injuries or damages to person or property, including attorneys' fees and court costs, whether incurred as a result of the negligence of the Township, the owner or their employees, agents.
- (3) Approval process. Any application must be submitted to the Township Code Enforcement Officer for review.
- (4) The Township Code Enforcement Officer may work with the applicant or permit holder to modify a service route at any time before the issuance of a permit or after the issuance of the permit, if the grant of a permit or approval of a service route has led to the creation of a nuisance or otherwise endangers the public health, safety, or welfare or by requires of the permit holder.
- (5) Within 30 days of the submission of a completed application, the Township Code Enforcement Officer shall either issue or deny the application for a permit.
- (6) If the application is denied in whole or in part, the Township Code Enforcement Officer shall state in writing the specific reasons for the denial. Any applicant who has been denied a permit may appeal such denial by submitting a written requires for

a hearing to the Board of Supervisors within 10 days of denial. Such hearing shall be conducted within 30 days of receipt of the appeal. The decision resulting therefrom shall be final and subject only to additional review under Pennsylvania law.

D. Rules and regulations and inspections.

(1) General rules and regulations.

- (a) Mobile food trucks will be permitted to operate on a public street or public property in the I-Industrial Zoning District.
- (b) No mobile food truck is permitted to park or stop to serve customers within 250 feet of any principal customer entrance to any restaurant or food establishment within Lower Southampton Township.
- (c) No operator of mobile food truck shall park, stand, or move a vehicle and conduct business within areas of the Township where the permit holder has not been authorized to operate.
- (d) Mobile food trucks are permitted to park and serve customers on private property within the R-Residential Zoning Districts, if given express written consent of the property owner and such written consent is kept in the mobile food truck at all times when the vehicle is operating on the private property.
- (e) No mobile food truck will provide or allow any dining area, including but not limited to tables, chairs, booths, bar stools, benches, and standup counters.
- (f) Consumers shall be provided with single service articles, such as plastic forks and paper plates, and a waste container for their disposal. All mobile food trucks shall offer a waste container for public use that the operator shall empty at his own expense.
- (g) Mobile food truck vendors are required to keep all areas within 20 feet of the mobile food truck clean of grease, trash, paper, cups, or cans associated with the vending operation.
- (h) No mobile food truck shall make or cause to be made any unreasonable or excessive noise so as to disturb or annoy the public or upon any street, lane, alley, park, square, common or in any public building, public place or business place, or private building or private place within the Township.

- (i) A mobile food truck may not operate on property owned by the Township unless the township Code Enforcement Officer has granted approval on the permit application for its operation at a particular location during specific times.
- (j) For mobile food trucks on public property, the Township reserves the right to temporarily move a mobile food truck to a nearby location if the approved location needs to be used for emergency purposes, snow removal, construction, or other public benefit or if the location is required for a Township-sponsored event.

E. Transfer of permit prohibited.

- (1) Transfers “for value” are prohibited. No person holding a permit for a mobile food truck shall sell, lend, lease or in any manner transfer a mobile food truck permit for value.
- (2) Transfers “not for value.” Transfer as part of the sale of a business are permitted as part of the sale of a majority of the stock in a corporation holding such permits, as part of the sale of the majority of the membership interest of the limited-liability company holding such permit, or as part of the sale of a business or substantially all of its assets, provided that there shall be no allocated or actual value for the transfer of the permit.
 - (a) Prior to any such transfer, the transferor shall notify the Township code Enforcement Officer in writing, and the transferee shall submit a food truck permit application for approval to the Township code Enforcement Officer pursuant to the process established under §13-103, Subsection C.
 - (b) Any such transfer shall be subject to the terms and conditions of the original permit.
- (3) Unauthorized transfer voids permit. Any unauthorized transfer or attempt to transfer a permit shall automatically void such permit. Violations of this provision shall be subject to a fine of \$1,000 each for the transferor and the transferee, pursuant to §13-109. The unauthorized transfer or attempt to transfer of each permit shall constitute a separate violation.

F. Operation of mobile food trucks.

- (1) Each mobile food truck shall post its permit, or a copy of the permit, in a conspicuous place to which the public has access by sight.
- (2) Operation without permit. Any mobile food truck being operated without a valid mobile food truck permit issued by the Township Code Enforcement Officer shall be

deemed a public safety hazard, shall be cited in accordance with existing Township ordinances and may be impounded.

(3) Unattended vehicles prohibited. No mobile food truck shall be parked on the street overnight or left unattended and unsecured at any time, unless authorized by the Township Code Enforcement Officer. Any mobile food truck which is found to be unattended shall be considered a public safety hazard, shall be cited in accordance with existing Township ordinances and may be impounded.

(4) A mobile food truck operating outside of an approved route, at an unauthorized location, or beyond the hours for which the operation has been permitted shall be deemed operating without a permit in violation of this section and shall be subject to enforcement under §13-109 "Enforcement; violations and penalties" below.

§13-104. Exceptions

[Ord. 28, 8/9/1954; as revised by Ord. 356, 12/17/1986; as amended by Ord. 412, 10/14/1992, §2; and Ord. 532, 9/10/2008]

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 where 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 18 years who take orders for and deliver newspapers, greeting cards, candy, bakery products, and the like, or who represent the Boys Scouts or Girl Scouts or similar organizations.
- E. To the seeking or taking of orders by insurance agents or brokers licensed under the insurance laws of the Commonwealth of Pennsylvania.
- F. To any person who has complied with the provisions of the Solicitation of Funds for Charitable Purpose Act, 10 P.S. § 162.1 et seq., as hereafter amended, supplemented, modified or reenacted by the General Assembly of Pennsylvania.
- G. For taking orders for merchandise, by sample, from dealers or merchants for individuals or companies who pay a retail mercantile tax and business privilege tax at their chief place of business.

- H. To any residents selling used article of personal property which had been previously owned and used by that resident or a member of his or her family. Such sale, known as a “garage or yard sale”, must take place at the residence of the person selling the article of personal property. Such sales may not take place at a person’s residence more often than six days in any one calendar year.

But all persons exempted hereby from the payment of the license fee shall be required to register with the License and Inspection Department and obtain a license without fee, provided that any person dealing in one or more of the above-mentioned exempted 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 License and Inspection Department may similarly exempt from payment of the license fee, but not from registering with it persons working without compensation and selling goods, wares or merchandise for the sole benefit of any nonprofit corporation. Provided, further, every license issued under the provisions of this part 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 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.

§ 13-105. License application

[Ord. 28, 8/9/1954; as revised by Ord. 356, 12/17/1986; and as amended by Ord. 381, 7/19/1989]

Every person desiring a license under this part shall first make application to the Zoning Department 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, including a valid license from the Commonwealth of Pennsylvania for the collection of sales tax on all taxable items. The application shall state:

1. A criminal record, if any.
2. Name and address of the person by whom employed.
3. Type of goods, wares and merchandise to be dealt with in such transient retail business.
4. Length of time for which license is to be issued.
5. Type and license number of the vehicle to be used, if any.

§ 13-106 Issuance of license; custody, display and exhibit.

[Ord. 28, 8/9/1954; as revised by Ord. 356, 12/17/1986]

Upon receipt of such application and the prescribed fee, the License and Inspection Department, if it shall find such application in order, shall issue the license required under this part. Such license shall contain the information required to be given on the application therefor. 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.

§ 13-107 Prohibited acts.

[Ord. 28, 8/9/1954; as revised by Ord. 356, 12/17/1986; and as amended by Ord. 412, 10/14/1992 §3]

No person in any transient retail business shall:

- A. Sell any product or type not mentioned in his license.
- B. Hawk or cry wares upon any of the streets, alleys, sidewalks or public grounds in the township.
- C. When operating from a vehicle, stop or park such vehicle upon any of the streets or alleys in the Township for longer than necessary in order to sell therefrom to persons residing or working in the immediate vicinity.
- D. Park any vehicle upon any of the streets or alleys in the Township for the purpose of sorting, rearranging or cleaning any 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 before 7:00 AM or after 10:00 PM.
- F. Sell, display, solicit or take orders for goods, wares, merchandise or services in or on any public right-of-way, street, alley, sidewalk or public grounds.
- G. Have an exterior display of goods, wares or merchandise greater than 50 square feet in area.

§ 13-108. Supervision; records and reports.

[Ord. 28, 8/9/1954; as revised by Ord. 356, 12/17/1985]

The Zoning Department shall supervise the activities of all persons holding licenses under this part. It shall keep a record of all licenses issued hereunder and shall make a report thereof each month to the Board of Supervisors.

§ 13-109. Suspension and revocation of license; appeal.

[Ord. 28, 8/9/1954; as revised by Ord. 356, 12/17/1986]

The Zoning Department is hereby authorized to suspend or revoke any license issued under this part when it deems such suspension or revocation to be beneficial to the public health, safety or morals, for violation of any provision of this part, or for giving false information upon any application for a license hereunder. Appeals from any suspension or revocation may be made to the Board of Supervisors at any time within 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.

§ 13-110. Violations and penalties.

[Ord. 28, 8/9/1954; as revised by Ord. 356, 12/17/1986; and as amended by Ord. 381, 7/19/1989; and Ord. 532, 9/10/2008]

Any person, firm or corporation who shall violate any provision of this part, upon conviction thereof in an action brought before a Magisterial District Judge in the manner provided for the enforcement of summary offenses under the Pennsylvania Rules of Criminal Procedure, shall be sentenced to pay a fine of not less than \$100 nor more than \$1,000 plus costs. Each day that a violation of this part continues or each section of this part which shall be found to have been violated shall constitute a separate offense.