

**ORDINANCE NO. 251**

**AN ORDINANCE REGULATING THE BUSINESS OF TRANSIENT MERCHANTS WITHIN THE TOWNSHIP OF UPPER YODER, CAMBRIA COUNTY, PENNSYLVANIA, REQUIRING TRANSIENT MERCHANTS TO OBTAIN LICENSES, ESTABLISHING LICENSE FEES, PROVIDING FOR THE ENFORCEMENT OF THE PROVISIONS OR THE ORDINANCE AND PENALTIES FOR VIOLATIONS THEREOF.**

**BE IT ORDAINED AND ENACTED** by the Board of Supervisors of the Township of Upper Yoder, Cambria County, Pennsylvania, and it is hereby ordained and enacted as follows:

**SECTION 1.** (a) The word "soliciting" as used in this Ordinance shall mean the seeking or taking of contracts or orders for any goods, wares, services, or merchandise for future delivery, or for subscriptions or contributions, upon any of the streets or sidewalks, or from house to house, or by visitation to private residences, or by entering in or upon private property, within the Township of Upper Yoder, and shall further mean the seeking or taking of contract or orders for home or other building repairs, improvements and alterations, and also orders or contracts for any mechanical, electrical, plumbing or heating devise or equipment for house, or other building improvements or repairs, upon or from the places aforesaid within the said Township.

(b) The word "peddling" as used in this Ordinance shall mean the selling or offering for sale of any goods, wares, services, or merchandise for immediate delivery which the person selling or offering for sale carries with him in traveling, or has in his possession or control, upon any of the streets or sidewalks, or from house to house, or by visitation to private residences, or by entering in or upon private property, within the said Township.

**PROVIDED:** The words "soliciting" and "peddling" shall not apply:

- (1) To farmers seeking or taking orders for the sale of their own products.
- (2) To the sale of goods, wares and merchandise donated by the owners thereof, the proceeds of which are to be applied to any charitable or philanthropic purpose.
- (3) To the seeking or taking of orders for insurance, by insurance agents or brokers, licensed under the insurance laws of the Commonwealth of Pennsylvania.
- (4) To persons, corporations, partnerships and associations, their agents or employees, who have complied with the provisions of the Act of Assembly of the Commonwealth of Pennsylvania of 1990, Dec. 19, P.L. 1200, No. 202, as amended, governing solicitations for charitable, benevolent, patriotic or other purposes.

(c) Any person who is engaged in the business of "soliciting" and/or "peddling" shall be termed a "transient merchant".

(d) The word "person" as used in this Ordinance, shall mean any natural person, association, partnership, firm, organization, corporation or any other entity however styled.

(e) In this Ordinance the singular shall include the plural and the masculine shall include the feminine and the neuter.

**SECTION 2.** No person shall engage in soliciting or peddling or in the business of Transient Merchant in the Township of Upper Yoder without first having secured a license as herein provided.

**SECTION 3.** Every person desiring to engage in the business of Transient Merchant in the Township of Upper Yoder shall first make application to the Chief of Police of Upper Yoder Township for a license. If such person shall also be required to obtain a license from any county officer, he shall, on making such application, exhibit a valid county license. The application shall be upon a form prescribed by the Township Supervisors and shall contain at least the following information:

- (a) Full name of the applicant and local address, if any.
- (b) Permanent address.
- (c) Name of employer or a statement that such applicant is self-employed.
- (d) The nature of the goods, wares, services or merchandise offered for sale.
- (e) A statement as to whether or not the applicant has ever been convicted of any crime, and if the answer is in the affirmative, the nature of the offense or offenses and the punishment or punishments imposed there.
- (f) The type of vehicle to be used and license plate number, if any.
- (g) Upon request, the applicant shall also submit to fingerprinting and furnish a photograph,

**PROVIDED:**

(1) Where a person makes application for himself and one or more helpers, all applicable personal information specified above shall be given for each helper and verified or affirmed by oath or affirmation by the applicant and an individual license shall be required for each helper. No license under this Ordinance shall be transferable from one person to another.

**SECTION 4.** (a) No license to engage in the business of Transient Merchant shall be issued under the Ordinance until the required license fee shall be paid to the Township of Upper Yoder. Such fees shall be in accordance with the Schedule of Fees then in effect in the Township and established by resolution of the Board of Supervisors. A separate application shall be filed and a separate license fee shall be paid by each person who shall actually conduct the soliciting or peddling and shall apply where an employer desires to secure licenses for his employees, agents or servants.

(b) It shall be the duty of every person who leases property in Upper Yoder Township to a Transient Retail Merchant, by oral or written lease:

(1) To notify the Transient Retail Merchant of the existence of this Ordinance.

(2) To report to the Township Supervisors, in writing, the name, permanent address and dates that the Transient Merchant shall be renting or leasing property in the Township at least 24 hours prior to the Transient Retail Merchant actually taking possession of the leased property.

**SECTION 5.** The Fee Schedule adopted by the Board of Supervisors may provide for different fees for different periods of times. No license shall be issued for a period of time in excess of one (1) month. Should the Transient Merchant desire to continue his activities for a period longer than one month, a new application must be filed and the appropriate fee paid. All fees shall be non-refundable.

**SECTION 6.** Such license when issued shall state, inter alia, the products to be sold or services to be rendered by the licensee. Every Transient Merchant shall at all times, when engaged in soliciting or peddling in the Township of Upper Yoder, carry such license upon his person and shall exhibit it upon request to all police officers, township officials and citizens.

The Transient Merchant shall conform to the following standards of conduct:

(a) No Transient Merchant shall engage in selling any product or service not specified on his license.

(b) No Transient Merchant shall enter or attempt to enter any dwelling house without invitation or permission of the occupant and shall immediately leave any premises upon request.

(c) No peddling or soliciting of business shall occur on Sundays or official holidays.

(d) No peddling or soliciting of business shall occur prior to 9:30 a.m., prevailing time, and shall cease at sunset or 5:00 p.m., prevailing time, whichever shall occur earlier.

(e) No person licensed as a Transient Merchant under this Ordinance shall occupy any fixed location upon any of the sidewalks, streets, highways or alleys of the Township or upon private property not properly zoned for such activity for the purpose of soliciting or peddling with or without any stand or counter.

**SECTION 7.** The Chief of Police of Upper Yoder Township shall keep a record of all licenses issued under the Ordinance. The Upper Yoder Township Police Department shall supervise the activity of all holders of such licenses.

**SECTION 8. (a)** Any license which has been issued under the terms of this Ordinance may be suspended by the Chief of Police upon the filing of complaints by two (2) or more residents of the Township regarding the misconduct or adverse behavior of any licensed Transient Merchant. The license shall be revoked or reinstated within seven (7) days following an investigation into the merits of the complaints by the Chief of Police.

(b) Any license which has been issued under the terms of this Ordinance may be revoked by the Chief of Police upon failure of the licensee to comply with the standards of conduct established herein or upon ascertainment that the licensee has made a false statement in his application for a license hereunder, or that the licensee was convicted of a crime after the issuance of such licenses or was convicted of disorderly conduct under any law of the Commonwealth of Pennsylvania or any Ordinance of the Township of Upper Yoder. Notice of revocation shall be given by written notice personally served or sent by certified mail to the address designated for this purpose in the application for license.

**SECTION 9.** Any person whose license has been revoked may file a written appeal of the revocation on or prior to the thirtieth (30<sup>th</sup>) day following the date on which the notice of revocation is mailed or delivered to the licensee. A hearing on the revocation shall be held at

any regular or special meeting of the Board of Supervisors scheduled not more than sixty (60) days following the date when the licensee's notice of appeal is actually received by the Township. The licensee may be represented by legal counsel at the hearing. The Township will not be required to swear witnesses or to transcribe testimony or statements and formal rules of evidence or administrative procedure will not apply. The Supervisors shall rule on the licensee's appeal on or prior to the fifth (5<sup>th</sup>) day following the hearing. If the Supervisors fail to rule, the appeal shall be deemed as denied.

**SECTION 10.** No person licensed as a Transient Merchant under this Ordinance shall hawk or cry his wares or services upon any of the streets or sidewalks of the Township nor shall he use any loud speaker, bell, whistle or other device for announcing his presence by which the public is annoyed.

**SECTION 11.** Any person, including lessors of real property as identified in Section 4 hereinabove, who shall violate any of the provisions of this Ordinance, or who permits the violations of this ordinance by any of his helpers, shall, upon being convicted thereof in a summary proceeding commenced by the Township of Upper Yoder, pay a fine of not more than \$300.00, plus all costs of prosecution for each and every offense. In default of payment of such fine and costs, said violator shall undergo imprisonment in the Cambria County Prison for a period not exceeding thirty (30) days.

**SECTION 12.** The provisions of this Ordinance shall be severable and if any of the provisions or sections shall be declared unconstitutional or illegal by the Court of competent jurisdiction, the decision of such Court shall not affect the validity of the remaining sections or provisions of this Ordinance, it being declared by the Board of Supervisors that it would have been their legislative intent that this Ordinance would have been adopted has such illegal or unconstitutional provisions not been included therein.

**SECTION 13.** Ordinance No. 91 of the Township of Upper Yoder is specifically repealed, as well as any prior resolutions or prior ordinances or parts thereof which are inconsistent herewith.

ENACTED this 26<sup>th</sup> day of April, 2001.

UPPER YODER TOWNSHIP SUPERVISORS

By: Harold C. Bischof  
Paul A. Pisci  
Roy M. Skappe  
W. Skappe

ATTEST:

Mary Kay Make  
Secretary

**RESOLUTION NO. # 795**

**WHEREAS**, the Supervisors of Upper Yoder Township have this day enacted an Ordinance, being Ordinance No. 251, regulating the business of transient merchants; and

**WHEREAS**, Section 4 of Ordinance No. 251 directs the Supervisors to fix by resolution the fee that shall be charged for the issuance of a license to conduct the business of transient merchants.

**NOW, THEREFORE**, be it resolved by the Supervisors of Upper Yoder Township, Cambria County, Pennsylvania, that a license fee of \$25.00 be charged for the issuance of a license to conduct the business of transient merchant. The license shall show upon its face the effective period of the license, but in no event shall it be longer than one month from the effective date.

**RESOLVED**, this 26<sup>th</sup> day of April, 2001.

UPPER YODER TOWNSHIP SUPERVISORS

By

*Ronald C. Bischer*  
*Paul A. Reese*  
*Donna B. Cauffman*  
*Gay M. Shaffer*  
*Steve Shaffer*

ATTEST:

*Mary Kay Maker*  
Secretary

# Upper Yoder Township Police

PERMIT NO. \_\_\_\_\_

## PEDDLERS AND SOLICITORS PERMIT

1. \_\_\_\_\_ TELEPHONE : \_\_\_\_\_  
FULL NAME OF APPLICANT & DOB
2. \_\_\_\_\_  
Street City State Zip
- 2.a \_\_\_\_\_  
Operator License Number State Issue
3. \_\_\_\_\_  
Name of Employer
4. \_\_\_\_\_  
Permanent address of employer
5. \_\_\_\_\_  
Nature of merchandise offered for sale
6. \_\_\_\_\_  
Has applicant ever arrested for a crime ( if so state nature of offense)
7. \_\_\_\_\_  
Type of vehicle to be used to include make, model, color & plate no.
8. \_\_\_\_\_  
Location of sale(s) Property owners name
9. \_\_\_\_\_  
Starting date of sale(s)
10. \_\_\_\_\_  
Last day of sales

Amount due under ordinance  
# 251 is \$25.00 for 30 days

I agree to be photographed by the Upper Yoder Township Police department and to agree to comply with the ordinance regarding peddling & soliciting and I've read a copy of same.

\_\_\_\_\_  
Signature of applicant

\_\_\_\_\_  
Date