

ORDINANCE 2011-4

AN ORDINANCE REGULATING ISOLATED SALES OF  
PERSONAL PROPERTY FROM RESIDENTIAL REAL  
ESTATE WITHIN THE BOROUGH OF TUNKHANNOCK.

PURPOSE:

The purpose of this ordinance is to eliminate traffic hazards, and to promote safety, preserve the quiet enjoyment of residential properties and to preclude commercial-like consignment sales of personal property brought into the Borough of Tunkhannock and sold from residential property by people who do not own the personal property at which these sales occur.

Section 1. Definitions

- A. Applicant- shall mean the owner of the property at which the Isolated Sale is going to occur; or a member of the household of the seller.
- B. Charitable Organization- An entity recognized by the Internal Revenue Service as a type of organization identified in section 501(b)-(f) of the Internal Revenue Code (26 USCS § 501(b)-(f))
- C. Household- a residential dwelling unit, whether single family, one half of double block, or a single apartment unit used for residential purposes.
- D. Isolated Sales- shall mean the sale and public display of personal property owned by the seller or a member of the household of the seller and sold at the seller's residential property, or in the case of a Multi-party Isolated sale, at the residence of at least one seller, , which shall include but not be limited to, porch sales, yard sales and garage sales; or, the sale and public display of personal property conducted by civic groups, school groups, church groups, charitable or fraternal organization and other non-profit organization if such sale is held on the organization's premises and the proceeds of the sale are applied to charitable or philanthropic purpose.
- E. License- shall mean a permit issued by the Tunkhannock Borough Secretary which authorizes the Isolated Sale of

personal property in conformance with this ordinance.

F. Personal Property- is moveable property which must be owned by the applicant/seller

#### Section 2. License Required.

It shall be unlawful to conduct an Isolated Sale without first obtaining a license from the Borough Secretary. Licenses shall be prominently displayed on the property where the sale is being conducted for the duration of the effective period of the license. Licenses shall be issued to an adult member of the household, who shall conduct the Isolated Sale or to the board of directors (or other governing body) of a civic group, school group, church group, charitable or fraternal organization and other non-profit organization.

#### Section 3. Frequency of Sale

Each applicant shall be eligible to receive two (2) licenses per calendar year.

#### Section 4. Standards of Control

- A. Isolated Sales may be conducted between the hours of 8:00 a.m. to 8:00 p.m..
- B. Multi-party Isolated Sales can be held provided that all sellers are residents of the Borough or that the civic group, school group, church group, charitable or fraternal organization and other non-profit organization conducting an Isolated Sale is located in the Borough, provide services to Borough residents or otherwise has substantial ties to Borough residents. .
- C. A minimum of three parking spaces shall be required.
- D. No person conducting an Isolated Sale of personal property shall sell, or attempt to sell personal property to motorists traveling on public streets, nor impede motor vehicle traffic in any manner.
- E. The sale of new or used goods purchased or consigned specifically for an Isolated Sale is prohibited.

#### Section 5. Application Requirements.

All Isolated Sale applicants shall comply with each of the

following in order to receive a license:

- A. Complete an application provided by the Borough certifying that at least one applicant is the owner, or the occupant of the property on which the Isolated Sale is to be conducted, no later than seven (7) days before the date of the Isolated Sale.
- B. Provide a plot plan showing the presence of three on-street parking spaces or three off-street parking spaces to be used in conjunction with customers of this Isolated Sale.
- C. Provide a description of the goods and wares comprising the personal property to be sold (i.e., clothing, household goods, furniture) and a certification that the applicant owns the personal property to be sold.
- D. Provide the dates and specified times for the Isolated Sale.
- E. In the case of a Multi-party Isolated Sale, each seller that does not apply the proceeds of the sale to a specific charitable or philanthropic purpose shall be identified as co-applicant and shall be required to execute the application.
- F. Rain date shall be specified on application.

#### Section 6. Issuance of License.

Anyone who applies for a license to conduct an Isolated Sale of personal property to the public and who submits the information and completes the application as provided in Section 5 and who pays the application fees set forth herein shall be issued a license within three (3) working days from the date all information is received by the Borough Secretary.

#### Section 7. License Fee.

The fee for such license shall be the sum of \$5.00 per license, payable to the Borough of Tunkhannock. Pursuant to section 2901 of the Borough Code (53 P.S. 47901), no license fee shall be charged or collected for the sale of goods, wares and merchandise, donated by the owners thereof, the proceeds whereof are to be applied to any charitable or philanthropic purpose. Applicants qualifying for this exemption shall certify that all proceeds of the sale will be applied to a

specific charitable or philanthropic purpose. Within 30 days following the sale, the licensee shall submit proof that the proceeds were applied to the specified charitable or philanthropic purpose. If the applicant is not a Charitable Organization as defined herein, acceptable proof may be a letter from the licensee certifying the total amount of revenue generated at the sale as well a letter from a Charitable Organization confirming that the amount disclosed by the licensee was provided to the Charitable Organization for its use. In addition to the penalties contained herein, any person obtaining a license under false pretenses or who fails to supply the required proof that the proceeds of the sale were applied to the specified charitable or philanthropic purpose shall be ineligible for an additional permit for a period of five years from the date of application.

#### Section 8. Penalty

Any person who violates any provision of this Ordinance shall be guilty of summary offense and upon conviction by a magisterial judge be sentenced to pay a fine of not more than \$300.00, to be paid for the use of the Borough, together with costs of prosecution which shall include reasonable attorney's fees. Each and every day that a violation continues shall be considered a separate and distinct offense and shall subject the violator to separate penalties.

#### Section 9. Severability.

If any of the provisions of this Ordinance, or the application of any provision hereof, shall be held invalid such invalidity shall not affect or impair the remainder of this Ordinance, it being the intention of Borough Council that such remainder shall continue in full force and effect.

#### Section 10. Repealer.

Tunkhannock Borough Ordinance #1998-1 is hereby repealed. All other Tunkhannock Borough Ordinances or parts thereof which are inconsistent with this Ordinance are hereby repealed to the extent of such inconsistency.

#### Section 11. Effective Date.

This Ordinance shall become effective upon enactment by the Tunkhannock Borough Council.

ENACTED INTO LAW this 3rd day of March, 2011.

ATTEST:

TUNKHANNOCK BOROUGH

BY: \_\_\_\_\_  
Dawn Welch

BY: \_\_\_\_\_  
ARTHUR S. HUBER,  
Council President

BY: \_\_\_\_\_  
NORMAN BALL  
Mayor