ORDINANCE NO. _____609_____
AN ORDINANCE OF THE TOWNSHIP OF MUHLENBERG
A NEW SECTION TO THE MUHLENBERG TOWNSHIP CODE
REGARDING FRAUD PROTECTION / THIRD PARTY GIFT CARD PROCUREMENT

This Ordinance amends the Code of the Township of Muhlenberg to add thereto a new Part II Chapter 242, which states, in full, as follows:

§ 242-1. Purpose.

The fraudulent procurement of third party gift cards/pre-paid cards at retail establishments in the township has become a widespread problem. These incidents affect numerous victims, particularly the elderly, and require considerable law enforcement resources to investigate. By adopting these provisions, the Township Commissioners desire to protect the health, safety, and welfare of all persons living in the township. As well as those visiting the township, and operating businesses within the township, by deterring the fraudulent procurement of third party gift cards at retail establishments and conserving the limited amount of time, energy, and resources available to local law enforcement agencies when investigating said behavior.

§ 242-2. Findings.

The Commission finds that:

(1) There has been a substantial increase in the fraudulent procurement of third party gift cards at retail establishments within the township. Third party gift cards are oftentimes purchased by:

    a. Individuals using cloned or stolen financial transaction cards, counterfeit checks, or through other fraudulent means.

    b. Victims of fraudsters who demand payment from their victims via gift cards and/or the transactional information of said gift cards.

(2) Due to the complex nature of cases involving fraudulent third party gift card procurement, local law enforcement agencies have exerted a significant amount of time and energy into investigating these cases. These investigations are particularly time-consuming and involve numerous victims, resulting in a strain on the limited amount of resources that are otherwise available to local law enforcement.

(3) Requiring retail establishments to verify identification at the point of sale is an effective way to deter criminal behavior, and to prevent victimization of innocent citizens, particularly the elderly.

4) This section is adopted pursuant to the First Class Township Code of the Commonwealth of Pennsylvania and the township's inherent regulatory authority. The provisions contained herein are reasonably related to promoting the general welfare of the community and other legitimate police-power objectives, both expressly identified herein and otherwise implied.

§ 242-3. Short title.

This chapter shall be known and may be cited as the "Fraud Protection / Third Party Gift Card Procurement Ordinance."

§ 242-4. Definitions.

The following terms are hereby defined as indicated for purposes of interpretation, administration, and enforcement of this chapter:

FINANCIAL TRANSACTION CARD. Any instrument or device, whether known as a credit card, credit plate, charge plate, courtesy card, bank services card, banking card, check guarantee card, debit card, electronic benefit system (EBS) card, electronic benefit transfer (EBT) card, assistance transaction card, or by any other name, issued with or without fee by an issuer for the use of the cardholder in obtaining credit, money, goods, services, public assistance benefits, or anything else of value, and includes the account or identification number or symbol of a financial transaction card.

THIRD PARTY GIFT CARD. A reloadable or non-reloadable prepaid card sold at retail establishments and used to make purchases via either the American Express, MasterCard, or Visa networks, for which the value is decreased upon each purchase.

RETAIL ESTABLISHMENT. A physical place of business in which consumer merchandise is sold to the general public.

PERSON. An individual, partnership, limited partnership, Limited Liability Company, corporation, or other legal entity.

PROOF OF IDENTIFICATION. A driver's license, Pennsylvania identification card number, or other identification document issued for identification purposes by any state, federal, or foreign government if the document includes the person's photograph, full name, birth date, and signature.

SELL. To transfer to another in exchange for monetary consideration through the use of a financial transaction card.

§ 242-5. Requirements

Identification Verification Required. Any person that sells/redeems a third party gift card to an individual on behalf of a retail establishment, including an agent, employee, or other representative of the retail establishment, shall require that the individual purchasing the third party gift card display proof of identification and shall verify that said proof of identification matches the individual's form of payment.

(E). Self-Checkout. It is unlawful for a retail establishment to allow the purchase of third party gift cards at self-checkout kiosks where customers themselves scan merchandise and pay without the assistance of an employee of the retail establishment.

(F). Enforcement; Violations. In addition to any rights or remedies that are otherwise available to the township in law or in equity, violations of this section shall be subject to the penalty provisions contained in § 242-7.

§ 242-6. Reporting Requirements.

At the time of any transaction, involving said gift cards which:

a. Involves a transaction that exceeds $400.00
b. Involves multiple simultaneous purchases of gift cards of $400.00 or greater

The retailer or dealer in shall make a record of the name, date of birth, address, obtained from a valid driver's license or other legal form of identification. Such information shall be supplied to the Police Department as part of the report required hereunder.

B. All retailers shall make out and deliver to the Chief of Police or his duly authorized representatives, before 12:00 noon every Monday, or the next following business day if the Monday is a holiday, a legible and accurate report of all qualifying transactions that occurred during the preceding business week. Such report shall contain the name or names of the purchasers or redeemers and an accurate, detailed description, together with serial numbers thereon, if any, of all gift cards taken in or redeemed. Failure to timely submit the list shall be a violation of this chapter.

§ 242-7 Violations and penalties; remedies.

A. Whoever violates any provision of this chapter shall be fined not more than $600 and, in default of payment thereof, shall be imprisoned for not more than 30 days. Each day or portion thereof on which a violation exists shall be considered a separate violation of this chapter. Each section of this chapter which is violated shall be considered a separate violation. Such fines shall be in addition to any other fine which may be imposed under the provisions of any other ordinances of the Township, Pennsylvania law, or federal law.

B. In addition to or in lieu of the penalties provided in this §242-7, any violations of the provisions of this chapter may be abated or enforced by proceedings seeking equitable relief against the violator.

§ 242-8. Construction.

All other sections, parts and provisions of the Code of the Township of Muhlenberg shall remain in full force as previously enacted and amended, except as amended hereby.

§ 242-9. Severability.

In the event any provision, section, sentence, clause or part of this chapter shall be held to be invalid, illegal or unconstitutional by a court of competent jurisdiction, such invalidity, illegality

or unconstitutionality shall not affect or impair the remaining provisions, sections, sentences, clauses or parts of this chapter, it being the intent of the Board of Commissioners that the remaining chapter shall be and shall remain in full force and effect.

§ 242-10. When effective.

This chapter shall take effect and be in force from and after its enactment as provided by law.

Ordained and Enacted as an Ordinance of Township of Muhlenberg, Berks County, Pennsylvania, this _____ Day of _____ 2022.

TOWNSHIP OF MUHLENBERG

_____
President

_____
Vice President

_____
Commissioner

_____
Commissioner

_____
Commissioner

Attest:_____
         Secretary