

CODE OF WAYMART BOROUGH
TRANSIENT RETAIL BUSINESS LICENSING— CHAPTER 123

CHAPTER 123.
Transient Retail Business Licensing

§ 123-01. Transient Retail Businesses.

§ 123-02. Permits For the Operation of Transient Amusements.

§ 123-03. Licensing Certain Amusement Places.

[HISTORY: An Ordinance of Waymart Borough adopted on February 6, 1939 as Ordinance No. 13 and amended on June 2, 1998.]

§ 123-01. Transient Retail Businesses.

A. **Definitions.** As used in this Section, the following terms shall have the meanings indicated, unless a different meaning clearly appears from the context:

(1) **Legal Holiday** - New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and Christmas.

(2) **Person** - Any natural person, partnership, association, corporation or other legal entity.

(3) **Transient Retail Business:**

(a) 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 the Borough;

(b) Selling, soliciting, or taking orders for any goods, wares, or merchandise, from a fixed location within the Borough, 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.

(4) The singular shall include the plural; the plural shall include the singular; and the masculine shall include the feminine and the neuter.

B. **License Required; Conditions of Issuance; Fee.** No person shall engage in any transient retail business within the Borough without first having obtained from the enforcement officer a license, for which a fee, which shall be for the use of the Borough, shall be charged, said fee to be in such amount established, from time to time by resolution of the Borough Council.

C. **Exceptions.** No license fee shall be charged:

(1) To farmers selling their own produce.

CODE OF WAYMART BOROUGH
TRANSIENT RETAIL BUSINESS LICENSING— CHAPTER 123

- (2) 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.
 - (3) To any manufacturer or producer in the sale of bread and bakery products, meat and meat products, or milk and milk products.
 - (4) 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 Boy Scouts or Girl Scouts or similar organizations.
 - (5) To the seeking or taking of orders by insurance agents or brokers licensed under the insurance laws of the Commonwealth of Pennsylvania.
 - (6) To a person who has complied with the provisions of the Solicitation of Funds for Charitable Purposes Act, 10 P.S. §162.1 et seq., as hereafter amended supplemented, modified or reenacted by the General Assembly of Pennsylvania.
 - (7) For taking orders for merchandise, by sample, from dealers or merchants for individuals or companies who pay a license or business privilege tax at their chief place of business.
- D. But all persons exempted hereby from the payment of the license fee shall be required to register with the enforcement officer and obtain a license without fee; provided., 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 enforcement officer may similarly exempt from payment of the. license fee, but not from registering with him, persons working without compensation and selling goods, wares or merchandise for the sole benefit of a nonprofit corporation. Provided, further, every license issued under the provisions of this Section shall be issued on an **i n d i v i d u a l** basis to any person or persons engaging in such business; every individual shall obtain a separate license, issued to him in his name, and the 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.
- E. **License Application.** Every person desiring a license under this Section shall first make application to the enforcement officer 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. The applicant shall state:
- (1) His criminal record, if any.
 - (2) Name and address of the person by whom he is employed.

CODE OF WAYMART BOROUGH
TRANSIENT RETAIL BUSINESS LICENSING— CHAPTER 123

- (3) Type of goods, wares and merchandise he wishes to deal 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.
- F. **Issuance of License; Custody, Display and Exhibit.** Upon receipt of such application and the prescribed fee, the enforcement officer, if he shall find such application in order, shall issue the license required under this Section. 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 Borough.
- G. **Prohibited Acts.** No person in any transient retail business shall:
- (1) Sell any product or type of product not mentioned in his license.
 - (2) Hawk or cry his wares upon any of the streets, alleys, sidewalks or public grounds in the Borough.
 - (3) When operating from a vehicle, stop or park such vehicle upon any of the streets or alleys in the Borough for longer than necessary in order to sell therefrom to persons residing or working in the immediate vicinity.
 - (4) Park a vehicle upon any of the streets or alleys in the Borough for the purpose of sorting, rearranging, or cleaning any of his 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.
 - (5) Engage in any business activity except by prior appointment, at any time on a Sunday or legal holiday or at any time before 9 a.m. or after 9 p.m. on any day of the week other than a Sunday or legal holiday.
- H. **Supervision; Record and Reports.** The enforcement officer shall supervise the activities of all persons holding licenses under this Section. He shall keep a record of all licenses issued hereunder and shall make a report thereof each month to the Borough Council.
- I. **Denial, Suspension and Revocation of License; Appeal.** The enforcement officer is hereby authorized to deny, suspend or revoke any license issued under this Section when he deems such denial, suspension or revocation to be beneficial to the public health, safety or

CODE OF WAYMART BOROUGH
TRANSIENT RETAIL BUSINESS LICENSING— CHAPTER 123

morals, or for violation of any provision of this Section, or for giving false information upon any a application for a license hereunder. Appeals from any suspension, revocation or denial of a license may be made to the Borough Council at any time within 10 days after such suspension, revocation or denial and a hearing shall be held within 30 days of the petition for appeal. No part of a license fee shall be refunded to any person whose license shall have been suspended or revoked.

- J. **Penalties.** Any person, firm or corporation who shall violate any provision of this Section shall, upon conviction thereof, be sentenced to pay a fine of not more than \$600 plus costs and, in default of payment of said fine and costs, to a term of imprisonment not to exceed 30 days. Each day that a violation of this Section continues shall constitute a separate offense.

§ 123-02. Permits For the Operation of Transient Amusements.

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

- (1) **Amusement Ride** - any device that carries or conveys passengers along, around or over a fixed or restricted route or course or within a defined area for the purpose of giving its passengers amusement, pleasure, thrills or excitement including, but not limited to, merry-go-rounds, ferris wheels, roller coasters, which may be permanently or temporarily installed or used in the Borough.
- (2) **Carnival or Circus** - An itinerant enterprise consisting principally of temporary amusement structures and mechanical rides.
- (3) **Person** - any natural person, partnership, firm or corporation. In this Section the singular shall include the plural; the plural shall include the singular; and the masculine shall include the feminine and the neuter.

- B. **Permit and Fees Required.**

- (1) It shall be unlawful for any person to hold or conduct any circus or carnival at any location within the Borough, or to operate any amusement ride therein, without first having obtained a permit therefor from the enforcement officer, for which a fee for the use of the Borough shall be paid as established pursuant to a resolution of the Borough Council; provided, that no separate permit shall be required for any amusement ride that shall be a part of any carnival that shall be authorized under this Section.
- (2) At the discretion of the Borough Council, the permit fee may be remitted in the case of a circus or carnival the proceeds of which are applied to purely charitable uses or in the case the application for such permit shall have been made by and on behalf of

CODE OF WAYMART BOROUGH
TRANSIENT RETAIL BUSINESS LICENSING— CHAPTER 123

any organization connected with the municipal government or with any public school district.

C. Rejection of Permits; Appeals.

- (1) The Enforcement Officer shall refuse to grant a permit in any case where the owner of such circus or carnival, or the operator of any amusement ride, as the case may be, fails or refuses to present an official inspection affidavit prepared by a qualified inspector in accordance with the Amusement Ride Inspection Act (4 P.S. §407) and the regulations of the Amusement Ride Safety Board (7 Pa. Code §139.1 et seq.) along with a certificate of insurance as required by §414 of that same Act.
- (2) If any permit shall be denied, an appeal from such denial may be made by the applicant or by the person to whom such permit had been issued, as the case may be, to the Borough Council, within 10 days of rejection, but no portion of a permit fee shall be refunded in case of suspension or revocation. Such hearing shall be conducted within 30 days of the appeal and a decision rendered by the Borough Council.

- D. Penalties.** Any person, firm or corporation who shall violate any provision of this Section shall, upon conviction thereof, be sentenced to pay a fine of not more than \$600 plus costs and, in default of payment of said fine and costs, to imprisonment for a term not to exceed 30 days. Each day that a violation of this Section continues shall constitute a separate offense.

§ 123-03. Licensing Certain Amusement Places.

A. Definitions.

- (1) **Dance Hall** - any room, place or space in which a public dance, as defined herein, is held.
- (2) **Person** - any natural person, partnership, association, firm or corporation.
- (3) **Public Dance** - any dance or ball to which admission may be had by payment of a fee or by purchase, possession or presentation of a token or ticket, or in connection with which a charge is made for the care of clothing or other property, or any dance to which the public generally may gain admission with or without the payment of a fee.

In this Section, the singular shall include the plural, the plural shall include the singular, and the masculine shall include the feminine and the neuter.

- B. License Required.** No person shall operate or conduct in the Borough any billiard room, pool room, bowling alley, shooting gallery, dance hall or theater without first obtaining

CODE OF WAYMART BOROUGH
TRANSIENT RETAIL BUSINESS LICENSING— CHAPTER 123

and holding a current license therefor from the enforcement officer. All such licenses shall be issued for a period of one year beginning and ending on January 1 of each year.

- C. **License and Application Fees.** Every person desiring any license as required by the preceding sub-section of this Section shall make application to the enforcement officer therefor, at the same time paying the application fee set by the Borough Council, pursuant to a resolution and, upon issuance of such license, shall pay the appropriate license fee established also pursuant to resolution.
- D. **Prorating of Annual License Fee.** If any person shall begin to engage in any business or activity for which an annual license is hereby required, on or after the first day of July in any year, and shall promptly make application for such license, a fee equal to 1/2 of the yearly fee established pursuant to resolution for such class of license shall be charged.
- E. **Inspections.** Any business or activity licensed under this Section shall be subject to inspection by the appropriate officials of the Borough.
- F. **Penalties.** Any person who shall violate any provision of this Section shall, upon conviction thereof, be sentenced to pay a fine not more than \$600 plus costs and, in default of payment of said fine and costs, to undergo imprisonment for a term not to exceed 30 days. Each day that a violation of this Section continues shall constitute a separate offense.