

CHAPTER XIII

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Part 1
Junk Dealers

Section 1. Definitions and Interpretation.

(a) The word "junk" as used in this ordinance,¹ shall mean any discarded material or article such as is not ordinarily disposed of as rubbish or refuse, and shall include, but not be limited to, scrap metal and scrapped motor vehicles, and shall not include any garbage or other organic waste, or any paper, rubbish, rags or other flammable article or material.

(b) The word "junk dealer," as used in this ordinance, shall mean any person, as hereinafter defined, who shall engage in the business of selling, buying and dealing in junk.

(c) The word "person," as used in this ordinance, shall mean any natural person, partnership, firm or corporation.

(d) In this ordinance, the singular shall include the plural, the plural shall include the singular, and the masculine shall include the feminine and the neuter.²

(Ordinance 65, September 6, 1977, Section 1)

Section 2. License Required; Fee. No person shall engage in business as a junk dealer in the Borough of Beech Creek, without first having obtained a license from the Mayor, for which license the fee shall be one hundred dollars (\$100.00) for each and every calendar year, such fee to be for the use of the Borough. Such license shall be renewed annually on or before the first day of January of each year. Provided: in any case where a junk dealer's business shall be established in the Borough on or after the first day of July in any year, the license fee payable by such junk dealer for the remainder of such year shall be one-half the yearly rate. (Ordinance 65, September 6, 1977, Section 2)

Section 3. Issuance and Posting of License; Name and License Number to be Displayed on Vehicles. The license provided for in the second section of this ordinance³ shall be issued by the Mayor after application shall have been made therefor by the person desiring to be licensed, and the location of the junk yard approved by Borough Council. Such license shall state the name of

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1. Sections 1 to 9 of this chapter.
 2. Section 10 of Ordinance 65 repealed an unnumbered, undated ordinance on the same subject.
 3. Section 2 of this chapter.

the person to whom such license is issued and the premises from which such business is to be conducted. Such license shall be posted conspicuously upon the premises licensed thereunder. The name of the licensed junk dealer and the number of the license under which he operates shall be placed in a conspicuous place on the outside of every vehicle used for business purposes by such dealer. (Ordinance 65, September 6, 1977, Section 3)

Section 4. Location for Business Restricted. No person licensed under this ordinance⁴ shall by virtue of one license, keep more than one place of business within the Borough of Beech Creek, for the purpose of buying, selling and dealing in junk. Nor shall any such person engage in business as a junk dealer in any place other than the place designated upon his license. Nor shall any such person, or any other person, operate upon any of the streets of the Borough, whether from a vehicle or upon foot, as a scavenger or an itinerant buyer or seller of junk. (Ordinance 65, September 6, 1977, Section 4)

Section 5. Transfer of License. No license issued under this ordinance⁵ shall be transferable from one person to another person except when the ownership of a licensed premises shall change. In any such case the new owner shall apply for a transfer of such license to him and shall pay a transfer fee of ten dollars (\$10.00). (Ordinance 65, September 6, 1977, Section 5)

Section 6. Records to be Kept; Inspections. Every junk dealer shall provide and shall constantly keep a book, in which shall be fairly written down in the English language at the time of the purchase of any junk, a description of every article or material purchased or received by him, the date and hour of such purchase or receipt, and the person from whom such article or material was purchased or received. Such book and all junk purchased, received or handled by any junk dealer shall at all times be subject to the inspection of the Chief of Police and any other official of the Borough of Beech Creek. (Ordinance 65, September 6, 1977, Section 6)

Section 7. Junk to be Retained for 48 Hours. Every junk dealer, licensed under this ordinance,⁶ shall keep and retain upon the licensed premises, for a period of forty-eight (48) hours after the purchase or receipt thereof, all junk received or purchased by him, and he shall not disturb or reduce the same or alter the original form, shape or condition until such period of forty-eight (48) hours shall have elapsed. (Ordinance 65, September 6, 1977, Section 7)

Section 8. Maintenance of Premises. Every junk dealer licensed under this ordinance⁷ shall constantly maintain the licensed premises in the manner

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4. Sections 1 to 9 of this chapter.
 5. Sections 1 to 9 of this chapter.
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 7. Sections 1 to 9 of this chapter.

prescribed by this section, as follows:

(a) Such premises shall at all times be maintained so as not to constitute a nuisance or a menace to the health of the community or of residents nearby or a place for the breeding of rodents and vermin.

(b) No garbage or other organic waste, and no paper, rubbish, rags or other flammable articles or materials shall be stored in such premises.

(c) Whenever any motor vehicle shall be received in such premises as junk, all gasoline and oil shall be drained and removed therefrom, and none shall be permitted to remain upon the premises.

(d) The manner of storage and arrangement of junk and the drainage facilities of the premises shall be such as to prevent the accumulation of stagnant water upon the premises, and to facilitate access for fire-fighting purposes.

(e) Such premises shall not be open for business nor shall any work be done therein in connection with the storage, processing and transporting or removal of junk at any time on the first day of the week, commonly called Sunday, or any other day of the week before seven o'clock A.M. or after six o'clock P.M.

(Ordinance 65, September 6, 1977, Section 8)

Section 9. Penalty for Violation. Any person who shall violate any provision of this ordinance⁸ shall, upon conviction thereof, be sentenced to pay a fine of not more than three hundred dollars (\$300.00) and costs of prosecution, or, in default of payment of such fine and costs, to undergo imprisonment for not more than thirty (30) days. Provided: every day that a violation shall be permitted to continue shall constitute a separate offense. (Ordinance 65, September 6, 1977, Section 9)

8. Sections 1 to 9 of this chapter.

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Part 2

Mechanical Amusement Devices

Section 51. Definitions and Interpretation.

(a) The term "mechanical amusement device," as used in this ordinance,⁹ shall mean and include any device which, upon insertion of a coin, slug, token, plate or disc, may be operated for use as a game, entertainment or amusement, whether or not registering a score. Provided: the term "mechanical amusement device" shall not include any gambling device or any mechanism which has been judicially determined to be a gambling device.

(b) The term "person," as used in this ordinance, shall mean and include any natural person, association, partnership, firm or corporation.

(c) In this ordinance, the singular shall include the plural and the masculine shall include the feminine and the neuter.

(Ordinance 47, April 6, 1971, Section 1)

Section 52. License Required. From and after the first day of June, 1971, no person may at any time have in his possession, at any place within the Borough of Beech Creek, any mechanical amusement device, without first having procured a license therefor from the Borough Secretary. (Ordinance 47, April 6, 1971, Section 2)

Section 53. Application for License; Investigation. Any person desiring to procure a license for a mechanical amusement device shall apply therefor in writing to the Borough Secretary. Such application shall set forth the name of the applicant, the address at which such device is to be located, and the number and character of devices to be installed at such address, for use thereon. Such information shall be furnished over the signature of the applicant and shall be made under oath or affirmation. No license shall be granted until a period of two (2) days shall have elapsed from the date of application, during which time the Borough Secretary may, at his discretion, investigate the facts set forth in the application. (Ordinance 47, April 6, 1971, Section 3)

Section 54. Gambling Devices not Authorized. Nothing in this ordinance shall be in any way construed to authorize, license or permit any gambling device whatsoever, or any machine or mechanism that has been judicially determined to be a gambling device, or in any way contrary to law, or that may be contrary to any future law of the Commonwealth of Pennsylvania. (Ordinance 47, April 6, 1971, Section 4)

9. Sections 51 to 59 of this chapter.

10. Sections 51 to 59 of this chapter.

Section 55. Issuance of License; Fee. Following the waiting period provided in Section three of this ordinance,¹¹ and upon payment by the applicant of fifteen dollars (\$15.00) for every mechanical amusement device sought to be licensed, a license shall be issued by the Borough Secretary to the applicant. Such license shall be valid for the calendar year for which it is issued and shall expire following the last day of such calendar year. Provided: such license shall authorize the installation or location and use, upon the premises specified therein, of the number of mechanical amusement devices for which a fee shall have been paid, but nothing herein shall prohibit the change or exchange of mechanical amusement devices, so long as the total number of such devices installed or located in and about such premises shall not at any time exceed the number set forth in the original application. Whenever the total number of such devices installed or located in or about any premises shall exceed the total number for which the license is granted, application shall be made for a license for such additional number and a fee shall be paid therefor. Provided further: any license for any mechanical amusement device issued on or after the first day of June in any year shall be issued upon payment of the sum of seven dollars and fifty cents (\$7.50). (Ordinance 47, April 6, 1971, Section 5, as amended by Ordinance 58, September 6, 1977, Section 1)

Section 56. License Renewal. Every license issued under this ordinance¹² shall expire January 1 of each calendar year. Prior to January 1 of any calendar year, the holder of a license issued hereunder shall apply to the Borough Secretary for a renewal of such license. The fee for such license shall be the same as that for a new license. Failure to procure a license by March 1 of the calendar year shall constitute a violation of this ordinance, and such violator shall be subject to the penalties herein set forth.¹³ (Ordinance 47, April 6, 1971, Section 6, as amended by Ordinance 58, September 6, 1977, Section 2)

Section 57. Inspections. The Borough police, under the direction of the Borough Secretary, shall make periodical inspections of mechanical amusement devices licensed under this ordinance.¹⁴ (Ordinance 47, April 6, 1971, Section 7)

Section 58. Exhibit of License on Request; Revocation of License. Any license issued under this ordinance¹⁵ shall be exhibited at any time on request of the Borough Secretary or any police officer of the Borough. The Borough

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11. Section 53 of this chapter.
 12. Sections 51 to 59 of this chapter.
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 14. Sections 51 to 59 of this chapter.
 15. Sections 51 to 59 of this chapter.

Secretary may revoke any license hereunder granted when he deems such revocation to be necessary for the benefit or protection of the public health, safety or morals. (Ordinance 47, April 6, 1971, Section 8)

Section 59. Penalty for Violation. Any person who shall violate any provision of this ordinance¹⁶ shall, upon conviction thereof, be sentenced to pay a fine of not more than three hundred dollars (\$300.00) and costs of prosecution, or, in default of payment of such fine and costs, to undergo imprisonment for not more than ten (10) days. Provided: each week that a violation shall be permitted to continue shall constitute a separate offense. (Ordinance 47, April 6, 1971, Section 9, as amended by Ordinance 58, September 6, 1977, Section 3)

16. Sections 51 to 59 of this chapter.

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Part 3

Transient Retail Business

Section 101. Definition and Interpretation.¹⁷ As used in this ordinance,¹⁸

(a) The term "transient retail business" shall mean and include the following:

(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 the Borough; and

(2) 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 shall not be limited to, such activities conducted at the time of special occasions or celebrations, for seasonal purposes, or for or in advance of specific yearly holidays.

(b) The word "person" shall mean any natural person, partnership, association, corporation, or other legal entity.

(c) The singular shall include the plural, the plural shall include the singular, and the masculine shall include the feminine and the neuter.¹⁹

(Ordinance 66, September 6, 1977, Section 1)

Section 102. License Required; Conditions of Issuance; Fee. No person shall engage in any transient retail business within the Borough of Beech Creek without first having obtained from the Mayor a license, for which a fee of ten dollars (\$10.00) per day shall be charged, which shall be for the use of the Borough. Provided: no license fee shall be charged under this section:

(a) To farmers selling their own produce;

(b) 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;

(c) To any manufacturer or producer in the sale of bread and bakery products, meat and meat products, or milk and milk products;

17. This heading, and those of Sections 102 to 109 of this chapter, are part of Ordinance 66 as enacted.

18. Sections 101 to 109 of this chapter.

19. Section 10 of Ordinance 66 repealed Ordinance 22 and an unnumbered amendment to Ordinance 22 approved September 6, 1904.

(d) To children under the age of eighteen (18) years who take orders for and deliver newspapers, greeting cards, candy, bakery products, and the like, or represent the Boy Scouts or Girl Scouts or similar organizations; but all persons exempt hereby from the payment of the license fee shall be required to register with the Mayor and obtain a license without fee. Provided further: 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 Mayor 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 any nonprofit corporation. Provided further: every license issued under the provisions of this ordinance²⁰ shall be issued on an individual basis to 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 the licenses for the applicants therein.

(Ordinance 66, September 6, 1977, Section 2)

Section 103. Application for License. Every person desiring a license under this ordinance²¹ shall first make application to the Mayor for such license. If such person shall also be required to obtain a license from any State or County officer, he shall, when making such application, exhibit a valid license from such State or County officer. The applicant shall state:

- the name and address of the person by whom he is employed;
- the type of goods, wares, and merchandise he wishes to deal with in such transient retail business; and
- his name and address.

(Ordinance 66, September 6, 1977, Section 3)

Section 104. Issuance of License; Custody, Display, or Exhibit. Upon receipt of such application and the prescribed fee, the Mayor, if he shall find such application in order, shall issue the license required under this ordinance.²² 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

20. Sections 101 to 109 of this chapter.

21. Sections 101 to 109 of this chapter.

22. Sections 101 to 109 of this chapter.

if doing so at a fixed location. He shall exhibit such license, upon request, to all police officers, Borough officials, and citizens or residents of the Borough. (Ordinance 66, September 6, 1977, Section 4)

Section 105. Prohibited Acts. No person in any transient retail business shall:

- (a) Sell any product or type of product not mentioned in his license;
- (b) Hawk or cry his wares upon any of the streets, alleys, sidewalks, or public grounds in the Borough;
- (c) 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 in the immediate vicinity;
- (d) Park any 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 of any stock or wares or foodstuffs which have become unsaleable through handling, age, or otherwise.

(Ordinance 66, September 6, 1977, Section 5)

Section 106. Supervision; Records and Reports. The Chief of Police shall supervise the activities of all persons holding licenses under this ordinance,²³ and he shall keep a record of all licenses issued hereunder, and shall make a report thereof each month to the Borough Council. (Ordinance 66, September 6, 1977, Section 6)

Section 107. Suspension and Revocation of License; Appeal. The Mayor is hereby authorized to suspend or revoke any license issued under this ordinance²⁴ when he deems such suspension or revocation to be beneficial to the public health, safety, or morals, for violation of any provision of this ordinance, or for giving false information upon any application for a license hereunder. Appeals from any suspension or revocation may be made to the Council at any time within ten (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. (Ordinance 66, September 6, 1977, Section 7)

Section 108. Penalty for Violation. Any person who shall violate any provision of this ordinance²⁵ shall, upon conviction thereof, be sentenced to pay a fine of not more than three hundred dollars (\$300.00) and costs of prosecution, or, in default of payment of such fine and costs, to undergo

23. Sections 101 to 109 of this chapter.

24. Sections 101 to 109 of this chapter.

25. Sections 101 to 109 of this chapter.

(XIII, sec. 108, cont'd)

imprisonment for not more than thirty (30) days. Provided: each violation of any provision of this ordinance, and each day the same is continued, shall be deemed a separate offense. (Ordinance 66, September 6, 1977, Section 8)

Section 109. Severability. The provisions of this ordinance²⁶ shall be severable, and if any section, part of section, or provision therefor shall be held to be unconstitutional, illegal, or otherwise invalid, such decision shall not affect the validity of any of the remaining sections, parts of sections, or provisions of this ordinance. It is hereby declared a legislative intent that this ordinance would have been adopted had such unconstitutional, illegal, or otherwise invalid provision not been a part hereof. (Ordinance 66, September 6, 1977, Section 9)

26. Sections 101 to 109 of this chapter.

Part 4
Utility Poles

Section 151. Annual License Required; Fee. All telephone, telegraph, electric light, power or traction companies or corporations operating within the Borough of Beech Creek shall pay to the Borough an annual license fee of twenty-five cents (25¢) for each and every pole within the Borough limits, owned, erected or operated over and along the highways and public lands of the Borough, payable in advance.²⁷ (Ordinance 25, August 20, 1906, Section 1, as amended by Ordinance 56, September 6, 1977, Section 1)

Section 152. Reports of Defective or Dangerous Conditions. It shall be the duty of the Street Committee of Council to report to Council all defective and dangerous poles and wires in the Borough, and cause the proper company or corporation to be notified of such defective or dangerous condition. (Ordinance 25, August 20, 1906, Section 2, as amended by Ordinance 56, September 6, 1977, Section 2)

Section 153. Penalty for Violation. Any such company or corporation violating or failing to comply with the terms and provisions of this ordinance²⁸ shall be liable to a penalty for each and every offense in a sum not less than five dollars nor more than ten dollars, to be recovered as debts of like amount are now recoverable. (Ordinance 25, August 20, 1906, Section 3)

27. Section 4 of Ordinance 25 repealed all inconsistent ordinances and parts of ordinances.

28. Sections 151 to 153 of this chapter.

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