

## Chapter 256

### TRANSIENT RETAIL BUSINESS

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[HISTORY: Adopted by the Borough Council of the Borough of Beech Creek 9-6-1977 by Ord. No. 66 (Ch. XIII, Part 3, of the 1978 Code of Ordinances). Amendments noted where applicable.]

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#### § 256-1. Definitions; word usage.

- A. As used in this chapter, the following terms shall have the meanings indicated::

PERSON — Any natural person, partnership, association, corporation, or other legal entity.

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 singular shall include the plural, the plural shall include the singular, and the masculine shall include the feminine and the neuter.

#### § 256-2. 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 \$10 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;
- D. To children under the age of 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 chapter 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.

### **§ 256-3. Application for license.**

Every person desiring a license under this chapter 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:

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

### **§ 256-4. Issuance of license; custody, display, and 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 chapter. 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, Borough officials, and citizens or residents of the Borough.

**§ 256-5. 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.

**§ 256-6. Supervision; records and reports. [Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. D)]**

The Mayor or Constable shall supervise the activities of all persons holding licenses under this chapter, and he shall keep a record of all licenses issued hereunder, and shall make a report thereof each month to the Borough Council.

**§ 256-7. Suspension and revocation of license; appeal.**

The Mayor is hereby authorized to suspend or revoke any license issued under this chapter when he deems such suspension or revocation to be beneficial to the public health, safety, or morals, for violation of any provision of this chapter, 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 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.

**§ 256-8. Violations and penalties. [Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. D)]**

Any person who violates or permits a violation of this chapter shall, upon conviction in a summary proceeding under the Pennsylvania Rules of Criminal Procedure, be guilty of a summary offense and shall be punishable by a fine of not more than \$1,000, plus court costs and reasonable attorneys' fees incurred by the Borough in the enforcement proceedings. Upon judgment against any person by summary conviction, or by proceedings by summons on default of the payment of the fine or penalty imposed and the costs, the defendant may be sentenced and committed to the county correctional facility for a period not exceeding 90 days. Each day that such violation exists shall constitute a separate offense, and each section of this chapter that is violated shall also constitute a separate offense. In addition to or in lieu of enforcement under this section, the Borough may enforce this chapter in equity in the Court of Common Pleas of Clinton County.

**§ 256-9. Severability.**

The provisions of this chapter 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 chapter. It is hereby declared a legislative intent that this chapter would have been adopted had such unconstitutional, illegal, or otherwise invalid provision not been a part hereof.