

BOROUGH OF WYOMISSING, BERKS COUNTY, PENNSYLVANIA

ORDINANCE NO. 1297-2009

AN ORDINANCE OF THE BOROUGH OF WYOMISSING, BERKS COUNTY, PENNSYLVANIA, AMENDING THE CODE OF THE BOROUGH OF WYOMISSING TO AMEND CHAPTER 13 “LICENSES, PERMITS AND GENERAL BUSINESS REGULATIONS” BY ADDING A NEW PART II ENTITLED “PEDDLING AND SOLICITING”.

NOW THEREFORE, BE IT ENACTED and ORDAINED by the Council of the Borough of Wyomissing, Berks County, Pennsylvania (“Borough”) as follows:

SECTION 1. Chapter 13 of the Code of Ordinances of Wyomissing Borough is hereby amended by enacting a new Part II entitled “Peddling and Soliciting”, to read as follows:

§201. Definitions and Interpretation.

The following words, when used in this Part, shall have the following meanings:

BOROUGH – The Borough of Wyomissing, Berks County, Pennsylvania.

LEGAL HOLIDAY – New Year’s Day, Easter, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas.

PEDDLER – Any person with no fixed place of business, who goes from house to house, from place to place, or from street to street, by any means, carrying or transporting goods, wares, or merchandise and offering or exposing the same for sale, or making sales and deliveries for purchase.

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

SOLICITOR – Any person who goes from house to house, from place to place, or from street to street, soliciting or taking or attempting to take orders for any goods, wares, or merchandise, including but not limited to books, periodicals, magazines, or personal property of any nature whatsoever for future delivery, or services, including but not limited to lawn care, alarm system service, or cleaning services. A solicitor is not a peddler.

TRANSIENT RETAIL BUSINESS – Any business conducted in Wyomissing Borough for the sale of goods, wares or merchandise whatsoever for a period of less than ninety (90) calendar days. Transient retail business includes peddlers and solicitors, and any person engaged in transient retail business from a fixed location on private property.

§202. License Required; Conditions of Issuance; Fee.

- A. No person shall engage in any transient retail business within the Borough of Wyomissing without first having obtained from the Borough a license, for which a fee, which shall be for the use of the Borough, shall be charged and paid to the Borough in an amount to be established from time to time by resolution of the Borough Council. At the expiration of any license, if the person holding the license shall desire to continue the transient retail business, he or she shall be required to file a new application for a license and pay the license fee.

- B. No permit or fee is required as it applies under this Section:
 - (1) To religious proselytizing, political speech, and the distribution of handbills.
 - (2) To farmers selling their own produce.
 - (3) 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.
 - (4) To any manufacturer or producer in the sale of bread and bakery products, meat and meat products, or milk and milk products.
 - (5) 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 who represent the Boy Scouts or Girl Scouts or similar organizations.
 - (6) To a person who has registered with the Department of State for the Commonwealth under the provisions of the Solicitation of Funds for Charitable Purposes Act, 10 P.S. §162.1, et seq., as hereafter amended, supplemented, modified or re-enacted by the General Assembly of Pennsylvania, or who is expressly exempted from such registration under such Act.
 - (7) For taking orders for merchandise, by sample, from dealers or merchants for individuals or companies who pay a license and business privilege tax to Wyomissing Borough at their chief place of business.
 - (8) To itinerant vendors and temporary vendors operating in the Borough with a permit pursuant to the Borough of Wyomissing Code, Chapter 10, Section 102, as amended.

- C. Any person claiming any exemption outlined above shall provide the Borough

with documentation demonstrating that person qualifies for said exemption.

- D. No person, licensed under this Part, shall park any vehicle upon any of the streets or alleys of the Borough in order to sort, rearrange or clean any of his goods, wares or merchandise; nor may any such person place or deposit any refuse upon any of such streets or alleys; nor may such person maintain or keep a street or curbstone market by parking any vehicle upon any street or alley in the Borough for longer than necessary in order to sell or distribute therefrom to persons residing in the immediate vicinity.
- E. No person, licensed under this Part, shall occupy any fixed location upon any of the streets, alleys, sidewalks or public grounds, with or without any stand or counter.

§203. Application for License.

Each individual or group intending to engage in peddling or soliciting must first obtain a license at least five (5) business days in advance of the beginning of the time period for which the intended peddling or soliciting will occur. A person desiring a license under this Part shall first make application to the Borough 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. His permanent address, telephone number and cell phone number;
- B. His criminal record, if any;
- C. The name and address of the person by whom he is employed together with his supervisor's or contact person's name and telephone number;
- D. The type of goods, wares, and merchandise he wishes to deal with in such transient retail business;
- D. The location on private property where sales will be conducted, if a fixed location is to be used. Compliance with all applicable zoning and building code regulations is required.
- E. The length of time for which the license is to be issued;
- F. The type and license number of the vehicle to be used, if any; and
- G. Applicant shall produce a State driver's license or other State or government issued picture identification card.

§204. Issuance of License; Custody, Display or Exhibit.

Upon receipt of such application and the prescribed fee, the Borough shall issue the license required under this Part if such license application is in order. Such license shall contain the information required to be given on the application. Every license holder shall carry such license upon his person if engaged in transient retail business from house to house or upon any of streets, alleys, sidewalks or public grounds. He shall exhibit such license, upon request, to all police officers, municipal officials and citizens or residents of the Borough of Wyomissing. The license holder shall only be entitled to carry said license for the length of time for which the license is issued. When the time period for the license has expired, the license holder shall apply for a new license and pay a new license fee.

§205. Prohibited Acts.

No person in any transient retail business shall:

- A. Sell any product or type of product not mentioned in their license.
- B. Hawk or cry his wares upon any of the streets, alleys, sidewalks or other 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 or working in the immediate vicinity.
- D. Park any vehicle upon any of the streets or alleys in the Borough for the purpose of cleaning any of his goods, wares, or merchandise or of disposing of any carton, wrapping material or of any stock or wares or food stuffs which have become unsaleable through handling, age or otherwise.
- E. Enter or attempt to enter any dwelling without the invitation or permission of the occupant and shall immediately leave any premises upon request of the occupant.
- F. Permit any person to have possession of his or her license and shall immediately report its loss to the Borough.

§206. Hours of Operation.

Transient Retail Businesses may not engage in any business activity, except by prior appointment, at any time on a Sunday or legal holiday; from October 1 through April 30, at any time before 9:00 a.m. or after 6:00 p.m. on any day; and from May 1 through September 30, at any time before 9:00 a.m. or after 8:00 p.m. on any day.

§207. Suspension and Revocation of License; Appeal.

The Chief of Police or Borough Manager are hereby authorized to suspend or revoke any license issued under this Part when he or she deems such suspension or revocation to be beneficial to the public health, safety, or morals, for violation of any provision of this Part, or for giving false information upon any application for a license hereunder. No part of a license fee shall be refunded to any person whose license shall have been suspended or revoked. Any person whose license is suspended or revoked shall immediately surrender his or her license to the Borough.

§208. Violations and Penalties.

Any person, firm or corporation who shall violate any provision of this Part, upon conviction thereof in an action brought before a magisterial district judge in the manner provided for the enforcement of summary offenses under the Pennsylvania Rules of Criminal Procedure, shall be sentenced to pay a fine of not less than One Hundred and 00/100 Dollars (\$100.00) and not more than One Thousand and 00/100 Dollars (\$1,000.00) plus costs and, in default of payment of said fine and costs, to a term of imprisonment not to exceed ninety (90) days. Each day that a violation of this Part continues or each Section of this Part which shall be found to have been violated shall constitute a separate offense.

§209. Nonliability of Borough.

All peddlers and solicitors, including nonprofit corporations and agencies, shall hold harmless the Borough from any liability, damage or injury which is causally related to an act of ordinary negligence on the part of such peddler or solicitor.

SECTION 2. All ordinances or parts of ordinances conflicting or inconsistent herewith are hereby repealed.

SECTION 3. If any sentence, clause, section or part of this Ordinance is for any reason found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses, sections or parts of this Ordinance. It is hereby declared to be the intent of the Borough Council that this Ordinance would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein.

SECTION 4. This Ordinance shall become effective at the earliest date allowed by law.

DULY ENACTED AND ORDAINED this _____ day of _____, 2009.

COUNCIL OF THE BOROUGH OF WYOMISSING,
BERKS COUNTY, PENNSYLVANIA

President

Vice President

Member

Member

Member

Member

Member

Attest: _____
Secretary

CERTIFICATE OF ENACTMENT

I hereby certify that the foregoing is a true and accurate copy of Ordinance No. 1297-2009 adopted by the Council of the Borough of Wyomissing, Berks County, Pennsylvania at a regular meeting held on _____, 2009, pursuant to notice as required by law.

Dated: _____

Borough Secretary