

CHAPTER 13

LICENSES, PERMITS AND GENERAL BUSINESS REGULATIONS

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Part 1

Transient Retail Merchants and Amusements

A. Transient Retail Merchants.

§101. Definitions. As used in this Part, the following terms shall have the meanings indicated, unless a different meaning clearly appears from the context:

LEGAL HOLIDAY - New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas.

PERSON - any natural person, partnership, association, corporation or other legal entity.

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; or,

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 limited to, such activities conducted at the time of special occasions or celebrations, for seasonal purposes, or for yearly holidays.

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

(Ord. 285, 5/6/1963; as revised by Ord. 412, 10/4/1993)

§102. License Required; Conditions of Issuance; Fee. No person shall engage in any transient retail business within the Borough without first having obtained from the Borough Manager a license, for which a fee, which shall be for the use of the Borough, shall be charged, in an amount as established, from time to time, by resolution of Borough Council. (Ord. 285, 5/6/1963; as revised by Ord. 412, 10/4/1993)

§103. Exceptions. No license fee shall be charged:

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 eighteen (18) years who take orders for and deliver newspapers, greeting cards, candy, bake products, and the like, or who represent the Boy Scouts or Girl Scouts or similar organizations.

E. To any honorably discharged member of any of the armed services who complies with the Act of 1867, April 8, P.L. 50, 60 P.S.

§61, as hereafter amended, supplemented, modified or reenacted by the General Assembly of Pennsylvania, and who procures from the Prothonotary a certificate in pursuance of the Act of 1867.

F. To the seeking or taking of orders by insurance agents or brokers licensed under the insurance laws of the Commonwealth of Pennsylvania.

G. To any person who has complied with the provisions of the Charitable Organization Reform Act, 63 P.S. §161.1 et seq.

H. 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.

But all person exempted hereby from the payment of the license fee shall be required to register with the Borough Manager and obtain a license without fee; provided, a person dealing in one (1) or more of the 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 Borough Manager 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 Part shall be issued on an individual 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 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.

(Ord. 285, 5/6/1963; as revised by Ord. 412, 10/4/1993)

§104. License Application. Every person desiring a license under this Part shall first make application to the Borough Manager 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:

- A. His criminal record, if any.
- B. Name and address of the person by whom he is employed.
- C. Type of goods, wares, and merchandise he wishes to deal with in such transient retail business.
- D. Length of time for which license is to be issued.
- E. Type and license number of the vehicle to be used, if any.

(Ord. 285, 5/6/1963; as revised by Ord. 412, 10/4/1993)

§105. Issuance of License; Custody, Display and Exhibit. Upon receipt of such application and the prescribed fee, the Borough Manager, if he shall find such application in order, shall issue the license required under this Part. 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. (Ord. 285, 5/6/1963; as revised by Ord. 412, 10/4/1993)

§106. 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 or working 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 stock, wares or foodstuffs which have become unsalable through handling, age or otherwise.

E. Engage in any business activity, except by prior appointment, at any time on a Sunday or legal holiday or at any time before _____ A.M. or after _____ P.M. on any day of the week other than a Sunday or legal holiday.

(Ord. 285, 5/6/1963; as revised by Ord. 412, 10/4/1993)

§107. Supervision; Records and Reports. The Borough Manager shall supervise the activities of all persons holding licenses under this Part. He shall keep a record of all licenses issued hereunder and shall make a report thereof each month to the Borough Council. (Ord. 285, 5/6/1963; as revised by Ord. 412, 10/4/1993)

§108. Denial, Suspension and Revocation of License; Appeal. The Borough Manager is hereby authorized to deny, suspend or revoke any license issued under this Part when he deems such denial, suspension or revocation to be beneficial to the public health, safety, or morals, or for violation of any provision of this Part, or for giving false information upon any 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 ten (10) days after such suspension, revocation or denial and a hearing shall be held within thirty (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. (Ord. 285, 5/6/1963; as revised by Ord. 412, 10/4/1993)

§109. Penalties. Any person, firm or corporation who shall violate any provision of this Part shall, upon conviction thereof, be sentenced to

pay a fine of not more than six hundred (\$600.00) dollars plus costs and, in default of payment of said fine and costs, to a term of imprisonment not to exceed thirty (30) days. Each day that a violation of this Part shall continue shall constitute a separate offense. (Ord. 285, 5/6/1963; as revised by Ord. 412, 10/4/1993)

B. Transient Amusements.

§111. Definition. As used in this Part, the following terms shall have the meanings indicated, unless a different meaning clearly appears from the context:

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, and roller coasters, which may be permanently or temporarily installed or used in the Borough.

CARNIVAL or CIRCUS - an itinerant enterprise consisting principally of temporary amusement structures and/or mechanical rides.

PERSON - any natural person, partnership, firm or corporation.

In this Part the singular shall include the plural; the plural shall include the singular; and the masculine shall include the feminine and the neuter.

(Ord. 285, 5/6/1963; as revised by Ord. 412, 10/4/1993)

§112. 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 Borough Manager, for which a fee for the use of the Borough, shall be paid as established by resolution of 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 Part.

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 where the application for such permit shall have been made by and on behalf of any organization connected with the municipal government or with any public school district.

(Ord. 285, 5/6/1963; as revised by Ord. 412, 10/4/1993)

§113. Rejection of Permits; Appeals.

1. The Borough Manager shall refuse to grant a permit in a 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 a permit shall be denied, an appeal from such denial may be made by the applicant to the Borough Council within ten (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 thirty (30) days of the appeal and a decision rendered by the Borough Council.

(Ord. 285, 5/6/1963; as revised by Ord. 412, 10/4/1993)

§114. Penalties. Any person, firm or corporation who shall violate any provision of this Part shall, upon conviction thereof, be sentenced to pay a fine of not more than six hundred dollars (\$600.00) plus costs and, in default of payment of said fine and costs, to imprisonment for a term not to exceed thirty (30) days. Every day that a violation of this Part continues shall constitute a separate offense. (Ord. 285, 5/6/1963; as revised by Ord. 412, 10/4/1993)

Part 2
Amusement Device Fee

§201. Short Title. This Part shall be known and may be cited as the "Emporium Amusement Device Fee Ordinance." (Ord. 350, 9/13/1976, §1; as amended by Ord. 412, 10/4/1993)

§202. Definitions.

AMUSEMENT DEVICE - any machine, contrivance or instrument which upon the insertion of a coin, slug, token, plate, disc or key into any slot, crevice or other opening, operates or may be operated for the purpose of amusement; and shall include but not be limited to the following types of devices: pinball machines, juke boxes, TV attachments or components for playing games, machines or other instruments playing recorded music except radios or televisions without attachments or components for playing games; but shall not include candy, cigarettes, ice, ice cream, food or soft drink vending machines or the like, nor automatic washing machines or dryers, or the like, nor car wash machines or the like.

PERSON - any natural person, association, copartnership, firm or corporation.

Throughout this Part, the singular shall include the plural and the masculine shall include feminine and neuter.

(Ord. 350, 9/13/1976, §2)

§203. Imposition of Fee.

1. There is hereby levied, assessed and imposed for the remainder of the 1976 calendar and fiscal year of the Borough of Emporium beginning November 1, 1976, a fee upon the privilege of using for profit within the Borough of Emporium any amusement device as herein defined, of five (\$5.00) dollars per device.

2. There is hereby levied, assessed and imposed for all future calendar and fiscal years of the Borough of Emporium beginning January 1, 1985, a fee on the privilege of using for profit within the Borough of Emporium any amusement device as herein defined of a sum per device which is designated from time to time by motion or resolution of Borough Council, not to exceed the sum of five hundred (\$500.00) dollars per device.

3. Such fee shall be payable by the person owning and/or operating any establishment in which such amusement device is installed for use; and for 1976 shall be payable on or before November 30, 1976, and for all years thereafter shall be payable on or before January 31st beginning January 31, 1977.

(Ord. 350, 9/13/1976, §3; as amended by Ord. 393, 6/19/1984, §1; and by Ord. 412, 10/4/1993)

§204. Seal.

1. On and after December 1, 1976, and thereafter on and after Febru-

ary 1st of each succeeding calendar and fiscal year, beginning February 1, 1977, no person shall begin or continue to use for profit any amusement device in the Borough of Emporium without first having paid the aforesaid fee thereon and without having affixed to said device a current seal. [Ord. 412]

2. No deduction or refund of any fee payable under this Part shall be granted in case of the destruction, theft or sale or other disposition or transfer of an amusement device after payment of such fee; provided, however, no more than one (1) fee under this Part shall be imposed as to any one (1) device during any one (1) calendar year. [Ord. 412]

3. The Borough Manager shall procure and supply at the expense of the Borough all seals required under this Part.

(Ord. 350, 9/13/1976, §4; as amended by Ord. 412, 10/4/1993)

§205. Certificate.

1. The Borough Manager shall procure, at the expense of the Borough, a sufficient number of certificates necessary to comply with this Part, upon each of which the following information shall appear: the name of the Borough of Emporium, the number of the certificate, the name and address of the person paying the fee, the year for which the fee is being paid, the date on which such fee is paid, the amount of the fee paid, the number of amusement devices on which the fee is being paid and the location of the premises where each amusement device is to be operated.

2. Whenever any fee is paid under this Part, the Borough Manager shall prepare in duplicate a certificate as hereinbefore prescribed. The original of such certificate, to which the Borough seal shall be affixed, shall be given to the person paying the fee; and the duplicate shall be kept on file by the Borough Manager. The Borough Manager shall also procure and give to the person paying such fee a seal for each amusement device for which such fee shall have been paid, to be affixed thereon. Such seal shall indicate the year for which such fee shall have been paid and the certificate number.

3. In case of loss, defacement or destruction of any certificate or seal, the person to whom such certificate or seal was issued shall apply to the Borough Manager for a new certificate or seal in replacement thereof, upon payment of a fee, in an amount as established from time to time by resolution of the Borough Council. The Borough Manager shall amend the duplicate of the certificate first issued to show the issuance of a new certificate or seal.

(Ord. 350, 9/13/1976, §5; as amended by Ord. 412, 10/4/1993)

§206. Penalties. If any fee imposed under this Part shall not be paid when due, a penalty of five (5) percent per month or fraction thereof shall be added thereto until paid. (Ord. 350, 9/13/1976, §6; as amended by Ord. 412, 10/4/1993)

§207. Fines. Any person neglecting, failing or refusing to furnish complete and correct information to the Borough Manager or to pay over any fee levied under this Part at the time required, or knowingly furnishing

any incomplete, false or fraudulent information to the Borough Manager, or using for profit any amusement device to which a current seal is not affixed, or otherwise violating any of the provisions or requirements of this Part shall, upon conviction thereof, be sentenced to a fine not to exceed six hundred (\$600.00) dollars plus costs and, in default of payment of said fine and costs, to a term of imprisonment not to exceed thirty (30) days. (Ord. 350, 9/13/1976, §7; as amended by Ord. 412, 10/4/1993)

