

BOROUGH OF WHITE OAK CODE

ARTICLE 317
Transient Retail Business

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CROSS REFERENCES

Peddlers and solicitors - see BUS. & TAX. Art. 313

317.01 PURPOSE.

The purpose of this article is to assist the Borough in the management of its business, the preservation of good order and peace, the health, safety and welfare of its inhabitants, and the protection and security of their property.

(Ord. 2774. Passed 10-19-87.)

317.02 DEFINITIONS.

Definitions as used in this article shall have the following meanings indicated. Words used in the singular shall include the plural, and the plural the singular; and the words used in the present tense shall include the future. The word "shall" is mandatory and not discretionary. The word "may" is permissive.

(a) "Transient retail business" means one conducted in a fixed location such as, but not limited to, a store, hotel, motel, building, shopping center, tent, lot, parking lot, truck, tractor-trailer, or structure for the retail or discount sale of goods, wares, merchandise, food products, etc., which business is intended to be conducted for a temporary period of time and not permanently. If the place in which a business is conducted is rented or leased for a period of ninety days or less, such fact shall be evidence that the business named or carried on therein is a "transient business." Transient retail businesses shall be restricted to commercially zoned areas unless provided for otherwise.

(b) "Transient merchant" means any person, persons, partnership or joint stock company, company, corporation, firm, association, society or individual who engages or proposes to engage in a transient retail business.

(c) "Transient merchant agent" For purpose of this article, means the owner or representative thereof of the site where the transient retail business is to be conducted.

(d) "Month" for the purposes of this article means thirty days.

(Ord. 2774. Passed 10-19-87.)

317.03 LICENSE REQUIRED.

No person shall engage in business as a transient merchant unless the transient merchant agent shall first have obtained a license to do so from the Borough Manager.

(Ord. 2774. Passed 10-19-87.)

317.04 FEE.

The fee for a transient merchant license shall be at the rate of two hundred dollars (\$200.00) for each thirty day period or fractional part thereof.

(Ord. 2774. Passed 10-19-87.)

317.05 APPLICATION FOR LICENSE.

The transient merchant agent shall provide the following information:

- (a) Location and address of the proposed transient retail business operation;
- (b) Name and address of the transient merchant agent;
- (c) The name and address of the firm or firms the transient merchant agent is applying for;
- (d) The exact relationship between the firm or firms and the transient merchant agent;
- (e) Sales tax number, Commonwealth of Pennsylvania if applicable;
- (f) A brief description of the business and the kind of goods or commodities which the transient merchant intends to sell;
- (g) The date(s) and time(s) the business is to be conducted;
- (h) Application shall be made to the Borough Manager at least ten days prior to the date the transient merchant business intends to commence operation.

(Ord. 2774. Passed 10-19-87.)

317.06 APPLICATION REVIEW AND LICENSE ISSUANCE.

- (a) Upon filing of the application for license, the Borough Manager shall immediately cause a review to be made of the parties named in such statement along with the merchandise for compliance with this article and other applicable ordinances of the Borough.

- (b) The Zoning Ordinance of the Borough shall apply to all licenses granted under this article. The Borough reserves the right to deny or revoke any license which violates the Zoning Ordinance. Any regulations or requirements set forth in the Zoning Ordinance shall be considered as additions to this article. Any and all conditions and requirements in the Zoning Ordinance must be fully met and complied with as if they were stated within and attached to this article.

- (c) Upon review and approval by the Borough Manager, an occupancy permit shall be issued. For purposes of this article, the occupancy permit shall be considered as the approved license. The occupancy permit shall note the following:
 - (1) The date the license shall be considered valid;
 - (2) The date the license shall expire;

(3) The name of the transient retail business(es) or transient merchant(s) for which or whom the license is issued;

(4) The name of the transient merchant agent for which or whom the license is issued.

(Ord. 2774. Passed 10-19-87.)

317.07 EXEMPTIONS.

Nothing contained in this article shall be construed to apply to:

(a) Farmers selling their own produce;

(b) To 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.

(Ord. 2774. Passed 10-19-87.)

317.08 PROHIBITION OF LICENSE TRANSFER.

(a) No license shall be transferred or considered applicable to another transient retail business or transient merchant(s) by the transient merchant agent. Licenses shall be valid only for the transient retail business(es) or transient merchants for which or whom it was originally applied and issued.

(b) If within the period the license is valid the transient merchant(s) for which or whom the license was issued ceases operation, he may commence operations again within the validity period without obtaining a new license, if notification is given to the Borough Manager of the date the business is to cease operation and the approximate date which it is intended to commence operation again, as long as the operation does not violate the original period.

(c) If when the transient merchant intends to recommence operation new transient retail business(es) or transient merchant(s) will also start operations, then the transient merchant agent shall obtain a new license for the new transient retail business(es) or transient merchant(s). (Ord. 2774. Passed 10-19-87.)

317.09 SUSPENSION OF LICENSE.

The Borough Manager is hereby authorized to suspend any license issued under this article when he deems such suspension to be beneficial to the public health, safety or morals or for violation of any of the provisions of this article or for giving false information upon any application for a license hereunder.

(Ord. 2774. Passed 10-19-87.)

317.10 SUPERVISION; RECORD OF LICENSES.

The Borough Manager shall keep a record of all licenses issued under this article and shall supervise the activities of all holders of such license.

(Ord. 2774. Passed 10-19-87.)

317.99 PENALTY.

Any person, persons, partnership or joint stock companies, company, corporation, firm, association, society or individual violating any provisions of this article shall, upon conviction before any Magisterial District Judge having jurisdiction, be sentenced to pay a fine of three hundred dollars (\$300.00) and the cost of prosecution, for each offense.

(Ord. 3452. Passed 11-20-06.)