

§ 4-1. MERCANTILE LICENSES.

§ 4-1.1. Zoned Area Mercantile License. [Ord. #3/27/80, § 1]

Mercantile license will apply to Highway Business and Commercial Business Zones as follows:

- a. All land bordering Atlantic City Boulevard.
- b. All land not being known as Atlantic City Boulevard, but which borders Route #166, the Railroad and Route #9.
- c. All lands bordering and within the resulting triangular tract of land as herein set forth:
 1. Beginning on the northerly side of Birch Street at its intersection with the Garden State Parkway; thence
 2. Proceeding south along the westerly side of the Garden State Parkway to a point at which it adjoins Double Trouble Road; thence
 3. Proceeding northwesterly along the westerly side of Double Trouble Road to Birch Street; thence
 4. Proceeding southeasterly along the northerly side of Birch Street to the point and place of beginning.
- d. All lands bordering and included within the resulting tract of land as herein set forth:
 1. Beginning at the corner on the northeast side of Ship Avenue and Chestnut Street; thence
 2. Proceeding northwesterly along Chestnut Street until it intersects the Garden State Parkway; thence
 3. Southerly along the easterly boundary of the Garden State Parkway to Pine Street; thence
 4. Southeasterly along the northeast side of Pine Street to Pinewald Road; thence
 5. Running north along the westerly side of Pinewald Road to Ship Avenue; thence
 6. Running northeasterly along the northwest side of Ship Avenue to the point and place of beginning. Local nonprofit organizations to include, but not be limited to, Girl Scouts, Boy Scouts, Little League Soccer, School Activities and the like shall be exempt from the provisions of this chapter.

§ 4-1.2. Definitions. [Ord. #3/27/80, § 1]

As used in this section:

Business includes all types of vocations, occupations, professions, enterprises, establishments and all other types of activities and matters, together with all devices, machines, vehicles and appurtenances used therein, any of which are conducted for private profit or benefit, either directly or indirectly, on any premises in the Borough of Beachwood.

CANVASSER AND SOLICITOR — Shall mean any person, traveling either by foot, wagon, automobile, motor truck or any other type of conveyance, from place to place, from house to house, or from street to street, taking or attempting to take orders for sales of foods, wares and merchandise, personal property of any nature whatsoever for future delivery, or for services to be furnished or performed in the future, whether or not such person has, carries or exposes for sale a sample of the subject of such sale, or whether or not such person is collecting advance payments on such sales. Further, these terms shall include any person who hires, leases, uses or occupies any building, structure, tent, railroad boxcar, boat, hotel room, lodging house, apartment, shop or any other place within the Borough of Beachwood for the sole purpose of exhibiting samples and taking orders for future delivery.

CIGARETTE VENDING MACHINE — Shall mean any automatic vending machine used for the sale of cigarettes, cigars, tobacco and controlled by the insertion of a coin or coins.

COMMERCIAL HANDBILL — Shall mean and include any printed or written matter, any sample or device, circular, leaflet, pamphlet, paper, booklet or any other printed or otherwise reproduced original or copies of any matter or literature which:

- a. Advertises for sale any merchandise, product, commodity or thing; or
- b. Directs attention to any business or mercantile establishment or other activity for the purpose of either directly or indirectly promoting the interests thereof by sales; or
- c. Directs attention to or advertises any show, theatrical performance, exhibition or event of any kind for which an admission fee is charged for the purpose of private gain or profit; or
- d. While containing reading matter other than advertising matter, is predominantly and essentially an advertisement and is distributed or circulated for advertising purposes for the private benefit and gain of any person so engaged as advertiser or distributor.

FIRE AND OTHER ALTERED GOODS SALE — Shall mean a sale held out in such a manner to reasonably cause the public to believe that the sale will offer goods damaged or altered by fire, smoke, water or other means.

GOING OUT-OF-BUSINESS SALE — Shall mean a sale held in such a manner as to reasonably cause the public to believe that upon the disposal of the stock and goods on hand, the business will cease and be discontinued, including but not limited to the following sales: adjusters; adjustments; alterations; assignees; bankrupts; benefit of administrators; benefit of creditors; benefit of trustees; building coming down; closing; creditors' committee; creditors and executors; final days; forced out; forced-out-of-

business; insolvents; last days; lease expirations; liquidations; loss of lease; mortgage sales; receivers; trustees; quitting business.

HANDBILL DISTRIBUTOR — Shall mean and include any person engaged in distributing commercial or noncommercial handbills, other than newspapers distributed to subscribers thereof, for himself or any other person, upon any of the public and private streets, places and premises other than his own premises, in the Borough. This subsection shall not prohibit sale of newspapers regularly published, through newsboys, newsmen or from news store premises in the Borough.

INSIGNIA — Shall mean any tag plate, badge, emblem, sticker or any other kind of device which may be required for any use in connection with any license.

JUKE BOX — Shall mean any music vending machine or device which, upon insertion of a coin, token, disc or key into any slot, crevice, or other opening, or by the payment of any price, operates or may be operated for the emission of songs, music or similar amusement.

MECHANICAL AMUSEMENT DEVICE — Shall mean any machine, operated mechanically, electrically or otherwise, which upon the insertion of a coin, token, disc or key may be operated by the general public for use as a game, entertainment or amusement, whether or not registering a score. It shall include such devices as marble machines, pinball machines, skill ball, mechanical grab machines and all games, operations or transactions similar thereto under whatever name they may be included.

NONCOMMERCIAL HANDBILL — Shall mean and include any printed matter or written matter, any sample or device, circular, leaflet, pamphlet, magazine, paper, booklet or any other printed or otherwise reproduced original, or copies of any letter or literature not included in the aforesaid definition on a commercial handbill, including political advertisements and handbills.

The definitions of "commercial handbill" and "noncommercial handbill" shall not include any newspaper of general circulation as defined by general law or any religious handbook, magazine, newspaper or periodical.

OUTDOOR DISPLAYS — The outdoor display of any goods, items or the placement of any objects for sale or advertising any sale of goods or services. This shall not apply to Going-out-of-business sale as defined herein. Additionally, this definition shall not apply to signs which are regulated in the Borough Code. **[Added 6-16-2021 by Ord. No. 2021-08]**

PEDDLER — Shall mean any person, traveling by foot, wagon, automotive vehicle, or any other type of conveyance, from place to place, from house to house, or from street to street, carrying, conveying or transporting goods, wares, food, liquids, merchandise, meats, fish, vegetables, fruits, garden truck, farm products or provisions, offering and exposing the same for sale, or making sales and delivering articles to purchasers or who, without traveling from place to place, shall sell or offer the same for sale from a wagon, automotive vehicle, railroad car or other vehicle or conveyance or a person who solicits orders and a separate transaction, makes deliveries to purchasers as part of a scheme or design to evade the provisions of this section. The term "peddler" shall include the words "hawker" and "huckster."

PREMISES — Shall mean and include all land, structures, places and also the equipment and appurtenances connected or used therewith in any business, and also any personal property which is either affixed to or is otherwise used in connection with any such business conducted on such premises.

REMOVAL OF BUSINESS SALE — Shall mean a sale held out in such a manner as to reasonably cause the public to believe that the person conducting the sale will cease and discontinue business at the place of sale upon disposal of the stock and goods on hand and then move to and resume business at a new location within the Borough or elsewhere.

TRANSIENT MERCHANT, ITINERANT MERCHANT AND ITINERANT VENDOR — Shall mean any person, whether as owner, agent or servant, employee or consignee, who engages in a temporary business of selling and delivering goods, wares and merchandise within the Borough and who in furtherance of such purpose hires, leases, uses or occupies any building, structure, motor vehicle, tent, railroad boxcar, boat, public rooms in hotels, lodging houses, apartments, shops or any street, alley or other public place within the Borough, for the exhibition and sale of such goods, wares and merchandise, either privately or at public auction.

VENDING MACHINE — Shall mean and include any machine or device, whether automatic or not, controlled by the insertion of a coin or coins for the vending of service, food, liquids, confections, goods, wares, merchandise or articles of any type, kind or description.

§ 4-1.3. Mercantile Licenses. [Ord. #3/27/80, § 1; Ord. #94-26, § 4; Ord. #95-11, § 1; Ord. #97-06, §§ 1, 2; Ord. #98-13, §§ 1-3]

- a. License required. No person shall either, directly or indirectly, conduct any business within the Borough defined in this section, unless a license or a permit therefor is first procured and kept in effect at all such times as required by this section or any other ordinances of the Borough.

For the purposes of this section, any person or entity shall be deemed to be engaged in conducting a business and subject to the provisions of this section when he sells any goods or services, solicits business or offers goods or services for sale or for hire.

- b. Applications for license. Every person required to procure a license or permit under the provisions of this section shall submit an application for such license or permit to the Borough Clerk at the Borough Hall, which application shall be accompanied by the full amount of fees chargeable for the license sought. In addition to the special requirements for specific licenses, as hereinafter provided, all applications for a license under the provisions of this section shall be by written statement upon the forms provided by the Borough Clerk which shall contain, essentially, the following:
 1. Any previous revocation or suspension of a mercantile license and the reasons therefor.

2. Statement that applicant is not violating the zoning regulations of the Borough. If applicant occupies a nonconforming use, proof of date of occupancy and operation must be given.
 3. Statement that applicant is not in default under the provisions of this section indebted or obligated in any manner to the Borough except for current taxes.
 4. Such other facts relative to the general personal history of the applicant, or its officers and managers if the applicant is not an individual, so as to enable the Borough Clerk to make a fair determination of the eligibility of the applicant.
 5. Name of person or entity to whom license will be issued and his residence address. If applicant is not an individual, then the names, positions and residence addresses of all officers and managers of the applicant.
 6. The premises at which the business is to be carried on and the name and address of the owner of the premises.
 7. The applicant shall address the requirements for compliance with the Americans with Disabilities Act.
- c. License renewals. Applications for renewal of a license shall follow the same procedure as is outlined for an original application. In the event that a renewal license application and renewal fee is not received by the Borough prior to the beginning of the calendar year, then said applicant shall pay a ten (\$10.00) dollar late fee in order to renew said license. Licenses may not be transferred but are subject to new licensing provisions.
- d. Duplicate licenses. A duplicate license may be issued by the Borough Clerk to replace any license previously issued which license has been lost, stolen, defaced or destroyed without any willful conduct on the part of the licensee, upon the filing by the licensee of an affidavit sworn to before a Notary Public of the State of New Jersey attesting to such fact and the payment to the Borough Clerk of a fee of \$5.
- e. Appeal procedure. After submission of an application and the required fee to the Municipal Clerk, the application will be processed as follows:
1. Zoning Officer -- determination of compliance to zoning regulations.
 2. Police Department -- performing appropriate background investigation.
 3. Planning Board authorized representative -- to determine if the location or the applicant has an application before the Board for any Board-related purpose. Upon completion of all investigative procedures, the Municipal Clerk will, within 30 days, provide written approval or disapproval of the license application. If approved, a license will be issued by the Municipal Clerk. If disapproved, the applicant will be given written notice of same, and have 15 days from date of notice to file an appeal of the decision with the Mayor and Council. The Mayor and Council of the Borough will have 15 days to affirm or reverse the decision of the Municipal Clerk. The applicant will be notified

of the time and date when the Mayor and Council shall consider said determination and will have the opportunity to be heard concerning said appeal and to be represented by counsel. In the event of a formal hearing request, said decision will be made by the Mayor and Council within 10 days of the date of said hearing.

- f. License specifications. Each license issued under the provisions of the Borough must state in the body of the license, the following information:
 - 1. The name of the licensee and any other name under which such business is to be conducted.
 - 2. The type and address of each business so licensed.
 - 3. The amount of license fee therefor.
 - 4. The dates of issuance and expiration thereof.
 - 5. Such other information as the Borough Clerk shall determine.
- g. Regulations. In addition to the provisions hereinafter set forth covering specific licensed operations, every licensee under this section shall:
 - 1. Permit all reasonable inspections of his business premises upon reasonable notification to the licensee, which inspection shall be at a mutually convenient time.
 - 2. Ascertain and at all times comply with all laws and regulations applicable to such licensed business.
 - 3. Avoid all forbidden, improper, unlawful or unnecessary practices, business or conditions inimical to public health, morals or welfare.
 - 4. Refrain from operating the licensed businesses on premises after expiration of his license and during the period when his license is revoked or suspended.
 - 5. Post and maintain his license upon the licensed premises in a place where it may be visible at all times.
 - 6. Not lend, sell, give or assign to any other person or entity to use and display the license except as authorized by the Borough Clerk or by law.
 - 7. No licensee shall place any outdoor displays, as herein defined ,outside of the licensed premises, building or structure. **[Added 6-16-2021 by Ord. No. 2021-08]**
- h. Due date of license fees. All license fees shall be due and payable by January 31st of each year.
- i. Fees, rebates or refunds. No rebate or refund of any license fee or any part thereof shall be made by reason of retirement of licensee from business or by reason of the nonuse of such license for all or any portion of the licensed year, or by reason of a

change of location or business or by reason of fire or other accident or other casualty rendering the use of such license ineffective.

- j. Enforcement of license provisions. It shall be the duty of the Code Enforcement Official and any authorized Borough official to examine all places of business in the Borough to determine if this section has been complied with and to enforce the provisions of this section against any person found to be violating the same.
- k. Exceptions to license requirements. No license shall be required of any person for any mere delivery in the Borough of any property purchased or acquired in good faith from such person at his regular place of business outside of the Borough where no intent by such person is shown to exist to evade the provisions of this section.
- l. Permits for nonprofit and public welfare purposes. The Borough Clerk may authorize the issuance of special permits without the payment of any license fees or other charge therefor to any public, charitable, political, educational, literary, fraternal or religious organization for the conduct or operation of a temporary nonprofit enterprise for a public, charitable, political, educational, literacy, fraternal or religious purpose. However, applicant shall submit the usual application form in the manner as herein before required and shall operate, if granted a permit, in accordance with the requirements of this section.
- m. Licenses for going-out-of-business, removal and fire sales.
 1. Special requirement. For a "going-out-of-business sale" or a "removal sale" or a "fire or other altered goods sale," a license to hold such sale shall be required and no person shall be granted a license unless the required fees are paid and the following special requirements, in addition to all other provisions of this section, are met and complied with:
 - (a) He has been the owner of a business as described in the application for a license here-under for a period of at least six months prior to the date of the proposed sale.
 - (b) He has not held a similar sale at the location stated in the application within one year last past from the date of such application.
 - (c) It applied to only one business and is not conducted or advertised in cooperation or by participation with any other business.
 - (d) He shall file with the licensing officer a complete inventory of goods that are to be offered for sale.
 2. Coverage. In cases covered by paragraph 1 above, the license issued hereunder shall:
 - (a) Authorize only one type of sale described in the application at the location named therein.
 - (b) Authorize only the sale of goods described in the inventory filed with the licensing officer and shall forbid addition or replacements.

- (c) Continue for a period not exceeding three months from the date of granting of license and shall not be renewable, assignable or transferable.
- 3. Special exceptions. The provisions of this section shall not apply or affect:
 - (a) Any person acting pursuant to an Order or process of a Court of competent jurisdiction.
 - (b) Persons acting in accordance with their powers and duty as public officials.
- n. Temporary seasonal mobile concessions.
 - 1. Purpose. The purpose of the within paragraph is to establish and allow the issuance of a mercantile license for any mobile concessionaire who successfully obtains a public bid for a temporary seasonal mobile concession.
 - 2. Mercantile license. Any successful mobile concessionaire who is awarded a contract by the Borough of Beachwood to operate such a mobile concession upon the Borough's riverfront beach area shall be entitled to a mercantile license during the term of said lease and shall not be required to pay a mercantile fee. Any such individual, partnership or corporation shall be required to complete a mercantile license application and to file the same with the Municipal Clerk. Any successful mobile concessionaire who is awarded a contract by the Borough of Beachwood to operate such a mobile concession shall be required to conform to any rules or regulations governing mobile concessions as established by resolution of the governing body of the Borough of Beachwood.

§ 4-1.4. Peddlers and Solicitors.¹ [Ord. #3/27/80, § 1]

- a. License required. No person shall conduct a business as a transient merchant, itinerant merchant, itinerant vendor, peddler, canvasser, solicitor or handbill distributor, as defined in this section, unless a permit or license therefor is first procured and kept in effect at all times as required by this section or any other law or ordinance of the Borough, required fees paid and all provisions of this section met.
- b. License applications. In addition to the requirements of subsection 4-1.3, paragraph b, persons applying for licenses as transient merchants, itinerant merchants, itinerant vendors, peddlers, solicitors, canvassers or handbill distributors shall furnish further information on their respective applications or attach the same thereto.
 - 1. A listing of all misdemeanors, felonies or violations of any Municipal ordinances for which applicant has been convicted, the nature of the offense and the punishment assessed therefor. If applicant is not an individual, these provisions shall apply to its officers and supervisory personnel employed at

1. Editor's Note: See also Section 4-2 for additional regulations on Peddlers and Solicitors.

the Borough.

2. The fingerprint of the person or persons having the management or supervision of the applicant's business.
 3. The place or places in the Borough where applicant proposes to carry on business, peddle, solicit, canvass or distribute and the length of time he proposes to do so.
 4. The place or places within or without the Borough where applicant, within two years next preceding the date of the application, did carry on business, peddle, solicit, canvass or distribute.
 5. A statement of the nature, character and quality of the goods, wares, or merchandise to be sold or offered for sale where manufactured and located, and proposed method of delivery.
 6. A brief statement of the nature and character of the advertising done or proposed to be done in order to attract customers.
 7. Credentials from the person, firm or corporation for which the applicant proposes to do business, authorizing the applicant to act as such representative.
 8. Such other reasonable information as to the identity or character of the person or persons having the management or supervision of the applicant's business or the method or plan of doing such business as the Borough Clerk may deem proper to fulfill the purposes of this section in the protection of the public good, including, but not limited to, a recent photograph of the person or persons having the management or supervision of the applicant's business.
 9. If a vehicle is to be used, a description of the same, together with the license registration number or other means of identification.
- c. Regulations. All licenses and licensees, and their agents under this section, are subject to the provisions and regulations of this section and each licensee shall in addition be required to carry at all times and display to any person authorized by the Borough his license and identification. Further, it shall be the duty of the Chief of Police, Borough Clerk and any other authorized inspector of the Borough to require any person seen peddling, soliciting, canvassing or distributing, as defined in this section, who is not known by such officer to be duly licensed, to produce his peddler, solicitor's, canvasser's or distributor's license, as the case may be.
- d. Occupational restrictions. The practice of going in and upon private residences in the Borough, by transient merchants, itinerant merchants, itinerant vendors, peddlers, canvassers, solicitors, salesmen or others of like occupation, not having been requested or invited to do so by the owners or occupants of the private residences, for the purpose of soliciting orders for the sale of goods, wares and merchandise, magazines, services or the like, or for the purpose of disposing of or peddling or hawking the same without the required license, is hereby declared to be a nuisance and is hereby specifically prohibited and punishable as hereinafter

provided. This provision does not apply to political organizations with campaign material.

§ 4-1.5. Regulations Concerning Issuance of Licenses. [Ord. #3/27/80, § 1; Ord. #87-18, § 2; Ord. #93-07, § 1; Ord. #98-15, §§ 4, 5; Ord. #2005-18, § 1]

- a. Term. All licenses required by this section, or any other section of this chapter, unless otherwise specified, shall be issued for the calendar year.
- b. Notice of hearing. Notice of hearing for revocation of license under the provisions of paragraph a preceding, shall be given in writing by the Borough Clerk, setting forth specifically the grounds of complaint and the time and place of the hearing, which hearing shall be conducted by the Mayor and Borough Council.
- c. Complaints. In addition to the provisions for revocation, the Borough Clerk, the Chief of Police, any police officer of the Borough or any taxpayer or resident of the Borough may make complaint in the Municipal Court of the Borough of Beachwood for any violation of this section, or any section, paragraph or provision thereof.
- d. Fees. The license fee to be paid, unless otherwise specified for conducting the business or businesses herein named at the premises to be designated in the license or licenses issued under this section, shall be as follows:
 1. Business or Commercial, \$125.
 2. Transient merchant, peddler, etc., \$5 per month, not to exceed \$25 per year.
 3. Canvasser, solicitor, handbill distributor, \$5 per day.
 4. Vendors, \$250 per unit.
 5. Mechanical, electro-mechanical, or electronic amusement device on the premises, \$250 per machine.
- e. Licensees selling food. Any licensee who sells food will be required to have an Ocean County Board of Health certification in accordance with the policies of the County.