

## Chapter 2 Transient Merchants <sup>1</sup>

### SECTION:<sup>2</sup>

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#### 4-2-1. Definitions

"Local Merchant" means any Person, including employees of the Person, who maintains a regular place of business in the Town of Westcliffe. (Ord. 8-2002, eff. 12-5-2002)

"Transient Merchant" means any person, firm or corporation (hereafter "Person"), whether as owner, agent, consignee or employee, whether a resident of the Town of Westcliffe or not, who engages in a temporary business of selling or delivering food, services, goods, wares, property or merchandise (hereafter "Goods") and who, in furtherance of such purposes, hires, leases, uses or occupies any building, structure, motor vehicle, trailer, tent, hotel, motel or lodging house room, apartment, shop, street, park, alley or other place within the Town, for the exhibition or sale of such Goods. (Ord. 9-1998, 12-1-98, 8-2002, eff. 12-5-2002)

"Town-wide interest" means an event which is expected to attract a significant number of visitors to the Town. (Ord. 8-2002, eff. 12-5-2002)

#### 4-2-2. Permit Required

It shall be unlawful for any Transient Merchant to operate any business as stated above without having first obtained a permit from the Town; provided, however, the Town Trustees, by resolution, may exempt from the permit requirements any Transient Merchant operating at locations approved in the resolution during an event declared to be of Town-wide interest, and

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<sup>1</sup> Title 4, Chapter 2, Sections 1 through 8 repeal and reenacted. (Ord. 8-2002, eff. 12-5-2002)

<sup>2</sup> Title 4, Chapter 2 is amended by the addition of a new section 5, renumbering the remaining and new Section 8. (Ord. 9-2017, eff. 7-27-2017)

providing further that the sponsor of such exempted event shall file with the Town, prior to such event, a list of the names, addresses and social security numbers of any participating Transient Merchant along with copies of the current Colorado and Westcliffe sales tax licenses for each such Transient Merchant. (Ord. 9-1998, 12-1-98, 8-2002, eff. 12-5-2002)

A Transient Merchant is not relieved from complying with the provisions of this Ordinance by reason of associating temporarily with any local dealer, trader, merchant or auctioneer (hereafter "Local Merchant"); provided, however, that if all sales of Goods made by such Transient Merchant, and all monies derived from such sales shall be collected by such Local Merchant, then the Transient Merchant shall be exempt from the provisions of this Ordinance. Only one such transient business shall be allowed to associate temporarily with any Local Merchant as a part of or in the name of any Local Merchant at any one time.

No permit shall be granted to any Transient Merchant unless such Transient Merchant first provides the Town with the following:

- A. The name, address, telephone number and social security number or employer identification number for the Transient Merchant;
- B. A current Colorado sales tax license;
- C. A current Town of Westcliffe sales tax license;
- D.<sup>3</sup> Evidence of liability insurance in an amount satisfactory to the Town Board of Trustees; and (Ord. 3-2015, 6-13-2015)
- E. If the Transient Merchant is a food vendor, a Colorado food vendor's license.
- F. If the Transient Merchant's activity is to take place on private property, written permission from the owner or owner's agent to conduct the activity. (Ord. 9-1998, 12-1-98)

#### **4-2-3: Permit Displayed<sup>4</sup>**

After fulfilling the requirements contained in Section 4-2-2 above, the Transient Merchant shall be issued a permit that must be displayed in a conspicuous manner at the location where said merchant is conducting business. If said merchant is conducting sales door-to-door then said merchant shall display the permit in an obvious manner on or in the vehicle from which he is conducting business. (Ord. 9-1998, 12-31-98, 8-2002, eff. 12-5-2002)

#### **4-2-4: Exemptions**

No permit shall be required for the following:

- A. Tax exempt organizations which produce satisfactory evidence to the Town Clerk of exemption under I.R.C. §501 (c) (3), although Transient Merchants who sell or deliver Goods at events sponsored by such organizations are not exempt unless exempted under section 4-2-3, above. (Ord. 9-1998, 12-31-98, 8-2002, eff. 12-5-2002)

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3 Title 4, Chapter 2, Section 2, Subsection D is repealed and reenacted. (Ord 3-2015, eff. 6-13-2015)

4 Title 4, Chapter 2, Section 3 is repealed and replaced in its entirety. (Ord. 2-2012, eff. 3-9-2012)

- B. Newspaper sellers. (Ord. 9-1998, 12-31-98, 8-2002, eff. 12-5-2002)
- C.<sup>5</sup> Yard sales in the Residential, Agriculture and Highway Commercial District. (Ord. 9-1998, 12-31-98, 8-2002, eff. 12-5-2002, (Ord 9-2017, eff. 7-27-2017)
- D. Public utilities franchised to do business within the Town. (Ord. 9-1998, 12-31-98, 8-2002, eff. 12-5-2002)
- E. Dissemination of information without solicitation of money or other consideration. (Ord. 9-1998, 12-31-98, 8-2002, eff. 12-5-2002)
- F. Any sale required by law. (Ord. 9-1998, 12-31-98, 8-2002, eff. 12-5-2002)

**4-2-5: Prohibited Activity**

Yard sales within the Core Commercial District shall be prohibited. (Ord. 9-2017, eff. 7-27-2017)

**4-2-6: Required Conduct**

Transient Merchants shall:

- A. Operate the business only between 8:00 a.m. and 9:00 p.m. (Ord. 9-1998, 12-31-98, 8-2002, eff. 12-5-2002)
- B. Keep the location where the business is operated clean and pick up and properly dispose of all trash and refuse. (Ord. 9-1998, 12-31-98, 8-2002, eff. 12-5-2002)
- C. Not interfere with the free flow of pedestrian traffic in any right-of-way in which they operate. (Ord. 9-1998, 12-31-98, 8-2002, eff. 12-5-2002)
- D. Comply with all applicable laws and ordinances. (Ord. 9-1998, 12-31-98, 8-2002, eff. 12-5-2002)

**4-2-7: Fees**

A Permit Fee shall be imposed and such fee shall be collected by the Clerk of the Town of Westcliffe or the Clerk's designee prior to the issuance of a Permit as required under Title 4, Chapter 2, Section 2. The fee shall be twenty-five dollars (\$25.00) per instance of Permit issuance. A new fee shall be required for each twenty-four hour period the Permit is valid. A maximum cumulative fee per transient merchant of two hundred dollars (\$200.00) shall be collect in a calendar year. No fees shall be assessed or collected after the maximum fee is tender regardless of the number of Permits issued to that specific Transient Merchant. (Ord. 9-2017, eff. 7-27-2017)

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5 Title 4, Chapter 2, Section 4 is amended by repealing and reenacting Paragraph C in its entirety. (Ord 9-2017, eff. 7-27-2017)

**4-2-8: Penalties**

Any Person violating the provisions of the Ordinance shall be subject to the penalties imposed by §1-6-12 of the Westcliffe Code of Ordinances. In addition, violation of the provisions of this Ordinance may result in revocation of the permit. (Ord. 9-1998, 12-31-98, 8-2002, eff. 12-5-2002, Ord. 9-2017, eff. 7-27-2017)