

# Boyce Town Code

## TITLE XI: BUSINESS REGULATIONS

### Chapter

110. AMUSEMENTS AND ENTERTAINMENT

111. TRANSIENT MERCHANTS AND SOLICITORS

Cross-reference: Businesses and Professions Tax, see Title V

### **CHAPTER 110: AMUSEMENTS AND ENTERTAINMENT**

#### Section

#### *Outdoor Musical or Entertainment Festivals*

110.01 Definitions

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#### ***OUTDOOR MUSICAL OR ENTERTAINMENT FESTIVALS***

#### **§ 110.01 DEFINITIONS.**

For the purpose of this subchapter the following definitions shall apply unless the context clearly indicates or requires a different meaning.

***MUSICAL or ENTERTAINMENT FESTIVAL or FESTIVAL.*** Any gathering of groups or individuals in excess of 100 persons for the purpose of listening to or participating in entertainment which consists primarily of electronically amplified musical renditions conducted in open spaces on private property and not within an enclosed structure or other structure designed to accommodate groups of persons.

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### **§ 110.02 PERMIT REQUIRED.**

No person shall stage, promote or conduct any musical or entertainment festival in the locality without first obtaining a permit pursuant to this subchapter.

Penalty, see § 10.99

### **§ 110.03 APPLICATION FOR PERMIT.**

Application for a permit shall be in writing on forms provided for the purpose and filed with the Town Clerk at least 21 days before the date of the proposed festival. The application shall be accompanied by the information required under § 110.04.

### **§ 110.04 PERMIT; CONDITIONS FOR ISSUING; COMPLIANCE.**

(A) A permit shall not be issued unless the following conditions are met and the following plans, statements, approvals and other items are submitted with the application:

(1) A copy of the ticket or badge of admission to the festival, containing the date or dates and time or times of the festival, together with a statement by the applicant of the total number of tickets to be offered for sale and the best reasonable estimate by the applicant of the number of persons expected to be in attendance;

(2) A statement of the names and addresses of the promoters of the festival, the financial backing of the festival and the names of all persons or groups who will perform at the festival;

(3) A statement of the nature and location of the proposed festival, the name and address of the owner of the property on which the festival is to be held and the interest of the applicant therein;

(4) A plan for adequate sanitation facilities and garbage, trash and sewage disposal for persons at the festival, which shall meet the requirements of any applicable state and local statutes, ordinances and regulations and shall be approved by the locality or its designated health officer;

(5) A plan for providing food, water and lodging for the persons at the festival, which shall meet the requirements of all state and local statutes, ordinances and regulations and shall be approved by the locality or its designated health officer;

(6) A plan for adequate medical facilities for persons at the festival, approved by the locality or its designated health officer;

(7) A plan for adequate parking facilities and traffic control in and around the festival area;

(8) A plan for adequate fire protection, which shall meet the

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requirements of all state and local statutes, ordinances and regulations and shall be approved by the fire marshal;

(9) A statement specifying whether any outdoor lights are to be utilized, and if so, a plan showing the location of such lights and shielding devices or other equipment to prevent unreasonable glow beyond the property on which the festival is located; and

(10) A statement that no music shall be played, either by mechanical device or live performance, in such a manner that the sound emanating therefrom shall be unreasonably audible beyond the property on which the festival is located.

(B) It shall be unlawful for any person obtaining a permit under this subchapter to fail or refuse to comply with any of the plans, statements or other documents submitted pursuant to this section.

(C) No permit shall be issued under this section unless the applicant shall furnish to the locality written permission for the Town Council, its lawful agents and duly constituted law-enforcement officers to go upon the property at any time for the purpose of determining compliance with the provisions of this subchapter.

Penalty, see § 10.99

### **§ 110.05 GRANT OR DENIAL OF PERMIT.**

(A) The locality shall act on an application for a permit under this division within ten days from the filing of the same.

(B) If granted, the permit shall be issued in writing on a form provided for the purpose and mailed by the Clerk to the applicant at the address indicated.

(C) If denied, the refusal shall be in writing, with the reasons for such denial stated therein, and mailed by the Clerk to the applicant at the address indicated.

### **§ 110.06 REVOCATION OF PERMIT.**

The locality shall have the right to revoke any permit issued under this subchapter upon noncompliance with any of its provisions and conditions.

## **CHAPTER 111: TRANSIENT MERCHANTS AND SOLICITORS**

Section

111.01 Definitions

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- 111.02 License requirement
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- 111.08 Exhibition of identification
- 111.09 Policy on soliciting
- 111.10 Notice regulating soliciting
- 111.11 Duty of solicitors to ascertain notice
- 111.12 Prohibited solicitation

### § 111.01 DEFINITIONS.

For the purpose of this chapter the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**BUSINESS.** The business carried on by any person who is an itinerant merchant, peddler, or solicitor as defined in this section.

**GOODS.** Merchandise of any description whatsoever, and includes, but is not restricted to, wares and foodstuffs.

**ITINERANT MERCHANT.** Any person, over the age of 18 whether as owner, agent, or consignee, who engages in a temporary business of selling goods within the locality and who, in the furtherance of such business, uses any building, structure, vehicle, or any place within the locality.

**PEDDLER.** Any person, over the age of 18 not an itinerant merchant, who:

(1) Travels from place to place by any means carrying goods for sale, or making sales, or making deliveries; or

(2) Without traveling from place to place, sells or offers goods for sale from any public place within the locality.

**SOLICITOR.** Any person over the age of 18 who travels by any means from place to place, taking or attempting to take orders for sale of goods to be delivered in the future or for services to be performed in the future. A person who is a solicitor is not a peddler.

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### **§ 111.02 LICENSE REQUIREMENT.**

(A) Any person over the age of 18 who is an itinerant merchant, peddler, or solicitor shall obtain a license before engaging in such activity within the locality.

(B) The fee for the license required by this chapter shall be as set from time to time by the Town Council.

(C) No license issued under this chapter shall be transferable.

(D) All licenses issued under this chapter shall expire 90 days after the date of issuance thereof.

Penalty, see § 10.99

### **§ 111.03 APPLICATION PROCEDURE.**

(A) All applicants for licenses required by this chapter shall file an application with the Clerk. This application shall be signed by the applicant if an individual, or by all partners if a partnership, or by the president if a corporation. The applicant may be requested to provide information concerning the following items:

(1) The name and address of the applicant;

(2) (a) The name of the individual having management authority or supervision of the applicant's business during the time that it is proposed to be carried on in the locality;

(b) The local address of such individual;

(c) The permanent address of such individual;

(d) The capacity in which such individual will act;

(3) The name and address of the person, if any, for whose purpose the business will be carried on, and, if a corporation, the state of incorporation;

(4) The time period or periods during which it is proposed to carry on applicant's business;

(5) (a) The nature, character, and quality of the goods or services to be offered for sale or delivered;

(b) If goods, their invoice value and whether they are to be sold by sample as well as from stock;

(c) If goods, where and by whom such goods are manufactured or grown, and where such goods are at the time of application;

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(6) The nature of the advertising proposed to be done for the business;

(7) Whether or not the applicant, or the individual identified in division (A)(2)(a) above, or the person identified in division (A)(3) has been convicted of any crime or misdemeanor and, if so, the nature of each offense and the penalty assessed for each offense.

(B) Applicants for peddler or solicitor licenses may be required to provide further information concerning the following items, in addition to that requested under division (A) above:

(1) A description of the applicant;

(2) A description of any vehicle proposed to be used in the business, including its registration number, if any.

(C) All applicants for licenses required by this chapter shall attach to their application, if required by the locality, credentials from the person, if any, for which the applicant proposes to do business, authorizing the applicant to act as such representative.

(D) Applicants who propose to handle foodstuffs shall also attach to their application, in addition to any attachments required under division (C), a statement from a licensed physician, dated not more than ten days before the date of application, certifying the applicant to be free of contagious or communicable disease.

Penalty, see § 10.99

### **§ 111.04 STANDARDS FOR ISSUANCE.**

(A) Upon receipt of an application, an investigation of the applicant's business reputation and moral character shall be made at the applicant's expense.

(B) The application shall be approved unless such investigation discloses tangible evidence that the conduct of the applicant's business would pose a substantial threat to the public health, safety, morals, or general welfare. In particular, tangible evidence that the applicant has committed any of the following will constitute valid reasons for disapproval of an application:

(1) Has been convicted of a crime of moral turpitude; or

(2) Has made willful misstatements in the application; or

(3) Has committed prior violations of ordinances pertaining to itinerant merchants, peddlers, solicitors, and the like; or

(4) Has committed prior fraudulent acts; or

(5) Has a record of continual breaches of solicited contracts.

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### **§ 111.05 REVOCATION PROCEDURE.**

Any license or permit granted under this chapter may be revoked by the Town Clerk after notice and hearing, pursuant to the standards in § 111.06. Notice of hearing for revocation shall be given in writing, setting forth specifically the grounds of the complaint and the time and place of the hearing. Such notice shall be mailed to the licensee at his last known address, at least ten days before the date set for the hearing.

### **§ 111.06 STANDARDS FOR REVOCATION.**

A license granted under this chapter may be revoked for any of the following reasons:

- (A) Any fraud or misrepresentation contained in the license application; or
- (B) Any fraud, misrepresentation, or false statement made in connection with the business being conducted under the license; or
- (C) Any violation of this chapter; or
- (D) Conviction of the licensee of any felony, or conviction of the licensee of any misdemeanor involving moral turpitude; or
- (E) Conducting the business licensed in an unlawful manner or in such a way as to constitute a menace to the health, safety, morals, or general welfare of the public.

### **§ 111.07 APPEAL PROCEDURE.**

(A) Any person aggrieved by a decision under §§ 111.04 or 111.06 shall have the right to appeal to the Town Council. The appeal shall be taken by filing with the Town Council, within 14 days after notice of the decision has been mailed to such person's last known address, a written statement setting forth the grounds for appeal. The Town Council shall set the time and place for a hearing, and notice for such hearing shall be given to such person in the same manner as provided in § 111.05.

- (B) The order of the Town Council after the hearing shall be final.

### **§ 111.08 EXHIBITION OF IDENTIFICATION.**

(A) Any license issued to an itinerant merchant under this chapter shall be posted conspicuously in or at the place named therein. In the event more than one place within the locality shall be used to conduct the business licensed, separate licenses shall be issued for each place.

(B) The Town Clerk shall issue a license to each peddler or solicitor licensed under this chapter. The license shall contain the words "Licensed Peddler" or "Licensed

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Solicitor,” the expiration date of the license, and the number of the license. The license shall be kept with the licensee during such time as he is engaged in the business licensed.

Penalty, see § 10.99

### **§ 111.09 POLICY ON SOLICITING.**

It is hereby declared to be the policy of the locality that the occupants of the residences in the locality shall make the determination of whether solicitors shall be, or shall not be, invited to their respective residences.

### **§ 111.10 NOTICE REGULATING SOLICITING.**

(A) Notice of the refusal of invitation to solicitors, to any residence, shall be given on a weatherproof card, approximately three inches by four inches in size, exhibited upon or near the main entrance door to the residence, indicating the determination by the occupant, containing the applicable words, as follows:

“NO SOLICITORS INVITED”

(B) The letters shall be at least 1/3-inch in height. For the purpose of uniformity, the Town Clerk shall provide the cards to persons requesting, at the cost thereof.

(C) The card so exhibited shall constitute sufficient notice to any solicitor of the determination by the occupant of the residence of the information contained thereon.

### **§ 111.11 DUTY OF SOLICITORS TO ASCERTAIN NOTICE.**

(A) It shall be the duty of every solicitor upon going onto any premises in the locality upon which a residence is located to first examine the notice provided for in § 111.10 if any is attached, and be governed by the statement contained on the notice. If the notice states “NO SOLICITORS INVITED,” then the solicitor, whether registered or not, shall immediately and peacefully depart from the premises.

(B) Any solicitor who has gained entrance to any residence, whether invited or not, shall immediately and peacefully depart from the premises when requested to do so by the occupant.

Penalty, see § 10.99

### **§ 111.12 PROHIBITED SOLICITATION.**

It is hereby declared to be unlawful and shall constitute a nuisance for any person

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to go upon any premises and ring the doorbell upon or near any door, or create any sound in any manner calculated to attract the attention of the occupant of such residence, for the purpose of securing an audience with the occupant thereof and engage in soliciting in defiance of the notice exhibited at the residence in accordance with the provisions of § 111.10 above.

Penalty, see § 10.99