

**AN ORDINANCE AMENDING CHAPTER 240 OF THE REVISED GENERAL ORDINANCES OF THE BOROUGH OF WHARTON, COUNTY OF MORRIS, STATE OF NEW JERSEY**

BE IT ORDAINED by the Governing Body of the Borough of Wharton that Chapter 240. Sales, Special of the revised general ordinances of the Borough of Wharton is hereby amended as follows:

Chapter 240. Sales, Special

Article I. Christmas Trees and Other Holiday Products

§ 240-1. General provisions.

Notwithstanding the provisions of any ordinance to the contrary, it shall be lawful for a licensee to sell Christmas trees and holiday products outside from a location that is not a permanent retail business under the following terms and conditions:

- A. Sales shall only occur between November 15 and December 25 in any year, between the hours of 9:00 a.m. to 9:30 p.m.
- B. The place of such sales shall be located only in the CBD Zone, the OAL Zone, the B-1 Zone or the B-2 Zone, **or on property that is tax exempt.**
- C. The outdoor sales area shall adhere to required setbacks and not interfere with pedestrian and vehicular circulation. Sidewalks shall not be blocked by the display of merchandise.

§ 240-2. License required.

- A. **One Two licenses** for the outdoor sales of Christmas trees and holiday products may be issued in any year to a person meeting all the requirements of this article.
- B. The annual fee for a license shall be \$100.

§ 240-3. Requirements for approval.

All applicants for a license shall pay the required license fee and shall file with the **Borough Clerk Housing and Zoning Officer** a sworn written application on forms furnished by the **Housing and Zoning Officer**, which shall contain the following information:

- A. The name and description of the applicant, including date of birth, driver's license number, if issued, and social security number or tax identification number.

- B. The permanent home address and full local address, if any, of the applicant. If the applicant is a corporation, the name and address of its registered agent.
- C. The name and address of employer, firm or person represented, together with credentials establishing the existing relationship.
- D. If a vehicle is to be used, a description of such vehicle and its license number.

~~A photograph of the applicant taken not more than 60 days immediately prior to the date of the application, which photograph shall clearly show the head and shoulders of the applicant and shall measure a minimum of 1 1/2 inches by 1 1/2 inches.~~

- E. A statement as to whether the applicant and any employee has been convicted of any crime, misdemeanor or violation of any municipal ordinance, other than traffic offenses, the nature of the offense and punishment and/or penalty imposed.

~~Each applicant shall present proof that he/she is a citizen of the United States or a person satisfying all requirements of the immigration and naturalization laws, or other applicable law, for holding gainful employment in the United States. Each application shall be required to produce a certificate of registration from the Director of the Division of Taxation of the New Jersey State Department of the Treasury. Every applicant who holds a license issued under this article during the year preceding the application shall present proof of payment of New Jersey sales tax required pursuant to N.J.S.A. 54:32B-1 et seq.~~

- F. If the applicant does not own the property on which the sales are to be conducted, a written statement from the owner of the property that the applicant has the authority to conduct such sales on the property.

~~G. *A drawing of the location where sales will be conducted showing the location of parking and loading areas.*~~

§ 240-4. Annual renewal and assignment.

- A. The licenses issued under this article shall be issued annually on ~~August 1~~ October 1. If there are more than two applicants for the licenses, the determination as to who shall be issued the license shall be determined by a random draw conducted by the ~~Borough Clerk~~ Housing and Zoning Officer at 10:00 a.m. on the first business day after ~~August 1~~ October 1.

- B. No license issued under this article may be assigned or transferred.

~~§ 240-5. Insurance and deposit.~~

~~A. Insurance requirement.~~

~~1. Every licensee shall carry and maintain in force insurance covering its operations written by an insurance company licensed to do business in the State of New Jersey and providing the following minimum coverage and language:~~

~~i. Comprehensive general liability: \$500,000 (combined single limit each occurrence).~~

~~ii. Business automobile liability: \$500,000 (each accident), or, if the license is granted to an entity that does not own any automobiles and uses employees that would use their own automobiles to conduct the business, then employer's nonownership automobile liability would be acceptable for the business auto insurance requirement.~~

~~2. The Borough and its agents and employees shall be indemnified and held harmless from all claims, demands, losses and expenses arising from the permission granted and shall be named as an additional insured.~~

~~3. The issuing company shall notify the Borough within 10 days of the cancellation of any of the policies.~~

~~4. The licensee shall provide proof of paid-up insurance coverage, and in the case of not having paid the policy for a full year, appropriate, i.e., monthly, quarterly or semiannual, proof shall be provided.~~

~~B. Deposit. Prior to the issuance of the license, the licensee shall deposit with the Borough the sum of \$500 to guarantee the cleanup of the property used for the conduct of the sales and the removal of all merchandise and debris. If the property is not cleaned and all merchandise and debris removed by December 31, the deposit shall be forfeited and utilized by the Borough to clean the property.~~

§ 240-6. Violation and penalties.

Violation of any of the provisions of this article shall be punishable as provided in Chapter 1, General Provisions, Article I, General Penalty.

First Reading: December 3, 2018

Second Reading: December 17, 2018

BOROUGH OF WHARTON

ATTEST:

\_\_\_\_\_  
WILLIAM J. CHEGWIDDEN,  
MAYOR

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Gabrielle Evangelista,  
Borough Clerk