

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

### SECTION:

- 4-2-1: Definitions**
- 4-2-2: Permit Required**
- 4-2-3: Permit Fees**
- 4-2-4: Exemptions**
- 4-2-5: Required Conduct**
- 4-2-6: Penalties**

#### 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 providing further that the sponsor of such exempted event shall file with the Town,

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

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. Evidence of liability insurance in an amount satisfactory to the Town Manager; and
- 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 Fees**

Every applicant for a permit under the provisions of this Ordinance shall pay a fee of \$25 per day of operation but not more than \$200 in any one calendar year. (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)

- B. Newspaper sellers. (Ord. 9-1998, 12-31-98, 8-2002, eff. 12-5-2002)
- C. Yard sales. (Ord. 9-1998, 12-31-98, 8-2002, eff. 12-5-2002)
- 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. 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)

**4-2-6. 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)