

ORDINANCE NO. _____

**AN ORDINANCE OF THE BOROUGH OF WAYNESBORO,
FRANKLIN COUNTY, PENNSYLVANIA, AMENDING
CHAPTER 195 OF THE CODE OF ORDINANCES OF THE
BOROUGH OF WAYNESBORO TO CLARIFY LICENSE
FEE EXEMPTION REQUIREMENTS.**

WHEREAS, the Borough Code, 8 Pa. C.S. § 101, *et seq.*, at Section 1202(20), authorizes the Borough of Waynesboro (the “Borough”) to provide for the licensing and regulation of businesses unless prohibited by law, 8 Pa. C.S. § 1202(20)(ii); and

WHEREAS, Section 1203 of the Borough Code, 8 Pa. C.S. § 1203, authorizes the Borough to make and adopt all ordinances, bylaws, rules, and regulations not inconsistent with or restrained by the Constitution of Pennsylvania and laws of the Commonwealth as may be expedient or necessary for the proper management, care, and control of the Borough and the maintenance of safety and welfare of the Borough and its trade and commerce; and

WHEREAS, on May 4, 2011, the Borough adopted Ordinance No. 1103 to establish Chapter 195 of the Code of the Borough of Waynesboro (the “Code”), entitled “Peddling and Soliciting” which establishes licenses for certain transient retail businesses; and

WHEREAS, on October 20, 2021, the Borough adopted Ordinance No. 2021-1191, which amended certain provisions of Chapter 195 to reflect the requirements of Act 34 of 2021; and

WHEREAS, on December 20, 2023, the Borough adopted Ordinance No. 1205, which amended Chapter 195 of the Code to establish a daily license fee for transient vendors in the Borough; and

WHEREAS, the Borough wishes to amend certain provisions of Chapter 195 of the Code to clarify license fee exemption requirements; and

WHEREAS, the Borough has determined that it is in the best interest of the health, safety, morals, and general welfare of the Borough residents to amend the Code as set forth in this Ordinance.

NOW THEREFORE, BE IT ENACTED AND ORDAINED, by the Mayor and Borough Council of the Borough of Waynesboro, Franklin County, Pennsylvania, and it is enacted and ordained as follows:

SECTION 1. Chapter 195, Section 195-3 of the Code, titled “License required; fee, exemptions” is hereby repealed in its entirety and is amended to read as follows:

- A. No person shall engage in any transient retail business within the Borough of Waynesboro without first having obtained from the Borough Manager or his designee either a daily license or a yearly license. The fee for the daily license and yearly license shall be set by

Borough Council from time to time by resolution. Each transient vendor shall be required to obtain his own license.

B. No license shall be required for any business that meets all of the following requirements:

1. Operated by one or more persons under the age of 18 years old;
2. Receives no more than \$5,000 in proceeds per year, unless business was created for a charitable purpose;
3. Operated not more than 84 days in a calendar year; and
4. Located a sufficient distance from a license commercial entity such that the minor's business is not a direct economic competitor.

C. Upon receipt by the Borough Manager or his designee of the proof of exemption required under Section 195-3.E., no license fee shall be charged under this section: (a) to farmers selling their own produce; (b) for the sale of goods, wares and merchandise, donated by the owners thereof, the proceeds of which are to be applied to any charitable or philanthropic purpose; (c) to any manufacturer or producer in the sale of bread and bakery products, meat and meat products, or milk and milk products; or (d) to persons working without compensation and selling goods, wares, or merchandise for the sole benefit of any nonprofit corporation. All persons exempted from payment of the license fee shall be required to register with the Borough Manager and to obtain a license without fee.

Any person dealing in one or more of the exempted categories above, and selling other goods, wares, or merchandise not so exempted, shall be subject to the payment of the license fee fixed by this section for the activities in connection with the sale of goods, wares, or merchandise not in such exempted categories.

D. Every license issued under this chapter shall be issued on an individual basis to each natural person engaged in such business.

E. Notwithstanding anything in this Chapter to the contrary, anyone claiming or seeking an exemption from license fees required by this Chapter shall provide dispositive proof of such exemption to the Borough Manager or his designee at the time of application for the license required by this Chapter.

SECTION 2. Repealer. All provisions of previous ordinances of the Code of the Borough of Waynesboro, which are contrary to this Ordinance, are expressly repealed.

SECTION 3. Savings Clause. In all other respects, the Code of the Borough of Waynesboro shall remain as previously enacted and ordained.

SECTION 4. Severability. If any word, phrase, sentence, part, section, subsection, or other portion of this Ordinance or any application thereof to any person or circumstance is declared void, unconstitutional, or invalid for any reason, then such word, phrase, sentence, part, section, subsection, or other portion, or the proscribed application thereof, shall be severable and the remaining provisions of this Ordinance and all

applications thereof, not having been declared void, unconstitutional, or invalid, shall remain in full force and effect.

SECTION 5. Effective Date. This Ordinance shall take effect in accordance with law.

ENACTED, ORDAINED, and APPROVED this ____ day of _____, 2024.

Waynesboro Borough Council

By: _____
C. Harold Mumma, President

ATTEST:

Melinda Knott, Secretary

Richard Starliper, Mayor