

ORDINANCE 2022-8

An Ordinance Amending the Code of Ordinances of the City of Hazleton, Part II, Chapter 162, Business Licenses, and Part II, Chapter 369, Rental Properties

WHEREAS, the City desires to amend the Code of Ordinances of the City of Hazleton, Part II, Chapter 162, Business Licenses; and Part II, Chapter 369, Rental Properties.

BE IT ORDAINED AND ENACTED BY THE COUNCIL OF THE CITY OF HAZLETON AS FOLLOWS:

Business Licenses

§ 162-1 Title.

A. Title. This chapter shall be known as the "City of Hazleton Business License Ordinance."

B. Purpose. The purpose of this chapter is to:

(1) Protect and promote the public health, safety and welfare of the citizens of the City of Hazleton by establishing a business license; and

(2) Ensuring business owners operate their businesses and landlords rent their dwelling units in accordance with the rules and regulations.

C. Duty to make application and pay fees without notice. It shall be the duty and obligation of all owners and operators of businesses or business activities to make application to the City and to pay the fees, within the time therein provided for such payment, without the necessity or requirement of any form of notice. Allegation of no notice or knowledge of this chapter shall not be accepted as a defense in the prosecution for any violation of this chapter.

D. Prerequisites to issuance of business license.

(1) No business license shall be issued until any and all permits (including occupancy permits) required have been provided to the City.

(a) An occupancy permit must be obtained before the premises is leased/let, or within 30 days of becoming an owner. In the case of multiunit buildings, one application is required per unit, and each unit will receive its own occupancy

permits.

- (b) A zoning permit, or approval by the Hazleton City Zoning Hearing Board if a variance, special exception, or conditional use is required.*
- (c) Any and all Pennsylvania state and/or federal licenses required to operate the proposed business/use.*
- (2) No license will be issued if prior year taxes or fees are delinquent. This includes any monies due to the Hazleton City Authority (water and garbage) and the Greater Hazleton Joint Sewer Authority (sewer).*
- (3) Persons that engage in a business without having first obtained a business license are subject to a cease and desist and/or shutdown order issued by the City, along with penalties and fines.*
- E. Inspections and access. The Code Official is authorized to make inspections to determine whether dwelling units or businesses are in compliance with this chapter and any and all state and federal requirements. For the purpose of making such inspections, the Code Official is permitted to enter all businesses and shall be free to have access thereto upon notice and during all reasonable times for the purpose of such inspections.*

§ 162-2 Definitions.

The following words, terms, and phrases, when used in this chapter, shall have the meaning ascribed herein:

AGENT

Individual of legal majority who has been designated by the owner as the agent of the owner or manager of the property under the provisions of this chapter.

AMUSEMENT GAME

Any mechanical, electric or electronic device used or designed to be operated for entertainment or as a game by the insertion of a piece of money, coin, token or other article or by paying money to have it activated. This definition does not include:

- A. A jukebox.*
- B. Rides.*

- C. *Bowling alleys.*
- D. *Any device maintained within a residence for the use of the occupants thereof and their guests.*
- E. *Any device the possession or use of which is prohibited by law.*

BUILDING

Usually a roofed and walled structure intended for permanent use by persons or property.

BUSINESS

A calling, occupation, profession, or activity engaged in with the object of gain, benefit or advantage, either directly or indirectly, including, but not limited to, any person who rents a dwelling unit wherein the person does not reside.

BYOB

The term is meant to stand for "Bring Your Own Bottle," "Bring Your Own Beer," "Bring Your Own Beverage," "Bring Your Own Bag" or "Bring Your Own Booze." It is considered the practice of an individual or individuals bringing any alcoholic beverage to an establishment or property from another location for the purpose of consumption by either themselves or others.

BYOB BUSINESS OPERATION PERMIT

A permit issued by the City of Hazleton authorizing a business to operate as a BYOB within the City in accordance with the regulations to be established.

BYOB ESTABLISHMENT

Any business facility, such as a dance hall, club, restaurant, meeting room or association not licensed by the Pennsylvania Liquor Control Board (PLCB) wherein patrons 21 years of age and older may consume alcoholic beverages which said patrons or others have carried onto the premises. Such may or may not require payment of any entry fee, cover charge or membership fee or associated with the purchase of nonalcoholic beverages or food.

BYOB FACILITY

Any properly approved and licensed BYOB establishment within the City of Hazleton.

BYOB SPECIAL EVENT PERMIT

A permit issued by the City of Hazleton authorizing a nonprofit charitable organization, religious entity or other community organization to hold a BYOB special event within the City in accordance with the regulations set forth herein.

CHARITABLE ORGANIZATION

An organization that is determined by the Internal Revenue Service to be exempt from federal income taxes under 26 U.S.C. § 501(c)(3), (4), (6), (7), (8), (10) or (19).

CHARITABLE PURPOSE

A benevolent, philanthropic, patriotic, or eleemosynary purpose which does not result in personal gain to a sponsor, organizer, officer, director, trustee or person with ultimate control of the organization.

CHRONIC NUISANCE PROPERTY OR BUSINESS

A property or business that, within any 120-day period, has three or more nuisance activities; or within any 365-day period, has six or more nuisance activities.

CITY

The City of Hazleton, County of Luzerne, and Commonwealth of Pennsylvania.

CITY CODE

The current laws of the City.

CODE OFFICIAL

The person designated to administer the Business License Ordinance. The term includes a Code Enforcement Officer, Health Officer, Environmental Specialist, members of the Fire Department, or the Zoning Officer.

COMMONWEALTH

The Commonwealth of Pennsylvania.

DAY

Any consecutive twenty-four-hour period not constrained by a singular calendar day.

DAYS

Calendar days unless otherwise specified.

DISPENSARY

A person, including a natural person, corporation, partnership, association, trust or other entity, or any combination thereof, which holds a permit issued by the Department of Health to dispense medical marijuana. The term does not include health care medical marijuana organization as described in Section 19 of Act 16.

DORMITORY

A residence hall offered as student or faculty housing to accommodate a college or university, providing living or sleeping rooms for individuals or groups of individuals, with or without cooking facilities, and with or without private baths.

DWELLING UNIT

A single habitable unit, means any building or portion of a building located on real property and used as a residence or sleeping place for one or more persons, providing living facilities for one or more persons, including permanent space for living, sleeping, eating, cooking, bathing, and sanitation, whether furnished or unfurnished. There may be more than one dwelling unit on a premises.

DWELLING UNIT, MULTIFAMILY

A building designed for occupancy of families living independently of each other and containing three or more dwelling units per building. The term includes, but is not limited to, garden apartments, apartment buildings, row homes, townhouses, rooming and boarding houses.

DWELLING UNIT, SINGLE-FAMILY

A detached building, designed for or occupied exclusively by one family.

DWELLING UNIT, TWO-FAMILY

A detached or semidetached building designed for or occupied by not more than two individual families or dwelling units.

EDIBLE GOODS

Any item that is consumable by mouth.

EMPLOYEE

The person in charge, person having supervisory or management duties, person on the payroll, family member, volunteer, person performing work under contractual agreement or any other person performing work in furtherance of a business entity.

FAMILY

See Chapter 575, Zoning.

FIRE DEPARTMENT

The Fire Department of the City of Hazleton or any member thereof, and includes the Fire Chief or his designee.

FOOD SERVICE ESTABLISHMENT

Any place, permanent or temporary, within the City of Hazleton where food is prepared, handled, served, sold, or provided. The term includes any such place, regardless of whether consumption is on or off the premises and regardless of whether there is a charge for the food. The term does not include food-processing establishments which do not sell or offer food to the ultimate consumer. "Food service establishment" shall include, but is not limited to, restaurants, bars, taverns, cafeterias, snack bars, temporary and mobile food establishments, retail food establishments, commissaries, etc.

GAME ROOM

A building or place containing four or more amusement games.

GROWER/PROCESSOR

A person, including a natural person, corporation, association, partnership, trust or other entity, or combination thereof, which holds a permit from the Department of Health under Act 16 to grow and process marijuana. The term does not include health care medical marijuana organization as described in Section 19 of Act 16.

HEALTH CARE MEDICAL MARIJUANA ORGANIZATION

A vertically integrated health care system approved by the Department of Health to grow and process, to dispense medical marijuana, or both, in accordance with Chapter 19 of Act 16 under research programs.

HOTEL

See Chapter 575, Zoning.

HOUSEHOLD

See Chapter 575, Zoning.

INSPECTOR

Any person authorized by law, ordinance, or resolution to inspect buildings or

systems (e.g., zoning, housing, plumbing, electrical systems, heat systems, mechanical systems, and health) necessary to operate or use buildings within the City of Hazleton. An inspector would include those persons identified as enforcement.

LANDLORD

Includes any owner, manager, or overseer of real property who has a tenant occupying a "rental unit" where the owner rents that dwelling unit regardless of whether such person has signed a written lease for occupancy of that dwelling unit.

LEGACY LEASE

A residential property that has been transferred from one family member to another where the original owner continues to occupy the property without financial consideration.

LET

See "let for occupancy."

LET FOR OCCUPANCY

To permit, provide or offer, for consideration, possession or occupancy of a building, dwelling unit, rooming unit, premise or structure by a person who is not the legal owner of record thereof, pursuant to a written or unwritten lease, agreement or license, or pursuant to a recorded or unrecorded agreement or contract for the sale of land, whether there is financial consideration or not.

LICENSE

Written approval from the City of Hazleton to operate a business.

LICENSEE

The business, person, or agent authorized for a license.

LICENSOR

The City of Hazleton.

MEDICAL MARIJUANA

Marijuana for certified medical use as set forth in Act 16.

MEDICAL MARIJUANA ORGANIZATION

A dispensary or a grower/processor. The term does not include a health care medical marijuana organization as described in Section 19 of Act 16.

MOBILE

The capability of being active, but not necessarily in continuous movement.

MOBILE BUSINESS or MOBILE VENDOR

A self-contained mobile unit used for selling items.

MOTEL

See Chapter 575, Zoning.

MUNICIPALITY

Refers to the City of Hazleton.

NONREFRIGERATED

Any items or goods that are not required to be kept at a temperature set by the FDA.

NUISANCE ACTIVITY

A. Any nuisance as defined by state law or local ordinance occurring on, around or near a property or business, including but not limited to, violations of the following laws and regulations:

- (1) International Property Maintenance Code currently adopted by the City;*
- (2) Building, Property Maintenance or Fire Code currently adopted by the City; or*
- (3) Health and sanitation.*

B. Any criminal conduct as defined by state law or local ordinance occurring on, around or near a property or business, including, but not limited to, the following activities or behaviors:

- (1) Stalking;*
- (2) Harassment;*
- (3) Failure to disperse;*
- (4) Disorderly conduct;*
- (5) Assault;*
- (6) Any domestic violence crimes;*

- (7) Reckless endangerment;*
- (8) Prostitution;*
- (9) Patronizing a prostitute;*
- (10) Public disturbance noises;*
- (11) Lewd conduct;*
- (12) Any firearms/dangerous weapons violations;*
- (13) Drug-related loitering;*
- (14) Any dangerous animal violations; and*
- (15) Any drug-related activity.*

C. A nuisance activity shall not include conduct where the person responsible is the victim of a crime and had no control over the criminal act.

OCCUPANT

A person who resides at a premises regardless of age.

OPERATOR

Any person who has charge, care, or control of a premises.

OWNER, BUSINESS

Any "person" having a legal or equitable interest in the "business."

OWNER, PROPERTY

An owner of record of real property, including the person whose name is identified as the grantee of record on the deed to the property as appearing of record in the Luzerne County Recorder of Deed's Office as the record title owner of the real property.

OWNER-OCCUPANT

An owner who resides in a dwelling unit or occupies a nonresidential portion of the premises.

PEDDLER

Any person who shall engage in peddling; see "mobile business."

PEDDLING

The selling or offering for sale of any goods, information, wares or merchandise for delivery, which the persons selling or offering for sale may have in their possession or control, upon any of the streets or sidewalks or from house to house within the City of Hazleton.

PERMIT

Written authority from the City of Hazleton.

PERSON

Includes any individual, firm, partnership, limited-liability partnership, limited-liability company, cooperative, corporation, joint venture, association, estate, trust, business trust, receiver, syndicate, holding company, or other group or combination acting as a unit, in the singular or plural, and the agent or employee having charge or control of a business in the absence of the principal.

POLICE DEPARTMENT

Any sworn member of law enforcement currently employed by the City of Hazleton.

PREMISES

Any partial area of real property.

PRINCIPAL

An officer, director or person who directly owns a beneficial interest in or ownership of the securities of an applicant or permittee, a person who has controlling interest in an applicant or permittee, or has the ability to elect the majority of the Board of directors of an applicant or permittee, other than a financial institution.

PROPRIETOR

See "owner, business."

PUBLIC EATING OR DRINKING PLACE

See "retail food establishment."

RENT

See "let."

RENTAL UNIT

A dwelling unit or rooming unit which is let for occupancy.

RENTS

An owner of real property who lets someone use the property as a dwelling unit in return for payment or some other consideration, or an owner of real property that allows another person to occupy the property without the owner occupying the property.

RETAIL FOOD ESTABLISHMENT

An establishment which provides edible food to a consumer directly, or indirectly.

RETAIL FOOD FACILITY

See "retail food establishment."

ROOMING UNIT

See Chapter 575, Zoning.

SECONDHAND DEALER

A "person" who engages in or operates the business of buying, selling, or trading any goods acquired from a nonretail source.

SELL

The exchange of goods or services for any type of consideration.

SOLICITING

The seeking or taking of contracts or orders for any goods, wares or merchandise for future delivery, including soliciting orders or contracts for home and building repairs or improvements, or for subscriptions or contributions. See "mobile business."

SOLICITOR

Any person who shall engage in "soliciting."

STATIONARY LOCATION

Staying in the same location without moving.

TENANT

Any person let to occupy.

UNIT

See "rental unit."

VACANT BUILDING

A building or unit within a building that is not intended by the owner to be occupied by a person.

VEHICLE FOR HIRE

Any vehicle used for transportation of passengers for compensation.

YARD SALE

Any nonlicensed sale of goods on residential property including, but not limited to, the residential properties, garage, home, lawn, or yard.

ZONING ORDINANCE

Zoning Ordinance as officially adopted by the City of Hazleton.

§ 162-3 License requirement.

- A. *Every person engaged in, or intending to engage in, any business or who rents a dwelling unit within the limits of the City is required to obtain an annual business license and pay an annual business license fee.*
- B. *A separate license shall be required for each place of business and for each separate business operated out of one place. A separate license shall not be required for a person who rents dwelling units within the same two-family or multifamily dwelling unit, or on the same deed.*
- C. *More than one license may be required if a business employs, lets, or subcontracts areas or space within a business to individuals who must also be licensed by a state or federal agency.*
- D. *No business license is required for a vacant building, provided that the building is registered as a vacant building under § 162-6.*

§ 162-4 Application.

- A. *The owner, agent or legal representative of every business subject to this chapter shall register the business and make application for a business license on or before the due date of each year; provided, a new business shall be required to have a business license prior to operation within the City, and any existing business newly acquired shall be required to have a business license within 30 days of the acquisition date.*

B. Application shall be on a form provided by the Code Official which shall contain the following, but not limited to:

(1) Name, address and phone number of the owner, and if the owner is not a natural person, a description of the entity, including the name, address, phone number and title of the designated representative for that entity.

(2) Name, address and phone number of the agent or manager, if applicable.

(3) Description of the business.

(4) If a business involves dwelling units.

(a) A list of the number of dwelling units.

(b) A brief description of each dwelling unit, including the number of dwelling units, whether the dwelling unit is occupied or not occupied, and a determination of whether the dwelling unit is habitable.

(c) Name, address and phone number of the tenant occupying the dwelling unit at the time of the application.

(5) The name, address and phone number of the insurance carrier and agent, including the policy number, declaration page, and policy expiration date. Attach a copy of the certificate of insurance to the application.

C. It shall be unlawful for any person subject to the provisions of this chapter to make a false application for a business license, or to give or file, or direct the giving or filing of, any false information with respect to the business license required by this chapter.

§ 162-5 Regulations.

A. No business license shall be issued until any and all permits required by the City of Hazleton and the City's Zoning and Code Enforcement Office have been obtained and provided to the City Office responsible for issuing the business license.

B. No license will be issued to any person with prior year delinquent taxes or fees due to the City of Hazleton, or its designated agent, levied as authorized by the City of Hazleton, or its designated agent.

- C. *Every owner of a business or landlord, who does not reside within 20 miles of the City limits must appoint and designate an agent or manager who resides within a twenty-mile radius of the City limits to perform the duties under this chapter.*
- D. *Evidence that the business or dwelling unit has been inspected for compliance with all City ordinances including, but not limited to, the property maintenance, fire, and health, safety and sanitation codes.*
- E. *All persons shall display the business license issued to them on the original form provided by the Code Official in a conspicuous place on the premises. In the case of a multiunit nonresidential property, a copy must be displayed in the main common area.*
- F. *A change of address must be reported to the Code Official within 10 days after relocation of the business to a new location and the business license will be valid at the new address upon written notification by the Code Official and compliance with zoning and building codes. Failure to report a change of address shall invalidate the business license and subject the licensee to prosecution for doing business without a business license. A business license shall not be transferable. Any transfer of ownership of a business shall be considered a termination of the old business and the establishment of a new business requiring a new business license.*
- G. *Denial of business license. If a business license is denied, the Code Official shall send the owner written notice of the denial along with the reasons for denial. The owner has the right to appeal the denial of the business license under Subsection J of this section.*
- H. *Revocation of business license. Any business license issued may be subsequently revoked by the Mayor upon recommendation of the Code Department, Police Department, or Fire Department if it is found that any information contained in the application is false or not current, in the case of a chronic nuisance property or business, or for any other applicable reason. The owner has the right to appeal the revocation of the business license under Subsection J of this section.*
- I. *Notice/service; corrective measures; appeal rights.*
 - (1) *Notice/service. The Code Official shall have authority to give notice to any owner*

violating this chapter, or when denying or revoking a business license, by posting the business or dwelling unit. "Posting" shall mean service in person or by regular and/or certified United States Mail. The Code Official may also physically attach a copy of the notice to the business or dwelling unit.

- (2) Corrective measures. For a violation, the notice shall direct compliance with this chapter within 10 calendar days following service of the notice. Any notice issued for a violation of this chapter shall be sufficient to constitute notice of any subsequent violation, provided that the violation is for the same section of this chapter and the violation occurs within the same calendar year.*
- J. Appeal. Any person directly affected by a determination of the Code Official shall have the right to appeal to City Council, provided that a written application for appeal in the form of a letter and a \$500 nonrefundable deposit is provided to the Council Clerk within 10 calendar days after the day the notice was served or the revocation of the business license. All costs associated with the appellate hearing shall be paid by the appellant. The nonrefundable \$500 deposit is required before an appeal hearing will be scheduled. Failure to pay the deposit will operate as a waiver of appeal rights. The appellant may petition City Council for permission to proceed with the appeal without making the full deposit if undue hardship is present and demonstrated.*
- K. Stays of enforcement. Appeals of notices of violations, or revocation of business licenses issued by the Code Official shall stay the action or enforcement of the notice until the appeal is heard by City Council.*
- L. Appeals to court of common pleas. Any person aggrieved by any decision of the City Council may appeal to the Court of Common Pleas of Luzerne County within 30 days of the mailing of the decision to the applicant. An appeal of a decision by City Council to the Court of Common Pleas will not stay enforcement of the notice unless a stay is granted by the Court of Common Pleas.*
- M. If revocation of a business license is upheld, said business may apply for a business license that may contain additional stipulations as to the business's permitted operations.*

§ 162-6 Registration.

- A. *Each business location must be registered with the city in conjunction with the business application no later than January 31st of the business year. The application fee for each location can be found on the current fee schedule. Additional locations acquired or converted for business activity during the current licensing year must be registered before being opened, occupied or rented.*

§ 162-7 Inspections.

- A. *Each business, unit or leased space contemplated in this Chapter, may receive an inspection for occupancy and/or fire prevention on a yearly basis.*
- B. *It shall be the duty of all owners, agents, and occupants to notify their tenants and provide access to the City officials who are authorized to enforce this article, to all units subject to inspections hereunder, and failure to permit such acts shall be deemed a violation of this article.*
- C. *For the purposes of enforcing this article, the Code Enforcement Official or their designee may seek to obtain an administrative warrant issued by a competent authority for the purpose of compelling entry and inspection.*
- D. *Code Enforcement may make inspections of any business, residential or institutional unit(s) and/or building(s) or occupied areas set forth in this article upon application.*
- E. *If Code Enforcement finds that the business or unit is not in compliance with the code, Code Enforcement shall notify the owner.*
- F. *The fees associated with this section can be found on the current fee schedule.*

§ 162-8 Vacant building registration.

- A. *A person who wishes to register a building as a vacant building for purposes of this chapter shall make application on a form provided by the Code Official.*
- B. *Owners of vacant buildings should be exempt from garbage, sewer and water bills provided that they also register with or notify the proper authorities.*
- C. *The fees for both a vacant building and partially occupied building are located in the fee schedule as adopted by resolution of the City Council from time to time. The required fee shall be paid by the owner of each vacant building or unit within a building on or before the due date of the 31st day of January in each year. [Amended at time of adoption of Code (see Ch. 1, General Provisions, Art.*

D)]

- D. A registration fee shall not be prorated.*
- E. No refund shall be made for a registration that is discontinued during the calendar year.*
- F. Charitable organization or a business solely furthering a charitable purpose shall file a registration but shall be exempt from paying a registration fee.*

§ 162-9 Fee.

- A. The required license fee shall be paid for each business subject to this chapter on or before the due date of the 31st day of January in each year.*
- B. A business license fee shall not be prorated.*
- C. No refund shall be made for a business that is discontinued during the license year.*
- D. Charitable organization or a business solely furthering a charitable purpose shall file a yearly application for a business license but shall be exempt from paying the business license fee.*
- E. A legacy lease shall file a yearly application for a business license but shall be exempt from paying the business license fee.*
- F. The Code Official is charged with administration and enforcement of the provisions of this chapter.*
- G. A business license fee for administrative/clerical review and processing of the application is established in the fee schedule as adopted by resolution of the City Council from time to time. [Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]*
- H. Business license inspection fees are established and listed in the fee schedule as adopted by resolution of the City Council from time to time. [Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]*

§ 162-10 Violations and penalties.

See Chapter I, Article II, Violations and Penalties.

BE IT FURTHER ORDAINED that all relevant ordinances, regulations and policies of the City of Hazleton not amended hereby will remain in full force and effect; and

BE IT FURTHER ORDAINED that if any provision, paragraph, word, section, subsection, sentence or clause of this Ordinance is held to be invalid by any court of competent jurisdiction, such decision will not affect the validity of the remaining portions of this Ordinance; and

BE IT FURTHER ORDAINED that any ordinance or part of an ordinance conflicting with the provisions of this Ordinance, including the ordinance cited herein, is repealed to the extent of such conflict, including Part II, Chapter 369 of the Code of Ordinances, Rental Properties.

ORDAINED AND ENACTED by Council this 25th day of October, 2022.

**First Reading
(Sept. 13, 2022)**

Presented XXXXX
Seconded XXXXX
Barletta XXXXX
Colombo XXXXX
Mundie XXXXXX
Ondishin XXXXX
Perry XXXXXX

**First Reading
(Sept. 27, 2022)**

Presented Perry
Seconded Barletta
Barletta N
Colombo Y
Mundie absent
Ondishin Y
Perry Y

**Second Reading
(Oct. 11, 2022)**

Presented XXXXXX
Seconded XXXXXX
Barletta XXXXXX
Colombo XXXXXX
Mundie XXXXXX
Ondishin XXXXXX
Perry XXXXXX

Motion to Table (9/13/2022):

Presented Mundie
Seconded Barletta
Barletta Y
Colombo Y
Mundie Y
Ondishin Y
Perry Y

Remove From Table (9/27/2022):

Presented Barletta
Seconded Colombo
Barletta Y
Colombo Y
Mundie absent
Ondishin Y
Perry Y

Motion to Table (10/11/2022):

Presented Colombo
Seconded Ondishin
Barletta Y
Colombo Y

**Second Reading
(Oct. 25, 2022)**

Presented Perry
Seconded Barletta

Mundie Y
Ondishin Y
Perry Y

Barletta N
Colombo Y
Mundie N
Ondishin Y
Perry Y

Remove From Table (10/25/2022):

Presented Perry
Seconded Barletta
Barletta Y
Colombo Y
Mundie Y
Ondishin Y
Perry Y

ORDINANCE PASSES 3-2 ON 10/25/2022