



# County of Lackawanna

Lackawanna County  
Administration Building  
200 Adams Avenue  
Scranton, Pennsylvania  
18503

## Certified Copy

Ordinance: 12-0090

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File Number: 12-0090

### Ordinance #216

#### Second Reading

Establishing a Concessionaires License

### Ordinance #216

First Reading: May 23, 2012

Second Reading: June 13, 2012

## ORDINANCE #216

BOARD OF COMMISSIONERS  
OF THE  
COUNTY OF LACKAWANNA, PENNSYLVANIA

**AN ORDINANCE ADOPTING AND ESTABLISHING A CONCESSIONAIRES LICENSE,  
AND SETTING FORTH GUIDELINES THEREWITH FOR LACKAWANNA COUNTY  
PARK AND RECREATION AREAS**

**WHEREAS**, Lackawanna County is a Third Class County existing pursuant to the Laws of the Commonwealth of Pennsylvania; and

**WHEREAS**, the Board of Commissioners recognizes that on occasion, a need arises to address rules and regulations promulgated for the health, welfare, and benefit of the citizens; and

**WHEREAS**, the Board of Commissioners believes it to be in the best interests of the Residents of Lackawanna County to establish appropriate regulations for solicitors and vendors who now conduct business activities in Lackawanna County Park and Recreation areas without a business license or inspections or other oversights commonly applied to stationary businesses located within the County of Lackawanna, and

**WHEREAS**, this ordinance is necessary to promote the public health, safety and welfare; now therefore,

**NOW THEREFORE**, the Board of Commissioners of the County of Lackawanna hereby ordains as follows:

### Section I: Definitions.

Use of Words and Phrases. As used in this chapter, unless the context or subject matter clearly requires otherwise, the words or phrases defined in this section shall have the indicated meanings.

1) "Concessionaire" means a person, firm or corporation engaged in the sale of food or other goods or services to the general public in a county park, recreation area or other county property, including without limitation those who operate or maintain a concession stand, in accordance with a written

agreement or franchise therefore as lawfully approved in writing by Lackawanna County.

2) "Food" has its usual and ordinary meaning, and includes all items designed for human consumption, including but not limited to ice cream, candy gum, popcorn, hotdogs, sandwiches, peanuts, soft drinks, coffee and dairy products.

3) "Season" shall mean the dates established by the Lackawanna County Department of Parks and Recreation that the Lackawanna County Parks, recreation areas and other county properties shall be open to the public.

### **Section II: License - Required**

It is unlawful for a mobile vendor to engage in business within any Park, recreation area or property owned by the County of Lackawanna, except when licensed as a concessionaire in compliance with the provisions of this Ordinance. A separate license shall be required for each concession location and for each vehicle or concession. This Ordinance shall not apply to Courthouse Square in downtown Scranton, PA, or the County's amphitheater, commonly known as the Toyota Pavilion, on Montage Mountain in Moosic, PA.

### **Section III: Exemptions.**

The following activities, businesses, and/or persons, as such are commonly known, shall be exempt from coverage of this chapter, but this exemption shall not be construed to limit or restrict the application of other laws and regulations pertaining to such activities, businesses and/or persons:

1) Newspaper couriers;

2) Non-Profit Organizations issued a one (1) day temporary license to sell merchandise and food as part of their fund-raising activity. Said license shall be issued through the Lackawanna County Parks and Recreation Department.

3) Caterers' or food service companies hired by private parties to cater their private event in a county park, recreation area or other county property. However, said caterer or Food Service Company shall not be allowed to sell food to the general public on county property, but only to the members of the group or private party that hired them.

4) Concessionaires as defined in this chapter, except that concession agreements with the county shall include health, sanitation and insurance requirements generally conforming to those established for similar businesses and vendors covered by this Ordinance.

### **Section IV: Limitation on activities permitted by concessionaire license**

Concessionaires shall be limited to the business of selling food. They shall not:

1) Sell, offer or distribute alcoholic beverages or tobacco products, including but not limited to cigars, cigarettes, or smokeless tobacco, counterfeit merchandise or products, or illegal or controlled

substances.

- 2) Operate any cart or motor vehicle in such a manner as to impede the normal usage of the Park, recreation areas and/or other county property roads, paths or walkways;
- 3) Stop any cart or motor vehicle in dangerous locations for dispensing food products, such as on roads, paths or walkways with inadequate shoulders and restricted sight distance.

**Section V: License**

- 1) The County of Lackawanna shall issue one (1) concessionaire license per park, recreation area and other county property, for the sole and exclusive right of the licensee to sell food and other permitted goods and services within that designated county property.
- 2) Said license shall be awarded based upon a bid proposal and application review to be administered through the Lackawanna County Parks and Recreation Department.
- 3) The winning bid shall be based upon the bid amount and review of the bidders application.
- 4) The winning bidder shall be required to provide a criminal background check and child abuse clearance letter for each employee who will be operating said concessions in the county property.
- 5) A license issued under this Ordinance shall expire one (1) year from the date of issue.
- 6) Licenses issued shall not be transferable.

**Section VI: Application.**

A person, firm, or corporation desiring to secure a county concessionaire license shall, at the time of submission of its bid proposal, complete an application as provided by the Lackawanna County Department of Parks and Recreation. Such application shall provide, at a minimum:

- 1) The name or names and address of the applicant, and all employees who will be working for said applicant;
- 2) Vehicle license number of all vehicles from which the applicant proposes to conduct business;
- 3) Description of the general type of food to be sold;
- 4) The place or places where the applicant proposes to engage in business.
- 5) A letter from the Pennsylvania Department of Health, certifying that the applicant has complied with Health Department regulations, as required.
- 6) Proof of insurance as set forth herein.

**Section VII: Exhibition of License.**

A license issued under this chapter shall be posted conspicuously at the place of business.

**Section VIII: Health regulations.**

All food vendors shall comply with all laws, rules and regulations regarding food handling, and all vehicles, equipment, and devices used for the handling, storage, transportation and/or sale of food shall comply with all Pennsylvania Department of Health rules and regulations regarding the storage and service of all food and food products.

**Section IX: Concessionaire's standards.**

All concessionaires shall conform to the following standards:

(1) Geographical Restrictions. No concessionaire utilizing a mobile vehicle or cart for their business shall sell or vend from their vehicle or conveyance:

(a.) Within 300 feet from any park or non-profit event without prior approval from the Lackawanna County Parks and Recreation Department.

(2) No licensee shall obstruct or cause to be obstructed the passage of a sidewalk, street, avenue, alley or any other public place by causing people to congregate at or near the place where food is being sold or offered for sale.

(3) All licensees shall provide garbage receptacles for customer use.

(4) No licensee shall locate his or her vehicle or other conveyance in such a manner as to cause a traffic hazard.

(5) At the conclusion of business activities at a given location the licensee shall clean all the public way surrounding their place of business of all debris, trash and litter generated by the licensee's business activities.

(6) All licensees preparing food by cooking, frying or other means shall be equipped with at least one 2A-40-BC fire extinguisher.

(7) A licensee shall not construct any permanent structure or attached a structure to any existing building on county property, without first receiving express, written consent to do so.

(8) All licensees shall conclude daily business activities at sunset.

**Section X: Insurance requirement.**

No license shall be issued to a concessionaire unless a certificate of insurance, naming Lackawanna County as a co-insured, is furnished to the county showing that the applicant is carrying the following minimum amounts of insurance: (1) public liability insurance in an amount of not less than \$500,000 for injuries, including those resulting in death, resulting from any one occurrence, and on account of any one accident; and (2) property damage insurance in an amount of not less than \$50,000 for damages on account of any one accident or occurrence.

**Section XI: Revocation of license.**

A. A license issued pursuant to this Ordinance may be revoked, in writing, by the county for any of the following reasons:

- (1) Any fraud, misrepresentation or false statement contained in the application for license;
- (2) Any fraud, misrepresentation or false statement made in connection with the selling of products;
- (3) Any violation of the provisions of this Ordinance;
- (4) Conviction of the licensee of a felony or of a misdemeanor involving moral turpitude; or
- (5) Conducting the business licensed under this chapter in an unlawful manner or in such a manner as to constitute a breach of the peace or to constitute a menace to the health, safety or general welfare of the public.

B. Upon revocation of a concessionaire's license for any of the enumerated reasons set forth in Section IX (A), said licensee shall forfeit their license fee.

C. A licensee shall have the right to appeal the revocation of their license to the Lackawanna County Board of Commissioners. Said appeal must be filed in writing, within twenty (20) days from the date of the notice of revocation, and filed with the Commissioner's Office and County Solicitor. Upon receipt of any appeal, the Solicitor shall schedule a Hearing before the Board of Commissioner's within Fifteen (15) business days of receipt of the notice of appeal. The Hearing shall be conducted by the County Solicitor, and the Licensee and a representative of the Parks and Recreation Department shall be given an opportunity to be heard and present evidence to the Board of Commissioner's. The Board shall have the right to call any witnesses, or consider any evidence it considers pertinent to the matter. The Board shall issue a written decision within Fifteen (15) business days following the Hearing, either granting the appeal or upholding the revocation.

**Section XII: Fines/Penalties:**

Any person, firm, organization or corporation violating any provision of this Ordinance shall upon conviction thereof be fined not more than Three Hundred (\$300.00) Dollars, plus costs, for each such offense, and in default of payment shall be imprisoned for a period of not more than Thirty (30) days, and each day that a violation occurs or continues shall be deemed a separate offense.

**Section XIII: Enforcement:**

Any provision of this Ordinance may be enforced by the Sheriff of Lackawanna County, or any municipal Police Officer.

**Section XV. Severability**

If a section, subsection, paragraph, sentence, clause, or phrase of this ordinance is declared

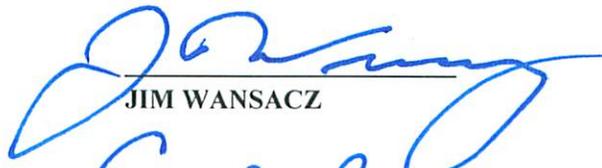
unconstitutional or invalid for any reason by any court of competent jurisdiction; such decision shall not affect the validity of the remaining portions of this ordinance.

**Section XVI: Effective date.**

This ordinance shall be in full force and effect ten (10) days after publication as required by law.

**ADOPTED** at a regular meeting of the Board of Commissioners of Lackawanna County held on June 13, 2012.

**COUNTY OF LACKAWANNA**

  
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**JIM WANSACZ**

  
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**COREY D. O'BRIEN**

  
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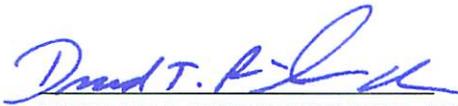
**PATRICK M. O'MALLEY**

**ATTEST:**

  
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**MARIA ELKINS  
CHIEF OF STAFF**

**Approved as to form and legality:**

  
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**DONALD J. FREDERICKSON, ESQUIRE  
COUNTY SOLICITOR**