

## **Chapter 13**

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## Part 1

### Alarms

#### §13-101. Title.

This Part shall be known and may be cited as the “Alarm Ordinance.”  
(*Ord. 402, 8/11/1993; as added by Ord. 656, 4/9/2015*)

#### §13-102. Definitions.<sup>1</sup>

For purposes of this Part, the following terms shall have the meanings indicated below, unless a different meaning clearly appears from the context: [*Ord. 656*]

*Alarm*—a communication indicating that a crime, fire or other emergency situation warranting immediate action has occurred or is occurring.

*Alarm device*—any device designed for the detection of an unauthorized entry on the premises, its commission or occurrence and, when actuated, gives a signal, either visual, audible or both, or transmits or causes to be transmitted a signal, except residential, in-house fire alarms. [*Ord. 656*]

*Central receiving station*—an alarm console or control panel installed in the Police Department or Fire Company for the purpose of giving direct visual or audio response from an alarm device. [*Ord. 656*]

*False alarm*—any alarm signal that alerts any person which is not the result of an actual threatened emergency requiring a response. False alarms include negligently or accidentally activated signals, signals which are the result of faulty, malfunctioning or improperly installed or maintained equipment, signals which are purposely activated to summon police, fire or emergency services in nonemergency situations and alarm signals for which the actual cause is not determined. [*Ord. 656*]

*Fire Company*—the Moon Township Volunteer Fire Company, Inc., a non-profit corporation organized and existing under the laws of the Commonwealth of Pennsylvania. [*Ord. 656*]

*Permit holder*—a person to whom the Township has issued an alarm device permit. [*Ord. 656*]

(*Ord. 402, 8/11/1993; as amended by Ord. 656, 4/9/2015*)

#### §13-103. Permits.

1. The Township Manager shall be empowered to issue alarm device permits. It shall be unlawful for a property owner, lessee of property or a person otherwise occupying a premises within the Township to put an alarm device into operation on his premises or to allow an alarm device to be put into operation on his premises without first obtaining an alarm device permit from the Township Manager. [*Ord. 656*]

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<sup>1</sup>Editor’s Note: See also the general definitions contained in Chapter 1, Part 1, of this Code.

2. In order to apply for an alarm device permit, a person must submit an application to the Township Manager stating the following: [Ord. 656]

A. His name. [Ord. 656]

B. His home and business address and the telephone number of each. [Ord. 656]

C. The location at which the alarm device will be installed and operated.

D. The names, addresses and telephone numbers of at least two individuals who have keys to the premises at which the alarm device is located and who are authorized to enter the premises at any time, but who do not reside at the location of the alarm device.

E. A complete description of the alarm device.

F. If the alarm device is to be leased or rented from or is to be serviced pursuant to a service agreement by a person other than the person making application for an alarm device permit, the name, address and telephone number of that person. In addition, each person submitting an application for an alarm device permit shall submit a signed statement in the following form:

“I (We), the undersigned applicant(s) for an alarm device permit, intending to be legally bound hereby, state that neither I (we), nor anyone claiming by, through or under me (us), shall make any claim against Moon Township for any damage caused to the premises at which the alarm device, which is the subject of this application, is or will be located, if such damage is caused by a forced entry to said premises by employees of Moon Township in order to answer an alarm from said alarm device at a time when said premises are or appear to be unattended or when, in the discretion of said Township employees, circumstances appear to warrant a forced entry. [Ord. 656]

“Further, I (we) hereby agree that, periodically and upon 5 days written notice, representatives of the Moon Township Police Department or Moon Township Volunteer Fire Company, Inc., shall be allowed to enter my (our) premises between the hours of 10 a.m. and 5 p.m. on weekdays for the purpose of inspecting my (our) alarm device installation in order to determine whether or not it is in accordance with the operational standards set forth in the Alarm Ordinance of Moon Township [Chapter 13, Part 1].” [Ord. 656]

3. The Township Manager shall furnish forms upon which any person wishing to apply for an alarm device permit may submit his application. [Ord. 656]

(Ord. 402, 8/11/1993; as amended by Ord. 656, 4/9/2015)

#### **§13-104. Permit Fee.**

The fee for an alarm device permit shall be established from time to time by resolution of the Board of Supervisors.

(Ord. 402, 8/11/1993; as amended by Ord. 656, 4/9/2015)

#### **§13-105. Approval or Denial of Permit.**

1. The Township Manager shall either grant an alarm device permit to the applicant or notify the applicant, in writing, that his application has been denied and

the reason or reasons why it has been denied. [*Ord. 656*]

2. An application for an alarm device permit may only be denied for the following reasons:

A. The application submitted by the applicant does not conform with §§13-103.2 or 13-104 of this Part.

B. The applicant's alarm device does not conform with the operational standards set forth in §13-107 of this Part.

(*Ord. 402, 8/11/1993; as amended by Ord. 656, 4/9/2015*)

### **§13-106. Revocation of Permit.**

1. The Township Manager shall have the power to revoke an alarm device permit. An alarm device permit shall be revoked by notifying the permit holder, in writing, that his/her alarm device permit has been revoked and the reason or reasons why it has been revoked. Said written notice shall be: [*Ord. 656*]

A. Delivered personally to the permit holder, in which case the revocation shall be effective immediately upon delivery.

B. Mailed to the permit holder at his last known address by regular mail, postage prepaid, in which case the revocation shall be effective 3 days after mailing. [*Ord. 656*]

2. An alarm device permit may only be revoked for the following reasons:

A. Failure of an alarm device to conform with the operational standards set forth in §13-107 of this Part.

B. Failure of a permit holder to pay a false alarm charge assessed to him by the Township under the provisions of §13-109 of this Part within 30 days of the mailing to him of a notice of the assessment of a false alarm charge. [*Ord. 656*]

C. The occurrence of more than 25 false alarms from an alarm device during any calendar year.

D. The occurrence of an intentional false alarm caused by the permit holder or by an individual over the age of 15 who resides on the premises where the alarm device is located.

[*Ord. 656*]

3. A person who has had his alarm device permit revoked under subsections .1 and .2 above may reapply for an alarm device permit 45 days after the effective date of such revocation; provided, however, that if a person's alarm device permit was revoked for nonpayment of a false alarm charge, the Township Manager shall deny said application unless such charge has been paid. Notwithstanding the foregoing, a person who has had his alarm device permit twice revoked on the basis of an occurrence of an intentional false alarm may not reapply for an alarm device permit for 1 year from the effective date of the second revocation. [*Ord. 656*]

(*Ord. 402, 8/11/1993; as amended by Ord. 656, 4/9/2015*)

### **§13-107. Operational Standards.**

1. If an alarm device is designed to cause a bell, siren or sound-making device to be activated on or near the premises on which the alarm device is installed at the time

it gives an alarm, said alarm device shall be designed to deactivate the bell, siren or other sound-making device after 5 minutes of operation.

2. All alarm devices shall meet the applicable standards of the Underwriters Laboratories, Inc., and/or the National Fire Protection Association, and/or other recognized industry standards. Notwithstanding any other provisions of this Part, all alarm devices permitted hereunder shall be manufactured, installed and operated in compliance with NFPA standards, particularly NFPA 101, Life Safety Code, §9.6, "Fire Detection, Alarm and Communications Systems," as amended, which are hereby incorporated herein, by reference thereto. The applicant for a permit may be required to submit evidence of the reliability and suitability of the alarm device. [*Ord. 656*]

3. The sensory mechanism used in connection with an alarm device must be adjusted to suppress false indications of fire or intrusion so that the alarm device will not be activated by impulses due to transient pressure change in water pipes, short flashes of light, wind noises such as rattling or vibrating of doors or windows, vehicular noises adjacent to the premises or other forces unrelated to genuine alarm situations.

4. The alarm device must be maintained by the permit holder in good repair to assure reliability of operation.

5. Representatives of the Township, Police Department or Fire Company shall periodically, and upon 5 days written notice, have the authority to enter the premises at which an alarm device is located between the hours of 10 a.m. and 5 p.m. on weekdays for the purpose of inspecting the alarm device installation in order to determine whether or not it is in accordance with the operational standards set forth in this Section. Said representative may require that repairs be made whenever he has determined that such repairs are necessary to assure proper operation of the alarm device. [*Ord. 656*]

6. The Township will not provide a central receiving station. [*Ord. 656*]  
(*Ord. 402, 8/11/1993; as amended by Ord. 656, 4/9/2015*)

#### **§13-108. Intentional False Alarms.**

It shall be unlawful to cause an intentional false alarm.  
(*Ord. 402, 8/11/1993*)

#### **§13-109. Repeated False Alarms Charges.**

1. Any person causing or permitting the giving of repeated false alarms for any reason or owning or maintaining an alarm device which triggers a false alarm shall pay a charge to the Township to be established from time to time by resolution of the Board of Supervisors, for each and every false alarm to which a fire department, police department, Township official, or other public safety or emergency service official responds.

2. When a false alarm occurs, the Township shall notify the permit holder of the alarm device from which the false alarm emanated that a false alarm charge is due and the amount thereof, if any. Such notice shall be in writing and mailed to the permit holder at his last known address by regular mail, postage prepaid.

3. A false alarm charge shall be due and payable to the Township within 30 days from the date of the mailing of the notice of assessment of the false alarm charge.

4. Failure of a permit holder to pay a false alarm charge on or before the date that it is due shall subject such permit holder to revocation of his alarm device permit under §13-106 and to the penalties provided for in §13-111.

(*Ord. 402, 8/11/1993; as amended by Ord. 656, 4/9/2015*)

**§13-110. Liability.**

The issuance of any permit shall not constitute acceptance by the Township of any liability to maintain any equipment to answer alarms for anything in connection therewith.

(*Ord. 402, 8/11/1993; as amended by Ord. 656, 4/9/2015*)

**§13-111. Violations and Penalties.**

Any person, firm, or corporation who shall violate any provision of this Part, or fails to comply therewith, or with any of the requirements thereof, upon conviction thereof in an action brought before a magisterial district judge in the manner provided for the enforcement of summary offenses under the Pennsylvania Rules of Criminal Procedure, shall be sentenced to pay a fine of not less than \$100 nor more than \$1,000 plus costs, including reasonable attorney fees incurred by the Township, and, in default of payment of said fine and costs, to a term of imprisonment to the extent permitted by law for the punishment of summary offenses. A separate offense shall arise for each day or portion thereof in which a violation of this Part is found to exist and for each section of this Part found to have been violated. The Township may also commence appropriate actions in equity or other to prevent, restrain, correct, enjoin, or abate violations of this Part. All fines and penalties collected for violations of this Part shall be paid to the Township Treasurer. The initial determination of ordinance violation is hereby delegated to the Township Manager, the Police Department, the Code Official, the authorized designee of the Township Manager, and to any other officer or agent that the Township Manager or the Board of Supervisors shall deem appropriate.

(*Ord. 402, 8/11/1993; as amended by Ord. 414, 4/13/1994, §57-14; by Ord. 449, 6/19/1996; by Ord. 460, 4/9/1997; and by Ord. 656, 4/9/2015*)



**Part 2****Amusement Devices****§13-201. Title.**

This Part shall be known and may be cited as the “Amusement Device License Ordinance.”

(Ord. 656, 4/9/2015)

**§13-202. Definitions.<sup>2</sup>**

For the purposes of this Part, the following terms shall have the meaning provided herein, unless otherwise stated:

*Amusement device*—any mechanical, electronic or computer-oriented device which, upon insertion of a coin, currency, metal disc, slug, card, plate, token or other means of payment, may be operated as a game, ride, entertainment or amusement, whether or not registering a score, and whether or not offering a prize.

(1) This term shall include, but not be limited to, the following devices: video, arcade and poker games; computer-oriented games; pinball machines; bowling alleys, bowling games and machines; pool and billiard tables; dart boards; and any amusement ride.

(2) This term shall not include any jukebox, as defined herein, or similar instrument; nor shall it include any vending machine which dispenses soft drinks, cigarettes, candy, etc.; nor shall the term include any illegal gambling device, as defined herein, or any mechanism which has been judicially determined to be an illegal gambling device.

*Applicant*—any person who seeks to obtain a license for an amusement device or jukebox under this Part.

*Illegal gambling device*—any device, machine or apparatus used for the playing of poker, blackjack, keno, bingo, slots or other casino gambling games by the insertion therein of any coin, currency, metal disc, slug, card, plate, token or other means of payment which has or has been modified to have a knockoff or knockdown switch or other capability for erasing or eliminating playing credits. This term shall include any such device that is modified or per se illegal.

*Jukebox*—any device, machine or apparatus which plays recorded music, whether by record, tape, compact disc or other means, by the insertion therein of any coin, currency, metal disc, slug, card, plate, token or other means of payment.

*Licensee*—any person holding a valid, current license issued pursuant to this Part.

(Ord. 656, 4/9/2015)

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<sup>2</sup>Editor’s Note: See also the general definitions contained in Chapter 1, Part 1, of this Code.

**§13-203. License Required for Possession.**

No person shall have in his or her possession, at any time or at any place within the Township, any amusement device or jukebox, without first having procured a license therefor from the Township Manager.

(Ord. 656, 4/9/2015)

**§13-204. Application; Information Required; Attestation.**

1. Any person desiring to procure a license for an amusement device or jukebox shall apply in writing to the Township Manager.

2. Such application shall set forth the following:

A. The name and address of the applicant.

B. The name and address of the owner of each amusement device and/or jukebox to be licensed.

C. The name and address of the proprietor of the business establishment in which each amusement device and/or jukebox is to be located, used or installed.

D. If the owner of the business establishment is not the applicant, then the applicant shall set forth the length of time for which the premises has been leased.

E. Whether the applicant is a citizen of the United States.

F. A list of all crimes which the applicant has committed within 5 years of the date of application.

G. The manufacturer, name of machine, serial number, type and fee for each amusement device, jukebox or apparatus to be located, installed, operated or used on the premises, along with a floor plan of the premises identifying its dimensions and the location of all amusement devices and jukeboxes.

H. That the applicant has been provided with a copy of these regulations and that the applicant has read and agrees to be bound by all terms and provisions thereof.

I. That the applicant acknowledges that a license does not sanction or condone the use or possession of any illegal gambling device.

J. That the applicant acknowledges that the Township shall notify the appropriate law enforcement officials of the use or possession of any illegal gambling devices, whether or not such devices are licensed.

K. That the applicant acknowledges that the Township shall immediately revoke the license of any illegal gambling device.

L. That the applicant acknowledges that the illegal use or possession of an illegal gambling device may result in criminal prosecution by the Township or other law enforcement officials.

M. A signed verification by the applicant, owner and proprietor that the facts set forth in the application are true and correct to the applicant's, owner's and proprietor's personal knowledge, information and belief, and that any false statements made therein are subject to the penalties of 18 Pa.C.S.A. §4904, as amended, relating to unsworn falsification to authorities.

3. No license shall be issued by the Township Manger until a reasonable time for

investigation of the facts set forth in the application and all circumstance relating thereto.

(Ord. 656, 4/9/2015)

**§13-205. Ineligibility.**

The following persons shall be ineligible for a license under this Part:

A. Any person who has been convicted of a crime within 5 years of the date of application.

B. Any person who has been found guilty of or accepted accelerated rehabilitation disposition for possessing or using an illegal gambling device in violation of the Crimes Code of the Commonwealth of Pennsylvania within 5 years of the date of application.

(Ord. 656, 4/9/2015)

**§13-206. Exclusion of Gambling Devices.**

Nothing in this Part shall in any way be construed to authorize, license, or permit any illegal gambling device whatsoever, or any machine or mechanism that has been judicially determined to be an illegal gambling device, or in any way contrary to law, or that may be contrary to any present or future law of the Commonwealth of Pennsylvania.

(Ord. 656, 4/9/2015)

**§13-207. Fee; Terms; Licensing Replacement Machines.**

1. License fees shall be established, from time to time, by resolution of the Board of Supervisors.

2. In the event of a replacement of a licensed machine by another device of generally similar type before expiration of the licensing period, the replacement device may be licensed for the unexpired period without additional charge.

(Ord. 656, 4/9/2015)

**§13-208. Renewal Applications.**

Prior to the expiration date of any license issued under this Part, the holder of such license shall apply to the Township Manager for a license for the following year. The same provisions shall govern the issuance of such license as are set forth in the preceding Sections of this Part.

(Ord. 656, 4/9/2015)

**§13-209. Periodic Inspections by Township Officials.**

Periodic inspection of amusement devices and jukeboxes shall be conducted by the Township Manager to ensure compliance with this Part.

(Ord. 656, 4/9/2015)

**§13-210. Display.**

1. Any license issued under this Part shall be exhibited at any time on request of

the Township Manager.

2. Any discs, plates or stickers issued by the Township for amusement devices shall be displayed on the device and shall state, in a clearly observable and readable place and form, that the amusement device is for amusement purposes only, that it is not a gambling device and that only games and not money may be won on the device. (Ord. 656, 4/9/2015)

**§13-211. Grounds for Revocation; Contraband.**

1. The Township shall immediately revoke any and all licenses issued under this Part where:

A. Any applicant, owner or proprietor falsified any information on an application for a license under this Part.

B. Any applicant, owner or proprietor violates any provision of this Part.

C. Any owner of an amusement device or proprietor of a business establishment is convicted of possessing or using an illegal gambling device in violation of the Crimes Code of the Commonwealth of Pennsylvania.

D. The Township Manager deems such revocation to be necessary for the benefit or protection of the public health, safety or morals.

2. Any illegal gambling device used or possessed in violation of the Crimes Code of the Commonwealth of Pennsylvania or this Part may be deemed contraband and forfeited in accordance with the provisions of 18 Pa.C.S.A. §6501(d), as amended (relating to scattering rubbish).

(Ord. 656, 4/9/2015)

**§13-212. Street-Level Location Required.**

All places or establishments subject to the provisions of this Part shall be located on the first or street floor of the building in which they are located, unless specifically approved by the Township Manager.

(Ord. 656, 4/9/2015)

**§13-213. Loitering or Loafing.**

No idle loitering or loafing shall be permitted in or about places of business or establishments subject to the provisions of this Part.

(Ord. 656, 4/9/2015)

**§13-214. Room Obstruction Prohibited.**

All places or establishments subject to the provisions of this Part shall be arranged in the nature of one regular unobstructed room without shades, screens, or partitions of any kind to interfere with the free and unobstructed view of all parts of the room from the entrance.

(Ord. 656, 4/9/2015)

**§13-215. License Fee Collection.**

All license fees herein provided shall be collected by the Township Manager and

turned over to the Township Treasurer.

*(Ord. 656, 4/9/2015)*

**§13-216. Violations and Penalties.**

Any person, firm, or corporation who shall violate any provision of this Part, or fails to comply therewith, or with any of the requirements thereof, upon conviction thereof in an action brought before a magisterial district judge in the manner provided for the enforcement of summary offenses under the Pennsylvania Rules of Criminal Procedure, shall be sentenced to pay a fine of not less than \$300 nor more than \$1,000 plus costs, including reasonable attorney fees incurred by the Township, and, in default of payment of said fine and costs, to a term of imprisonment to the extent permitted by law for the punishment of summary offenses. A separate offense shall arise for each day or portion thereof in which a violation of this Part is found to exist and for each section of this Part found to have been violated. The Township may also commence appropriate actions in equity or other to prevent, restrain, correct, enjoin, or abate violations of this Part. All fines and penalties collected for violations of this Part shall be paid to the Township Treasurer. The initial determination of ordinance violation is hereby delegated to the Township Manager, the Police Department, the Code Official, the authorized designee of the Township Manager, and to any other officer or agent that the Township Manager or the Board of Supervisors shall deem appropriate.

*(Ord. 656, 4/9/2015)*



**Part 3****Peddling and Soliciting****§13-301. Title.**

This Part shall be known and may be cited as the “Solicitation Ordinance.”  
(*Ord. 656, 4/9/2015*)

**§13-302. Definitions.<sup>3</sup>**

For the purposes of this Part, the following terms shall have the meanings set forth below, unless a different meaning clearly appears from the context:

*Canvass*—the act of going upon property or approaching people to discuss or explain issues, which shall include religious proselytizing, exercising an individual’s freedom of speech or campaigning for political votes, that does not include the request for contributions or donations or the sale of goods or products.

*Canvasser*—a person who engages in canvassing.

*Canvassing*—to canvass.

*Peddle*—the act of going upon property or approaching people to sell goods, services or products.

*Peddler*—a person who engages in peddling.

*Peddling*—to peddle.

*Transient retail business*—shall include the following:

(1) Engaging in peddling, soliciting or taking orders, either by sample or otherwise, for any goods, wares or merchandise upon any street, alley, sidewalk and/or public ground within the Township.

(2) Selling, soliciting or taking orders for any goods, wares or merchandise from a fixed location within the Township, on a temporary basis, including, but not limited to, such activities conducted at the time of special occasions or celebrations, for seasonal purposes, or for or in advance of specific yearly holidays.

*Solicit*—the act of going upon property or approaching people to ask for, request or seek monetary contributions, donations or support.

*Soliciting*—to solicit.

*Solicitor*—a person who engages in soliciting.

(*Ord. 656, 4/9/2015*)

**§13-303. Residential Door-to-Door Peddling and Soliciting.**

1. *Registration Required.*

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<sup>3</sup>Editor’s Note: See also the general definitions contained in Chapter 1, Part 1, of this Code.

A. It shall be unlawful for any person to go upon residential property within the Township, without being invited to do so by the owners or occupants of the subject property, to peddle and/or solicit Township residents by knocking upon residential doors, or by ringing doorbells, or otherwise so as to cause or attempt to cause residents to open their doors unless the person doing the peddling and/or soliciting activity has first registered at the Township municipal building and has received an identification card from the Township Police Chief.

B. The following individuals shall be exempt from the registration requirement set forth in §13-303.1 above and the identification card requirements in §13-303.2 below:

(1) Children under 18 years of age soliciting or peddling on behalf of a non-profit, school or governmental organization.

(2) Persons soliciting on behalf of a non-profit or neighborhood organization for either donations to, or membership in, such organization.

(3) Persons peddling donated merchandise on behalf of a non-profit organization where the proceeds of the sale are used for a charitable purpose.

(4) Persons peddling on behalf of a religious organization where the proceeds of the sale are used to support such organization or for a charitable purpose.

C. No identification card shall be issued to a peddler or solicitor unless the following information is given by the applicant:

(1) Full identification, including proof thereof by voter's registration card, vehicle operator's license or some other accepted method of identification-containing applicant's photograph, residence and office address.

(2) The name of the organization for which the applicant is peddling and/or soliciting, together with the address of that organization.

(3) The length of time the peddling and/or soliciting is to be carried on.

(4) Any criminal record which the applicant may have.

D. Fees for registration under this Section hereof shall be established, from time to time, by resolution of the Board of Supervisors.

## 2. *Identification Card.*

A. *Issuance.* Peddlers and/or solicitors regulated by this Part shall carry their identification card which shall be issued by the Township Police Chief, without charge, at all times while peddling and/or soliciting within the Township and shall show their identification card to residents in order to identify themselves prior to any actual peddling and/or soliciting activities.

B. *Denial and Revocation.* In the event that any peddler and/or solicitor is found to have been convicted of any felony or misdemeanor involving moral turpitude, he or she may be denied an identification card or the identification card may be revoked or canceled by the Township Police Chief. In the event that any peddler and/or solicitor provides any false or misleading information concerning his or her identification or the identity of the organization for which the peddling and/or soliciting is being done, the identification card issued to that peddler and/or solicitor may be revoked by the Township Police Chief. A peddler and/or solicitor

may appeal the denial or revocation of an identification card by the Township Police Chief under this subsection to the Township Board of Appeals, provided that a written application for an appeal is filed within 10 days after receipt of said decision. All appeals before the Board of Appeals under this subsection shall proceed under the regulations and procedures established in the Construction Code [Chapter 5, Part 1].

3. *Hours.* All peddling, soliciting and/or canvassing activities shall, in the case of residential door-to-door or house-to-house calling, be restricted to the following hours:

A. From November 16 through March 31: between the hours of 9 a.m. to 5 p.m., prevailing time, including Saturdays and Sundays.

B. From April 1 through November 15: between the hours of 9 a.m. to 9 p.m., prevailing time, including Saturdays and Sundays.

4. *No-Soliciting/Peddling/Canvassing List.*

A. Township residents may post or display “No Soliciting/Peddling/Canvassing” or similar signs, not to exceed 80 square inches in size, on the front door of their dwelling or residence. It shall be a violation of this Part for any peddler, solicitor and/or canvasser to go upon any property that the owner or resident has posted a “No Soliciting/Peddling/Canvassing Sign.”

B. The Township Police Chief shall maintain a list of the addresses of Township residents who have notified the Township Police Chief in writing that they do not wish peddlers and/or solicitors to enter upon their property. A copy of this “No Soliciting/Peddling List” shall be provided along with and as part of any identification card issued under §13-303 hereof. It shall be a violation of this Part for a peddler and/or solicitor to go upon any property listed on the “No Soliciting/Peddling List.”

C. Violations of this Section are subject to the penalties set forth in §13-306 hereof, in addition to any other appropriate actions in law or equity, including prosecution for criminal trespass pursuant to the Pennsylvania Crimes Code, 18 Pa.C.S.A. §3503, as amended.

(Ord. 656, 4/9/2015)

#### **§13-304. Transient Retail Business Licenses.**

1. *License Required.* No person shall engage in any transient retail business within the Township without first obtaining a license from the Township Police Chief and paying the applicable license fees established, from time to time, by resolution of the Board of Supervisors. Time periods for individual licenses shall be established by the Township Police Chief, provided that the time period shall not exceed 30 days.

2. *Application for License.*

A. Every person desiring a license under this Section shall first make application to the Township Police Chief on a form established from time to time by the Township Police Chief.

B. The completed application for a license shall, at a minimum, contain the following information and/or documentation:

(1) Name and address of applicant, including the present and permanent

addresses).

- (2) Name and address of applicant's employer.
- (3) Recent photograph of the applicant.
- (4) Type of goods, wares, merchandise the applicant wishes to deal with in such business.
- (5) The applicant's prior criminal record.
- (6) The type and license of every vehicle to be used, if any.
- (7) A valid copy of any required State or County license.
- (8) Any other information deemed necessary by the Township.

3. *Issuance of License; Custody, Display or Exhibit.*

A. Upon receipt of such application and the prescribed fee, the Township Police Chief, if he/she shall find such application to be complete, shall issue the license required under this Part. Such license shall contain the information required to be given on the application therefor.

B. The issuance of a license by the Township under this Section shall in no way be considered the Township's authorization, approval and/or acquiescence for the sale of goods and products subject to copyright and/or trademark protections. The applicant and license holder shall be responsible for obtaining all necessary certificates, permissions and approvals for the sale of goods and products subject to copyright and/or trademark protections.

C. Every license holder shall carry such license upon his person while engaged in transient retail business in the Township, with an additional copy of the license displayed at the fixed location where the transient business is occurring. The license holder shall exhibit such license, upon request, to all police officers, Township officials and employees, and citizens or residents of the Township.

4. *Prohibited Acts.*

A. No transient retail business shall:

- (1) Be conducted on or within public property, public roads and rights-of-way, sidewalks, private roads, access drives or driveways.
- (2) Be conducted on or within setback areas, off-street parking areas and landscape/buffer areas established and required by the Zoning Ordinance [Chapter 27].
- (3) Involve loud noises or sound devices so as to be heard beyond the premises where the transient retail business is occurring or to cause a public nuisance.

B. No person in any transient retail business shall:

- (1) Sell any product or type of product not mentioned in his/her license.
- (2) Hawk or cry his/her wares upon any of the streets, alleys, sidewalks or public grounds in the Township.
- (3) Park any vehicle upon any of the streets or alleys in the Township for the purpose of sorting, rearranging or cleaning any of his/her goods, wares, or merchandise or of disposing of any carton, wrapping, material or of any stock or wares or foodstuffs which have become unsalable through handling, age or

otherwise.

(4) Conduct transient retail business outside the time periods referenced in subsection .5 below.

5. *Hours.* All licensed transient retail business activities shall be restricted to the following hours:

A. From November 16 through March 31: between the hours of 9 a.m. to 5 p.m., prevailing time, including Saturdays and Sundays.

B. From April 1 through November 15: between the hours of 9 a.m. to 9 p.m., prevailing time, including Saturdays and Sundays.

6. *Supervision; Records and Reports.* The Township Police Chief and Police Department shall supervise the activities of all persons holding licenses under this Section and shall keep a record of all licenses hereunder.

7. *Denial, Suspension and Revocation of License; Appeal.* The Township Police Chief is hereby authorized to suspend or revoke any license issued under this Section when he/she deems such suspension or revocation to be beneficial to the public health, safety or morals for violation of any provision of this Part or for giving false information upon any application for license hereunder or to any Township official related thereto. Appeals from any license denial, suspension and/or revocation may be made to the Township Board of Appeals within 10 days after such license denial, suspension and/or revocation. All appeals before the Board of Appeals under this Part shall proceed under the regulations and procedures established in the Construction Code [Chapter 5, Part 1]. No portion of a license fee shall be refunded to any person whose license has been suspended or revoked.

(Ord. 656, 4/9/2015)

#### **§13-305. Fees.**

1. *Fees Established.* All license, registration and other fees related to this Part shall be established, from time to time, by resolution of the Board of Supervisors.

2. *Exceptions.* No license or registration fees shall be charged under this Part to:

A. Farmers selling their own produce.

B. The sale of goods, wares and merchandise, donated by the owners thereof, the proceeds whereof are to be applied to any charitable or philanthropic purpose.

C. Any manufacturer or producer in the sale of bread and bakery products, meat and meat products, or milk or milk products.

D. Any person taking orders for merchandise by sample, from dealers or merchants, for individuals or companies who pay a license or mercantile tax at their chief places of business.

E. Any insurance company or its agents, or insurance broker, authorized to transact business under the laws of the Commonwealth of Pennsylvania.

Any solicitor, peddler and/or transient retail business dealing in one or more of the excepted categories and selling other goods, wares and merchandise not excepted shall be subject to the relevant registration and/or license fees referenced in this Part, and specifically §§13-303.1, 13-304.1, and 13-305.1, above, for its activities in connection with the sale of goods, wares and merchandise not in any of the excepted categories.

(*Ord. 656, 4/9/2015*)

**§13-306. Violations and Penalties.**

Any person, firm or corporation who shall violate any provision of this Part, or fails to comply therewith, or with any of the requirements thereof, upon conviction thereof in an action brought before a magisterial district judge in the manner provided for the enforcement of summary offenses under the Pennsylvania Rules of Criminal Procedure, shall be sentenced to pay a fine of not less than \$100 nor more than \$1,000 plus costs, including reasonable attorney fees incurred by the Township, and, in default of payment of said fine and costs, to a term of imprisonment to the extent permitted by law for the punishment of summary offenses. A separate offense shall arise for each day or portion thereof in which a violation of this Part is found to exist or for each section of this Part found to have been violated. The Township may also commence appropriate actions in equity or other to prevent, restrain, correct, enjoin, or abate violations of this Part. All fines and penalties collected for violation of this Part shall be paid to the Township Treasurer. The initial determination of ordinance violation is hereby delegated to the Township Manager, the Police Department, the Code Official, the authorized designee of the Township Manager, and to any other officer or agent that the Township Manager or the Board of Supervisors shall deem appropriate.

(*Ord. 656, 4/9/2015*)

**Part 4****Junkyards****§13-401. Title.**

This Part shall be known and may be cited as the “Junkyard Ordinance.”  
(*Ord. 656, 4/9/2015*)

**§13-402. Definitions.<sup>4</sup>**

Except where otherwise indicated by context, the following definitions shall apply in the interpretation and enforcement of this Part:

*Junk*—any discarded material, articles or things, including, but not limited to, scrap, copper, brass, rope, rags, batteries, paper, trash, rubber debris, waster, iron, steel and other old or scrap ferrous or non-ferrous material. Any wrecked, ruined, dismantled, abandoned, non-operable, disabled or junked motor vehicles or parts thereof, or motor vehicles no longer used as such.

*Junk dealer*—see “license.”

*Junkyard*—any yard, lot or place covered or uncovered, outdoors or in an enclosed building, containing junk as defined herein, upon which principally occurs one or more acts or buying, keeping, storing, accumulating, dismantling, processing, recycling, salvaging, selling or offering for sale, any such junk, in whole units or by parts, or any premises used for the storage of two or more junked motor vehicles. This definition shall not include a transfer station, licensed or permitted by the Commonwealth of Pennsylvania, or a recycling center, licensed or permitted by the Township.

*Junked motor vehicles*—any motor driven vehicle, regardless of size, which is incapable of being self-propelled or is unable to move under its own power upon the public streets of the Township or is incapable of being utilized for its intended purpose; also included in this definition is any trailer, semi-trailer or any other article which would be classified as a vehicle, as well as any disabled, abandoned, non-operable, non-registered, wrecked, ruined or dismantled motor vehicle.

*Licensee*—any person holding a valid, current license issued pursuant to this Part.

*Preliminary approval*—approval of the application by the Township Zoning Officer which permits the applicant to develop his property as per the requirements of this Part. Preliminary approval does not permit the applicant to operate the junkyard or accumulate junk in the approved location.

*Salvage yard*—see “junkyard.”

*Township Zoning Officer*—the Township Zoning Officer duly appointed and/or designated by the Township Manager, the authorized designee of the Township

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<sup>4</sup>Editor’s Note: see also the general definitions contained in Chapter 1, Part 1 of this Code.

Manager and/or the authorized designee of the Board of Supervisors.  
(Ord. 656, 4/9/2015)

**§13-403. License.**

1. *License Required.* No person shall establish, operate or maintain or permit to be established, operated or maintained upon any property owned or controlled by him, a junkyard within the limits of the Township without having first secured a license from the Township Zoning Officer. Such license shall be issued by the Township Zoning Officer in accordance with this Part.

2. *Licensee with Multiple Locations.* Any licensee establishing, operating or maintaining a junkyard at more than one location shall be required to have in effect a separate license for each such location.

3. *Licensing Period; Renewal; Posting.* Each license issued pursuant to this Part shall be valid for a period of not more than 1 year from the date of issuance. Each such license shall be subject to annual renewal provided applicable fees, fines and penalties have been paid and provided the junkyard continues to be operated and maintained in accordance with the provisions of this Part. A current license shall be conspicuously displayed or posted upon the licensed premises at all times.

(Ord. 656, 4/9/2015)

**§13-404. Contents of Application for License.**

Every person seeking a license under this Part shall make written application to the Township on a form to be provided by the Township.

A. The application shall include the following information:

(1) The name and address of the applicant, if the applicant is a natural person; but if the applicant is another entity, the names and address of all officers, directors, partners or natural persons having primary responsibility for the lawful day-to-day operation of the junkyard or scrap yard.

(2) The names and addresses of the owner or owners of the land upon which the junkyard is to be located.

(3) Written consent of the owner or owners of the property, if different from applicant.

(4) A metes and bounds survey of the property showing the location of the property, together with a deed reference to the property, containing a layout of the proposed junkyard, and showing sufficient detail to establish compliance with this Part, the Zoning Ordinance [Chapter 27], as amended, the Subdivision and Land Development Ordinance [Chapter 22], as amended, and all other applicable ordinances, laws and regulations.

(5) Plans and specifications for all fencing, water facilities, screening, access driveways, sewage disposal system and stormwater management.

(6) Plans for the control of insects, rodents and vermin, and for the prevention of infestation.

(7) Any other information, in any format and in as many copies, as the Township may from time to time require or deem necessary.

(Ord. 656, 4/9/2015)

**§13-405. Preliminary Approval.**

Any person wanting to establish, operate or maintain a junkyard within the Township must seek preliminary approval of an application by submitting an initial application and application fee after which:

A. The Township Zoning Officer shall review the application and plans for completeness and for compliance with this Part, other Township ordinances and regulations and, any State or Federal laws or regulations.

B. The Township Zoning Officer shall inspect the site, taking into consideration the suitability of the property proposed to be used for the purposes of the license, the character of the properties located nearby, and the effect of the proposed use upon the Township, with specific reference to the general health, safety and welfare of the public and the residents of the Township.

C. The Township Zoning Officer may impose, in addition to the general requirements set forth in this Part, such other terms and conditions as it may deem necessary to carry out the spirit and intent of this Part and to effect the protection of the general health, safety, and welfare of the public and the residents of the Township.

D. After completion of the above items, and the determination by the Township Zoning Officer that the applicant's plans and representations comply with this Part and all other applicable ordinances, laws, rules and regulations, the Township Zoning Officer shall issue in writing a "preliminary approval" of the site.

E. Preliminary approval shall be in writing, and shall contain a statement that the application and plans as submitted are acceptable to the Township Zoning Officer without modification; or shall contain a detailed and itemized list of other terms, conditions and requirements which must be met if the application is to be finally approved.

F. Preliminary approval shall commit the Township Zoning Officer to issue a license, pursuant to this Part, only after the site is, in fact, in complete compliance with the terms of the preliminary approval and the requirements of this Part.

G. No junkyard, scrap yard or junk dealer shall conduct business on the site until a license is issued.

H. It shall be solely the obligation of the applicant to communicate to the Township, within the preliminary approval period, that the site has been made to fully comply with this Part and the terms, conditions, and requirements of the preliminary approval.

I. Preliminary approval shall be valid for not more than 6 months, after which, if the site is not in full compliance with this Part and all other terms, conditions and requirements of the preliminary approval, the preliminary approval shall be revoked by the Township Zoning Officer and the Township shall not thereafter be required to issue a license automatically, at the expiration of 6 months.

(Ord. 656, 4/9/2015)

**§13-406. Application for License Renewal.**

After a license has been issued for a junkyard in order to continue the operation and maintenance of such junkyard, the licensee shall be required to apply for license renewal on a form to be provided by the Township. Such application for renewal shall be filed with the Township within such time as to allow the Township an opportunity for on-site inspection of the junkyard prior to the date on which the license must be renewed; but in no event shall such application be filed fewer than 60 days before the expiration of the current license. The Board of Supervisors may, from time to time, establish rules and regulations governing the application for and issuance of renewal licenses.

(Ord. 656, 4/9/2015)

**§13-407. General Operating Requirements.**

The following general requirements shall apply to all junkyards licensed in accordance with the provisions of this Part:

A. Such premises shall at all times be maintained so as not to constitute a nuisance or menace to the health, safety or welfare of the community and maintained so as not to provide a breeding place for insects, rodents or vermin.

B. No garbage or other organic waste shall be stored in open containers on premises.

C. All junk shall be stored and arranged so as not to interfere with natural drainage of the land and shall be so stored and arranged as to prevent the accumulation of stagnant water and to facilitate access for firefighting purposes.

D. Maintenance shall be such that any adjacent stream or body of water shall not, be polluted or damaged by the drainage or dumping of organic or inorganic waste materials or waste substances.

E. Junk shall be stored in piles within the enclosed area not exceeding 8 feet in height. Junk shall be separated by alleys and arranged so as to permit easy access to all such junk for firefighting purposes.

F. No burning of junk, discarded materials or any other materials shall occur on the premises.

G. The business shall be conducted from a permanent building on the premises.

H. The licensee and operator must be authorized to collect Pennsylvania sales tax prior to opening.

I. No combustible material of any kind not necessary or beneficial to the licensed business shall be kept on the premises, nor shall the premises be allowed to become a fire hazard.

J. No oil, grease, tires, gasoline, tar, petroleum products, shingles or other similar material or junk shall be burned within a junkyard at any time.

K. The licensee shall permit inspection of the business premises by the Township or its appointed representative at any reasonable time.

L. Any property not provided for and approved by the Township with the licensee shall not be utilized for junkyard operations.

M. All oil, antifreeze, gasoline, transmission fluid and other vehicular fluids shall be drained from all vehicles before such vehicles are stored as scrap in the junkyard; and all such fluids shall be properly containerized, stored, transported and disposed of in the manner or manners prescribed by or consistent with regulations promulgated by the Pennsylvania Department of Environmental Protection in Title 25, Chapter 75, Pa. Code, relating to solid waste management, and in regulations promulgated by the United States Environmental Protection Agency at 40 CFR, subchapter I, Parts 240-280, relating to solid waste, or any other applicable laws or regulations pertaining to solid waste or solid waste management.

N. All spare tires not being used for a useful purpose must be covered by a tarpaulin and not left exposed to the weather or enclosed within the structure.

O. The licensee shall maintain a written record detailing the circumstances of each and every sale, receipt or transaction occurring on the licensed property including, but not limited to: (1) the date and time of each sale or receipt of junk; (2) the name of each person from whom junk was sold or received by the licensee; (3) a description of every article or material purchased or received by the licensee; (4) a physical description of any person from whom motor vehicles and/or parts thereof were sold or received by the licensee; and (5) a complete description of any motor vehicles and/or parts thereof that are sold and/or received by the licensee, including the body style, make, model, color, license number and vehicle identification number, trade name, part or manufacturer's numbers for the motor, body, axle, coil, starter, carburetor, magnets, steering gear and radiator any other serial numbers. This written record shall at all times be available for inspection upon request by any Township official, the Police Department, or any other municipal, governmental or state official.

P. The licensee shall keep and retain upon the licensed premises all junk received or purchased by the licensee for a period of 48 hours after the purchase or receipt thereof. The licensee shall not disturb, dismantle, reduce or otherwise alter the original form, shape or condition of any such junk until the above referenced 48 period has expired.

Q. Each individual licensed premises shall contain a minimum of 10 acres and a maximum of 20 acres, and shall front on a public road or have access to a public road by a right-of-way of at least 20 feet in width. Where a junkyard fronts on or has access to a State highway, all proper permits must be obtained from the Pennsylvania Department of Transportation.

(Ord. 656, 4/9/2015)

**§13-408. Physical Characteristics.**

1. The area used for a junkyard shall be completely enclosed with a solid board or metal fence, not less than 8 feet nor more than 12 feet in height with opaque screening and otherwise constructed so that no dust or other material may pass through. All fences and screening shall be of sufficient height to screen the junkyard from view of adjacent properties and highways. All fences and screening proposed must be approved by the Township Zoning Officer, who may approve such fencing or screening as may be deemed necessary in view of natural contours, features and

requirements.

2. The outer area of fencing and screening required by subsection .1 above shall be landscaped and buffered as follows:

A. A minimum of two rows of trees, shrubs or other vegetation, not less than 50 percent evergreen materials, shall be planted to produce the effective visual barricade.

B. At least two different species of trees, shrubs or other vegetation shall be utilized. Selected species shall exhibit different tolerances to insects and disease.

C. Species selected must be capable of producing the effective visual barrier, 10 feet in height, within 5 years of planting.

D. Prompt replacement of any dead species shall be required.

3. The required fencing and screening shall be set back the following minimum distances from all property lines and street/road right-of-way lines:

A. Twenty-five feet from all street/road right-of-way lines.

B. Twenty-five feet from all property lines.

C. The area between the property line or public right-of-way and the fence or tree screening shall be kept clean and vacant at all times except for the landscape and buffering required by subsection .2 above.

4. All entrances and exits into and from the salvage yard shall have gates which shall be closed and locked when the yard is not in operation. All entrances must meet the site distance requirements of the Pennsylvania Department of Transportation, the Zoning Ordinance [Chapter 27], the Subdivision and Land Development Ordinance [Chapter 22], and all other applicable laws, ordinances and regulations.

5. Sufficient onsite parking will be provided for loading and unloading vehicles as well as for employee and customer parking.

6. It shall be the responsibility of the junkyard owner or operator to properly maintain fencing and screening required by subsection .1, above, and doing such painting and repairs as to keep any fences, walls or other structural material in good appearance. Plant material required by subsection .2, above, shall be watered, pruned, cultivated and mulched, treated for insect and disease control, and given any required maintenance to keep all plants in healthy condition. Dead plants shall be removed immediately and shall be replaced during the next spring or fall planting season. Replacement plants shall be at least as large as the initial plants and of the same species and quality, unless approval for substitution is received from the Township.

7. Failure to maintain the required fencing, screening and landscaped buffer shall result in the revocation of the junkyard license.

*(Ord. 656, 4/9/2015)*

**§13-409. Location Must Conform to Township Zoning Regulations.**

The location of any junkyard must conform to any and all applicable Township zoning regulations.

*(Ord. 656, 4/9/2015)*

**§13-410. Extension or Enlargement of Existing Junkyards.**

All licensed junkyards existing prior to April 9, 2015, (the date of adoption of this Part) shall not be required to receive preliminary approval required by §13-405 and shall be entitled to annual license renewals as long as the licensee and the licensed junkyard comply with the following regulations:

A. Compliance with all applicable Federal, State, County, Township and other governmental laws, ordinances, regulations and permits.

B. Compliance with all provisions of this Part except:

(1) §13-405 (preliminary approval).

(2) §13-407.Q (size and access requirement), provided that the junkyard does not exceed 20 acres in size.

(3) §13-408 (physical characteristics).

C. The licensed premises shall not be extended or enlarged unless the licensee makes application for a new license and fully complies with each and every provision of this Part for the entire site of the licensed premises.

D. The license shall not be assigned or transferred to any other person unless the licensee makes application for a new license and the licensed premises is brought into full compliance with each and every provision of this Part for the entire site of the licensed premises.

E. Any licensed premises that ceases to operate for a period of 6 months shall result in the automatic revocation of the junkyard license and such a premises shall not be used for a junkyard unless or until the an application is made for a new license and the junkyard is brought into full compliance with each and every provision of this Part.

F. The provisions of this Section shall not apply to any licensed junkyard existing prior to April 9, 2015, (the date of adoption of this Part) once that junkyard is brought into compliance with all other Sections of this Part.

*(Ord. 656, 4/9/2015)*

**§13-411. Assignment and Transfer.**

No license issued under this Part shall be assigned or transferred to any other person without the express written authorization of the Township. Any person wishing to transfer or assign such license shall make a written request to do so, directed to the Township Zoning Officer and setting forth the name and address of the transferee and the date the transfer is expected to be effective. Such written request shall be submitted together with a license application for the transfers pursuant to §13-403 and a transfer fee, the amount of which shall, from time to time, be determined by the Board of Supervisors; and such transfer fee shall not be returned, whether or not the transfer or assignment of the license is authorized. Such written request must be submitted at least 60 days prior to the date the transfer is expected to be effective.

*(Ord. 656, 4/9/2015)*

**§13-412. Revocation and Suspension of License.**

The Township Zoning Officer shall suspend any license issued hereunder upon

failure of any licensee to comply with, or to maintain compliance with, or for violation of any provision, standard or requirement of this Part. The Township shall notify the licensee, in writing of any Section or Sections of this Part which the Township or its representative believes to have been violated. Any notice provided for herein may also identify a reasonable period of time within which the licensee may effect compliance without prosecution. Any notice provided for in this Section may be served personally upon the licensee; or may be posted conspicuously upon the property for which the license has been granted; or may be posted conspicuously at the address of the licensee as shown on the application; or may be sent to the licensee by certified or registered mail to the address shown on the application.

(Ord. 656, 4/9/2015)

#### **§13-413. Fees.**

Application fees, renewal fees, transfer fees and any other fees shall be established, from time to time, by resolution of the Board of Supervisors.

(Ord. 656, 4/9/2015)

#### **§13-414. Rules and Regulations.**

The Board of Supervisors may, from time to time, prepare, review or alter the rules and regulations reasonable and necessary to the proper and effective administration of this Part. The Township Zoning Officer may, from time to time, prepare, review or alter the application for, renewal application for, and any other forms reasonable and necessary to the proper and effective administration of this Part.

(Ord. 656, 4/9/2015)

#### **§13-415. Violations.**

1. It shall be unlawful for any person to violate any of the provisions of this Part.
2. It shall be unlawful for any person to establish, operate or maintain a junkyard, scrap yard or junk dealership after a preliminary approval has been granted but before a license has been issued. It shall be unlawful for any person to misrepresent material facts in any application or renewal application submitted under this Part. It shall be unlawful for any applicant or licensee to fail to notify the Township if said licensee is ever cited by County, State or Federal authorities for alleged violations of law, rules or regulations relating to the operation of junkyards.

(Ord. 656, 4/9/2015)

#### **§13-416. Inspections.**

The Township Zoning Officer or any other representative of the Township shall be permitted to enter and inspect the premises of any licensee or any applicant for preliminary approval at any reasonable time and with no notice.

(Ord. 656, 4/9/2015)

#### **§13-417. Violations and Penalties.**

Any person, firm, or corporation who shall violate any provision of this Part, or fails to comply therewith, or with any of the requirements thereof, upon conviction thereof

in an action brought before a magisterial district judge in the manner provided for the enforcement of summary offenses under the Pennsylvania Rules of Criminal Procedure, shall be sentenced to pay a fine of not less than \$300 nor more than \$1,000 plus costs, including reasonable attorney fees incurred by the Township, and, in default of payment of said fine and costs, to a term of imprisonment to the extent permitted by law for the punishment of summary offenses. A separate offense shall arise for each day or portion thereof in which a violation of this Part is found to exist and for each section of this Part found to have been violated. The Township may also commence appropriate actions in equity or other to prevent, restrain, correct, enjoin, or abate violations of this Part. All fines and penalties collected for violations of this Part shall be paid to the Township Treasurer. The initial determination of ordinance violation and the service of any required notice of violation are hereby delegated to the Township Manager, the Township Zoning Officer, the Code Official, Police Department, the authorized designee of the Township Manager, and to any other officer or agent that the Township Secretary or the Board of Supervisors shall deem appropriate.

*(Ord. 656, 4/9/2015)*



**Part 5****Liquor License Transfer****§13-501. Title.**

This Part shall be known and may be cited as the “Liquor License Transfer Ordinance.”

(*Ord. 610, 12/6/2006; as added by Ord. 656, 4/9/2015*)

**§13-502. Township Approval Procedure.**

Any person, corporation or other entity seeking Township approval for an intermunicipal transfer of a liquor license under the Pennsylvania Liquor Code, 47 P.S. §4-461 *et seq.*, as amended, shall comply with the requirements of this Part.

(*Ord. 610, 12/6/2006*)

**§13-503. Application for Approval of License Transfer.**

1. Any person, corporation or other entity seeking Township approval for an intermunicipal transfer of a liquor license shall file an application with the Township Manager, in a form approved from time to time by the Township Manager.

2. This application shall, at a minimum, include the following information:

A. The name, address and telephone number of the applicant.

B. The names, addresses, and telephone numbers of all parties who have, or propose to have, a financial interest or ownership in the business where the liquor license is proposed to be located.

C. The proposed location to which the liquor license is being transferred, including a legal description of the property, street address and telephone number, if any.

D. The current location of the liquor license proposed to be transferred, including the street address, telephone number, and business name.

E. The name, address and telephone number of the current owner of the liquor license proposed to be transferred.

F. The name, address and telephone number of the owner of the property where the liquor license is proposed to be transferred.

G. The name of the establishment sought to be licensed.

H. The Pennsylvania Liquor Control Board (“PLCB”) license number for the liquor license proposed to be transferred.

I. The date at which the applicant proposes to relocate the liquor license to the Township.

J. The type of liquor license proposed to be transferred.

K. All other locations owned or operated by the applicant which currently hold and/or utilize liquor licenses, including name, address and license number of these establishments.

L. The names, addresses, and telephone numbers of all owners of property fully or partially within 500 feet of the proposed license location.

M. A list of all liquor license violations cited against the applicant, and/or any party that will have a financial interest in the business where the liquor license is proposed to be located. This list shall include the dates, locations and specific grounds for each such violation.

N. A list of all crimes committed by the applicant, and/or any party that will have a financial interest in the business where the liquor license is proposed to be located. This list shall include the dates, locations and specific grounds for each such violation.

O. A copy of the completed application form required by the PLCB for the transfer of a liquor license.

P. Name, address and distance from the proposed licensed premises for:

- (1) Nearest licensed establishment.
- (2) Nearest school.
- (3) Nearest park.
- (4) Nearest church.
- (5) Nearest private recreation or amusement facility.

Q. Detailed information regarding the following operating details for the business where the license is proposed to be transferred:

- (1) Amusement permit.
- (2) Extended hours food permit.
- (3) Sunday sales permit.
- (4) Days of operation.
- (5) Hours of operation.
- (6) Seating capacity.

(7) A detailed and scaled plan of the configuration of the premises where the liquor license is proposed to be transferred, including all entrances, exits, emergency exits, rest rooms, offices, rooms, private areas, fixtures, pay telephones, seating areas, dance floors, dining or snack areas, amusement devices, bar and any other items or areas which the Township deems important.

- (8) Characteristics of neighborhood.
- (9) Type of menu (breakfast, lunch, dinner).

(10) General food and drink price range.

R. A list of existing liquor licenses in the Township which are inactive, in safekeeping and/or for sale, including name, address and telephone number of contact person for each. [*Ord. 656*]

S. The number of existing liquor licenses of all types within the Township.

T. The population of the Township taken from the latest Federal census.

U. A signed verification by the applicant, property owner, establishment owner and operator/manager that the facts set forth in the application are true and

correct to the applicant's, property owner's, establishment owner's and operator/manager's personal knowledge, information and belief, and that any false statements made therein are subject to the penalties of 18 Pa.C.S.A. §4904, as amended, relating to unsworn falsifications to authorities.

V. Any other information deemed appropriate by the Township Manager.

3. All distances under this Section shall be measured from the proposed license area to the zoning lot boundaries of the other use or property in question.

4. The Township Manager shall review the application for completeness in accordance with the requirements of this Section. If all required materials and information have not been submitted, then the Township Manager shall reject the application as being administratively incomplete and shall notify the applicant, in writing, citing the specific deficiencies and the specific requirements of this Section which have not been met.

(*Ord. 610, 12/6/2006; as amended by Ord. 656, 4/9/2015*)

#### **§13-504. Application Fee.**

In order for any application to be accepted by the Township as administratively complete, the applicant must submit an application fee to defray the Township's expenses related to the public notices, public hearing requirements, secretarial and administrative functions, and investigative costs. The required application fee shall be established from time to time by resolution of the Board of Supervisors.

(*Ord. 610, 12/6/2006*)

#### **§13-505. Public Hearing, Advertisement and Posting.**

Upon receipt of an administratively complete application, including the appropriate fee(s) required by this Part, the Township shall schedule a public hearing. The Township shall advertise a public notice for the hearing at least once a week for two successive weeks prior to the hearing date in a newspaper of general circulation in the Township. The first publication shall not be more than 30 days, and the second publication shall not be less than 7 days, from the date of the hearing. The Township shall also conspicuously post the property identified as the location of the proposed liquor license in a manner consistent with the requirements of the Municipalities Planning Code, 53 P.S. §10101 *et seq.*, as amended, for the posting of a property for a proposed re-zoning.

(*Ord. 610, 12/6/2006; as amended by Ord. 656, 4/9/2015*)

#### **§13-506. Board Action.**

In deciding whether the proposed transfer application would adversely affect the welfare, health, peace, and morals of the Township or its inhabitants, the Board of Supervisors may consider, in addition to the information required by §13-503 hereof, any or all of the following:

A. A report and recommendation from the Township Manager and the Police Department. [*Ord. 656*]

B. The population of the Township, and the number of residents under the age of 21.

C. The proximity of the proposed licensed establishment to existing licensed establishments (all types of licenses), schools, churches, adult businesses, and other relevant uses.

D. The concerns expressed by area residents, businesses, public interest organizations, and the Moon Area School District.

E. A copy of the completed application required by the PLCB, and the applicant's complete criminal history.

F. The names of and information regarding other businesses in which the applicant has an ownership interest.

G. Any other issue or fact that may adversely affect the welfare, health, peace, and morals of the Township or its inhabitants and which the Board of Supervisors deems appropriate and relevant to the proceedings.

(*Ord. 610, 12/6/2006; as amended by Ord. 656, 4/9/2015*)

#### **§13-507. Public Hearing.**

The Board of Supervisor shall conduct a public hearing to determine whether or not to approve the transfer of the liquor or license into the Township. Proceedings before the Board of Supervisors shall be in accordance with §§551-555 of the Local Agency Law, 2 Pa.C.S.A. §§551-555, as amended.

(*Ord. 610, 12/6/2006*)

#### **§13-508. Board Decision.**

The Board of Supervisors shall render a decision by resolution either approving or denying the transfer of the liquor license within 45 days of the filing of an administratively complete application. The Board of Supervisors may: (A) approve an application; (B) approve an application subject to certain specified conditions; or (C) deny an application. A denial of an application shall be based on a finding that the proposed transfer would adversely affect the welfare, health, peace and morals of the Township or its residents. Any approval of an application under this Part shall be limited to the individual applicant, the proposed transfer location, and the type of establishment proposed. Any proposed change in ownership, location, or type of establishment will require a new application and Township approval.

(*Ord. 610, 12/6/2006; as amended by Ord. 656, 4/9/2015*)

## Part 6

### Logging

#### §13-601. Title.

This Part shall be known and may be cited as the “Logging Ordinance.”  
(*Ord. 574, 8/4/2004; as added by Ord. 656, 4/9/2015*)

#### §13-602. Purpose.

It is the intent of this Part to promote the welfare of the people of the Township by providing for the regulation of the removal of trees in such a way as to protect and preserve the environment, roads and quality of the community in general. Trees are a natural resource and an integral part of the natural landscape of the Township, providing soil erosion control, surface water flow barriers and scenic beauty, and fostering myriad plant and wildlife species. The removal or harvest of trees is therefore of prime concern to the residents of the Township and shall not be permitted, except as hereinafter provided.

(*Ord. 574, 8/4/2004*)

#### §13-603. Definitions.<sup>5</sup>

As used in this Part, the following terms shall have the meanings indicated:

*Clearcutting*—removing all or a majority of trees from the area logged.

*Cutting block*—an area of property to be logged, approximately 10 to 15 acres in size, depicting the phase number, defined by natural boundaries and determined by a professional forester.

*Diameter limit cutting*—the practice of cutting only trees above a certain diameter within the area logged. [*Ord. 656*]

*Felling*—the act of cutting a standing tree so that it falls to the ground.

*Logging*—the act of cutting/harvesting live or dead trees for cordwood, for timber, for pulp or for any commercial purpose, excepting therefrom a landowner and/or any agent of a landowner cutting on the property of the landowner for the use solely of the landowner, any properly approved clearing for development of building sites or clearing for farming operations. A landowner who cuts/harvests trees or permits such cutting/harvesting of trees upon the landowner’s property for other than the landowner’s own use is a person engaging in logging and in a logging operation. A logging operation shall include the acts of tree harvesting, site clean up and site restoration.

*Professional forester*—a person, who has earned a 4-year college degree in forest management, is registered with the Pennsylvania Bureau of Forestry and can demonstrate expertise in environmentally sound forest management/timber

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<sup>5</sup>Editor’s Note: See also the general definitions contained in Chapter 1, Part 1, of this Code.

harvesting practices.

*Skidding*—the dragging of trees on the ground from the stump to the landing by any means.

*Slash*—all debris resulting from logging operations, including stems, limbs and parts thereof. “Tops” shall be the word used to refer to the upper portion of a felled tree not normally merchantable. Typically, a “top” becomes part of the “slash” produced by a logging operation.

*Township Forester*—a professional forester duly retained and/or designated by the Board of Supervisors and/or the duly authorized designee of the Township Manager, to serve as the Forester of the Township. [Ord. 656]

(Ord. 574, 8/4/2004; as amended by Ord. 656, 4/9/2015)

#### **§13-604. Logging Permit Required.**

Logging operations within the Township on any parcel of property over 1 acre in size shall require a logging permit. The logging permit shall be issued by the Township for the entire site, but subject to review for each cutting block. The logging operation must be completed to the satisfaction of the Township in one cutting block prior to commencement of logging operation in the next cutting block. A logging operation which moves from one cutting block to another without first receiving the approval of the Township is subject to the penalties in §13-615 and other appropriate legal processes. The cutting block phase numbers shall be shown on the timber harvest plan as prepared by a professional forester (See §13-608, “Application for Logging Permit”). A logging permit shall be valid for a period of 3 years. A one-time, 6-month extension shall be granted when requested in a statement from the professional forester hired by the property owner. If logging is conducted without or in violation of a Township logging permit, the landowner and the logging operator shall each be in violation of this Part and each shall be fully subject to all applicable fines and penalties.

(Ord. 574, 8/4/2004; as amended by Ord. 656, 4/9/2015)

#### **§13-605. General Requirements.**

1. The Allegheny County Conservation District (ACCD) must approve the erosion and sedimentation control plan of the property owner and/or logger who seeks to operate, or cause to operate, a logging operation. Proper erosion and sedimentation control measures, as outlined in the ACCD approved plan, shall be implemented prior to any commencement of logging activities on the property and throughout the duration of such logging activities to prevent accelerated water runoff. The first logging activities shall be construction of the roadways, trails, landings and such. The erosion and sedimentation control measures shall be maintained throughout the logging operation and until seeding has germinated.

2. Hauling or skidding or placing fills or other obstructions in perennial or intermittent streams is prohibited except as approved by a professional forester. Nothing in this Part, including the exception stated in the immediately preceding sentence, is intended to supersede Federal and/or State law relating to clean water, flowing water, fish hatcheries or the pollution of water resources.

3. Diameter-limit cutting shall not be permitted.

4. Clearcutting shall not be permitted unless approved by the Township Forester based upon a determination that: clearcutting will assist in forest regeneration; clearcutting will not cause excessive erosion and sedimentation; and clearcutting will not be done within 50 feet of any public road right-of-way or any abutting property.

5. No tree may be cut which is the largest of its species in the state.

6. No on-site retail sale of harvested wood or logs shall be permitted from the property unless the property is located in a zoning district which permits such use under the Zoning Ordinance [Chapter 27]. [*Ord. 656*]

7. No portable sawmills are permitted.

8. No tops or slash of the felled trees shall be left on any right-of-way or drainage ditch leading from a culvert, water bar, intercepting dip or break in the berm of road or in, on or within 25 feet of a property boundary line, stream, spring seep, dam, lake or public road right-of-way unless otherwise authorized in writing by a professional forester who shall not, in any way, have the power to authorize violations of Federal, State, County and Township laws, statutes, ordinances and regulations. Felling or skidding on or across any public road is prohibited without the express written consent of the Township or the Pennsylvania Department of Transportation; whichever is responsible for the maintenance of the road. No tops or slash shall be left on or across the boundary of any property adjoining the operation without the consent of the owner. All tops and slash between 25 and 50 feet from a public road or a private road providing access to adjoining residential property, or within 50 feet of an adjoining residential property, shall be lopped to a maximum height of 4 feet above the surface of the ground. Tops of trees may be left in retired skid trails to discourage unauthorized entry if desired by the owner. [*Ord. 656*]

9. Logging operations shall be conducted at a time of the year when the Township Forester determines that the least amount of environmental damage will occur and are subject to being shut down if they occur at other times. A logging operation and its principles shall be subject to the penalties in §13-615 for violation of this requirement.

10. Littering resulting from a timber harvesting operation shall be removed from the site before it is vacated by the operator.

11. When a logging operation has been completed, all disturbed areas such as the landings, roads and critical areas must be seeded with annual grasses as determined by the Township Forester upon completion of the logging operations.

12. Access roads shall be permanently blocked. The Township shall choose the appropriate post-harvest security. When the logging operation on a parcel has been completed, the access road shall be permanently blocked and kept as such.

13. Roads and trails shall be constructed, maintained and abandoned in such a manner as to prevent soil erosion and permanent damage to soil and waterways. Roads and trails shall be only wide enough to accommodate the type of equipment used and the grades of such roads and trails shall be kept as low as possible. [*Ord. 656*]

14. Applicants shall comply with §27-214 of the Zoning Ordinance [Chapter 27].

15. Applicants shall comply with all other applicable Federal, State, County and Township laws, statutes, ordinance and regulations. [*Ord. 656*]

(*Ord. 574, 8/4/2004; as amended by Ord. 656, 4/9/2015*)

**§13-606. Use of Township Roads.**

1. For all logging operations, prior to hauling on any Township road, financial security shall be posted in accordance with §13-607 hereof. The Township Engineer and/or his designee shall prepare a report prior to hauling to establish the existing road condition and for the purpose of establishing reasonable times and conditions for hauling logs so that damage to the road will be minimized. Such conditions may include, without limitation, limiting hauling to dry periods. The Township shall be notified during normal working hours as to when hauling will begin from a cutting block so that the first truck can be followed to determine if the roadway is being damaged.

2. A logging operation shall keep any roadway over which it hauls logs or other logging residue clean and free of mud and debris to the extent that such roadway mud, debris or similar material is the result of vehicles traveling to and from the logging operation. At the point of access, the logger shall construct an aggregate entrance area to support the roadway edge. No parking of logging vehicles or storage of logs shall be permitted in the Township road right-of-way. Water from the logging area shall not be discharged onto the roadway surface. [Ord. 656]

3. No cutting or loading shall take place between the hours of 5 p.m. and 7 a.m. Monday through Saturday and all day Sunday and Federally designated legal holidays. (Ord. 574, 8/4/2004; as amended by Ord. 656, 4/9/2015)

**§13-607. Financial Security Required.**

All financial security required by this Part shall comply with the requirements of the Financial Security Ordinance, [Chapter 1, Part 7].

A. *Performance Security.* Prior to the commencement of a logging operation, the applicant shall post financial security guaranteeing restoration of the property logged or of any other property damaged by the logging operations. This financial security shall be in an amount acceptable to the Township Engineer, and said amount shall be based upon the actual area of soil disturbance as delineated in the timber harvest plan. The Township shall be given 3 business days advance notice, in writing, by the contractor, owner or any other party conducting a logging operation, for the purpose of permitting the Township to inspect the site and approve/disapprove logging work proposed to begin on a cutting block which has not previously been the subject of logging under the approved timber harvest plan. Such initial notice may not be given on a weekend or official Township holiday and must be hand delivered to the Township's offices. The contractor, owner or any other party conducting the logging operation shall contact the Township within three business days after final operations have been completed. The Township Forester, Township Engineer or Code Official shall complete a post-harvest inspection of the subject property. The performance financial security will not be released by the Township until a post-harvest report indicates that land restoration has been completed to the satisfaction of the Township.

B. *Road Financial Security.* Prior to hauling on any Township road, the applicant for the logging permit shall post separate financial security to guarantee restoration of Township roads damaged by the hauling. This financial security, including the amount, type and form, shall also comply with the vehicle size and

weight regulations of Chapter 15, Part 3, of this Code.  
(*Ord. 574, 8/4/2004; as amended by Ord. 656, 4/9/2015*)

**§13-608. Application for Logging Permit.**

1. Application for a logging permit shall be made in writing to the Code Official on forms supplied by the Township. Such application shall be accompanied by: [*Ord. 656*]

- A. A logging plan.
- B. A timber harvest plan.
- C. An erosion and sedimentation control plan signed, dated and approved by the ACCD.
- D. A copy of the ACCD's approval and comments.
- E. Performance security, as required by §13-607.A.
- F. Road financial security, as required by §13-607.B.
- G. Insurance certificates complying with §13-610 hereof.
- H. If applicable, proof of a written timber sales contract between the property owner and logging company.

All documents should be submitted to the Township prior to requesting a review of the timber harvest plan and the accompanying documents. The timber harvest plan shall be available at the harvest site at all times during the operation and shall be provided to the Code Official upon request. [*Ord. 656*]

2. Each logging plan shall include a sketch map or drawing containing the following information:

- A. Location map.
- B. North arrow.
- C. Contours as shown on a USGS topographical map.
- D. Location of any preexisting roads/right-of-way, easements, streams and property lines. It shall also include the location of proposed roads or access/egress cartways.
- E. Site location and boundaries, including both the boundaries of the property on which the timber harvest will take place, the boundaries of the proposed harvest area within that property and the cutting block subdivisions of the site.
- F. Total acreage.
- G. Areas of trees to be harvested must be depicted.
- H. Cutting block subdivision of the site.
- I. Significant topographic features related to potential environmental problems.
- J. Location of all earth disturbance activities such as roads, landings and water control measures and structures.
- K. Location of all crossings of waters of the Commonwealth.
- L. The general location of the proposed operation to municipal and State

highways, including any accesses to those highways.

M. Location of any areas identified as unstable soils.

3. The timber harvest plan, prepared by a professional forester hired by the property owner and/or applicant, shall show the following:

A. The point of access onto public road(s) where the aggregate entrance is to be placed; log landing areas, stream crossings and logging trails. [*Ord. 656*]

B. Areas of trees to be harvested must be designated by the cutting block phase numbers. The phase number shall depict the order of harvesting.

C. Design, construction, maintenance and retirement of the access system including haul roads, skid roads, skid trails and landings.

D. Design, construction and maintenance of water control measures and structures such as culverts, broad-based dips, filter strips and water bars.

E. Design, construction and maintenance of stream and wetland crossings.

F. The type and rate of seeding/mulching to be used and where it will be placed to stabilize the soil after logging operations.

G. A wetland determination statement and a Pennsylvania Natural Diversity Inventory Search Form shall be submitted with the plan.

(*Ord. 574, 8/4/2004; as amended by Ord. 656, 4/9/2015*)

#### **§13-609. Fees.**

All applications for logging permits under this Part shall be accompanied by a permit fee in an amount as set from time to time by resolution of the Board of Supervisors. No application shall be accepted as complete by the Township or acted upon unless the appropriate fees have been paid to the Township.

(*Ord. 574, 8/4/2004; as amended by Ord. 656, 4/9/2015*)

#### **§13-610. Insurance.**

Prior to commencing logging operations, the applicant shall procure and maintain adequate insurance in an amount of least \$1,000,000 to protect it from claims for damages because of bodily injury, including death, and from claims of damages to property which may arise both out of and during logging operations, whether such operations be by itself or by any contractor, agent subcontractor, or anyone directly or indirectly employed by it or them. A certificate of insurance in this amount shall be filed with the Township prior to commencement of logging operations, which certificate and/or related policy endorsement shall state that the Township shall be given prior written notice of cancellation of such insurance as follows: (A) at least 10 days prior written notice for nonpayment of premium; and (B) at least 30 days prior written notice for any other reason. The Township shall be named as an additional insured on all policies of insurance described in this Section and the applicant shall provide proof of this additional insured status in the form of a policy endorsement acceptable to the Township. Prior to commencing logging operations, the applicant shall procure and maintain workers' compensation insurance as required by State law.

(*Ord. 574, 8/4/2004; as amended by Ord. 656, 4/9/2015*)

**§13-611. Action on Application.**

1. The Township Forester and Township Engineer shall examine the logging permit application and related required information to determine compliance with all applicable Township regulations and ordinances within 45 days after all necessary filing and required information has been submitted. The Township Engineer shall either approve or reject said application within that time frame. If application is rejected, the Township representatives shall inform the applicant, in writing, stating the reasons for such rejection.

2. *Review of Application by Others.* The Code Official may submit a copy of all plans and applications for proposed logging for review and comment to any other appropriate persons or agencies, i.e., the Township Forester, Commonwealth of Pennsylvania, Department of Conservation and Natural Resources, Bureau of Forestry; Fish and Boat Commission; Bureau of Dams and Waterways Management, etc. The application will also be available to the public for inspection at the Township municipal building during regular business hours.

(*Ord. 574, 8/4/2004; as amended by Ord. 656, 4/9/2015*)

**§13-612. Inspection; Stop-Work Orders.**

From time to time as he may deem advisable, the Code Official shall inspect the work done under the approved plans, specifications, timing schedule and logging permit. Whenever the Code Official finds that work under any logging permit fails to conform to the approved plans, specifications and timing schedule, he may as he deems reasonably necessary in reliance upon the criteria set forth in this Part, by written order, direct suspension of other work until conformance has been achieved or direct such other measures that he deems reasonably necessary in the circumstances for control of erosion and sedimentation on the site and for compliance with this Part.

(*Ord. 574, 8/4/2004; as amended by Ord. 656, 4/9/2015*)

**§13-613. Appeals.**

1. Any applicant or person aggrieved by a decision of the Code Official and/or the Township or a notice or order issued under this Part shall have the right of appeal to the Township Board of Appeals established by the Construction Code [Chapter 5, Part 1], provided that a written application for an appeal is filed within 10 days after receipt of said decision, notice or order, along with payment of an appeal hearing fee in an amount set from time to time by resolution of the Board of Supervisors. An application for appeal shall be based on a claim that the true intent of this Part or the rules legally adopted hereunder have been incorrectly interpreted, or the provisions of this Part do not fully apply. All appeals before the Township Board of Appeals under this Part shall proceed under the regulations and procedures established in the Construction Code [Chapter 5, Part 1].

2. All appeals from decisions of the Township Board of Appeals rendered pursuant to this Section shall be taken to the Court of Common Pleas of Allegheny County and shall be filed within 30 days after entry of the decision as provided in 42 Pa.C.S.A. §5572 (relating to time of entry of order).

(*Ord. 574, 8/4/2004; as amended by Ord. 656, 4/9/2015*)

**§13-614. Liability.**

Neither the issuance of logging permits under the provisions of this Part nor the compliance with the provisions hereto or with any conditions imposed by the Township hereunder shall relieve any person from the responsibility for the damage to any persons or property otherwise imposed by law, nor impose any liability upon the Township for damages to persons or property. Nothing in this Part is to be interpreted as eliminating or reducing the immunities (statutory or common law/traditional) enjoyed by the Township of its elected or appointed officials.

(*Ord. 574, 8/4/2004; as amended by Ord. 656, 4/9/2015*)

**§13-615. Violations and Penalties.**

Any person, firm, or corporation who shall violate any provision of this Part, or fails to comply therewith, or with any of the requirements thereof, upon conviction thereof in an action brought before a magisterial district judge in the manner provided for the enforcement of summary offenses under the Pennsylvania Rules of Criminal Procedure, shall be sentenced to pay a fine of not less than \$300 nor more than \$1,000 plus costs, including reasonable attorney fees incurred by the Township, and, in default of payment of said fine and costs, to a term of imprisonment to the extent permitted by law for the punishment of summary offenses. A separate offense shall arise for each day or portion thereof in which a violation of this Part is found to exist and for each section of this Part found to have been violated. The Township may also commence appropriate actions in equity or other to prevent, restrain, correct, enjoin, or abate violations of this Part. All fines and penalties collected for violations of this Part shall be paid to the Township Treasurer. The initial determination of ordinance violation is hereby delegated to the Township Manager, the Police Department, the Code Official, the authorized designee of the Township Manager, and to any other officer or agent that the Township Manager or the Board of Supervisors shall deem appropriate.

(*Ord. 574, 8/4/2004; as amended by Ord. 656, 4/9/2015*)

**§13-616. Applicability; Interpretation.**

When provisions of this Part conflict with other applicable regulations, codes or laws, the more stringent regulation or legislation shall apply. Furthermore, this Part is to be interpreted and applied, to the extent possible, so that it meets all Federal and State constitutional requirements and statutory requirements. If any aspect of this Part is finally determined to violate constitutional and/or statutory requirements, through the process of appellate litigation, that aspect of this Part shall be deemed excised or reformed to the extent necessary to cause the remainder of this Part to remain legally enforceable.

(*Ord. 574, 8/4/2004; as amended by Ord. 656, 4/9/2015*)

**Part 7****Adult Oriented Business****§13-701. Title.**

This Part shall be known and may be cited as the “Adult Oriented Business License Ordinance.”

(*Ord. 464, 7/9/1997; as added by Ord. 656, 4/9/2015*)

**§13-702. Purpose and Findings.****1. Purpose.**

A. Pursuant to the authority granted in the Second Class Township Code, 53 P.S. §65101 *et seq.*, to prohibit nuisances; to promote the health, welfare, cleanliness, comfort and safety of the citizens of the Township; and to regulate the time of opening and closing, and the conduct of places of public entertainment, amusement and recreation, the Township enacts this Part to minimize and control the adverse secondary effects of adult oriented businesses and thereby protect the health, safety and welfare of its citizens; protect the citizens from increased crime; preserve the quality of life; preserve the property values and character of surrounding neighborhoods; and deter the spread of blight.

B. The Board of Supervisors has determined that licensing is a legitimate and reasonable means of accountability to ensure that operators of adult oriented businesses comply with reasonable regulations and to ensure that operators do not knowingly allow their establishments to be used as places of illegal sexual activity or solicitation.

C. The Board of Supervisors does not intend this Part to suppress any speech activities protected by the First Amendment, but to enact a content neutral ordinance which addresses the secondary effects of adult oriented businesses.

**2. Legislative Findings.** The Board of Supervisors finds:

A. Adult oriented businesses have adverse secondary effects which should be regulated to protect the public health, safety and welfare. These secondary effects include, but are not limited to the spread of communicable diseases, performance of sexual acts in public places, presence of discarded adult oriented materials on public and private property, sexual harassment, obscenity, prostitution and other illegal sexual activities, crime and neighborhood deterioration.

B. A reasonable licensing procedure is an appropriate mechanism to place the burden of that reasonable regulation on the owners and the operators of the adult oriented businesses. Further, such a licensing procedure will place a heretofore nonexistent incentive on the operators to see that the adult oriented business is run in a manner consistent with the health, safety and welfare of its patrons and employees, as well as the citizens of the Township. It is appropriate to require reasonable assurances that the licensee is the actual operator of the adult oriented business, fully in possession and control of the premises and activities occurring therein.

C. Removal of doors on viewing booths and requiring sufficient lighting on premises with viewing booths advances a substantial governmental interest in discouraging the illegal and unsanitary sexual activity occurring in adult theaters.

D. Requiring licensees of adult oriented businesses to keep information regarding current employees and certain past employees will help reduce the incident of certain types of criminal behavior by facilitating the identification of potential witnesses or suspects and by preventing minors from working in such establishments.

E. The disclosure of certain information by those persons ultimately responsible for the day-to-day operations and maintenance of the adult oriented businesses will help limit and control the adverse secondary effects of such businesses.

F. It is desirable in the prevention of the spread of communicable diseases to obtain a limited amount of information regarding certain employees who may engage in the conduct which this Part is designed to prevent or who are likely to be witnesses to such activity.

G. The fact that an applicant for an adult oriented business license has been convicted of an adult related crime leads to the rational assumption that the applicant is likely to engage in that conduct in contravention of this Part.

H. The barring of such individuals from the management of adult oriented businesses for a period of years serves as a deterrent to and prevents conduct which leads to the transmission of sexually transmitted diseases.

I. The general welfare, health and safety of the citizens of the Township will be promoted by the enactment of this Part.

J. Limitation of operating hours of adult oriented businesses to 10 a.m. to 10 p.m. Mondays through Saturdays and closure of such businesses on Sundays and holidays reduces the adverse secondary effects of such businesses, including particularly but not limited to late night noise levels, crime and sexually offensive materials and activities in public areas, and further promotes the public health, safety and welfare.

K. The reasonable regulation and supervision of such adult oriented businesses tend to discourage sexual acts and prostitution and thereby promote the health, safety and welfare of the patrons, clients and customers of these businesses.

L. The continued unregulated operation of such adult oriented businesses is and would be detrimental to the general health, safety and welfare of the citizens of the Township.

(*Ord. 464, 7/9/1997; as amended by Ord. 656, 4/9/2015*)

**§13-703. Definitions.**<sup>6</sup>

As used in this Part the following words and phrases shall have the meanings indicated unless the context clearly indicates a different meaning.

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<sup>6</sup>Editor's Note: See also the general definitions contained in Chapter 1, Part 1, of this Code.

*Adult arcade*—any place to which the public is permitted or invited wherein coin-operated, slug-operated, or for any form of consideration, any electronically, electrically, or mechanically controlled still or motion picture machines, projectors, video or laser disc players, or other image-producing devices are maintained, not located within viewing booths, to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by the depicting or describing of “specific sexual activities” or “specified anatomical areas.”

*Adult bookstore, adult novelty store or adult video store*—a commercial establishment which, as one of its principal business purposes, offers for sale or rental for any form of consideration any one or more of the following:

(1) Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes or video reproductions, slides, CD ROM discs or other computer software, or other visual representations, which are characterized by the depiction or description of “specified sexual activities” or “specified anatomical areas.”

(2) Instruments, devices, or paraphernalia which are designed for use in connection with “specified sexual activities.”

*Adult cabaret*—a nightclub, bar, restaurant, or other commercial establishment which regularly features:

(1) Persons who appear in a state of nudity or semi-nudity.

(2) Live performances which are characterized by the exposure of “specified anatomical areas” or by “specified sexual activities.”

(3) Films, motion pictures, video cassettes, slides or other photographic reproductions or visual presentations of any other kind which are characterized by the depiction or description of “specified sexual activities” or “specified anatomical areas.”

*Adult motion picture theater*—a commercial establishment where, for any form of consideration, films, motion pictures, video cassettes, slides, or similar photographic reproductions or visual presentations of any kind are regularly shown which are characterized by the depiction or description of “specified sexual activities” or “specified anatomical areas.”

*Adult oriented business*—an adult arcade, adult bookstore, adult novelty store, adult video store, adult cabaret, adult motion picture theater, adult theater, escort agency, nude model studio, sexual encounter center, tattoo parlor or body piercing establishment.

*Adult theater*—a theater, concert hall, dance hall, auditorium, or similar commercial establishment which regularly features persons who appear in a state of nudity or semi-nudity or live performances which are characterized by the exposure of “specified anatomical areas” or by “specified sexual activities.”

*Body piercing establishment*—a commercial establishment which, as one of its principal business purposes, offers body piercing services. “Body piercing services” shall refer to the process of breaching the skin or mucus membrane of a human for the purpose of inserting an object therein or there through including, but not limited to, jewelry for cosmetic purposes. This definition shall not apply to ear

piercing.

*Employee*—a person who performs any service on the premises of an adult oriented business on a full-time, part-time or contract basis, whether or not the person is denominated an employee, independent contractor, agent or otherwise and whether or not said person is paid a salary, wage or other compensation by the operator of said business. Employee does not include a person exclusively on the premises for repair or maintenance of the premises or equipment on the premises or for the delivery of goods to the premises.

*Escort*—a person who, for consideration, agrees or offers to act as a companion, guide, or date for another person, or who agrees or offers to privately model lingerie or to privately perform a striptease for another person.

*Escort agency*—a person or business association who furnishes, offers to furnish, or advertises to furnish escorts as one of its primary business purposes for a fee, tip, or other consideration.

*Establishment*—and includes any of the following:

- (1) The opening or commencement of any adult oriented business as a new business.
- (2) The conversion of an existing business, whether or not an Adult oriented business, to any adult oriented business.
- (3) The addition of any adult oriented business to any other existing Adult oriented business or to a non-adult oriented business.
- (4) The relocation of any adult oriented business.

*Knowingly*—having general knowledge of, or reason to know, or a belief or ground for belief which warrants further inspection or inquiry of both:

- (1) The character and content of any material or performance described herein which is reasonably susceptible of examination by a licensee or person.
- (2) The age of the minor, provided, however, that an honest mistake shall constitute an excuse from liability hereunder if the licensee or person made a reasonable bona fide attempt to ascertain the true age of such minor.

*Licensee*—a person in whose name a license to operate an adult oriented business has been issued, as well as the individual listed as an applicant on the application for a license; and in the case of an employee, a person in whose name a license has been issued authorizing employment in an adult oriented business.

*Nude model studio*—any place where a person who appears seminude, in a state of nudity, or who displays “specified anatomical areas” is provided to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons who pay money or any form of consideration. Nude model studio shall not include a proprietary school licensed by the State of Pennsylvania or a college, junior college or university supported entirely or in part by public taxation; a private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation; or in a structure:

- (1) That no sign visible from the exterior of the structure and no other advertising that indicates a nude or semi-nude person is available for viewing.

(2) Where in order to participate in a class a student must enroll at least 3 days in advance of the class.

(3) Where no more than one nude or semi-nude model is on the premises at any one time.

*Nudity or a state of nudity*—the showing of the human male or female genitals, pubic area, vulva, anus, anal cleft or cleavage with less than a fully opaque covering, the showing of the female breast with less than a fully opaque covering of any part of the nipple, or the showing of the covered male genitals in a discernible turgid state.

*Semi-nude or in a semi-nude condition*—the state of dress in which clothing partially or non-opaquely covers specified anatomical areas.

*Sexual encounter center*—a business or commercial enterprise that, as one of its principal business purposes, offers for any form of consideration:

(1) Physical contact in the form of wrestling or tumbling between persons of the opposite sex.

(2) Activities between male and female persons and/or persons of the same sex when one or more of the persons is in a state of nudity or semi-nudity.

*Sexually oriented business*—same as “adult oriented business.” See “adult oriented business.”

*Specified anatomical areas*—means human genitals, pubic region, anus, buttocks, female breast(s) below a point immediately above the top of the areola, or human male genitals in a discernibly turgid state, even if completely covered.

*Specified criminal activity*—any of the following offenses:

(1) Prostitution or promotion of prostitution; dissemination of obscenity; sale, distribution or display of harmful material to a minor; sexual performance by a child; possession or distribution of child pornography; public lewdness; indecent exposure; indecency with a child; engaging in organized criminal activity; sexual assault; molestation of a child; gambling; or distribution of a controlled substance; or any offenses similar to those described above under the criminal or penal code of other states or countries.

(2) For which:

(a) Less than 2 years have elapsed since the date of conviction or the date of release from confinement imposed for the conviction, whichever is the later date, if the conviction is of a misdemeanor offense.

(b) Less than 5 years have elapsed since the date of conviction or the date of release from confinement imposed for the conviction, whichever is the later date, if the conviction is of a felony offense.

(c) Less than 5 years have elapsed since the date of the last conviction or the date of release from confinement imposed for the last conviction, whichever is the later date, if the convictions are of two or more misdemeanor offenses or combination of misdemeanor offenses occurring within any 24-month period.

(3) The fact that a conviction is being appealed shall have no effect on the

disqualification of the applicant or a person residing with the applicant.

*Specified sexual activities*—any of the following:

- (1) The fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts.
- (2) Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, masturbation, or sodomy.
- (3) Excretory functions as part of or in connection with any of the activities set forth in subsections .1 and .2 above.

*Tattoo parlor*—a commercial establishment which, as one of its principal business purposes, offers tattooing services. “Tattooing services” shall refer to the method of placing designs, letters, scrolls, figures, symbols, graphics or any other marks upon or under the skin of a human with ink or any other substance, resulting in the coloration of the skin by the aid of needles or any other instrument designed to touch or puncture the skin. This definition shall not apply to medical doctors or doctors of veterinary medicine in performance of their professional duties.

*Transfer of ownership or control*—of an adult oriented business means and includes any of the following:

- (1) The sale, lease, or sublease of the business.
- (2) The transfer of securities which constitute a controlling interest in the business, whether by sale, exchange, or similar means.
- (3) The establishment of a trust, gift, or other similar legal device which transfers the ownership or control of the business, except for transfers by bequest or other operation of law upon the death of the person possessing the ownership or control.

*Viewing booths*—booths, stalls, partitioned portions of a room, rooms or other enclosures which are available for viewing:

- (1) Films, movies, videos, or visual reproductions of any kind depicting or describing “specified sexual activities” or “specified anatomical areas.”
- (2) Persons who appear in a state of nudity or semi-nudity or who offer performances or presentations characterized by the exposure of “specified anatomical areas” or by “specified sexual activities.”

(Ord. 464, 7/9/1997; as amended by Ord. 656, 4/9/2015)

#### **§13-704. License Required.**

1. It is unlawful:

A. For any person to operate an adult oriented business without a valid adult oriented business license issued by the Township pursuant to this Part.

B. For any person who operates an adult oriented business to employ a person to work for the adult oriented business who is not licensed as an adult oriented business employee by the Township pursuant to this Part.

C. For any person to obtain employment with an adult oriented business without having secured an adult oriented business employee license pursuant to

this Part.

D. Beginning on the sixtieth day after enactment of this Part for any person to continue to operate any adult oriented business in operation at the time of enactment of this Part without a valid adult oriented business license pursuant to this Part.

E. Beginning on the sixtieth day after enactment of this Part for any person who operates an adult oriented business in operation at the time of enactment of this Part to employ a person to work for the adult oriented business who is not licensed as an adult oriented business employee by the Township pursuant to this Part.

F. Beginning on the sixtieth day after enactment of this Part for any person to obtain employment with an adult oriented business in operation at the time of enactment of this Part without having secured an adult oriented business employee license pursuant to this Part.

2. An application for a license must be made on a form provided by the Township.

3. All applicants must be qualified according to the provisions of this Part. The application may request and the applicant shall provide such information (including fingerprints) as to enable the Township to determine whether the applicant meets the qualifications established in this Part.

4. If a person who wishes to operate an adult oriented business is an individual, the person must sign the application for a license as an applicant. If a person who wishes to operate an adult oriented business is other than an individual, each individual who has a 20 percent or greater interest in the business must sign the application for a license as an applicant. Each applicant must be qualified under the following section and each applicant shall be considered a licensee if a license is granted.

5. The completed application for an adult oriented business license shall contain the following information and shall be accompanied by the following documents:

A. If the applicant is:

(1) An individual, the individual shall state his/her legal name and any aliases and submit proof that he/she is at least 18 years of age.

(2) A partnership, the partnership shall state its complete name, the name of all partners, whether the partnership is general or limited, and provide a copy of the partnership agreement, if any, and provide the information required below at subsection .5.C, .5.D, .5.E, .5.H, .5.I and .5.J for each partner.

(3) A corporation, the corporation shall state its complete name, the date of its incorporation, evidence that the corporation is in good standing under the laws of its state of incorporation and qualified and authorized to conduct business in Pennsylvania, the names and capacity of all officers, directors and principal stockholders, and the name of the registered corporate agent and the address of the registered office for service of process.

(4) An entity other than a partnership or corporation, the entity shall submit the information required below at subsection .5.C, .5.D, .5.E, .5.H, .5.I and .5.J for each person exercising control over the entity.

B. If the applicant intends to operate the adult oriented business under a name other than that of the applicant, he or she must state:

- (1) The adult oriented business' fictitious name.
- (2) Submit the required registration documents.

C. Whether the applicant, or a person residing with the applicant, has been convicted of a specified criminal activity as defined in this Part and, if so, the specified criminal activity involved and the date, place and jurisdiction of each.

D. Whether the applicant, or a person residing with the applicant, has had a previous license under this Part or other similar adult oriented business ordinance from another municipality, state or county denied, suspended or revoked, including the name and location of the adult oriented business for which the license was denied, suspended or revoked, as well as the date of the denial, suspension or revocation, and whether the applicant or a person residing with the applicant has been a partner in a partnership or an officer, director or principal stockholder of a corporation that is licensed under this Part whose license has previously been denied, suspended or revoked, including the name and location of the adult oriented business for which the license was denied, suspended or revoked as well as the date of denial, suspension or revocation.

E. Whether the applicant, or a person residing with the applicant, holds any other licenses under this Part or other similar adult oriented business ordinance from another municipality, state or county and, if so, the names and locations of such other licensed businesses.

F. The specific classification of adult oriented use for which the applicant is filing along with a detailed description of each and every activity encompassed by the proposed adult oriented business, which description shall thoroughly demonstrate compliance and/or intended compliance with all provisions of this Part.

G. The location of the proposed adult oriented business, including a legal description of the property, street address, and telephone number(s), if any.

H. The applicant's mailing address and residential address.

I. A recent (within 6 months) photograph of the applicant(s).

J. The applicant's driver's license number, Social Security number, and his/her State or Federally issued tax identification number.

K. A sketch or diagram showing the configuration of the premises, including a statement of total floor space occupied by the business. The sketch or diagram need not be professionally prepared, but it must be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus 6 inches.

L. A current certificate and straight-line drawing prepared within 30 days prior to application by a registered land surveyor depicting the property lines, the survey to be certified.

M. If an applicant wishes to operate an adult oriented business which includes viewing booths, then the applicant shall also comply with the application requirements set forth in §13-712 of this Part and shall separately apply for and

obtain a building and occupancy permit for the installation of the viewing booths.

N. The application form shall inform the applicant that:

(1) Separate applications are required for any necessary zoning permits, subdivision and land development approvals or building and occupancy permits and that the applicant may apply for such permits by contacting the Code Official.

(2) That Department of Labor and Industry approval is required.

O. The applicant shall submit a scale drawing of any sign proposed to be placed upon the licensed premises, which drawing will include a rendering of any letters, words, figures, designs, pictures or other visible communicative element on any such sign. In addition to all other Township sign regulations contained in the Zoning Ordinance [Chapter 27], the following regulations shall apply:

(1) All signs shall be flat wall signs.

(2) No merchandise or pictures of the products or entertainment available on the premises shall be displayed in window areas or in any area where they can be viewed from the public right-of-way abutting the premises.

(3) No signs shall be placed in any window or upon any door, except that a 1 square-foot sign may be placed on the door to state hours of operation and admittance to adults only.

(4) These signage regulations shall be applicable only to premises which commence adult oriented business operations after July 9, 1997; however, signs at premises in use as adult oriented businesses prior to July 9, 1997, may not be increased in size.

P. Applications shall be accompanied by written authorization of the property owner.

6. Before any applicant may be issued an adult oriented business employee license, the applicant shall submit on a form to be provided by the Township the following information:

A. The applicant's name and any other names (including "stage" names) or aliases used by the individual.

B. Age, date and place of birth.

C. Height, weight, hair and eye color.

D. Present residence address and telephone number.

E. Present business address and telephone number.

F. Date, issuing state and number of driver's license or other identification card information.

G. Social Security number.

H. Proof that the individual is at least 18 years of age.

7. Attached to the application form for an adult oriented business employee license as provided above shall be the following:

A. A recent color photograph (within 6 months) of the applicant clearly showing the applicant's face, and the applicant's fingerprints on a form provided by any police department. Any fees for the photographs and fingerprints shall be

paid by the applicant.

B. A statement detailing the business history of the applicant for the 5 years immediately preceding the date of the filing of the application, including whether such applicant previously operated or is seeking to operate, in this or any other county, municipality, state, or country any business or has ever had a license, permit, or authorization to do business denied, revoked, or suspended, or had any professional or vocational license or permit denied, revoked, or suspended. In the event of any such denial, revocation, or suspension, state the name of the business, the name of the issuing or denying jurisdiction, and describe in full the reason for the denial, revocation, or suspension. A copy of any order of denial, revocation, or suspension shall be attached to the application.

C. A statement whether the applicant has been convicted of a specified criminal activity as defined in this Part and, if so, the specified criminal activity involved and the date, place and jurisdiction of each.

(*Ord. 464, 7/9/1997; as amended Ord. 475, 12/16/1997; and by Ord. 656, 4/9/2015*)

### **§13-705. Issuance of License.**

1. Upon the filing of said application in a fully completed form for an adult oriented business license or for an adult oriented business employee license, the application shall then be referred to the Township Police Chief for review and investigation. The Township Police Chief shall utilize any available resources through the Police Department, Pennsylvania State Police, the Commonwealth of Pennsylvania and/or other law enforcement agencies as may be necessary to complete the review and investigation required by this Part. Within 30 days from the date the completed application is filed, the Township Police Chief shall issue a license unless it is determined by the Township Police Chief that one or more of the following findings is true:

A. The applicant has failed to provide information reasonably necessary for issuance of the license or has falsely answered a question or request for information on the application form.

B. The applicant is under the age of 18 years.

C. The applicant has been convicted of a “specified criminal activity” as defined in this Part.

D. The adult oriented business employee license is to be used for employment in a business prohibited by local or State law, statute, rule or regulations, or prohibited by a particular provision of this Part.

E. The applicant has had an adult oriented business employee license revoked by the Township within 2 years of the date of the current application. If the adult oriented business employee license is denied, the temporary license previously issued is immediately deemed null and void. Denial, suspension, or revocation of a license issued pursuant to this subsection shall be subject to appeal as set forth in §13-710.

F. The required application, investigation and license fees have not been paid.

G. An applicant’s license to operate an adult oriented business, issued by any jurisdiction, has been revoked within the preceding 12 months.

H. The proposed adult oriented business is in violation of or is not in compliance with any of the provisions of this Part.

2. A license granted pursuant to this Section shall be subject to annual renewal upon the written application of the applicant and a finding by the Township Police Chief that the applicant has not been convicted of any specified criminal activity as defined in this Part or committed any act during the existence of the previous license which would be grounds to deny the initial license application. The renewal of the license shall be subject to the payment of the fee as set forth in §13-706 of this Part.

3. The license, if granted, shall state on its face the name of the person or persons to whom it is granted, the expiration date, the address of the adult oriented business and the specific classification of adult oriented use for which the license is issued. Licenses for adult oriented businesses shall state that the adult oriented business shall not commence until all necessary zoning, subdivision and land development, and/or building code approvals and Department of Labor and Industry approvals are obtained. All licenses shall be posted in a conspicuous place at or near the entrance to the adult oriented business so that they may be easily read at any time.

4. Applications for building and occupancy permits shall be processed and either denied or approved within 30 days of a complete application to the Township.

5. An adult oriented business license shall issue for the specific classification of adult oriented use as permitted by ordinance and applied for.

6. A license denial shall conform to the provisions of §13-710.4 of this Part.

7. Any person aggrieved by the grant of a license may appeal, in writing, within 10 days from the date of issuance of the license, to the Board of Supervisors. The Board of Supervisors shall then hold a Local Agency Law hearing within 20 days of the date of filing of the appeal and render a decision within 10 days from the end of the hearing. Appeals from a decision of the Board of Supervisors may be taken to court subject to §13-710.5 of this Part.

(*Ord. 464, 7/9/1997; as amended by Ord. 656, 4/9/2015*)

#### **§13-706. Fees.**

1. Every application for an adult oriented business, license (whether for a new license or for renewal of an existing license) shall be accompanied by a nonrefundable application and investigation fee in an amount set by resolution of the Board of Supervisors.

2. In addition to the application and investigation fee required above, every adult oriented business that is granted a license (new or renewal) shall pay to the Township an annual non-refundable license fee in an amount set by resolution of the Board of Supervisors within 30 days of the license issuance or renewal.

3. Every application for an adult oriented business employee license (whether for a new license or for renewal of an existing license) shall be accompanied by an annual non-refundable application, investigation and license fee in an amount set by resolution of the Board of Supervisors.

4. All license applications and fees shall be submitted to the office of the Township Manager, and, thereafter, the applications shall be forwarded to the Township Police Chief for review and investigation and approval or denial.

(Ord. 464, 7/9/1997; as amended by Ord. 656, 4/9/2015)

**§13-707. Inspection.**

1. An applicant or licensee shall permit authorized Township officials and their agents or consultants to inspect the premises of an adult oriented business for the purpose of insuring compliance with this Part and all other applicable law at any time it is occupied or open for business.

2. A person who operates an adult oriented business, including his agent or employee, commits a violation of this Part if he refuses to permit such lawful inspection of the premises at any time it is occupied or open for business.

(Ord. 464, 7/9/1997; as amended by Ord. 656, 4/9/2015)

**§13-708. Expiration of License.**

1. Each license shall expire 1 year from the date of issuance and may be renewed only by making application as provided in §13-704. Application for renewal shall be made at least 30 days before the expiration date. When application for renewal is made less than 30 days before the expiration date, the date of expiration of the license will not be extended.

2. When the Township denies renewal of a license, the applicant shall not be issued a license for 1 year from the date of denial. If, subsequent to denial, the Township finds that the basis for denial of the renewal license has been corrected or abated, the applicant may be granted a license if at least 90 days have elapsed since the date denial became final.

(Ord. 464, 7/9/1997; as amended by Ord. 656, 4/9/2015)

**§13-709. Suspension.**

The Township Police Chief shall suspend a license for a period not to exceed 30 days if he determines that a licensee or an employee of a licensee has:

A. Violated or is not in compliance with any provision of this Part.

B. Refused to allow an inspection of the adult oriented business premises as authorized by this Part.

C. Knowingly permitted gambling by any person on the adult oriented business premises.

(Ord. 464, 7/9/1997; as amended by Ord. 656, 4/9/2015)

**§13-710. Revocations and Appeals of Denials, Suspensions or Revocations.**

1. The Township Police Chief shall revoke a license if a cause of suspension in §13-209 of this Part occurs and the license has been suspended within the preceding 12 months.

2. The Township Police Chief shall revoke a license if he determines that:

A. A licensee gave false or misleading information in the material submitted during the application process.

B. A licensee has knowingly allowed possession, use, or sale of controlled substances on the premises.

C. A licensee has knowingly allowed prostitution on the premises.

D. A licensee knowingly operated the adult oriented business during a period of time when the licensee's license was suspended.

E. A licensee has knowingly allowed any act of sexual intercourse, sodomy, oral copulation, masturbation, or other sex act to occur in or on the license premises.

F. A licensee is delinquent in payment to the Township for any licensing fees past due.

3. When the Township revokes a license, the revocation shall continue for 1 year, and the licensee shall not be issued an adult oriented business license for 1 year from the date the revocation became effective. If, subsequent to revocation, the Township finds that the basis for the revocation has been corrected or abated, the applicant may be granted a license if at least 90 days have elapsed since the date the revocation became effective.

4. All license application, renewal, suspension or revocation decisions shall be sent in writing to the applicant or licensee. All such decisions which deny, suspend or revoke a permit shall state specifically the ordinance requirement not met and any other basis for the decision. After denial of an application, or denial of a renewal of an application, or after suspension or revocation of any license, the applicant or licensee may appeal pursuant to the Local Agency Law, 2 Pa.C.S.A. §105, as amended, to the Board of Supervisors. The Board of Supervisors will then hold a Local Agency Law hearing within 20 days from the date the appeal is filed and will render a written decision within 10 days from the date such hearing concludes. Any such appeal must be filed, in writing, with the Township Manager within 10 days from the date of mailing of the decision appealed from. Failure to file said appeal with the Township Manager within 10 days from the date of the mailing of the decision appealed from shall be deemed a conclusive determination as to the issues or matters addressed by the written decision. In the case of a denial of a license renewal, or in the case of a license suspension or revocation, the licensee may continue to operate to the same extent as immediately prior to the suspension or revocation until the earlier of:

A. The expiration of the 10-day appeal period without filing of an appeal.

B. The date of a decision dismissing any appeal.

5. Any person aggrieved by a decision of the Board of Supervisors may appeal to a court of competent jurisdiction. The Township shall, upon filing of such appeal, consent to any request by a license applicant or licensee to the court to give expedited review to such appeal. The Township shall certify any record to the court within 20 days of any request by the court to do so.

(*Ord. 464, 7/9/1997; as amended by Ord. 656, 4/9/2015*)

#### **§13-711. Transfer of License.**

A licensee shall not transfer his/her license to another, nor shall a licensee operate an adult oriented business under the authority of a license at any place other than the address designated in the application.

(*Ord. 464, 7/9/1997; as amended by Ord. 656, 4/9/2015*)

**§13-712. Regulations Pertaining to Exhibition of Sexually Explicit Films, Videos or Live Entertainment in Viewing Booths.**

1. A person who operates viewing booths or causes them to be operated shall comply with the following requirements:

A. Upon application for an adult oriented license, the application shall be accompanied by a diagram of the premises showing a plan thereof specifying the location of one or more manager's stations and the location of all overhead lighting fixtures and designating any portion of the premises in which patrons will not be permitted. A manager's station may not exceed 32 square feet of floor area. The diagram shall also designate the place at which the permit will be conspicuously posted, if granted. A professionally prepared diagram in the nature of an engineer's or architect's blueprint shall not be required; however, each diagram should be oriented to the north or to some designated street or object and should be drawn to a designated scale or with marked dimensions sufficient to show the various internal dimensions of all areas of interior of the premises to an accuracy of plus or minus 6 inches. The Township may waive the foregoing diagram for renewal applications if the applicant adopts a diagram that was previously submitted and certifies that the configuration of the premises has not been altered since it was prepared.

B. The application shall be sworn to be true and correct by the applicant.

C. It is the duty of the licensee of the premises to ensure that at least one licensed employee is on duty and situated in each manager's station at all times that any patron is present inside the premises.

D. The interior of the premises shall be configured in such a manner that there is an unobstructed view from the manager's station of every area of the premises to which any patron is permitted access for any purpose excluding rest rooms. Restrooms may not contain video reproduction or other display equipment. If the premises has two or more manager's stations designated, then the interior of the premises shall be configured in such a manner that there is an unobstructed view of each area of the premises to which any patron is permitted access for any purpose from at least one of the manager's stations or may be provided by way of continuously operating live closed circuit television monitoring equipment which provides, at the manager's station, a live, unobstructed televised view of every area to which any patron is permitted access for any purpose, excluding restrooms. The view required in this subsection must be by direct line of sight from the manager's station or may be provided by way of continuously operating live closed circuit television monitoring equipment which provides, at the manager's station, a live, unobstructed televised view of every area to which any patron is permitted access for any purpose, excluding restrooms. In addition, all viewing booths shall have at least one side fully open so that all of the area inside the booth is open to the view of persons in the public area of the establishment.

E. It shall be the duty of the licensee to ensure that the view area specified in subsection .D above remains unobstructed by any doors, curtains, partitions, walls, merchandise, display racks or other materials and, at all times, to ensure that no patron is permitted access to any area of the premises which has been designated as an area in which patrons will not be permitted in the application

filed pursuant to subsection .A above.

F. No viewing booth may be occupied by more than one person at a time.

G. The premises shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access at an illumination of not less than 5 foot candle as measured at the floor level.

H. It shall be the duty of the licensee to ensure that the illumination described above is maintained at all times that any patron is present in the premises.

I. No licensee shall allow openings of any kind to exist between viewing rooms or booths.

J. No person shall make or attempt to make an opening of any kind between viewing booths or rooms.

K. The licensee shall, during each business day, regularly inspect the walls between the viewing booths to determine if any openings or holes exist.

L. The licensee shall cause all floor coverings in viewing booths to be nonporous, easily cleanable surfaces, with no rugs or carpeting.

M. The licensee shall cause all wall surfaces and ceiling surfaces in viewing booths to be constructed of, or permanently covered by, nonporous, easily cleanable material. No wood, plywood, composition board or other porous material shall be used within 48 inches of the floor.

2. A person having a duty under subsection .A through .M of subsection .1 above commits a violation of this Part if he knowingly fails to fulfill that duty.

(*Ord. 464, 7/9/1997; as amended by Ord. 475, 12/16/1997; and by Ord. 656, 4/9/2015*)

### **§13-713. Additional Regulations for Escort Agencies.**

1. An escort agency shall not employ any person under the age of 18 years.

2. A person commits a violation of this Part if the person acts as an escort or agrees to act as an escort for any person under the age of 18 years.

(*Ord. 464, 7/9/1997; as amended by Ord. 656, 4/9/2015*)

### **§13-714. Additional Regulations for Nude Model Studios.**

1. A nude model studio shall not employ any person under the age of 18 years.

2. A person under the age of 18 years commits a violation of this Part if the person appears semi-nude or in a state of nudity in or on the premises of a nude model studio. It is a defense to prosecution under this subsection if the person under 18 years was in a restroom not open to public view or visible to any other person.

3. A person commits a violation of this Part if the person appears in a state of nudity, or knowingly allows another to appear in a state of nudity, in an area of a nude model studio premises which can be viewed from any public right-of-way.

4. A nude model studio shall not place or permit a bed, sofa, or mattress in any room on the premises, except that a sofa may be placed in a reception room open to the public.

(*Ord. 464, 7/9/1997; as amended by Ord. 656, 4/9/2015*)

**§13-715. Additional Regulations Concerning Public Nudity.**

1. It shall be a violation of this Part for a person to knowingly and intentionally in a public place:

A. Engage in sexual intercourse or engage in deviate sexual intercourse as defined by the Pennsylvania Crimes Code, 18 Pa.C.S.A. §101 *et seq.*, as amended.

B. Appear in a state of nudity.

C. Fondle the genitals of himself, herself or another person.

2. For purposes of this Part, “public place” includes all outdoor areas owned by or open to the general public and all buildings and enclosed places owned by or open to the general public, including but not limited to places of entertainment, taverns, restaurants, clubs, theaters, dance halls, banquet halls, party rooms or halls limited to specific members, and party rooms or halls restricted to adults or to patrons invited to attend, whether or not an admission charge is levied. This Section shall not apply to:

A. Any child under 10 years of age.

B. Any individual exposing a breast in the process of breast feeding an infant under 2 years of age

C. The exercise of free speech or free expression in the form of artistic and theatrical performances. It is the intention of the Township that this Section be construed, enforced and interpreted in such a manner as will cause the least possible infringement of the constitutional rights of free speech, free expression, due process, equal protection or other fundamental rights.

3. It shall be a violation of this Part for a person to knowingly or intentionally in an adult oriented business appear in a semi-nude condition unless the person is an employee who, while semi-nude, is at least 10 feet from any patron or customer and on a stage at least 2 feet from the floor.

4. It shall be a violation of this Part for an employee, while semi-nude in an adult oriented business, to solicit any pay or gratuity from any patron or customer or for any patron or customer to pay or offer gratuity to any employee while said employee is semi-nude in an adult oriented business.

(*Ord. 464, 7/9/1997; as amended by Ord. 656, 4/9/2015*)

**§13-716. Regulations for Tattoo Parlors and Body Piercing Establishments.**

1. A person who operates a tattoo parlor and/or body piercing establishment or causes them to be operated shall comply with the following requirements:

A. The room in which tattooing services and/or body piercing services are performed shall have a minimum floor area of 100 square feet.

B. The rooms in which tattooing services and/or body piercing services are performed shall comply with the following requirements:

(1) The walls, floors and ceilings shall have an impervious, smooth, washable surface and shall be painted or finished in a light color. Carpeting is prohibited in such a room.

(2) Single-use towels shall be provided in approved dispensers.

(3) Easily cleanable and approved covered waste containers shall be

provided in each room.

(4) All tables and equipment shall be:

(a) Constructed of easily-cleanable material.

(b) Sterilized in a medically approved manner.

(c) Painted or finished in a light color, with a smooth, washable finish.

(5) Partitioned from waiting customers and/or observers by a permanent non-transparent partition at least 5 feet in height.

C. Any operator or employee performing the tattooing services and/or body piercing services shall:

(1) Scrub his/her hands thoroughly with soap and hot water before commencing any tattooing or body piercing service, and dry the hands with individual, single-use towels.

(2) Wear sterile surgical gloves while performing any tattooing or body piercing service. These gloves shall only be used once on a single customer/client and then disposed of in a manner prescribed by the Allegheny County Health Department.

D. While tattooing, a single-service blade razor shall only be used once on a single customer/client and then disposed of in container and manner prescribed by the Allegheny County Health Department.

E. The area to be tattooed or body pierced shall first be thoroughly scrubbed with an antiseptic soap for a minimum of 2 minutes, and an approved sterilizing preparation used.

F. Any and all waste materials shall be deposited in an easily cleanable, covered waste container, and all waste materials shall be disposed of in a manner prescribed by the Allegheny County Health Department.

G. An antibiotic ointment that the customer/client is not allergic to shall be applied to the area to be tattooed and/or body pierced using sterile gauze.

H. The use of styptic pencils, alum blocks and/or other solid styptics to check or stem the flow of blood is prohibited.

I. The operator shall provide literature on Hepatitis B and C, HIV, and other health hazards to all customers and clients. This literature shall be approved by the Allegheny County Health Department. Prior to performing tattooing and/or body piercing services on a customer or client, the operator shall obtain a written acknowledgment, signed by each such customer or client, which acknowledges that the customer and client has received and read the literature referenced above. The operator shall retain each written acknowledgment as proof of compliance with this subsection.

J. Single-service or individual containers of dye, ink or needles shall be used for each separate customer or client, and shall be discarded immediately after completing work on such customer or client by being placed and disposed of in a container and manner prescribed by the Allegheny County Health Department. Excess dye or ink shall be removed from the skin with an individual, sterile sponge or a disposable paper tissue, which shall be used on one person and then

immediately discarded in a container and manner prescribed by the Allegheny County Health Department. After completing work on a customer or client, the tattooed or body pierced area shall be washed with sterile gauze that is saturated with an antiseptic solution approved by the Allegheny County Health Department.

K. No tattoo parlor may attempt to remove a tattoo from any person or allow such a procedure to take place on its premises.

L. No operator or employee shall tattoo or body pierce a person under the age of 18 years, or permit such tattooing or body piercing to occur, without: (1) obtaining a written parental authorization; and (2) a parent or guardian of such person being present at the time of the tattooing or piercing of the person. All parental authorizations shall be maintained on file at the establishment and be available for inspection for a period of 7 years after the customer or client has reached the age of 18 years. A copy of the written parental authorization shall be provided to the parent or guardian of the minor by the operator. Proof of age shall be required of all customers and clients.

M. Animals shall not be permitted in the establishment, except as specifically permitted by State law.

N. All clean and ready-to-use needles and instruments shall be kept in a locked, closed glass or metal case or storage cabinet while not in use. The key to such case or cabinet shall be secured by the operator at all times.

O. No person, customer or client having any skin infection or other disease of the skin or any communicable disease shall be tattooed or body pierced. All infections resulting from the tattooing and/or body piercing services known to the operator and/or an employee shall be immediately reported to the Allegheny County Health Department by the operator.

P. A fully operational restroom with a toilet shall be located in the establishment and shall be accessible at all times that the tattoo parlor and/or body piercing establishment is open for business. The restroom shall also be supplied with hot and cold running water, soap and single-use towels provided in approved dispensers. The walls, floors and ceilings of the restroom shall have an impervious, smooth, washable surface. Carpeting is prohibited in the restroom.

Q. The entire establishment shall be maintained in a clean and sanitary condition and in good repair.

*(Ord. 464, 7/9/1997; as amended by Ord. 656, 4/9/2015)*

#### **§13-717. Prohibition Against Children in an Adult Oriented Business.**

A person commits a violation of this Part if the person knowingly allows a person under the age of 18 years to be on the premises of an adult oriented business.

*(Ord. 464, 7/9/1997; as amended by Ord. 656, 4/9/2015)*

#### **§13-718. Hours of Operation.**

No adult oriented business shall be open for business before 10 a.m., Monday through Saturday, or after 10 p.m., Monday through Saturday. Adult oriented businesses shall be closed at all times on Sundays and legal State or Federal holidays.

*(Ord. 464, 7/9/1997; as amended by Ord. 656, 4/9/2015)*

**§13-719. Exemptions.**

1. It is a defense to prosecution under §13-715 of this Part that a person appearing in a state of nudity did so in a modeling class operated:

A. By a proprietary school licensed by the Commonwealth of Pennsylvania or a college, junior college, or university supported entirely or partly by taxation.

B. By a private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation.

C. In a structure:

(1) Which has no sign visible from the exterior of the structure and no other advertising that indicates a nude person is available for viewing.

(2) Where, in order to participate in a class, a student must enroll at least 3 days in advance of the class.

(3) Where no more than one nude model is on the premises at any one time.

2. *Grandfather Licensees.*

A. A duly licensed adult oriented business which was legally in operation at a location in Moon Township for at least 1 full year prior to December 16, 1997, and which operated on a 24-hour per day basis shall be permitted to be open for business at the same location, after December 16, 1997, from 11 a.m. to 2 a.m., Monday through Saturday, and from 2 p.m. to 10 p.m. on Sundays and shall be permitted to operate on legal holidays to the same extent that such business has operated on legal holidays in the past.

B. An adult oriented business seeking extended hours available under this subsection .2 shall state, in its license application, the location at which it operated on a 24-hour per day basis for at least 2 full years prior to July 9, 1997, and shall further state its intended hours of operation while licensed.

(*Ord. 464, 7/9/1997; as amended by Ord. 475, 12/16/1997; and by Ord. 656, 4/9/2015*)

**§13-720. Violations and Penalties.**

Any person, firm, or corporation who shall violate any provision of this Part, or fails to comply therewith, or with any of the requirements thereof, upon conviction thereof in an action brought before a magisterial district judge in the manner provided for the enforcement of summary offenses under the Pennsylvania Rules of Criminal Procedure, shall be sentenced to pay a fine of not less than \$300 nor more than \$1,000 plus costs, including reasonable attorney fees incurred by the Township, and, in default of payment of said fine and costs, to a term of imprisonment to the extent permitted by law for the punishment of summary offenses. A separate offense shall arise for each day or portion thereof in which a violation of this Part is found to exist and for each section of this Part found to have been violated. The Township may also commence appropriate actions in equity or other to prevent, restrain, correct, enjoin, or abate violations of this Part. All fines and penalties collected for violations of this Part shall be paid to the Township Treasurer. The initial determination of ordinance violation is hereby delegated to the Township Manager, the Police Department, the Code Official, the authorized designee of the Township Manager, and to any other officer or agent that the

Township Manager or the Board of Supervisors shall deem appropriate.  
(*Ord. 464, 7/9/1997; as amended by Ord. 656, 4/9/2015*)