

CHAPTER 13

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PART 1

TRANSIENT RETAIL BUSINESS LICENSE

§13-101. Definitions.

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 or products.

PEDDLER - a person who engages in peddling.

PEDDLE - the act of going upon property or approaching people to sell goods or products.

PEDDLER - a person who engages in peddling.

PEDDLING - to peddle.

PERSON - any natural person, corporation, association or organization.

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.

The singular shall include the plural and the masculine shall include the feminine and neuter.

(Ord. 868, 10/11/2007, §1)

§13-102. Registration Required.

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1. It shall be unlawful for any person to go upon residential property within the Borough of East McKeesport to peddle and/or solicit Borough 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 going the peddling and/or soliciting activity has first registered at the Borough building and has received an identification card from the office of the Chief of Police of the Borough of East McKeesport.
2. No identification card shall be issued to a peddler or solicitor unless the following information is given by the applicant:
 - A. 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.
 - B. The name of the organization for which the applicant is peddling and/or soliciting, together with the address of that organization.
 - C. The length of time the peddling and/or soliciting is to be carried on.
 - D. Any criminal record which the applicant may have.
3. This application completed as to all matters inquired of shall be turned over to the Police Department of the Borough of East McKeesport together with the initial fee to cover for the expenses of investigation payable to the Borough of East McKeesport.
4. In lieu of the requirements of subsections .1 through .3, any school, political, patriotic, philanthropic, or civic organizations, benevolent, society, service, club or organization, not for profit, which is not a transient merchant and whose solicitors are permanent residents of the Borough and which is subject to the provisions of this Part, shall file with the Police Department of the Borough of East McKeesport an application on a form to be furnished by the Borough of East McKeesport which will give the following information:
 - A. The name and purpose of the cause for which the permit is sought.
 - B. The name and address of a local sponsor.
 - C. The period and times during which solicitation is to be conducted.
 - D. A list of the names and addresses of all the members of the organization who shall participate in the solicitation.
 - E. Once the application of the organization, society, club or association referenced above has been completed and it has been established that its nature is that referenced in this Section, then the Police Department shall issue a permit to the group without charge.

(Ord. 868, 10/11/2007, §2)

§13-103. Fees.

The annual application and/or reapplication fee for solicitors and transient merchants is set at \$250.

(Ord. 868, 10/11/2007, §3)

§13-104. Identification Card.

Peddlers and/or solicitors regulated by this Part shall carry their identification card, which shall be issued by the Chief of Police at all times while peddling and/or soliciting within the Borough and shall show their identification card to residents in order to identify themselves prior to any actual peddling and/or soliciting activities.

(Ord. 868, 10/11/2007, §4)

§13-105. 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 hours of 9 a.m. to 5 p.m., prevailing time, including Saturdays and Sundays.

(Ord. 868, 10/11/2007, §5)

§13-106. Denial of Card; 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 Borough Council after a hearing before the Borough Council. 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 peddler and/or soliciting is being done, the identification card issued to that peddler and/or solicitor may be revoked by the Borough Council after a hearing before the Borough Council.

(Ord. 868, 10/11/2007, §6)

§13-107. Solicitation at Businesses.

Soliciting shall be permitted at any business establishment and upon any business properties, such as shopping center parking lots, during normal business hours, as long as

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the solicitors receive written permission from the owner of the subject business or property and comply with the registration, identification card and hour restrictions referenced in this Part.

(Ord. 868, 10/11/2007, §7)

§13-108. No Soliciting/Peddling List.

1. Borough 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.
2. The Chief of Police shall maintain a list of the addresses of Borough residents who have notified the Chief of Police 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 this Part. 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.”
3. Violations of this Section are subject to the penalties set forth in §13-110 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. 868, 10/11/2007, §8)

§13-109. Expiration of Permit.

All permits expire on the date specified on the permit.

(Ord. 868, 10/11/2007, §9)

§13-110. Violations and Penalties.

Any person, firm or corporation who shall violate any provision of this Part, upon conviction thereof, shall be sentenced to pay a fine of not more than \$1,000 plus costs and, in default of payment of said find and costs, to a term of imprisonment not to exceed 30 days. Each day that a violation of this Part continues shall constitute a separate offense.

(Ord. 868, 10/11/2007, §10)

BOROUGH OF EAST MCKEESPORT SOLICITATION PERMIT APPLICATION

Name of Company/Organization: _____

Address: _____

Type of Business: _____ Phone: _____

Is Your Organization a Charitable Organization: Yes No

If yes, Attach two, (2), copies of grant exemption by I.R.S. (PA Dept. of State Certificate not acceptable)

Source of Supply of Goods/Property: _____

Will Orders Be Taken: Yes No Method of Delivery: _____

Name of Person Soliciting: _____

Address: _____

Date of Birth: _____ Age: _____ Sex: _____ Race: _____ SS#: _____

Height: _____ Weight: _____ Eye Color: _____ Hair Color: _____

Vehicle: Make: _____ Model: _____ Color: _____ Plate: _____

Have you ever been convicted of a crime: Yes No

Do you give permission for criminal history background check: Yes No

- Must have Photo I.D. _____
- Drivers License Check _____
- PA Criminal History Check _____

Verification I verify that the statements I made are true and correct to the best of my knowledge and belief. I understand that false statements herein are made subject to the penalties of Title 18 PACC Sec. 4904 relating to UNSWORN FALSIFICATION TO AUTHORITIES.

YOU ARE NOT to solicit where posted NO SOLICITING or similar language **VIOLATION OF ORDINANCE**

Signature of Applicant: _____ Date: _____

HOURS OF OPERATION

9AM TO 5PM
MONDAY thru SATURDAY



Date of Application Information Reviewed by Police Department: _____

All Information Found in Order: Yes No

All Required Criminal History and Drivers Information Valid: Yes No

If No, Reason: _____

Exceptions: _____

Information Approved by: _____ Date: _____



APPLICATION APPROVED BY BOROUGH OF EAST MCKEESPORT: Yes No

If No, Reason: _____

Permit Fee: _____

Total DUE: _____

Dates of Permit: FROM: _____ TO: _____

Signature of Borough Secretary: _____ Date: _____

Copy Distribution

- 1 copy with Photo and IRS Exemption to Applicant
- 1 copy with IRS Exemption to Borough Secretary
- 1 copy with Photo to Police Department

BOROUGH OF EAST MCKEESPORT SOLICITATION PERMIT

Company/Organization: _____

Type of Business: _____

Date(s): _____ To _____



Signature: _____
Person Soliciting

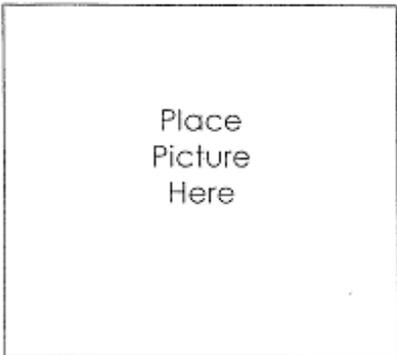
Signature: _____
Borough Secretary

BOROUGH OF EAST MCKEESPORT SOLICITATION PERMIT

Company/Organization: _____

Type of Business: _____

Date(s): _____ To _____



Signature: _____
Person Soliciting

Signature: _____
Borough Secretary

PART 2

OBSCENITY AND PORNOGRAPHY

§13-201. Definitions.

KNOWLEDGE or KNOWLEDGE OF SUCH NUISANCE - having knowledge of the contents and character of the patently offensive sexual conduct or other content which appears in the motion picture film, publication or live theatre production or knowledge of the acts of obscenity, assignation or prostitution which occur in any place.

LIVE THEATRE PRODUCTION - any dramatic, musical or comedic production performed in the presence of a live audience.

MASSAGE - any method of treating the superficial soft parts of the human body, for remedial, hygienic or other purposes, consisting of rubbing, stroking, kneading or any similar treatment, accomplished by hand or by the use of any instrument.

MASSAGE PARLOR - any building or structure or portion thereof, located within the Borough, which is open to members of the general public, with or without the payment of a fee, at which massage services are offered.

MATTER - a motion picture film, live theatre production, publication or all three.

MODEL STUDIO -

- A. Any place where there is conducted the business of furnishing figure models who pose in the nude of the purpose of being observed or viewed by any person or of being sketched, painted, drawn, sculptured, photographed or otherwise similarly depicted for persons who pay a fee, or other consideration or compensation, or a gratuity, for the right or opportunity so to depict the figure model, or for admission to, or for permission to remain upon, or as a condition for remaining upon the place.
- B. Any place where there is conducted the business of furnishing or providing or procuring, for a fee or other consideration or compensation or gratuity, figure models who pose in the nude to be observed or viewed by any person or to be sketched, painted, drawn, sculptured, photographed or otherwise similarly depicted.
- C. **Exception.** The words "model studio" do not include:

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- (1) Any studio which is operated by any state college or junior college, public or private school, or any governmental agency wherein the person, firm, association, partnership or corporation so operating has met the requirements established by the Commonwealth of Pennsylvania for the issuance or conferring of, and is in fact authorized thereunder to issue and confer, a diploma or honorary diploma.
- (2) Any place where there is conducted the business of furnishing, providing or procuring figure models solely for any studio described in subsection (1) of this subsection.

MOTION PICTURE FILM - any:

- A. Film or plate negative.
- B. Film or plate positive.
- C. Film designed to be projected on a screen for exhibition.
- D. Films, glass slides or transparencies, either in negative or positive form, designed for exhibition by projection on a screen.
- E. Video tape or any other medium used to electronically reproduce images on a screen.

NUDE -

- A. Completely without clothing.
- B. With the human male or female genitals, pubic area or buttocks with less than a full opaque covering or the showing of the female breast with less than a fully opaque covering of any portion thereof below the top of the nipple, or the covered male genitals in a discernibly turgid state.

OBSCENE MATTER - any matter:

- A. Which the average adult person, applying contemporary community standards, would find when considered as a whole, appeals to the prurient interest.
- B. Which depicts or describes patently offensive representations or descriptions of:
 - (1) Ultimate sexual acts, normal or perverted, actual or stimulated.
 - (2) Masturbation, excretory functions or exhibition of the genitals or genital area.

- C. The matter, taken as a whole, lacks serious literary, artistic, political, educational or scientific value.

PERSON - any individual, partnership, firm, association, corporation or other legal entity.

PLACE - any building, structure or space, or any separate part or portion thereof, whether permanent or not, or the ground itself.

PUBLICATION - any book, magazine, article, pamphlet, writing, printing, illustration, picture, sound recording or a motion picture film which is displayed in an area open to the public, offered for sale or exhibited in a coin-operated machine.

SALE - a passing of title or right of possession from a seller to a buyer for valuable consideration and shall include, but is not limited to, any lease or rental arrangement or other transaction wherein or whereby any valuable consideration is received for the use of, or transfer of possession of, obscene matter.

(Ord. 650, 2/14/1980, §1)

§13-202. Obscene Films, Live Theatre Productions, Publications and Places Exhibiting the Same Declared a Public Nuisance; Abatement Thereof.

1. Any and every place in the Borough where obscene motion picture films or live theatre productions are publicly exhibited or possessed for the purpose of such exhibition; and any and every place in the Borough where obscene publications are publicly disseminated or sold, or possessed for the purpose of such dissemination, is a public nuisance.
2. Any and every obscene motion picture film or live theatre production which is publicly exhibited, and any and every obscene publication which is publicly displayed, disseminated or sold, or possessed for such purpose, is a public nuisance *per se*.
3. From and after service on the place or its manager or acting manager or person then in charge of such place, of a true and correct copy of this Part and a true and correct copy of the summons and complaint to abate a nuisance, all monies paid thereafter as admission price to such exhibitions or productions, or purchase price of such publications, are also declared to be a public nuisance, as personal property used in conducting and maintaining a declared public nuisance.

(Ord. 650, 2/14/1980, §2)

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§13-203. Massage Parlors or Model Studios Used for Purposes of Obscenity, Assignation or Prostitution, or Upon Which Such Acts Occur, Declared a Public Nuisance; Abatement Thereof.

1. Every massage parlor or model studio, which, as a regular course of business, is used for the purposes of obscenity, assignation or prostitution, and every such massage parlor or model studio in or upon which acts of obscenity, assignation or prostitution are held or occur is a public nuisance which shall be enjoined, abated and prevented.
2. From and after service on the place or its manager or acting manager, or person then in charge of such place of a true and correct copy of this Part and a true and correct copy of the summons and complaint to abate a nuisance, all monies or other valuable consideration paid for services rendered to customers are also declared to be a public nuisance, as person property used in conducting and maintaining a declared public nuisance.

(Ord. 650, 2/14/1980, §3)

§13-204. Knowledge of Nuisance Presumed from Notice of Summons and Complaint; Responsibility of Parties Therefor; Abatement of Such Nuisances.

1. Upon and after receiving notice through service of a true and correct copy of this Part and a true and correct copy of the summons and complaint to abate a nuisance or notice by the Borough Solicitor of the character of the obscene film, production, publication or place, any and every person who shall own, legally or equitably, lease, maintain, manage, conduct or operate a place in the Borough which is declared to be a public nuisance as set forth and stated in §13-202 or §13-203 of this Part is deemed to be a person who has knowledge of such nuisance for the purpose of this Part, and may, thereafter, be responsible for its maintenance, and liable therefor.
2. The places and matters declared to be public nuisances under §13-202 or §13-203 shall be abated as provided for herein.

(Ord. 650, 2/14/1980, §4)

§13-205. Who May Take Action; Posting of Bond.

The Borough Solicitor or any citizen of the Commonwealth of Pennsylvania resident within the Borough may maintain an action of an equitable nature in the name of the Borough upon the relation of such Borough Solicitor or citizen to abate a nuisance. No bond shall

be required of the Borough Solicitor. If such action is instituted by a private citizen, a bond shall be required in the amount of not less than \$500, to secure to the defendants the proximate damages which may be sustained, including attorney's fees, if any court finds that there were no reasonable grounds for said action. The Borough Solicitor shall have the right to present arguments and authorities on behalf of either party.

(Ord. 650, 2/14/1980, §5)

§13-206. Remedies.

1. Money damages may be recovered

- A. For compensation for loss or harm suffered in person or property by the Borough or private citizen flowing from such nuisance.
- B. As exemplary or punitive damages for the sake of example or to punish the offender, where it is shown that the offender has been guilty of malice. Malice means an intent to do a wrongful act, that is, an intent to maintain, permit or allow a nuisance to exist.

2. **Injunctions.**

- A. Preliminary and permanent injunctions may be issued to prevent the further maintenance of a nuisance and to prevent the further sale or exhibition of obscene motion picture films, live theatre productions and publications. The procedures for obtaining such injunctions shall be governed by the rules of civil procedure, preserving the right of trial by jury upon the application for permanent injunction.
- B. Upon the application for preliminary injunction the court shall set the matter for a hearing no earlier than 2 days and no later than 5 days from the date of service of the summons and complaint.
- C. Upon the trial on the merits of the permanent injunction, if the court finds a place to be a nuisance, the court may issue an order closing the place to all uses and purposes for the period of 1 year. If the offenders or persons owning, in control or in charge of such place certify that the nuisance has been abated and that the films, productions or publications found to be obscene shall not be exhibited, sold or otherwise disseminated and, at the discretion of the court, post a bond in an amount not to exceed the value of the person property possessed or contained at such place for the maintenance of the nuisance, the

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court may release such person or persons from the closure order. The release shall remain in effect for 1 year or until the nuisance is found to exist at the place before the expiration of 1 year. The bond shall be deposited with the court prior to the release of any closure order and shall be returned to the person posting said bond, without interest at the expiration of 1 year, provided that the nuisance is not maintained or re-established within 1 year.

(*Ord. 650, 2/14/1980, §6*)

§13-207. Forfeiture to the General Fund of the Borough; Cost of Abatement; Manner of Collection.

1. If the existence of the nuisance is established on the trial, a judgment shall be entered which shall permanently enjoin the defendants, and any other person with notice or knowledge of the action and judgment from maintaining the nuisance at said place and the defendants from maintaining the nuisance at said place and the defendants from maintaining such nuisance elsewhere, and the entire expenses of such abatement action shall be recovered by the plaintiff as part of his costs.
2. The cost of abatement shall include the following:
 - A. Investigative costs.
 - B. Court costs.
 - C. Reasonable attorney's fees arising out of the preparation for, and trial of the case, and appeals therefrom and other costs allowed on appeal.
 - D. Printing costs and appellate briefs, and all other papers filed in such proceeding.

Such cost of abatement may be made a special assessment against the place or the parcel of land upon which such place is located. Upon its determination in a civil action, such shall, by separate legal proceeding, be made a lien against such property and a person obligation against any person, and shall be collected at the same time and in the same manner as ordinary municipal taxes are collected, and shall be subject to the same penalties and the same procedure and sale in the case of delinquency as provided for ordinary municipal taxes. All laws applicable to the levy, collection and enforcement of municipal taxes shall be applicable to such special assessment.

3. Upon judgment for the plaintiff in legal proceedings brought pursuant to this Part, an accounting shall be made by such defendant or defendants of all monies or valuable consideration received by them which have been declared to be a public nuisance under §13-302 or §13-303 of this Part. Such monies or their equivalent and any valuable consideration received shall be forfeited to the general fund of the Borough or to the Borough as property of the Borough if any valuable consideration received be not money.

(Ord. 650, 2/14/1980, §7)

