

## **Chapter 13**

### **Licenses, Permits and General Business Regulations**

#### **Part 1**

#### **Soliciting and Peddling Licenses**

- §13-101. Definitions
- §13-102. License Required
- §13-103. Application Requirements
- §13-104. Waiting Period
- §13-105. License Fee
- §13-106. Thirty-Day License
- §13-107. License to List Products
- §13-108. Sales Period of Day
- §13-109. Use of Streets
- §13-110. No Sales from Streets or Sidewalks
- §13-111. Duties of Mayor and Police
- §13-112. Revoking License
- §13-113. Noise Forbidden
- §13-114. Penalties

#### **Part 2**

#### **Adult Book Stores**

- §13-201. Definitions
- §13-202. Prohibited Activity
- §13-203. Enforcement
- §13-204. Notice of Violation
- §13-205. Penalties
- §13-206. Declaration of Nuisance; Civil Abatement



**Part 1****Soliciting and Peddling Licenses****§13-101. Definitions.**

*Peddling*—the selling or offering for sale of any goods, wares, services or merchandise for immediate delivery which the person selling or offering for sale carries with him in traveling, or has in his possession or control, upon any of the streets or sidewalks; or from house to house; or by visitation to private residences; or by entering in or upon private property, within the said Borough.

*Soliciting*—the seeking or taking of contracts or orders for any goods, wares, services or merchandise for future delivery, or for subscriptions or contributions, upon any of the streets or sidewalks; or from house to house; or by visitation to private residences; or by entering in or upon private property, within the Borough of Dauphin and shall further mean the seeking or taking of contracts or orders for home or other building repairs, improvement and alterations; and also orders of contracts for any mechanical, electrical, plumbing or heating device or equipment for house, or other building improvements or repairs, upon or from the places aforesaid within the said Borough.

Provided, the words “soliciting” and “peddling” shall not apply:

- (1) To farmers seeking or taking orders for the sale of their own products.
- (2) To the seeking or taking of orders by any manufacturer or producer for the sale of bread and bakery products, meat and meat products, or milk or milk products.
- (3) To 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.
- (4) To the seeking or taking of orders, by insurance agents or brokers, or stock brokers or banking brokers, licensed under the insurance laws of the Commonwealth of Pennsylvania for insurance.
- (5) To persons, corporations, partnerships and associations, their agents or employees who have complied with the provisions of the Solicitation of Funds for Charitable Purposes Act, 10 P.S. §162.1 *et seq.* [Ord. 2012-03]
- (7) To any person taking orders for merchandise from dealers or merchants, for resale to an ultimate consumer.

[Ord. 2012-03]

*Peddler*—any person who shall engage in peddling as herein above defined.

*Person*—any natural person, association, partnership, firm, organization or corporation.

*Solicitor*—any person who shall engage in soliciting as herein above defined.

In this Part, the singular shall include the plural and the masculine shall include the feminine and the neuter.

(Ord. 88-2, 2/9/1988, §301; as amended by Ord. 2012-03, 12/4/2012)

**§13-102. License Required.**

No person shall engage in soliciting or peddling in the Borough of Dauphin without first having taken out a license as herein provided.

(*Ord. 88-2, 2/9/1988, §302*)

**§13-103. Application Requirements.**

Every person desiring to engage in soliciting or peddling in the Borough of Dauphin shall first make application to the Mayor for a license. If such person shall also be required to obtain a license from any County officer, he shall, on making such application exhibit a valid County license. The said application shall be upon a blank provided by the Mayor and shall contain at least the following information verified by oath or affirmation.

- A. Full name of the applicant and local address.
- B. Permanent address.
- C. Name of employer or a statement that such applicant is self-employed.
- D. The nature of the goods, wares, services or merchandise offered for sale.
- E. A statement as to whether or not the applicant has ever been convicted of any crime and, if the answer is in the affirmative, the nature of the offense or offenses and the punishment or punishments imposed there.
- F. The type of vehicle to be used, if any.
- G. Upon request, the applicant shall also submit to fingerprinting by the Dauphin Borough Police Department and photographing, provided:

(1) Where a person makes application for himself and one or more helpers, all applicable personal information specified above shall be given for each helper and verified or affirmed by oath or affirmation by him and an individual license shall be required for each helper. No license under this Part shall be transferable from one person to another.

(*Ord. 88-2, 2/9/1988, §303*)

**§13-104. Waiting Period.**

No license shall be issued under this Part until 30 days after the date application is made to the Mayor for such license.

(*Ord. 88-2, 2/9/1988, §304*)

**§13-105. License Fee.**

No license shall be issued under this Part until the fee, in an amount as established from time to time by resolution of the Borough Council, shall be paid to the Borough and it shall be for the use of the Borough. A separate application shall be filed and a separate permit fee shall be paid by each person who shall actually conduct the soliciting or peddling and shall apply where an employer desires to secure licenses for his employees, agents or servants.

(*Ord. 88-2, 2/9/1988, §305; as amended by Ord. 89-3, 11/6/1989, §1; and by Ord. 2012-03, 12/4/2012*)

**§13-106. Thirty-Day License.**

The license granted pursuant to this Part shall be valid for 30 days after the date of such license and upon the expiration of any license, if the person holding the same shall desire to continue or renew soliciting or peddling, he shall be required to file a new application for a permit and pay a new license fee. Such licenses may be issued, in advance, for consecutive 30-day periods not exceeding 12 in number, upon payment, in advance, of the fee, in an amount as established from time to time by resolution of the Borough Council, provided in §13-105 hereof.

(*Ord. 88-2, 2/9/1988, §306; as amended by Ord. 2012-03, 12/4/2012*)

**§13-107. License to List Products.**

Such license when issued shall state, inter alia, the products to be sold or services to be rendered by the licensee. Every solicitor or peddler shall at all times, when engaged in soliciting or peddling in the Borough of Dauphin, carry such license upon his person and shall exhibit it upon request, to all police officers, Borough officials and citizens. No solicitor or peddler shall engage in selling any product or service not mentioned on such license.

(*Ord. 88-2, 2/9/1988, §307*)

**§13-108. Sales Period of Day.**

No person licensed as a solicitor or peddler under this Part shall engage in soliciting or peddling on any day of the week before 9 a.m. or after 8 p.m. During the time of the year when Eastern Standard Time is effective, the aforesaid hours shall be Eastern Standard Time, and during the time of the year when Daylight Saving Time is effective, the aforesaid hours shall be Daylight Saving Time.

(*Ord. 88-2, 2/9/1988, §308*)

**§13-109. Use of Streets.**

No person licensed as a solicitor or peddler under this Part shall park any vehicle upon any of the streets, highways or alleys of the Borough in order to sort, rearrange or clean any of his goods, wares, services, or merchandise; nor shall any such person place or deposit any refuse on any such streets, highways or alleys; nor shall any such person maintain or keep a street or curbstone market by parking any vehicle upon any street or alley in the Borough for longer than necessary in order to sell therefrom to persons residing in the immediate vicinity.

(*Ord. 88-2, 2/9/1988, §309*)

**§13-110. No Sales from Streets or Sidewalks.**

No person licensed as a solicitor or peddler under this Part shall occupy any fixed location upon any of the sidewalks of the streets, highways, alleys or sidewalks of the Borough for the purpose of soliciting or peddling with or without any stand or counter.

(*Ord. 88-2, 2/9/1988, §310*)

**§13-111. Duties of Mayor and Police.**

The Mayor shall keep a record of all licenses issued under this Part and the Chief

of Police shall apply daily for list of licenses issued hereunder since the previous day. The Chief of Police shall supervise the activities of all holders of such licenses.

(*Ord. 88-2, 2/9/1988, §311*)

**§13-112. Revoking License.**

Any license issued under this Part may be suspended or revoked at any time by the Mayor of the Borough of Dauphin upon proof being furnished to him that the application for the license contained false information or that the applicant or licensee was convicted of a crime involving moral turpitude after the issuance of such license and that the licensee was convicted of disorderly conduct under any law of the Commonwealth of Pennsylvania or any ordinance of the Borough of Dauphin.

(*Ord. 88-2, 2/9/1988, §312*)

**§13-113. Noise Forbidden.**

No person licensed as a solicitor or peddler under this Part shall hawk or cry his wares or services upon any of the streets or sidewalks of the Borough nor shall he use any loud speaker, bell, whistle or other device for announcing his presence by which the public is annoyed.

(*Ord. 88-2, 2/9/1988, §313*)

**§13-114. Penalties.**

Any person, firm or corporation who shall violate any provision of this Part, 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 more than \$1,000 plus costs and, in default of payment of said fine and costs, to a term of imprisonment not to exceed 90 days. Each day that a violation of this Part continues or each Section of this Part which shall be found to have been violated shall constitute a separate offense.

(*Ord. 88-2, 2/9/1988, §314; as amended by Ord. 2012-03, 12/4/2012*)

**Part 2****Adult Book Stores****§13-201. Definitions.**

As used in this Part, the following terms, words and phrases shall have the meanings ascribed to them by this Section:

*Adult book store*—a business establishment of any size or description having any portion of its stock-in-trade including, but not limited to, books, magazines, films, photographs, drawings, visual representations or writings, distinguished or characterized by emphasis on matter depicting, describing or related to specified anatomical areas or to specified sexual activities, or a business establishment having a segment or portion of its premises devoted to the display or sale of such material.

*Specified anatomical areas*—

- (1) Human genital organs and pubic regions, male and/or female.
- (2) Human buttocks, male and/or female.
- (3) Human female breasts below a level immediately above the top of the areola.

*Specified sexual activities*—

- (1) Human male genital organ in a discernibly turgid state of sexual stimulation or arousal.
- (2) Acts of human sexual intercourse, human masturbation, human sodomy, deviate sexual intercourse between human beings, human sexual intercourse with an animal.
- (3) Fondling, indecent contact or other erotic touching of specified anatomical areas.

(Ord. 88-2, 2/9/1988, §101)

**§13-202. Prohibited Activity.**

It shall be unlawful to establish or maintain or permit to be established or maintained any adult book store:

A. Within the following zoning districts as now constituted or as hereafter created or extended by or under the Dauphin Borough Zoning Ordinance [Chapter 27]. (The designation and description of said districts under said Zoning Ordinance [Chapter 27] being incorporated herein by reference thereto.):

- (1) R-1, Residential.
- (2) R-2, Residential.
- (3) R-3, Residential.
- (4) Floodplain.
- (5) Conservation.

B. Within 500 feet of the geographical boundary line of any of the zoning

districts enumerated in paragraph .A immediately above.

C. Within 500 feet of any building or other structure being used for residential purposes.

D. Within 1,000 feet of any school (public, private or parochial), church, synagogue or any other adult book store.

(*Ord. 88-2, 2/9/1988, §102*)

**§13-203. Enforcement.**

The Mayor, or his designee, shall enforce the provisions of this Part with the assistance and cooperation of the Borough Police Department.

(*Ord. 88-2, 2/9/1988, §103*)

**§13-204. Notice of Violation.**

The person charged with enforcement of this Part pursuant to §13-203, shall serve written notice of the violation of this Part upon the person then in charge of the adult book store and/or upon the owner, lessee or other occupant of the premises constituting the adult book store, and/or upon the lessor or licensor of the premises constituting the adult book store, and/or upon the agent of any of the foregoing. Said notice shall indicate the date, the fact of the violation of this Part and a directive that such violation must be terminated and discontinued immediately.

(*Ord. 88-2, 2/9/1988, §104*)

**§13-205. Penalties.**

Any person, firm or corporation who shall violate any provision of this Part, 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 more than \$1,000 plus costs and, in default of payment of said fine and costs, to a term of imprisonment not to exceed 90 days. Each day that a violation of this Part continues or each Section of this Part which shall be found to have been violated shall constitute a separate offense.

(*Ord. 88-2, 2/9/1988, §105; as amended by Ord. 2012-03, 12/4/2012*)

**§13-206. Declaration of Nuisance; Civil Abatement.**

1. The Borough Council hereby determines and declares that the continued maintenance of an adult book store in violation of this Part is contrary to the health, welfare and morals of the residents of the Borough of Dauphin and is, therefore, a public nuisance and subject to abatement by appropriate civil action.

2. The Mayor is hereby authorized and empowered without further direction by the Borough Council to institute such action at law or in equity in any court having jurisdiction to abate such nuisance and enjoin and terminate the continued violation of this Part.

(*Ord. 88-2, 2/9/1988, §106*)