

Chapter 13

Licenses, Permits and General Business Regulations

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Part 1**Business Licenses****§13-101. Title.**

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

(Ord. 2000-4, 6/5/2000, §1)

§13-102. Definitions.

The following words and terms when used in this Part shall have the meaning given to them in this Section unless the context clearly indicates otherwise:

Borough - the Borough of Lewisberry, Pennsylvania.

Business - any activity carried on for gain or profit in the Borough of Lewisberry, including, but not limited to, the sale of merchandise, either retail or wholesale and the sale of services, regardless of whether any actual income or profit is actually realized.

Business license - a license issued by the Borough of Lewisberry's Manager upon application by the owner, principal, corporate officer or responsible party for any business operating within the Borough of Lewisberry.

Council - the Borough of Lewisberry, Pennsylvania, Council or its duly appointed agent or agents.

(Ord. 2000-4, 6/5/2000, §2)

§13-103. Purpose, Findings and Scope.

1. Council recognizes the importance and significance of establishing minimum standards for businesses operating in the Borough and establishing hours of operation for the same.

2. Council recognizes that under §1202(6) of the Borough Code, 53 P.S. §56202(6) that it has both an obligation and the authority to enact ordinances which affect the health, safety, morals and general welfare of the community and in furtherance of that objective has enacted the following regulations and minimum standards for businesses in the Borough.

3. Council recognizes the importance and significance of adopting ordinances relating to the safe construction of businesses and other structures within the Borough, to reduce the risk of fire caused by inadequate or improper building and/ or electrical wiring procedure.

4. The provisions of this Part shall apply to businesses.

(Ord. 2000-4, 6/5/2000, §3)

§13-104. Hours of Operation.

No business shall open to the public prior to 6 a.m. on any morning and shall close its doors to the public no later than 11:30 p.m. on any night. Any business adversely

affected by this provision may appeal to Borough Council for a waiver of this provision. Any provision may be granted by a majority of the Council upon hardship proven and upon good cause shown by the applicant and upon Council making a finding on the record that the amended hours shall not be detrimental to the purpose of this Part or harmful to the citizens of the Lewisberry Borough.

(*Ord. 2000-4, 6/5/2000, §4*)

§13-105. Business License.

1. *Business License Requirement.* No business shall operate in the Borough without first obtaining a business license in accordance with this Part.

2. *License.* Every business located all or part in the Borough shall, prior to opening and on an annual basis (by the end of January of each year), apply to the Borough Manager for a business license.

3. *Display of License.* The business license shall be prominently displayed on the business premises throughout the year.

4. *Fee.* The fee for the business license shall be established and modified, as needed, by resolution.

5. *Application.* The form for the business license shall be created by the Borough Manager and reviewed by Council. The format may be amended from time to time, in the discretion of Council.

6. *Requirements for License.* In order to obtain an initial business license or renew an existing business license the applicant must:

A. Have an ownership interest in the business or be an authorized agent of the business.

B. Swear or affirm that the business meets the applicable requirements of the International Building Code and the International Plumbing Code. [*Ord. 2007-2*]

C. Agree to abide by the terms of this Part.

D. Tender the fee to the Borough Manager.

E. Agree to permit the Borough Manager, or his or her agents to inspect the business premises for compliance with this Part upon probable cause to suspect a violation of the same.

(*Ord. 2000-4, 6/5/2000, §5; as amended by Ord. 2007-2, 12/17/2007*)

§13-106. Adoption of a Minimum Plumbing Code.

In addition, every business that invites members of the public to its facility shall have available to the public at least one restroom. Businesses that do not engage in a sales of merchandise or services to the general public shall be excluded from this provision.

(*Ord. 2000-4, 6/5/2000, §7; as amended by Ord. 2007-2, 12/17/2007*)

§13-107. Inspection.

The Borough reserves the right to have the Borough Manager inspect the premises for compliance with all Borough ordinances prior to the issuance of a business license.

(Ord. 2000-4, 6/5/2000, §8)

§13-108. Enforcement.

The Zoning Officer, Borough Manager and the Mayor shall have the express authority to enforce this Part.

(Ord. 2000-4, 6/5/2000, §9)

§13-109. Revocation and Suspension Procedure.

1. *Violation of Code.* A business license may be revoked by the Zoning Officer, Borough Manager or Mayor upon discovery of a material violation of any other violation of any Borough ordinance which renders business patently unsafe for human habitation.

2. *Violation.* A business license may be suspended for a period of 30 days by the Zoning Officer, Borough Manager or Mayor upon discovery of a violation of this Part relating to hours of operation.

3. *Procedure.* Prior to the revocation or suspension of the business license, the Zoning Officer, Borough Manager or Mayor shall serve the property owner with notice of intent to revoke or suspend business license providing that the applicant shall have 20 days to cure the violation. The notice shall be in substantially the same format as the zoning enforcement notice under §616.1 of the Municipalities Planning Code, 53 P.S. §10616.1. If said violation or violations are not cured within the 20-day period, and if the property owner does not request an extension of time to cure the defect, then the Zoning Officer, Borough Manager or Mayor may revoke or suspend, as the case may be, said applicant's business license making it a violation of this Part to operate the business.

4. When the violation is cured, the applicant must re-apply for a business license and pay the fee as if no license were ever issued.

(Ord. 2000-4, 6/5/2000, §10)

§13-110. Violations.

1. Any business which operates within the Borough without first obtaining and maintaining a valid business license shall be in violation of this Part.

2. Upon discovery of any business operating in violation of this Part, the Borough Manager or other designated official shall send the business in violation a copy of this Part and a letter directing said business to comply.

3. In the event that any business does not comply with this Part after 30 days of the date of the mailing of this Part and letter, the Borough shall file a citation with the appropriate issuing authority seeking penalties provided herein.

(Ord. 2000-4, 6/5/2000, §11)

§13-111. Penalties.

1. *Fines.* Upon a first conviction of a violation of the provisions of this Part, the defendant shall be sentenced to a fine of not less than \$100 nor more than \$1,000, plus costs, including the Borough's reasonable attorney's fees. Each day that the violation continues after the business owner or corporate officer is notified by letter in accordance

with this Part shall constitute a separate and distinct offense. [*Ord. 2007-2*]

2. Upon a second or subsequent conviction of a violation of the provision of this Part, the defendant a fine of not less than \$300 nor more than \$1,000, plus costs should be sentenced to, including the Borough's reasonable attorney's fees. Each day that the violation continues after the business owner or corporate officer is notified by letter in accordance with this Part shall constitute a separate and distinct offense. [*Ord. 2007-2*]

3. *Equitable Relief.* The Borough may file an action in equity in the Court of Common Pleas seeking injunctive relief to enforce this Part, including an order prohibiting operation of the business until the business complies with the provisions of this Part.

4. Whenever the Borough files a cause of action in the Court of Common Pleas seeking equitable relief as provided above, the defendant shall be liable for the costs of the prosecution and reasonable attorney's fees.

(*Ord. 2000-4, 6/5/2000, §12; as amended by Ord. 2007-2, 12/17/2007*)

Part 2**Adult Bookstores****§13-201. Short Title.**

This Part shall be known as the "Lewisberry Borough Adult Book Store Ordinance."
(*Ord. 1985-2, -1-1985, §1*)

§13-202. Definitions.

As used in this Part certain terms are defined as follows:

Adult book store - an establishment having any portion of its stock-in-trade, including, but not limited to, books, magazines, periodicals, pictures, photographs, drawings, prints, images, sculpture, still film, motion picture film, video tape, or other visual representations or writings distinguished or characterized by emphasis on matter depicting, describing or related to specific anatomical areas or to specific sexual activities or to sexual devices, or an establishment with a segment or section devoted to the sale, rent, lease, loan, view upon premises, or display of such material.

Adult theater - an establishment or a building or a room within a building or a portion of a building or a room within a building used for presenting motion picture film, video tape, or any similar visual representation of matters distinguished or characterized by an emphasis on specific anatomical areas, specific sexual activities, or sexual devices.

Massage parlor - an establishment having a source of income or compensation derived from the practice of massage, but shall exclude licensed hospitals, licensed nursing homes, medical offices, clinical offices, or other offices and quarters of licensed health professional practitioners.

Sexual device - an artificial human penis, vagina or anus, or other device primarily designed, promoted, or marketed to physically stimulate or manipulate the human genitals, pubic area, perineum or anal area, including dildos, penisators, vibrators, vibrillators, penis rings and erection enlargement or prolonging creams, jellies, or other such chemicals or preparations.

Specific anatomical areas - the:

- (1) Buttocks.
- (2) Female breasts below a point immediately above the top of the areola.
- (3) Penis, vagina, anus, genitals, pubic area, perineum or anal area.

Specific sexual activities - the:

- (1) Human male genitals in a discernibly turgid state of sexual stimulation or arousal.
- (2) Sexual acts, normal or perverted, actual or simulated, involving a person or persons, or a person or persons and an animal, including acts of masturbation, sexual intercourse, fellatio, cunnilingus, anilingus or physical contact with a person's nude or partially denuded genitals, pubic area,

perineum, anal region, or, if such person be female, a breast.

(3) Fondling or other erotic touching of specified anatomical areas.

(*Ord. 1985-2, --/1985, §2*)

§13-203. Prohibited Activities.

It shall be unlawful to establish or maintain an adult book store, adult theater, or massage parlor, within 200 feet of any residential zone or property having any residential use nor within 1,000 feet of any church, school, library, park, playground, day care center, or any other adult book store, adult theater or massage parlor.

(*Ord. 1985-2, --/1985, §3*)

§13-204. Violation; Notice and Penalty.

1. When written notice has been served by the Borough Council of a violation of this Part upon the person in charge of such adult book store, adult theater or massage parlor or upon the owner, lessee or occupant of the premises or agent thereof, such violation shall be discontinued immediately.

2. Any owner, lessee or occupant of any adult book store, adult theater or massage parlor existing in violation of this Part or any person who knowingly commits, participates, in or permits any such violation, upon conviction before a magisterial district judge, shall be sentenced to pay a fine of not less than \$100 nor more than \$1,000 plus costs and, in default of payment of said fine 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. 2007-2*]

3. The imposition of any fine or other penalty under this Part shall not be construed so as to prevent the Borough from enforcing this Part by any other legal action at law or in equity.

(*Ord. 1985-2, --/1985, §4; as amended by Ord. 2007-2, 12/17/2007*)