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PART 1

ALARMS

§13-101. Definitions.

For the purposes of this Part, the following terms shall have the following meanings:

ALARM - a communication to the Police Department indicating that a crime, fire or other emergency situation warranting immediate action by the Police Department has occurred or is occurring.

ALARM DEVICE - a mechanical device designed to automatically transmit an alarm by wire, telephone, radio or other means:

- A. Directly to the Police Department; or,
- B. To a person who is instructed to notify the Police Department of the alarm.

COMMERCIAL ESTABLISHMENT - any person or entity engaging in an enterprise for profit.

FALSE ALARM - an alarm to which a police department, fire department, Borough official or other public safety or emergency service official responds resulting from the activation of an alarm device when a crime, fire or other emergency warranting immediate action by the above entities or official has not, in fact, occurred. [*Ord. 995*]

PERMIT HOLDER - a person to whom the Police Department has issued a permit pursuant to the terms of this Part.

PERSON - an individual, corporation, partnership, unincorporated association or other similar entity, whether or not for profit.

POLICE DEPARTMENT - the Police Department of the Borough of Aspinwall.

(*Ord. 857*, 12/13/1989, §4501; as amended by *Ord. 995*, 12/10/2003)

§13-102. Permits Required.

No property owner, tenant or other person occupying premises within the Borough may install or cause the installation of an alarm device after the effective date of this Part without first obtaining a permit from the Police Department. No person may install or cause the installation of an alarm device serving premises outside the Borough after the effective date of this Part without first obtaining a permit from the Police Department to do so in the event that such alarm device triggers an alarm. A permit shall also be required for the revision or upgrading of an existing alarm device, but the fee referred to

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in §13-204 of this Part shall not be charged in such an instance. A permit shall also be required to maintain an alarm device in place before the effective date of this Part, but the fee referred to in §13-104 of this Part shall not be charged for its issuance, and the permit need not be obtained until 90 days after the effective date of this Part.

(*Ord. 857, 12/13/1989, §4502*)

§13-103. Rules and Regulations.

The Police Department shall be empowered to require any person applying for a permit to follow such reasonable rules and regulations in the installation and maintenance of the alarm device as the Police Department shall promulgate to carry out the purposes of this Part; provided, however, that such rules and regulations shall require that person to comply with the following:

- A. **Exoneration.** That person shall agree, as a condition to the obtaining of the permit, to release, indemnify and hold the Borough, its employees, officers and agents harmless for any damage to other parties or property incurred in responding to an alarm.
- B. **List of names.** That person shall agree, as a condition to the obtaining of the permit, to give the Police Department the names of at least 2 individuals having access to the premises served by the alarm device, or to the alarm device itself in the event that such individuals do not reside at the premises and are authorized to enter the premises at any time, except where the Police Department itself has keys to the premises and is adequately informed how to operate the alarm device.

(*Ord. 857, 12/13/1989, §4503*)

§13-104. Fees.

The cost of obtaining a permit shall be in an amount as established from time to time by resolution of Borough Council.

(*Ord. 857, 12/13/1989, §4504; as amended by Ord. 995, 12/10/2003*)

§13-105. Fines for False Alarms.

A permit holder causing or permitting the giving of repeated false alarms or owning or maintaining an alarm system which triggers a false alarm shall pay a charge to the Borough as established from time to time by resolution of Borough Council.

(*Ord. 857, 12/13/1989, §4505; as amended by Ord. 995, 12/10/2003*)

§13-106. Collection of Fees; Notification.

The Borough Secretary or his delegate shall collect all fees and charges for a permit issued by the Police Department. Each permit holder with an alarm device triggering a false alarm shall be informed, in writing, by the Chief of the Police Department or his delegate of any false alarm.

(Ord. 857, 12/13/1989, §4506; as amended by Ord. 995, 12/10/2003)

§13-107. Violations and Penalties.

1. Any person, firm or corporation who violates a provision of this Part, or who fails to comply therewith, or with any of the requirements thereof, shall be, upon conviction thereof, sentenced to pay a fine of not less than \$100 nor more than \$1,000 for each violation, plus costs, and in default of payment of said fine and costs, to imprisonment to the extent permitted by law for the punishment of summary offenses.
2. A separate offense shall arise for each day or portion thereof in which a violation is found to exist or for each section of this Part found to have been violated. All fines and penalties for the violation of this Part shall be paid to the Borough Treasurer.
3. The Borough may also commence appropriate actions in equity or other to prevent, restrain, correct, enjoin, or abate violations of this Part.

(Ord. 857, 12/13/1989, §4507; as amended by Ord. 995, 12/10/2003)

PART 2

SOLICITING AND CANVASSING

§13-201. 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, services 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. 995, 12/10/2003)

§13-202. Registration Required.

1. It shall be unlawful for any person to go upon residential property within the Borough of Aspinwall, without being invited to do so by the owners or occupants of the subject property, 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 doing the peddling and/or soliciting activity has first registered at the Borough Building and has received an

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- identification card from the office of the Chief of Police of the Borough of Aspinwall.
2. The following individuals shall be exempt from the registration requirement set forth in subsection (1), above and the identification card requirement of §13-203 below:
 - A. Children under 18 years of age soliciting or peddling on behalf of a non-profit, school or governmental organization.
 - B. Persons soliciting on behalf of a non-profit or neighborhood organization for either donations to, or membership in, such organization.
 3. 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.
 4. Fees for registration under this Part shall be established, from time to time, by resolution of the Borough Council.

(Ord. 995, 12/10/2003)

§13-203. Identification Card.

Peddlers and/or solicitors regulated by this Part shall carry their identification card, which shall be issued by the Chief of Police without charge, 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. 995, 12/10/2003)

§13-204. 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 1 through March 31: between the hours of 9:00 a.m. to 5:00 p.m., prevailing time, including Saturdays and Sundays.

- B. From April 1 through October 31: between the hours of 9:00 a.m. to 9:00 p.m., prevailing time, including Saturdays and Sundays.

(Ord. 995, 12/10/2003)

§13-205. 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 maybe 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 here 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 Borough Council after a hearing before the Borough Council.

(Ord. 995, 12/10/2003)

§13-206. 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 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. 995, 12/10/2003)

§13-207. No-Soliciting/Peddling/Canvassing 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 Section 13-208 hereof, in addition to any other appropriate actions in law or equity, including prosecution for criminal trespass pursuant to the Pennsylvania Crimes Code, 18

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Pa.C.S.A. §3503, as amended.

(Ord. 995, 12/10/2003)

§13-208. Violations and Penalties.

1. Any individual, firm, corporation or entity who violates, causes or permits the violation of any provision of this Part shall be subject to a criminal fine of not less than \$100 nor more than \$1,000 per violation plus court costs, including reasonable attorney's fees incurred by the Borough, and in default of payment of said fines and costs, to 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 is found to exist or for each Section of the Chapter found to have been violated. Enforcement of this Part shall be by action brought before the district justice in the same manner provided for the enforcement of summary offenses under the Pennsylvania Rules of Criminal Procedure. In addition to any other remedy available under law, the Borough may enforce this Part by an action in equity. All fines and penalties collected for violation of this Part shall be paid to the Borough Treasurer. The initial determination of ordinance violation and the service of notice of violation are hereby delegated to the Borough Manager, the Police Chief, the Code Official/Building Inspector, the Zoning Officer, the Code Enforcement Officer and their designees and to any other officer or agent that the Borough Manager or the Borough Council shall deem appropriate.
2. A separate offense shall arise for each day or portion thereof in which a violation is found to exist or for each section of this Part found to have been violated. All fines and penalties for the violation of this Part shall be paid to the Borough Treasurer.

(Ord. 995, 12/10/2003)

PART 3

TRADING HOURS IN COMMERCIAL DISTRICTS

§13-301. Trading Hours in Commercial Zoning Districts.

All business, commercial and trading activities in the commercial zoning districts of the Borough, as established and designed by the Borough Zoning Ordinance [Chapter 27], are prohibited between the hours of 2:30 a.m. to 6:00 a.m., prevailing time.

(Ord. 994, 7/9/2003, §12601)

§13-302. Exception.

The business, commercial and trading hour restrictions established in §13-301, above, shall not apply to any business that is governed by State or Federal laws or regulations which specifically preempt the Borough's restrictions.

(Ord. 994, 7/9/2003, §12602)

§13-303. Purpose.

The purpose of the business, commercial and trading hour restrictions established in this Part is to promote, protect and safeguard the public health, safety and general welfare.

(Ord. 994, 7/9/2003, §12603)

§13-304. Violations and Penalties.

Any person, firm or corporation who violates a provision of this Part, or fails to comply therewith, or with any requirements thereof, shall be upon conviction thereof in an action brought before a district justice in the manner provided for the enforcement of summary offenses under the Pennsylvania Rules of Criminal Procedure, sentenced to pay a fine of not less than \$100 nor more than \$1,000 plus all court costs including reasonable attorney's fees incurred by the Borough, and in default of payment of said fines and costs, to 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 is found to exist or for each section of this Part found to have been violated. In addition to any other remedy available under law, the Borough may enforce this code by an action in equity. All fines and penalties collected for violation of this code shall be paid to the Borough Treasurer. The initial determination of ordinance violation and the service of notice of violation are hereby delegated to the Borough Manager, the Police Chief, the Code Official/Building Inspector and their designees and to any other officer or agent that the Borough Manager or the Borough Council deems appropriate.

PART 4

AMUSEMENT DEVICES

§13-401. Definitions.

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, as defined below, 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.

PERSON - an individual, proprietorship, partnership, corporation, association or other legal entity.

BOROUGH MANAGER - the Manager of the Borough of Aspinwall, or his or her designee, or the designee of Borough Council.

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(Ord. 995, 12/10/2003)

§13-402. License Required for Possession.

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

(Ord. 995, 12/10/2003)

§13-403. Application; Information Required; Attestation.

1. Any person desiring to procure a license for an amusement device or jukebox shall apply in writing to the Borough 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 Borough 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 Borough 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 Borough 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, relating to unsworn falsification to authorities.
3. No license shall be issued by the Borough Manager until a reasonable time for investigation of the facts set forth in the application and all circumstance relating thereto.

(Ord. 995, 12/10/2003)

§13-404. Ineligibility.

- 1. 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.
- 2. Applicants convicted of a crime may apply to the Borough Council for a license, which may be granted by the Council, provided the applicant can prove to the Council's satisfaction that he is not in violation of any of the terms of his sentence, that he is not a danger to the community, and that the crime which he committed does not render him unsuitable for supervising an area with a concentration of children and young adults.

(Ord. 995, 12/10/2003)

§13-405. Exclusion of Gambling Devices.

- 1. Nothing in this Part shall in any way be construed to authorize, license, or permit

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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.

2. Because the Borough intends to prosecute the illegal possession or use of illegal gambling devices, no Borough employee or agent may promise, suggest or insinuate, either expressly or by implication, that the applicant, licensee, proprietor or owner, who either illegally possesses or uses an illegal gambling device, shall not be prosecuted.

(Ord. 995, 12/10/2003)

§13-406. Fee; Terms; Licensing Replacement Machines.

1. License fees shall be established, from time to time, by resolution of the Borough Council.
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. 995, 12/10/2003)

§13-407. Renewal Applications.

Prior to the expiration date of any license issued under this Part, the holder of such license shall apply to the Borough 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. 995, 12/10/2003)

§13-408. Periodic Inspections by Borough Officials.

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

(Ord. 995, 12/10/2003)

§13-409. Display.

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

2. Any discs, plates or stickers issued by the Borough 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. 995, 12/10/2003)

§13-410. Grounds for Revocation; Contraband.

1. The Borough 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 Borough 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) (relating to scattering rubbish).

(Ord. 995, 12/10/2003)

§13-411. 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 Borough Manager.

(Ord. 995, 12/10/2003)

§13-412. 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. 995, 12/10/2003)

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§13-413. 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. 995, 12/10/2003)

§13-414. License Fee Collection.

All license fees herein provided shall be collected by the Borough Manager and turned over to the Borough Treasurer.

(Ord. 995, 12/10/2003)

§13-415. Revocation for Violation; Violations and Penalties.

1. Any licensee violating this Part shall have their license(s) immediately revoked by the Borough Manager, and no one shall operate or open to business, or attempt to do so, any place of business or establishment subject to the provisions of this Part, without a license in accordance with the provisions of this Part.
2. Any person, firm or corporation who violates a provision of this Part, or who fails to comply therewith, or with any of the requirements thereof, shall be, upon conviction thereof, sentenced to pay a fine of not less than \$100 nor more than \$1,000 for each violation, plus costs, and in default of payment of said fine and costs, to imprisonment to the extent permitted by law for the punishment of summary offenses.
3. A separate offense shall arise for each day or portion thereof in which a violation is found to exist or for each section of this Part found to have been violated. All fines and penalties for the violation of this Part shall be paid to the Borough Treasurer.
4. The Borough may also commence appropriate actions in equity or other to prevent, restrain, correct, enjoin, or abate violations of this Part.

(Ord. 995, 12/10/2003)

PART 5

AMUSEMENT ESTABLISHMENTS

§13-501. Definitions.

The following words when used in this Part, shall have the meanings ascribed to them in this Section, except in those instances where the context clearly indicates otherwise:

AMUSEMENT ARCADE - a facility designed and operated as an amusement center equipped with any combination of five or more mechanical and/or electronic amusement devices, either as the sole use or in combination with other business activity, shall be considered to be an amusement arcade.

AMUSEMENT ESTABLISHMENT - a facility or business operated for public or private entertainment, amusement, dances and similar activities. This term shall include, but not be limited to, any amusement arcade, bowling alley, billiard hall, pool hall, shooting gallery, and skating rink.

APPLICANT - any person who makes application for a permit under this Part.

BOWLING ALLEY - a facility or establishment used for bowling and other amusement activities.

BOROUGH - the Borough of Aspinwall.

BOROUGH MANAGER - the Manager of the Borough of Aspinwall, or his designee, or the designee of Borough Council.

LICENSEE - any person who has been issued a license under this Part and has agreed to fulfill all the terms of this Part.

PERSON - any natural person, partnership, firm, association, or corporation.

SKATING RINK - a facility or establishment used for skating, dances and other amusement activities.

(Ord. 995, 12/10/2003)

§13-502. Location of Amusement Establishments.

All amusement establishments must be located in the area of the Borough of Aspinwall in accordance with the provisions of the Borough Zoning Ordinance [Chapter 27] and shall have a current zoning use and occupancy permit. In addition thereto, no amusement establishment shall be located within 500 feet of the following:

- A. Any municipal park, building or facility.

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- B. All firehouses.
- C. All schools.
- D. All churches.
- E. All establishments licensed by the Pennsylvania Liquor Control Board or operated thereunder.

(Ord. 995, 12/10/2003)

§13-503. License Required.

No person shall operate or use property for an amusement establishment without first having procured a license therefore from the Borough Manager. This prohibition shall apply to the owner, operator, manager and/or lessee of the subject property and facility.

(Ord. 995, 12/10/2003)

§13-504. License Application; Information Required and Attestation.

1. Any person desiring to procure a license for an amusement establishment shall apply in writing to the Borough Manager.
2. Such application shall set forth the following:
 - A. The name and address of the applicant.
 - B. The location of the proposed establishment, including a legal description of the property, street address and telephone number(s), if any.
 - C. The applicant's driver's license number, social security number and his or her State or Federally issued tax identification number.
 - D. The name and address of the owner of the property on which the proposed establishment will be located.
 - E. The name, address, driver's license number and social security number of the owner and any operator/manager of the proposed establishment.
 - F. If the owner of the property is not the applicant, then the applicant shall set forth the length of time for which the property and/or premises has been leased.
 - G. Whether the applicant is a citizen of the United States of America.
 - H. A list of all crimes which the applicant has committed within 5 years of the

date of application.

- I. If the owner or operator/manager of the proposed establishment is not the applicant, then the applicant shall submit a signed statement from the owner and operator/manager of the proposed establishment providing a list of all crimes which the owner and operator/manager have committed within 5 years of the date of application.
 - J. A detailed and scaled plan of the configuration of the subject premises identifying its dimensions and the specific locations of all entrances, exits, emergency exits, restrooms, offices, rooms, private areas, fixtures, pay telephones, seating areas, dance floors, dining or snack areas, amusement devices, amusement areas and any other items or areas which the Borough deems important.
 - K. A signed statement from the applicant, property owner, establishment owner and operator/manager that each such party has been provided with a copy of the applicable regulations under this Part and that each such party has read and agrees to be bound by all terms and provisions thereof.
 - L. That the applicant acknowledges that the Borough shall immediately revoke any license issued under this Part for any violation of the regulations under this part or for the violation of any Federal, State or local law.
 - M. 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, relating to unsworn falsification to authorities.
3. No license shall be issued by the Borough Manager until a reasonable time for investigation of the facts set forth in the application and all circumstances relating thereto.

(Ord. 995, 12/10/2003)

§13-505. License Ineligibility.

1. 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; and
 - B. Any person who has been found guilty or accepted Accelerated Rehabilitation Disposition for committing a crime within 5 years of the date of application.

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2. Applicants convicted of a crime may apply to the Borough Council for a license, which may be granted by the Council, provided the applicant can prove to the Council's satisfaction that he or she is not in violation of any of the terms of his or her sentence, that he or she is not a danger to the community, and that the crime which he or she committed does not render him/her unsuitable for supervising an area with a concentration of children and young adults.

(Ord. 995, 12/10/2003)

§13-506. Fees.

1. **Application Fee.** Every application for a license under this Part (whether for a new license or for a renewal of an existing license) shall be accompanied by a non-refundable application and investigation fee in an amount established, from time to time, by resolution of the Borough Council.
2. **License Fee.** In addition to the application fee required above, every applicant that is granted a license under this Part (whether for a new license or for a renewal of an existing license) shall pay to the Borough a non-refundable license fee in an amount established, from time to time, by resolution of the Borough Council.

(Ord. 995, 12/10/2003)

§13-507. Inspections by Borough Officials.

1. An applicant or licensee shall permit authorized Borough officials and their agents or consultants to inspect the premises of any amusement establishment 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. Any person who operates an amusement establishment, including his or her agent or employee, commits a violation of this Part if he or she refuses to permit such lawful inspection of the premises at any time it is occupied or open for business.

(Ord. 995, 12/10/2003)

§13-508. Expiration of License.

1. Each license shall expire 1 year from the date of issuance and maybe renewed only by making application as provided in §13-504 of this Part. Application for renewal shall be made at least 30 days prior to the expiration date of the existing license. When application for renewal is made less than 30 days prior to the expiration date of the existing license, then the date of the license shall not be extended.
2. When the Borough denies renewal of a license, the applicant shall not be issued a license for 1 year form the date of denial. If, subsequent to denial, the Borough

finds that the basis for denial of the renewal license has been corrected or abated, then the applicant may be granted a license if at least 90 days have elapsed from the date denial became final.

(Ord. 995, 12/10/2003)

§13-509. Regulations of Licensees.

All licensees shall abide by the following regulations:

- A. **Hours of Operations.** No establishment subject to the regulations of this Part shall be open for business before 8:00 a.m., or after 9:00 p.m. all events at the establishments shall end by no later than 9:00 p.m. These hours of operation shall apply to any events conducted at the establishment, including those conducted by third parties.
- B. **Private Security Guards.** Licensee shall provide one security guard for every 25 persons patronizing the establishment. These security guards shall remain at the establishment until all patrons have left. Security guards shall wear uniforms and identification badges that clearly indicate their position.
- C. **Reports to Police Department.** Licensee shall immediately report any disturbances, fights, criminal activity or unattended children to the Borough Police Department.
- D. **Special Events.** Licensee shall notify the Borough Police Department at least 48 hours in advance of any special events, including parties and other private functions.
- E. **Pay Telephones.** Licensee shall install and maintain a minimum of five pay telephones to be placed and maintained on the premises of the establishment. At least three pay telephones shall be located inside the establishment, and at least two pay telephones shall be located directly outside the establishment. All pay telephones shall be maintained in proper operating condition at all times. Any repairs needed to maintain the pay telephones in proper operating condition shall be made within 24 hours of any malfunction.
- F. **Waiting Area.** Licensee shall provide an indoor area of at least 375 square feet for patrons to wait for their buses or rides. This waiting area shall not be closed until all patrons have left. Licensee shall not require patrons to leave this waiting area until their buses or rides have arrived.
- G. **Loitering.** Licensee shall not permit patrons to loiter outside the establishment, or in its parking lot after the establishment has closed.
- H. **Letter of Credit.** Licensee shall post a replenishing letter of credit in the

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amount of \$10,000 from a lending institution, acceptable to the Borough, for the benefit of the Borough and to reimburse the Borough for any expenses, including labor costs, incurred by the Borough Police Department in responding to calls and otherwise providing services relating to the operation or patrons of the establishment. This letter of credit shall be in a form and manner acceptable to the Borough Solicitor. The Borough shall have the authority to draw on the letter of credit, in its discretion, for the aforementioned expenses and the Borough shall provide the licensee with notice of such draw and a receipt listing the expenses reimbursed through such draw on the letter of credit. Within 7 days after any such draw from the letter of credit by the Borough, licensee shall replenish the letter of credit to the amount of \$10,000. Licensee shall not refrain from reporting incidents requiring police attention in order to avoid draws on the letter of credit.

- I. **Display of License.** Any license issued under this Part shall be exhibited at any time at the request of the Borough Manager.

(Ord. 995, 12/10/2003)

§13-510. Suspension of License.

The Borough Manager shall immediately suspend any license issued under this Part for a period not to exceed 30 days if he or she determines that a licensee or an agent or employee of a licensee has:

- A. Violated or is not in compliance with any provisions of this Part; or
- B. Refused to permit an inspection of the establishment premises as authorized by §13-307 of this Part.

(Ord. 995, 12/10/2003)

§13-511. Revocation of License.

1. The Borough Manager shall immediately revoke a license issued under this Part if a cause of suspension in §13-510 of this Part occurs and the license has been suspended within the preceding 12 months.
2. The Borough Manager shall immediately revoke a license issued under this Part if he or she determines that:
 - A. Any licensee, property owner, establishment owner or manager provided false or misleading information in the material submitted during the application process.
 - B. Any licensee, property owner, establishment owner, operator/manager and/or agent/employee knowingly allowed possession, use, or sale of

controlled substances on the premises.

- C. Any licensee, property owner, establishment owner, operator/manager and/or agent/employee of the establishment knowingly permitted a violation of any Federal, State or local law on the premises.
 - D. Any licensee is delinquent in payment to the Borough of any licensing fees, municipal service fees or taxes.
 - E. Such revocation is necessary for the benefit or protection of the public health, safety, welfare or morals.
3. When the Borough revokes a license, the revocation shall continue for 1 year, and the licensee shall not be issued a license under this Part for 1 year from the date the revocation became effective. If, subsequent to revocation, the Borough 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.

(Ord. 995, 12/10/2003)

§13-512. Appeals of License Denials, Suspensions or Revocations.

- 1. 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 specifically state the requirements not met and any other basis for the decision. After denial of an application, or denial of a renewal of a license, or after suspension or revocation of a license, the applicant or licensee may appeal to the Borough Council pursuant to the Local Agency Law, 2 Pa.C.S.A. §§105, 551 *et seq.* and 751 *et seq.*, as amended. The Council 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 Borough Manager within 10 days from the date of mailing of the decision appealed from. Failure to file an appeal with the Borough Manager within the above-mentioned time period 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 an appeal; or (b) the date of a decision dismissing any appeal.
- 2. Any person aggrieved by a decision of the Borough Council may appeal to a court of competent jurisdiction. The Borough shall, upon filing of such appeal, consent to any request by a license applicant or licensee to the court to give expedited review of such appeal. The Borough shall certify any record to the court within 20 days of any request by the court to do so.

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§13-513. Penalties.

1. Any person, firm or corporation who violates a provision of this Part, or who fails to comply therewith, or with any of the requirements thereof, shall be, upon conviction thereof, sentenced to pay a fine of not less than \$300 nor more than \$1,000 for each violation, plus costs, and in default of payment of said fine and costs, to imprisonment to the extent permitted by law for the punishment of summary offenses.
2. A separate offense shall arise for each day or portion thereof in which a violation is found to exist or for each section of this Part found to have been violated. All fines and penalties for the violation of this Part shall be paid to the Borough Treasurer.
3. The Borough may also commence appropriate actions in equity or other to prevent, restrain, correct, enjoin, or abate violations of this Part.

(Ord. 995, 12/10/2003)

PART 6

JUNKYARDS

§13-601. Definitions.

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 “licensee.”

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 Aspinwall Borough.

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 Borough 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 shall include 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 Borough Council 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.”

(Ord. 995, 12/10/2003)

§13-602. License.

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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 Borough without having first secured a license from the Borough. Such license shall be issued by the Borough, or its representative, 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. 995, 12/10/2003)

§13-603. Contents of Application for License.

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

- 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 Borough Zoning Ordinance [Chapter 27], the Borough Subdivision and Land Development Ordinance [Chapter 22], and all other applicable ordinances, laws and regulations. A junkyard or scrap yard shall have 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 proposed junkyard

fronts on or has access to a State highway, all proper permit must be obtained from the Pennsylvania Department of Transportation.

- (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 Borough may from time to time require.

(Ord. 995, 12/10/2003)

§13-604. Preliminary Approval.

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

- A. The Code Official/Building Inspector shall review the application and plans for completeness and for compliance with this Part, other Borough ordinances and regulations and, any state or federal laws or regulations.
- B. The Code Official/Building Inspector 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 Borough, with specific reference to the general health, safety and welfare of the public and the residents of the Borough.
- C. The Borough Council, in its sole discretion, may hold a public hearing on the application.
- D. The Borough Council 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 Borough.
- E. After completion of the above items, and the determination by the Borough Council that the applicant's plans and representations comply with this Part and all other applicable ordinances, laws, rules and regulations, the Borough Council shall issue in writing a "preliminary approval" of the site.
- F. Preliminary approval shall be in writing, and shall contain a statement that the application and plans as submitted are acceptable to the Borough

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Council 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.

- G. Preliminary approval shall commit the Borough 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.
- H. No junkyard, scrap yard or junk dealer shall conduct business on the site until a license is issued.
- I. It shall be solely the obligation of the applicant to communicate to the Borough, 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.
- J. 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 Borough Council and the Borough shall not thereafter be required to issue a license automatically, at the expiration of 6 months.

(Ord. 995, 12/10/2003)

§13-605. 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 Borough. Such application for renewal shall be filed with the Borough within such time as to allow the Borough 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 Borough Council shall, from time to time, establish rules and regulations governing the application for and issuance of renewal licenses.

(Ord. 995, 12/10/2003)

§13-606. 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 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 Borough or its appointed representative at any reasonable time.
- L. Any property not provided for and approved by the Borough 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 Resources 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

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tarpaulin and not left exposed to the weather or enclosed within the structure.

(Ord. 995, 12/10/2003)

§13-607. Physical Characteristics.

1. The area used for a junkyard shall be completely enclosed with a solid board or metal fence, or a mound of ground, with a minimum height of 10 feet; or by a screen of trees; or by a combination of the above, as approved by the Borough Council. 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 Borough Council, who may approve such fencing or screening as may be deemed necessary in view of natural contours, features and requirements. Tree screening utilized shall follow the following guidelines:
 - A. A minimum of two rows of trees, shrubs or other vegetation, not less than 50% 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 insect 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.
2. The required fencing and screening shall be set back the following minimum distance from the property line or street:
 - A. Solid fencing - 25 feet from public right-of-way and 25 feet from all property lines.
 - B. Tree screening - 25 feet from the public right-of-way and 25 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.
3. 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 Borough Zoning Ordinance [Chapter 27], the Borough Subdivision and Land Development Ordinance [Chapter 22] and any other applicable provision of this Code or other Borough ordinance.

4. Sufficient onsite parking will be provided for loading and unloading vehicles as well as for employee and customer parking.
5. It shall be the responsibility of the junkyard owner or operator to maintain the screening established by it, doing such painting and repairs as to keep any fences, walls or other structural material in good appearance. Plant material 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 Borough.
6. Failure to maintain screening shall result in the revocation of the junkyard license.

(Ord. 995, 12/10/2003)

§13-608. Location Must Conform to Borough Zoning Regulations.

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

(Ord. 995, 12/10/2003)

§13-609. Extension or Enlargement of Existing Junkyards.

Any person wishing to extend or enlarge the area of an existing junkyard shall make application for new license in accordance with the provisions of this Part, and will be required to comply with all provisions of this Part as if he were applying for a license for a new junkyard.

(Ord. 995, 12/10/2003)

§13-610. 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 Borough. Any person wishing to transfer or assign such license shall make a written request to do so, directed to the Code Official/Building Inspector 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 transfer fee, the amount of which shall, from time to time, be determined by the Borough Council; 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. 995, 12/10/2003)

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§13-611. Revocation and Suspension of License.

The Code Official/Building Inspector 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 Borough shall notify the licensee, in writing of any Section or Sections of this Part which the Borough 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. 995, 12/10/2003)

§13-612. Fees.

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

(Ord. 995, 12/10/2003)

§13-613. Rules and Regulations.

The Borough Council may, from time to time, review or alter the rules and regulations, the application for, renewal application for, and any other forms reasonable and necessary to the proper and effective administration of this Part.

(Ord. 995, 12/10/2003)

§13-614. 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 Borough 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. 995, 12/10/2003)

§13-615. Inspections.

The Borough Code Official/Building Inspector or any other representative of the Borough 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. 995, 12/10/2003)

§13-616. Penalty for Violation.

1. Any violation of this Part or failure to comply with any provision or provisions of this Part shall constitute a summary offense. Any person, partnership or corporation who or which shall violate any of the provisions of this Part shall, upon conviction thereof in a summary proceeding, be sentenced to pay a fine of not less than \$300 nor more than \$1,000 plus all court costs including reasonable attorney fees incurred by the Borough. In default of payment of any fine and court costs levied hereunder, such person, the members of such partnership or the officers and directors of such corporation, shall be subject to imprisonment for not more than 30 days. Each day that a violation of this Part exists shall constitute a separate offense. All fines collected for the violation of provisions of this Part shall be paid over to the Borough.
2. The Borough may also commence appropriate actions in equity or other to prevent, restrain, correct, enjoin, or abate violations of this Part.

(Ord. 995, 12/10/2003)

PART 7
GASOLINE STATIONS

§13-701. Self-Service Islands in Existing Gas Stations.

All present gas stations, whether in Zone Classification AC-1 or AC-2, may provide one or more self-service islands provided that they follow procedures set forth in §§13-703 and 13-1004.

(Ord. 777, 12/14/1983, §7601)

§13-702. Self-Service Gas Station.

A self-service gas station may only be erected in Zone Classification AC-2 except as provided for preexisting stations set forth in §13-701. All new self-service stations must comply with the requirements of §§13-703 and 13-1004 of this Part.

(Ord. 777, 12/14/1983, §7602)

§13-703. Required Building and Zoning Permits.

Before a self-service station or a self-service island in an existing station may be installed at any permitted location, the proprietor must first obtain applicable zoning and building permits issued in compliance with the Borough Building Code [Chapter 5] and Zoning Ordinance [Chapter 27].

(Ord. 777, 12/14/1983, §7603; as amended by Ord. 806, 6/11/1986)

§13-704. Construction Specifications.

The following construction specifications are required for the installation of a self-service island:

- A. Each island must have its own separate lighting.
- B. Each individual gas pump must have an automatic overflow shutoff valve.
- C. Every self-service gas pump must be controlled from a central control panel within a building on the premises.
- D. A masonry structured building of minimum size, 8 feet by 10 feet, must be on the premises which provides the self-service pump in accordance with the following:

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- (1) A window minimum size, 4 feet by 6 feet must be placed in said building so as to provide the attendant on duty a full, clear, unobstructed view of every self-service pump on the premises.
 - (2) The attendant's observation cubicle must be provided with fire extinguishers adequate to put out small oil or gasoline fires.
 - (3) The building and islands must be conspicuously posted with "No Smoking or Open Flame Permitted" signs.
- E. No overhead power lines are permitted above the self-service island.
- F. No vehicles may be parked at the self-service island or in the attendant's line of sight from the observation cubicle to the self-service pump.
- G. No trash or paper waste canisters will be permitted in, on or around any self-service island.
- H. A full-time attendant must be on duty during the business operation hours of the self-service islands. Said attendant must operate the central control panel within the building. [*Ord. 781*]

(*Ord. 777, 12/14/1983, §7604; as amended by Ord. 781, 2/8/1984, §4*)

§13-705. Penalties.

1. Any person, firm or corporation who violates a provision of this Part, or who fails to comply therewith, or with any of the requirements thereof, shall be, upon conviction thereof, sentenced to pay a fine of not less than \$300 nor more than \$1,000 for each violation, plus costs, and in default of payment of said fine and costs, to imprisonment to the extent permitted by law for the punishment of summary offenses.
2. A separate offense shall arise for each day or portion thereof in which a violation is found to exist or for each section of this Part found to have been violated. All fines and penalties for the violation of this Part shall be paid to the Borough Treasurer.
3. The Borough may also commence appropriate actions in equity or other to prevent, restrain, correct, enjoin, or abate violations of this Part.

(*Ord. 777, 12/14/1983, §7604; as amended by Ord. 781, 2/8/1984, §4; by Ord. 806, 6/11/1986; and by Ord. 995, 12/10/2003*)

PART 8

ADULT ORIENTED BUSINESSES

§13-801. Purpose and Findings.

1. Purpose.

- A. Pursuant to the authority granted in the Borough Code to prohibit nuisances; to promote the health, welfare, cleanliness, comfort and safety of the citizens of the Borough of Aspinwall; and to regulate the time of opening and closing, and the conduct of places of public entertainment, amusement and recreation, the Borough of Aspinwall enacts this Part to minimize and control the adverse secondary effects of an 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 Borough Council has determined that licensing is a legitimate and reasonable means of accountability to insure that operators of adult oriented businesses comply with reasonable regulations and to insure that operators do not knowingly allow their establishments to be used as places of illegal sexual activity or solicitation.
- C. The Borough Council 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 Borough Council 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, fully in possession and control of the premises and activities occurring therein.

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- 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 disease 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 a adult oriented business license has been convicted of a 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 adult transmitted diseases.
- I. The general welfare, health and safety of the citizens of the Borough will be promoted by the enactment of this Part.
- J. Limitation of operating hours of adult oriented businesses to 10:00 a.m. to 10:00 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 adult offensive materials and activities in public areas, and further promotes the public health, safety and welfare.

(Ord. 950, 4/14/1999, §1; as amended by Ord. 995, 12/10/2003)

§13-802. Definitions.

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

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, vide 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. [*Ord. 995*]

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

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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. [*Ord. 995*]

EMPLOYEE - a person who performs any service on the premises of a 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 - means 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 a 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 a 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 a adult oriented business.

NUDE MODEL STUDIO - any place where a person who appears semi-nude, 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 discernibly turgid state.

PERSON - an individual, proprietorship, partnership, corporation, association or other legal entity.

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 - defined the same as "adult oriented

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business.” See “adult oriented business.” [Ord. 995]

SPECIFIED ANATOMICAL AREAS - 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 means 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 - means 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. [*Ord. 995*]

TRANSFER OF OWNERSHIP OR CONTROL of a 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 of 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"; or (2) persons who appear in a state of nudity or seminudity or who offer performances or presentations characterized by the exposure of "specified anatomical areas" or by "specified sexual activities."

(*Ord. 950, 4/14/1999, §2; as amended by Ord. 995, 12/10/2003*)

§13-803. License Required.

1. It is unlawful:
 - A. For any person to operate a adult oriented business without a valid adult oriented business license issued by the Borough pursuant to this Part.
 - B. For any person who operates a adult oriented business to employ a person to work for the adult oriented business who is not licensed as a adult oriented business employee by the Borough pursuant to this Part.
 - C. For any person to obtain employment with a adult oriented business without having secured a adult oriented business employee license pursuant to this Part.

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- 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 a 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 a adult oriented business employee by the Borough pursuant to this Part.
 - F. Beginning on the sixtieth day after enactment of this Part for any person to obtain employment with a adult oriented business in operation at the time of enactment of this Part without having secured a adult oriented business employee license pursuant to this Part.
- 2. An application for a license must be made on a form provided by the Borough.
 - 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 Borough to determine whether the applicant meets the qualifications established in this Part.
 - 4. If a person who wishes to operate a 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 a adult oriented business is other than an individual, each individual who has a 20% 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 a 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.
 - (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.

- 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; and (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. [*Ord. 995*]
- 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 permit 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

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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 a adult oriented business which includes viewing booths, then the applicant shall also comply with the application requirements set forth in §13-811 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 Borough Zoning Officer or Building Official and (2) that Department of Labor and Industry approval is required.
6. Before any applicant may be issued a adult oriented business employee license, the applicant shall submit on a form to be provided by the Borough 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 a 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. 950, 4/14/1999, §3; as amended by Ord. 995, 12/10/2003)

§13-804. Issuance of License.

- 1. Upon the filing of said application in a fully completed form for a adult oriented business license or for a adult oriented business employee license, the application shall then be referred to the Borough Zoning Officer for review and investigation. The Borough Zoning Officer shall utilize any available resources through the 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 Borough Zoning Officer shall issue a license unless it is determined by the Borough Zoning Officer 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 a adult oriented business employee license revoked by the Borough within 2 years of the date of the current application. If the adult oriented business employee license is denied, the temporary license

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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 §13-809.

- F. The required application, investigation and license fees have not been paid.
 - G. An applicant's license to operate a 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 Borough 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 §13-805 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 Borough.
 5. A 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 §13-809(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 Borough Council. The Borough Council 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 Borough Council may be taken to court subject to §13-809(E) of this Part.

(Ord. 950, 4/14/1999, §4; as amended by Ord. 995, 12/10/2003)

§13-805. Fees.

1. Every application for a adult oriented business license (whether for a new license or for renewal of an existing license) shall be accompanied by a non-refundable application and investigation fee in an amount set by resolution of the Borough Council.
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 Borough an annual non-refundable license fee in an amount set by resolution of the Borough Council within 30 days of the license issuance or renewal.
3. Every application for a 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 Borough Council.
4. All license applications and fees shall be submitted to the office of the Borough Secretary/Treasurer, and, thereafter, the applications shall be forwarded to the Borough Zoning Officer for review and investigation and approval or denial.

(Ord. 950, 4/14/1999, §5; as amended by Ord. 995, 12/10/2003)

§13-806. Inspection.

1. An applicant or license shall permit authorized Borough officials and their agents or consultants to inspect the premises of a 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 a adult oriented business, including his/her agent or employee, commits a violation of this Part if he/she refuses to permit such lawful inspection of the premises at any time it is occupied or open for business.

(Ord. 950, 4/14/1999, §6; as amended by Ord. 995, 12/10/2003)

§13-807. Expiration of License.

1. Each license shall expire one year from the date of issuance and may be renewed only by making application as provided in §13-803. 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 Borough denies renewal of a license, the applicant shall not be issued a license for one year from the date of denial. If, subsequent to denial, the Borough 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.

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(*Ord. 950, 4/14/1999, §7*)

§13-808. Suspension.

The Borough Zoning Officer 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. 950, 4/14/1999, §8; as amended by Ord. 995, 12/10/2003*)

§13-809. Revocations and Appeals of Denials, Suspensions or Revocations.

1. The Borough Zoning Officer shall revoke a license if a cause of suspension in §13-808 of this Part occurs and the license has been suspended within the preceding 12 months.
2. The Borough Zoning Officer 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 Borough for any licensing fees past due.
3. When the Borough revokes a license, the revocation shall continue for 1 year, and the licensee shall not be issued a adult oriented business license for 1 year from the date the revocation became effective. If, subsequent to revocation, the Borough 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 to the Borough Council. The Borough Council 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 Borough Secretary/Treasurer within 10 days from the date of mailing of the decision appealed from. Failure to file said appeal with the Borough Secretary/Treasurer 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: (1) the expiration of the 10-day appeal period without filing of an appeal; or (2) the date of a decision dismissing any appeal.
5. Any person aggrieved by a decision of the Borough Council may appeal to a court of competent jurisdiction. The Borough 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 Borough shall certify any record to the court within 20 days of any request by the court to do so.

(Ord. 950, 4/14/1999, §9; as amended by Ord. 995, 12/10/2003)

§13-810. Transfer of License.

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

(Ord. 950, 4/14/1999, §10; as amended by Ord. 995, 12/10/2003)

§13-811. Regulations Pertaining to Exhibition of Adult Explicit Films, Videos or Live Entertainment in Viewing Rooms.

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

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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 Borough 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. The view required in this subsection must be by direct line of sight from the manager's station. 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 room 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 5.0 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 subsections (A) through (M) of subsection (1) above commits a violation of this Part if he knowingly fails to fulfill that duty.

(Ord. 950, 4/14/1999, §11; as amended by Ord. 995, 12/10/2003)

§13-812. 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. 950, 4/14/1999, §12)

§13-813. Additional Regulations for Nude Model Studios.

- 1. A nude model studio shall not employ any person under the age of eighteen 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

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public.

(*Ord. 950, 4/14/1999, §13*)

§13-814. 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.
 - 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 Borough 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 a 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 a 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 a adult oriented business.

(*Ord. 950, 4/14/1999, §14; as amended by Ord. 995, 12/10/2003*)

§13-815. 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

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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 first obtaining a written parental authorization. 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 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. 950, 4/14/1999; as added by Ord. 995, 12/10/2003)

§13-816. 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 a adult oriented business.

(Ord. 950, 4/14/1999, §15; as amended by Ord. 995, 12/10/2003)

§13-817. Hours of Operation.

No adult oriented business shall be open for business before 10:00 a.m., Monday through Saturday, or after 10:00 p.m., Monday through Saturday. Adult oriented businesses shall be closed at all times on Sundays and legal State or Federal holidays.

(Ord. 950, 4/14/1999, §16; as amended by Ord. 995, 12/10/2003)

§13-818. Exemptions.

- 1. It is a defense to prosecution under §13-814 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.

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- 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.

(Ord. 950, 4/14/1999, §17)

§13-819. Violations and Penalties.

1. Any person, firm or corporation who violates a provision of this Part, or who fails to comply therewith, or with any of the requirements thereof, shall be, upon conviction thereof, sentenced to pay a fine of not less than \$300 nor more than \$1,000 for each violation, plus costs, and in default of payment of said fine and costs, to imprisonment to the extent permitted by law for the punishment of summary offenses.
2. A separate offense shall arise for each day or portion thereof in which a violation is found to exist or for each section of this Part found to have been violated. All fines and penalties for the violation of this Part shall be paid to the Borough Treasurer.
3. The Borough may also commence appropriate actions in equity or other to prevent, restrain, correct, enjoin, or abate violations of this Part.

(Ord. 950, 4/14/1999, §18; as amended by Ord. 995, 12/10/2003)

PART 9

INTER-MUNICIPAL LIQUOR LICENSE TRANSFERS

§13-901. Borough Approval Procedure.

Any person, corporation or other entity seeking Borough approval for an inter-municipal 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. 995*, 12/10/2003)

§13-902. Application for Approval of License Transfer.

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

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- 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 Borough 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 licenses in the Borough which are inactive, in safekeeping and/or for sale, including name, address and telephone number of contact person for each.
 - S. The number of existing liquor licenses of all types within the Borough.
 - T. The population of the Borough 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, relating to unsworn falsifications to authorities.
 - V. Any other information deemed appropriate by the Borough 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 Borough 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 Borough 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. 995, 12/10/2003)

§13-903. Application Fee.

In order for any application to be accepted by the Borough as administratively complete, the applicant must submit an application fee to defray the Borough'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

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by resolution of Borough Council.

(*Ord. 995, 12/10/2003*)

§13-904. Public Hearing Advertisement and Posting.

Upon receipt of an administratively complete application, including the appropriate filing fee required by this Part, the Borough shall schedule a public hearing. The Borough shall advertise a public notice for the hearing at least one week prior to the hearing date in a newspaper of general circulation in the Borough. The Borough 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.*, for the posting of a property for a proposed re-zoning.

(*Ord. 995, 12/10/2003*)

§13-905. Council Action.

In deciding whether the proposed transfer application would- adversely affect the welfare, health, peace, and morals of the Borough or its inhabitants, the Council of the Borough may consider, in addition to the information required by §13-902 hereof, any or all of the following:

- A. A report and recommendation from the Borough Manager and the Borough Police Chief.
- B. The population of the Borough, 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 Fox Chapel 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 Borough or its inhabitants and which the Borough Council deems appropriate and relevant to the proceedings.

(*Ord. 995, 12/10/2003*)

§13-906. Hearing.

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

(Ord. 995, 12/10/2003)

§13-907. Council Decision.

Borough Council shall render a written decision either approving or denying the transfer of the liquor license within 45 days of the filing of an administratively complete application. Borough Council may: (1) approve an application; (2) approve an application subject to certain specified conditions; or (3) 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 Borough 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 Borough approval.

(Ord. 995, 12/10/2003)

