

## **CHAPTER 13**

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**PART 1**

**PEDDLING**

**§13-101. Definitions.**

**PEDDLER**—as used in this Part shall mean any person who shall engage in peddling as hereinafter defined.

**PEDDLING**—as used in this Part, shall mean engaging in selling, peddling, canvassing, soliciting or taking of orders, either by sample or otherwise, for any goods, wares or merchandise, including subscriptions for magazines or other printed matter, the obtaining of contracts for home and building devices, repairs and improvements, and the securing of contribution to various causes and organizations, from house to house, or upon any street or sidewalk in the borough, or by a telephone within the borough; provided, the word “peddler” shall not apply (1) to farmers selling their own produce, (2) to those selling goods, wares and merchandise, donated by the owners thereof, the proceeds whereof are to be applied to any charitable or philanthropic purpose, or (3) to any manufacturer or producer in the sale of bread and bakery products, meat and meat products, or milk products, or (4) to boys and girls under 18 years of age, who take orders for and deliver newspapers, greeting cards, candy and the like or who represent the Boy Scouts or Girl Scouts or similar organizations, and take orders for and deliver cookies and the like, or (5) to any person who works for an organization which has registered with the Pennsylvania Department of State, as required by Act No. 337, approved August 9, 1963, known as the “Solicitation of Charitable Funds Act”.

**PERSON**—as used in this Part shall mean any natural person, association, partnership, firm or corporation.

*(Ord. 251, 5/12/1970, §1)*

**§13-102. License Required.**

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

*(Ord. 251, 5/12/1970, §2)*

**§13-103. Application; Photographs; Fees.**

1. Every person desiring to engage in peddling in the Borough of Wormleysburg shall submit a written application to the Borough Chief of Police, accompanied by two photographs (2-1/2" x 3") of himself, taken within 6 months prior to the date of the application.
2. The application shall state his name, age, sex, home address, business address, name and address of employer, if any, what he desires to peddle, the make and

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type of vehicle, if any, he will use, its registration number, and whether he has ever been convicted of a felony, misdemeanor, or a crime of any kind involving moral turpitude. Said application shall further state the length of time for which he wishes to be licensed and the number of helpers he has; provided, where a person makes application for himself and one or more helpers, all applicable personal information specified above shall be required for each helper.

3. The Borough Chief of Police will issue to the applicant a (license to which one of the applicant's photographs will be affixed) within 15 days from the date of the filing of application provided that the proper fee, as established by Resolution of Borough Council, shall be paid to the Borough Chief of Police, which shall be for the use of the Borough.
4. A license will not be issued to any person who has been convicted of a felony, misdemeanor, or a crime of any kind involving moral turpitude, and such persons shall not be allowed to engage in peddling in the borough.

(*Ord. 251, 5/12/1970, §3; as amended by Ord. 361, 4/8/1986*)

### **§13-104. Sales Limited by License.**

No peddler shall engage in the selling or dealing with any product not mentioned upon such license.

(*Ord. 251, 5/12/1970, §4*)

### **§13-105. Other Limitations.**

No peddler shall:

- A. Hawk or cry his wares from any of the streets or sidewalks of the Borough, nor shall he use any speaker or horn or any other device for announcing his presence, by which the public is annoyed.
- B. Park any vehicle upon any of the streets or alleys of the Borough in order to sort, rearrange or clean any of his goods, wares or merchandise.
- C. Deposit any refuse upon any of such streets or alleys.
- D. Maintain or keep a street or curbstone market by parking any vehicle upon any street or alley in the Borough for longer than necessary in order to sell therefrom to persons residing in the immediate vicinity.
- E. Occupy any fixed location upon any of the streets, alleys or sidewalks of the Borough for the purpose of peddling, with or without any stand or counter.

(*Ord. 251, 5/12/1970, §5*)

**§13-106. Police May Suspend License for Cause.**

The Borough Chief of Police of the Borough of Wormleysburg is hereby authorized to suspend any license issued under this Part when he deems such suspension to be beneficial to the public health, safety or morals, or for violation of any of the provisions of this Part, or for giving false information upon any application for a license hereunder.

(*Ord. 251, 5/12/1970, §6*)

**§13-107. Penalties.**

Any person, firm or corporation who shall violate any provision of this Part shall, upon conviction thereof, be sentenced to pay a fine of not more than \$300; and/or to imprisonment for a term not to exceed 90 days. Every day that a violation of this Part continues shall constitute a separate offense.

(*Ord. 251, 5/12/1970, §7; as amended by Ord. 361, 4/8/1986*)



**PART 2**

**CABLE TELEVISION**

**§13-201. Preliminary Provisions**

1. **Short Title.** This Part shall be known and may be cited as the "Borough of Wormleysburg's Cable Television Ordinance of 1994."
2. **Purpose.** The purpose of this Part is to regulate cable television in the exercise of the power of the Borough Council to (i) regulate telephone, telegraph and electric power poles, and other obstructions erected upon or in the streets and roads of the Borough, and (ii) provide for the maintenance of peace, good government, safety and welfare of the Borough, and its trade, commerce and manufactures.
3. **Federal Law.** This Part is enacted under the Federal Cable Television Consumer Protection and Competition Act of 1992, which permits local franchising authorities to regulate cable television, subject to certain substantive and procedural limitations.
4. **Interpretation.** In interpreting and applying the provisions of this Part, these provisions shall be construed broadly as required for the maintenance of peace, good government, safety and welfare of the Borough and its trade, commerce and manufactures.
5. **Conflict with Federal Law.** It is the intent of the Borough Council that this Part conforms to the Federal law. If a court of competent jurisdiction declares any provision of this Part to be in conflict with the Federal law, the Federal law will control and this Part, to the extent that any provision is declared to be in conflict with the Federal law, shall not apply.

(Ord. 403, 4/12/1994, §1)

**§13-202. Definitions.**

As used in this Part, the following words, phrases and terms shall have the following meanings:

**ASSOCIATED EQUIPMENT**—all equipment in a cable subscriber's home that is used to receive the basic service, regardless of whether such equipment is additionally used to receive other tiers of regulated programming service and/or unregulated service. Such equipment shall include, but not be limited to, (i) converter boxes; (ii) remote control units; (iii) connections for additional television receivers; and (iv) other cable home wiring.

**BASIC SERVICE**—at a minimum, all signals of domestic television broadcast stations provided to any subscriber (except a signal secondarily transmitted by satellite carrier beyond the local service area of such station, regardless of how such signal is ultimately received by the cable system), any public, educational

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and governmental programming required by the franchise to be carried on the basic tier, and any additional video programming signals as a service added to the basic tier by the cable operator. (Example: Sammons' "Lifeline".)

**BASIC SERVICE RATE**—the rate charged by a cable operator for basic service, and associated equipment costs.

**CABLE OPERATOR**—any person or group of persons (i) that provides Cable Service over a Cable System and directly or through one or more affiliates owns a significant interest in such Cable System, or (ii) who otherwise owns, controls or is responsible for, through any arrangement, the management and operation of a Cable System.

**CABLE SERVICE**—(i) video programming, or transmission to subscribers of a (a) video programming, or (b) other programming service, and (ii) subscriber interaction, if any, which is required for the selection of such video programming or other programming service.

**CABLE SYSTEM**—a facility, consisting of a set of closed transmission paths and associated signal generation, reception and control equipment that is designed to provide Cable Service which includes video programming and which is provided to multiple subscribers within a community, but does not include (i) a facility that serves only to retransmit the television signals of one or more television broadcast stations, (ii) a facility that serves only subscribers in one or more multiple unit dwellings under common ownership, control or management, unless such facility uses any public right-of-way, (iii) a facility of a common carrier except to the extent that such facility is used in the transmission of video programming directly to subscribers, or (iv) any facilities of any electric utility used solely for operating its electric utility systems.

**FEDERAL LAW**—the Federal Cable Communications Policy Act of 1984, as amended by the Cable Television Consumer Protection and Competition Act of 1992 and all regulations promulgated by the FCC thereunder, as any of the foregoing may be amended from time to time.

**FCC**—the Federal Communications Commission.

**GOVERNING BODY**—the Borough Council of the Borough of Wormleysburg.

**MUNICIPALITY**—the Borough of Wormleysburg.

(Ord. 403, 4/12/1994, §2)

### §13-203. Administrative Provisions.

#### 1. Appointment and Powers of Compliance Officer.

- A. For the administration of this Part, a compliance officer, who shall not hold any elective office in the Borough, shall be appointed by the Borough Council by resolution.



- B. The compliance officer shall meet the qualifications established by the Borough Council and shall be able to demonstrate to the satisfaction of the Borough Council a working knowledge of cable regulations under the Federal law and this Part.
  - C. The compliance officer shall administer this Part in accordance with its literal terms.
2. **Duties of Compliance Officer.** The compliance officer shall be responsible for:
- A. Taking such action on behalf of the Borough as may from time to time be required to obtain or maintain the Borough's certification to regulate basic service rates.
  - B. Notifying all cable operators serving the Borough when the Borough has been certified by the FCC to regulate basic service rates.
  - C. Notifying all cable operators serving the Borough that the Borough intends to enforce the minimum customer service standards established by the Federal law.
  - D. Making all filing required or permitted to be made to the FCC by the Borough pursuant to the Federal law, subject to oversight and control of the Borough Council.
  - E. Receiving, filing in the public records of the Borough, reviewing for completeness and placing on the Borough Council's agenda for consideration, all submissions, petitions and other filing required or permitted to be made to the Borough pursuant to the Federal law. All s ubmissions, petitions and other filings made to the Borough pursuant to the Federal law shall be made via first-class mail, postage pre-paid, to the following address: Borough of Wormleysburg, Attn: Cable Television Compliance Officer, 20 Market Street, Wormleysburg, PA 17043.
  - F. Receiving and transmitting to the proper officer of the Borough any filing fees paid pursuant to this Part. The filing fees shall be as follows:
    - (1) Compliance Report: \$100
    - (2) Rate Income Application: \$300
  - G. Enforcing the provisions of this Part and all decisions of the Borough Council made hereunder to the fullest extent permitted by the Federal law, subject to the oversight and control of the Borough Council.
  - H. Taking such other actions as may be necessary from time to time, subject to the oversight and control of the Borough Council, to protect the right of the

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Borough to regulate cable television to the fullest extent permitted by the Federal law.

(Ord. 403, 4/12/1994, §3)

### **§13-204. Rate Regulation Provisions.**

1. **Regulation of Basic Service Rates.** The Borough Council shall regulate basic service rates in accordance with the substantive and procedural provisions of the Federal law and any applicable State law or regulations or local ordinances.

#### **A. Duties of Cable Operators.**

- (1) Within 30 days of receiving written notification from the Borough that the Borough has been certified by the FCC to regulate rates for the basic service, a cable operator shall file its schedule of rates for the basic service and associated equipment with the Borough (together with the fee specified by §13-203(2)(F)).
- (2) At least 30 days prior to increasing its rates for the basic service, a cable operator shall notify each subscriber of the proposed rate increase and shall file a notice of its proposed rate increase with the Borough (together with the fee specified by §13-203(2)(F)).
- (3) At the time of filing a schedule of rates or a proposed rate increase with the Borough, a cable operator shall (i) publish a summary of the rates or rate increase in a local newspaper for at least 3 consecutive days, and (ii) cable cast a summary of the rates or rate increase on its public information channel, at least twice daily at such times as are reasonably expected to reach the largest audience, over a 3 day period, in each case notifying interested parties that they must submit written comments by a date certain (within 15 days of the cable operator's filing with the Borough), at the appropriate address.
- (4) A cable operator shall comply with all orders of the Borough, except that a cable operator shall not be required to comply with an order if the cable operator demonstrates that complying with the order would require the cable operator to disclose proprietary information.

#### **B. Duties of the Borough.**

- (1) Upon receipt of a cable operator's schedule of rates or a proposed rate increase, the Borough shall cable cast a summary of the rates or rate increase on the channel(s) allocated to the Borough, at least twice daily at such times as are reasonably expected to reach the largest audience, over a 3-day period, along with a notice that interested parties shall submit written comments to the Borough by a date certain (within 15 days of the cable operator's filing with the Borough), at the appropriate address.

- (2) The Borough shall make any decision on the reasonableness of current basic service rates and proposed rate increases pursuant to the procedural and substantive provisions of the Federal law.
- (3) In making a decision on the reasonableness of current basic service rates or proposed rate increases, the Borough shall have the authority to compel the production of proprietary information from cable operators, and in such circumstances, the Borough shall be subject to the confidentiality provisions set forth elsewhere in this Part.

(Ord. 403, 4/12/1994, §4)

**§13-205. Delegation of Ministerial and Administrative Duties.**

The Borough Council hereby designates its ministerial and administrative duties under this Part to the compliance officer.

(Ord. 403, 4/12/1994, §5)

**§13-206. Enforcement.**

In rendering its decisions, the Borough Council shall have the full authority granted to it pursuant to the Federal law to order a cable operator to take any and all actions as the Federal law permits, including, without limitation:

- A. Ordering a cable operator to implement a reduction in basic service tier or associated equipment rates where necessary to bring rates into compliance with the standards set forth in the Federal law.
- B. Prescribing a reasonable rate for the basic service tier or associated equipment after it determines that a proposed rate is unreasonable.
- C. Ordering a cable operator to refund to subscribers that portion of previously paid rates determined to be in excess of the permitted tier charge or above the actual cost of equipment, unless the operator has submitted a cost-of-service showing which justified the rate charged as reasonable. Before ordering such a refund, however, the Borough shall give the operator notice, and shall give the operator 15 days from the date such notice is given to submit written comments to the Borough. Any such refund order shall be further subject to the limitations contained in the Federal law.

(Ord. 403, 4/12/1994, §6)

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### **§13-207. Penalties.**

In the event that a cable operator does not comply with a decision made pursuant to this Part and directed specifically toward the cable operator, the Borough may assess a fine against the cable operator of not less than \$100 nor more than \$600 for each day of noncompliance.

*(Ord. 403, 4/12/1994, §7)*

**PART 3**

**GARAGE/YARD SALES**

**§13-301. Title.**

This Part shall be known as the "Part Regulating and Restricting Garage Sale."

*(Ord. 361, 4/8/1986)*

**§13-302. Purpose.**

Such rules and regulations as set up in this Part designed to control and restrict garage sales in order to protect the public health, safety and convenience and to restrict such sales to casual and/or occasional occurrences only in keeping with the character of the neighborhood where this activity is carried on and with the zoning Part of the Borough of Wormleysburg. The intent of this Part is to eliminate perpetual, prolonged and extended garage sales in residential areas. Such sales if carried indefinitely tend to become retail businesses in residential areas and zones, create a nuisance and usually violate the zoning regulations of the Borough. The provisions of this Part arise from the need to limit, regulate, restrict and control garage sales. It is not the intent of this Part to change or amend the zoning laws, transient business laws and/or any other laws or Parts of the Borough.

*(Ord. 361, 4/8/1986)*

**§13-303. Definitions.**

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

**BOROUGH**—all residential dwellings located within any type of zone, zoned area, zoning district, whether or not said areas or zones are residential, business, commercial or otherwise, within the geographic boundaries of the Borough of Wormleysburg.

**GARAGE SALES**—

- A. The sale or offering for sale of ten or more new, used or secondhand items of personal property at any one residential premises at any one time.
- B. Includes all sales in residential areas entitled "garage sales," "yard sales," "tag sale," "porch sale," "lawn sale," "attic sale," "basement sale," "rummage sale," "flea market sale" or any similar casual sale of tangible personal property.

**GOODS**—any goods, warehouse merchandise or other personal property capable of being the object of a sale regulated hereunder.

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**PERSONS**—individuals, partnerships, family groups, voluntary associations and corporations.

(Ord. 361, 4/8/1986)

### **§13-304. Permit Required; Fee; Conditions for Sales.**

1. It shall be unlawful for any person to conduct a garage sale within the geographic boundaries of the Borough without first obtaining a garage sale license from the Borough after filing an application containing the information hereinafter specified.
2. The first garage sale license issued to any one person or for any one premises within one 12 month period shall be issued without charge. For the second such license issued in any 12 month period, there shall be a nonrefundable fee as established by resolution of Borough Council.
3. No person shall have more than three garage sales in 1 calendar year.

(Ord. 361, 4/8/1986)

### **§13-305. Exemptions.**

This Part shall not be applicable to:

- A. Persons selling goods pursuant to an order of process of a court of competent jurisdiction.
- B. Persons acting in accordance with their powers and duties as public officials.
- C. Any person selling or advertising for sale an item or items of personal property which is specifically named or described in the advertisement and which separate items do not exceed nine in number. Notwithstanding any provisions of this Part, any person may sell up to nine secondhand articles without being subject to the provisions of this Part.
- D. Any publisher of a newspaper, magazine or other publication or other communications media who publishes or broadcasts anything in good faith without knowledge of its false, deceptive or misleading character or without knowledge that the provisions of this Part have not been met.
- E. Any sale conducted by any legitimate business or commercial or industrial establishment on property zoned under the zoning regulations of the Borough with or without the protection of the nonconforming use section of the zoning laws, or any sale conducted by any other vendor or dealer when the sale is conducted in a properly zoned area and not otherwise prohibited by laws of the Commonwealth of Pennsylvania and Parts of the Borough including this Part.

- F. Sales by a bona fide charitable, eleemosynary, educational, cultural or governmental institution, civic group, service club, religious or fraternal society or other tax-exempt organization; provided, however, that the burden of proof to establish the exemption under this subsection shall be on the organization or institution claiming such exemption.
- G. Any public auction having a duration of no more than 2 days and conducted by an auctioneer, licensed by the Commonwealth of Pennsylvania.

(Ord. 361, 4/8/1986)

**§13-306. Enforcement.**

1. This local law shall be enforced by the Police Department. It shall be the duty of the Police Department to investigate any violation of this Part.
2. If after an investigation, a violation is found to exist, the Police Department shall prosecute a complaint before a District Justice pursuant to the provisions of this Part.
3. The person to whom the garage sale license was issued and the person conducting the sale and the owner, tenant or occupant of the premises where the sale or activity is conducted shall be jointly or severally responsible for the maintenance of good order and decorum on the premises during the hours of such sale or activity.
  - A. No such person shall permit any loud or boisterous conduct on such premises or permit vehicles to impede the passage of the traffic on any roads or streets in the area of the premises where the sale is being conducted.
  - B. In the event of an emergency, all such persons shall obey reasonable orders from any member of the Police Department or the Fire Department in order to maintain the public health, safety and convenience.

(Ord. 361, 4/8/1986)

**§13-307. Penalties.**

Any person, firm or corporation who shall violate any provision of this Part shall, upon conviction thereof, be sentenced to pay a fine of not more than \$300 and/or to imprisonment for a term not to exceed 90 days.

(Ord. 361, 4/8/1986)

