

## CHAPTER 13

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**Part 1**

**Heavy Equipment Usage**

**§13-101. Bond Posted by Persons Moving Heavy Equipment or Vehicles.**

No contractor, subcontractor, corporation, partnership, person or persons shall move construction equipment, motor vehicles, and equipment on streets, or on Borough property in order to gain access to private property until he, she or it posts a surety bond in favor of the Borough and approved by the Borough, in the sum of \$10,000 to insure Borough against any damage which he, she or it might cause to streets, or under-ground installations, or other installations, or other property of the Borough, which bond shall be effective for damages which accrue within one year from the time the last entry was made.

(Ord. 526, 6/10/1969, §1)

**§13-102. Exceptions.**

This Part 1 shall not apply where property owners or lawful occupiers of private property, in the ordinary course of business cross a curb or any sidewalk at a location where a curb has been properly cut down in order to gain access to or egress from a driveway or alley leading to said private property.

(Ord. 526, 6/10/1969, §2)

**§13-103. Penalty for Violation.**

Any person, firm or corporation who shall violate any provision of this Part 1 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. 526, 6/10/1969, §3; as amended by Ord. 621, 12/14/1983)



## **Part 2**

### **Juke Boxes**

#### **§13-201. License Required for Juke Boxes.**

No person or persons, firm, partnership or corporation, shall at any time have in his, her, its or their possession within the Borough, any coin-operated phonograph or other similar device or machine, commonly known as “juke boxes”, designed for profit, amusement and entertainment, without first having procured a license as provided in this Part 2.

(Ord. 401, 12/14/1948, §1)

#### **§13-202. Application for License; Fee.**

Any person or persons, firm, association or corporation desiring to procure a license, as provided in §13-201, shall apply for the license, in writing, to the Borough Manager. The application shall set forth the name, citizenship, residence, present and previous occupation of the applicant, specific name and kind of machine, number of machines to be licensed, and location where machines are to be set up and operated. The Manager shall thereupon issue a license for each separate machine or apparatus for a period of one year or part thereof, upon payment of a license fee as prescribed in a schedule established by resolution of the Borough Council. A similar application shall be made for renewal or transfer of all licenses. (Ord. 401, 12/14/1948, §2; as amended by Ord. 621, 12/14/1983; and by Ord. 740, 2/10/2004)

#### **§13-203. Issuance of License Certificate; Attachment or Display of License; Hours of Operation.**

When the license or licenses are granted, and the fee paid, the Secretary shall issue to the applicant or applicants a license certificate, signed by the Secretary, which license shall be attached to and exposed in a conspicuous place upon each device or machine so licensed before that machine may be used or operated, and no such device or machine shall be used or operated between the hours of 11:00 p.m. and 9:00 a.m. of the following day.

(Ord. 401, 12/14/1948, §3)

#### **§13-204. Duty of Mayor and Police Department.**

It shall be the duty of the Mayor to regulate and supervise the operation of all such devices or machines, by requiring the Police Department to inspect same at regular inter-

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vals, and to require full compliance with the law and this Part 2 so that the same shall not amount to a nuisance or disturbance of the peace.

(Ord. 401, 12/14/1948, §4)

### **§13-205. Penalty for Violation.**

Any person, firm or corporation who shall violate any provision of this Part 2 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 2 continues shall constitute a separate offense.

(Ord. 401, 12/14/1948, §5; as amended by Ord. 621, 12/14/1983)

## Part 3

### Mechanical Amusement Devices

#### §13-301. General Scope.

The subject matter of this Part 3 is regulation, licensing and fines for the operation of machines operated as games of skill for amusement by patrons who pay money to use said machines in the Borough of Beaver. These coin-operated machines include but are not limited to pinball machines, electronically operated shuffleboard, bowling, video games, electronically operated tennis, billiards and other games of amusement. These games of amusement do not include any coin operated musical devices.

(Ord. 399, 4/13/1948; as revised by Ord. 621, 12/14/1983)

#### §13-302. License Required.

1. It is the purpose of this Part that after the effective date of this Part 3 it shall be unlawful for any person, persons, corporations, companies or firms to have, keep, lease or maintain for purposes of operation any of the aforementioned coin-operated amusement machines without first having obtained the proper license from the Borough Secretary.
2. This license shall be posted at all times by affixing same in a conspicuous place so as to be easily seen and read by all parties who visit the premises wherein the machines are operated.

(Ord. 399, 4/13/1948; as revised by Ord. 621, 12/14/1983)

#### §13-303. License Application.

The application for the aforementioned license shall be filed in writing with the Borough Secretary on a form to be provided by the Borough and shall specify:

- A. Name and address of the applicant and, if a firm, corporation, partnership or association, the principal officers thereof and their addresses.
- B. Name and address of the owner of the machines or the business – one who leases or distributes for the purpose of operation by another – if it be different from the applicant.
- C. Address of the premises where the licensed devices are to be operated, together with the general nature of the business carried on at such place.

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- D. Trade name(s), serial numbers, names of the manufacturer, and the number of devices to be licensed along with the general description of the devices to be licensed.
- E. Fee that is paid and the effective dates of the applicant, which shall be from whatever date the applicant starts the business of that year until December 31 of that year.

(Ord. 399, 4/13/1948; as revised by Ord. 621, 12/14/1983)

### **§13-304. License Fee.**

1. Before license may be issued, the applicant must pay the fee therefor, as prescribed in a schedule established by resolution of the Borough Council. Such fee shall be payable every year. For purposes of yearly renewal, the fee shall be due by January 31 of each year.
2. A license shall not be transferable from one applicant to another. A new owner, proprietor, or operator shall be required to secure a new license and pay the fees therefor. However, he shall not be required to secure a new or different license when one machine is replaced by another, as long as the total number of machines remains the same.

(Ord. 399, 4/13/1948; as revised by Ord. 621, 12/14/1983; and by Ord. 740, 2/10/2004)

### **§13-305. Restrictions.**

1. There shall be no more than 20 machines of any type or types permitted to be operated, maintained or in use in any one place, location or premises.
2. It shall be prohibited to license, maintain, place or operate machines as described in this Part 3 at any location within 300 feet of an entrance to any house of worship, public school or public playground. The 300 feet shall be measured along the street line.
3. It shall be unlawful to permit persons to operate or play machines between the hours of 10:00 p.m. and 7:00 a.m., prevailing time.
4. It shall be prohibited to offer any prize or any other award to any person playing a coin-operated amusement device; furthermore, it shall be prohibited to permit any said machine to be used for any gambling purpose.

(Ord. 399, 4/13/1948; as revised by Ord. 621, 12/14/1983)

**§13-306. Inspections.**

The Borough Secretary or any other duly authorized official or person shall make periodic inspections of all premises where machines of amusement and games of skill for amusement are operated for the purpose of enforcing this Part 3.

(Ord. 399, 4/13/1948; as revised by Ord. 621, 12/14/1983)

**§13-307. Violations and Penalties.**

Any person, firm or corporation who violates any provision of this Part 3 shall, upon conviction thereof, be sentenced to pay a fine not more than \$300 together with costs of prosecution, or to undergo imprisonment for a term not to exceed 90 days. Each day that a violation of this part continues shall constitute a separate offense.

(Ord. 399, 4/13/1948; as revised by Ord. 621, 12/14/1983)



**Part 4**

**Parades and Public Gatherings**

**§13-401. Permit Required.**

No person shall conduct any street parade, street meeting or public gathering of any nature upon any street or public ground in the Borough without first having obtained a permit from the Mayor.

(Ord. 520, 7/9/1968, §1)

**§13-402. Application for Permit; Waiting Period; Issuance.**

Before securing a permit, written notice of the object, time, place and route, character and purpose of the procession, parade, assembly or meeting, and the name of the officers or persons having the same, shall be given to the Mayor not less than 10 days previous to the street parade, street meeting or public gathering; and the Mayor shall, if satisfied that the same shall not be detrimental to the public interest and decorum, issue a permit for the holding of it.

(Ord. 520, 7/9/1968, §2)

**§13-403. Penalty for Violation.**

Any person, firm or corporation who shall violate any provision of this Part 4 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. 520, 7/9/1968, §3; as amended by Ord. 621, 12/14/1983)



**Part 5**

**Real Estate Occupancy**

**§13-501. Definitions.**

Except when the context clearly indicates or requires a different meaning, the following words used in this Part 5 shall have the meanings ascribed to them as defined below:

LESSEE — a person who has the use of real estate of a lessor and who is responsible for the giving of any type of consideration for that use.

LESSOR — a person who grants a lease or otherwise permits use of his real estate; or a portion of that estate, for any consideration.

PERSON — a natural person, partnership, association, firm or corporation.

(Ord. 583, 6/14/1977, §1)

**§13-502. Reports of Rental Property and Units.**

Within 30 days after the effective date of Ordinance 583 [June 14, 1977], or in the case of real estate, the title to which is acquired after the effective date, or which is rented after that date, or which becomes available for rental in the future, the lessor shall, within 30 days after that acquisition, rental or availability for rental, report to the Borough Secretary, in writing, the number of parcels or units of real estate presently or in the future rented or available for rental, a short description by address, number or some other method, of the parcel or unit, and the name of its lessee at the time of the report for each unit designating which parcel or unit is occupied, shall be included. If there is a written lease, report may be made by giving to the Secretary a copy of the lease agreement, indicating when possession was or is to be taken.

(Ord. 583, 6/14/1977, §2)

**§13-503. Reports of Vacancies and Change of Occupancy.**

Within 10 days after any change in occupancy of a real estate unit or after any real estate unit becomes vacant, a report shall be made by the lessor to the Secretary of that change or the vacating of the unit, giving notice of the names of the lessees, if any, then occupying the unit. It is intended that the lessor shall, within that ten-day period, report each new lessee or each change of occupancy of each real estate unit.

(Ord. 583, 6/14/1977, §3)

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### **§13-504. Status of Occupancy Record.**

The Borough Secretary shall keep a separate record entitled "Status of Occupancy," incorporating the information given on said reports as required above and such other pertinent information as the Council may from time to time by resolution direct the Secretary to collect and require the lessors to provide.

(Ord. 583, 6/14/1977, §4)

### **§13-505. Penalties.**

Any person, firm or corporation who shall violate any provision of this Part 5 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. 583, 6/14/1977, §5; as amended by Ord. 621, 12/14/1983)

**Part 6**

**Transient Retail Businesses**

**§13-601. Definitions.**

1. As used in this Part 6, the following terms shall have the meanings indicated, unless a different meaning clearly appears from the context:

LEGAL HOLIDAY — New Year’s Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas.

PERSON — any natural person, partnership, association, corporation, or other legal entity.

TRANSIENT RETAIL BUSINESS –

- A. Engaging in peddling, soliciting, or taking orders, either by sample or otherwise, for any goods, wares, or merchandise upon any street, alley, sidewalk, or public ground, or from house to house, within the Borough of Beaver; or
  - B. Selling, soliciting, or taking orders for any goods, wares, or merchandise, from a fixed location within the Borough of Beaver, on a temporary basis, which shall include, but shall not be limited to, such activities conducted at the time of special occasions or celebrations, for seasonal purposes, or for or in advance of specific yearly holidays.
2. The singular shall include the plural; the plural shall include the singular; and the masculine shall include the feminine and the neuter.

(Ord. 621, 12/14/1983)

**§13-602. License Required; Fee.**

No person shall engage in any transient retail business within the Borough of Beaver without a license to do so, issued by the Borough Manager. The fee for such a license shall be as prescribed in a schedule established by resolution of the Borough Council. Such fee must be paid in cash, money order or certified check at the time the license application is filed. The duration of a license shall be for seven consecutive days, at the expiration of which the license will no longer be valid.

(Ord. 621, 12/14/1983; as amended by Ord. 662, 6/8/1993, §1; and by Ord. 740, 2/10/2004)

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### §13-603. Exceptions.

1. No license fee shall be charged:
  - A. To farmers selling their own produce.
  - B. For the sale of goods, wares, and merchandise donated by the owners thereof, the proceeds whereof are to be applied to any charitable or philanthropic purpose.
  - C. To any manufacturer or producer in the sale of bread and bakery products, meat and meat products, or milk and milk products.
  - D. To children under the age of 18 years who take orders for and deliver newspapers, greeting cards, candy, bakery products, and the like, or who represent the Boy Scouts or Girl Scouts or similar organizations.
  - E. To any honorably discharged member of any of the armed services who complies with the Act of 1867, April 8, P.L. 50, 60 P.S. §61 (1982), hereafter amended, supplemented, modified or reenacted by the General Assembly of Pennsylvania, and who procures from the Prothonotary a certificate in pursuance of the Act of 1867.
  - F. To the seeking or taking of orders by insurance agents or brokers licensed under the insurance laws of the Commonwealth of Pennsylvania.
  - G. To any person who has complied with the provisions of the Solicitation of Charitable Funds Act, August 9, P.L. 628, 10 P.S. §§160-1 to 160-17 (1982), as hereafter amended, supplemented, modified or reenacted by the General Assembly of Pennsylvania.
  - H. For taking orders for merchandise, by sample, from dealers or merchants for individuals or companies who pay a license or business privilege tax at their chief place of business.
2. All persons exempted hereby from the payment of the license fee shall be required to register with the Mayor and obtain a license without fee; provided that any person dealing in one or more of the above-mentioned exempted categories and dealing with other goods, wares, or merchandise not so exempted shall be subject to the payment of the license fee fixed by this section for his activities in connection with the sale of goods, wares, and merchandise not in such exempted categories; provided, further, that the Mayor may similarly exempt from payment of the license fee, but not from registering with him, persons working without compensation and selling goods, wares, or merchandise for the sole benefit of any nonprofit corporation; provided, further, that every license issued under the provisions of this Part 6 shall be issued on an individual basis to any person or persons engaging in such business and every individual shall obtain a separate license, issued to him in his name, and the license fee hereby imposed shall be applicable to every

such individual license, except that a representative of a charitable organization may obtain the licenses for the applicants therein.

(Ord. 621, 12/14/1983)

**§13-604. Application.**

A person desiring a license under this Part must submit a written application to the Mayor at least three days before the desired effective date of the license period. All information called for on the application form must be provided. An application will be denied if any required information is not given or if any statement made is found to be inaccurate. If an application is denied, the prepaid fee will not be refunded but will be used to defray the Borough's costs of processing the application.

(Ord. 621, 12/14/1983; as amended by Ord. 662, 6/8/1993, §1)

**§13-605. Issuance of License; Custody, Display, or Exhibit.**

Upon receipt of such application and the prescribed fee, the Mayor, if he shall find such application in order, shall issue the license required under this Part 6. Such license shall contain the information required to be given on the application therefor. Every license holder shall carry such license upon his person if engaged in transient retail business from house to house or upon any of the streets, alleys, sidewalks, or public grounds, or shall display such license at the location where he shall engage in such business if doing so at a fixed location. He shall exhibit such license, upon request, to all police officers, municipal officials, and citizens or residents of the Borough.

(Ord. 621, 12/14/1983)

**§13-606. Prohibited Acts.**

No person in any transient retail business shall:

- A. Sell any product or type of product not mentioned in his license.
- B. Hawk or cry his wares upon any of the streets, alleys, sidewalks, or public grounds in the Borough of Beaver.
- C. When operating from a vehicle, stop or park such vehicle upon any of the streets or alleys in the Borough of Beaver for longer than necessary in order to sell therefrom to persons residing [or working] in the immediate vicinity.
- D. Park any vehicle upon any of the streets or alleys in the Borough for the purpose of sorting, rearranging, or cleaning any of his goods, wares, or merchandise or of disposing of any carton, wrapping material or of any stock or

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wares or foodstuffs which have become unsaleable through handling, age or otherwise.

- E. Engage in any business activity, except by prior appointment, at any time on a Sunday or legal holiday or at any time before 6:00 a.m. or after 8:00 p.m. on any day of the week other than a Sunday or legal holiday.

(Ord. 621, 12/14/1983)

### **§13-607. Supervision; Records and Reports.**

The Mayor shall supervise the activities of all persons holding licenses under this Part 6. He shall keep a record of all licenses issued hereunder and shall make a report thereof each month to the Borough Council.

(Ord. 621, 12/14/1983)

### **§13-608. Suspension and Revocation of License; Appeal.**

The Mayor is hereby authorized to suspend or revoke any license issued under this Part 6 when he deems such suspension or revocation to be beneficial to the public health, safety, or morals, for violation of any provision of this Part 6, or for giving false information upon any application for a license hereunder. Appeals from any suspension or revocation may be made to the Borough Council at any time within 10 days after such suspension or revocation. No part of a license fee shall be refunded to any person whose license shall have been suspended or revoked.

(Ord. 621, 12/14/1983)

### **§13-609. Penalties.**

Any person, firm or corporation who shall violate any provision of this Part 6 shall, upon conviction thereof, be sentenced to pay a fine not more than \$300, together with costs of prosecution, or to imprisonment for not more than 90 days. Each day that a violation of this Part 6 continues shall constitute a separate offense.

(Ord. 621, 12/14/1983)

## Part 7

### Cable Television

#### **§13-701. Statement of Intent and Purpose; Authority.**

1. Statement of intent and purpose. The Borough of Beaver Council intends, by the adoption of this Part, to authorize the operation of a cable system by Adelphia Cable T.C., Inc., d/b/a Adelphia Cable Communications, within the Borough territorial boundaries.
2. Authority. To the extent that the same may be lawfully given and subject to the provisions of any and all acts of the General Assembly of the Commonwealth of Pennsylvania and regulations issued thereunder, now or in the future, and insofar as the Commonwealth of Pennsylvania has delegated to the Borough the authority to grant a franchise for cable system operation and other communication services within the Borough territorial boundaries, in consideration of the faithful performance and observation of the conditions and reservations mutually agreed upon herein, the Borough hereby exercises its authority to grant a nonexclusive franchise permitting the operation of a cable system within the Borough.

(Ord. 678, 9/12/1995, §1)

#### **§13-702. Short Title.**

This Part shall be known and cited as the “Borough of Beaver Cable Franchise Renewal Ordinance.” Within this document it shall also be referred to as “this franchise.”

(Ord. 678, 9/12/1995, §2)

#### **§13-703. Definitions.**

For the purpose of this franchise, the following terms, phrases, words and their derivations shall have the meanings given herein. Words not defined shall be given their common and ordinary meaning:

BOROUGH — the Borough of Beaver, Beaver County, Pennsylvania.

CABLE SERVICE TERRITORY — the area to be served by Adelphia Cable T.V., Inc., which includes Beaver Borough, Beaver County, Pennsylvania.

FCC — the Federal Communications Commission.

GRANTEE — Adelphia Cable T.V., Inc., d/b/a Adelphia Cable Communications, and its successors, transferees or assigns.

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**GROSS REVENUES** — all subscriber monthly fees, subscriber equipment rental fees, installation and reconnection fees and any other income derived by grantee from the operation of the system from the provision of cable television services within the limits of the Borough plus a pro rata share of all advertising income received by grantee related to its operation of the system, less any taxes collected on behalf of taxing authorities, subscriber deposits, receipts from sales of equipment and payments made for copyright and for nonbroadcast television programming. The aforesaid pro rata share of advertising income shall be in the same proportion as the number of subscribers.

**OWNER** — a person with a legal or equitable interest in ownership of real property.

**PERSON** — any corporation, partnership, proprietorship, individual or organization, governmental organization or any natural person.

**PUBLIC PROPERTY** — any real property owned by the Borough other than a street.

**STREET** — the surface of and the space above and below any public street, road, highway, freeway, lane, path, public way, alley, court, sidewalk, boulevard, parkway, drive or any easement or right-of-way, alley, court, sidewalk, boulevard, parkway, drive or any easement or right-of-way now or hereafter held by the Borough or dedicated to the Borough or to general public use.

**SYSTEM** — a system of antennas, cables, wires, lines, towers, waveguards or other conductors, converters, equipment or facilities used for distributing video programming to home subscribers and/or producing, receiving, amplifying, storing, processing or distributing audio, video, digital or other forms of electric signals to subscribers.

**SUBSCRIBER** — any person or entity who subscribes to service provided by grantee by means of the system.

(Ord. 678, 9/12/1995, §3)

### **§13-704. Grant of Authority.**

1. Grant of franchise. For the purpose of operating and maintaining a system and providing cable service and other communications and information services, grantee may erect, install, construct, repair, replace, reconstruct and retain in, on, over, under, upon, across and along the streets and public property such lines, cables, conductors, ducts, conduits, vaults, manholes, amplifiers, appliances, pedestals, attachments and other property and equipment as are necessary and appropriate to cable and information services. Grantee is also authorized to utilize public rights-of-way and to utilize easements within the Borough which have been

dedicated for compatible uses as provided for in §621(a)(2) of the Cable Communications Policy Act.

2. Franchise term. The initial term of this franchise shall commence on October 8, 1995, and shall expire 10 years from said date unless renewed as herein provided.
3. Conditions of franchise. The rights afforded to grantee by Subsections 1 and 2 are granted subject to the conditions hereinafter provided.

(Ord. 678, 9/12/1995, §4)

#### **§13-705. Design and Services Provisions.**

1. Technical requirements. Grantee shall construct and maintain a system that meets at least the technical standards applied by the FCC. Procedures for testing technical capacity of the system shall conform with the technical and testing standards applied to cable systems by the FCC.
2. Level of services. Grantee's current basic program services are set forth in Exhibit "A," but grantee retains the right to delete, replace and/or rearrange programming during the franchise term, after notice to the Borough.
3. Interference with reception outside cable system. Grantee's installation shall be installed, maintained and operated in a manner which shall not interfere with television or radio reception by means other than by the cable-type systems.

(Ord. 678, 9/12/1995, §5)

#### **§13-706. Construction Provisions.**

1. Service area. In new housing districts, areas with occupancy densities of more than 30 homes per mile which are contiguous to the system will be provided with access to service within 12 months of occupation, to the extent service is economically feasible and technically possible. In areas with less than 30 homes per mile, service shall be offered in conformance with grantee's service extension policies.
2. Construction requirements. Grantee shall make use of existing poles and other facilities available to grantee. Grantee may also erect its own poles and install its own conduit. All poles and conduit installed with the Borough shall be made available for attachment or use by grantee at just and reasonable rates applied to public utilities under the formula presently established in 47 U.S.C. §224.
3. Construction codes and permits. Grantee shall obtain any required permits from the Borough before commencing construction involving the opening or disturbance of any street or public property. Grantee shall comply with all applicable building and zoning codes. Grantee shall arrange its lines, cables and other appurtenances

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on any street or public property in such a manner as to cause no unreasonable interference with the usual and customary use of said street or public property by a person.

4. Repair of streets and public property. Any and all streets or public property which are disturbed or damaged during the construction, operation or maintenance of the system shall be promptly repaired by grantee at its expense and to the condition prior to the disturbance or damage.
5. Movement of facilities. In the event it is necessary temporarily to move or remove any of grantee's wires, cables, poles or other facilities placed pursuant to this franchise, in order lawfully to move a large object, vehicle, building or other structure over the streets of the Borough, upon two weeks notice by the Borough to grantee, grantee shall move, at the request of the person requesting the temporary removal, such of his franchise as may be required to facilitate such movements.
6. Prudent installation and operation. Grantee agrees that its installation and operation shall be installed, located and maintained so as not to endanger or interfere with the life and property of any person or thing; nor interfere with improvements which the Borough may deem proper; nor hinder or obstruct the free use of streets alleys, bridges or other public or private property. In the event the Borough relocates a street or makes any other change requiring the removal of utility installations, or in the event grantee does interfere with the public or private property of others, grantee, at its sole expense, will remove its installation at this location. In the event that any other utility is reimbursed by the Borough for the placement of cable underground or the movement of cable, grantee shall be reimbursed on the same terms and conditions.

(Ord. 678, 9/12/1995, §6)

### **§13-707. Operation and Maintenance.**

1. Maintenance and complaints.
  - A. Grantee shall maintain a toll-free telephone number 24 hours a day to accept service calls and complaints from subscribers.
  - B. Grantee shall render efficient service, make repairs promptly and interrupt service only for good cause.
  - C. Any complaints from subscribers shall be investigated and acted upon as soon as possible.
2. Safety.

- A. Grantee shall at all times take reasonable precautions for preventing failures and accidents which are likely to cause damage or injury to the public, to employees of grantee and to public or private property.
  - B. All lines, equipment and facilities within the Borough shall at all times be kept and maintained in a safe and suitable condition and in good order and repair.
3. Subscriber practices.
- A. Grantee shall not deny service, deny access or otherwise discriminate against subscribers on the basis of race, color, religion, natural origin, sex or age. Grantee shall adhere to the equal employment opportunity requirements of the FCC.
  - B. Grantee may conduct promotional campaigns in which standard rates are uniformly discounted or waived.
  - C. Grantee may make special contract for nonprofit, charitable, educational, governmental and religious organizations.
  - D. Grantee may offer bulk rate discounts for multiple dwellings, hotels, motels and similar institutions.
  - E. Grantee at the request of a subscriber will provide, at cost, a lockout device in order to restrict the viewing of obscene or “indecent” programming.

(Ord. 678, 9/12/1995, §7)

**§13-708. Franchise Fee.**

- 1. Amount. Grantee shall annually pay to the Borough five percent of gross revenues as a franchise fee. The foregoing payment shall be compensation for use of streets and other public property.
- 2. Payment periods. Payments due to the Borough under this provision shall be submitted two times per year for the preceding year.
- 3. Verification. Grantee shall, upon first receiving two weeks' written notice from the Borough, provide the Borough information that will verify compliance with the terms of this section.

(Ord. 678, 9/12/1995, §8)

**§13-709. Remedies, Defenses, Insurance.**

1. Laws governing. This franchise shall be governed by and construed in accordance with the laws of the Commonwealth of Pennsylvania and applicable Federal law.
2. Notice of violation. The Borough shall provide grantee with a detailed written notice of any franchise violation upon which it proposes to take action and a thirty-day period within which grantee may cure an alleged violation. The thirty-day period shall not begin to toll in the event the alleged violation is beyond the grantee's control or the grantee is diligently pursuing corrective action. Grantee may, within 15 days of receiving such notice, notify the Borough that there is a dispute as to whether a violation has, in fact, occurred. Such notice by grantee to the Borough shall specify the matters disputed by grantee. The Borough shall hear grantee's dispute at the next regularly scheduled Council meeting. Any supervisor decision shall be based upon written findings of fact and shall be non-binding. The Borough and grantee shall bear their own costs and attorneys' fees.
3. Indemnity.
  - A. Grantee shall indemnify and hold harmless the Borough at all times during the term of this franchise from and against all claims, and including reasonable attorneys' fees and legal costs, for injury or damage to persons or property, both real and personal, caused by the construction, erection, operation and maintenance of the system.
  - B. It is expressly understood that the Borough has no control, standard or regulation pertaining to the subject matter of programs distributed by grantee. Grantee agrees to indemnify and save harmless the Borough, its officers and employees from all claims, suits and actions at law or equity for libel, slander, patent or copyright infringement; that, in the event the Borough is made a party to defendant in any action arising out of the subject matter of programs transmitted by grantee, grantee shall at its sole cost and expense defend such action and appeals therefrom including those involving the Borough.
4. Liability insurance.
  - A. Throughout the term of this franchise, grantee shall maintain a policy of liability insurance covering the grantee and naming the Borough as an additional insured, in the minimum amount of:
    - (1) One million dollars for property damage in any one occurrence.
    - (2) One million dollars for bodily injury to any one person.
    - (3) One million dollars for bodily injury in any one occurrence.

- B. Grantee shall furnish a certificate of insurance for the required amounts to the Borough.
5. Other remedies.
- A. From and after the effective date of franchise, it shall be unlawful for any person to establish, operate or to carry on the business of distributing to any persons in the cable service territory any television signals or radio signals by means of a system unless a franchise therefor has first been obtained pursuant to the provisions of this Part and unless such franchise is in full force and effect.
  - B. No person shall interrupt or receive signals from the system unless specifically authorized to do so by grantee.
  - C. No person shall tamper with, remove or injure any cable, wires or equipment used with the system unless specifically authorized to do so by grantee.
  - D. No person shall intentionally deprive grantee of a lawful charge for cable service.
  - E. No person shall resell grantee's cable services without grantee's express written consent.
  - F. The Borough and grantee are expressly reserved their applicable rights and remedies available in law or in equity.
6. Conditions of access. In addition to the provision of §13-704, Subsection 1, no party who owns or controls any residential multiple dwelling unit, trailer park, condominium or apartment complex or subdivision shall interfere with the right of any tenant or lawful resident thereof to receive service from grantee.

(Ord. 678, 9/12/1995, §9)

**§13-710. Variance and Renewal.**

- 1. Variance. Applications for a variance to this franchise, to accommodate a significant change in circumstances, to prevent unreasonable hardship to grantee or to permit technical variations which will satisfy the purpose of this franchise may be made by the grantee to the Borough. The Borough shall review the application within 14 calendar days or the earliest meeting of the Borough Supervisors and shall issue a report of the findings of the Borough and shall act on a request within 30 days.
- 2. Franchise renewal. This franchise shall be renewed for a period of 10 years upon written notice by grantee to the Borough at least six months prior to the expira-

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tion of the franchise term set forth in §13-704, Subsection 2. Grantee's application for franchise renewal shall be granted provided:

- A. Grantee shows that its cable service during the preceding franchise period has reflected a good faith effort to serve the needs and interests of its service area within the Borough.
- B. Grantee has not demonstrated a callous disregard of the law and all pertinent regulations.
- C. Grantee reserves all renewal rights under the Cable Communications Policy Act of 1984, as amended.

(Ord. 678, 9/12/1995, §10)

### **§13-711. Miscellaneous.**

1. Severability. If any law, ordinance, regulation or Court decision shall render any provision of this franchise invalid, the remaining provisions of the franchise shall remain in full force and effect.
2. Force-majeure. Prevention or delay of any performance under this franchise due to circumstances beyond the control of grantee or the Borough, unforeseen circumstances, or Acts of God shall not be deemed noncompliance with or a violation of this franchise.
3. More favorable terms. In the event that the Borough approves or permits a system to operate in the cable service territory on terms more favorable than those contained in this franchise, such more favorable terms shall be applicable in this franchise.
4. Regulatory bodies. Grantee shall conduct the operation of its business in accordance with the rules, regulations and statutes, as amended from time to time, of the Federal Communications Commission and any other duly authorized Federal, State or local authority having jurisdiction. In particular, the grantee shall, at all times, comply with the rules and regulations governing cable television operations promulgated by the FCC, specifically those set out in the Cable Communications Policy Act of 1984, as amended, and of the FCC rules and regulations and any FCC rules and regulations regarding technical and engineering specifications involved in the construction of the CATV system and signal carriage thereon.
5. Modification of FCC rules. Consistent with the requirements of the Cable Communications Policy Act of 1984, and of the FCC rules, any modification of the Cable Communications Policy Act of 1984 resulting from amendment thereto by the FCC shall be, to the extent applicable, considered as a part of this franchise as of the effective of the amendment made by the Cable Communications Policy Act of 1984 and the FCC.

(Ord. 678, 9/12/1995, §7)

## Part 8

### Soliciting and Canvassing

#### **§13-801. Definitions.**

SOLICITING or CANVASSING — shall include or mean any one or more of the following meanings, for the purpose of this Part:

- A. Seeking to obtain orders for the purchase of goods, wares, merchandise, foodstuffs, services of any kind, character or description whatever.
- B. Seeking to obtain subscriptions to books, magazines, periodicals, newspapers and any or every other type of publication.
- C. Seeking to obtain gifts or contributions of money, clothing, property of any kind, or any other valuable thing for the support or benefit of any project or any social, religious or political organization or other kind of association or organization whatever.
- D. Seeking to secure membership of the residents or citizens of the Borough in any social, religious or political organization.
- E. Seeking information relative to the economic, social, religious or political status or preference or of information regarding names, numbers, addresses of residents, or their status in any respect, whether to be used as raw or refined data in any document, book, record or directory or to be sold or used, wholly or in part for any commercial purpose or for the records of any social, religious or political organization.
- F. Distribution of any advertising matter or informational material by pamphlet, or by single sheet or by book or other method or distribution for advertising purpose of any kind for goods or merchandise.

(Ord. 628, 8/13/1985, §1)

#### **§13-802. Registration Required.**

It shall be unlawful for any person or association or organization to engage in activity of canvassing or soliciting either from door to door or upon the streets or sidewalks of the Borough of Beaver, whether individually or in a group or by the maintenance of a booth or stand, unless such person, organization or association shall have first applied for a license or permit for such activity and registered the information hereinafter required in the office of the Police Department of the Borough.

(Ord. 628, 8/13/1985, §2)

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### **§13-803. Application for Registration.**

Application for a license or permit to canvass or solicit within the Borough of Beaver shall be made to the Chief of Police, at the Police Department of the Borough at least 20 days prior to the proposed effective date of the license. The application shall disclose the following information:

- A. Name(s), address(es) and headquarters of the applicant(s) and similar information regarding the employer or principal for whom the applicant is to act.
- B. If the application is made by or for an association, organization or any artificial person, the information given shall include the name of such organization, its address, principal officer and his address, the nature and purpose of the organization and under what state it was legally organized.
- C. The purpose for which the canvass or solicitation is made and the use and disposition to be made of the information being required.
- D. Names, addresses and social security numbers of the persons who will actually conduct the canvass or solicitation or who direct the same or who are promoting it.
- E. A physical description of each actual solicitor or a picture of such person.
- F. Description of the goods, wares, merchandise, books, magazines, periodicals, newspapers and every type of product to be distributed or sold.
- G. The proposed method of operation, length of time to be used and the date or time when the solicitation shall end or the term for which it is to be conducted; the method of conduct of the solicitation, whether by door to door or from booths or other headquarters.
- H. The application shall contain a promise that the license will not be used or represented in any way as an endorsement by the Borough or any officer or department thereof.
- I. The application shall be signed by the applicant.

(Ord. 628, 8/13/1985, §3)

### **§13-804. License or Permit.**

Upon said application being completed and signed by the applicant, a license or permit to canvass or solicit shall issue to the applicant in the form of a certificate, numbered,

dated and authorizing the solicitation either from door to door or from a booth or stand or other headquarters, setting forth the term for which it issues, in hours or days, and the date or time on which the certificate expires.

(Ord. 628, 8/13/1985, §4)

**§13-805. Identification.**

1. The licensee shall furnish for himself and for any other person who will actually conduct the canvass or solicitation, identification either in the form of a badge which shall clearly disclose:
  - A. The name of the solicitor or canvasser.
  - B. The name of the licensed person or organization for whom the solicitor works.
  - C. The purpose of the activity.
  - D. A statement that a resident or citizen of the Borough of Beaver who is approached in the solicitation/canvass is not required to purchase or accept any goods or merchandise or advertising or information offered, nor is he required to give any information to the solicitor/canvasser if he does not so desire.
2. Such card or badge shall at the request of a police officer be presented for examination. It shall also be exhibited to the resident or citizen who shall be given sufficient opportunity to read the same.

(Ord. 628, 8/13/1985, §5)

**§13-806. Records.**

The Police Department shall keep a complete record of all applications, identifying pictures presented and all other information received and shall preserve a numbered copy of the certificate showing the license or permit.

(Ord. 628, 8/13/1985, §6)

**§13-807. Revocation.**

The Chief of Police may revoke any license or permit if the holder or any of his agents or employees violates any provision of this Part or has made false statement in any part of the application.

## LICENSES, PERMITS AND GENERAL BUSINESS REGULATIONS

(Ord. 628, 8/13/1985, §7)

### **§13-808. Time of Solicitation.**

No solicitation or canvass shall be held between the hours of 9:00 p.m. and 9:00 a.m., prevailing time, nor shall any be conducted after the termination date of the certificate or after it has been revoked.

(Ord. 628, 8/13/1985, §8)

### **§13-809. Exceptions.**

No license or permit shall be required of:

- A. Any farmer selling or peddling his own produce.
- B. Children under 18 years of age selling or delivering candy, bakery products and the like, or any person delivering newspapers.
- C. Any bona fide news gathering activity by local or metropolitan newspapers.
- D. Any solicitation or canvasser for any governmental unit either local, state or federal.
- E. Any solicitation of information by a legally constituted telephone company operating in the Borough.

(Ord. 628, 8/13/1985, §9)

### **§13-810. License/Permit Fee.**

Before a license or permit may be issued, the applicant must pay the fee therefor, as prescribed in a schedule established by resolution of the Borough Council.

(Ord. 628, 8/13/1985, §10, as amended by Ord. 740, 2/10/2004)