

Chapter 13

Licenses, Permits and General Business Regulations

Part 1

Hawking, Peddling, Canvassing and Soliciting

- §13-101. Definitions
- §13-102. Registration Required
- §13-103. Identification Card
- §13-104. Hours
- §13-105. Denial of Card; Revocation
- §13-106. Solicitation at Businesses
- §13-107. No-Soliciting/Peddling/Canvassing List
- §13-108. Violations and Penalties

Part 2

Garage and Yard Sales

- §13-201. Title
- §13-202. Purpose
- §13-203. Definitions
- §13-204. Permit Required; Fee; Conditions for Sale
- §13-205. Signs
- §13-206. Permitted Hours
- §13-207. Scope
- §13-208. Exemptions
- §13-209. Enforcement
- §13-210. Penalties

Part 1**Hawking, Peddling, Canvassing and Soliciting****§13-101. 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. 2015-4, 9/8/2015)

§13-102. Registration Required.

1. It shall be unlawful for any person to go upon residential property within the Borough of New Morgan, 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 identification card from the office of the Chief of Police of the Borough of New Morgan.

2. The following individuals shall be exempt from the registration requirement set forth in subsection .1, above, and the identification card requirement of §13-103 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. 2015-4, 9/8/2015)

§13-103. 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. 2015-4, 9/8/2015)

§13-104. 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 a.m. to 5 p.m., prevailing time, including Saturdays and Sundays.

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

(Ord. 2015-4, 9/8/2015)

§13-105. 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 her 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. 2015-4, 9/8/2015)

§13-106. 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. 2015-4, 9/8/2015)

§13-107. 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 §13-108 hereof, in addition to any other appropriate actions in law or equity, including prosecution for criminal trespass pursuant to the Pennsylvania Crimes Code, 18 Pa.C.S.A. §3503, as amended.

(Ord. 2015-4, 9/8/2015)

§13-108. Violations and Penalties.

1. Any individual, firm, corporation or entity who violates, causes or permits the violation of any provision of this Part, upon conviction thereof in an action brought before a magisterial district judge in the manner provided for the enforcement of summary offenses under the Pennsylvania Rules of Criminal Procedure, shall be sentenced to pay a fine of not less than \$100 nor more than \$1,000 plus costs together with reasonable attorney fees and, in default of payment of said fine and costs, to a term of imprisonment not to exceed 90 days. Each day that a violation of this Part continues or each Section of this Part which shall be found to have been violated shall constitute a separate offense. 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. 2015-4, 9/8/2015)

Part 2**Garage and Yard Sales****§13-201. Title.**

This Part shall be known and cited as “Garage and Yard Sale Permit Ordinance.”
(*Ord. 2015-4, 9/8/2015*)

§13-202. Purpose.

These rules and regulations are designed to control and restrict garage and yard 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 in compliance with the Zoning Ordinance of the Borough [Chapter 27]. The intent of this Part is to eliminate perpetual, prolonged and extended garage and yard sales in residential areas. Such sales if continued indefinitely tend to become retail businesses in residential areas and zones, create a nuisance and often violate the zoning regulations of the Borough. The provisions of this Part arise from the need to limit, regulate, restrict and control garage and yard sales. It is not the intent of this Part to change or amend the Zoning Ordinance [Chapter 27], transient business ordinance and/or any other ordinances of the Borough.

(*Ord. 2015-4, 9/8/2015*)

§13-203. Definitions.

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

Garage sales–

(1) The sale or offering for sale of 10 or more new, used or secondhand items of personal property at any one residential premises at any one time.

(2) 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.

Municipality–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.

Persons–individuals, partnerships, family groups, voluntary associations and corporations.

(*Ord. 2015-4, 9/8/2015*)

§13-204. Permit Required; Fee; Conditions for Sale.

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 such officer as may be designated from time to time by 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 set by the Borough Council pursuant to a resolution.

(Ord. 2015-4, 9/8/2015)

§13-205. Signs.

1. One 4 square foot sign shall be allowed on site only.

2. Two 2-square foot signs shall be allowed off site upon payment of an escrow fee in an amount as established, from time to time, by resolution of Borough Council, to insure removal of the signs. Signs can be displayed no more than 48 hours after the sale has ended. If off-site signs are not removed within 48 hours, they may be removed by the Zoning Officer, and the escrow fee will be forfeited.

(Ord. 2015-4, 9/8/2015)

§13-206. Permitted Hours.

Garage sales may be conducted during daylight hours only.

(Ord. 2015-4, 9/8/2015)

§13-207. Scope.

This Part is to allow sales in a residential district for 72 hours only and does not permit unlimited commercial sales on the property of the applicant, nor can a garage sale license be construed as a zoning change for the property involved. The provisions of this Part shall not apply to persons selling goods pursuant to an order or process of a court of competent jurisdiction or persons acting in accordance with their powers and duties as public officials.

(Ord. 2015-4, 9/8/2015)

§13-208. 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 ordinances 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. 2015-4, 9/8/2015)

§13-209. Enforcement.

1. This Part shall be enforced by such officer as may be designated from time to time by the Borough and it shall be his duty to investigate and prosecute any violation of this Part.

2. If after an investigation a violation is found to exist, the officer designated from time to time by the Borough shall prosecute a complaint before a magisterial district judge 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 street 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. 2015-4, 9/8/2015)

§13-210. Penalties.

Any person, firm or corporation who shall violate any provision of this Part, upon conviction thereof in an action brought before a magisterial district judge in the manner provided for the enforcement of summary offenses under the Pennsylvania Rules of Criminal Procedure, shall be sentenced to pay a fine of not more than \$1,000 plus costs together with reasonable attorney fees and, in default of payment of said fine and costs, to a term of imprisonment not to exceed 90 days. Each day that a violation of this Part continues or each Section of this Part which shall be found to have been violated shall constitute a separate offense.

(Ord. 2015-4, 9/8/2015)