

## CHAPTER 13

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**PART 1**

**TRANSIENT RETAIL MERCHANTS**

**§13-101. Short Title.**

This Part shall be known as the “Solicitors and Transient Vendors Ordinance.”

(Ord. 388, 7/16/2003, §101)

**§13-102. Purpose.**

It is the purpose of this Section to regulate solicitors and transient vendors who conduct businesses defined herein within the streets and homes of Richland Township. It is the intent of this Part to prevent fraud, burglary (including preparation for burglary by learning which residents are home and at what hours) and other crimes; to prevent unethical and dishonest business practices; to protect the privacy interest of the residents of the Township, including the right not to be unduly annoyed in their homes and to be able to exclude trespassers from private property; to promote the safety and welfare of the residents of Richland Township.

(Ord. 388, 7/16/2003, §102)

**§13-103. Definitions.**

For the purpose of interpreting this Part, words used herein shall have the following definitions:

CONDUCTING BUSINESS — the conducting of retail sales of goods, wares or merchandise on the streets or in the homes of the Township, including solicitation and taking of orders, whether verbal or written. This phrase includes work commonly done by peddlers, hawkers, auctioneers, hucksters or other door-to-door salesmen. It does not include sales of milk or milk products or bakery products.

SOLICITOR — any person, including someone who has a residence or business office within the geographic limits of the Township of Richland, who goes from private house to house, conveying or transporting goods, wares or merchandise, or offering or exposing the same for sale or making sales or delivering articles, goods, wares or merchandise to purchasers; any person who goes from private house to house, soliciting or attempting to take orders from individuals for sale of goods, wares or merchandise, including magazines, books, periodicals or personal property of any nature whatsoever, for future delivery, or for service to be performed at that time or in the future, whether or not such individual has, carries or exposes for sale a sample of the subject of such order or whether or not he is collecting advance payments on such orders; any person who goes from private house to

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private house soliciting donations or money for themselves or for any organization for any purpose, whether or not anything of value is given in return.

**TRANSIENT VENDOR** — includes any person, corporation, partnership, association or any agent thereof who conducts a business in the Township, either from door-to-door or in any other manner where the vendor does not have either a residence or a business office within the geographic limits of the Township of Richland.

(Ord. 388, 7/16/2003, §103)

### **§13-104. General Provision.**

Hereafter, no solicitor or transient vendor may conduct a business within the geographic limits of Richland Township without first obtaining a permit in accordance with the requirements of this Part.

(Ord. 388, 7/16/2003, §104)

### **§13-105. Permits and Fees.**

1. The following shall be exempt from the requirement of obtaining a permit:
  - A. Farmers selling their own produce.
  - B. The seller of goods, wares and merchandise donated by the owners thereof, the proceeds whereof are to be applied to any charitable or philanthropic purpose.
  - C. Any manufacturer or producer in the sale of bread and bakery products, meat and meat products, or milk and dairy products.
  - D. Any person or persons selling or taking orders for merchandise who have been requested or invited to do so by the owner or occupant of a private residence.
  - E. Any Township resident under the age of 18 years who take orders for and delivers newspapers, greeting cards, candy, bakery products and the like, or who represent the Boy Scouts or Girl Scouts or similar organizations.
2. All other solicitors and transient vendors, except those who pay a license or mercantile tax at their chief place of business within the Commonwealth, shall be required to pay a permit fee, in an amount as established from time to time by resolution, for one year or any fraction thereof exceeding one week and a sum, also in an amount as established from time to time by resolution, for one week or any fraction thereof.

3. No permits shall be issued unless and until the necessary fee is paid and the following information be given by the applicant:
  - A. His full identification, including proof by vehicle operator's plate number and/or motor vehicle registration number and including sufficient physical identification.
  - B. The name of the vendor's business or his employer, the address of that business, the kind of merchandise sold and the type of transaction conducted.
  - C. The length of time for which the permit shall be issued, the number and names of vendor's helpers.
  - D. Any criminal record of the vendor shall be disclosed at the time of the application.
  - E. The individual applicant may be subject to being fingerprinted and photographed.
4. The application for permit shall be filed at least three days prior to the date the permit is to be issued and no soliciting or selling can commence before the effective date of the permit.
5. Any solicitor or transient vendor shall carry a permit at all times while conducting business in Richland Township.
6. Permits are not transferable and an individual permit shall be required for each person.

(Ord. 388, 7/16/2003, §105)

**§13-106. Records.**

The Chief of Police is hereby required to keep records of all permits issued under this Part and shall keep a daily list of current permits issued.

(Ord. 388, 7/16/2003, §106)

**§13-107. Right to Deny or Revoke.**

The Chief of Police shall have the power and is hereby authorized to deny application for and suspend or revoke any permit issued under this Part when he, in his judgment, deems such denial, suspension or revocation 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 permit.

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(Ord. 388, 7/16/2003, §107)

### **§13-108. Appeals.**

Any person aggrieved by the action of the Chief of Police or his designee in the denial of a permit approval or revocation of a permit shall have the right of appeal to the Board of Supervisors of Richland Township. Such appeal shall be perfected by filing of said appeal with the Richland Township Board of Supervisors within seven days after the permit application denial or permit revocation. The Board of Supervisors of the Township of Richland shall set a time and place for the hearing on such appeal. A notice of such hearing shall be given to the person aggrieved by certified mail, postage prepaid to the licensee at his last known address at least seven days prior to the date set for hearing.

(Ord. 388, 7/16/2003, §108)

### **§13-109. List of All Residents not Wishing to be Solicited.**

Any person seeking a licensing permit under the provisions of this Part shall, in signing the application to obtain the same, agree that he or she will not solicit homes whose owners or residents have signed a registration list which indicates that such owner or resident of such home does not wish to be solicited. Such a list shall be made available to the residents of the Township and shall be held by the Department of Police, and a copy thereof shall be given to each person obtaining a license under the provisions of this Part. In the event that such persons soliciting within the boundaries of the Township shall fail to recognize the wishes of the homeowners or the resident of such home, then such attempt to solicit such home shall be deemed a breach of this Part and shall result in the revocation of the solicitor's permit. Any resident requesting to be on said list may revoke their inclusion in writing at any time.

(Ord. 388, 7/16/2003, §109)

### **§13-110. Signs.**

Any person seeking a licensing permit under the provision of this Part shall agree not to conduct any business at any private property which is posted with a "No Solicitors" or "No Trespassing" sign which shall be reasonably visible to persons entering the property or the driveway or sidewalk if any. Any person who violates this Section shall be deemed to be in breach of this Part and such action shall result in the revocation of the permit.

(Ord. 388, 7/16/2003, §110)

**§13-111. Manner of Conducting Business.**

1. No solicitor or transient vendor shall deposit any refuses or waste on the streets or alleys or any private or public property in Richland Township, nor may he be parked or stopped for a longer time than is necessary for the reasonable conduct of his business.
2. The hours during which a solicitor or transient vendor may conduct business in Richland Township shall be limited from 9:00 a.m. to 9:00 p.m.

(Ord. 388, 7/16/2003, §111)

**§13-112. Penalties.**

Any person who shall violate any provision of this Part shall, upon conviction thereof, be sentenced to pay a fine not exceeding \$600 and costs and, in default of payment thereof, shall be subject to imprisonment for a term not to exceed 30 days. Each day that a violation of this Part continues shall constitute a separate offense.

(Ord. 388, 7/16/2003, §112)



**PART 2**

**BUILDING ALARMS**

**§13-201. Definitions and Word Usage.**

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

**ALARM** — a communication to the police departments or fire departments which serve the Township of Richland indicating that a crime or fire or other emergency situation warranting immediate response has occurred or is occurring.

**ALARM DEVICE** — a self-contained device present inside a building and which is designed to detect the presence of smoke, heat, carbon monoxide or motion and to then emit a sound audible within the building to warn persons therein of such presence.

**ALARM SYSTEM** — a system designed to automatically transmit an alarm, by wire, telephone, radio or other means, to the County of Allegheny's 911 Dispatch Center or to a person who is instructed to so notify the County of Allegheny's 911 Dispatch Center of the alarm or to activate a bell or other sounding device to be heard outside a building and which is intended to alert the police or others to the existence of a crime or fire or other emergency situation warranting immediate official response.

**FALSE ALARM** — an alarm to which the Northern Regional Police Department of Allegheny County responds and which results from the activation of an alarm system or alarm device when an actual crime, fire or other emergency warranting immediate responsive action by such Police Department has not, in fact, occurred.

**FIRE DEPARTMENT** — any fire company serving any portion of the Township of Richland.

**PERSON** — an individual, corporation, partnership, unincorporated association or other similar entity.

**POLICE DEPARTMENT** — the Northern Regional Police Department of Allegheny County.

**YEAR** — calendar year.

2. In this Part, the singular shall include the plural; the plural shall include the singular; and the masculine shall include the feminine and the neuter.

(Ord. 414, 6/21/2006, §2)

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### **§13-202. False Police Alarms; Charges.**

1. Any person causing or reporting accidental false alarms for any reason to which the Northern Regional Police Department of Allegheny County responds or the permit holder of an alarm system that transmits such false alarm for any reason shall pay to the Northern Regional Police Department of Allegheny County a charge for each and every false alarm, in each calendar year, as follows:
  - A. False alarm:
    - (1) First false alarm, each calendar year: \$50 or proof of yearly maintenance contract in effect for any alarm system involved in transmittal of the false alarm.
    - (2) Second false alarm, each calendar year: \$50.
    - (3) Third false alarm, each calendar year: \$75.
    - (4) Fourth false alarm, each calendar year: \$100.
    - (5) Each false alarm in excess of four, each calendar year: the amount of the charge assessed for the immediately preceding false alarm during that calendar year, plus an additional \$25.
2. When a false police alarm occurs, the Northern Regional Police Department of Allegheny County shall, within 45 days from the date of the false alarm, notify the permit holder for the alarm system, or owner of the alarm device from which the false alarm originated, or other person causing said false alarm, that a false alarm charge is due and the amount thereof. Such notice shall be in writing and mailed by regular mail, postage paid, to the last known address of the permit holder or other person causing said false alarm.
3. A false police alarm charge shall be due and paid to the Northern Regional Police Department of Allegheny County and shall be payable at its headquarters location (230 Pearce Mill Road, Wexford, PA 15090) 30 days from the date of the mailing of the notice of assessment of the charge.

(Ord. 414, 6/21/2006, §3)

### **§13-203. False Fire Alarms; Charges.**

1. Any person causing or reporting accidental false alarms for any reason to which the Fire Department responds or the permit holder of an alarm system that transmits such false alarm for any reason shall pay to the Township of Richland a charge for each and every false alarm, in each calendar year, as follows:

- A. False alarm:
- (1) First false alarm, each calendar year: \$50 or proof of yearly maintenance contract in effect for any alarm system involved in transmittal of the false alarm.
  - (2) Second false alarm, each calendar year: \$50.
  - (3) Third false alarm, each calendar year: \$75.
  - (4) Fourth false alarm, each calendar year: \$100.
  - (5) Each false alarm in excess of four, each calendar year: the amount of the charge assessed for the immediately preceding false alarm during that calendar year, plus an additional \$25.
2. When a false fire alarm occurs, the Township of Richland shall, within 45 days from the date of the false alarm, notify the permit holder for the alarm system, or owner of the alarm device from which the false alarm originated, or other person causing said false alarm, that a false alarm charge is due and the amount thereof. Such notice shall be in writing and mailed by regular mail, postage paid, to the last known address of the permit holder or other person causing said false alarm.
3. A false fire alarm charge shall be due and paid to the Township of Richland of Allegheny County and shall be payable at the Township of Richland Municipal Building, 4011 Dickey Road, Gibsonia, Pennsylvania, 15044, 30 days from the date of the mailing of the notice of assessment of the charge.

(Ord. 414, 6/21/2006, §4)

**§13-204. Testing by Permission Only.**

No person shall conduct or test any alarm device without first obtaining permission from the Northern Regional Police Department of Allegheny County. Where the equipment is keyed through an intermediary, no such permission is necessary unless the alarm or signal is to be relayed to the central receiving station.

(Ord. 414, 6/21/2006, §5)

**§13-205. Nonliability of Municipality.**

The issuance of a permit for an alarm system shall not constitute acceptance by the Township of Richland of any liability to maintain any such equipment or to answer alarms nor shall it otherwise render the Township of Richland liable to any person for any loss or damage relating to the alarm system or procedure.

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(Ord. 414, 6/21/2006, §6)

### **§13-206. Administration and Enforcement.**

Administration and enforcement of this Part shall be the function of the Township of Richland and the Northern Regional Police Department of Allegheny County (to the extent specified herein).

(Ord. 414, 6/21/2006, §7)

### **§13-207. Violations and Penalties.**

Any person, firm or corporation who shall violate any provision of this Part or who shall fail to pay a charge for a false alarm shall, upon conviction before a District Justice, be sentenced to pay a fine of not more than \$500 per violation, which amount shall be in addition to any charge imposed pursuant to §13-202 of this Part.

(Ord. 414, 6/21/2006, §8)

**PART 3**

**LICENSING AND REGULATION OF PRIVATE COMMUNICATION SYSTEMS**

**§13-301. License Requirement.**

No person shall construct, operate or continue to operate a private communications system which occupies the streets, public ways and public places within the Township without having been issued a license or licenses by the Township Secretary.

(Ord. 306, 2/2/1994, §101)

**§13-302. Purpose.**

The purpose of this Part is:

- A. To regulate the erection, construction, reconstruction, installation, operation, maintenance, dismantling, testing, repair and use of a private communications system in, upon, along, across, above, over, under or in any manner connected with the streets, public ways or public places within the corporate limits of the Township, as now or in the future may exist.
- B. To provide the Township with compensation for occupation and use of the Township's rights of way for a private communications system.
- C. To provide the Township with compensation for acquisition and maintenance of Township's rights of way when used for commercial purposes.
- D. To provide the Township with compensation for the cost of regulation imposed by this Part on a private communications system.

(Ord. 306, 2/2/1994, §102)

**§13-303. Definitions.**

For the purposes of this Part and any license in accordance herewith, the following terms, phrases, words and their derivations shall have the meaning given herein unless otherwise specifically provided in this Part, unless the context clearly indicates otherwise or unless such meaning would be inconsistent with the manifest intent of the Township.

**CUSTOMER** — a person who for a charge or payment of a fee receives, sends or uses any communication signal or service.

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FCC — the Federal Communications Commission or its legally appointed successor.

LICENSE — the privilege granted by the Township by which the Township authorizes a person to erect, construct, reconstruct, operate, dismantle, test, use and maintain a private communications system that occupies the streets, public ways or public places within the Township. Any license issued in accordance herewith shall be a nonexclusive license.

LICENSEE — the person or its legal successor in interest who is issued a license or licenses in accordance with the provisions of this Part for the erection, construction, reconstruction, operation, maintenance, dismantling, testing, repair and use of a private communications system in the Township.

PRIVATE COMMUNICATIONS SYSTEM — any communications equipment or facilities, not part of a cable communications system franchised by the Township, that serves no customer other than itself and in any manner is connected with the streets, public ways or public places within the corporate limits of the Township, as now or in the future may exist. It does not include a telecommunications system which provides service to customers.

STREET — any area established for vehicular or public access use or the entire width between the boundary lines of every way publicly maintained when any part thereof is open for public purposes. Street includes, but is not limited to, highway, avenue, road, alley, right of way, lane, boulevard, concourse, bridge, tunnel, parks, parkways, waterways, docks, overheads, rights of way and easements.

(Ord. 306, 2/2/1994, §103; as amended by Ord. 306, Am. 1, 6/2/2001)

### **§13-304. Service of Notice.**

All notices required to be given to the Township under any provision of this Part shall be deemed served when delivered by hand in writing to the Township Secretary.

(Ord. 306, 2/2/1994, §104)

### **§13-305. No Liability or Warranty.**

This Part shall not be construed to create or hold the Township responsible or liable for any damage to persons or property by reason of any inspection or reinspection authorized herein or failure to inspect or reinspect, nor shall the issuance of any license nor the approval or disapproval of any installation authorized herein constitute any representation, guarantee or warranty of any kind by, nor create any liability upon, the Township, or any official, agent or employee thereof.

(Ord. 306, 2/2/1994, §105)

**§13-306. Length of License.**

1. Any annual license issued by the Township in accordance herewith shall be a nonexclusive license for this use of the streets, public ways or public places within the Township as specified in the license for the erection, construction, reconstruction, operation, maintenance, dismantling, testing and use of a private communications system.
2. Any license issued by the Township is renewable annually upon establishment by the licensee to the satisfaction of the Township that the licensee is in compliance with this Part, all applicable Federal, State and local ordinances and regulations and the space occupied is not needed for a public purpose.

(Ord. 306, 2/2/1994, §106)

**§13-307. License Locations.**

1. Any license issued for a private communications system in accordance herewith shall apply only to the location or locations stated on the license or licenses.
2. Nothing in this Part shall be construed as a representation, promise or guarantee by the Township that any permit or other authorization required under any Township law for the construction or installation of a private communications system shall be issued or renewed.

(Ord. 306, 2/2/1994, §107)

**§13-308. Technical Standards.**

All technical standards governing construction, reconstruction, installation, operation, testing, use, maintenance and dismantling of a private communications system provided for herein shall be in accordance with all applicable FCC and other Federal, State and local laws and regulations including, but not limited to, the most recent editions of the National Electrical Code and the National Electrical Safety Code.

(Ord. 306, 2/2/1994, §108)

**§13-309. Powers and Duties of Township Secretary.**

The Township Secretary shall have the following powers and duties:

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- A. Receive and review applications for licenses for any private communications system.
- B. Review and audit all reports and filings submitted by the licensee to the Township pursuant to this Part.

(Ord. 306, 2/2/1994, §109)

### **§13-310. Bonds.**

1. All persons submitting a request for a license to construct a private communications system in accordance herewith shall file with their request bonds solely for the protection of the Township with a surety company or trust company or companies as surety or sureties in an amount determined by the Township Secretary to protect the Township from any and all damages or costs suffered or incurred by the Township from any and all damages or costs including, but not limited to, attorney's fees and costs of any action or proceeding, and including the full amount of compensation, indemnification, cost of removal or abandonment of any property or other costs which may be in default, up to the full principal amount of such bond; and the condition shall be a continuing obligation during the entire term of any license issued in accordance herewith and thereafter until the licensee shall have satisfied in full any and all obligations to the Township which arise out of or pertain to the license for a private communications system.
2. None of the provisions of this Section nor any bond accepted by the Township pursuant hereto, nor any damages recovered by the Township thereunder, shall be construed to excuse the faithful performance by or limit the liability of the licensee under this Part of any license issued in accordance herewith or for damages either to the full amount of such bond or otherwise.

(Ord. 306, 2/2/1994, §110)

### **§13-311. Compensation for License.**

It shall be a term and condition of any license issued in accordance herewith that as a part of the consideration supporting the issuance of such license and the Township's permission thereby to occupy and use the streets of the Township that the licensee shall pay each year to the Township the following compensation and licensee fees. Such compensation and license fees are directly related to the Township's costs of maintaining and improving its streets.

- A. Any private communications systems shall pay compensation and license fees in the amount of \$1 per linear foot for each diameter inch or less of underground conduit wire or each .250 diameter inch or less of aerial wire per annum. In no event shall the fee be less than \$250 per annum.

- B. Any cable communications system or part thereof located in the Township right-of-way and not franchised by the Township shall obtain a license under this Part. Such license shall be granted for the sole purpose of providing cable television signals to customers located in an adjoining municipality. The compensation and license fees stated in subsection (A) shall apply.

(Ord. 306, 2/2/1994, §111; as amended by Ord. 306, Am. 1, 6/2/2001)

**§13-312. Payment and Audit of Compensation and License Fees.**

1. The annual compensation and license fee provided for in §1-311(A) shall be payable annually on or before February 1 of each calendar year.
2. The acceptance of any payment required hereunder by the Township shall not be construed as an acknowledgment that the amount paid is the correct amount due, nor shall such acceptance of payment be construed as a release of any claim which the Township may have for additional sums due and payable.
  - A. All fee payments shall be subject to audit by the Township Auditor and assessment or refund if the payment is found to be in error.
  - B. In the event that such audit results in an assessment by and an additional payment to the Township, such additional payment shall be subject to interest at the rate of 6% per year and to a penalty of 6% per year, which shall be due and payable immediately.
3. Nothing in this Section shall be construed to limit the liability of the licensee for all applicable Federal, State or local taxes.

(Ord. 306, 2/2/1994, §112; as amended by Ord. 306, Am. 1, 6/2/2001)

**§13-313. Indemnity and Insurance.**

1. The Township shall not at any time be liable for any injury or damage occurring to any person or property from any cause whatsoever, including damages from the Township's negligent omissions, if any, arising from the use, operation or condition of the licensee's private communications system.
2. The licensee shall indemnify, save and hold harmless and defend the Township from all liens; charges; claims including, but not limited to, libel, slander, invasion of privacy and unauthorized use of any trademark, trade name or service mark; demands; suits; actions, fines, penalties; losses; costs including, but not limited to, reasonable legal fees and court costs; judgments; injuries; liabilities or damages, in law or equity, of any and every kind and nature whatsoever, including damages caused by or arising out of any act of negligent omission of the Township, its officers, servants, agents, employees or contractors, or otherwise, arising out of or in

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any way connected with the installation, operation, maintenance or condition of the licensee's private communications system.

3. The Township Secretary, in consultation with the Township Solicitor, shall set the type and coverage of insurance required. In setting the amount, the Secretary shall take into consideration the size and location of the private communications system, the financial resources of the licensee, risk involved to the Township and to the general public as well as other salient factors.

(Ord. 306, 2/2/1994, §113)

### **§13-314. Police Powers.**

Nothing in this Part or in any license issued in accordance herewith shall be construed as an abrogation by the Township of any of its police powers.

(Ord. 306, 2/2/1994, §114)

### **§13-315. Use of Streets and Pole Attachments.**

1. Before commencing construction of its private communications system in, above, over, under, across, through or in any way connected with the streets, public ways or public places of the Township, the licensee shall first obtain the written approval of the Township. Applications for such approval shall be made in the form prescribed by the Township.
2. Upon obtaining such written approval, the licensee shall give the Township written notice within a reasonable time of proposed construction, but in no event shall such notice be given less than 10 days before such commencement.
3. Any person who submits a request for a license in accordance herewith shall include therein proposed agreements for the use of existing utility poles and conduits, if applicable, with the owner(s) of such facilities to be used or affected by the construction of the proposed private communications system, which agreements shall become effective on the date of execution of the license issued in accordance herewith in the event that such person is issued a license.
4. It shall be unlawful for the licensee or any other person to open or otherwise disturb the surface of any street, sidewalk, driveway, public way or other public place for any purpose whatsoever without obtaining approval to do so after proceeding in the manner prescribed in subsections (1) and (2) hereof. Violation of this Section shall subject the licensee to all penalties and remedies prescribed therein and to all other remedies, legal or equitable, which are available to the Township.
5. The licensee shall restore any street or sidewalk it has disturbed in accordance with the provisions of Township ordinances, and shall, at its own cost and ex-

pense, restore and replace any other property disturbed, damaged or in any way injured by or on account of its activities to as good as the condition such property was in immediately prior to the disturbance, damage or injury or pay the fair market value of such property to its owner.

6. The licensee shall, at its own cost and expense, protect, support, temporarily disconnect [or] relocate in the same street or other public place, or remove from such street or other public place any of its property when required to do so by the Township because of street or other public excavation, construction, repair, re-grading or grading; traffic conditions; installation of sewers, drains, water pipes, Township owned power or signal lines, tracks; vacation or relocation of streets or any other type of structure or improvement of a public agency, or any other type of improvement necessary for the public health, safety or welfare.
7. Nothing in this Part, or any license issued in accordance herewith, shall be construed as authorizing the licensee to erect and maintain new poles in areas serviced by existing poles.
8. The licensee shall maintain all wires, conduits, cables and other real and personal property and facilities in good condition, order and repair.
9. The licensee shall keep accurate, complete and current maps and records of its system and facilities which occupy the streets, public ways and public places within the Township and shall furnish as soon as they are available two complete copies of such maps and records to the Township Secretary.
10. The licensee shall comply with all rules and regulations issued by the Township governing the construction and installation of private communications systems. In addition:
  - A. All aerial cables and wires shall be installed parallel with existing telephone and electric utility wires.
  - B. Multiple aerial configurations shall be in parallel arrangement and bundled, in accordance with engineering and safety considerations.
  - C. All underground installations shall be in the appropriate size and type conduit or other enclosures approved by the Township.
  - D. All installations shall be underground in those areas of the Township where both telephone and electric utilities' facilities are underground at the time of the installation of the licensee's private communications system.
    - (1) In areas where both telephone and electric utilities facilities are above ground at the time of the installation of the licensee's private communications system, the licensee may install its system above ground on existing utility poles only, upon the condition that at such time as those facilities are placed underground by the telephone and electric

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utility companies, the licensee shall likewise place its facilities underground at its sole cost and expense.

- E. The licensee, upon reasonable notice by the Township, shall temporarily or permanently remove, adjust, raise or lower its facilities within the right of way when the Township determines that such action is needed for public use of the right of way including, but not limited to, the passage of nonstandard vehicles.
- F. The licensee shall obtain the written permission of the owner, including the Township, of any tree or other vegetation before it trims or prunes the same.

(Ord. 306, 2/2/1994, §115)

### **§13-316. Transfers and Assignments.**

1. The licensee shall not transfer or assign its interest in any license issued in accordance herewith without the prior written authorization of the Township Secretary. For purposes of this Section, a merger or consolidation shall be deemed a transfer or assignment.
2. Nothing in any approval by the Township Secretary authorizing any transfer or assignment of any license issued in accordance herewith shall be construed to waive or release any rights of the Township in and to the streets, public ways and public places of the Township or as a release of any of the Township's police powers.

(Ord. 306, 2/2/1994, §116)

### **§13-317. Civil Penalties.**

1. Any person, acting in his/her own behalf or on behalf of a firm, corporation or other entity, who violates any provision of this Part shall be civilly liable to the Township in the amount of \$600, said liability to be his/hers and/or that of the firm, corporation or other entity. In each instance, the Township Secretary, Code Enforcement Officer or police officer shall make a determination of violation and notify the violator by first-class mail or personal service of a copy of the civil citation in form adopted by resolution of the Board of Supervisors.
2. The person, firm, corporation or entity cited as a violator may pay the amount of civil liability at a rate of 33% of the amount cited if said payment is made and received by the Township within 10 days of the date of the citation.
3. In the instance of a continuing violation of this Part, each day the violation is deemed to continue is, in and of itself, another violation and shall constitute a

separate liability in the same amount as originally stated and may be cited as such in the same manner as above set forth.

4. The failure to pay the citation amount of the civil liability by such discount date as stated above shall give cause for the Township by its appropriate official or Solicitor to initiate a civil complaint or complaints against the violator for collection of the civil liability, interest, costs and attorney's fees.

(Ord. 306, 2/2/1994, §117; as amended by Ord. 325, 7/3/1996)



**PART 4**

**AMUSEMENT PLACES**

**§13-401. Definitions.**

DANCE HALL — any room, place or space in which a public dance, as defined herein, is held.

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

PUBLIC DANCE — any dance or ball to which admission may be had by payment of a fee or by purchase, possession or presentation of a token or ticket or in connection with which a charge is made for the care of clothing or other property or any dance to which the public generally may gain admission with or without the payment of a fee.

In this Part, the singular shall include the plural, the plural shall include the singular and the masculine shall include the feminine and neuter.

(Ord. 349, 4/1/1998, §1)

**§13-402. License Required.**

No person shall operate or conduct in the Township any billiard room, pool room, bowling alley, shooting gallery, dance hall or theater without first obtaining and holding a current license therefore from the Township Secretary. All such licenses shall be issued for a period of one year beginning and ending on January 1 of each year.

(Ord. 349, 4/1/1998, §2)

**§13-403. License and Application Fees.**

Every person desiring any license as required by the preceding section of this Part shall make application to the Township Secretary therefore, at the same time paying the application fee set by the Board of Supervisors, pursuant to a resolution and, upon issuance of such license, shall pay the appropriate license fee established also pursuant to Resolution.

(Ord. 349, 4/1/1998, §3)

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### **§13-404. Prorating of Annual License Fee.**

If any person shall begin to engage in any business or activity for which an annual license is hereby required, on or after the first day of July in any year, and shall promptly make application for such license, a fee equal to 1/2 of the yearly fee established pursuant to Resolution for such class of license shall be charged.

(Ord. 349, 4/1/1998, §4)

### **§13-405. Inspections.**

Any business or activity licensed under this Part shall be subject to inspection by the appropriate officials of the Township.

(Ord. 349, 4/1/1998, §5)

### **§13-406. Penalties.**

Any person who shall violate any provision of this Part shall, upon conviction thereof, be sentenced to pay a fine not more than \$600 and in default of payment, to undergo imprisonment for a term not to exceed 30 days. Each day that a violation of this Part continues shall constitute a separate offense.

(Ord. 349, 4/1/1998, §6)

### **§13-407. Collateral Effect.**

All parties subject to the licensing requirements of this Part shall be thereby subjected to the laws of the Commonwealth as same would control such licensee's methods or hours of operation.

(Ord. 349, 4/1/1998, §7)

**PART 5**

**TELECOMMUNICATION PROVIDERS**

**§13-501. Definitions.**

Unless the text specifically indicates otherwise, the meaning of the terms used in this Part shall be as follows:

**APPLICANT** — the person who has applied for a right-of-way permit or a construction permit.

**APPLICATION** — the form prescribed by the Township which the applicant must complete to obtain a right-of-way permit.

**CONSTRUCTION** — the building, erection or installation in, on or under a right-of-way. It does not include maintenance or repair of equipment in a right-of-way or single line extension from equipment in the right-of-way.

**CONSTRUCTION PERMIT** — the document that must be obtained before a person may perform construction in a right-of-way.

**EMERGENCY** — an interruption of service or a condition that poses a clear and immediate danger to life or health or significant loss of property.

**EQUIPMENT** — any tangible property located or proposed to be located in a right-of-way including, but not limited to, wires, lines, cables, conduits, pipes, supporting structures or other facilities.

**IN** — in conjunction with right-of-way means over, above, in, within, on or under a right-of-way.

**MAINTENANCE** — work of a minor nature that will keep an existing condition from failure or decline.

**PERMIT HOLDER** — the person obtaining a right-of-way permit.

**PERSON** — any individual, firm, partnership, association, corporation, company or other business entity.

**RIGHT-OF-WAY** — the surface and space in, on, above and below any real property in which the Township has an interest in law or in equity including, but not limited to, any public street, boulevard, avenue, road, highway, easement, freeway, lane, alley, court, sidewalk, parkway, river, tunnel, viaduct, bridge, park, green space or any other place.

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RESTORE or RESTORATION — the process by which a right-of-way is returned to a state that is as good or better as its condition before construction.

RIGHT-OF-WAY or PERMIT — a written authorization granted by the Township to an applicant for use of the rights-of-way in the Township for wires, lines, cables, conduits, pipes, supporting structures and other facilities.

TELECOMMUNICATIONS SERVICES — the services offered to customers involving the transmission of video, data and/or voice communications and/or content, both active and interactive, and associated usage.

TELECOMMUNICATIONS SYSTEM — a system used or to be used to provide telecommunications services. It does not include a private communication system which serves no customers other than itself. (Township Ord. 306).

UNDERGROUND EQUIPMENT — all equipment that is located wholly or partially underneath a right-of-way.

(Ord. 371, 6/20/2001, §1)

### **§13-502. Requirement for a Right-of-Way Permit.**

1. No person shall enter upon or occupy any right-of-way for the purposes of installing, constructing, maintaining or operating a telecommunications system without first having obtained a right-of-way permit. Any person maintaining or operating a telecommunications system as of the effective date of this Part shall also obtain a right-of-way permit.
2. Before a right-of-way permit is issued, the holder of or applicant for a right-of-way permit shall have applied for any and all regulatory approvals, permits or authorizations from the appropriate Federal and State authorities, if required. Upon the request of the Township, the applicant shall submit written evidence of its applications for or receipt of all such approvals, permits or authorizations.
3. Nothing in this Part shall be construed as a waiver of any ordinances or regulations of the Township of the Township's right to require prospective or current right-of-way permit holders to secure and remit payment for any and all required permits of authorization.

(Ord. 371, 6/20/2001, §2)

### **§13-503. Application for a Right-of-Way Permit.**

1. A right-of-way permit shall only be granted after an applicant has completed an application in the form that has been prescribed by the Township, which form may be revised from time to time. Upon request, an applicant shall be provided

with a copy of the then current application for a right-of-way permit. The application shall request information regarding the applicant's proposed or actual physical use and occupation of the right-of-way. Specifically, the application shall request:

- A. A brief description of the telecommunications service or services to be offered or provided in or through the Township.
  - B. Specific information regarding the equipment it proposes to place or currently maintains in the right-of-way.
  - C. The expected physical burden that such equipment will place or does place on the right-of-way.
  - D. Whether the equipment will or does have a detrimental effect on public safety as it relates to rights-of-way. If the completed application does not fully provide such requested information, the Township may request such additional information as is necessary to enable it to make a determination regarding the physical use and occupation of the rights-of-way by the applicant. The application may request less information from a permit holder applying for renewal of a right-of-way permit.
2. Upon submission of a fully completed application to the Township and the accompanying fee, the Township shall review the application as follows. The Township shall grant or deny such applications within 45 days. If the Township fail to grant or reject such application within the time period specified above, the application shall be deemed approved. In each case, the Township shall review the application to determine whether such use would have a detrimental effect on public safety as it relates to the rights-of-way or would place an undue physical burden on the rights-of-way.
  3. In considering an application, the Township may use such outside experts as it deems necessary. In the event the Township deems it necessary to employ an outside expert to advise the Township with respect to a particular application, the reasonable costs of such expert shall be borne by the applicant.

(Ord. 371, 6/20/2001, §3)

#### **§13-504. Duration and Suspension of Right-of-Way Permit.**

1. The right-of-way permit shall be issued for a period of one year. Permit holders may apply for a renewal of a right-of-way permit prior to its expiration. The Township may suspend such right-of-way permit in the event any one or more of the following has occurred:

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- A. The permit holder shall have caused damage to Township property or the right-of-way without the prior consent of the Township (except in the case of an emergency) and without completing proper restoration.
  - B. The permit holder or the permit holder's equipment in the right-of-way has had a detrimental effect on public safety as it relates to the rights-of-way.
  - C. The permit holder failed to pay any of the fees required under this Part.
  - D. The permit holder failed to comply with construction standards in accordance with the provisions contained in §13-508 below.
  - E. The permit holder failed to indemnify, hold harmless and insure the Township in accordance with the provisions contained in §13-509 below.
2. If the Township has reason to believe that one or more of the above events has occurred, it shall notify the permit holder in writing. The permit holder shall have 30 days to cure the violation, unless the Township reasonably determines that the event is an emergency, in which case the Township may impose a shorter time period to cure the violation.
  3. If the permit holder fails to cure the violation within the specified time period, the Township shall be permitted to immediately suspend the right-of-way permit. A suspension shall be brought to the attention of the Township Board of Supervisors at its next meeting at which time Township Board of Supervisors shall be permitted to uphold or withdraw the suspension. The permit holder shall be provided an opportunity to be heard at such meeting.

(Ord. 371, 6/20/2001, §4)

### **§13-505. Requirement for a Construction Permit.**

1. Except in the case of an emergency, before commencing any construction in the right-of-way, a person shall submit to the Township detailed plans of the proposed construction activity. Such plans shall include the type of construction activity, the equipment proposed to be installed or erected, the specific locations of the construction activity and the scheduled beginning and ending dates of all planned construction. Such plans shall also include the name(s), address(es) and experience of any and all subcontractors whom applicant intends to utilize. Such information may be submitted concurrently with an application for a right-of-way permit.
2. Upon submission of all such information required in Subsection (1) above, the Township shall review such information and either grant or deny a construction permit within 45 days. If the Township fails to grant or deny the construction permit within such time period, the permit shall be deemed granted. In each such case, the Township shall review the information provided herein to determine

whether such construction would have a detrimental impact on public safety as it relates to the rights-of-way. The Township may impose conditions on the construction permit regulating the times, locations and manner of construction to preserve effective traffic flow, prevent hazardous road and/or minimize noise impacts.

(Ord. 371, 6/20/2001, §5)

### **§13-506. Fees and Expenses.**

1. Each new applicant for a right-of-way permit shall include with its application fee in the amount of \$500. This fee is directly related to the Township's cost in reviewing the application (excluding expert costs) and managing the rights-of-way with respect to each permit holder. Such costs is managing the rights-of-way include, but are not limited to, inspection costs, administrative costs, costs of maintaining the rights-of-way and costs of degradation of streets and rights-of-way property. This fee will not be refunded in the event the application is denied. If the application is granted the application fee will apply to the full term of the right-of-way of one year. If the applicant applies for a construction permit concurrently with the application for a right-of-way permit, then the application fee contained herein shall apply to both the right-of-way permit and the construction permit.
2. Each existing permit holder applying for a renewal of its right-of-way permit shall include with its application an annual fee in the amount of \$300. This fee is directly related to the Township's costs in managing the rights-of-way with respect to each permit holder. Such costs include, but are not limited to, inspection costs, administrative costs, costs of maintaining the rights-of-way and costs of degradation of streets and right-of-way property.
3. Each applicant for a construction permit shall include with its application an application fee in the amount of \$200. This fee is directly related to the Township's costs in reviewing the application and determining time, place and manner restrictions on the construction activity. If the application for a construction permit is denied, this fee shall not be refunded. If the application is granted, then the applicant shall pay, within 30 days of the presentation of a statement, the Township's actual costs based on the hourly rate established by resolution of the Township Board of Supervisors. Such actual costs include, but are not limited to, costs of disruption and rerouting of traffic, inspection costs and administrative costs.
4. Extraordinary Expenses. In addition to the fees set forth above, a permit holder shall pay, within 30 days of the presentation of a statement, any extraordinary or unusual expenses reasonably incurred by the Township as a result of the permit holder's use of the rights-of-way, provided that the Township notifies the permit holder of the expected expenses prior to the being incurred and provides the permit holder with and opportunity to mitigate such expenses. Examples of extraordinary or unusual costs include, but are not limited to, the cost of obtaining and operating a backhoe, dump truck or other heavy equipment used to repair the

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right-of-way, overtime or special pay for police officers or other emergency services. The statement of such expenses presented to the permit holder shall be directly related to the Township's actual costs.

5. In the event that payment of any of the fees identified above is not made upon submission of the application or by the date due, the applicant or permit holder shall pay a late payment penalty of simple interest at 10% annual percentage rate of the total amount past due. Such penalty shall be in lieu of any other monetary penalty. Acceptance of payment under this Section shall not in any way limit or waive the Township's right to suspend or terminate the permit according to the terms of this Part.

(Ord. 371, 6/20/2001, §6)

### **§13-507. Management of the Rights-of-Way.**

1. The Township shall have the right to limit the placement of new or additional equipment in the right-of-way if there is insufficient space to reasonably accommodate all requests to occupy and use the rights-of-way. The Township shall consider requests for occupying and using the rights-of-way. The Township shall consider requests for occupying and using the rights-of-way in the order of receipt of fully completed applications for rights-of-way permits. The Township shall strive, to the extent possible, to accommodate all requests, but shall be guided by the physical condition of the right-of-way and whether such use would have a detrimental effect on public safety as it relates to the right-of-way.
2. The Township shall have the right to monitor the telecommunications systems and the equipment related thereto located in the rights-of-way in order to prevent interference between and among such systems and equipment.
3. A permit holder shall allow the Township to make inspections of any part of the permit holder's telecommunications system located in the rights-of-way at any time upon three days notice or, in the case of an emergency, upon demand.

(Ord. 371, 6/20/2001, §7)

### **§13-508. Construction Standards.**

1. Whenever a permit holder or any of its subcontractors shall disturb any pavement, sidewalk or other public property in order to perform any underground activities, the permit holder will fully comply by registering with Pennsylvania's "One Call" system pursuant to 73 P.S. §176 et seq. Such permit holder shall provide Township with GPS information showing planned locations and reference points for equipment to be installed. Each permit holder shall perform construction activity in a manner consistent and in compliance with the detailed plans it

submitted to the Township and all applicable Federal, State and local laws and regulations.

2. Whenever a permit holder or any of its subcontractors shall cause damage to the right-of-way or to Township property in the right-of-way, the permit holder shall restore such right-of-way or property within 30 days, weather permitting.
3. The telecommunications system shall not endanger or interfere with the safety of person or property within the Township. All operating, maintenance, construction and repair personnel shall be thoroughly trained in the safe use of all equipment and in the safe operation of vehicles. Such personnel shall follow all safety procedures required by applicable Federal, State and local laws and regulations. The permit holder shall routinely inspect and maintain all areas of the telecommunications system so that conditions that could develop into safety hazards shall be corrected before they become a hazard.
4. Except in the case of an emergency, at least three days prior to the commencement of any construction activity, permit holder shall notify nearby residents of such construction activity in a manner which is satisfactory to the Township. The name of the permit holder shall be clearly disclosed to such residence.
5. All construction activity shall be performed in an orderly and workmanlike manner and in close coordination with public utilities serving the Township following accepted industry construction procedures and practices.
6. All wire, cables and other equipment shall be installed, where possible, parallel with electric and telephone lines and multiple cable configurations shall be arranged in parallel and bundles with due respect for engineering considerations.
7. All wires, cables and other equipment shall be installed underground where required by Township ordinance or regulation consistent with the same requirement being imposed on all other similar situated companies, including public utilities.

(Ord. 371, 6/20/2001, §8)

#### **§13-509. Liability and Indemnification.**

1. A permit holder shall at its sole cost and expense indemnify and hold harmless the Township, its elected and appointed officials, employees and agents, at all times against any and all claims for personal injury, including death and property damage arising out of the permit holder's use or occupancy of the rights-of-way. A permit holder shall defend any action or proceedings against the Township in which it is claimed that personal injury, including death or property damage was caused by the permit holder's use or occupancy of the rights-of-way. The obligation to indemnify, hold harmless and defend shall include, but not be limited to, the obligation to pay judgments, injuries, liabilities, damages, attorney fees, reasonable expert fees, court costs and all other costs of indemnification. A permit holder

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shall not be required to indemnify and hold the Township harmless for claims caused by the Township's negligence, gross negligence or willful misconduct.

2. A permit holder shall at all times during the life of a permit carry and require its subcontractors to carry liability, property damage, worker's disability and vehicle insurance in such form and amount as shall be determined by the Township as set forth in the permit. A permit holder shall name the Township as an additional insured on its liability insurance policies. All required insurance coverage shall provide for 30 days notice to the Township in the event of material alteration or cancellation of such coverage prior to the effective date of such material alteration or cancellation.

(Ord. 371, 6/20/2001, §9)

### **§13-510. Reporting Requirements.**

1. A permit holder shall annually provide the Township, upon application for renewal of the permit or upon request, the current maps of the horizontal and vertical locations of its existing installations and a summary of all additions and deletions or equipment in the rights-of-way, unless no changes have occurred in the previous year. If no changes have occurred in the previous year, permit holder shall so inform the Township.
2. A permit holder shall submit to the Township such reasonable information directly related to the permit holder's use and occupation of the rights-of-way as the Township may request. All information provided to the Township shall be maintained by the Township as proprietary and confidential if such information is designated in good faith as such prior to the time it is provided to the Township.

(Ord. 371, 6/20/2001, §10)

### **§13-511. Sale or Transfer of Rights of Permit Holder.**

A right-of-way permit may be transferred or assigned, upon 30 days written notice of the Township, provided that the transferee/assignee agrees in writing to comply with all of the obligations and requirements contained in this Part.

(Ord. 371, 6/20/2001, §11)

### **§13-512. Performance Bond.**

A permit holder may be required, prior to construction, to obtain a performance bond in a reasonable amount set by the Township based upon the construction cost of the equipment to be installed in the rights-of-way and the extent of the disturbance of such rights-of-way. The performance bond shall ensure the permit holder's faithful perform-

ance of its construction obligations. The Township may reduce or cancel the bond requirement when construction is completed.

(Ord. 371, 6/20/2001, §12)

**§13-513. Termination.**

1. In addition to all other rights and powers reserved by the Township, the Township reserves the right to terminate a permit and all rights and privileges of a permit holder for any of the following reasons:
  - A. A permit holder fails, after 30 days prior written notice, to comply with any of the material provisions of the permit or this Part.
  - B. A permit holder becomes insolvent, unable or unwilling to pay its debts or is adjudged bankrupt.
  - C. All or part of a permit holder's facilities are sold under an instrument to secure a debt and are not redeemed by the permit holders within 90 days from such sale.
  - D. A permit holder attempts to do or does practice any fraud or deceit in its conduct or relations with the Township under the permit.
  - E. The Township condemns all of the property of a permit holder within the Township by the lawful exercise of eminent domain.
  - F. The permit holder abandons the telecommunications system.
2. No termination shall be effective unless and until the Township Board of Supervisors shall have adopted a resolution setting forth the cause and reason for the termination and the effective date, which resolution shall not be adopted without 30 days prior notice to permit holder and an opportunity for the permit holder to be heard before the Board on the proposed resolution.

(Ord. 371, 6/20/2001, §13)

**§13-514. Removal.**

1. Upon expiration or termination of the permit, if the permit is not renewed, the permit holder shall, upon 60 days prior written notice to the permit holder, remove its equipment from the rights-of-way and shall restore said areas. If such removal is not completed within six months of such notice, the Township may deem any property not removed as abandoned and the Township may remove it at the former permit holder's expense. In the event that the permit holder installed and/or operated any underground conduit or pipe which is six inches or more in

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diameter, permit holder shall fill said conduit or pipe with material in a manner satisfactory to Township.

2. During the term of the permit, if the permit holder decides to abandon or no longer use all of its telecommunications system, it shall provide the Township with written notice of its decision at least 30 days prior to such decision, which notice shall describe the equipment and its location. Township shall have the right to require the permit holder to remove the equipment upon 60 days prior written notice to the permit holder. If such removal is not completed within six months of such notice, Township may remove it at the permit holder's expense.

(Ord. 371, 6/20/2001, §14)

### **§13-515. Penalty.**

If the Township has reason to believe that the permit holder violated any of the terms of this Part, it shall notify the permit holder in writing of the nature of the violation and the Section of this Part which it believes has been violated. The permit holder shall have 20 business days to cure the violation. If the nature of the violation is such that it cannot be fully cured within such time period the Township may, in its reasonable judgment, extend the time period to cure. If the violation has not been cured within the time allowed, it shall be subsequently punishable by a fine of up to \$100 per day until the violation is cured.

(Ord. 371, 6/20/2001, §15)

### **§13-516. Police Powers.**

The Township, by granting any permit under this Part, does not waive, lessen, impair or surrender the lawful police powers vested in the Township under applicable Federal, State and local laws pertaining to regulations or use of the rights-of-way.

(Ord. 371, 6/20/2001, §16)