

## **Chapter 13**

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**Part 1****Junkyards and Salvage Yards****§13-101. Title.**

This Part shall be known and may be cited as “Covington Township Junkyard and Salvage Yard Ordinance.”

(*Ord. 4-1974, 8/6/1974, §1; as amended by Ord. 1-2004, 6/21/2004*)

**§13-102. Purpose and Intent.**

It is the purpose and intent of this Part to promote and protect public health so as to prevent the accumulation of excessive rubbish and junk and the development of potential public health nuisances through the accumulation of unsanitary conditions. Further, to protect the safety and general welfare of the public by eliminating unattractive nuisances and unsafe conditions at the same time to protect property values of adjacent property owners by regulating and licensing junk dealers and salvage yards in accordance with §1532 of the Second Class Township Code, 53 P.S. §66532.

(*Ord. 4-1974, 8/6/1974, §2; as amended by Ord. 1-2004, 6/21/2004*)

**§13-103. Definitions.**

The following words shall for the purposes of this Part have the following meanings:

*Person* - any individual, partnership, association and corporation.

*Township* - Covington Township, Tioga County, Pennsylvania.

*Board* - Board of Supervisors of Covington Township.

*Junkyard/Salvage yard* - any place where any junk as hereinafter defined is stored or disposed of. [*Ord. 1-2004*]

*Junk* - any discarded material and shall include, but not be limited to, scrap metal, two or more abandoned, inoperable and/or unlicensed motor vehicles, machinery, equipment, paper, glass, containers and structures. It shall not include garbage kept in a proper container for the purpose of prompt disposal.

*Junk dealer/Salvage dealer* - any person as hereinafter defined, who shall engage in the business of selling, buying, salvaging and dealing in junk and who maintains and operates a junkyard or salvage yard within the Township of Covington.

*License* - the permit granted to a person who accumulates, stores or disposes of junk as hereinbefore defined.

(*Ord. 4-1974, 8/6/1974, §3; as amended by Ord. 1-2004, 6/21/2004*)

**§13-104. License Required.**

No person shall engage in business as a junk dealer or salvage dealer in the Township of Covington without first having obtained a license from the Supervisors, for which license a fee shall be established from time to time by resolution of the Board of Supervisors for each and every calendar year. Such license shall be renewed annually

on or before the first day of January of each year. In case where a junk dealer business or salvage dealer business shall be established in the Township on or after the first day of July in any year, the license fee payable by such junk dealer for the remainder of such year shall be one-half the yearly rate.

(*Ord. 4-1974, 8/6/1974, §4; as amended by Ord. 1-2004, 6/21/2004*)

**§13-105. Application for License.**

The license provided for in this Part shall be issued by the Board after written application has been made by person or persons desiring to be licensed. The application form shall be provided by the Board. The license shall state name of person to whom such license is issued, the premises on which business is to be conducted, and the written consent of the property owner to use the property as a junkyard or salvage yard. The applicant shall also submit a plot of the premises to be used. Such license shall be posted conspicuously upon the premises licensed.

(*Ord. 4-1974, 8/6/1974, §5; as amended by Ord. 1-2004, 6/21/2004*)

**§13-106. Issuance of License.**

Upon receipt of an application by the Board, the Board shall issue a license or refuse to issue a license to person applying therefor after taking into consideration the effect of the proposed use upon the Township, both economic and aesthetic. In the event the Board shall issue a license, it may impose upon the person applying therefor such conditions as may be deemed necessary to carry out the intent and purpose of this Part.

(*Ord. 4-1974, 8/6/1974, §6*)

**§13-107. License Limitation.**

No person licensed under this Part shall, by virtue of one license, keep more than one place of business within the Township for purpose of dealing in junk or salvage. Nor shall any such persons engage in business as a junk dealer or salvage dealer in any place other than the place designated upon his license.

(*Ord. 4-1974, 8/6/1974, §7; as amended by Ord. 1-2004, 6/21/2004*)

**§13-108. Transfer of License.**

No license issued by Board shall be transferrable by licensee to any other person unless such transfer is authorized by Board. Any person desiring to transfer a license shall notify Board in writing, which notification shall be accompanied by transferee's application for license as described in §13-105. In the event the Board approves a transfer of location or license they may impose such conditions as may be deemed necessary to carry out the purpose and intent of this Part.

(*Ord. 4-1974, 8/6/1974, §8*)

**§13-109. Transfer Fee.**

In event Board shall approve transfer of license, the transferee shall immediately pay to the Township a transfer fee in an amount as established from time to time by resolution of the Board of Supervisors.

(*Ord. 4-1974, 8/6/1974, §9; as amended by Ord. 1-2004, 6/21/2004*)

**§13-110. Operational Standards.**

Every person who stores junk or salvage in this Township shall constantly maintain the premises in accordance with any special provisions imposed by the Board and in the manner prescribed by this Section and any subsequent regulations adopted by the Board: [Ord. 1-2004]

A. Such premises shall at all times be maintained so as not to constitute a nuisance or menace to health of community or of residents nearby or a place for the breeding of rodents and vermin.

B. No garbage or other organic waste shall be stored on such premises.

C. Whenever any motor vehicle shall be received on such premises as junk, all gasoline shall be drained and removed therefrom. Gasoline in an amount not exceeding 10 gallons may be stored above ground provided same be placed in containers approved by Board. All other gasoline which is kept on premises shall be stored underground, which underground storage must be approved by Board.

D. The premises on which junk or salvage is stored shall be set back a minimum distance of 200 feet from the right-of-way lines on all streets or roads and a minimum distance of 50 feet from all other property lines. The area between the set back lines and the right-of-way lines and all streets and roads and all other property lines shall at all times be kept clear and vacant. The foregoing provision respecting set back from streets or road shall apply to all areas for the storing of junk or salvage hereafter established. [Ord. 1-2004]

E. Any premises on which junk or salvage is stored shall at the set back lines be enclosed by evergreen screen plantings or a uniformly painted solid board fence, or both. The type of evergreen screen plantings and fencing used and the way they are set out must be approved by the Board at the time of issuance of a license or at the time of renewal or transfer of license. The evergreen screen plantings shall be of a variety which shall attain a height of 8 feet within 3 years thereafter and shall be maintained in a sound and attractive manner. [Ord. 1-2004]

F. All junk or salvage shall be stored in such a manner and screened so as not to be readily accessible or visible from the street or public road. Junk or salvage shall not be stored above the height of the screen plantings or fencing. [Ord. 1-2004]

G. All signs displayed on the licensed premises shall be approved by the Board; but in no case shall the total area of any one sign exceed 4 feet by 8 feet.

H. No oil, grease, fires, gasoline or other similar material that might be dangerous or tend to produce obnoxious smoke or odors shall be burned within a junkyard at any time. [Ord. 1-2004]

I. The manner of storage and arrangement of junk or salvage, and the drainage facilities of the premises shall be such so as to prevent the accumulation of stagnant water upon the premises and to facilitate access for firefighting purposes. [Ord. 1-2004]

J. No junk shall be piled to a height greater than 8 feet. [Ord. 1-2004]

(Ord. 4-1974, 8/6/1974, §10; as amended by Ord. 1-2004, 6/21/2004)

**§13-111. Violations.**

Any person, firm or corporation who shall violate any provision of this Part, upon conviction thereof in an action brought before a district justice in the manner provided for the enforcement of summary offenses under the Pennsylvania Rules of Criminal Procedure, shall be sentenced to pay a fine of not more than \$1,000 plus costs 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. 4-1974, 8/6/1974, §15; as amended by Ord. 1-2004, 6/21/2004*)

**§13-112. Abatement of Nuisances.**

In addition to the remedies provided in §13-115 above, any continued violation of this Part which shall constitute a nuisance in fact or which shall, in the opinion of the Board constitute a nuisance, may be abated by proceeding against the violator in a court of equity for relief.

(*Ord. 4-1974, 8/6/1974, §16*)

**Part 2****Transient Retail Merchants****§13-201. Definitions.**

1. As used in this Part, 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* -

(1) 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 Township.

(2) Selling, soliciting, or taking orders for any goods, wares, or merchandise, from a fixed location within the Township, on a temporary basis, which shall include, but not be limited to, such activities conducted at the time of special occasions or celebrations, for seasonal purposes, or for 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. 1-2004, 6/21/2004)

**§13-202. License Required; Conditions of Issuance; Fee.**

No person shall engage in any transient retail business within the Township without first having obtained from the Board of Supervisors or their designee a license, for which a fee, which shall be for the use of the Township, shall be charged, said fee to be in such amount established, from time to time by resolution of the Board of Supervisors.

(Ord. 1-2004, 6/21/2004)

**§13-203. 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 the seeking or taking of orders by insurance agents or brokers licensed

under the insurance laws of the Commonwealth of Pennsylvania.

F. To a person who has complied with the provisions of the Solicitation of Funds for Charitable Purposes Act, 10 P.S. §162.1 *et seq.*, as hereafter amended, supplemented, modified or reenacted by the General Assembly of Pennsylvania.

G. 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. But all persons exempted hereby from the payment of the license fee shall be required to register with the Board of Supervisors or their designee and obtain a license without fee; provided, 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, the Board of Supervisors or their designee 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 a nonprofit corporation. Provided, further, every license issued under the provisions of this Part shall be issued on an individual basis to any person or persons engaging in such business; 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 licenses for the applicants.

(Ord. 1-2004, 6/21/2004)

#### **§13-204. License Application.**

Every person desiring a license under this Part shall first make application to the Board of Supervisors or their designee for such license. He shall, when making such application, exhibit a valid license from any State or County officer, if such license is also required. The applicant shall state:

- A. His criminal record, if any.
- B. Name and address of the person by whom he is employed.
- C. Type of goods, wares, and merchandise he wishes to deal with in such transient retail business.
- D. Length of time for which license is to be issued.

(Ord. 1-2004, 6/21/2004)

#### **§13-205. Issuance of License; Custody, Display and Exhibit.**

Upon receipt of such application and the prescribed fee, the Board of Supervisors or their designee, if they shall find such application in order, shall issue the license required under this Part. 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 Township.

(Ord. 1-2004, 6/21/2004)

**§13-206. 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 Township.
- C. When operating from a vehicle, stop or park such vehicle upon any of the streets or alleys in the Township for longer than necessary in order to sell therefrom to persons residing or working in the immediate vicinity.
- D. Park a vehicle upon any of the streets or alleys in the Township for the purpose of sorting, rearranging, or cleaning any of his goods, wares, or merchandise or of disposing of any carton, wrapping material, or stock, wares or foodstuffs which have become unsalable 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 9 a.m. or after 5 p.m. on any day of the week other than a Sunday or legal holiday.

(Ord. 1-2004, 6/21/2004)

**§13-207. Supervision; Records and Reports.**

The Board of Supervisors or their designee shall supervise the activities of all persons holding licenses under this Part. Any designee appointed hereunder shall keep a record of all licenses issued hereunder and shall make a report thereof each month to the Board of Supervisors.

(Ord. 1-2004, 6/21/2004)

**§13-208. Denial, Suspension and Revocation of License; Appeal.**

The Board of Supervisors or their designee is hereby authorized to deny, suspend or revoke any license issued under this Part when they deem such denial, suspension or revocation to be beneficial to the public health, safety, or morals, or for violation of any provision of this Part, or for giving false information upon any a application for a license hereunder. Appeals from any suspension, revocation or denial of a license may be made to the Board of Supervisors at any time within 10 days after such suspension, revocation or denial and a hearing shall be held within 30 days of the petition for appeal. No part of a license fee shall be refunded to any person whose license shall have been suspended or revoked.

(Ord. 1-2004, 6/21/2004)

**§13-209. Penalties.**

Any person, firm or corporation who shall violate any provision of this Part, upon conviction thereof in an action brought before a district justice in the manner provided for the enforcement of summary offenses under the Pennsylvania Rules of Criminal Procedure, shall be sentenced to pay a fine of not more than \$1,000 plus costs 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. 1-2004, 6/21/2004)*

**Part 3****Obscenity****§13-301. Offenses Defined.**

No person, knowing the obscene character of the materials or performance involved, shall:

A. Display or cause or permit the display of any obscene material in or on any window, showcase, newsstand, display rack, billboard, display board, viewing screen, motion picture screen marquee or similar place in such manner that the display is visible from any public street, highway, sidewalk, transportation facility or other public thoroughfare.

B. Sell, lend, distribute, exhibit, give away or show any obscene material to any person 18 years of age or younger or offer to sell, lend, distribute, exhibit or give away or show, or have in his possession with intent to sell, lend, distribute, exhibit or give away or show any obscene material to any person 18 years of age or younger, or knowingly advertise any obscene material in any manner.

E. Produce, present or direct any obscene performance or participate in a portion thereof that is obscene or that contributes to its obscenity.

F. Hire, employ, use or permit any minor child to do or assist in doing any act or thing mentioned in this Section.

(Ord. 1-2004, 6/21/2004)

**§13-302. Definitions.**

As used in this Part the following words and phrases shall have the meanings given to them in this Section:

*Community* - for the purpose of applying the "contemporary community standards" in this Section, community means the State.

*Knowing* - as used in §13-301, "knowing" means having general knowledge of, or reason to know or a belief or ground for a belief which warrants further inspection or inquiry of, the character and content of the performance or any material described in §13-301 which is reasonably susceptible of examination by the defendant.

*Materials* - any literature, including any book, magazine, pamphlet, newspaper, story paper, comic book, and any figure, visual representation or image, including any drawing, photograph, picture or motion picture.

*Performance* - any play, dance or other live exhibition performed before an audience.

*Obscene* - any material, materials or performance is "obscene" if:

(1) The average person applying contemporary community standards would find that the subject matter taken as a whole appeals to the prurient interest.

(2) The subject matter depicts or describes in a patently offensive way sexual conduct of a type described in this Section.

(3) The subject matter, taken as a whole, lacks serious literary, artistic, political, educational or scientific value.

*Sexual conduct* - as used in this Section means patently offensive representations or descriptions of ultimate sexual acts, normal or perverted, actual or simulated, and patently offensive representations or descriptions of masturbation, excretory functions and lewd exhibitions of the genitals.

*Transportation facility* - any conveyance, premises or place used for or in connection with public passenger transportation, whether by air, rail, motor vehicle or any other method, including aircraft, watercraft, railroad, cars, buses, and air, boat, railroad and bus terminals and stations.

(Ord. 1-2004, 6/21/2004)

### **§13-303. Dissemination to Minors.**

No person shall knowingly disseminate by sale, loan or otherwise, explicit sexual materials to a minor. "Explicit sexual materials," as used in this Section, means materials which are obscene or:

A. Any picture, photograph, drawing, sculpture, motion picture film or similar visual representation or image of a person or portion of the human body which depicts nudity, sexual conduct or sadomasochistic abuse and which is harmful to minors.

B. Any book, pamphlet, magazine, printed matter however reproduced, or sound recording which contains any matter enumerated in subsection .A, or explicit and detailed verbal descriptions or narrative accounts of sexual excitement, sexual conduct or sadomasochistic abuse and which, taken as a whole, is harmful to minors.

(Ord. 1-2004, 6/21/2004)

### **§13-304. Admitting Minor to Show.**

It shall be unlawful for any person knowingly to exhibit for monetary consideration to a minor or knowingly to sell to a minor an admission ticket or pass or knowingly to admit a minor for a monetary consideration to premises whereon there is exhibited a motion picture show or other presentation which, in whole or in part, depicts nudity, sexual conduct or sadomasochistic abuse and which is harmful to minors, except that the foregoing shall not apply to any minor accompanied by his parent.

(Ord. 1-2004, 6/21/2004)

### **§13-305. Definitions.**

As used in §13-303 and §13-304:

*Minor* - any person under the age of 18 years.

*Nudity* - the showing of the human male or female genitals, pubic area or buttocks with less than a fully opaque covering, or the showing of the female breast with less than a fully opaque covering of any portion thereof below the top of the nipple, or the depiction of covered male genitals in a discernibly turgid state.

*Sexual conduct* - acts of masturbation, homosexuality, sexual intercourse or physical contact with a person's clothed genitals, pubic area, buttocks or, if such

person be a female, breast.

*Sexual excitement* - the condition of human male or female genitals when in a state of sexual stimulation or arousal.

*Sadomasochistic abuse* - flagellation or torture by or upon a person clad in undergarments, a mask or bizarre costume, or the condition of being fettered, bound or otherwise physically restrained on the part of one so clothed.

*Harmful to minors* - that quality of any description or representation in whatever form of nudity, sexual conduct, sexual excitement, or sadomasochistic abuse when it:

(1) Predominately appeals to the prurient, shameful or morbid interest of minors.

(2) Is patently offensive to prevailing standards in the adult community as a whole with respect to what is suitable material for minors.

(3) Is utterly without redeeming social importance for minors.

*Knowingly* - having general knowledge of, or reason to know, or a belief or ground for belief which warrants further inspection or inquiry or both:

(1) The character and content of any material described herein which is reasonably susceptible of examination by the defendant.

(2) The age of the minor; provided, however, than an honest mistake shall constitute an excuse from liability hereunder if the defendant made a reasonable bona fide attempt to ascertain the true age of such minor.

(Ord. 1-2004, 6/21/2004)

#### **§13-306. Requiring Sale as Condition of Doing Business.**

No person shall knowingly require any distributor or retail seller, as a condition to sale or delivery for resale or consignment of any literature, book, magazine, pamphlet, newspaper, story paper, paper, comic book, writing, drawing, photograph, figure or image, or any written or printed matter, or any article or instrument, to purchase or take by consignment for purposes of sale, resale or distribution any obscene literature, book, magazine, pamphlet, newspaper, story paper, paper, comic book, writing, drawing, photograph, figure or image, or any written or printed matter of an obscene nature or any article or instrument of an obscene nature.

(Ord. 1-2004, 6/21/2004)

#### **§13-307. Exemptions.**

Nothing in this Part shall apply to any recognized historical society or museum accorded charitable status by the Federal government, any county, city, borough, township or town library, any public library, any library of any school, college or university or any archive or library under the supervision and control of the Commonwealth or a political subdivision.

(Ord. 1-2004, 6/21/2004)

#### **§13-308. Fines and Penalties.**

Any person, firm or corporation who shall violate any provision of this Part, upon

conviction thereof in an action brought before a district justice in the manner provided for the enforcement of summary offenses under the Pennsylvania Rules of Criminal Procedure, shall be sentenced to pay a fine of not more than \$1,000 plus costs 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. 1-2004, 6/21/2004)*