

## **Chapter 13**

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**Part 1****Transient Retail Business****§13-101. Definitions.**

The term “transient retail business” as used in this Part shall mean and include the following: (A) engaging in peddling, selling, canvassing, soliciting or taking orders, either by sample or otherwise, for any goods, wares or merchandise upon any street, alley, sidewalk or public place, or from house to house, within the Borough; and (B) selling, soliciting or taking orders for any goods, wares or merchandise, from a fixed location within the Borough, on a temporary basis which shall include, but shall not be limited to, any activities conducted at the time of special occasions or celebrations, for seasonal purposes or for or in advance of particular yearly holidays; “garage sales” by residents held on the premises of their residences are exempted.

*(Ord. 79-5, 3/19/1979, §13-1)*

**§13-102. License Required to Engage in Transient Retail Business.**

No person shall engage in any transient retail business within the Borough without first having obtained from the Borough Manager a license for which a fee, in an amount as established from time to time by resolution of the Borough Council, which shall be for the use of the Borough, shall be paid. Provided, no license fee shall be required under this Section (A) for solicitations for recognized charitable and philanthropic purposes; (B) for the sale of goods, wares and merchandise, the proceeds of which are to be applied to bona fide charitable or philanthropic purposes; (C) from bona fide Borough residents duly registered for a license; provided, further, any person dealing in one or more of the above mentioned exempted categories, and selling other goods, wares and merchandise not so exempted, shall be subject to payment of the license fee fixed by this Section for his activities in connection with the sale of goods, wares and merchandise not so exempted. Provided, further, the Manager may similarly exempt from payment of the license fee persons working without compensation and selling goods, wares or merchandise for the sole benefit of any nonprofit organization. Provided, further, every license issued under the provisions of this Part shall be issued on an individual basis to persons engaging in a transient retail business; every individual shall obtain a separate license, issued to him in his name, and the license fee imposed by this Section shall be applicable to every individual license.

*(Ord. 79-5, 3/19/1979, §13-2; as amended by A.O.)*

**§13-103. Application for License.**

Every person desiring a license under this Part shall first make application to the Manager for the license. If the person shall also be required to obtain a license from any State or County officer, he shall, when making the application, exhibit a valid license from the State or County officer. The applicant shall give his name and address; the name of the person by whom he is employed; the type of goods, wares and merchandise he wishes to deal within transient retail business; the number of persons to be employed by him in the Borough; and the type and license numbers of all vehicles to be used, if any. The application shall be accompanied by the license fee required by §13-

102 and shall include a photograph of the applicant. The application shall state the inclusive dates during which the business will be conducted.

*(Ord. 79-5, 3/19/1979, §13-3)*

**§13-104. Investigation; Issuance or Refusal of License.**

Following the making of the application by the applicant, no license shall be issued until the Police Department has investigated the application, but the waiting period for the purpose of the investigation shall not exceed 72 hours. Following the investigation, the Police Department shall report the results. The license may be refused in any case where the investigation discloses a criminal record or any false or misleading statement on the application. When a license is refused, the Borough shall return to the applicant the license fee that had been paid to the Borough at the time of making the application less the sum of \$5, which shall be retained by the Borough to partially reimburse the Borough for the expenses of investigation.

*(Ord. 79-5, 3/19/1979, §13-4)*

**§13-105. Custody, Display and Exhibit of License.**

Every license holder shall carry the license upon his person or shall display it upon his vehicle, if he is engaged in a transient retail business from house to house or upon any street, alley, sidewalk or public ground, or he shall display the license at the fixed location where he shall engage in business if doing so from a fixed location. He shall exhibit the license, upon request, to all police officers, Borough officials and citizens or residents of the Borough.

*(Ord. 79-5, 3/19/1979, §13-5)*

**§13-106. Prohibited Acts.**

No person engaged 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 street, alley, sidewalk or public ground in the Borough, or use any loud speaker or horn or other device for announcing his presence by which the public may be annoyed.
- C. When selling from a vehicle, stop or park the vehicle upon any street or alley in the Borough for longer than necessary in order to sell from the vehicle to persons residing or working in the immediate vicinity.
- D. Engage in any house-to-house activity, except by prior appointment, before 11 a.m. or after 6 p.m.

*(Ord. 79-5, 3/19/1979, §13-6)*

**§13-107. Certain Practices Constitute Nuisances.**

The practice or custom of going in and upon private residences in the Borough by solicitors, peddlers, itinerant merchants or transient retail merchants, regardless of whether they hold a valid license under this Part, not having been requested or invited to do so by the owner or occupant of that private residence, for the purpose of disposing of, peddling or hawking goods, wares or merchandise is hereby declared to be a nuisance and punishable as stated, and is also a violation of this Part. The text of this

Section shall be stated on the license.

*(Ord. 79-5, 3/19/1979, §13-7)*

**§13-108. Suspension and Revocation of License.**

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

*(Ord. 79-5, 3/19/1979, §13-8)*

**§13-109. Penalty for Violation.**

Any person, firm or corporation who shall violate any provision of this Part, upon conviction thereof, shall be sentenced to 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 30 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. 79-5, 3/19/1979, §13-9; as amended by A.O.)*



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

This Part shall be known and cited as "Garage and Yard Sale Permit Ordinance."  
(*Ord. 06-03, --/2006, §1*)

**§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 of Troy [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 Ordinance of the Borough of Troy [Chapter 27]. The provisions of this Part arise from the need to omit, 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 [Part 1] and/or any other ordinances of the Borough of Troy.

(*Ord. 06-03, --/2006, §2*)

**§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 sales," "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.

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

*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 of Troy.

(*Ord. 06-03, --/2006, §3*)

**§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 of Troy without first obtaining a garage sale

license from Borough Manager 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 Troy Borough Council pursuant to a Resolution.

(*Ord. 06-03, --/2006, §4*)

#### **§13-205. 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 of Troy with or without the protection of the non-conforming 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 of Troy 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. 06-03, --/2006, §5*)

#### **§13-206. Enforcement.**

1. This Part shall be enforced by the Borough Manager or other legal enforcement personnel designated by Borough Council 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 Borough Manager or other legal enforcement personnel designated by Borough Council shall prosecute a

complaint before a magisterial district judge pursuant to the provisions of this Part. [A.O.]

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 persons 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. 06-03, --/2006, §6; as amended by A.O.*)

### **§13-207. Penalties.**

Any person, firm or corporation who shall violate any provision of this Part, upon conviction thereof, shall be sentenced to 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 30 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. 06-03, --/2006, §7, as amended by A.O.*)

