

CHAPTER 13

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Part 1

General Regulations

§101. Applications. Except as otherwise set forth in any Borough ordinance, applications for all licenses and permits required by ordinance shall be made in writing to the Borough Secretary. Each application shall state the name of the applicant, the permit or license desired, the location to be used, if any, the time covered and the fee to be paid; and each application shall contain such additional information as may be needed for the proper guidance of the Borough officials in the issuing of the permit or license applied for. (Ord. 237, 7/1/1969, §4; as amended by Ord. 427, 12/28/1993)

§102. Person Subject to License. Whenever in this Code a license is required for the maintenance, operation or conduct of any business or establishment, or for doing business or engaging in any activity or occupation, any person or corporation shall be subject to the requirement if by himself or through an agent, employee or partner, he holds himself forth as being engaged in the business or occupation; or solicits patronage therefor, actively or passively; or performs or attempts to perform any part of such business or occupation in the Borough. (Ord. 237, 7/1/1969, §5)

§103. Forms. Forms for all licenses and permits, and applications therefor shall be prepared and kept on file by the Borough Secretary. (Ord. 237, 7/1/1969, §6)

§104. Signatures. Each license or permit issued shall bear the signature of the Borough Secretary. (Ord. 237, 7/1/1969, §7)

§105. Fees. In the absence of provision to the contrary, all fees and charges for licenses or permits shall be paid in advance at the time application therefor is made to the Borough Secretary. When an applicant has not engaged in the business until after the expiration of part of the current license year, the license fee shall be pro-rated by quarters and the fee paid for each quarter or fraction thereof during which the business has been or will be conducted. Except as otherwise provided, all license fees shall become a part of the corporate fund. (Ord. 237, 7/1/1969, §8)

§106. Termination of Licenses. All annual licenses shall terminate on the last day of the fiscal year of the Borough wherein they are issued, where no provision to the contrary is made. (Ord. 237, 7/1/1969, §9)

§107. Nuisances. No business, licensed or not, shall be so conducted or operated as to amount to a nuisance in fact. (Ord. 237, 7/1/1969, §10)

§108. Revocation. Any license or permit for a limited time may be revoked by the Borough Secretary at any time during the life of such license or permit for any violation by the licensee or permittee of the ordinance provisions relating to the license or permit, the subject matter of the license or permit, or to the premises occupied; such revocation may be in addition to any fine imposed. (Ord. 237, 7/1/1969, §11)

(13, §109)

(13, §109)

§109. Posting License. It shall be the duty of any person conducting a licensed business in the Borough to keep his license posted in a prominent place on the premises used for such business at all times. (Ord. 237, 7/1/1969, §12)

Part 2
Transient Retail

§201. License Required to Engage in Transient Retail Business. From and after the passage of this Part, it shall be unlawful for any person, corporation or association, either in person or by its servants, agents, or employees, whether residents or non-residents of the Borough of New Holland, to solicit funds, or to peddle, canvass, sell, offer to sell, or take orders, either by sample or otherwise, for merchandise, by dealers, agents, hucksters, peddlers, or other vendors, upon the streets, sidewalks, or from house to house, in the Borough of New Holland, or to solicit funds, peddle, canvass, sell, offer to sell, or to take orders, either by sample or otherwise, from a fixed location within the Borough of New Holland, on a temporary basis, without first having obtained a license in accordance with the provisions of this Part. (Ord. 413, 12/3/1991, §1)

§202. Exemptions. Section 201 of this Part shall not apply to the following:

A. Farmers selling their own produce.

B. The solicitation of funds or the sale of goods, wares, or merchandise donated by the owners thereof, wherein the funds or proceeds are to be applied exclusively to any charitable or philanthropic purpose.

C. Any member or representative of the Boy Scouts of America, Girls Scouts of America, Lions Club, Rotary Club, Jaycees, Sertoma Club, Seroptimist, American Association of Retired Persons, Red Cross, Salvation Army, and other national or international service organizations and associations existing for the benefit of youth, aged, handicapped or stricken, any local community service group, local athletic association for youths, local school or church group, Liberty Fire Company, or any successor thereto, or similar organizations who solicit funds, sell goods, or take orders, for the purpose of self-perpetuation of such group, and who are registered as charitable organizations with the State or Federal government.

D. Any person, association or corporation soliciting funds, or offering to sell or take orders for merchandise, from a fixed location on a temporary basis, in conjunction with any carnival, circus, town fair, or similar public occasion, provided such activity is specifically authorized by the organizer of such occasion.

E. Any individual who has registered with the Police Department and paid a license fee in accordance with this Part.

(Ord. 413, 12/3/1991, §2)

§203. Registration and Licensing. Any person, corporation or association desiring to engage in those acts prohibited pursuant to §201 of this Part must register and obtain a license from the Police Department of the Borough of New Holland. In registering and obtaining such license, any individual applicant shall give the following information:

A. Application Information.

(1) For any individual, the individual's full name and complete address, previous criminal history, type of goods, wares and merchandise to be offered for sale, the length of time for which such individual wishes the permit, the names of persons for whom he works, if any, the places where he was engaged in sales immediately prior to the time of application, the places where he expects to go following the expiration of the permit for which application is being made, date of birth, Social Security number, and the type and license numbers of any vehicles to be used.

(2) For any corporation or association, the full name and complete address, type of goods, wares and merchandise to be offered for sale, the length of time for which the corporation or association wishes the permit, the full name and home address of all individuals employed by or representing such corporation or organization in the activities as regulated pursuant to this Part, the places where the corporation or association has engaged in sales immediately prior to the time of application, the places where the corporation or association expects to go following the expiration of the permit for which application is being made, and the type and license number of any vehicles to be used.

(3) All applicants shall disclose in the application the purpose of the activities, and the use to be made of the funds raised. Any corporation shall produce upon request a copy of the articles of incorporation. Any corporation or association engaged in the sale of goods, wares, or merchandise, or the taking of orders for the same, shall upon request produce a copy of the letter to such corporation or organization approving exemption of such corporation or association from income tax for the charitable purposes as claimed by the corporation or association in its application for a permit.

B. Upon payment of a fee to be established by resolution enacted by New Holland Borough Council, the Police Department, if it finds that the application is in order, shall issue a license for such term as requested by the applicant, but not more than seven (7) days. The applicant may apply to renew the license after its expiration. Any such application shall require payment of an additional fee. The Police Department shall have a reasonable amount of time to issue said license in order to verify the information as set forth in the application, and to insure compliance with §204 of this Part.

C. Every holder of a license shall carry said license on his person while engaged in licensed activities within the Borough of New Holland, or shall display such license at the location where he shall engage in such activity if doing so from a fixed location. In addition, any employees or representatives of the licensee shall be required to carry a copy thereof while engaged in licensed activity. Such license shall be exhibited to any resident or representative of the Borough of New Holland, when requested to do so.

D. Upon expiration of the license, the license may be renewed upon application and payment of the prescribed fee.

(Ord. 413, 12/3/1991, §3)

§204. Magazine Sales. Where the Act of November 25, 1970, P.L. _____, No. 241, §1 et seq., 73 P.S. §2011, et seq., is applicable pertaining to solicitation of magazine subscriptions by the use of door-to-door salesman, no license shall be issued until satisfactory proof is provided by the applicant that he or she, or the organization or corporation which such person represents, has received a license from the Office of the Attorney General of the Commonwealth of Pennsylvania, pursuant to the aforesaid Act. Where the aforesaid Act is applicable, any such person shall be required to have in his or her possession a copy of the license as issued by the Office of Attorney General of the Commonwealth of Pennsylvania. Such license shall be exhibited to any resident or representative of the Borough of New Holland upon request. (Ord. 413, 12/3/1991, §4)

§205. Prohibited Acts. No person while engaged in the business as described in this Part shall:

A. Sell or offer for sale any product or type of product not mentioned in the application for a license.

B. Hock or cry his wares upon any of the streets, alleys, sidewalks, or public grounds in the Borough of New Holland.

C. When operating from a vehicle, stop or park such vehicle upon any of the streets or alleys in the Borough of New Holland for longer than necessary in order to sell therefrom to persons residing or working in the immediate vicinity; or to cause traffic congestion by stopping whereby traffic lanes are blocked.

D. Use any vehicle not listed in the registration as set forth in §203 hereof.

E. Approach any vehicle upon the public street stopped at any traffic control device for the purpose of conducting business as described in this Part.

F. Park any vehicle upon any of the streets of the Borough of New Holland 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 food stuffs which have become unsaleable through handling, age, or otherwise.

G. Engage in activity, except by prior appointment at any time earlier than 9:00 A.M. or later than 8:00 P.M., on any day of the week. No such business activity shall be permitted on any legal holiday.

H. Engage in any conduct constituting harassment, misrepresent any material fact relating to the product or wares to be sold, or the group or organization represented, disposition of any purchase price or funds solicited, or any other material fact; trespass upon any property; refuse to leave any premises when requested; engage in loud conduct or use obnoxious or abusive language; sell merchandise which differs in any material aspect from the merchandise as represented; or to engage in the sale of any merchandise which is harmful or injurious to the health, safety, or welfare of the residents of the Borough of New Holland.

I. Engage in any conduct or activity which would constitute an "unfair method of competition" as defined by the Pennsylvania Unfair Trade Practices and Consumer Protection Law, Act of December 17, 1968, P.L. _____, No. 387, §1 et seq., 73 P.S. §201-1 et seq.

J. When taking orders for any merchandise being offered for sale, fail to advise the purchaser, in writing, of the purchaser's legal rights to rescind the transaction within three (3) business days, pursuant to applicable State or Federal law.

(Ord. 413, 12/3/1991, §5)

§206. Revocation of License. In the event any person engages in prohibited acts as set forth in §205 of this Part, violates any of the other terms of this Part, or engages in any conduct constituting a violation of any statute or regulation of the Commonwealth of Pennsylvania, the Chief of Police of the Borough of New Holland shall have the power to revoke the license granted unto such person, or the license granted unto any corporation or association represented by such person. In the event of any revocation, any fee paid shall be forfeited. The Chief of Police shall have the right to refuse to issue any future permit to any such person, corporation or association. (Ord. 413, 12/3/1991, §6)

§207. Supervision, Records and Reports. The New Holland Police Department shall monitor the activities of all persons holding licenses pursuant to this Part, and shall keep a record of all licenses issued hereunder. (Ord. 413, 12/3/1991, §7)

§208. Penalty for Violation. Any person, firm or corporation who shall violate any provision of this Part shall, upon conviction thereof, be sentenced to pay a fine of not more than six hundred dollars (\$600.00) plus costs and, in default of payment of said fine and costs, to a term of imprisonment not to exceed thirty (30) days. Each day that a violation of this Part continues a separate offense. (Ord. 413, 12/3/1991, §8)

Part 3

Video Games and Amusement Arcades

§301. Purpose and Legislative Intent. It is hereby declared a matter of legislative declaration and belief that the safety, welfare and morals of the Borough of New Holland as a whole, and particularly of minor children within the Borough of New Holland, are threatened by the presence of amusement arcades as hereinafter defined within the Borough of New Holland. These establishments act as a gathering point for young people, encouraging loitering, and potential illegal activity. In addition, the presence of said establishments encourage truancy. Therefore, it is the intent of the Borough Council to establish rules and regulations concerning the operation of such establishments for the purpose of insuring the continued safety, welfare and morals of the Borough of New Holland, and minor children within the Borough of New Holland. (Ord. 325, 6/7/1983, §1)

§302. Definitions. The following words, terms and phrases whenever used within this Part shall be construed as defined in the following subsections:

AMUSEMENT ARCADE - any building, premises or room containing five (5) or more amusement games as hereinafter defined, regardless of any other type of business conducted within the same premises. This definition specifically excludes any temporary structure containing more than five (5) amusement games, erected and operated in conjunction with any fair approved by the Council for New Holland Borough, so long as any such temporary structure is erected and removed, and such amusement games are installed and removed, within a span of one (1) week.

AMUSEMENT GAME - any mechanical, electric or electronic device used or designed to be operated for entertainment or as a game by the insertion of a piece of money, coin, token or other article, or by paying money to have it activated. This definition shall include, by way of illustration and not limitation:

- A. Electric video games.
- B. Pinball machines.
- C. Air-hockey machines.
- D. Pool or billiard tables.

This definition shall not include:

- A. Jukebox.
- B. Rides.
- C. Bowling Alleys.
- D. Any device maintained within a residence for the use of the occupants thereof and their guests.
- E. Any device the possession of which is prohibited by law.

(Ord. 325, 6/7/1983, §2)

§303. Permit Requirements.

1. It shall be unlawful for any person, persons, corporation, or

other business entity to have, keep or maintain for the purpose of operation any amusement games within any amusement arcade without having first obtained a proper permit from the Borough of New Holland.

2. Any permit issued after receipt of an application as set forth in §304 of this Part shall be issued only to the person, firm, corporation, partnership or association who shall be the actual operator of the amusement arcade. The authority set forth in any such permit shall extend only to the person, firm, corporation, partnership or association to whom said permit is issued. Any such permit shall not be transferable or assignable.

3. Each permit issued by the Borough of New Holland shall authorize operation of an amusement arcade for a period of one (1) year after the date of issuance, a new application to be required for each succeeding year of operation.

4. Applications for renewal of the permit shall be submitted at least thirty (30) days before the expiration of the existing permit.

5. Any permit issued pursuant to this Part shall set forth the identity of the person to whom the permit is issued, the expiration date thereof, total number of machines to be permitted within any arcade, and after consultation with the Fire Chief, total number of persons to be permitted within the arcade at any time.

6. Borough Council may, by resolution, establish an annual fee for a permit. [Ord. 427]

(Ord. 325, 6/7/1983, §3; as amended by Ord. 427, 12/28/1993)

§304. Permit Application. The application for the permit required pursuant to §303 of this Part shall be filed in writing with the Secretary of the Borough of New Holland, or with such other officer as shall be designated by the Borough, and shall specify:

A. The name and address of the applicant, and, if a firm, corporation, partnership or association, the principal officers thereof, the names and addresses of the principal officers, and the names and addresses of any individuals owning more than ten (10%) percent interest in any such firm, corporation, partnership or association.

B. The name and address of the owner of the amusement games for which the permit is requested, if such owner is different than the applicant.

C. The address of the premises where the amusement games are to be operated.

D. A statement as to the nature of any other business to be conducted on said premises other than the operation of the amusement games.

E. A drawing depicting that portion of the place or premises where the aforesaid amusement games are to be installed, said drawing to include total square footage, and depicting exits, bathroom location, and location and arrangement of amusement games within the place or premises.

(Ord. 325, 6/7/1983, §4)

§305. Building Regulations. The following regulations shall be required for any place or premises in which an amusement arcade is to be operated:

A. Separate bathrooms shall be provided for male and female patrons of the amusement arcade.

B. In addition to any main entrance, at least one (1) emergency exit shall be provided.

C. Not more than fifty (50%) percent of the floor space of each room utilized as an amusement arcade shall be occupied by or enclosed by amusement games, the intent of this provision to prevent overcrowding, to provide open areas for ease of supervision, and to facilitate faster emergency exit from the premises.

D. The Borough shall have the right to inspect electrical service to and the electrical system within the premises to be used as an amusement arcade, and shall have the right to require that electrical service to and the electrical system within the premises be upgraded in such fashion so as to comply with standards within the electrical industry applicable to the anticipated electrical use.

E. Amusement games shall be arranged within the premises in such fashion so that all persons within any individual room may be observed and supervised from any other point in such room.

(Ord. 325, 6/7/1983, §5)

§306. Supervision and Patronage. The following regulations and rules shall apply with regard to supervision of individuals frequenting the amusement arcade and regulations concerning patronage:

A. No child under the age of sixteen (16) years shall be permitted to frequent any amusement arcade during the hours of 8:00 A.M. to 3:00 P.M. on days during the regular school year, the purpose of this provision to discourage truancy.

B. Each such arcade shall be supervised during the hours of 8:00 A.M. to 3:00 P.M. on days on which school is in session during the regular school year, by not less than one (1) adult, eighteen (18) years of age or older. During all other business hours, each such amusement arcade shall be supervised by not less than two (2) adults, eighteen (18) years of age or older. The responsibility of such supervising adults shall be to insure that the arcade is operated in compliance with this Part and all other applicable Borough ordinances and State Laws. In the event that any amusement arcade contains more than one (1) room, each such room shall be supervised by at least one (1) adult for all hours during which each such room is open.

C. Except for establishments licensed by the Pennsylvania Liquor Control Board for the serving of alcohol, no alcohol shall be served in any amusement arcade, nor shall any person under the influence of alcohol be permitted in any amusement arcade. In those establishments licensed by the Pennsylvania Liquor Control Board for the serving of

alcoholic beverages, no person under the age of twenty-one (21) years shall be permitted to play or use any amusement game in any amusement arcade located within any such establishment.

D. No child under the age of sixteen (16) years shall be admitted to any amusement arcade, or be permitted to play or operate any amusement game therein, after 11:00 P.M., unless accompanied by and under the supervision of a parent or other guardian.

(Ord. 325, 6/7/1983, §6)

§307. Operation of Amusement Arcade. The following rules and regulations shall apply to the operation of any amusement arcade:

A. The owner and/or operator of the arcade shall maintain good order on the premises at all times.

B. The following conduct shall be specifically prohibited:

(1) Fighting or rowdy behavior.

(2) Possession or consumption of alcoholic beverages, except insofar as such amusement games are installed in any premises governed by the rules and regulations of the Pennsylvania Liquor Control Board, and laws of the Commonwealth of Pennsylvania.

(3) Possession, use, or consumption of any illegal drugs, or any controlled substance possession of which is prohibited by the laws of the Commonwealth of Pennsylvania.

(4) Gambling.

C. No cash award or prize shall be offered or given for any contest, tournament, league or individual play on any amusement game, except that free games awarded by the machine itself shall be permitted, such as free game which can be won on pinball machines. No credit allowance, check, slug, token, or anything of value shall be offered or given to any player of any amusement game, except as hereinbefore set forth.

D. The owner and/or operator of any amusement arcade shall not permit a greater number of persons on the premises at any time than the capacity approved by the Borough as set forth on the permit, which limitation shall be in accordance with normal fire prevention and emergency evacuation standards. The Borough shall consult with the Fire Chief for the establishment of such limitation.

E. The owner and/or operator shall not allow more amusement games to be located within the amusement arcade than are as set forth on the permit.

(Ord. 325, 6/7/1983, §7)

§308. Inspection of Amusement Arcade. All amusement arcades within the Borough, when opened for the transaction of business, shall be subject to inspection by any peace officer, acting to his special duties, or by any police officer. (Ord. 325, 6/7/1983, §8)

§309. Location of Amusement Arcade. The location of any amusement

arcade within the Borough shall be controlled by the Zoning Ordinance [Chapter 27] adopted by the Borough. (Ord. 325, 6/7/1983, §9)

§310. Revocation of Permit. Upon motion by the Secretary of the Borough, the Council for the Borough shall have the power and authority to revoke any permit granted pursuant to this Part for violation of any of the provisions of this Part, after public hearing. At any such hearing, the Secretary shall serve as the prosecutor, and shall present evidence as to the violation of any of the terms and provisions of this Part. The person to whom the permit was issued shall have the right to cross-examine witnesses for the prosecution, and shall have the right to present testimony and witnesses in defense. Any permit revocation shall be based upon a finding by the Council of the Borough that the Secretary has presented evidence which proves beyond a reasonable doubt that the permit holder violated any of the terms and provisions of this Part. (Ord. 325, 6/7/1983, §10)

§311. Penalties for Violation. Any person, firm or corporation who shall violate any provision of this Part shall, upon conviction thereof, be sentenced to pay a fine of not more than six hundred dollars (\$600.00) plus costs and, in default of payment of said fine and costs, to a term of imprisonment not to exceed thirty (30) days. (Ord. 325, 6/7/1983, §11; as amended by Ord. 427, 12/28/1993)

§312. Application to Existing Amusement Arcades. Any amusement arcade in existence, or arcade for which permission has been granted by the Zoning Hearing Board of the Borough of New Holland as of the date of enactment of this Part, shall be permitted to continue to operate for a period of one (1) year before compliance with the terms and provisions of this Part shall be required. Any such amusement arcade shall be required to apply for a permit thirty (30) days prior to the expiration of one (1) year after the date of enactment of this Part, and any such amusement arcade shall thereafter be under and subject to the requirements of this Part. (Ord. 325, 6/7/1983, §12)

Part 4

Fire Alarm Systems

§401. Definitions. As used in this Part, the following words, terms and phrases shall have the following meanings unless it is apparent from the context that a different meaning is indicated:

ALARM AGENT -

(1) Any person who is self-employed in or employed by an alarm business, either directly or indirectly, whose duties include any of the following: setting, maintaining, leasing, servicing, repairing, altering, replacing, moving or installing on or in any building, structure or facility, any alarm system.

(2) Exemption. This definition does not include a person who engages in the manufacture or sale of an alarm system from a fixed location and who neither visits the location where the alarm system is to be installed, nor designs the scheme for physical location and installation of the alarm system in a specific location.

ALARM BUSINESS -

(1) Any business operated by any individual, including a person self-employed, partnership, corporation or other entity, engaged in the business of selling, leasing, maintaining, servicing, repairing, altering, replacing, moving or installing any alarm system or causing to be sold, leased, maintained, serviced, repaired, altered, replaced, moved or installed any alarm system in or on any building, structure or facility, or employing alarm agent(s).

(2) Exemption. This definition does not include a person who engages in the manufacture or sale of an alarm system from a fixed location and who neither visits the location where the alarm system is to be installed, nor designs the scheme for physical location and installation of the alarm system in a specific location.

APPLICANT - any person, firm or corporation who or which files an application for a new or renewal permit as provided in this Part.

AUTOMATIC PROTECTION DEVICE (ALARM SYSTEM) -

(1) Any mechanical or electrically operated instrument composed of sensory apparatus and related hardware which is designed or used for detection of fire or smoke in a building, structure or facility or for alerting others of the detection of fire or smoke within a building, structure or facility or both or for the detection of intrusion or for alerting others of the detection of intrusion within a building, structure or facility or both which emits a sound or transmits a signal or message when activated, resulting in a communication to Lancaster County Fire

Control, the New Holland Borough Police Department, the Liberty Volunteer Fire Company, Lancaster County Central Dispatch, or the Borough of New Holland, and the dispatching of a fire company or a police department to the source of the alarm. Automatic protection devices include, but are not limited to, audible alarms, automatic devices, alarms connected directly or indirectly to communication centers and proprietor alarms. Automatic protection devices may be identified as APD(s).

(2) Exemption. The following devices shall not be included under the definition of APD(s):

(a) Devices which are not designed or used to register alarms that are audible, visible or perceptible outside of the protected building, structure or facility, such as those systems designed for the detection of equipment malfunctions.

(b) Devices which are designed for the notification of a condition of fire or intrusion only to occupants of industries, institutions and other similar premises where the alarm system is installed, to provide for the evacuation of the occupants of those industries, institutions and other similar premises or devices designed to signal the flow of water in an automatic fire sprinkler system and where no communication or message is transmitted to Lancaster County Fire Control, the New Holland Borough Police, the Liberty Volunteer Fire Company or Lancaster County Central Dispatch, and no fire company or police department is dispatched to the site.

BOROUGH - New Holland Borough, Lancaster County, Pennsylvania.

COMMUNICATION CENTER - Lancaster County Fire Control, Lancaster County Central Dispatch, the New Holland Borough Police Department, the Liberty Volunteer Fire Company, the Borough of New Holland or any other public fire control or public safety agency or unit.

FALSE ALARM - an activation of an automatic protection device (APD) signal, necessitating response by any fire company, fire department or police department of any municipality actuated by inadvertence, storm or other act of nature, negligence or unintentional act of someone other than an intruder, where an emergency condition does not exist, including alarms caused by malfunctioning of the alarm system or other relevant equipment. [Ord. 438]

NOTICE - a written notice, given by personal service upon the addressee, or given by United States mail, postage prepaid, addressed to the person to be notified at his last known address, return receipt requested. Service of such notice shall be effective upon the completion of personal service, or upon delivery by the United States Postal Service.

PERMIT - Written permission, duly granted to the applicant by the Borough of New Holland permit officer, upon the payment of the required fees for all new or previously installed and approved APDs. The permit

period shall commence July 1 of the calendar year in which the permit is issued and shall extend the maximum of three (3) years thereafter. Upon expiration of the permit term a new permit must be obtained. [Ord. 454]

PERMITTEE - any person, firm, partnership, association, corporation, company or organization who or which shall be granted a permit as provided herein, and his or its agent and representatives.

PERMIT OFFICER - The person duly appointed by the Council of the Borough of New Holland, from time to time, to administer and enforce this Part, being the Borough Manager. The Borough Manager shall have the authority to designate another person or persons as the permit officer. [Ord. 438]

PERSON - any person, firm, partnership, association, corporation, company or organization of any kind.

PROPRIETARY ALARM - any alarm system which sounds within the protected premises or control center under the supervision of the proprietor of the protected building, structure or facility. If police or fire company response is expected or is a result of that proprietary alarm signal or message, if thereby becomes an APD as defined by this Part.

SUBSCRIBER (ALARM USER) - a person who has an APD installed on realty in which the person has an interest or who is applying for the installation of an APD.

(Ord. 435, 11/7/1995, §1; as amended by Ord. 438, 6/4/1996, §§1-3; and by Ord. 454, 4/7/1998, §1)

§402. Unlawful Activities.

1. Alarm User Permit Required. Except for the owner of a single family residence used primarily for residential purposes, it is unlawful for the owner of any building, structure or facility, or other subscriber in said building, structure or facility to use an APD (alarm system) at any time within the limits of the Borough of New Holland without first applying for and receiving an alarm user permit in accordance with the provisions of this Part. Such permit shall be maintained on the premises where the system is located, and shall be produced to any police officer, or the permit officer, upon request.

2. Suspension or Revocation. If any permit shall be suspended or revoked, it shall be unlawful for any person to possess and use an APD (alarm system) requiring a permit under this Part, or engage in, conduct or operate an alarm business in a manner requiring a permit under this Part.

3. Automatic Dialing Device. It is unlawful for any person to authorize and/or interconnect an automatic dialing device to a communication center telephone line without authorization of the owner or lessee of said telephone line.

4. Altering Permit. It is unlawful for any person to modify, alter or change a permit or have in their possession a permit which has been modified, altered or changed, except for personnel of the Borough of New Holland engaged in implementing or enforcing the provisions of this Part.

5. Existing Alarms. For any APD currently installed, the owner of the premises where the alarm is installed shall have a period of ninety (90) days from the effective date of this Part to apply for a permit, pay the required application fees, and otherwise comply with the terms and conditions of this Part, and for automatic dialing devices interconnected to other than a designated telephone line to be disconnected and properly connected to a designated line. Applicants engaged in an alarm business with the Borough prior to effective date of this Part, are permitted to continue to do business while their application is being processed.

6. Installation of APD Without Permit. It is unlawful for a person engaged in the alarm business to install an APD within the limits of the Borough of New Holland unless and until an alarm user permit for said alarm system has first been issued to the subscriber (alarm user).

7. The following requirements shall apply to the installation of any ADP in any single family residential dwelling within the Borough of New Holland:

A. The owner of the premises shall notify the Borough of the installation of any such ADP.

B. The owner of such dwelling may, but shall not be obligated to, install a keyed lockbox in accordance with §405.

C. In the event no keyed lockbox is installed by the owner of any single family residential dwelling, if the Liberty Fire Company, or New Holland Borough Police Department, responds to any alarm on the property, the fire company or police officer shall have a duty only to conduct a reasonable exterior inspection of the dwelling or other improvements erected on the premises in order to determine if there is any evidence of any fire within such structure detectable from the exterior thereof. If as a result of such inspection no evidence of a fire is observed, the police officer or the Liberty Fire Company shall have no duty or obligation to forcibly enter the dwelling or other structure for the purpose of determining whether or not the alarm is a false alarm, or if there is any fire within the dwelling or structure.

[Ord. 467]

(Ord. 435, 11/7/1995, §1; as amended by Ord. 467, 11/2/1999, §2)

§403. Applications for Permits.

1. Permit Required. Every individual or person desiring to engage in those acts referred to in §402(1), above, must obtain a permit from the permit officer.

2. Application. To obtain a permit, individuals or persons must complete a written application which shall contain such information as is reasonably required by the Borough. For an APD providing for a fire alarm, at the time of the initial application, the applicant shall receive, at their cost, a keyed lockbox as required by §405 of this Part which shall be installed in accordance with the requirements therein set forth. No permit for an APD providing for a fire alarm shall be issued by the permit officer until the required keyed lockbox has been installed by the applicant. Applications for renewals of permits will be processed in a similar manner. [Ord. 438]

3. Contents of Application. The application shall request such information as the permit officer deems necessary, including by way of illustration and not limitation, the following: the name, address and telephone number of the applicant, if a partnership the names, addresses and telephone numbers of all partners, if a corporation the names, addresses and telephone numbers of the principal officers of the corporation; address and telephone number of the location of the alarm; the nature of any business conducted on the premises where the alarm is located; the name, address and telephone number of any control center monitoring the alarm system; and the location for the installation of the keyed lockbox.

4. Conditions. Applicants shall agree in writing and as a condition for receiving and keeping permits, to notify the Borough in writing within ten (10) days of any changes in the application currently on file, i.e., ownership, management or persons to be notified in the event of an alarm activation.

5. Investigation. Following the completion of the application and payment of the appropriate application fee as indicated in §404, the permit officer shall have fifteen (15) working days to investigate the applicant, process the application and to grant or deny a permit.

6. Denial. Permits to any applicant shall be denied if:

A. The applicant does not agree to comply or fails to comply with the requirements of this Part and rules and regulations adopted pursuant to this Part.

B. The applicant, has knowingly made any false, misleading or fraudulent statement of a material fact in the application or in any report or record required to be filed with the Borough.

C. The applicant has had a similar type permit previously revoked for a good cause in the past, unless the applicant can show a material change in the circumstances since the date of revocation through acceptable conduct under an interim permit, and that no false alarms were received during said six (6) month period.

D. The applicant fails to pay all due or past due response assessment fees, fines, costs or other charges owned, which were related to any previously issued permit(s).

E. The applicant fails to pay the appropriate application fees established.

7. Notice of Denial. When an application for a permit is denied, the applicant shall be notified in writing of the denial, setting forth the basis for denial. If the reason(s) for denial are correctable, the applicant will be so advised with suggestions on how these corrections can be made and what time limit has been set for making said corrections. The notice of denial shall inform the applicant that appeals may be made in the manner outlined in §407 of this Part. After expiration of appeals time limit, any portion of permit fee to which a person is entitled will be returned because of a denial.

8. Issuance of Permit. When an application for any permit is approved, then the permit officer is authorized to sign and issue the appropriate permit.

(Ord. 435, 11/7/1995, §3; as amended by Ord. 438, 6/4/1996, §4)

§404. Permit Fees.

1. Alarm User Permit. A fee of twenty-five (\$25.00) dollars shall be payable at the time of application. Such permit shall be valid unless revoked or suspended by the Borough.

2. Exemptions from Fees. The United States Government, the Commonwealth of Pennsylvania, Lancaster County, the Borough of New Holland, the New Holland Borough Authority and other governmental entities are exempt from fees required in this Part.

(Ord. 435, 11/7/1995, §4; as amended by Ord. 438, 6/4/1996, §5)

§405. Keyed Lockbox Requirements.

1. Lockbox Required. All nonresidential structures served by an APD providing for fire alarm protection, having a connection to a communication center or having an audible alarm system designed to register an alarm that is audible outside of the protected facility, shall be provided with a lockbox, of a type approved and provided by the Borough, but paid for by the owner of the building or other facility to be protected. This provision shall not apply to the fire houses of Volunteer Fire Company, or the buildings or structures of the Borough of New Holland or the New Holland Borough Authority. [Ord. 438]

2. Location. The lockbox shall be located:

A. At or near the recognized public entrance on the exterior of the structure; unless other factors suggest an alternate location, in the sole discretion of the permit officer, in which case the permit officer shall designate the location.

B. No less than four (4) feet above grade below the box. [Ord. 467]

C. No higher than twelve (12) feet above grade below the box.

D. No steps, displays, signs or other fixtures on the structural protrusions shall be located below the box which would allow intruders to access the box without assistance.

3. Supervision. The box shall be electrically supervised, connected to the fire alarm control panel and shall indicate no less than a trouble alarm. the lockbox's tamper switch shall be hooked to the alarm system but shall produce a tamper signal that can be distinguished from a fire alarm.

4. Box Contents. The box shall contain the keys for:

A. The main entrance door.

B. The alarm room

C. All other rooms or areas as specified by the permit officer during the application process.

All keys shall be clearly marked as to what door, room, area or lock they serve. When electronic door locks are employed, the lock box shall contain a copy of the appropriate digital code that provides access.

(Ord. 435, 11/7/1995, §5; as amended by Ord. 438, 6/4/1996, §6; and by Ord. 467, 11/2/1999, §1)

§406. Suspension or Revocation of Permit.

1. Grounds for Suspension or Revocation. Any permit issued may be suspended or revoked by the permit officer for the following reasons:

A. The violation of any of the provisions of this Part.

B. The failure to comply with rules and regulations adopted pursuant to this Part.

C. The failure to pay any other fees, fines, costs or other charges owed, which were related to any previously issued permits.

D. Where the applicant or permittee has knowingly made any false, misleading or fraudulent statement of a material fact in the application for a permit, or in any report or record to be filed with any Borough agency.

E. Where the applicant or permittee has had a similar type permit previously revoked for a good cause in the past unless the applicant can show a material change in the circumstances since the date of revocation through acceptable conduct under an interim permit.

F. Where any alarm business official(s) is convicted of a crime which reflects unfavorably upon his or her fitness to be in the alarm business. Crimes referred to include, but are not limited to, violation

of the Pennsylvania Crimes Code such as violations of §4107, "Deceptive Business Practices," §3503, "Criminal Trespass," and §3502, "Burglary."

2. Suspension and/or Revocation Procedure.

A. A written notice for each and every false alarm activation to which a fire company responds, shall be issued in the name of and served upon the permittee or upon any person connected with said APD (alarm system). On newly installed or recently modified APDs (alarm systems), the permit officer may grant up to a thirty (30) day grace period, for user familiarization and/or adjustment of mechanical malfunctions, during which time the false alarm activation will not be counted.

B. Upon receipt of the third (3rd) false alarm within a twelve (12) month period under an alarm user permit, or for violation of any other provision of this Part, the permittee shall be sent notice of the suspension of his/her permit by the permit officer. Such notice shall contain the reason for such suspension.

C. Upon receipt of an order of suspension, an individual has five (5) working days to appeal the decision of the permit officer. [Ord. 438]

D. Five (5) working days after receipt of an order of suspension, the suspension automatically becomes a revocation and an individual is prohibited from using an APD requiring a permit and shall cease all operations conducted under the authority of the revoked permit.

E. When an appeal is filed, the order of suspension shall be stayed pending determination. The suspension becomes a revocation if the suspension is upheld on appeal.

F. Once revoked, permittee shall surrender the permit to the permit officer, and shall disconnect any such alarm.

(Ord. 435, 11/7/1995, §6; as amended by Ord. 438, 6/4/1996, §7)

§407. Appeal Procedure.

1. Appeal. Any person aggrieved by denial of an application for a permit or renewal of a permit or suspension of a permit shall have the right to appeal such determination to the New Holland Borough Council.

2. Time of Appeal. Appeals must be filed within five (5) working days after receipt of a notice from the permit officer of any permit rejection, suspension or revocation, by filing with the Secretary of the Borough Council, a letter of appeal briefly stating therein the basis of the appeal together with a filing in the amount of fifty (\$50.00) dollars.

3. Failure to Appeal. Failure to file a letter of appeal within said five (5) working days shall constitute a waiver of applicant's right to a hearing; however, the Council upon good cause shown in a written request by the applicant may nevertheless grant such a hearing.

4. Hearing. A hearing by the Council will be set no more than thirty (30) days after receipt of a letter of appeal, with five (5) days advance notice of the time and date of the hearing to be sent to the applicant.

5. Procedure. At the hearing, the appellant and any other interested party shall be given a reasonable opportunity to be heard in order to show cause why the determination of the permit officer should not be upheld. In all cases, the burden of proof shall be upon the appellant to show that there was no substantial evidence to support the decision of the permit officer.

6. Record. The hearing may be recorded by tape or other mechanical means, a brief summary of the evidence considered, findings of fact and final decision reached by the Council shall be prepared.

(Ord. 435, 11/7/1995, §7)

§408. Authority and Responsibility of Permit Officer.

1. Enforcement. Enforcement and administration of this Part shall be the responsibility of the permit officer.

2. Rules and Regulations. The permit officer may promulgate such rules as are necessary for administration and enforcement of this Part. Any such rules promulgated shall be approved by the Borough Council and shall be available for public inspection.

3. Disconnection. Where an APD which is directly connected to a communication center is activated and continues to transmit a signal either through malfunction or defect in the system, the permit officer or his or her agent are authorized to disconnect the APD until such time as repairs are made.

(Ord. 435, 11/7/1995, §8)

§409. Liability of Borough Limited. When the permit officer, or his or her agent disconnect an APD under §408(3) above, no liability shall inure to the Borough or its employees through such action. (Ord. 435, 11/7/1995, §9)

§410. Confidentiality. The information furnished and secured pursuant to this Part shall be confidential in character and shall not be subject to public inspection and shall be kept so that the contents thereof shall not be known except to persons charged with the administration of this Part. (Ord. 435, 11/7/1995, §10)

§411. False Alarms. In the case of a false alarm, any person having knowledge thereof shall immediately notify the Borough Police Department or the permit officer. In addition, in the case of false alarms, the Police Chief, or his designee, shall cause an investigation to be made and keep a record of said false alarms on file. In addition to suspension or revocation penalties as set forth in §406 of this Part, for such false alarms the Borough prescribes the following penalties:

A. First, Second or Third Alarm. For the first, second or third false alarm in any consecutive twelve (12) month period, a written warning shall be issued to the owner and occupant of the property on which the ADP is installed. For the third false alarm in any consecutive twelve (12) month period, the permit officer, or his designee, shall also notify the person owning or occupying the premises where the ADP is installed that any further false alarm during the same consecutive twelve (12) month period will result in penalties as set forth in this Part.

B. Fourth False Alarm. For the fourth false alarm received in the same consecutive twelve (12) month period, and for each false alarm received thereafter during the same consecutive twelve (12) month period, an administrative fee of one hundred (\$100.00) dollars, payable to the Borough, shall be imposed. The administrative fee shall not constitute a penalty, and the payment thereof shall not be a bar to prosecution and imposition of penalties as set forth in §412 of this Part. Such fee shall be collectible by the Borough in the same manner as any other Borough assessment, including the use of a collection service, the institution of a civil suit against the owner of the property, or the assessment of a municipal lien.

(Ord. 435, 11/7/1995, §11; as amended by Ord. 438, 6/4/1996, §8; and by Ord. 463, 6/1/1999, §1)

§412. Penalties.

1. Penalty. Except as set forth in §411 of this Part, any person that owns, uses or possesses an ADP may not, after causing or permitting three (3) false alarms to occur in a consecutive twelve (12) month period, cause or permit a subsequent false alarm to occur in the same consecutive twelve (12) month period. A person that violates this Section commits a summary offense and shall, upon conviction thereof, be sentenced to pay a fine of not more than three hundred (\$300.00) dollars. Each false alarm after the third false alarm in any consecutive twelve (12) month period shall constitute a separate violation of this Part.

2. Separate Offenses. The payment of any fees required shall not be a bar against prosecution for any violations under this Part. Each incident constitutes a separate offense.

(Ord. 435, 11/7/1995, §12; as amended by Ord. 438, 6/4/1996, §9; and by Ord. 463, 6/1/1999, §2)

Part 5
Garage Sale Permit

§501. Title. This Part shall be known and cited as "Garage Sale Permit Ordinance." (Ord. 486, 9/3/2002, §1)

§502. 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 [Chapter 27] of the Borough of New Holland. The intent of this Part is to eliminate perpetual, prolonged and extended garage and yard sales in residential areas, to regulate the posting of signs advertising such sales, and to require the removal of such signs after the sale. Such sales, if continued indefinitely, tend to become retail businesses in residential areas and zones, create a nuisance and often violate the zoning regulations of the Borough of New Holland. The provisions of this Part arise from the need to limit, regulate, restrict and control garage and yard sales. It is not the intent of this Part to change or amend the Zoning Ordinance [Chapter 27], Transient Business Ordinance [Chapter 13, Part 2] and/or any other ordinances of the Borough of New Holland. (Ord. 486, 9/3/2002, §2)

§503. Definitions. As used in this Part, the following terms shall have the meanings indicated:

GARAGE SALE -

(1) Any sale conducted by any person, open to the public, conducted for the purpose of disposing of five (5) or more new, used or secondhand items of personal property at any one (1) residential property at any one (1) time.

(2) The terms shall include all sales in residential areas entitled "garage sales," "yard sales," "tag sale," "porch sale," "lawn sale," "attic sale," "basement sale," "rummage sale," "flea market sale," or any similar casual sale of personal property.

PERSON - any individual, association, partnership, firm, voluntary association, corporation, estates, fiduciaries, co-partnership or other entity except a governmental entity.

PERSONAL PROPERTY - tangible property which is owned, utilized and maintained by a person or members of his or her residence and acquired in the normal course a living in or maintaining a residence.

(Ord. 486, 9/3/2002, §3)

§504. Permit Required; Fee; Conditions for Sales.

1. It shall be unlawful for any person to conduct a garage sale within the geographic boundaries of the Borough of New Holland without first obtaining a garage sale license from Borough Manager.

2. Applicants for a permit under this Part must file with the Borough Secretary an application in writing on a form to be furnished by the Borough Secretary, which shall give the following information:

- A. Name and street address of applicant(s).
- B. Type of sale.
- C. Date of sale.
- D. Place of sale, if different from street address of applicant(s).

3. The first garage sale license issued to any one (1) person or for any one (1) property within one (1) twelve (12) month period shall be issued without charge. For the second such license issued in any twelve (12) month period, there shall be a nonrefundable fee as set resolution adopted by the New Holland Borough Council.

4. Upon determination by the Manager that the applicant meets all of the requirements for a permit, the Manager shall issue a permit.

5. Permits shall be numbered, and a record of this number shall be kept by Manager in the Borough office.

6. In the event that inclement weather causes postponement of the sale, the permit will be valid for a new date, provided the Borough Manager is notified in writing, forty-eight (48) hours prior to the new date.

7. The permit must be displayed at all times during the sale in a prominent location, visible from the street.

8. If members of more than one (1) residence join in requesting a permit, then such permit shall be considered as being issued for each and all such residences.

(Ord. 486, 9/3/2002, §4)

§505. Exemptions. This Part shall not be applicable to:

A. Any person selling personal property pursuant to an order of process of a court of competent jurisdiction.

B. Any person 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 four (4) in number. Notwithstanding any provisions of this Part, any person may sell up to four (4) 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 New Holland with or without the protection of the nonconforming use section of the zoning laws, or any sale conducted by any other vendor or dealer when the sale is conducted in

a properly zoned area and not otherwise prohibited by laws of the Commonwealth of Pennsylvania and ordinances of the Borough of New Holland 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 paragraph shall be on the organization or institution claiming such exemption.

G. Any public auction, conducted by an auctioneer licensed by the Commonwealth of Pennsylvania.

(Ord. 486, 9/3/2002, §5)

§506. Conduct of Garage Sale.

1. Any garage sale shall be limited to two (2) one (1) day sales per calendar year or one (1) two (2) day sale per calendars year.

2. Any garage sale shall only be held between the hours of 7:00 a.m. and 8:00 p.m., prevailing time.

3. No person conducting a garage sale shall encroach upon, or shall permit any encroachment upon, any right-of-way, sidewalk or public street.

4. All parking of vehicles shall be conducted in compliance with all applicable laws and ordinances. The Borough Police Department may enforce such additional, temporary controls to alleviate any special hazards and/or congestion created by any garage sale.

(Ord. 486, 9/3/2002, §6)

§507. Signs.

1. No more than four (4) signs shall be displayed advertising any garage sale.

2. For any garage sale conducted outside of the limits of the Borough of New Holland, not more than one (1) sign may be displayed within the Borough of New Holland, advertising such garage sale, upon filing with the Borough Manager of an application setting forth the information as hereinbefore set forth.

3. Signs may be placed no earlier than forty-eight (48) hours before the sale and shall be removed no later than twenty-four (24) hours following the sale.

4. Only string or similar material may be used to attach signs to poles or posts. No nails, staples or wire may be used.

5. Signs shall not be attached to traffic regulatory sign posts.

6. Permit number must be shown on all garage sale signs.

7. Nothing herein shall be construed to grant to any person the right to trespass upon any private or public property for the purposes of erecting or maintaining a garage sale sign or to permit the use of Borough property for any garage sale sign.

(Ord. 486, 9/3/2002, §7)

§508. Enforcement.

1. This Part shall be enforced by the Borough Manager 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 shall prosecute a complaint before a district justice pursuant to the provisions of this Part.

3. Any permit issued under this Part may be revoked, or any application for issuance of a permit may be refused; if the application submitted by the applicant or permit holder contains any false, fraudulent or misleading statement.

4. The person to whom the garage sale license was issued and the person conducting the sale and the owner, tenant or occupant of the property where the sale or activity is conducted shall be jointly or severally responsible for the maintenance of good order and decorum on the property during the hours of such sale or activity.

A. No such person shall permit any loud or boisterous conduct on such property or permit vehicles to impede the passage of the traffic on any roads or streets in the area of the property 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.

5. If any individual is convicted of an offense under this Part, no further permits shall be issued to that person, or for any sale to be held on any property owned by that person, for a period of two (2) years from the time of conviction.

(Ord. 486, 9/3/2002, §8)

§509. Penalties. Any person who shall violate any provision of this Part shall, upon conviction thereof, be sentenced to pay a fine of not more than six hundred dollars (\$600.00), and in default of payment, to imprisonment for a term not to exceed thirty (30) days. Each article sold and each day of sale that is conducted in violation of this Part shall constitute a separate offense hereunder. In addition, each sign posted in violation of this Part, or any signs remaining posted in violation of this Part, shall constitute a separate offense hereunder. (Ord. 486, 9/3/2002, §9)

§510. Effective Date. This Part shall become effective thirty (30) days from the date of enactment. (Ord. 486, 9/3/2002, §12)