

Chapter 13

Licenses, Permits and General Business Regulations

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Part 1**Peddling, Canvassing and Soliciting****§13-101. Short Title.**

This Part shall be known and may be cited as the “Borough of Ivyland Peddling, Canvassing and Soliciting Ordinance.”

(Ord. 2001-4, 10/10/2001, §1)

§13-102. Definitions.

The following words shall be construed to have the meanings set forth below; the singular shall include the plural, and the masculine shall include the feminine and the neuter:

Person—any natural person, association, organization, partnership, firm or corporation.

Peddling, canvassing, and soliciting—engaging, on a person-to-person or face-to-face basis in commercial or business peddling, canvassing, soliciting or taking of orders, either by sample or otherwise, for any goods, wares or merchandise, including subscriptions for magazines or other printed matter, the obtaining of contracts for home and building devices, repairs and improvements, the obtaining of contracts or agreements for any services, the sale of ice cream or other goods from a vehicle. The terms “peddling,” “canvassing” and “soliciting” shall not apply to the soliciting of funds, donations, or contributions for charitable, religious or philanthropic organizations or causes, and shall not apply to a person who visits a residence or business by previous appointment with the owner or occupant.

Peddler, canvasser and solicitor—any person who shall engage in peddling, canvassing and soliciting as herein above defined.

(Ord. 2001-4, 10/10/2001, §2)

§13-103. Registration.

No person shall engage in peddling, canvassing or soliciting in the Borough of Ivyland without first having registered with the Borough Secretary and having obtained a license from the Secretary.

(Ord. 2001-4, 10/10/2001, §3)

§13-104. Procedure.

1. Every person desiring to engage in peddling, canvassing or soliciting in the Borough shall submit a written application to the Borough Secretary on a form to be furnished by the Borough.

2. On such application, the applicant shall state his name, age, sex, home address; the name and address of his employer, if any, or organization for whom he shall be soliciting; the nature of the proposed peddling, canvassing or soliciting; the type of goods, wares and merchandise he wishes to peddle, canvas or solicit; the length of time for which he wishes to be licensed; the make and type of car, if any, he will use and

its registration number; the number of helpers he has, if any; and his previous criminal record, if any.

3. The Borough Secretary shall issue to the applicant a license within 10 days from the date of the filing of the application; provided, however, that the Secretary may refuse to issue a license to any person who has been convicted of any crime involving moral turpitude or against whom there is a substantial evidence of false pretenses, misrepresentation or dishonesty in business transactions or dealings, or to any person who has failed to fill any prior order which such person has received and accepted.

4. No license issued under this Part shall be transferable from one person to another. Every license which states the length of time that said license shall be valid shall automatically terminate at the expiration of the time set forth therein. It is provided that no license shall be valid for a period of more than 1 year.

(Ord. 2001-4, 10/10/2001, §4)

§13-105. Fee.

The fee to be charged for a permit under this Part shall be as established from time to time as a part of the Ivyland Borough fee schedule by resolution. In the absence of any such provision in the Ivyland Borough fee schedule, there shall be no fee.

(Ord. 2001-4, 10/10/2001, §5)

§13-106. Standards of Conduct.

Every person to whom a license has been issued under the provisions of this Part shall in the course of his activities comply with the following standards of conduct:

A. He shall carry his license upon his person at all times when engaged in peddling, canvassing or soliciting in the Borough, and shall exhibit such license upon request to any police officer, Borough official or to any person on whom he shall call.

B. He shall not permit any other person to have possession of his license and shall immediately report its loss to the Borough Secretary. He shall not cause or permit his license to be altered or defaced in any way.

C. He shall not engage in peddling, canvassing or soliciting at any time before 9 a.m. or after 8 p.m. local prevailing time.

D. He shall not be guilty of any false pretense or misrepresentation and particularly he shall not represent his license to be an endorsement of himself or his goods or services of his employer.

E. He shall not engage in selling any product not mentioned upon such license.

F. He shall not use any loudspeaker or horn or any other device for announcing his presence by which the public may be annoyed.

G. He shall not occupy any fixed location upon any of the streets, alleys or sidewalks of the Borough for the purpose of peddling, canvassing or soliciting with or without any stand or counter.

H. He shall immediately surrender his license to the Borough Secretary upon revocation thereof.

(*Ord. 2001-4, 10/10/2001, §6*)

§13-107. Revocation of License.

The Borough Council of the Borough of Ivyland, or any Borough official so authorized by Borough Council, is hereby authorized to suspend any license issued under this Part if the holder fails to comply with the standards of conduct contained in §13-106 hereof, or any of them, or for the violation of any of the provisions of this Part, or upon the ascertainment by the Mayor that the holder has made a false statement in his application, or when the Borough Council deems such revocation to be beneficial to the public health, safety, morals and welfare.

(*Ord. 2001-4, 10/10/2001, §7*)

§13-108. Penalty.

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. 2001-4, 10/10/2001, §8; as amended by Ord. 2011-3, 11/9/2011*)

Part 2**Borough Rights of Way****§13-201. Short Title.**

This Part shall be known as the “Ivyland Borough Rights of Way Ordinance.”
(*Ord. 2005-8, 8/10/2005, §1*)

§13-202. Definition of Terms.

Terms. For the purpose of this Part, the following terms, phrases, words and abbreviations shall have the meanings ascribed to them below. When not inconsistent with the context, words used in the present tense include the future tense, words in the plural number include the singular number and words in the singular number include the plural number:

Affiliate—a person:

(1) With a direct or indirect ownership interest in the subject entity of 5 percent or more or which controls such interest, including forms of ownership such as general, limited, or other partnership interests, direct ownership interests, limited liability companies and other forms of business organizations and entities but not including corporations.

(2) With a stock interest in the subject entity where the subject entity is a corporation and such stockholder or its nominee is an officer or director of the grantee or who directly or indirectly owns or controls 5 percent or more of the outstanding stock, whether voting or non-voting.

(3) Which controls grantee and/or, is controlled by, or is under common control with such person or entity.

Borough—the Borough of Ivyland, County of Bucks, Commonwealth of Pennsylvania, or the lawful successor, transferee, or assignee thereof.

Cable service—shall have the same meaning as used in the Communications Act.

Communications Act—the Communications Act of 1934, as amended, as of the time of enactment of this Part.

Equipment—any tangible asset used to install, repair, or maintain a facility in the public way.

Exempt—a service which is provided to residences or businesses within the service area, but which is exempt from the provisions of this Part under §13-204 of this Part.

Facility—any tangible asset in the public way used or required to provide a nonexempt service to residences or businesses within the service area. The following are not a facility: a railroad, street railway, gas pipe, water pipe, electric conduit, electric piping, telephone pole, telegraph pole, electric light pole, electric power pole, coal tipple or obstruction to the public way.

Grantee—a person who enjoys a nonexclusive privilege to occupy or use a public

way to provide nonexempt service under this Part and who is in continuous compliance with this Part.

Gross revenue—all gross revenue of grantee or any affiliate of grantee derived from the use or occupancy of public ways for the provision of nonexempt services to persons having a residence or place of business in the service area. “gross revenue” shall include amounts earned, regardless of:

(1) Whether the amounts are paid in cash, in trade, or by means of some other benefit to grantee or its affiliates.

(2) Whether the services with which the revenue is associated are provided at cost or the revenue amount can be matched against an equivalent expenditure.

(3) How the amounts are initially recorded by grantee or its affiliates. “Gross revenue” shall not be a net of:

(a) Expense, including, but not limited to, any operating expense; capital expense; sales expense; or commission.

(b) Any accrual, including, without limitation, any accrual for commissions.

(c) Any other expenditure, regardless of whether such expense, deduction, accrual, or expenditure reflects a cash payment. “Gross revenue” shall not be double counted, viz., “gross revenue” which has been included as gross revenue of both grantee and an affiliate but which sum in included in gross revenue due solely to a transfer of funds between grantee and the affiliate shall not be counted for purposes of determining gross revenue.

Nonexempt—a service which is provided to residences or businesses within the service area, but which is not exempt from the provisions of this Part under §13-204 of this Part.

Person—

(1) Any natural person, sole proprietorship, partnership, association, limited liability company, corporation or other form of organization authorized to do business in the Commonwealth of Pennsylvania.

(2) Provides or seeks to provide one or more nonexempt services to residences or businesses in the service area. A governmental entity or a municipal authority is not a “person.”

Public way—the surface of, and the space above and below, any public street, unopened right of way, highway, turnpike, bridge, land path, alley, court, boulevard, sidewalk, parkway, way, lane, public way, drive, circle, or other public right-of-way held by the Borough in the service area. Public way shall also mean any easement now or hereafter held by the Borough within the service area for the purpose of public travel and/or for utility and/or public service use dedicated for compatible uses.

Service area—the present municipal boundaries of the Borough, and shall include any additions thereto by annexation or other legal means.

(Ord. 2005-8, 8/10/2005, §2)

§13-203. Registration.

Each person, other than on a transitory basis, who occupies or uses or seeks to occupy or use a public way to provide a nonexempt service to residences or businesses within the service area, or places any equipment or facility in a public way other than on a transitory basis, including persons with installation and maintenance responsibilities by lease, sublease or assignment, must register with the Borough. Registration is accomplished by filing with the Borough a completed provider certification in the form shown as Appendix 13-2-A to this Part.

(*Ord. 2005-8, 8/10/2005, §3*)

§13-204. Grant of Ordinance; Exemptions.

1. *Grant.* It shall be unlawful for any person to construct, repair, remove, relocate or perform any work on or use any facilities or any part thereof in a public way unless in compliance with this Part. Continuous compliance with this Part grants to grantee a nonexclusive privilege to construct, repair, remove, relocate or perform any work on or use any facilities or any part thereof in the public ways within the service area and to occupy or use the public ways for the purpose of providing nonexempt service to residences or businesses within the service area.

2. *Exemptions.* This Part shall not apply to occupation or use of the public ways to provide:

A. The transportation of passengers or property or both as a common carrier by means of elevated street railway, inclined plane railway, railroad, street railway or underground street railway, trackless trolley omnibus or by any combination of such means.

B. The transportation of artificial or natural gas, electricity, petroleum or petroleum products or water or any combination of such substances for the public.

C. The production, generation, manufacture, transmission, storage, distribution or furnishing of natural or artificial gas, electricity, steam, air conditioning or refrigerating service or any combination thereof to or for the public.

D. The diverting, developing, pumping, impounding, distributing or furnishing of water from either surface or subsurface sources to or for the public.

E. The collection, treatment or disposal of sewage for the public.

F. The conveyance or transmission of messages or communications by telephone or telegraph for the public.

G. The diverting, pumping or impounding of water for the development or furnishing of hydroelectric power to or for the public.

H. The transportation of oxygen or nitrogen, or both, by pipeline or conduit for the public.

I. Any ancillary service reasonably necessary or appropriate for the accomplishment of services specified in paragraphs .A–.H.

J. Cable service.

3. *Not a Cable System.* This Part does not authorize a person to provide cable service. A person seeking to provide cable service must obtain permission from the Borough under separate legislation of the Borough.

4. *Not a Pole Attachment Agreement.* This Part does not authorize the grantee to attach to any pole or other structure in a public way devices for the intentional transmission or radiation of radio frequency emissions or energy through the ether by any means now known or hereafter developed.

(Ord. 2005-8, 8/10/2005, §4)

§13-205. Standards of Service.

1. *Conditions of Street Occupancy.* All facilities and equipment installed or erected by the grantee pursuant to the terms hereof shall be located so as to cause a minimum of interference with the proper use of public ways and with the rights and reasonable convenience of property owners who own property that adjoins any of said public ways.

2. *Restoration of Public Ways.* If during the course of grantee's construction, operation and/or maintenance of its facilities and equipment there occurs a disturbance of any public way by grantee, grantee shall, at its expense, replace and restore such public way to a condition which existed immediately prior to such disturbance. If grantee excavates the surface of any public way, grantee shall be responsible for restoration of the public way and its surface within the area affected by the excavation. The Borough reserves the right, after providing notice to grantee, to remove and/or repair any work done by grantee which is inadequate. The reasonable cost thereof, including the cost of inspection and supervision, shall be paid by the grantee. All excavations made by grantee in the public way shall be properly safeguarded for the prevention of accidents.

3. *Trees and Shrubbery.* The grantee shall notify Borough and all affected property owners regarding grantee's need to trim tree or other natural growth upon and overhanging public ways so as to prevent the branches of such trees from coming in contact with its facilities or equipment. Trimming shall be limited to the area required to clear its facilities or equipment.

4. *Safety Requirements.* All such work in the public ways shall be performed in accordance with applicable safety codes and technical requirements.

5. *Maps.* Prior to beginning any construction of facilities, grantee shall provide the Borough with a construction schedule for work in the public ways which schedule shall be updated as changed. Upon completion of initial construction and upon completion of construction of any modification to its facilities, grantee shall provide the Borough with a map showing the location of its installed facilities in the public ways. Such maps shall be provided in both paper form, as well as in an electronic format for placement on the Borough's GIS system. Annually thereafter, grantee shall provide a map to the Borough showing the location of grantee's facilities in the public ways on a scale of 150 feet per inch or whatever standard scale the Borough adopts for general use.

6. *Excavations.* Grantee may make excavations in public ways for any facility subject to obtaining excavation permits from the Borough. Prior to doing such work, grantee must apply for, and obtain, appropriate permits from the Borough, and give appropriate notices to any other licensees and/or permittees of the Borough, and/or other units of government owning or maintaining facilities which may be affected by the proposed excavation.

7. *Reservation of Borough Public Ways.* Nothing in this Part shall be construed to prevent the Borough or other agency of government or municipal authority from constructing sewers, grading, paving, repairing and/or altering any street and/or laying down, repairing and/or removing water mains and/or constructing and/or establishing any other public work or improvement. If any of the grantee's facilities or equipment interferes with the construction or repair of any street or public improvement, including construction, repair or removal of a sewer or water main, the grantee's facilities or equipment shall be removed or replaced in the manner the respective Borough or other agency of government or municipal authority shall direct. Any and all such removal or replacement shall be at the expense of the grantee. Should grantee fail to remove, adjust or relocate its facilities by the date established by the Borough or other agency of government or municipal authority, the Borough or other agency of government or municipal authority may cause and/or effect such removal, adjustment or relocation, and the expense thereof shall be paid by grantee, including all reasonable costs and expenses incurred by the Borough or other agency of government or municipal authority due to grantee's delay.

(Ord. 2005-8, 8/10/2005, §5)

§13-206. Rental.

1. In consideration of occupying or using the public ways under this Part, grantee shall pay to Borough a rental equal to 5 percent of gross revenue.

2. The rental shall be assessed on a calendar quarterly basis and shall be payable to the Borough no later than 45 days after the expiration of the calendar quarter for which payment is due. Grantee shall file with the Borough a complete and accurate statement, under notarial seal, at the end of each calendar year quarter certified as true and correct by a representative of grantee, authorized to make such certification, explaining how the payment was calculated. In connection with the rental payment due on February 14, the grantee shall also submit to the Borough, on that date or no later than 6 months thereafter, a detailed statement by an officer of the grantee certified by the grantee's independent certified public accountant verifying the accuracy of the gross revenue and rental payments for the previous calendar year, with a detailed breakdown and explanation of the calculation by each month.

3. Grantee shall keep accurate books of account which shall clearly support the calculation of rentals and describe in sufficient detail the amounts attributable to each specific component of gross revenue. Such books of account and all supplemental information and source documents in support thereof including, but not limited to, third party remittances and contract documents, shall be made available to the Borough and its authorized representatives for examination at a location in Bucks County, Pennsylvania, at any time during regular business hours on 10 days prior written notice and from time to time for the purpose of verifying or identifying rentals owed to the Borough. Grantee shall exercise its best efforts to obtain financial records of affiliates for the Borough for the purpose of verifying the accuracy of the rental payments. Borough shall have the right to examine and to recomputed any amounts determined to be payable under this Part; provided, however, that such examination shall take place within 48 months following the close of each year. Any additional amount due to Borough as a result of the examination and recomputation shall be paid within 30 days following written notice to grantee by the Borough, which notice shall

include a copy of the examination report. In the event that said examination determines that funds are owed to the Borough in an amount in excess of 2 percent, the costs of said examination shall be borne by the grantee and reimbursed to Borough within 30 days following written notice to grantee.

4. In the event that any rental or other payment is not made or the requisite documentation and certification is not provided on or before the applicable dates heretofore specified, interest shall be compounded daily and set at the 1-year United States Treasury Bill rate existent on the date payment was due, plus 3 percentage points. Any amount recomputed to reflect correct payment due shall bear interest as described from the date such payment was originally due.

(Ord. 2005-8, 8/10/2005, §6)

§13-207. Insurance, Indemnification and Bonds or Other Surety.

1. Grantee shall save the Borough, its agents, employees and elected and appointed officials, harmless from and against all claims, damages, losses and expenses, including reasonable attorney’s fees, sustained on account of any suit, judgment, execution, claim or demand whatsoever arising out of the construction, leasing, operation or maintenance of the grantee’s equipment facilities, and services specified by this Part, whether or not any act or omission complained of is authorized, allowed and/or prohibited by this Part and the rights granted thereunder.

2. *Insurance.*

A. Grantee shall obtain and maintain in full force and effect throughout the term of this Part insurance with an insurance company licensed to do business and doing business in the Commonwealth of Pennsylvania and acceptable to the Borough. All companies will be required to be rated A-VII or better by A.M. Best or A better by Standard and Poors. Grantee shall provide Borough with proof of such insurance so required.

B. Grantee shall obtain and maintain in full force and effect, at grantee’s sole expense, insurance coverage in the following types and minimum amounts:

Type	Amount
Workers’ Compensation and Statutory Employers Liability	\$100,000/\$500,000/\$100,000
Commercial General (Public) Liability—to include coverage for the following where the exposure exists:	
Premises operations	Combined single limit for bodily injury and property damages \$2,000,000 per occurrence or its equivalent
Independent contractors	
Products/completed operations	
Personal Injury	
Contractual liability	
Explosion, collapse and underground property damage	
Comprehensive vehicle insurance coverage for loading and unloading hazards, for:	

Type	Amount
Owned/leased vehicles Non-owned vehicles Hired vehicles	Combined single limit of bodily injury and property damage \$1,000,000 per occurrence or its equivalent

C. The Borough shall receive without expense copies of certificates of insurance evidencing coverage stated above.

D. All of the above-required insurance certificates will contain the following required provisions.

(1) Name the Borough and its officers, employees, board members and elected and appointed officials as additional insurance parties (as the interests of each insured may appear) as to all applicable coverage (except workers' compensation).

(2) Provide for 60 days written notice to the Borough for cancellation, nonrenewal, or material change.

(3) Provide that all provisions of this Part concerning liability, duty, and standard of care, including the indemnity provisions, shall be underwritten by contractual coverage sufficient to include such obligations within applicable policies, subject to policy terms and conditions.

E. Companies issuing the insurance policies shall have no recourse against the Borough for payment of any premiums or assessments which all are set at the sole risk of the grantee. Insurance policies obtained by grantee shall provide that the issuing company waives all right of recovery by way of subrogation against the Borough in connection with any damage covered by these policies.

3. Grantee shall obtain and maintain, at its sole cost and expense, and file with the Borough, a corporate surety bond with a surety company authorized to do business in the Commonwealth of Pennsylvania in the amount of 15 percent of grantee's estimated costs to secure grantee's performance of its obligations and faithful adherence to all requirements of this Part.

A. No action, proceeding or exercise of a right with respect to such bond shall affect the Borough's rights to demand full and faithful performance under this Part or limit grantee's liability for damages.

B. The bond shall contain the following endorsement: "It is hereby understood and agreed that this bond may not be cancelled by the surety nor any intention not to renew be exercised by the surety until 60 days after receipt by the Borough of Ivyland, by registered mail, of written notice of such intent."

4. All expenses of the above-noted insurance and bond shall be paid by the grantee.

5. The insurance policies mentioned herein shall contain an endorsement stating the following: "Should any policies of insurance be cancelled or coverages be reduced, before the expiration date of said policies of insurance, the issuer shall deliver 60 days advance written notice to the Borough."

6. Neither the provisions of this Part nor any insurance accepted by the Borough pursuant hereto, nor any damages recovered by the Borough thereunder, shall be construed to excuse faithful performance by the grantee and/or limit the liability of the

grantee under this Part issued hereunder and/or for damages, either to the full amount of the bond or otherwise.

(*Ord. 2005-8, 8/10/2005, §7*)

§13-208. Enforcement and Termination of Part.

1. *General.* In addition to all other rights, remedies and powers reserved and/or retained by the Borough under this Part or otherwise, the Borough reserves the right to bring a civil action to collect any sums due to Borough by grantee and/or forfeit or revoke all privileges of grantee under this Part in the event of willful or repeated violation of this Part.

2. *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. 2011-3*]

(*Ord. 2005-8, 8/10/2005, §8; as amended by Ord. 2011-3, 11/9/2011*)

§13-209. Miscellaneous Provisions.

1. *Compliance with Applicable Laws and Ordinances.* The grantee shall at all times be subject to the exercise of the police power of the Borough. The grantee shall comply with all lawful ordinances, codes, laws, rules and regulations of the Borough, County of Bucks, Commonwealth of Pennsylvania, and the United States of America which are now in effect or hereafter enacted.

2. *Conflict.* Whenever the requirements of this Part are in conflict with other requirements of the ordinances of the Borough of Ivyland, the most restrictive, or those imposing the highest standards shall govern. Privileges granted by this Part do not constitute a waiver or impairment of the rights of the Borough at law or equity now or henceforth existing to proceed versus grantee for enforcement of this Part or violation of this Part or ordinances of the Borough.

(*Ord. 2005-8, 8/10/2005, §9*)

**IVYLAND BOROUGH
RIGHTS OF WAY ORDINANCE**

APPENDIX “13-2-A”

PROVIDER CERTIFICATION

This Certification is to be completed by each provider seeking to register with the Borough of Ivyland in compliance with the Ivyland Borough Rights of Way Part. Unless indicated otherwise, capitalized words have the meaning ascribed to them in this Part. Attach additional sheets if necessary.

1. **IDENTITY OF THE PROVIDER.** The name, address, telephone number, and fax number of the provider (the “Provider”).

Please identify any predecessors of the Provider and provide other names under which the Provider has operated within the preceding 5 years, including name, address, and telephone number.

2. **CONTACT(S):** The name, title, address, telephone number, and fax number of Provider’s contact.

3. **FICTITIOUS NAME:**

_____ The Provider will not be using a fictitious name.

_____ The Provider will be using a fictitious name. Attach to this Certification a copy of the Provider’s filing with the Commonwealth’s Department of State pursuant to 54 Pa.C.S.A. §311, Form PA-953.

4. **BUSINESS ENTITY AND DEPARTMENT OF STATE FILINGS:**

_____ The Provider is a sole proprietor.

_____ The Provider is a:

_____ General partnership

_____ Domestic limited partnership (15 Pa.C.S.A. §8511)

_____ *Foreign limited partnership (15 Pa.C.S.A. §8582)

_____ Domestic registered limited liability partnership (15 Pa.C.S.A. §8201)

_____ *Foreign registered limited liability general partnership (15 Pa.C.S.A. §8211)

_____ Domestic corporation (15 Pa.C.S.A. §1306)

_____ *Foreign corporation (15 Pa.C.S.A. §4124)

_____ Domestic limited liability company (15 Pa.C.S.A. §8913)

_____ *Foreign limited liability company (15 Pa.C.S.A. §8981)

_____ Other (explain): _____

*Provide name and address of corporate registered office provider or registered office within Pennsylvania.

Attach to this certification the name and address of partners. If any partner is not an individual, identify the business nature of the partner entity and identify its partners or officers.

Attach to this certification proof of compliance with appropriate Department of State filing requirement as indicated above.

5. **AFFILIATES:**

_____ The provider has no affiliates.

_____ The provider has affiliates but provider does not conduct business with any such affiliate(s), except as follows: (Identify each such affiliate and provide descriptive summary of the business conducted or the business arrangement. Attach an additional sheet(s) if necessary.

6. **PROVIDER'S PRESENT OPERATIONS:**

_____ The Provider is not presently doing business in Pennsylvania as a public utility.

_____ The Provider is presently doing business in Pennsylvania as a public utility.

7. **START DATE:**

_____ The Provider already is providing services by virtue of Facilities and Equipment in the Public Ways. If so, please identify services: (Attach an additional sheet(s) if necessary).

_____ The Provider proposes to begin offering services as follows: (List start date for each service).

Provider certifies that no other services are presently and/or proposed to be offered by virtue of its Equipment or Facilities in the Public Ways.

8. **CERTIFICATES OF PUBLIC CONVENIENCE.** List all of the services encompassed by your answers in Question 7 for which a certificate of public convenience has been issued by the Pennsylvania Public Utility Commission. For each such service listed, specify the application number and date of issuance of each certificate. (Attach an additional sheet(s) if necessary. Also attach a copy of each such certificate.)

List all of the services encompassed by your answers in Question 7 for which no certificate of public convenience has been issued by the Pennsylvania Public Utility Commission. (Attach an additional sheet(s) if necessary.)

9. **UPDATES.** Any change(s) to the information furnished by Provider in this Certification must be updated by Provider within thirty (30) days of the effective date of any such change by filing with the Borough of Ivyland an amendment in writing to this Certification fully describing the change. Such amendment must be accompanied by a completed Verification Statement in the form set forth following this Certification.

10. **VERIFICATION.** The Provider must complete the Verification Statement in the form set forth following this Certification.

The foregoing is submitted to Ivyland Borough in compliance with the Ivyland Borough Rights of Way Part.

Date: _____

Typed or Printed Name of Provider

BY:

Signature of Authorized Official

Typed or Printed Name of Authorized Official

Part 3**Adult-Oriented Businesses****§13-301. Purposes and Findings.**1. *Purpose.*

A. Pursuant to the authority granted in the Borough Code of the Commonwealth of Pennsylvania, 53 P.S. §45101 *et seq.*, to prohibit nuisances; to promote the health, cleanliness, comfort and safety of the citizens of Ivyland Borough; and to regulate the time of opening and closing and the conduct of places of public entertainment, amusement and recreation, as well as the sale, distribution, display and exhibition of and activities concerning obscene and other sexual material as provided for in 18 Pa.C.S.A. §5903(k) and as upheld by the United States District Court for the Eastern District of Pennsylvania in *Brown v. Pornography Commission of Lower Southampton Township*, 620 F.Supp. 1199 (1985), the Borough of Ivyland enacts this Part to minimize and control the adverse effects of adult-oriented businesses and thereby protect the health, safety and welfare of its citizens; protect the citizens from increased crime; preserve the quality of life; preserve the property values and character of surrounding neighborhoods; and deter the spread of blight.

B. The Borough Council has determined that location criteria alone does not adequately protect the health, safety and general welfare of the people of the Borough and that licensing is a legitimate and reasonable means of accountability to ensure that operators of adult-oriented businesses comply with reasonable regulations and to ensure that operators do not knowingly allow their establishments to be used as places of illegal sexual activity or solicitation.

C. The Borough Council does not intend this Part to suppress any speech activities protected by the First Amendment, but to enact a content neutral ordinance which addresses the secondary effects of adult-oriented businesses.

2. *Findings.* The Borough Council finds that:

A. Adult-oriented businesses produce adverse secondary effects such as increased crime, decreased property values, prostitution, illicit sex, sexually transmitted disease, and community blight.

B. The finding noted in subsection .2.A above raises substantial governmental concerns.

C. Adult-oriented businesses have operational characteristics which should be reasonably regulated in order to protect those substantial governmental concerns.

D. A reasonable licensing procedure is an appropriate mechanism to place the burden of that reasonable regulation on the owners and the operators of the adult-oriented businesses; further, such a licensing procedure will place a heretofore nonexistent incentive on the operators to see that the adult-oriented business is run in a manner consistent with the health, safety and welfare of its patrons and employees, as well as the citizens of the Borough. It is appropriate to require reasonable assurances that the licensee is the actual operator of the adult-oriented

business, fully in possession and control of the premises and activities occurring therein.

E. Removal of doors on adult booths and requiring sufficient lighting on premises with adult booths advances a substantial governmental interest in curbing the illegal and unsanitary sexual activity occurring in adult theaters.

F. Requiring licensees of adult-oriented businesses to keep information regarding current employees and certain past employees will help reduce the incidence of certain types of criminal behavior by facilitating the identification of potential witnesses or suspects and preventing minors from working in such establishments.

G. The disclosure of certain information by those persons ultimately responsible for the day-to-day operation and maintenance of the adult-oriented business, where such information is substantially related to the significant governmental interest in the operation of such uses, will aid in preventing the spread of sexually transmitted diseases.

H. It is desirable in the prevention of the spread of communicable diseases to obtain a limited amount of information regarding certain employees who may engage in conduct which this Part is designed to prevent or who are likely to be witnesses to such activity.

I. The fact that an individual applicant for an adult use license has been convicted of a sexually related crime leads to the rational assumption that the applicant is likely to engage in that conduct in contravention of this Part.

J. The barring of such individuals from the management of adult uses for a period of years serves as a deterrent to and prevents conduct which leads to the transmission of sexually transmitted diseases.

K. The general welfare, health and safety of the citizens of the Borough will be promoted by the enactment of this Part.

(Ord. 2010-5, 6/9/2010, §I)

§13-302. Definitions.

As used in this Part, the following words and phrases shall have the meanings indicated unless the context clearly indicates a different meaning:

A. The defined terms as contained in the Ivyland Borough Zoning Ordinance [Chapter 27] provisions concerning adult-oriented businesses are hereby adopted by reference and include the definitions of adult-oriented business, specified anatomical areas, and specified sexual activities.

B. *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 Part, the Commonwealth of Pennsylvania.

Knowingly—having general knowledge of, reason to know or belief or ground for belief which warrants further inspection or inquiry of the character and content of any act, material or performance described therein which is reasonably susceptible of examination by the person charged with violation of

this Part.

Licensee—a person in whose name a license to operate an adult-oriented business has been issued; as well as the individual listed as an applicant on the application for a license, and in the case of an employee, a person in whose name a license has been issued authorizing employment in an adult-oriented business.

Material—includes any literature, including any book, magazine, pamphlet, newspaper, story paper, bumper sticker, comic book or writing, or any figure, visual representation or image, including any drawing, photograph, picture, videotape or motion picture.

Minor—any person under the age of 18 years.

Nude—the showing of the human male or female genitals, pubic area or buttocks with less than a fully opaque covering, or the showing the female breast with less than a fully opaque covering of any portion thereof below the top of the nipple.

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 nipple, or the depiction of covered male genitals in a discernibly turgid state.

Obscene—any material or performance if

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

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

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

Person—an individual, corporation, partnership, sole proprietorship, limited liability company or other business entity.

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

Sadomasochistic abuse—in a sexual context, flagellation or torture by or upon a person who is nude or clad in undergarments, a mask or in a bizarre costume, or the condition of being fettered, bound or otherwise physically restrained on the part of one who is nude or so clothed.

Semi-nude or *semi-nudity*—a state of dress in which clothing covers no more than the genitals, pubic region and areola of the female breast, as well as portions of the body covered by supporting straps and devices.

Sexual conduct—patently offensive representations or descriptions of ultimate sexual acts, normal or perverted, actual or simulated, including sexual intercourse, anal or oral sodomy and sexual bestiality; and patently offensive representations or descriptions of masturbation, excretory functions, sadomasochistic abuse and lewd exhibitions of the genitals.

Specified criminal activity—any of the following offenses: prostitution or

promotion of prostitution; dissemination of obscenity; sale, distribution or display of harmful material to a minor; sexual performance by a child; possession or distribution of child pornography; public lewdness; indecent exposure; indecency with a child; engaging in organized criminal activity; sexual assault; molestation of a child; gambling; distribution of a controlled substance; or any similar offenses to those described above under the criminal or penal code of other states or countries for which less than 2 years have elapsed since the date of conviction or the date of release from confinement imposed for the conviction, whichever is the later date, if the conviction is of a misdemeanor offense; less than 5 years have elapsed since the date of conviction or the date of release from confinement for the conviction, whichever is the later date, if the conviction is of a felony offense; or less than 5 years have elapsed since the date of the last conviction or the date of release from confinement for the last conviction, whichever is the later date, if the convictions are of two or more misdemeanor offenses or combination of misdemeanor offenses occurring within any 24-month period. The fact that a conviction is being appealed shall have no effect on the disqualification of the applicant or a person residing with the applicant.

(Ord. 2010-5, 6/9/2010, §II)

§13-303. License Required.

It is unlawful:

A. For any person to operate an adult-oriented business without a valid adult-oriented business license issued by the Borough pursuant to this Part.

B. For any person who operates an adult-oriented business to employ a person to work for the adult-oriented business who is not licensed as an adult-oriented business employee by the Borough pursuant to this Part.

C. For any person to obtain employment with an adult-oriented business without having secured an adult-oriented business employee license pursuant to this Part.

(Ord. 2010-5, 6/9/2010, §III)

§13-304. Applications for Licenses.

1. An application for a license must be made on a form provided by the Borough.

2. All applicants for business and employee licenses must be qualified according to the provisions of this Part. The application may request, and the applicant shall provide, such information (including fingerprints) as to enable the Borough to determine whether the applicant meets the qualifications established in this Part.

3. If a person who wishes to operate an adult-oriented business is an individual, the person must sign the application for a license as applicant. If a person who wishes to operate an adult-oriented business is other than an individual, each individual who has a 20 percent or greater interest in the business must sign the application for a license as applicant. Each applicant must be qualified under the following subsection, and each applicant shall be considered a licensee if a license is granted.

4. The completed application for an adult-oriented business license shall contain

the following information and shall be accompanied by the following documents:

A. If the applicant is:

(1) An individual, the individual shall state his/her legal name and any aliases and submit proof that he/she is at least 18 years of age.

(2) A partnership, the partnership shall state its complete name and the names of all partners, whether the partnership is general or limited, and a copy of the partnership agreement, if any.

(3) A corporation, the corporation shall state its complete name, the date of its incorporation, evidence that the corporation is in good standing under the laws of its State of incorporation and qualified and authorized to conduct business in Pennsylvania, the names and capacity of all officers, directors and principal stockholders, the name of the registered corporate agent and the address of the registered office for service of process.

(4) A limited liability company, the company shall state its complete name, the date of its formation, evidence that the corporation is in good standing under the laws of its State of registration and qualified and authorized to conduct business in Pennsylvania, the names and capacity of all members and managers, the name of any registered agent and the address of the registered office for service of process.

B. If the applicant intends to operate the adult-oriented business under a name other than that of the applicant, then the applicant must:

(1) State the adult-oriented business' fictitious name.

(2) Submit the required registration documents.

C. Whether the applicant or a person residing with the applicant has been convicted of a specified criminal activity as defined in this Part, and if so, the specified criminal activity involved and the date, place and jurisdiction of each.

D. Whether the applicant or a person residing with the applicant has had a previous license under this Part, or other similar adult-oriented business ordinance from another municipality or county denied, suspended or revoked, including the name and location of the adult-oriented business for which the permit was denied, suspended or revoked, as well as the date of the denial, suspension or revocation, and whether the applicant or person residing with the applicant has been a partner in a partnership or an officer, director or principal stockholder of a corporation or a member or manager in a limited liability company that is licensed under this Part whose license has previously been denied, suspended or revoked, including the name and location of the adult-oriented business for which the permit was denied, suspended or revoked, as well as the date of denial, suspension or revocation.

E. Whether the applicant or a person residing with the applicant holds any other licenses under this Part or other similar adult-oriented business ordinance from another municipality or county, and if so, the names and locations of such other licensed businesses.

F. A detailed description of the proposed activities of the adult entertainment use for which the licensee seeks a license.

G. The location of the proposed adult-oriented business, including a legal

description of the property, street address and telephone number(s), if any.

H. The applicant's mailing address and residential address.

I. A recent photograph of the applicant(s).

J. The applicant's driver's license number, Social Security number and/or his/her/its State or Federally issued tax identification number.

K. A sketch or diagram showing the configuration of the premises, including a statement of total floor space occupied by the business. The sketch or diagram need not be professionally prepared, but it must be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus 6 inches.

L. If an applicant wishes to operate an adult-oriented business which shall exhibit on the premises in a viewing room or booth of less than 150 square feet of floor space films, videocassettes, other video reproductions or live entertainment which depict specified sexual activities or specified anatomical areas, the applicant shall also comply with all applicable Sections of this Part.

5. Before any applicant may be issued an adult-oriented business employee license, the applicant shall submit on a form to be provided by the Borough the following information:

A. The applicant's name or any other name (including stage names) or aliases used by the individual.

B. Age and date and place of birth.

C. Height, weight, hair color and eye color.

D. Present residence address and telephone number.

E. Present business address and telephone number.

F. Date, issuing state and number of driver's license or other identification card information.

G. Social Security number.

H. Proof that the individual is at least 18 years of age.

6. Attached to the application form for an adult-oriented business employee license as provided above shall be the following:

A. A color photograph of the applicant clearly showing the applicant's face, and the applicant's fingerprints on a form provided by any police department. Any fees for the photographs and fingerprints shall be paid by the applicant.

B. A statement detailing the license history of the applicant for the 5 years immediately preceding the date of the filing of the application, including whether such applicant previously was employed by, operated or is seeking to operate in this or any other county, municipality, state or country any business or has ever had a license, permit or authorization to do business denied, revoked or suspended, or had any professional or vocational license or permit denied, revoked or suspended. In the event of any such denial, revocation or suspension, state the name of the issuing or denying jurisdiction and describe in full the reason for the denial, revocation or suspension. A copy of any order of denial, revocation or suspension shall be attached to the application.

C. A statement whether the applicant has been convicted of a specified criminal activity as defined in this Part, and if so, the specified criminal activity involved and the date, place and jurisdiction of each.

(*Ord. 2010-5, 6/9/2010, §IV*)

§13-305. Issuance of License.

1. Upon the filing of an application in a fully completed form for an adult-oriented business employee license, the Borough shall issue a temporary license to said applicant. The application shall then be referred to the appropriate Borough official and/or consultant for an investigation to be made on such information as is contained on the application. The application process shall be completed within 30 days from the date the completed application is filed. After the investigation, the Borough shall issue a license, unless it is determined by a preponderance of the evidence that one or more of the following findings is true:

A. The applicant has failed to provide information reasonably necessary for issuance of the license or has falsely answered a question or request for information on the application form.

B. The applicant is under the age of 18 years.

C. The applicant has been convicted of a specified criminal activity, as defined in this Part.

D. The adult-oriented business employee license is to be used for employment in a business prohibited by local or State law, statute, rule or regulation or prohibited by a particular provision of this Part.

E. The applicant has had an adult-oriented business employee license revoked by any municipality within 2 years of the date of the current application.

If the adult-oriented business employee license is denied, the temporary license previously issued is immediately deemed null and void. Denial, suspension or revocation of a license issued pursuant to this subsection shall be subject to appeal as set forth in §13-310.4.

2. Within 30 days after receipt of a complete adult-oriented business license the Borough shall approve or deny the issuance of a license to an applicant. The Borough shall approve the issuance of a license to an applicant unless it is determined by a preponderance of the evidence that one or more of the following findings is true:

A. An applicant is under 18 years of age.

B. An applicant or a person with whom applicant is residing is overdue in payment to the Borough of taxes, fees, fines or penalties assessed against or imposed upon him/her in relation to any business.

C. An applicant has failed to provide information reasonably necessary for issuance of the license or has falsely answered a question or request for information on the application form.

D. An applicant or a person with whom the applicant is residing has been denied a license by any municipality to operate an adult-oriented business within the preceding 12 months or the license to operate an adult-oriented business of an applicant or a person residing with an applicant has been revoked by any municipality within the preceding 12 months and the denial or revocation has not

been appealed or has not been reversed on appeal.

E. An applicant or a person with whom the applicant is residing has been convicted of a specified criminal activity defined in this Part.

F. The premises to be used for the adult-oriented business has not been approved by the fire safety code official and the building official as being in compliance with applicable laws and ordinances.

G. The license fee required by this Part has not been paid.

H. An employee of the proposed establishment is in violation of or is not in compliance with any of the provisions of this Part.

3. A license granted pursuant to this section shall be subject to annual renewal upon the written application of the applicant and a finding by the Borough that the applicant has not been convicted of any specified criminal activity as defined in this Part or committed any act during the existence of the previous license which would be grounds to deny the initial license application. The renewal of the license shall be subject to the payment of the fee as set forth in §13-306.

4. The license, if granted, shall state on its face the name of the person or persons to whom it is granted, the expiration date, the address of the adult-oriented business and a description of type of adult entertainment use for which the license is issued. All licenses shall be posted in a conspicuous place at or near the entrance to the adult-oriented business so that they may be easily read at any time.

5. The Fire Safety Code Official and the Building Code Official shall complete their certification that the premises are in compliance or not in compliance with applicable code requirements within 20 days of receipt of the application by the Borough.

6. An adult-oriented business license shall issue for the particular type of activity described in the license application and shall not authorize any additional types of activity.

(Ord. 2010-5, 6/9/2010, §V)

§13-306. Fees.

1. Every application for an adult-oriented business license (whether for a new license or for renewal of an existing license) shall be accompanied by a nonrefundable application and investigation fee in an amount as established from time to time by resolution of Borough Council. [*Ord. 2011-3*]

2. In addition to the application and investigation fee required above, every adult-oriented business that is granted a license (new or renewal) shall pay to the Borough an annual nonrefundable license fee in an amount as established from time to time by resolution of Borough Council within 30 days of license issuance or renewal. [*Ord. 2011-3*]

3. Every application for an adult-oriented business employee license (whether for a new license or for renewal of an existing license) shall be accompanied by an annual nonrefundable application, investigation and license fee in an amount as established from time to time by resolution of Borough Council. [*Ord. 2011-3*]

4. All license applications and fees shall be submitted to the Borough.

(Ord. 2010-5, 6/9/2010, §V; as amended by Ord. 2011-3, 11/9/2011)

§13-307. Inspection.

1. An applicant or licensee shall permit representatives of the Borough, including the Fire Safety Code Official, Zoning Officer, Building Code Official, enforcement official, or other Borough official and/or consultant, to inspect the premises of an adult-oriented business for the purpose of ensuring compliance with applicable ordinances and laws at any time it is occupied or open for business.

2. A person who operates an adult-oriented business or his/her agent or employee commits a violation of this Part if he/she refuses to permit such lawful inspection of the premises at any time it is occupied or open for business.

(Ord. 2010-5, 6/9/2010, §VI)

§13-308. Expiration of License.

1. Each license shall expire 1 year from the date of issuance and may be renewed only by making application as provided in §13-303. Application for renewal shall be made at least 30 days before the expiration date, and when made less than 30 days before the expiration date, the date of expiration of the license will not be extended.

2. When the Borough denies renewal of a license, the applicant may not re-apply for a license for At least 1 year following the date of denial. If subsequent to denial the Borough finds that the basis for denial of the renewal license has been corrected or abated, the applicant may be granted a license if at least 90 days have elapsed since the date denial became final.

(Ord. 2010-5, 6/9/2010, §VII)

§13-309. Suspension of License.

The Borough shall suspend a license for a period not to exceed 30 days if it determines that a licensee or an employee of a licensee has:

- A. Violated or is not in compliance with any provision of this Part.
- B. Refused to allow an inspection of the adult-oriented business premises as authorized by this Part.
- C. Knowingly permitted gambling by any person on the adult-oriented business premises.

(Ord. 2010-5, 6/9/2010, §VIII)

§13-310. Revocation of License.

1. The Borough shall revoke a license if a cause of suspension in §13-309 occurs and the license has been suspended within the preceding 12 months.

2. The Borough shall revoke a license if it determines that:

- A. A licensee gave false or misleading information in the material submitted during the application process.
- B. A licensee has knowingly allowed possession, use or sale of controlled substances on the premises.

C. A licensee has knowingly allowed prostitution on the premises.

D. A licensee knowingly operated the adult-oriented business during a period of time when the licensee's license was suspended.

E. A licensee has knowingly allowed any act of sexual intercourse, sodomy, oral copulation, masturbation or other sex act to occur in or on the licensed premises.

F. A licensee is delinquent in payment to the Borough, County or State for any taxes or fees past due.

3. When the Borough revokes a license, the revocation shall continue for 1 year, and the licensee may not re-apply for a license for at least 1 year from the date the revocation became effective. If subsequent to revocation the Borough finds that the basis for the revocation has been corrected or abated, the applicant may be granted a license if at least 90 days have elapsed since the date the revocation became effective.

4. After denial of an application, denial of a renewal of an application or suspension or revocation of any license, the applicant or licensee may seek judicial review of such administrative action in any court of competent jurisdiction in accordance with applicable law.

(Ord. 2010-5, 6/9/2010, §IX)

§13-311. Transfer of License.

A licensee shall not transfer his/her license to another, nor shall a licensee operate an adult-oriented business under the authority of a license at any place other than the address designated in the application.

(Ord. 2010-5, 6/9/2010, §X)

§13-312. Location of Adult-Oriented Business.

1. A person commits a violation of this Part if that person operates or causes to be operated an adult-oriented business in any zoning district other than the IC-1 or IC-2 Industrial-Commercial Zoning Districts, as defined and described in the Ivyland Borough Zoning Ordinance [Chapter 27].

2. A person commits a violation of this Part if that person causes or permits the operation, establishment or maintenance of more than one adult-oriented business in the same building, structure or portion thereof, or the increase of floor area of any adult-oriented business in any building, structure or portion thereof containing another adult-oriented business.

(Ord. 2010-5, 6/9/2010, §XI)

§13-313. Regulations Pertaining to Exhibition of Sexually Explicit Films, Videos, or Live Entertainment in Viewing Rooms.

1. A person who operates or causes to be operated an adult-oriented business which exhibits on the premises in a viewing room of less than 150 square feet of floor space a film, videocassette, live entertainment or other video reproduction which depicts specified sexual activities or specified anatomical areas shall comply with the following requirements:

A. Upon application for the adult oriented business license, the application

shall be accompanied by a diagram of the premises showing a plan thereof specifying the location of one or more manager's stations and the location of all overhead lighting fixtures and designating any portion of the premises in which patrons will not be permitted. A manager's station may not exceed 32 square feet of floor area. The diagram shall also designate the place at which the license will be conspicuously posted, if granted. A professionally prepared diagram in the nature of an engineer's or architect's blueprint shall not be required; however, each diagram should be oriented to the north or to some designated street or object and should be drawn to a designated scale or with marked dimensions sufficient to show the various internal dimensions of all areas of interior of the premises to an accuracy of plus or minus 6 inches. The Borough may waive the foregoing diagram for renewal applications if the applicant adopts a diagram that was previously submitted and certifies that the configuration of the premises has not been altered since it was prepared.

B. The application shall be sworn to be true and correct by the applicant.

C. No alteration in the configuration or location of a manager's station may be made without the prior approval of the Borough.

D. It is the duty of the licensee of the premises to ensure that at least one licensed employee is on duty and situated in each manager's station at all times that any patron is present inside the premises.

E. The interior of the premises shall be configured in such a manner that there is an unobstructed view from a manager's station of every area of the premises to which any patron is permitted access for any purpose, excluding rest rooms. Rest rooms may not contain video reproduction equipment. If the premises has two or more manager's stations designated, then the interior of the premises shall be configured in such a manner that there is an unobstructed view of each area of the premises to which any patron is permitted access for any purpose from at least one of the manager's stations. The view required in this subsection must be by direct line of sight from the manager's station.

F. It shall be the duty of the licensees to ensure that the view area specified in subsection .1.E remains unobstructed by any doors, curtains, partitions, walls, merchandise, display racks or other materials and at all times to ensure that no patron is permitted access to any area of the premises which has been designated as an area in which patrons will not be permitted in the application filed pursuant to subsection .1.A of this Section.

G. No viewing room may be occupied by more than one person at any time.

H. The premises shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access at an illumination of not less than 5.0 foot-candle as measured at the floor level.

I. It shall be the duty of the licensees to ensure that the illumination described above is maintained at all times that any patron is present in the premises.

J. No licensee shall allow openings of any kind to exist between viewing rooms or booths.

K. No person shall make or attempt to make an opening of any kind between

viewing booths or rooms.

L. The licensee shall, during each business day, regularly inspect the walls between the viewing booths to determine if any openings or holes exist.

M. The licensee shall cause all floor coverings in viewing booths to be nonporous, easily cleanable surfaces with no rugs or carpeting.

N. The licensee shall cause all wall surfaces and ceiling surfaces in viewing booths to be constructed of or permanently covered by nonporous, easily cleanable material. No wood, plywood, composition board or other porous material shall be used within 48 inches of the floor.

2. A person having a duty under subsections .1.A through .1.N above commits a violation of this Part if he or she knowingly fails to fulfill that duty.

(Ord. 2010-5, 6/9/2010, §XII)

§13-314. Additional Regulations for Escort Agencies.

1. An escort agency shall not employ any person under the age of 18 years.

2. A person commits a violation of this Part if the person acts as an escort or agrees to act as an escort for any person under the age of 18 years.

(Ord. 2010-5, 6/9/2010, §XIII)

§13-315. Additional Regulations for Nude Model Studios.

1. A nude model studio shall not employ any person under the age of 18 years.

2. A person under the age of 18 years commits a violation of this Part if the person appears seminude or in a state of nudity in or on the premises of a nude model studio. It is a defense to prosecution under this subsection if the person under 18 years was in a rest room not open to public view or visible to any other person.

3. A person commits a violation of this Part if the person appears in a state of nudity or knowingly allows another to appear in a state of nudity in an area of a nude model studio premises which can be viewed from the public right-of-way.

4. A nude model studio shall not place or permit a bed, sofa or mattress in any room on the premises, except that a sofa may be placed in a reception room open to the public.

(Ord. 2010-5, 6/9/2010, §XIV)

§13-316. Additional Regulations Concerning Public Nudity.

1. It shall be a violation of this Part for a person who knowingly and intentionally in an adult-oriented business appears in a state of nudity or depicts specified sexual activities.

2. It shall be a violation of this Part for a person who knowingly or intentionally in an adult-oriented business appears in a seminude condition unless the person is an employee who, while seminude, shall be at least 10 feet from any patron or customer and on a stage at least 2 feet from the floor.

3. It shall be a violation of this Part for an employee, while seminude in an adult-oriented business, to solicit any pay or gratuity from any patron or customer or for any patron or customer to pay or give any gratuity to any employee while said employee is

seminude in an adult-oriented business.

(*Ord. 2010-5, 6/9/2010, §XV*)

§13-317. Prohibition Against Children in an Adult-Oriented Business.

A person commits a violation of this Part if the person knowingly allows a person under the age of 18 years on the premises of an adult-oriented business.

(*Ord. 2010-5, 6/9/2010, §XVI*)

§13-318. Hours of Operation.

No adult-oriented business may remain open at any time between the hours of 1 a.m. and 9 a.m. on weekdays and Saturdays and 1 a.m. and 12 p.m. on Sundays.

(*Ord. 2010-5, 6/9/2010, §XVII*)

§13-319. Exemptions.

It is a defense to prosecution under §13-316 that a person appearing in a state of nudity did so in a modeling class operated:

A. By a proprietary school licensed by the Commonwealth of Pennsylvania, a college, junior college or university supported entirely or partly by taxation.

B. By a private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college or university supported entirely or partly by taxation.

C. In a structure, as defined by the Zoning Ordinance [Chapter 27] and within the IC-1 or IC-2 Zoning District:

(1) Which has no sign visible from the exterior of the structure and no other advertising that indicates a nude person is available for viewing.

(2) Where in order to participate in a class, a student must enroll at least 3 days in advance of the class.

(3) Where no more than one nude model is on the premises at any one time.

(*Ord. 2010-5, 6/9/2010, §XVIII*)

§13-320. Regulations Do Not Create Allowable Uses.

The establishment of regulations for particular uses set forth in this Part should not be deemed as allowing any such use unless such use is provided for in the Zoning Ordinance [Chapter 27] of Ivyland Borough.

(*Ord. 2010-5, 6/9/2010, §XIX*)

§13-321. Violations and 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. 2010-5, 6/9/2010, §XX; as amended by Ord. 2011-3, 11/9/2011*)