**BOROUGH OF CONSHOHOCKEN**

**MONTGOMERY COUNTY, PENNSYLVANIA**

**ORDINANCE NUMBER 4 of 2013**

**AN ORDINANCE OF THE BOROUGH OF CONSHOHOCKEN, COUNTY OF MONTGOMERY, COMMONWEALTH OF PENNSYLVANIA, AMENDING CHAPTER 13, PART 13 OF THE CONSHOHOCKEN CODE OF ORDINANCES; FURTHER REPEALING CERTAIN REGULATIONS REGARDING PEDDLING AND HANDBILLS; ESTABLISHING REGULATIONS RELATED TO PEDDLING AND SOLICITING WITHIN THE BOROUGH OF CONSHOHOCKEN; PROVIDING FOR LICENSING REQUIREMENTS AND LIMITATIONS ON PROPOSED LICENSES; PROVIDING FOR CERTAIN REQUIREMENTS, PROCEDURES, STANDARDS OF CONDUCT, EXEMPTIONS AND OTHER REGULATIONS; PROVIDING FURTHER FOR THE AMENDMENT OF THE BOROUGH CODE OF THE BROROUGH OF CONSHOHOCKEN, SPECIFICALLY CHAPTER 13, PART 7; FURTHER PROVIDING FOR THE ESTABLISHMENT OF CERTAIN RULES AND REGULATIONS RELATING TO FOOD VENDORS; REPEALING PRIOR INCONSISTENT ORDINANCES; PROVIDING A SAVINGS CLAUSE; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, Conshohocken Borough Council previously adopted certain regulations governing the issuance of permits for peddling and soliciting activity within the Borough of Conshohocken, said regulations being contained in Ordinance 5-2007, approved by the Borough Council on March 21, 2007, and codified as Chapter 13, Part 13, §§ 13-1301-13-1313 of the Codified Code of the Borough of Conshohocken and regulations governing Food Vendors, said regulations being contained in Ordinance 6-1982, as amended, and codified as Chapter 13, Part 7, §§ 13-701-13-702; and

**WHEREAS**, such regulations are an exercise of the general police power of the Borough Council, consistent with the authority granted to Council under the Pennsylvania Borough Code; and

**WHEREAS**, the Borough Council has determined it to be in the best interest of the community, including residents, business owners and vendors, to amend the existing Borough regulations governing peddling and soliciting and food vending, to reflect the present needs of the community; and

**WHEREAS**, the Borough Council has determined it to be in the best interest of the general welfare of the Borough to adopt certain amendments to the Conshohocken Borough Code, based upon certain recommendations of the Police Chief with respect to public safety and security and limitations on the number of available licenses provided under this Ordinance;

**NOW THEREFORE,** it is hereby **ORDAINED** and **ENACTED** by the Borough Council of the Borough of Conshohocken as follows:

**SECTION I**

The Borough Code of the Borough of Conshohocken, and specifically Chapter 13, Part 13, §§ 13-1301-13-1313 are hereby REPEALED in their entirety and replaced with the following new provisions:

[**§ 13-1301. Registration and License Required.**](http://ecode360.com/14296122#14296123)

No person, association, partnership, firm or corporation (hereinafter "person") shall, either directly or indirectly, sell goods, wares, merchandise, magazines, periodicals, books or other personal property by canvassing or soliciting or solicit or canvass for contributions in the Borough of Conshohocken without first having registered with the Borough Manager or his designee and obtained a License from the Borough.

[**§ 13-1302. Application Requirements.**](http://ecode360.com/14296122#14296124)

1. Any person desiring to directly or indirectly sell services, goods, wares, merchandise, magazines, periodicals, books, or other personal property by canvassing or soliciting, or solicit or canvass for contributions in the Borough, shall submit a written application to the Borough Manager or his designee on a form to be furnished by the Borough, accompanied by two photographs (two-inch by three-inch minimum) of himself/herself taken not more than six (6) months prior to the date of application.
2. The applicant shall complete a written application, which shall include the following information: his/her name; sex; social security number; home and business address and telephone number; the name, address, telephone number and Pennsylvania sales tax identification number of the business, employer or organization, if any, for which he/she desires to undertake the activities which require this registration; the category of goods to be sold; a food vendor's license number for Montgomery County, if applicable; the length of time he/she wishes to engage in this work, including days of the week and hours; the make and model of vehicle, if any, he/she will use, its registration number, his/her driver's license number; a certificate of automobile liability coverage; a statement as to whether he/she has ever been convicted of a crime of any kind and the jurisdiction in which such offense occurred.
3. In addition to the foregoing, the application shall be signed by the applicant, as well as by any employer of an applicant, and shall contain therein the stipulation and agreement on the part of the employer, in consideration of the issuance of such license or permit, to become liable for any and all acts of such applicant while within the Borough of Conshohocken, in violation of law or otherwise. This provision shall not apply to bona fide charitable organizations.
4. No License shall be issued to any person who has been convicted of a crime of any kind involving moral turpitude, and such person shall not be allowed to engage in canvassing and soliciting in the Borough.
5. All applications for license under this Chapter shall be accompanied by a fee, as determined from time to time by Resolution of the Borough Council. Any application submitted without the requisite fee, unless otherwise exempted under this Ordinance, shall be deemed to be administratively incomplete and shall be denied.
6. At the time of application for a License, an applicant shall receive information regarding the Conshohocken Business Privilege Tax, a copy of this Ordinance, any applicable rules of conduct for vendors, and may be advised of the time and place of any orientation session conducted for the purpose of answering any questions regarding applicable ordinances.

**§ 13-1303. Limitation on number of Licenses.**

1. The number of Licenses to be issued monthly shall be limited to four (4). The Licenses under this section shall be allocated as follows:
	1. Two (2) Licenses shall be issued only to local business owners within the Borough of Conshohocken;
	2. Two (2) Licenses may be issued to either transient business owners or to local business owners on a first come first serve basis; application may be made on the first business day of each month on a first-come first-serve basis.
	3. For purpose of this section, a local business owner shall be defined as the owner of a business which occupies a permanent physical structure in the Borough of Conshohocken with a primary purpose of servicing the public and which is open during the majority of normally accepted business hours for the respective business. Businesses having greater than six (6) locations within the United States shall not qualify as a local business.
	4. Transient business owner shall refer to the owner of a business which does not occupy a permanent physical structure within the Borough of Conshohocken or to a business having more than six (6) locations within the United States.
2. The number of permitted Licenses under this Section may be adjusted, from time to time, by Resolution of the Borough Council.

[**§ 13-1304. Investigation of Application; Issuance of License.**](http://ecode360.com/14296122#14296130)

1. Promptly upon receiving any application for a permit to canvass or solicit within the Borough, the Borough Manager or his designee shall cause such application and applicant to be investigated by the Borough Police Department.
2. In the event that an investigation indicates that the grant of a License may be injurious to the public interest or to the public health, the Borough Manager may refuse to issue such License. In any instance where the Chief of Police deems it necessary or advisable to secure and check the fingerprints of an applicant, the refusal of an applicant to voluntarily furnish such fingerprints shall constitute, in and of itself, sufficient grounds to deny a License.
3. When granted, the Borough Manager will issue a License, to which one of the applicant's photographs must be affixed, within ten (10) days from the date of filing of the application. In the event a License is denied, notice of denial shall be issued by the Borough Manager, in writing, to the applicant within ten (10) days of the date of application.

**§ 13-1305. License Conditions.**

1. Any License issued under this Chapter will be valid for a period of thirty (30) days from the date on which it is issued.
2. Licenses may not be transferred from one person to another and shall be considered a personal permit or license.
3. One licensee will be permitted per person.
4. There will be no change in category of goods sold under a License during the period of time for which the License is in effect.
5. A Local Business License holder may submit an application for renewal of an existing License any time within the three (3) days prior to the expiration of their current License. In cases of License renewal under this section, the Borough Manager shall process and respond to the application for renewal within Forty-Eight (48) hours of submission of the application, without regarding to any time limitations set forth under § 13-1304(3).

[**§ 13-1306. Standards of Conduct.**](http://ecode360.com/14296122#14296133)

1. Every person to whom a License has been issued shall in the conduct of his/her activity comply with the following standards of conduct:
	1. A License holder shall carry the required License at all times or, in the case of a Local Business License, shall display the license prominently within their physical establishment within the Borough. Upon request, a License holder shall exhibit it to any police officer or ordinance officer of the Borough and to any person upon whom they may interact.
	2. A License holder shall not permit any person to have possession of a License and shall immediately report its loss to the Borough Manager.
	3. Licenses shall not be altered or defaced in any way.
	4. A License holder shall not enter or attempt to enter any dwelling or otherwise remain upon any private property without the invitation or permission of the occupant or property owner and shall immediately leave any premises upon request of the occupant or property owner.
	5. A License holder shall engage in canvassing or soliciting only during the hours fixed by resolution of Borough Council.
	6. A License Holder shall not be guilty of any false pretense or misrepresentation, and, particularly, shall not misrepresent to any person that issuance of a License under this Chapter is an endorsement of the License holder or the goods or services sold under a License.
	7. Every License holder shall inform the Borough Police Department, in writing, of any changes to information supplied on the then-current application within five (5) days of such change.
	8. A license holder shall immediately surrender any License to the Borough Manager upon suspension or revocation thereof.
	9. A License holder shall agree to refrain from solicitation of any property that is registered with the Borough as a “do not solicit” address.

**§ 13-1307. Limitations on License Area.**

1. All canvassing or soliciting shall occur only in the following locations and for the following purposes:
	1. Between Elm Street and First Street for any purpose.
	2. Such areas other than those fixed under subparagraph “a” as may be fixed by consent of the Borough Manager and Council President.
	3. In a designated farmer's market district established by resolution of Council for purposes of selling raw and uncut items from the Plant kingdom, which is grown in the Borough of Conshohocken.
	4. Within the SP-1, SP-2 or SP-3 zoning districts, as designated in the Conshohocken Borough Zoning Map, for purposes of food and beverage sales only.
	5. Such other canvassing and soliciting districts as may be fixed by Resolution of the Borough Council.

[**§ 13-1308. Suspension and Revocation of License.**](http://ecode360.com/14296122#14296142)

A license may be suspended by the Borough Manager or his designee if the holder fails to comply with the standards of conduct and responsibilities contained in this Ordinance. A license may be revoked or suspended upon the basis of fraud, misrepresentation or the making of knowingly false statements in the application, the application process or in the course of conducting the licensed operation.

 [**§ 13-1309. Appeals from Suspension.**](http://ecode360.com/14296122#14296143)

1. Any person whose license has been suspended or revoked shall be entitled to request a hearing on the revocation or suspension, provided that such person has provided Borough Council with written notice of such request at least five (5) business days prior to Borough Council's next regularly scheduled or specially scheduled meeting. If such notice is not provided, Council may, in its discretion, conduct a hearing at any time within thirty (30) days of the date when written notice of appeal is received.
2. An applicant on appeal shall be afforded written notice of the date, time and place of the hearing, and shall be entitled to present any information relevant to the substance of the appeal during the hearing before Council.
3. Borough Council may grant or deny an appeal, in its sole discretion, and may elect to modify the terms of any suspension or revocation.
4. No person shall be denied a license or have such license suspended or revoked except by procedures consistent with due process of law.

[**§ 13-1310. Persons Exempt from License and Fee Requirements.**](http://ecode360.com/14296122#14296144)

1. The following persons, although subject to all other provisions of this Part, are exempt from any registration fee requirements, limitations on number of licenses and limitations on license area set forth under this Part:
	1. Persons engaged in the sale of goods, wares and merchandise donated by the owner thereof, the proceeds whereof are to be applied to any charitable or philanthropic purpose.
	2. Real estate brokers who have been licensed by the Commonwealth of Pennsylvania.
	3. Political candidates or campaign workers.
	4. Persons under the age of sixteen (16) who take orders for and deliver newspapers, greeting cards, candy and the like, or who represent the Boy Scouts and Girl Scouts or similar organizations and take orders for and deliver cookies and the like.
2. Any persons, organizations or corporations that have received approval from Borough Council to conduct a special event within the Borough shall be responsible for any vendors participating within the boundaries of that event. The organizer of the event shall register each vendor with the Borough Manager or his designee and supply such information as required by § [13-1302](http://ecode360.com/14296122#14296124) of this Part. Registered vendors will receive permission to operate a stand(s) for only the special event and will not be required to pay the registration fee required under this Ordinance. No other vendors will be permitted within the boundary area of such event during the time period designated for the special event.
3. Existing businesses in the Borough may be permitted to sell merchandise in the area immediately adjacent to their business during designated special events, provided that such business complies with and conducts such sales in accordance with the vendors' responsibilities and guidelines applicable to such special event.

[**§ 13-1311. Prior Approval Required for Fixed Location.**](http://ecode360.com/14296122#14296156)

Any person licensed under this Part shall not occupy any fixed location upon any private property, street or alley of the Borough for the purpose of engaging in any business under this Part, with or without any stand or counter, except with the prior approval of the property owner or Borough. Notwithstanding any such prior approval, the Borough Police, Borough Manager or their authorized designee may require any Licensee to abandon any location which is hazardous to traffic or passerby or which otherwise significantly obstructs the movement of traffic or passersby or otherwise upon the request of the owner of any location on which such person is situated.

 [**§ 13-1312. Additional Responsibilities.**](http://ecode360.com/14296122#14296157)

1. Every License holder is responsible for trash removal and cleanup related to their operations and for maintaining an area within 15 feet of any stand free of all trash generated by the vending operations and for washing the sidewalk area occupied by any stand as necessary.
2. Every License holder must clean up and remove all trash, litter, garbage and refuse generated by his or her vending operation, provided that such trash, litter, garbage and refuse generated by the vending operation shall not be placed in any public receptacle or in any private property without permission of the property owner.
3. For transient vendors and local businesses not in a designated farmers market district or SP zoning district, permitted stands shall not exceed four (4) feet in width, eight (8) feet in length and eight (8) feet in height. The definition of "permitted stand" includes all merchandise extensions and coverings.
4. For local businesses, permitted stands in a Special Planning Zone may only be located off of Borough property and shall not exceed eighteen (18) feet in length, eight (8) feet in width, and twelve (12) feet, including stands contained within a vehicle.
5. The size of permitted stands in any Farmers Market district will be set by Resolution of the Borough Council.
6. Any storage area for goods which are not on display should not be visible to the public.
7. Advertising or other signage may not be temporary paper/hand-lettered signage. Any sign shall be no more than six square feet and must be mounted on the stand. Items permitted on the sign shall include the name of the stand, a listing of items sold and the price thereof.

[**§ 13-1312. Public Collection.**](http://ecode360.com/14296122#14296162)

Public collection (bucket brigades) may be conducted in accordance with the provisions of § 13-1310(2) of this Part. Each person participating in the public collection shall prominently display the name of the organization or cause for which funds are being collected. No public collection will be permitted on Sunday. Only one nonprofit or charitable organization will be permitted to conduct a public collection on any permitted day or within any permitted time period.

 [**§ 13-1313. Violations and Penalties.**](http://ecode360.com/14296122#14296163)

Any person, firm or corporation violating any of the provisions of this Part shall, upon conviction thereof, be sentenced to pay a fine of not more than $1,000, together with costs of prosecution. Each day that a violation continues after due notice shall be deemed a separate offense. The imposition of a penalty as provided herein shall be in addition to any other remedy available to the Borough, at law, in equity or under this Ordinance.

**SECTION II.**

The Borough Code of the Borough of Conshohocken, and specifically Chapter 13, Part 7, §§ 13-701-13-702 are hereby REPEALED in their entirety and replaced with the following new provisions:

[**§ 13-701. Food Vendor Regulations.**](http://ecode360.com/14295942#14295943)

1. As used in this Part, the following terms shall have the indicated meanings:

**FOOD** - Any raw, cooked or processed edible substance, beverage or ingredient used or intended to be used in whole or part for human consumption, provided, however, that products in hermetically sealed containers processed by heat to prevent spoilage, and dehydrated dry or powered products so low in moisture content as to preclude development of microorganisms are excluded from the terms of this definition. Further, raw and uncut food from the plant kingdom which has been grown in the Borough of Conshohocken is excluded from the terms of this definition.

**FOOD VENDOR** - Any person who transports, distributes or sells to the public, foods, prepared foods or readily perishable food of a kind deemed by the Health Officer to be capable of causing human food borne illness, from truck, trailer, cart, bicycle or other vehicle. Readily perishable foods shall mean any food or beverage or ingredients consisting in whole or in part of milk, milk products, eggs, meat, fish, poultry or organisms which can cause food infections or food intoxication.

**§ 13-701-1 Food Vendor License Required**

1. License. In addition to any other applicable License requirement, no person shall sell or distribute to the public prepared or perishable food from any food-vending vehicle without obtaining a license from the Borough.
2. Application. Applications for licenses required by this Part shall be on forms provided by the Borough which will set forth the name, residence and business address of the applicant, and the names of the persons operating the establishment or establishments from which the prepared or perishable food will be obtained.
3. Issuance Restricted. A license required by this Part will not be issued by any person until the Health Officer has inspected and approved the establishment from which food is to be obtained. Written permission to inspect or re-inspect such establishment shall be given by the applicant.
4. Refusal to Issue; Revocation. Every food vendor shall upon demand furnish to the Health Officer such additional information as may be required to enable the Health Officer to determine whether the provisions of the Borough health regulations are being complied with. Failure to furnish this information promptly or failure to give written permission to inspect or reinspect sources of food supplies shall result in the refusal to issue, of the revocation of the food vendor's license. The Health Officer may suspend or revoke any license if he finds that the licensee has violated any of the provisions of the Borough's health regulations.
5. Display. The license required by this Part shall at all time be kept posted prominently in the food-vending vehicle.
6. Term; Renewal. Unless previously revoked or suspended, all licenses issued under this Part shall expire 30 days following their issuance.
7. License Fee. Each application for a license under this Part shall be accompanied by a fee as established from time to time by Resolution of Borough Council.
8. Standards; Employees. No person infected with any contagious disease or having any open running sores of any kind shall dispense, handle, serve, prepare or in any way engage in or perform work related to the service of food.
9. Hours. 6:00 AM until 5 PM in Special Planning District, unless otherwise permitted by Resolution of Borough Council.

[**§ 13-702. Penalty for Violation of Food Vendor Regulations.**](http://ecode360.com/14295942#14295956)

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 $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 continues shall constitute a separate offense.

**SECTION III. Repealer**

All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of any inconsistency.

**SECTION IV. Savings Clause**

 If any section, subsection, sentence, clause or phrase of this ordinance is, for any reason, held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance. The Borough Council hereby declares that it would have enacted this ordinance, and each section, subsection, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases be declared unconstitutional.

**SECTION V.**

This Ordinance shall be effective immediately upon adoption by the Council of the Borough of Conshohocken.

**ORDAINED** and **ENACTED** this 17th day of July, 2013 in Council Chambers.

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| BOROUGH OF CONSHOHOCKEN |
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| PAUL McCONNELL, COUNCIL PRESIDENT |
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| ATTEST: |
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| FRANCIS J. MARABELLA, SECRETARY |
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| Examined and Approved this 17th day of July, 2013 |
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| ROBERT FROST, MAYOR |