

ORDINANCE #2176

AN ORDINANCE AMENDING AND SUPPLEMENTING CHAPTER V OF THE “REVISED GENERAL ORDINANCES OF THE TOWNSHIP OF OCEAN, 1965” ENTITLED: PEDDLERS, SOLICITORS, CANVASSERS, VENDING MACHINES AND MERCANTILE LICENSE

BE IT ORDAINED by the Township Council of the Township of Ocean, County of Monmouth, State of New Jersey that the following be and is hereby amended:

CHAPTER V be and is hereby amended to include as follows:

SECTION I

5-1.1. e. Canvasser or Solicitor. The term “canvasser” or “solicitor” shall mean any person who goes from place to place, house to house, or person to person, selling or taking orders or offering to sell or take orders for goods, wares, merchandise or any article, for future delivery, or for services to be performed in the future or for the making, manufacture or repair of any article or thing whatsoever, for future delivery, or for the solicitation of money for any purpose whatsoever.

5-1.2.a. Peddlers, Transient Merchants, Transient Merchant Peddlers, Canvassers and Solicitors. No peddler, transient merchant, transient merchant peddler, canvasser or solicitor shall sell or dispose of, or offer to sell or dispose of, or solicit for, any wares, goods, merchandise or services within the Township of Ocean, without first having obtained a permit therefore in accordance with the provisions of this section and without having paid the permit fee as hereinafter prescribed.

5-1.3 Exceptions. The requirements of this section shall not be construed to apply to the following persons:

- a. Any person selling fruits, vegetables or farm products grown by himself/herself, with or without the help of others.
- b. Any honorably discharged veteran of the armed services of the United States, as defined in, and who has procured a license under, the provisions of N.J.S.A. 45:24-9 et seq.
- c. Any person who conducts a judicial sale under the authority of State or Federal laws.
- d. Any exempt member of a volunteer fire department, volunteer fire engine, hook and ladder, hose supply company, or salvage corps of any municipality, or fire district in this State, who holds an exemption certificate issued to him/her as an exempt member of any such department, company or corps, who is a resident of the State of New Jersey and who has procured a license in the manner and under the conditions prescribed in N.J.S.A. 45:24-9, et seq.
- e. Any person soliciting for a lawful and recognized religious, charitable, educational or political organization; provided, however, that the local chairman or other person in charge of solicitation for such lawful and recognized religious, charitable, educational or political organization in the Township of Ocean shall apply for and obtain a permit in the manner hereinafter provided in subsection 5-1.4, and all persons engaged in such solicitation shall carry identification cards signed by such local chairman or person in charge of such solicitation, except that no more than 20 cards shall be issued to any one group at any one time; and provided, further,

that nothing herein contained shall allow any such person to engage in any business within these provisions without having first applied for and obtained the prescribed permit.

5-1.4 Application for Permit of License: Fee. Any person applying for a permit or license under this section shall file with the township police department, township license officer, in accordance with the provisions which follow, an application for such permit or license, together with the appropriate fee prescribed in this subsection and subsection 5-1.13, which fee shall be returned if such permit or license is rejected.

- a. Any person desiring a permit as a peddler, solicitor, transient merchant, transient merchant peddler, canvasser or solicitor shall furnish the following information on forms to be supplied by the police department.
 1. Name and physical description of applicant
 2. Permanent home and local address of applicant
 3. Name and address of employer or firm represented
 4. Place or places of residence of the applicant for the preceding three years
 5. A description of the nature of merchandise to be sold or offered for sale or the nature of the service to be furnished or literature to be distributed
 6. Date on which the applicant desires to commence such activity and length of time for which the license is requested
 7. Three business references
 8. The number, if any, of convictions for misdemeanors, crimes or other infractions of the law in the nature of a criminal offense, and the nature of the offenses for which convicted
 9. Such applicant shall also furnish to the township police department two recent photographs of himself, one of which shall be approximately two inches by two inches, showing the head and shoulders of the applicant in a clear and distinguishing manner
 10. The applicant shall additionally supply to the township police department a letter from the firm or organization for which he intends to solicit, authorizing the applicant to act as its representative
 11. Any person applying for a permit as a canvasser or solicitor shall pay an investigation fee in the amount of twenty-five (\$25.00) dollars to cover the investigation of the application by the police department of the township pursuant to subsection 5-1.5. Upon renewal of an existing permit by any person, the investigation fee shall be reduced below the twenty-five (\$25.00) dollars to encompass only the actual clerical and investigation cost for such renewal
- b. For persons soliciting on behalf of religious and charitable organizations, in addition to such other information as may be required by the township police department, the applicant, local chairman or other person in charge of the solicitation shall set forth upon his application the names and addresses of all persons authorized to solicit on behalf of such religious or charitable organization for the period of the permit, and shall attach to the application the form of identification card to be carried by each person engaged in such solicitation, with the following proviso. When the intended solicitation is to be made by school children under the age of 19 who reside in the Township of Ocean, and is for the purpose of raising funds for the assistance of local schools and churches, the permit shall be secured in the manner hereinabove provided, except that the identification cards may be signed by any member of the committee in charge of said solicitation for such local school or church; provided, however, that the chairman of said committee has filed his signature with, and as part of, the application for permit made by such chairman. As indicated in subsection 5-1.3, no more than 20 cards shall be issued to any one group at any one time.

5-1.5 Investigation. Following the filing of any application for a permit to peddle, solicit or canvass under the provisions of this section, the chief of police of the township shall conduct an investigation to ascertain the truth of the statements made by the applicant upon his application and any such other investigation of the applicant's business and background as he deems necessary for the protection of the public good. Except where a person has applied under this chapter to solicit for or on behalf of a religious, educational or political nonprofit organization, the chief is authorized to submit applicant fingerprint cards and receive State criminal history record information from the Division of State Police/State Bureau of Identification for use in considering the suitability of all applicants covered under this section. Each applicant shall be responsible to pay any State user fees related to the processing of a criminal history check. If, as a result of such investigation, the applicant's background or business responsibility is found to be unsatisfactory according to the guidelines as set forth below, the chief of police shall endorse his disapproval and the reasons thereof on the application and the permit shall not be issued. No permit shall be issued to any individual who has been convicted of a felony within the past five years which, in the discretion of the police department, would indicate that the individual is a threat to the health, safety and welfare of the community. The background investigation by the Division of State Police is for a three (3) year period.

5-1.6 Time Permitted for Investigation. The above investigation by the chief of police shall be completed within 20 days of the date of filing of the application and the permit either issued or denied within that time period.

5-1.7 Issuance of Permit. If, upon completion of such investigation, it appears that the statements made by a potential canvasser, peddler or solicitor upon the application are true and that the applicant has not been disqualified as a result of a conviction for one of the above offenses, the chief of police shall endorse his approval, and the permit will be issued by the appropriate township department. The permit shall show the name, address and photograph of the applicant, the kind of goods or services to be sold or performed or distributed thereunder, the date of issuance and the date on which such permit shall expire. Hours of operation must be displayed in bold on front of badge.

5-1.8 Procedure in Case of Denial. In the event that any application for canvassing or soliciting is denied, for reasons of reported unethical business practices or for a conviction of one of the above offenses within five years of the date of the application, the township shall carry the burden of justifying its decision in court.

5-1.9 Conditions. It shall be unlawful for any person holding a permit under this section to:

- a. Canvass, solicit or peddle as defined in this section 9:00 a.m. or later than 6:00 p.m., Monday through Saturday. No Sundays or Holidays.
- b. Enter into or upon any house, building or other structure or any land or property, without the prior consent of the owner or occupant thereof where there is placed or posted on the premises in a conspicuous position at or near the usual means of ingress, a sign or other form of notice stating or indicating that the owner or occupant thereof forbids or otherwise does not wish persons engaged in canvassing or soliciting activities to enter upon the premises.
- c. Fail to immediately and peacefully depart from the premises when requested to do so by the owner or occupant.

- d. Fail to give a written receipt to the purchaser, which receipt shall be signed by the holder and shall set forth a brief description of the articles ordered or purchased, the total purchase price thereof and the amount of the payment, if any, received by the holder from the purchaser.

5-1.10 Transferability. No permit or license issued under the provisions of this section shall be used at any time by any person other than the one to whom it was issued and for the premises and location stated in the permit or license application, and shall not be transferable unless such transfer is first approved by the police department or building inspector, as the case may be.

- a. For peddlers, solicitors or transient merchants, or transient merchant peddlers, the permit issued shall not authorize any person, except the designated person named in said permit, to engage in such peddling, soliciting and merchandising. A separate permit must be obtained for every agent and employee. A separate permit, must be obtained by a transient merchant or transient merchant peddler, for each branch or separate place of business in which his business is conducted, and each permit shall authorize the person to conduct business only at the location which is indicated thereon.
- b. A separate license shall be required for each vending machine or juke box, if more than one is in or on a premise, and a separate fee shall be required for each juke box or vending machine.

5-1.11 Permit or License in Possession. Every person holding a permit or license under the provisions of this section shall display the same as follows:

- a. Any person holding a permit to peddle or solicit goods, wares, merchandise and/or services, or as a transient merchant or transient merchant peddler, and for door-to-door canvassing, shall be required to carry said permit with him at all times, and in door-to-door canvassing or soliciting, he must hand the permit to the person being solicited or canvassed, for inspection at the time said permit holder first approaches the individual.

5-1.12 Registration of Business.

- a. Every person who engages in business in the township who is not required to obtain a license under subsection 5-1.2 and does not qualify for any exemption under the provisions of subsection 5-1.3, shall register with the license office and pay the fees provided in subsection 5-1.13.
- b. For the purposes of this section, any person shall be deemed engaged in business and subject to the provisions of this section when he/she performs or does one or more of the following acts:
 - 1. Sells any goods or services
 - 2. Solicits business or offers goods or services for sale or hire
 - 3. Acquires or uses any vehicle, machine or device, or any premises in the Township of Ocean, for business purposes
- c. Registration as a business shall be made on forms to be supplied by the township license officer, which forms shall contain the following information:
 - 1. Name of applicant
 - 2. Home address of applicant
 - 3. Name under which said business will be operated

4. Address of said business premises
 5. A description of the wares or services to be offered for sale by said business
 6. Zone in which the said business will be located, as outlined in the zoning ordinance of the Township of Ocean
- d. Any person holding a license to conduct a business, as defined in paragraph a. of subsection 5-1.1, shall be required to keep his license on display in a prominent place at his/her place of business.

5-1.15 Term of Permit or License; Renewal.

- a. A permit issued under this section to peddle, solicit or canvas shall expire 90 days after the date of its issuance. The holder may renew said license before the end of the 90 day term by following the same procedure set forth in subsection 5-1.4, except that no additional fee nor additional photographs shall be required. The permit may be renewed in this matter for successive 90 day terms, except that at the end of the fourth 90 day term, a new fee will be charged, which shall be in accordance with the provisions of subsection 5-1.4a,11.

5-1.16 Violations and Penalties

Any person violating any of the terms and provisions of this section shall, on conviction thereof by the municipal judge of this township, be subject to a fine not exceeding one thousand two hundred fifty (\$1,250.00) dollars or by imprisonment for any term not exceeding 90 days, or by both such fine and imprisonment, at the discretion of the judge. Additional penalties may include a revocation of said permit(s) for a period up to twelve (12) months.

SECTION II.

All Ordinances, or parts thereof, contrary to the provisions of this Ordinance are hereby repealed to the extent that they are inconsistent herewith.

SECTION III.

This Ordinance will take effect upon passage and publication according to law.

Record of Vote	Deputy Mayor Siciliano	Councilman Evans	Councilman Garofalo	Councilwoman Schepiga	Mayor Larkin
Motion To Approve					
Motion to Second					
Approved					
Opposed					
Not Voting/Recuse					
Absent/Excused					

CERTIFICATION

*I hereby certify that this is a true copy of a Ordinance introduced by the Township of Ocean Governing Body at their meeting held on **September 12, 2011.***

 Vincent Buttiglieri, RMC/CMC/MMC
 Township Clerk