

TOWNSHIP OF BARNEGAT

ORDINANCE 2018 - 9

AN ORDINANCE OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF BARNEGAT, IN THE COUNTY OF OCEAN, STATE OF NEW JERSEY AMENDING AND SUPPLEMENTING CHAPTER 52 HAWKERS, PEDDLERS, CANVASSERS, SOLICITORS TO INCREASE FEES AND CREATE NEW ARTICLE II ENTITLED MOBILE VENDORS AND REQUIRING CRIMINAL BACKGROUND CHECKS FOR VENDORS UNDER CHAPTER 52

WHEREAS, the Township Committee regulates Hawkers, Peddlers, Canvassers, and Vendors pursuant to Chapter 52 of the Barnegat Municipal Code; and,

WHEREAS, the Township Committee wishes to amend Chapter 52 to require an increase in license fees, create a new Article II entitled “Mobile Vendors” and requiring criminal background checks for Canvassers and Solicitors and for “Mobile Vendors”; and,

WHEREAS, the Township Committee of the Township of Barnegat finds that it is in the best interest of the citizens of the Township of Barnegat to supplement and amend Chapter 52 to provide for license fee increases and to require criminal background checks for Canvassers and Solicitors and for Mobile Vendors; and,

NOW, BE IT ORDAINED by the Township Committee of the Township of Barnegat, in the County of Ocean, in the State of New Jersey, as follows:

EXPLANATION – Matter in bold-faced in this document is not enacted and is intended to be omitted in the Barnegat Township Code. Matter underlined thus is new matter.

Section 1. Chapter 52 shall be entitled “Canvassers, Solicitors, Mobile Vendors”. Article I shall be entitled Canvassers and Solicitors. Article II shall be entitled Mobile Vendors.

52-2. Definitions

SOLICITOR or CANVASSER — Shall mean and include any person, whether or not a resident of the Township of Barnegat Union who goes from house to house, from place to place or from street to street, whether on foot or by conveyance of any kind, nature or sort, soliciting, taking or attempting to take orders for the sale of services, goods, wares, merchandise, **food or drink or any products thereof or property of any kind or nature whatsoever**, for future performance or delivery, whether or not such individual has, carries or exposes for sale a sample of the subject of such order, and whether or not he is collecting advance payments on such sales or orders. **,or**

who engages in any of the foregoing activities from a stationary location on the street or other public place.

52-4. Types of licenses.

The licenses issued shall be classed as "individual" for those issued to individual applicants, and **“firm”** “Corporation/Partnership” for all others.

52-5. Term of License

The licenses issued shall be valid for thirty (30) days, per twelve (12) month period, at the discretion of the Township Committee following the date of the issuance thereof and shall be invalid thereafter. Date of expiration on the license will be enforced.

52-6. Investigation and Issuance

A. Upon receipt of such application, the original thereof shall be referred immediately by the Clerk to the **acting** Chief of Police of the township, who shall cause to be made such investigation of the applicant's business and moral character as he deems necessary for the protection of the public welfare.

B. Such investigation shall be **completed** commenced within **three (3)** thirty (30) days after the receipt of such application, and the said Chief shall endorse thereon his approval or disapproval and, if disapproved, his reasons therefor; and he shall immediately notify the applicant that his application has been disapproved, his reasons therefor; and he shall immediately notify the applicant that his application has been disapproved; the application, so endorsed, shall be forthwith returned to the Township Clerk. Each applicant shall agree to a criminal background check, which will be completed by the Barnegat Police Department.

C. A certification by the applicant and each of the applicant's employees that are expected to participate in the applicant's activities as approved by this section that each individual has not been convicted of a crime or disorderly persons offense involving moral turpitude within a period five (5) years preceding the date of application. Conviction of a criminal offense shall be cause for disqualification.

D. If the application has been disapproved by the **acting** Chief of Police, such applicant may file with the Township Clerk a request in writing for a hearing on the ruling of the **acting** Chief of Police, and the Township Committee shall then set a time and place for a hearing on such request, which hearing shall be within ten (10) days after receipt of the written request therefor; at such hearing the applicant shall have full and ample opportunity to present facts and circumstances to support the issuance of a license in accordance with the application, and said body shall then decide whether the applicant should receive such license.

§ 52-7. Fees.

The fees for licenses shall be **ten dollars (\$10.)** One Thousand Dollars (\$1,000.00) for the first individual and **fifteen dollars (\$15.0)** One Hundred Fifty Dollars (\$150.00) for additional applicants, which sum shall be paid to the Clerk at the time of issuance of the license. If the applicant is a partnership or corporation and has one (1) or more employees or representatives, or an individual having employees or representatives, who are to participate in the business or activity for which a license is requested, then in addition to the said sum of **Ten Dollars (\$10.)** One Thousand Dollars (\$1,000.00) such applicant shall pay an additional sum of **Twenty Five (\$25.)** One Hundred Fifty Dollars (\$150.00) for additional expense of investigation of each additional person and for the issuance of the duplicate copy of such license, which is to be carried by each additional person.

ARTICLE II Mobile Vendors

§ 52-10. Definitions.

When used in this ordinance, the following terms shall have the following meanings:

HAWKER, PEDDLER, AND VENDOR MOBILE VENDOR — Shall mean and include any person, whether or not a resident of the Township of Barnegat, traveling about the Township of Barnegat either on foot, by vehicle or by any other manner, means or method, who shall go from house to house, place to place or street to street, conveying or transporting goods, products, wares, merchandise, food or drink or any product thereof, offering or exposing the same for sale, or making sales and delivering articles to purchasers, or who engages in any of the foregoing activities from a stationary location on the street or other public place.

ITINERANT AND TRANSIENT MERCHANTS AND PEDDLERS – shall be included in the definition of hawker, peddler or vendor as above set forth.

PERSON — Shall include any individual, partnership, partner, corporation or corporations.

HIS — Shall also include "her" or "its."

§ 52-11. License required.

It shall be unlawful for any **hawker, peddler, vendor** Mobile Vendor, as herein defined, to engage in such activity within the Township of Barnegat without first obtaining a license therefor in accordance with the provisions of this ordinance.

§ 52-12. Application.

Applicants for a license under this ordinance shall file with the Township Clerk an application, in duplicate, on forms to be furnished by the Township Clerk, that shall give the following information, all of which shall be sworn to:

- A. Name and physical description of the applicant.
- B. Permanent home address and local mailing address and telephone number of the applicant; and motor vehicle license, registration and insurance information if a motor vehicle is to be used in the activity for which the applicant requests a license.
- C. A description of the business or activity; the goods or items as described in the definition of **hawker, peddler, vendor** Mobile Vendor; the name and address of the principal office of the manufacturer thereof and/or of the principal for whom or which such application is acting as agent, employee or representative, and the length of time for which such agency, employment or representation has existed, and credentials establishing such relationship.
- D. Two (2) letters of recommendation addressed to the Chief of Police concerning applicant's moral character, from a non-family member.
- E. Two (2) photographs of the applicant taken within sixty (60) days immediately prior to the date of the application, which photographs shall clearly show the head and the shoulders of the applicant and shall measure two by two (2 x 2) inches.
- F. A full set of the applicant's fingerprints to be processed by the Township Police Department to be sent to State Police to be checked for criminal background check.
[Amended 5-3-93 by Ord. No. 1993-20]
- G. **A statement as to whether or not the applicant has ever been convicted of any crime, misdemeanor or violations of any municipal ordinance, other than a traffic violation; the nature of the offense; the place where convicted; and the punishment or penalty, if any, assessed therefor. A certification by the applicant and each of the applicant's employees that are expected to participate in the applicant's activities as approved by this section that each individual has not been convicted of a crime or disorderly persons offense involving moral**

turpitude within a period five (5) years preceding the date of application. Conviction of a criminal offense shall be cause for disqualification.

H. If the applicant is a partnership or corporation, then it shall set forth the names of its employees or representatives who are to engage in the business or activity for which the license is requested, as part of its application, and shall furnish the same information for each of such persons as above set forth; fee applies to each applicant conducting transactions.

I. A money order or certified check made payable to: Division of State Police- in the amount of thirty dollars (\$30.) must be submitted at the time of application.

§ 52-13. Terms of licenses – License fees.

For each **permit license** issued to sell any goods, wares or merchandise, **the each** applicant conducting transactions shall pay to the Township of Barnegat the sum of one hundred fifty dollars (\$150.), and said license permit shall expire December 31st, next ensuing the date of issuance.

§ 52-14. Investigation and issuance.

A. Upon receipt of such application, the original thereof shall be referred immediately by the Clerk to the **acting** Chief of Police of the township, who shall cause to be made such investigation of the applicant's business and moral character as he deems necessary for the protection of the public welfare.

B. Such investigation shall **be completed** commence within **twenty one (21) thirty (30) days** after the receipt of such application, and said Chief shall endorse thereon his approval or disapproval and, if disapproved, his reasons therefor, and he shall immediately notify the applicant that his application has been disapproved; the application, so endorsed, shall be forthwith returned to the Township Clerk.

C. If the application has been disapproved by the Police Chief, such applicant may file with the Township Clerk a request in writing for a hearing on the ruling of the Chief of Police, and the Township Committee shall then hear such case at their next regularly scheduled meeting, in no case to be more than thirty (30) days after the filing of such a request. At such hearing the applicant shall have full and ample opportunity to present facts and circumstances to support the issuance of a license in accordance with the application, and said body shall then decide whether the applicant should receive such license.

D. If the application has been approved by the **acting** Chief of Police, he shall endorse his approval thereon and shall promptly return it to the Township Clerk, who, upon payment of the prescribed license fee, as stated in Section 52-13, shall execute the license and advise the

applicant. The Township Clerk shall keep a record of all licenses issued, the fees received and of all complaints made, if any, concerning each licensee.

§ 52-16. Notification to police to engage in license activity.

On each day that such licensee or its agents or employees shall travel about the Township of Barnegat to engage in the activity for which the license was issued, the **acting** Chief of Police or his representative shall be notified of the intention so to do in order that the; Police Chief shall know who is traveling about the township and for what purpose and whether such person is licensed so to do.

§ 52-18. Inspection.

The equipment used or employed by **hawkers, peddlers, and vendors** Mobile Vendors of ice cream, foods, beverages, confections and other related commodities shall be maintained in a clean and sanitary manner and shall be subject to inspection by the Board of Health and shall comply with the laws of the State of New Jersey and the rules and regulation of the local Board of Health.

§ 52-21. Exceptions.

A. This ordinance shall not be construed as to apply to the selling of any item or article at wholesale to dealers in such articles or items or to the delivery of milk, eggs, bread, butter, newspapers, or to other articles or items of food or merchandise of a type which are generally considered as household necessities and that are commonly delivered on a house to house basis at intervals of a week or less.

A. Any person honorably discharged from the United States military or naval service, as now defined in N.J.R.S. 45:24-9a or as may hereafter be defined, shall be exempt from paying the license fee as provided herein but shall be required to comply with all other applicable sections of this ordinance and shall be required to register with the Township Clerk and obtain a vendor's permit which will be issued by the Clerk without charge upon identification and exhibition of such state license.

B. Nonprofit organizations. [Amended 6-1-92 by Ord. No. 1992-7]

(1) Any nonprofit, religious, charitable, educational, political, civic or veterans' organization, society, association or club desiring to sell any item or merchandise for a religious, charitable, patriotic, educational, civic or philanthropic purpose shall be exempt from the provisions of § 53-13 as it references the required fee, provided that there is filed a sworn application, in writing, with the Township Clerk by individual so doing, if done on an individual basis. If being done on a group basis by numerous individuals as agents, employees or for the purpose of conducting an open air or "flea market", those individuals operating under the sponsorship of the nonprofit organization, the one in charge shall give the following information:

- (a) Name of the individual or organization and purpose of the cause for which the permit is sought.
- (b) Names and addresses of the individual officers and directors or trustees of the organization and the address of such organization.

(2) Upon being satisfied that such person is a bona fide representative of such organization or that such organization as aforesaid is bona fide and that the agents or representatives or those sponsored by the organization, who shall conduct the transactions are approved representatives, the Township Clerk shall issue a permit without charge to such organization, association, association or corporation to operate in the Township. Such organization shall supply its agents, representatives, employees or those sponsored with a badge or ribbon containing the name of such organization, which shall be worn and conspicuously displayed on the front of the clothing of such agent, representative, employee or one sponsored.

C. Any person who conducts a judicial sale under the state or national laws.

D. Residents of New Jersey who hold an exemption certificate as an exempt member of a volunteer fire department or volunteer fire engine, hook and ladder, hose, supply company or salvage corps, from any municipality or fire district of New Jersey.

§ 52-22. Violations and penalties.

Any person violating any of the provisions of this ordinance shall, upon conviction thereof, be punished by a fine not exceeding five hundred dollars (\$500.) or by imprisonment for not more than ninety (90) days, or both. Persons violating provisions of this ordinance, upon conviction will have vendor's license revoked.

Section 2. All ordinances or parts of ordinances in conflict or inconsistent with any part of this Ordinance are hereby repealed to the extent that they are in such conflict or inconsistent.

Section 3. This Ordinance may be renumbered for codification purposes.

Section 4. In the event that any section, part or provision of this Ordinance shall be held to be unenforceable or invalid by any court, such holding shall not affect the validity of this Ordinance as a whole, or any part thereof, other than the part so held unenforceable or invalid.

Section 5. This Ordinance shall take effect upon final passage and publication as provided by law.

**SUMMARY AND NOTICE
TOWNSHIP OF BARNEGAT
ORDINANCE 2018 – 9**

AN ORDINANCE OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF BARNEGAT, IN THE COUNTY OF OCEAN, STATE OF NEW JERSEY AMENDING AND SUPPLEMENTING CHAPTER 52 HAWKERS, PEDDLERS, CANVASSERS AND SOLICITORS TO INCREASE FEES AND CREATE NEW ARTICLE II ENTITLED MOBILE VENDORS AND REQUIRING CRIMINAL BACKGROUND CHECKS FOR VENDORS UNDER CHAPTER 52

Adoption of this Ordinance will adopt certain provisions in Chapter 52 of the Township of Barnegat Code, which regulates certain entities involved in commerce within the Township of Barnegat.

Notice is hereby given that the foregoing Ordinance was introduced and passed on first reading by the Township Committee of the Township of Barnegat on February 6, 2018 and will further be considered for final passage and adoption at the Barnegat Township Municipal Building, 900 W. Bay Avenue Barnegat, New Jersey 08005 on March 6, 2018 at 10 a.m. or as soon thereafter as the matter can be reached on the agenda, at which time and place all persons interested therein shall be given an opportunity to be heard, and during the week prior to and up to and including the date of such meeting, copies of said Ordinance will be made available at the Clerk's Office in the Township of Barnegat, Town Hall, to the members of the general public who shall request the same or may be viewed on our website at www.barnegat.net

MICHELE RIVERS, R.M.C.

Township Clerk

CERTIFICATION

I, Michele Rivers, Municipal Clerk of the Township of Barnegat, County of Ocean, State of New Jersey do hereby certify by my hand and seal that the foregoing Ordinance was finally adopted after Public Hearing at a regular meeting held on the 3rd day of April, 2018 in the Municipal Complex, 900 West Bay Avenue, Barnegat, NJ.

Michele Rivers, RMC
Municipal Clerk