

10:3 PEDDLERS AND HAWKERS
[Adopted 5-28-81 by Ord. No. 75-81]

10:3-1 Definitions

Hawker A person who sells by outcry.

Peddler A person who travels about with goods, wares, and merchandise for retail sale.

10:3-2 License Required

It shall be unlawful for any person or entity to engage in peddling or hawking without first obtaining a permit and license as provided by this section.

10:3-3 Fees

The license fee for a peddler or hawker shall be seven hundred fifty (\$750.00) dollars per year. Said fee shall cover the entire business entity and shall include the use of one (1) vehicle. Any additional vehicle used in the operation of the business shall require an additional license fee of one hundred fifty (\$150.00) dollars. No portion of the fee shall be pro-rated for any part of the year. It is the intention of this subsection to license the business with an additional fee to be charged for each vehicle in excess of one (1). Each individual peddler or hawker does not have to pay an individual fee, but each such individual must submit the required information and must otherwise comply with the provisions of all subsections hereof. A one (1) day license may be obtained at the fee of one hundred (\$100.00) dollars. [Amended 2-25-88 by Ord. No. 248-88]

10:3-4 Use of Streets

The intention of this subsection is that all such conveyance of goods, wares, merchandise and other articles, shall stop in the public streets for sufficient time only to vend, sell or solicit to and from people in the immediate vicinity and in no case shall such conveyance stop for such purposes longer than: (i) thirty (30) minutes at street ends or intersections; and (ii) ten (10) minutes at locations other than street ends or intersections, except for those areas to which a time limit does not apply as defined herein or those areas where such conveyance of goods, wares, merchandise and other articles is absolutely prohibited as defined herein. All such conveyance of goods, wares, merchandise and other articles shall be strictly in accordance with the following:

- (a) Any such conveyance shall park for such stops near the curb of the street and on the right hand side in the direction it is proceeding, and normal traffic shall not be impeded by any such conveyance.
- (b) Any such conveyance shall be permitted to remain in any given location for a maximum period of as follows: (i) thirty (30) minutes at street ends or intersection; and (ii) ten (10) minutes at locations other than street ends or intersections, except for those areas specially designated where the time period does not apply, or those areas where such sales are absolutely prohibited. Once having remained in a given location for the maximum permissible time, the conveyance shall move to a new location, which shall not be within one (1) city block of such location or within two hundred fifty (250) feet of such location, whichever is greater, for at least one (1) hour.
- (c) All hawking and peddling within two hundred fifty (250) feet or within one (1) city block, whichever is greater, of any church, commercial building or school is hereby prohibited.
- (d) In addition to the prohibitions contained in the beach regulations, as pertaining to hawking or peddling, it shall be unlawful to solicit or canvass on the beach, boardwalk and approaches thereto. This prohibition does not apply to street ends subject to the time limitations contained in this section.
- (e) No peddler shall have any exclusive right to any location, nor shall he be permitted to operate in any area where his operations might create a threat to the health, safety or welfare of the general public. For the purpose of this subsection, the judgment of a police officer, exercised in good faith, shall be deemed conclusive. [Amended 2-25-88 by Ord. No. 248-88]

10:3-5 Time Restrictions

No person or entity shall sell, offer for sale, hawk, or peddle in the Borough before 9:00 a.m. or after 6:00 p.m., prevailing time, daily including Sundays and holidays. [Amended 2-25-88 by Ord. No. 248-88]

10:3-6 Duty of Police to Enforce

It shall be the duty of any police officer of the borough to require any person seen peddling, and who is not known by such officer to be duly licensed, to produce his peddler's license and to enforce the provisions of this section against any person found to be violating the same.

10:3-7 Exceptions

This section shall not be construed to include:

- (a) The delivery of milk, eggs, bread, newspapers or such other necessary and perishable articles of food or merchandise of the type commonly delivered on a house-to-house basis at intervals of less than one week.
- (b) Federal census takers and pools or surveys taken pursuant to federal, state or local laws, shall not be prohibited by this section.
- (c) Any veteran or volunteer fireman who holds a special license issued pursuant to N.J.S.A. 45:24-9 shall be exempt from application for a license, but shall be required to comply with all other applicable subsections of this section.

10:3-8 Inspection of Equipment

The equipment used or employed by peddlers of edible food products, confections and other related commodities, shall be maintained in a clean and sanitary manner and be subject to inspection, which inspections shall be made before the issuance of a license, and additionally, may be made at any time thereafter. Any violation found and not immediately corrected, shall be grounds for revocation of the license.

10:3-9 Areas Where Vending Permitted Without Time Limitation

Notwithstanding the provisions of Subsection 10:3-1 hereof, hawking or peddling, as defined herein, shall be permitted in certain designated areas without regard to the time limitations hereinabove imposed. Such areas are hereby designated as follows:

- (a) From 9th Street to 12th Street on Dune Drive (Avalon Recreation Field) and west on 12th Street for a distance of one hundred (100 feet from the curb line on Dune Drive;
- (b) Parking lot of the Avalon Sport Fishing Center located between 14th Street and 15th Street on the Bay front. [Added 2-25-88 by Ord. No. 248-88]

10:3-10 Areas Where Hawking and Peddling Absolutely Prohibited

Hawking or peddling shall be absolutely prohibited in certain areas of the Borough, in addition to those areas hereinabove set forth, which areas are defined as follows:

- (a) Dune Drive from 20th Street to 34th Street;
- (b) Ocean Drive, also known as Third Avenue, from 20th Street to 34th Street;
- (c) Within seventy-five (75) feet of any corner or intersection of Dune Drive and Ocean Drive, also known as Third Avenue, between 20th Street and 34th Street. [Added 2-25-88 by Ord. No. 248-88]

10:3-11 Insurance; Borough of Avalon as Additional Insured

As a condition to the issuance of a license pursuant to this chapter, any person or entity seeking to engage in hawking or peddling within the Borough of Avalon shall furnish to the Borough Clerk a Certificate of Insurance indicating that such person or entity is covered by a policy of general liability insurance, with minimum limits of five hundred thousand (\$500,000.00) dollars for injury to any one (1) person and one million (\$1,000,000.00) dollars for injury to more than one (1) person and property damage limits of one hundred thousand (\$100,000.00) dollars. Such person or entity shall further provide to the Borough Clerk an appropriate endorsement indicating that the Borough of Avalon is designated as an additional insured. Failure to provide such insurance or a Certificate of Insurance or an endorsement naming the Borough of Avalon as an additional insured, shall be cause for the denial of a license pursuant to this chapter. [Added 2-25-88 by Ord. No. 248-88]

10:3-12 Special Permit for Evening Events

Any person or entity who possesses a valid license issued pursuant to this section, may obtain a special permit to permit hawking and vending on a particular evening to coincide with a special event taking place within the Borough. Such permit shall be limited to that particular date and shall permit vending from 6:00 p.m. to 10:00 p.m. The fee for such special permit for a person or entity otherwise licensed shall be twenty-five (\$25.00) dollars, payable to the Borough Clerk. [Added 2-25-88 by Ord. No. 248-88]

10:3-13 Violations; Penalty

Any person or entity violating this section or any agent, servant or employee of such person or entity having been issued a license pursuant to this chapter, who violates any of the provisions of this section shall, upon conviction in the Municipal Court of the Borough of Avalon, be subject to a penalty not to exceed one thousand (\$1,000.00) dollars or imprisonment in the Cape May County Correctional Facility for a term not to exceed ninety (90) days, or both. The aforesaid penalties may be imposed in addition to any other penalty provided elsewhere herein, including, but not limited to, the revocation of a license. The penalties imposed by this section shall be exclusive of any penalty.

which may be imposed as a result of any revocation proceeding and such revocation proceeding is exclusive from any penalty imposed pursuant to this section. [Added 2-25-88 by Ord. No. 248-88]

10:4 SOLICITORS AND CANVASSERS

[Adopted 5-28-81 by Ord. No. 75-81]

10:4-1 Definitions

Solicitor or Canvasser

A person, whether resident of the borough or not, traveling either by foot, automobile, or any other type of conveyance, from place to place, from house to house, or from street to street, taking or attempting to take orders for sale of goods, wares and merchandise, personal property of any nature whatsoever for future delivery, or for services to be furnished or performed in the future, whether or not the individual has, carries or exposes for sale a sample of the subject of the sale, with or without accepting an advance payment for the goods.

10:4-2 License Required

It shall be unlawful for any solicitor or canvasser as defined in this section to engage in any such business within the borough without first obtaining a license.

10:4-3 Exceptions

This section shall not apply to:

- (a) Any person who has obtained a charitable solicitors permit in accordance with subsection hereof;
- (b) Any person distributing literature or handbills on behalf of a candidate for public office;
- (c) Any person who has been licensed by the State of New Jersey to engage in an activity described in this section, when so engaged; including without limitation, real estate, insurance or securities, brokers and salesmen.

10:4-4 Applications

In addition to the information required by Subsection 10:4-2, the application for solicitor's license shall indicate the place where the goods or property proposed to be sold, or orders taken for the sale thereof, are manufactured or produced, where such goods or products are located at the time the application is filed, and the proposed method of delivery.

10:4-5 Fees

The license fee that shall be charged by the Licensing Clerk for such license shall be one hundred fifty (\$150.00) dollars.

10:4-6 Time Restrictions

No soliciting or canvassing activities shall be conducted before 9:00 a.m. or later than 5:00 p.m., nor on Sundays or holidays.

10:4-7 Religious and Non-Profit Organizations

Religious organizations and non-profit organizations as defined by the Internal Revenue Service shall not be required to pay any fee, but shall otherwise comply with all other applicable provisions of this section.

10:5 GENERAL PROVISIONS **[Adopted 5-28-81 by Ord. No. 75-81]**

10:5-1 Applications and Application Fee

All applications for licenses accompanied by the required fee shall be made to the Licensing Clerk a minimum of three (3) weeks prior to the proposed effective date of the license, and upon forms provided by the Borough, and shall contain the following information:

- (a) Name and permanent and local address of the applicant. If the applicant is a corporation, the name and address of its registered agent.
- (b) If a vehicle is to be used, its description, including the license number.

- (c) If the applicant is employed by another, the name and address of the employer, together with credentials establishing the exact relationship.
- (d) The days of the week and hours of the day during which the licensed activity will be conducted.
- (e) A description of the nature of the business, and the goods, property or services to be sold or supplied.
- (f) A statement as to whether the applicant has been convicted of any crime, or the violation of any municipal ordinance other than traffic offenses, and, if so, the date and place of conviction, the nature of the offense, and the punishment or penalty imposed.

10:5-2 Investigation of Applicants

Each applicant shall be referred to the Chief of Police, or a police officer designated by him, who shall immediately institute whatever investigation of the applicant's business responsibility, moral character and ability to properly conduct the licensed activity he considers necessary for the protection of the public. He shall communicate his findings in writing to the Licensing Clerk within a reasonable time after the application has been filed. If the investigator decides that the applicant's character, ability or business responsibility are unsatisfactory, or the products, services or activity are not free from fraud, he shall disapprove the application and the Clerk shall refuse to issue the license and shall so notify the applicant. Otherwise, the Licensing Clerk shall issue the license immediately, provided the required license fees have been paid. In the event of the refusal of the issuance of a license, the applicant may appeal to the Council for hearing. The appeal must be filed, in writing, with the Borough Clerk, within fourteen (14) days after notification of the refusal. The Council shall hold its hearing within thirty (30) days thereafter. The decision of the Council shall be final.

10:5-3 Contents of License

Licenses shall be in a form provided by the Office of the Licensing Clerk, and shall contain the following information:

- (a) The name and address of the licensee.
- (b) The number and type of the license and the nature of the licensed activity.
- (c) If the licensed activity is conducted from a vehicle, the make, model and license number of the vehicle.

- (d) The expiration date of the license.
- (e) Any other appropriate information which the Mayor or the Council may, by Resolution, require.
- (f) The Licensing Clerk shall keep a record of all licenses issued and shall cause monthly reports to be filed with the Borough Clerk.

10:5-4 Transferability

Each license shall apply only to the person to whom it was issued and shall not be transferable to another person.

10:5-5 Expiration Date

All licenses shall expire on December 31 of the year of issue, at 12:00 midnight, prevailing time.

10:5-6 Revocation of License; Causes

Any license or permit issued by the borough may be revoked by the Council after notice and a hearing for any of the following causes:

- (a) Fraud or misrepresentation in any application for a permit or license.
- (b) Fraud, misrepresentation or other dishonesty in the conduct of the licensed activity.
- (c) Violation of any provision of this ordinance.
- (d) Conviction of the licensee for any felony or high misdemeanor, or any misdemeanor or disorderly persons offense involving moral turpitude.
- (e) Conduct of the licensed activity, whether by the licensee himself or his agents or employees, in an unlawful manner, or in a manner that constitutes a breach of the peace or a menace to the public health, safety or general welfare.

10:5-7 Notice of Hearing

Notice of a hearing for the revocation of a license or permit shall be given in writing by the Borough Clerk. The notice shall specifically set forth the grounds upon which the proposed revocation is based and the time and place of the hearing. It shall be served by mailing a copy to the licensee at his last known address by certified mail, return receipt requested, at least five (5) days prior to the date set for the hearing.

10:5-8 Hearing; Determination

At the hearing, the licensee shall have the right to appear and be heard, to be represented by an attorney, to present witnesses in his own behalf, to cross examine opposing witnesses, and to have a permanent record made of the proceedings at his own expense. The Council shall revoke or suspend the license if they are satisfied by a preponderance of the evidence that the licensee is guilty of the acts charged.

10:5-9 Reinstatement of Revoked Licenses

The Council may issue another license to a person whose license has been revoked or denied as provided in this section, if, after hearing, it is satisfied by clear and convincing evidence that the acts which lead to the revocation or denial will not occur again, otherwise, no person whose license has been revoked or denied, nor any person acting for him, directly or indirectly, shall be issued another license to carry on the same activity.

10:5-10 Power to Make Rules and Regulations

The Council may, by Resolution, make rules and regulations which interpret or amplify any provisions of this chapter, or for the purpose of administering the provisions of this chapter or making them more effective. No regulation shall be inconsistent with or alter or amend any provisions of this chapter, and no regulation shall impose any requirement which is in addition to or greater than the requirements that are expressly or by implication imposed by any provision of this Chapter.