

**BOROUGH OF EMERSON
COUNTY OF BERGEN
STATE OF NEW JERSEY**

NOTICE OF ADOPTION

ORDINANCE NO. 1623-21

Introduced: February 2, 2021

Adopted: February 16, 2021

NOTICE IS HEREBY GIVEN that the following ordinance was adopted on the second reading after a Public Hearing at the Regular Meeting of the Borough Council of the Borough of Emerson on the 16th day of February, 2021. A copy of Ordinance 1623-21 is on file in the Borough Clerk's Office in the Municipal Building, 1 Municipal Pl., Emerson, NJ 07630.

Chapter 208. Peddling and Soliciting

§ 208-1 Definitions.

Whenever used in this chapter, unless a different meaning clearly appears from the context, the following words shall have the following meanings:

CHARITABLE

Includes the word "patriotic," "philanthropic," "social service," "welfare," "benevolent," "nonprofit educational," "civic," "nonprofit" and "fraternal."

DISTRIBUTOR

A person who goes from house to house on public thoroughfares or in public places, disposing of circulars, posters, pamphlets, newspapers and other forms of advertising matter.

NON-PROFIT-MAKING VENDOR

A person who sells or collects goods, requests money, credit, property, financial assistance or other thing of value, directly or indirectly, the proceeds of which are devoted exclusively to the purposes of a nonprofit, philanthropic, charitable or religious society or organization, recognized as such by the State of New Jersey or the Internal Revenue Service, on whose behalf he acts as an agent. The foregoing terms shall also include the practice of collecting signatures or passing or leaving handouts in any location within the Borough. For purposes of this chapter, the term "nonprofit solicitor" may be used interchangeably with the term "non-profit-making vendor."

PEDDLER

A person commonly referred to either as a "peddler" or "hawker," who goes from place to place by traveling in the streets or from house to house and carries with him goods, wares and merchandise for the purpose of selling and delivering them to consumers.

PERSON

Any individual, firm, partnership, corporation, voluntary association, incorporated association or agent thereof.

SOLICITOR

A person who goes from house to house selling or buying goods, wares or merchandise by sample or taking orders for future delivery or selling a service to be rendered in the future, with or without accepting an advance payment for the goods, wares, merchandise or service.

§ 208-2 Purpose.

The purpose of this chapter is to protect the public welfare by preventing crime and dishonest business practices by the regulation of the conduct of peddler, nonprofit solicitors, and distributors, as defined in § 208-1, and to generally provide for the safety of the residents of the Borough in the best interest of its welfare.

§ 208-3 License required; exemptions.

A.

It shall be unlawful for any distributor, peddler, nonprofit solicitor, or solicitor to sell, buy or dispose of or offer to sell or dispose of any pamphlets, literature, goods, wares, merchandise or service to be rendered in the future or to take orders for any pamphlets, literature, goods, wares, merchandise or service to be rendered in the future, whether for profit or for charitable purposes, within the Borough of Emerson without first obtaining a license thereof.

[Amended 9-19-2017 by Ord. No. 1545-17]

B.

The requirements of this chapter insofar as the same shall apply to fees shall be held not to include the following persons, who are expressly exempt from its application:

(1)

Any person selling fruits, vegetables and farm products grown by himself, with or without the help of others.

(2)

Any person honorably discharged from the military, naval or marine forces of the United States possessing a peddler's license issued in conformity with N.J.S.A. 45:24-10 and the amendments thereof.

(3)

Any nonprofit vendor.

(4)

Any person who conducts a sale pursuant to statute or court order.

(5)

Any person who is an exempt member of a volunteer fire department, as defined by N.J.S.A. 45:24-9b, possessing a license issued in conformity with said law and the amendments thereof.

§ 208-4 Distribution of advertising matter.

It shall be unlawful for any person to distribute, or cause to be distributed, to the occupant of any house, unless the same has been previously ordered, or place or cause to be placed in or on any premises or in any automobile or hand to any person on the street or attach to any tree, pole, sign, billboard, fence or building, except where located on the premises of the distributor or issuer, any card, circular, pamphlet, newspaper, papers or other publication or any form of advertising matter, unless said person shall first obtain a permit therefor. Every person distributing any card, circular, pamphlet, newspaper, paper or other publication, or any form of advertising matter, shall do so in a manner to avoid the littering and scattering of papers and shall comply with the rules and regulations pertaining thereto established by the Mayor and Council.

§ 208-5 **Application for license; Information required.**

A.

Any person desiring to obtain a license for the purposes heretofore mentioned in this chapter shall apply therefor in writing to the Chief of Police of the Borough, upon an application blank containing the following information and complying with the provisions thereof.

B.

The peddling or soliciting permit application form shall call for the following information:

- (1) The applicant's full name and date of birth.
- (2) The applicant's permanent home address and current address, if different.
- (3) The place of residence of the applicant for the preceding three years.
- (4) A physical description of the applicant, including height, weight, color of hair and sex.
- (5) The name and address of the employer or firm represented.
- (6) The social security number, sales tax identification number, driver's license number and business certificate, if any, of the applicant.
- (7) The description of any vehicle to be used and its license plate number.
- (8) The nature of the merchandise to be sold or offered for sale or the nature of the services to be furnished.
- (9) A statement as to whether the applicant has ever been convicted of a crime, misdemeanor or violation of any ordinance concerning peddling or soliciting, and, if so, when, where and the nature of the offense.
- (10) The names of other communities in New Jersey in which the applicant has engaged in peddling or soliciting in the preceding two years.
- (11) Waiver authorizing criminal history record information from New Jersey State Police.

C.

The peddling or soliciting permit application shall be accompanied by a letter or other written statement from the individual, firm or corporation represented by the applicant, certifying that the applicant is authorized to act as such representative.

D.

Each original application **must be** accompanied by two (2) passport size (2" X 2") photograph of the applicant.

E.

No such application shall be filed more than three months prior to the time such peddling or soliciting shall commence.

§ 208-6 **Investigation; appeal from decision of Police Chief.**

A.

When said application is properly filled out and signed by the applicant, it shall be presented to the Chief of Police, whose duty it shall be to investigate the statements made therein, whereupon the Chief of Police will indicate his approval or disapproval upon the application. When a fee is required under this chapter, the application, bearing the approval of the Chief of Police, shall be presented by the applicant to the Borough Tax Collector to whom the fee shall be paid. The Treasurer shall acknowledge receipt of the fee in writing upon the application which shall be returned by the applicant to the Chief of Police.

B.

In case of disapproval of an application by the Chief of Police, the applicant may appeal to the Mayor and Council, whereupon opportunity will be granted for hearing reasons for and against the issuance of a permit. Such appeal shall be taken by filing with the Council, within 14 days after notice of the action complained of has been mailed to such person's last known address, a written statement setting forth fully the grounds for the appeal. The Council shall set a time and place for hearing on such appeal and notice of such hearing shall be given to the appellant. The decision of the Mayor and Council shall be final.

§ 208-7 Separate licenses required for employees.

A separate license must be obtained by a licensed peddler for every agent or employee working for him unless, such agent or employee is selling goods from the same wagon or vehicle that the licensed peddler is selling from, but no more than two employees shall sell from the same wagon or vehicle without a separate license.

§ 208-8 Issuance of license.

A.

It shall be the duty of the Chief of Police to issue licenses in cases where the provisions of this chapter have been complied with. Licenses other than daily licenses will expire on December 31 of each year and will be in the form of a card bearing the name of licensee, the purpose for which it is issued, the date of expiration and the signature of the Chief of Police and Seal of the Emerson Police Department.

B.

The Chief of Police shall issue with each solicitor's license a badge about three inches in diameter, numbered and bearing the name of the Borough and the word "solicitor" or other suitable inscription. The licensee to whom such badge is issued shall wear the same conspicuously upon his person at all times. A similar badge shall be issued to all distributors and non-profit-making vendors with the proper description of their classification thereon.

C.

The Chief of Police shall issue each peddler's license bearing the words "Licensed Peddler, Borough of Emerson," together with the number and year for which it is issued.

D.

All automobiles, wagons, carts or other vehicles used for peddling shall have affixed thereon said metal plate.

E.

All licenses shall be issued on forms drawn in accordance with this chapter and consecutively numbered.

F.

All badges shall be consecutively numbered.

G.

It shall be the duty of the Chief of Police to keep a record system entitled "Solicitor's, Distributor's, Non-profit-making Vendor's and Peddler's Record." In this record shall be entered the following information:

- (1)** Date of issuing licenses.
- (2)** To whom issued.
- (3)** Address.
- (4)** Purpose.
- (5)** Fee paid.
- (6)** License plate.
- (7)** Badge issued.
- (8)** Remarks.

H.

Every person holding a license under this chapter shall be required to carry the license with him. He must produce the license at the request of any official or householder of the Borough of Emerson.

I.

It shall be the duty of the Chief of Police to incorporate, as a part of his monthly report to the Commissioner of Police, the number of licenses issued and fees paid for all licenses.

J.

The Mayor and Council may revoke any license for sufficient cause after giving notice to the holder thereof and an opportunity to be heard.

§ 208-9 License fees.

[Amended 12-18-2003 by Ord. No. 1218]

The license fees shall be as follows:

A.

Solicitors: \$100 per year, which is hereby determined to be the reasonable cost of investigating the character and record of each individual solicitor.

[Amended 9-19-2017 by Ord. No. 1545-17; 10-17-2017 by Ord. No. 1547-17]

B.

Distributors: \$100 per year, which is hereby determined to be the reasonable cost of investigating the character and record of each individual distributor.

[Amended 9-19-2017 by Ord. No. 1545-17; 10-17-2017 by Ord. No. 1547-17]

C.

Peddlers: \$25 per day or \$250 per year.

§ 208-10 Hours for conduct of business. [1]

[Added 12-18-2003 by Ord. No. 1218; amended 9-19-2017 by Ord. No. 1545-17]

A.

No person or license holder shall peddle, solicit, or distribute merchandise except between the hours of 10:00 a.m. to 6:00 p.m. or sunset, whichever occurs earlier, on each weekday; and between noon and 6:00 p.m. or sunset, whichever occurs earlier, on weekends, unless specifically having been invited to a dwelling by an occupant thereof or having made an appointment with an occupant.

B.

No licensee shall solicit in an unlawful manner nor in such manner as to constitute a breach of the peace nor in such a manner as to constitute a menace to the health, safety or general welfare of the public. No licensee shall accost anyone against his or her will or desire. It shall be unlawful for any person to peddle or solicit from the back doors or side entrances to any premises within the Borough.

§ 208-11 No-Knock List.

[Added 9-19-2017 by Ord. No. 1545-17]

A.

Establishment of No-Knock List. The Police Department shall collect, prepare and maintain a list of addresses of those residential premises where the owner and/or occupant has notified the Police Department that they do not want peddlers, nonprofit solicitors, solicitors, distributors, hawkers or canvassers of any sort to approach their homes and/or seek personal contact with the occupants of the registered residence. To be included on the No-Knock list, residents shall complete a form supplied and maintained by the Police Department. By registering for the No-Knock List, the resident acknowledges that the Borough Police, Fire and other Emergency Services groups are exempt from the requirements of this section.

B.

Updating and provision of list.

(1)

The Police Department shall maintain a No-Knock, no solicitation List comprised of the addresses of residents who have completed the above-mentioned registration process. Registrants shall remain on the No-Knock List for a period of five years from the date of registration, or until such time as they advise the Police Department, in writing, that they wish to be removed from the list.

(2)

The Police Department shall distribute the No-Knock, no solicitation List to all applicants seeking a license to solicit or canvass. The license applicants shall be required to acknowledge, in writing, receipt of this list as part of the application process. The licensee shall not solicit or canvass at any address on the No-Knock List.

C.

Display of decal. Upon completion of registration on the No-Knock List, the subscriber may purchase and receive, for a fee of \$5, a decal stating "DO NOT KNOCK; Registered on the No-Knock List with the Borough of Emerson Police Department; VIOLATORS WILL BE PROSECUTED," which may be displayed in a clearly visible location (e.g., front door or window adjacent to the front door). Residents aged 65 or older are exempt from the \$5 decal fee and may receive the decal without charge.

D.

It shall be unlawful for any person required by this chapter to procure a license to seek personal contact with the occupants of any residence if that residence is registered on the No-Knock List. Anyone violating this subsection shall, upon conviction thereof, be subject to fines and penalties in accordance with § 208-113, and said license shall be revoked. The Police Department shall keep a list of organizations or individuals who violate this section and shall deny licenses to any person who violates this section.

§ 208-12 Prohibited acts.

[Added 9-19-2017 by Ord. No. 1545-17]

No person or licensee shall:

A.

Attempt to peddle, solicit or distribute merchandise or printed material without first having identified himself as a transient merchant, peddler, solicitor, nonprofit solicitor or distributor registered with the borough and displaying his badge.

B.

Have exclusive right to any location in the public streets or operate in any congested area in such a manner as to impede the flow of traffic or of pedestrians or create a breach of the peace.

C.

Peddle, solicit or distribute on the premises of any business establishment, shopping center or mall without the written consent of the owner or individual agency or organization responsible for the management and/or operation of the same or in violation of the Borough's Zoning Code.^[1]

[1]

Editor's Note: See Ch. 290, Zoning.

D.

Enter or attempt to enter the land of any resident in the Borough where such resident has posted a notice prohibiting such entry.

E.

Refuse to leave any private dwelling or property after having been once requested to do so by the owner or occupant thereof.

F.

Shout, cry out, blow a horn, ring a bell or use any sound-making or amplifying device upon any of the streets, parks or public places of the Borough or upon private premises where sound of sufficient volume is emitted or produced therefrom to be capable of being plainly heard upon private premises, for the purpose of attracting attention to any merchandise or services, without first obtaining written authorization for the same from the appropriate Borough official.

G.

Litter the streets, public places or public or private properties within the Borough with any merchandise or printed material.

H.

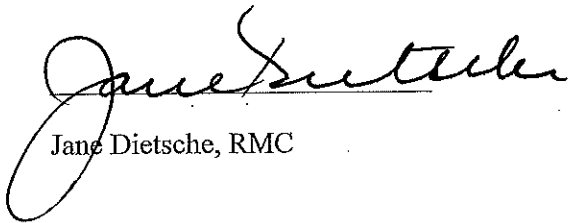
It shall be unlawful for any transient merchant, itinerant vendor, itinerant merchant, peddler, hawker or solicitor to sell, buy, dispose of or offer to sell or dispose of any goods, wares, merchandise or other things of value or services in or on any portion of a public right-of-way.

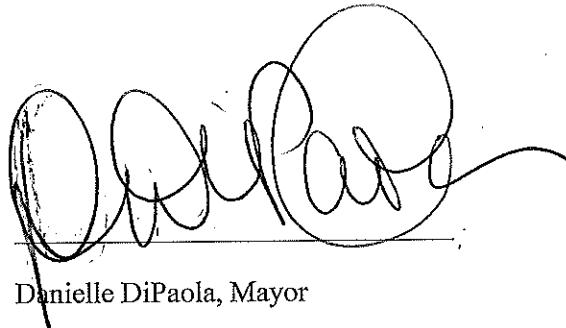
§ 208-13 Violations and penalties.

[Amended 12-18-2003 by Ord. No. 1218; 9-19-2017 by Ord. No. 1545-17]

Any person violating any of the provisions of this chapter, or filing or causing to be filed an application for a license hereunder containing false or fraudulent statement shall, upon conviction thereof, be punished by a fine of not more than \$1,000 or by imprisonment in the county jail for a term not exceeding 90 days, or both.

ATTEST:


Jane Dietsche, RMC


Danielle DiPaola, Mayor