

**THE TOWNSHIP OF EWING
COUNTY OF MERCER, NEW JERSEY**

ORDINANCE NO. 18-10

1st Reading 5-8-18 Date to Mayor 5-23-18

2nd Reading & Public Hearing 5-22-18 Date Returned 5-23-18

Date Adopted: Date Resubmitted to Council _____

5-22-18 Approved as to Form of Legality

Effective Date: _____
Township Attorney

6-14-18

AN ORDINANCE AMENDING THE REVISED GENERAL ORDINANCES OF THE TOWNSHIP OF EWING IN THE COUNTY OF MERCER, TO AMEND CHAPTER 267, PEDDLING AND SOLICITING TO PROVIDE FOR THE LICENSING AND OPERATION OF SEASONAL FARMERS MARKETS AND AMENDING CHAPTER 172, FEES

First Reading

MEMBER	AYE	NAY	ABSENT	ABSTAIN	MOVE	SECOND
Baxter	X					X
Keyes-Maloney	X				X	
Schroth	X					
Steward	X					
Wollert	X					

Second Reading

MEMBER	AYE	NAY	ABSENT	ABSTAIN	MOVE	SECOND
Baxter	X					
Keyes-Maloney	X					
Schroth	X					X
Steward	X				X	
Wollert	X					

By _____ Date _____ Accepted _____ Rejected _____
Mayor

Reconsidered
By Council _____ Override Vote YEA _____ NAY _____

President of the Council

Municipal Clerk

Township of Ewing
County of Mercer, New Jersey

Ordinance No. 18-10

AN ORDINANCE AMENDING THE REVISED GENERAL ORDINANCES OF THE TOWNSHIP OF EWING IN THE COUNTY OF MERCER, TO AMEND CHAPTER 267, PEDDLING AND SOLICITING TO PROVIDE FOR THE LICENSING AND OPERATION OF SEASONAL FARMERS MARKETS AND AMENDING CHAPTER 172, FEES

WHEREAS, the Council of the Township of Ewing is desirous of updating the Township's ordinances with regard to the operation and licensing of seasonal farmers markets and fees associated therewith within the Township.

BE IT ORDAINED by the Council of the Township of Ewing, County of Mercer that the Code of the Township of Ewing be amended as follows:

Section 1 **CHAPTER 172, Fees**, of the Code of the Township of Ewing is hereby amended as follows:

§ 172-12 RETAIL FOOD ESTABLISHMENT LICENSES.

- A. Retail food establishments with a permanent location, serving food for consumption on premises (including, for example, restaurants, taverns and luncheonettes, but not limited thereto):
- (1) One to 50 seats: \$125.
 - (2) Fifty-one to 200 seats: \$200.
 - (3) More than 200 seats: \$335.
 - (4) Limited retail food establishment (one where food is served to be consumed on premises but offers only prepackaged products that have been purchased from other suppliers and which meet all packaging and labeling requirements, including but not limited to prepackaged candy, alcohol or nonalcoholic beverages, canned and frozen goods, and so on): \$15.
 - (5) Theaters and auditoriums: \$335.
- B. Retail food establishments with a permanent location, where food is not customarily consumed on premises (including, for example, supermarkets, grocery stores and delicatessens, but not limited thereto):
- (1) Zero to 3,500 square feet: \$100.
 - (2) From 3,501 to 5,000 square feet: \$175.
 - (3) From 5,001 to 10,000 square feet: \$300.
 - (4) More than 10,000 square feet: \$450.
- C. Temporary or itinerant retail food establishments, except farmers markets:
- ~~(1) Agricultural markets: \$45.~~
 - ~~(2)~~ (1) Mobile units (each): \$60.-
 - ~~(3)~~ (2) Temporary establishments: \$50 weekdays, \$80 weekend/holidays.
- D. Issuance of duplicate retail food establishment license: \$10.
- E. Retail food establishment plan review.

- (1) Zero to 1,000 square feet: \$120.
- (2) From 1,001 to 5,000 square feet: \$150.
- (3) Over 5,001 square feet: \$250

F. Seasonal farmers market operators license (good from April 1 to October 31):

- (1) One to five vendors: \$100
- (2) Six to ten vendors: \$150
- (3) Eleven to fifteen vendors: \$200
- (4) More than fifteen vendors: \$250

§ 172-17 Peddling, soliciting and related activities.

[Amended 3-27-2012 by Ord. No. 12-06]

A. Transient merchants/itinerant vendors:

- (1) First 180 days: \$1,000.
- (2) Each month thereafter, not to exceed an additional five consecutive months: \$500. See § 267-5B(11) for additional bonding requirements.

B. Peddlers, solicitors, and mobile retail food establishments:

- (1) Annual license: \$250.
- (2) Weekly license: \$75.
- (3) Daily license: \$30.

Section 2. CHAPTER 267, Peddling and Soliciting, of the Code of the Township of Ewing is hereby amended as follows:

§267-2. Definitions.

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

FARM PRODUCT

Shall mean any agricultural, horticultural, forest product or other product of the soil or water, including but not limited to, fruits, vegetables, eggs, dairy products, meat and meat products, poultry and poultry products, fish and fish products, grain and grain products, honey, nuts, preserves, maple sap products, apple cider, fruit juice, ornamental or vegetable plants, nursery products, flowers, firewood.

SEASONAL FARMERS MARKET

Shall mean a temporary, seasonal open air market established in a public space where farmers/growers sell a variety of farm products, as defined in this section, directly to the consumers. Only farm products, as defined in this section, may be sold at a farmers market. The season for a farmers market shall run from April 1 to October 31.

MERCHANDISE

All goods, wares, food, drinks, fruits, vegetables, magazines, subscriptions, periodicals, printed material, farm products and all types of articles of personal property, services and orders for contracts for services, home improvements or alterations, and anything that may be sold or distributed by peddlers or solicitors as defined herein.

MOBILE RETAIL FOOD ESTABLISHMENT

Any person who engages in the vending of food with a movable truck, van, trailer, bicycle or other movable unit, including hand-carried, portable containers in or on which food or beverage is transported, stored or prepared for immediate consumption or retail sale or is given away at

temporary locations. This shall include temporary retail food establishments operating at a fixed location for a temporary period of time in connections with a fair, carnival, seasonal farmers market, public exhibition or similar transitory function.

[Added 3-27-2012 by Ord. No. 12-06]

NONPROFIT ORGANIZATION

A. Any nonprofit charitable, religious, fraternal, social, civic or veteran organization, service club or other organization qualified under § 501(c)(3) of the Internal Revenue Code or any volunteer fire or first-aid company serving the Township of Ewing; or

B. Any nonprofit organization [whether or not qualified under § 501(c)(3) of the Internal Revenue Code] the primary purpose of which is to benefit the school-age children of the Township of Ewing, including but not limited to schools, school clubs and other similar organizations.

PEDDLER

Any person, whether a resident of the Township or not, who goes from house to house or place to place by any means of conveyance, carrying or transporting merchandise for the purpose of selling and delivering the merchandise to customers. The term "peddler" shall also include the words "hawker" and "huckster."

PERSON

Any individual, firm, partnership, corporation, organization, club or association, or any principal or agent thereof.

SOLICITOR

Any person, whether a resident of the Township or not, who goes from house to house or place to place by any means of conveyance, soliciting or attempting to take orders for the sale of merchandise or services of any kind for future performance or delivery, whether or not such individual has, carries or exposes for sale a sample of the merchandise or services, and whether or not said person is collecting advance payments on such sales or orders. The word "solicitor" shall also mean any individual who goes from house to house or from place to place for the purpose of obtaining contributions or subscriptions, or who does research analyses, makes surveys or opinion polls, obtains ratings data or similar information, distributes advertisements or handbills of a commercial or partially commercial nature or who engages in any similar work which involves a door-to-door or place-to-place activity. The word "solicitor" shall also include the word "canvasser."

[Amended 3-27-2012 by Ord. No. 12-06]

TRANSIENT MERCHANT

[Amended 3-27-2012 by Ord. No. 12-06]

A. Any person who engages in a merchandising business in New Jersey with intent to close out or discontinue such business within one year from the date of commencement, including those who, for the purpose of carrying on such business, hire, lease or occupy any building, structure or railroad car for the exhibition and sale of such goods, wares and merchandise.

B. A person who, whether a resident of the Township or not, engages in a temporary business within the Township of selling and delivering goods, wares, merchandise or services within the Township and who, in furtherance of such purpose, hires, leases, uses or occupies any building, structure, motor vehicle, tent, railroad, boxcar or boat, public room in hotels, lodging houses, apartments or shops, parking lot, sidewalk, street, alley or other place within the Township for the exhibition and sale of such goods, wares or merchandise, either privately or at public auction.

C. Unless otherwise distinguished herein, the term "transient merchant" shall also include and encompass the terms "itinerant vendor," "roadside vendor," as well as operators of circuses, tent shows and carnivals; flea markets; craft/home shows and expositions, but does not include seasonal farmers markets, as defined in this section.

267-3 License required.

It shall be unlawful for any peddler, solicitor, mobile retail food establishment, seasonal farmers markets, or transient merchant to sell, offer for sale or distribute merchandise, printed material or

services within the Township without first obtaining a license from the Municipal Clerk by filing an application for license, paying a license fee and obtaining a license and identification card from the Clerk.

§ 267-4 Effect of license.

[Amended 3-27-2012 by Ord. No. 12-06]

Upon obtaining a license and identification card as hereinafter provided, a peddler, solicitor, transient merchant, ~~or~~ mobile retail food establishment, or seasonal farmers market may conduct activities within the Township only as long as that individual adheres to the regulations set forth in this chapter and carries the license and displays the identification card in a conspicuous place at all times during the conduct of activities. The license shall identify the person and type of activity which is licensed and shall be shown to any Township official or police officer or any other individual upon request.

§ 267-5 Application for license.

An application for license shall be made upon forms provided by the Township, shall be sworn to, shall be filed with the Clerk and shall contain or be accompanied by the following information:

A. For solicitors and peddlers.

- (1) Name, age, physical description and social security or federal identification number of the applicant.
- (2) Complete permanent home and local address of applicant, together with telephone numbers.
- (3) Name and address of the organization or person for whom canvassing or soliciting is being made, together with telephone numbers.
- (4) Description of the nature of the business or activity and the goods, services or wares to be sold.
- (5) Two recent photographs of the applicant, which shall be approximately 2 1/2 inches by 2 1/2 inches in size and showing the head and shoulders of the applicant in a clear and distinguishing manner.
- (6) The days and dates upon which canvassing or soliciting is to take place.
- (7) A statement as to whether or not the applicant has been convicted of a crime, misdemeanor or disorderly persons offense and, if so, the details thereof.
- (8) The make, model, year, color and license plate number of such vehicle used by the applicant during the period of canvassing or soliciting within the Township and the number of the applicant's driver's license and the state in which it is issued.
- (9) The name and address of the insurance carrier and insurance policy number with respect to such vehicle or vehicles.
- (10) A list of municipalities where the applicant has ever engaged in the activities of canvassing, peddling or soliciting, whether or not a permit was applied for or received in connection therewith.
- (11) A statement as to whether or not the applicant has been denied a canvassing, peddling or soliciting permit and whether such permit or license has ever been revoked.
- (12) If the applicant is not an individual, the state in which it is registered or incorporated and the name and address of the registered agent.
- (13) If the person applying is unable to provide any of the foregoing information, an explanation shall be provided of the reasons why such information is unavailable.
- (14) Applications of corporations, partnerships or other entities shall have attached to their applications individual statements containing all of the information required by this subsection as to each employee or agent who shall engage in the licensed activity; said statements shall be signed and sworn to by each employee or agent and shall be treated, for investigation purposes, as separate applications to engage in a licensed activity. Applications by partnerships, corporations or other entities shall be signed by an authorized representative of the corporation, partnership or entity.
- (15) All applicants shall submit the original or a certified copy of a valid certificate of authority issued by the Director of the New Jersey Division of Taxation, pursuant to N.J.S.A. 54:32B-15, empowering the vendor to collect sales tax. Certificates shall not be required for the sale of property exempted from sales and use taxation pursuant to N.J.S.A. 54:32B-8.2. All vendors shall attach the original certificate to their cart, stand, truck or other merchandising device, as required by N.J.S.A. 54:32B-15.
- (16) All applicants selling food items for immediate consumption shall submit a copy of the Board of Health license described in § 267-10T.

B. For transient merchants.

- (1) Name, age, physical description and social security or federal identification number of the applicant.
- (2) Complete permanent home and local address of applicant, together with telephone numbers.
- (3) Description of the nature of the business or activity, including the average quantity, kind and value of the property to be sold.
- (4) Two recent photographs of the applicant, which shall be approximately 2 1/2 inches by 2 1/2 inches in size and showing the head and shoulders of the applicant in a clear and distinguishing manner.
- (5) The dates during which the business is to be conducted.
- (6) The location from which the business will be conducted, which must be a permanent building located in accordance with Chapter 215, Land Development, of this Code.
- (7) The name and address of the person from whom the goods making up the stock were or are to be purchased by the applicant.
- (8) A statement as to whether or not the applicant has been convicted of a crime, misdemeanor or disorderly persons offense and, if so, the details thereof.
- (9) A list of municipalities where the applicant has ever engaged in transient merchandising, whether or not a permit was applied for or received in connection therewith.
- (10) A statement as to whether the applicant has ever been denied or had revoked a transient merchant's license or permit.
- (11) A bond in an amount equal to 25% of the value of the personal property shown in the disclosures required by Subsection B(3) above but in no event less than \$1,000. The bond shall be in effect for a period of one year from the date of license issuance, shall indemnify and pay the Township of Ewing any penalties or costs incurred in the enforcement of this section and the purchaser of personal property a sum equal to at least the amount of any payment such purchaser may have been induced to make through the misrepresentation of the applicant, its agents, servants or employees. The bond shall be in a form approved by the Township Attorney.
- (12) An instrument in accordance with N.J.S.A. 45:24-6 appointing the Clerk as the applicant's true and lawful agent.
- (13) If the applicant is not an individual, the state in which it is registered or incorporated and the name and address of the registered agent.
- (14) If the person applying is unable to provide any of the foregoing information, an explanation shall be provided of the reasons why such information is unavailable.
- (15) Applications of corporations, partnerships or other entities shall have attached thereto individual statements containing all of the information required by this subsection as to each employee or agent who shall engage in the licensed activity, and said statements shall be signed by each employee or agent. Applications by partnerships, corporations or other entities shall be signed by an authorized representative of the corporation, partnership or entity.
- (16) All transient merchants are subject to the statutory requirements set forth in N.J.S.A. 45:24-1 et seq. and shall be subject to the penalties set forth therein in the event of a failure to comply with any of said requirements.
- (17) All applicants shall submit the original or a certified copy of a valid certificate of authority issued by the Director of the New Jersey Division of Taxation, pursuant to N.J.S.A. 54:32B-15, empowering the vendor to collect sales tax. Certificates shall not be required for the sale of property exempted from sales and use taxation pursuant to N.J.S.A. 54:32B-8.2. All vendors shall attach the original certificate to their cart, stand, truck or other merchandising device, as required by N.J.S.A. 54:32B-15.
- (18) All applicants selling food items for immediate consumption shall submit a copy of the Board of Health license described in § 267-10T.

C. For mobile retail food establishments.

[Added 3-27-2012 by Ord. No. 12-06]

- (1) Name, age, physical description and social security or federal identification number of the applicant.
- (2) Complete permanent home and local address of applicant, together with telephone numbers.
- (3) Description of the nature of the food vending activity to be conducted.
- (4) Two recent photographs of the applicant, which shall be approximately 2 1/2 inches by 2 1/2 inches in size and showing the head and shoulders of the applicant in a clear and distinguishing manner.
- (5) The dates during which the business is to be conducted.
- (6) A statement as to whether or not the applicant has been convicted of a crime, misdemeanor or disorderly persons offense and, if so, the details thereof.

- (7) The make, model, year, color and license plate number of such vehicle used by the applicant during the period of canvassing or soliciting within the Township and the number of the applicant's driver's license and the state in which it is issued.
- (8) The name and address of the insurance carrier and insurance policy number with respect to such vehicle or vehicles.
- (9) A list of municipalities where the applicant has ever engaged in the activities of canvassing, peddling or soliciting, whether or not a permit was applied for or received in connection therewith.
- (10) A statement as to whether or not the applicant has been denied a canvassing, peddling or soliciting permit and whether such permit or license has ever been revoked.
- (11) If the applicant is not an individual, the state in which it is registered or incorporated and the name and address of the registered agent.
- (12) If the person applying is unable to provide any of the foregoing information, an explanation shall be provided of the reasons why such information is unavailable.
- (13) Applications of corporations, partnerships or other entities shall have attached to their applications individual statements containing all of the information required by this subsection as to each employee or agent who shall engage in the licensed activity; said statements shall be signed and sworn to by each employee or agent and shall be treated, for investigation purposes, as separate applications to engage in a licensed activity. Applications by partnerships, corporations or other entities shall be signed by an authorized representative of the corporation, partnership or entity.
- (14) All applicants shall submit the original or a certified copy of a valid certificate of authority issued by the Director of the New Jersey Division of Taxation, pursuant to N.J.S.A. 54:32B-15, empowering the vendor to collect sales tax. Certificates shall not be required for the sale of property exempted from sales and use taxation pursuant to N.J.S.A. 54:32B-8.2. All vendors shall attach the original certificate to their cart, stand, truck or other merchandising device, as required by N.J.S.A. 54:32B-15.
- (15) All applicants shall submit a copy of the Board of Health license described in § 267-10T.

D. For seasonal farmers markets:

- (1) Name, age, physical description and social security or federal identification number of the applicant who shall be the operator/manager of the seasonal farmers market.
- (2) Complete permanent home and local address of applicant, together with telephone numbers.
- (3) Description of the nature of the activity to be conducted, the types of vendors and number of vendors participating in the farmers market.
- (4) Two recent photographs of the applicant, which shall be approximately 2 1/2 inches by 2 1/2 inches in size and showing the head and shoulders of the applicant in a clear and distinguishing manner.
- (5) The dates during which the business is to be conducted, which must be within the seasonal market range of April 1 to October 31.
- (6) A statement as to whether or not the applicant has been convicted of a crime, misdemeanor or disorderly persons offense and, if so, the details thereof.
- (7) A list of municipalities where the applicant has ever engaged in the activities of conducting a farmers market, whether or not a permit was applied for or received in connection therewith.
- (8) A statement as to whether or not the applicant has been denied a permit to operate a farmers market and whether such permit or license has ever been revoked.
- (9) If the applicant is not an individual, the state in which it is registered or incorporated and the name and address of the registered agent.
- (10) If the person applying is unable to provide any of the foregoing information, an explanation shall be provided of the reasons why such information is unavailable.
- (11) Applications of corporations, partnerships or other entities shall have attached to their applications individual statements containing all of the information required by this subsection as to each employee or agent who shall engage in the licensed activity; said statements shall be signed and sworn to by each employee or agent and shall be treated, for investigation purposes, as separate applications to engage in a licensed activity. Applications by partnerships, corporations or other entities shall be signed by an authorized representative of the corporation, partnership or entity.
- (12) All applicants shall submit the original or a certified copy of a valid certificate of authority issued by the Director of the New Jersey Division of Taxation, pursuant to N.J.S.A. 54:32B-15, empowering the vendor to collect sales tax. Certificates shall not be required for the sale of property exempted from sales and use taxation pursuant to N.J.S.A. 54:32B-8.2. All vendors shall attach the original certificate to their cart, stand, truck or other merchandising device, as required by N.J.S.A. 54:32B-15.

(13) All applicants shall identify any vendors, including, mobile retail food establishments, that will be selling food for immediate consumption or handling food or farm products which otherwise require inspection by the Ewing Township Health Officer, and submit a copy of the Board of Health license described in § 267-10T for any vendors who will be handling food requiring a license in accordance with this ordinance.

(14) All seasonal farmers market operators shall provide evidence of a minimum of \$1,000,000 comprehensive general liability insurance coverage, which shall cover all activities at the farmers market and vendors operating therein.

§267-6 Approval or rejection of application.

A. Following the filing of a complete application and payment of the license fee as set forth in § 267-11A with the Clerk, the Clerk shall forward a copy of the application to the Chief of Police, who shall within 30 days make such investigation, within the limits of the resources available to the Chief, which may include background checks, of the business responsibility and character of the applicant or any employee or agent who shall engage in the licensed activity, for protection of the public good.

B. If, as a result of such investigation, the character or business responsibility of the applicant or any employee or agent who shall engage in the licensed activity is found to be unsatisfactory, the Chief of Police shall endorse on such application the Chief's disapproval and the reasons therefor and return the application to the Clerk.

(1) Any determination by the Chief of Police that the application is unsatisfactory shall be based on one or more of the following findings with respect to the applicant:

- (a) Conviction of a crime involving moral turpitude.
- (b) Prior violation of a peddling or soliciting ordinance.
- (c) Previous fraudulent acts or conduct or convictions of disorderly persons offenses.
- (d) Record of breaches of solicitation contracts.
- (e) Fraud, misrepresentation or false statements contained in the application for license.

(2) In the absence of any such findings, the Chief of Police shall find the applicant satisfactory and shall endorse the application and return the application to the Clerk.

Section 3. Severability. If any section, subsection, paragraph, sentence, clause, or phrase of this Ordinance shall be declared invalid for any reason whatsoever, such a decision shall not affect the remaining portions of the Ordinance, which shall remain in full force and effect, and for this purpose the provisions of this Ordinance are hereby declared to be severable.

Section 3 Repealer. All prior ordinances or parts of same inconsistent with any provisions of this article are hereby repealed to the extent of such inconsistency.

Section 4 Effective Date. This ordinance shall take effect upon final adoption and publication in accordance with law.

STATEMENT

This Ordinance revises and amends Ewing Township's retail food establishment fees.

Adopted: