

*Township of West Windsor, NJ
Tuesday, October 31, 2017*

Chapter 126. Peddling and Soliciting

[HISTORY: Adopted by the Township Committee (now Township Council) of the Township of West Windsor 12-27-1979 by Ord. No. 79-39 as Sec. 4-1 of the Revised General Ordinances. Amendments noted where applicable.]

GENERAL REFERENCES

Fees — See Ch. 82.

§ 126-1. Definitions.

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

MERCHANDISE

All goods, wares, food, meat, fish, ice cream, fruit, vegetables, farm products, magazines, periodicals, printed matter, and all kinds of articles of personal property for domestic use and orders or contracts for a service, home improvement or alterations, and anything that may be sold or distributed on a door-to-door basis shall be considered merchandise within the terms of this chapter.

[Amended 11-24-2014 by Ord. No. 2014-18]

MOBILE RETAIL FOOD ESTABLISHMENT

Any movable restaurant, truck, van, trailer, cart, bicycle, watercraft, or other movable unit, including hand-carried, portable containers, in or on which food or beverage is transported, stored, or prepared for retail sale or given away at temporary locations.

[Added 11-24-2014 by Ord. No. 2014-18]

NONPROFIT SOLICITOR

A bona-fide charitable organization, person, or entity possessing a tax-exempt status, which shall be evidenced by furnishing to the Township a tax exempt number provided by the State of New Jersey and/or the government of the United States.

[Added 11-24-2014 by Ord. No. 2014-18]

PEDDLER

Any person who goes from place to place by traveling on the streets and roads or from house to house carrying, conveying or transporting goods, wares or merchandise for the purpose of selling and delivering them to customers. The word "peddler" shall include the words "hawker" and "huckster."

PERSON

Includes the masculine and the feminine and the singular and the plural and shall be construed to mean and include any individual, firm, partnership, corporation, association, club or any other organization or any principal or agent thereof.

SOLICITOR

Any person who goes from place to place by traveling on the streets and roads or from house to house taking or attempting to take orders for the sale of goods, wares and merchandise or personal property of any nature whatsoever for future delivery or for services to be furnished or performed in the future, whether or not such person has, carries or exposes for sale a sample of the object to be sold and whether or not such person is collecting advance payments on such sales. The word "solicitor" shall include the word "canvasser"; provided, however, that this definition shall not include wholesale persons calling on retail merchants.

§ 126-2. Purpose.

The purpose of this chapter is to prevent fraud, crime and unethical and dishonest business practices. The fees to be charged for the issuance of licenses are not to be considered as revenue but are charged for the purpose of covering the expense of investigation and regulating the conduct of the licenses.

§ 126-3. License required.

[Amended 3-21-1988 by Ord. No. 88-1; 11-24-2014 by Ord. No. 2014-18]

A. Solicitor for profit.

- (1) Except as otherwise provided in § 126-4, it shall be unlawful for any solicitor, hawker or peddler to sell or dispose of or to offer to sell or dispose of any goods, wares or merchandise or to solicit orders for the performance of any service and for any person to go from door to door for the purpose of soliciting financial assistance for said person or for any other organization said person represents (whether directly or indirectly through membership drives or the like) and for any person polling residents on behalf of other than a nonprofit enterprise within the corporate limits of the Township without first obtaining a license therefor in compliance with the provisions of this chapter. Such license shall not be transferable from the person to whom issued to any other person. A separate license shall be obtained by a licensed solicitor, hawker or peddler for every agent or employee working for such licensed solicitor, hawker or peddler.
- (2) Any mobile retail food establishment shall not operate unless the operator holds a solicitor permit from the West Windsor Township Clerk's Department.
- (3) Any mobile retail food establishment shall not operate at a stationary location on private or public property without prior written approval.

B. Nonprofit solicitor. Each nonprofit solicitor shall carry the license or a copy of the license obtained from the West Windsor Township Clerk's office during the solicitation period specified.

§ 126-4. Exceptions.

[Amended 10-24-1983 by Ord. No. 83-30]

The requirements of this chapter shall not apply to the following:

A. Nonprofit organizations.

- (1) Any nonprofit, religious, charitable, school, political, civic or veteran organization, service club or volunteer fire or ambulance corps desiring to solicit or have solicited in its name by

other than a profit-making organization money, donations or financial assistance of any kind or desiring to sell or distribute any item for which a fee is charged, provided that there is filed an application, in writing, with the Township Clerk, at least two weeks prior to the event, containing the following information:

[Amended 11-24-2014 by Ord. No. 2014-18]

- (a) The name, address, and phone number of the organization.
 - (b) The purpose for which the special permit is requested.
 - (c) The names and address of the officers and directors of the organization.
 - (d) The period during which solicitation is to be carried out, not to exceed one month or 30 days.
 - (e) The name, address, phone number and date of birth, or copy of driver's license, or proof of identification for the responsible individual in charge of the solicitation locally.
 - (f) A list of each individual solicitor to include their name, address and date of birth, or copy of driver's license or proof of identification. If the list of solicitors changes within the time frame for which the soliciting has been permitted, the Police Division must be notified immediately and a new list of solicitors shall be provided with the required information.
 - (g) A list of vehicles to be used which include description and license plate number for each.
- (2) The person responsible for any action in the township shall advise the Chief of Police with whatever details said Chief of Police may require prior to such action.
 - (3) The application shall be forwarded to the Chief of Police, who shall endorse the application and return the application to the Township Clerk, who shall issue a special permit without charge for a specified period.
 - (4) The period during which solicitation by the entities set forth in this Subsection A may be carried out shall terminate at 8:00 p.m.
[Amended 9-9-1985 by Ord. No. 85-18; 3-21-1988 by Ord. No. 88-1; 11-24-2014 by Ord. No. 2014-18]
 - (5) Persons soliciting on behalf of the entities set forth in this Subsection A may do so only upon receipt of the special permit, which shall be carried by each individual, set forth in said subsection.
[Added 3-21-1988 by Ord. No. 88-1; amended 11-24-2014 by Ord. No. 2014-18]
- B. Children enrolled in public and private elementary and secondary schools, including children peddling or soliciting for schools, school clubs and organizations. Cub Scouts, Boy Scouts, Brownies, Girl Scouts, and similar youth groups.
[Added 11-24-2014 by Ord. No. 2014-18^[1]]
- [1] *Editor's Note: This ordinance also provided for the redesignation of former Subsections B through G as Subsections C through H, respectively.*
- C. Any person honorably discharged from the military services of the United States possessing a peddler's license issued in conformity with N.J.S.A. 45:24-9 and 45:24-10. These individuals are licensed by the County Clerk and shall provide a copy of such license with the application.
[Amended 11-24-2014 by Ord. No. 2014-18]

- D. Any person who is an exempt fire fighter of a volunteer fire department as defined by N.J.S.A. 45:24-9 and 45:24-10 possessing a license in conformity with said law. These individuals are licensed by the County Clerk and shall provide a copy of such license with the application.
[Amended 11-24-2014 by Ord. No. 2014-18]
- E. Any public utility or its employees, which said public utility is subject to regulation by the State Board of Public Utility Commissioners; provided, however, that such employees shall display the identification badge or card issued by their employer.
- F. Any person selling fruits and farm products grown by such person, with or without the help of others.
- G. Any person engaged in the delivery of goods, wares or merchandise or other articles or things in the regular course of business to the premises of persons who had previously ordered the same or were entitled to receive the same by reason of a prior agreement.
- H. Newspaper vendors.
[Added 7-27-1992 by Ord. No. 92-21]
- I. Any temporary retail food establishment which has a valid license issued by the West Windsor Township Health Department and which operates for a period of no more than 14 consecutive days in conjunction with a single event or celebration.
[Added 11-24-2014 by Ord. No. 2014-18]
- J. Community park: In accordance with § 122-17, Commercial uses. No person shall sell or solicit the sale of any goods or services, or distribute commercial handbills or circulars, or post a notice of any kind within a park or recreation land, except pursuant to a permit issued by West Windsor Township Recreation Division.
[Added 11-24-2014 by Ord. No. 2014-18]

§ 126-5. Application for license.

[Amended 11-24-2014 by Ord. No. 2014-18]

Solicitor for profit: Every applicant for a license under this chapter shall file with the Township Clerk a sworn written application on a form to be furnished by the Clerk, which shall give the following information:

- A. The name and description of the applicant.
- B. The permanent home address and full local address of the applicant.
- C. A brief statement of the nature of the business and a description of the merchandise or service to be sold.
- D. If employed, the name and address of the employer, together with credentials establishing the exact relationship.
- E. If a vehicle is to be used, a description of such vehicle and its license number.
- F. The place where the goods or property to be sold or offered for sale are manufactured or produced, where such goods or property are located at the time such application is filed and the proposed method of delivery.
- G. Two photographs of the applicant taken within 60 days immediately prior to the date of the application, which photographs shall clearly show the head and shoulders of the applicant and shall measure 1 1/2 inches by 1 1/2 inches.

- H. Two business references located in the County of Mercer, State of New Jersey, or, in lieu thereof, such other available evidence of the character and business responsibility of the applicant as will enable an investigator to properly evaluate such character and responsibility.
- I. A statement as to whether the applicant has been convicted of any crime, misdemeanor or violation of any municipal ordinance, the nature of the offense and the punishment or penalty assessed therefor.
- J. Fingerprints required. New applicants shall provide their fingerprints for new licenses on such form as may be prescribed by the Township. If deemed necessary by the Director of Public Safety, an SBI form may be required for new licenses. Renewal licenses will be required to file an SBI form yearly. Fees associated with this are authorized in Chapter 82, Fees. The results of the fingerprinting shall be sent by the prescribed entity or contractor directly to the West Windsor Township Police Division.
- K. The names of at least two reliable property owners of the County of Mercer and State of New Jersey who will certify as to the applicant's good character and business respectability or, in lieu of the names of references, such other available evidence as to the good character and business responsibility of the applicant as will enable an investigator to properly evaluate such character and business responsibility.

§ 126-6. Registration fee.

At the time the application is filed, a fee as established in Chapter 82, Fees, shall be paid to the Township Clerk to cover the cost of processing the application and investigating the facts stated therein.

§ 126-7. Investigation and issuance of license.

- A. Upon receipt of such application, the original shall be referred to the Chief of Police, who shall cause to be made such investigation of the applicant's business and moral character as deemed necessary for the protection of the public health, welfare and safety.
- B. If as a result of such investigation the applicant's character or business responsibility is found to be unsatisfactory or that the issuance of a license to the applicant would present a danger to the public health, welfare or safety, the Chief of Police shall endorse on such application his or her disapproval and reasons for the same and return the application to the Township Clerk, who shall notify the applicant that the application is disapproved.
- C. If as a result of such investigation the character and business responsibility of the applicant are found to be satisfactory and the issuance of a license to the applicant will present no danger to the public health, welfare and safety, the Chief of Police shall endorse his or her approval on the application and return the application to the Township Clerk, who shall execute and deliver to the applicant the license.

[Amended 11-24-2014 by Ord. No. 2014-18]

- (1) Solicitor for profit. Such license shall contain the signature[s] of the Township Clerk, the applicant's photograph, and shall show the name, address, description of the applicant, the name of the company solicitor works for and the expiration date of the license. The Township Clerk shall keep a record of all licenses issued and of all complaints received, if any, concerning such licensee.

(2)

Nonprofit solicitor. Such license shall contain the signature of the Township Clerk, the name of the organization, the dates the soliciting will take place, and the purpose of the solicitation. The Township Clerk shall keep a record of all licenses issued and of all complaints received, if any, concerning such licensee.

§ 126-8. Separate license for agents and employees.

[Amended 11-24-2014 by Ord. No. 2014-18]

- A. Solicitor for profit. A separate license must be obtained for every agent or employee working for any person. Such license shall not be transferable from the person to whom issued to any other person.
- B. Nonprofit solicitor. A copy of the license obtained from the Township Clerk shall be carried with each person while soliciting in the event said license is asked to be provided.

§ 126-9. Duties of licensee.

[Amended 4-19-1999 by Ord. No. 99-07; 11-24-2014 by Ord. No. 2014-18]

- A. Solicitor for profit. Every holder of a peddler's or solicitor's license issued by the Township Clerk under the authority of this chapter or by the Clerk of the County of Mercer under the authority of N.J.S.A. 45:24-9 et seq. shall be required to carry such license with licensee while engaged in the business or activity licensed within the corporate limits of the Township. The licensee shall produce the license at the request of any official of the Township or of any resident of said Township with whom the licensee wishes to conduct business or activity. Every such licensee shall restrict selling activity within the Township to the hours between 9:00 a.m. and 8:00 p.m. prevailing time on Mondays through Saturdays with the exception of mobile food vendors.
- B. Nonprofit solicitor. Every holder of a peddler's or solicitor's license issued by the Township Clerk under the authority of this chapter or by the Clerk of the County of Mercer under the authority of N.J.S.A. 45:24-9 et seq. shall be required to carry such license with licensee while engaged in the business or activity licensed within the corporate limits of the Township. The licensee shall produce a copy of the license at the request of any official of the Township or of any resident of said Township with whom the licensee wishes to conduct business or activity. Every such licensee shall restrict selling activity within the Township to the hours between 9:00 a.m. and 8:00 p.m. prevailing time on Mondays through Saturdays. The licensee shall notify the police officer on duty at least once in every week in which said licensee plans to conduct this activity and before commencing selling or soliciting activity. Such notification shall include a statement of the general area of the Township in which the licensee intends to conduct this activity, a schedule of dates and times when the activity shall be conducted, description of vehicle being used with plate number and list of solicitors at least once in every week in which said licensee plans to conduct this activity and before commencing soliciting activity. The licensee shall notify the police officer on duty of any change in area or time of solicitation, should such changes be made during the week.

§ 126-10. Prohibited practices.

[Amended 11-24-2014 by Ord. No. 2014-18]

- A. Soliciting is prohibited at all intersections and on public thoroughfares.

- B. No solicitor shall operate vehicular music amplification or reproduction equipment in such a manner that creates a public nuisance or noise disturbance that violates the Township Noise Ordinance.^[1] (Ice cream truck music and similar functions is played at a reasonable level shall be allowed.) No peddler or solicitor shall call attention to his or her business or merchandise by crying out, blowing a horn, ringing a bell, other than the doorbell of a building, or by any other loud or unusual noise.

[1] *Editor's Note: See Ch. 113, Noise.*

- C. No peddler or solicitor shall conduct or attempt to conduct business at any residence on the list of residences not to be solicited, at any development with a homeowner's association, or on any residence or property on which is posted a sign expressly prohibiting such activity.

§ 126-11. Enforcement.

It shall be the duty of any police officer of the township to enforce the provisions of this chapter and require any person seen peddling or soliciting who is not known by such officer to be duly licensed to produce such person's peddler's or solicitor's license.

§ 126-12. Revocation of license.

- A. Licenses issued under the provisions of this chapter may be revoked by the township, after notice and hearing, for any of the following causes:
[Amended 4-19-1999 by Ord. No. 99-07]
- (1) Fraud, misrepresentation or false statement contained in the application for license.
 - (2) Fraud, misrepresentation or false statement by the licensee in the course of conducting the business licensed.
 - (3) Any violation of this chapter.
 - (4) Conviction of any crime involving moral turpitude.
 - (5) Conducting the business licensed in an unlawful manner or in such a manner as to constitute a breach of the peace or a menace to the health, safety or general welfare of the public.
- B. Notice of hearing for revocation of license shall be given, in writing. Such notice shall set forth the specific grounds of complaint and the time and place of the hearing and shall be sent by registered mail to the licensee at the last known address at least five days prior to the date set for the hearing.
- C. Hearings under this section shall be before the Business Administrator.
[Added 4-19-1999 by Ord. No. 99-07]

§ 126-13. Appeals.

[Amended 4-19-1999 by Ord. No. 99-07]

Any person aggrieved by the action of the Chief of Police or of the Township Clerk in the denial of a license, as provided in § 126-7, shall have the right of appeal to the Business Administrator. Such appeal shall be taken by filing with the township, within 14 days after the 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 Business Administrator shall set a time and place for a hearing on such appeal, and notice of such hearing shall be given to the applicant in the same manner as provided in § 126-12 for notice of hearing on revocation. The decision of the Business Administrator on such appeal shall be final and conclusive.

§ 126-14. Expiration and renewal of license.

[Amended 11-24-2014 by Ord. No. 2014-18]

- A. Solicitor for profit. All licenses issued under the provisions of this chapter shall expire December 31 of the calendar year in which they are issued. Any such license may be renewed, with payment of an additional registration fee, upon submission by the licensee of a new application in conformity with the requirements of § 126-5. Such new application shall be subject to the provisions and standards set forth in § 126-5.
- B. Nonprofit solicitor. All nonprofit solicitor licenses are valid only for the dates listed on the license.

§ 126-15. Prohibition against solicitation at certain residences.

[Added 3-21-1988 by Ord. No. 88-1]

No peddlers or solicitors or persons soliciting on behalf of the entities set forth in § 126-4A shall solicit at any residence upon which a "No Solicitation" sign is affixed at or near the front door or which is contained on a list maintained by the township of residences not to be solicited. The Township Clerk shall provide each person securing a license or special permit with such list and shall take suitable steps to inform the residents of the township that they may be included on such list if they so choose.

§ 126-16. Violations and penalties.

[Added 4-19-1999 by Ord. No. 99-07]

Penalties for violation of this chapter shall be as provided in Chapter 1, General Provisions, Article II, Penalty, § 1-3.