

ORDINANCE #985
AN ORDINANCE OF THE BOROUGH OF OCEANPORT, COUNTY OF MONMOUTH AND STATE
OF NEW JERSEY ENTITLED “PEDDLERS & SOLICITATION”

WHEREAS, the Borough Council desires to establish regulations for peddlers, soliciting and canvassing,

NOW THEREFORE BE IT ORDAINED, by the Borough Council of the Borough of Oceanport, County of Monmouth, State of New Jersey as follows:

ARTICLE I. Door-to-Door Commercial Solicitation

Section One: Statement of purpose.

It is the purpose of this chapter to protect the safety of the residents of the Borough of Oceanport, to prevent fraud from being perpetrated upon them and to protect their privacy, while balancing such interests against the opportunity for commercial, political, religious, charitable, and nonprofit organizations to exercise their rights of free speech.

Section Two: Definitions

Unless specifically defined below, words or phrases used in this chapter shall be interpreted so as to give them the meaning they have in common usage and to give this chapter its most reasonable application.

APPLICANT

A person or entity seeking to obtain a permit for solicitation from the Borough of Oceanport.

BOROUGH

Borough of Oceanport, Monmouth County, New Jersey.

CANVASSER

Any person who travels, either by foot or automobile or any other type of conveyance, from place to place, from house to house or from street to street to seek or develop support for, to conduct market research about, to determine feelings or opinions about, to conduct a survey about, or explain a position about and on behalf of any commercial product, commercial cause or commercial organization.

EMPLOYER

Any individual or entity providing compensation, in any form whatsoever, to an individual engaged in solicitation within the Borough of Oceanport.

PERMIT

A permit for solicitation issued by the Borough of Oceanport pursuant to the provisions of this chapter.

SOLICITATION

To go in or upon private property in the Borough of Oceanport without having been invited to do so by the owner or occupant, for the purpose of advertising, promoting, or selling any product, goods, or service; or conducting market research or a market or opinion survey regarding commercial products or services. By way of illustration and not of limitation, solicitors shall include canvassers, peddlers, hawkers, itinerant merchants and transient vendors of goods or services. Solicitation shall also include the placement upon private property of handbills or other written material advertising goods or services for sale. Solicitation shall also include the sale of goods or services which the solicitor promises to donate or delivery to a charitable or other nonprofit institution on behalf of the purchaser. Solicitation

shall not include the entry upon private property without prior invitation of the owner or occupant by any person representing an entity which:

- A. Qualifies for tax-exempt status under the Internal Revenue Code;
- B. Qualifies for exemption from property tax under N.J.S.A. 54:4-3.6;
- C. Qualifies for exemption from sales tax under N.J.S.A. 54:32B-9; or
- D. Was created under or is otherwise subject to the provisions of Title 15A of the New Jersey statutes.

SECTION THREE: Permit required.

No person or entity shall engage in solicitation within the Borough without first having obtained a permit pursuant to the provisions of this chapter. Failure to obtain a permit prior to solicitation shall constitute a violation of this chapter. Each day of solicitation without a valid permit shall constitute a separate violation of this chapter.

SECTION FOUR: Exemptions.

Door-to-door canvassing, solicitation, campaigning, advocacy, education, proselytizing, handbill distribution, or other entry upon private property by individuals representing any entity which 1) qualifies for tax-exempt status under the Internal Revenue Code; 2) qualified for exemption from property tax under N.J.S.A. 54:4-3.6; 3) qualifies for exemption from sales tax under N.J.S.A. 54:32B-9; or 4) was created under or is otherwise subject to the provisions of Title 15A of the New Jersey statutes, shall be exempt from the provisions of this chapter. Solicitation of donations by any such organizations shall not constitute solicitation as defined in this chapter. Individuals representing such organizations may request a copy of the Borough's do-not-solicit list for their information, but no penalties shall be imposed if they enter in or upon a property identified on the do-not-solicit list.

SECTION FOUR: Application and Fee for permit.

A. Any person seeking to engage in solicitation within the Borough shall apply to the Police Department for a solicitation permit.

- B. An applicant for a solicitation permit shall be required to provide the following information in writing:
- (1) The name of each individual who will engage in solicitation within the Borough;
 - (2) The present address of each individual who will engage in solicitation within the Borough;
 - (3) As to each such individual, whether the individual has ever been convicted of a crime, and if so, the nature of the conviction, where convicted, the date of conviction, and the penalty imposed;
 - (4) The employer or organization for which solicitation will be made;
 - (5) The address of the employer or organization;
 - (6) The telephone number of the employer or organization;
 - (7) The name of the contact person at the offices of the employer or organization;
 - (8) The type of goods or services to be sold or the type of survey or research to be conducted;
 - (9) As to any vehicle to be used by the applicant, the make, model, year, color and license plate information of the vehicle; and
 - (10) The expected dates of solicitation within the Borough.

C. An applicant for a solicitation permit shall also be required to produce photo identification, which the Police Department will photocopy and attach to the application form.

D. The application form shall be signed by the applicant, under penalty of perjury.

E. Application forms, including photographic identification, shall be retained by the Police Department.

F. Fees for permits shall be set in accordance with the Fee Ordinance of the Borough of Oceanport.

G. Misrepresentation, false statements, or failure to disclose information on the solicitation permit application form shall constitute a violation of this chapter.

SECTION FIVE: Issuance of permit.

A. The Chief of Police or, in his absence, the officer in charge of the Police Department, shall issue a permit and identification badge upon completion of the solicitation permit application form. The permit and badge shall be issued to any and all applicants who complete the application form and provide photo identification. A separate permit and badge shall be issued to each individual who engages in solicitation within the Borough. The permit shall be signed by the Chief of Police or, in his absence, the officer in charge of the Police Department. The permit shall state the name of the individual, the business or organization for which solicitation is made, and the date the permit was issued.

B. Noncommercial solicitors do not require the approval of the Chief of Police or the requirement or granting of a permit, with the sole exception that any noncommercial solicitors or canvassers must register with the Police Department to have knowledge of their presence within the Borough of Oceanport.

SECTION SIX: Carrying and displaying of permit and badge.

Each individual engaging in solicitation within the Borough shall carry the permit issued to him upon his person and display his badge at all times while soliciting within the Borough, and shall produce the permit and badge if requested to do so by the police or any resident. Failure to carry the permit and/or display the badge during solicitation shall constitute a violation of this chapter.

SECTION SEVEN: Time limits on solicitation.

A. A solicitation permit shall be effective for three months after the date it is issued. Solicitation without a valid permit in effect shall constitute a violation of this chapter. This permit shall be subject to renewal for an additional three-month period.

B. Commercial solicitation shall take place within the Borough only between the hours of 9:00 a.m. and 9:00 p.m.

C. Noncommercial solicitation or canvassing may take place between the hours of 9:00 a.m. and 9:00 p.m. on each and every day of the year.

D. All solicitors or canvassers are encouraged to wear reflective clothing and/or to carry flashlights if soliciting after dark.

SECTION EIGHT: Do-not-solicit list.

A. Notwithstanding the provisions of any other section of this chapter, any person or entity owning property within the Borough may register such property on a do-not-solicit list.

B. The office of the Borough Clerk shall maintain a list of addresses of those premises where the owner and/or occupant has notified the Borough Clerk that soliciting and canvassing is not permitted on his or her premises. Notification shall be by completion of a form available at the Borough Clerk's office during normal business hours, Monday through Friday from 8:00 a.m. to 4:00 p.m., except weekends and legal holidays.

C. The Borough Clerk shall submit the do-not-solicit list to the Chief of Police on a quarterly basis, which do-not-solicit list shall be distributed to applicants seeking authorization to solicit or canvass pursuant to this chapter. The persons seeking to solicit or canvass shall not solicit or canvass at any address listed on the do-not-solicit list.

D. On or about January 1, April 1, July 1 and October 1 of each year, the Borough Clerk's office shall update the list. The updated list shall then be forwarded to the Chief of Police for distribution to solicitors and/or canvassers.

E. The Tax Assessor shall, upon being advised of a transfer of ownership of a residential premise, notify the Borough Clerk, not less than semiannually, of said conveyances, whereupon the Borough Clerk shall remove the address of the premises from the do-not-solicit list.

SECTION NINE: Violations and penalties.

For a violation of any provision of this chapter, the maximum penalty, upon conviction thereof, shall be as provided in Chapter 1, Article II, General Penalty. Each and every day in which a violation of any provision of this chapter exists shall constitute a separate violation.

BE IT FURTHER RESOLVED, that any ordinances or portions thereof which are inconsistent with the provisions of this Ordinance are hereby repealed as of the effective date of this Ordinance. All other provisions of the traffic ordinance are ratified and remain in full force and effect.

BE IT FURTHER RESOLVED, if any provision of this Ordinance or the application of such provision to any person or circumstance is declared invalid, such invalidity shall not affect the other provisions or applications of this Ordinance which can be given effect, and to this end, the provisions of this Ordinance are declared to be severable.

BE IT FURTHER RESOLVED, this Ordinance shall take effect immediately upon its passage and adoption according to law.

APPROVED ON FIRST READING

DATED: February 15, 2018

JEANNE SMITH
Clerk of the Borough of Oceanport