

**ORDINANCE 2015-12 OF THE TOWNSHIP OF BERLIN, COUNTY OF CAMDEN,  
AND STATE OF NEW JERSEY, REPEALING AND REPLACING CHAPTER 239  
OF THE CODE OF THE TOWNSHIP OF BERLIN ENTITLED  
"PEDDLING AND SOLICITING"**

**WHEREAS**, Chapter 239 of the Code of the Township of Berlin, entitled "Peddling and Soliciting, regulates peddling and soliciting activities within the Township of Berlin through an established licensing process; and

**WHEREAS**, the Governing Body has determined that the license process established therein has not been substantively reviewed, modified and/or revised in the last 30 years and is need of revisions to provide clarity in the licensing process; and

**WHEREAS**, pursuant to N.J.S.A. 40:52-1, the Governing Body is authorized to enact and amend ordinances as deemed necessary to establish licensing procedures for peddling and soliciting activities; and

**NOW THEREFORE BE IT ORDAINED**, by the Mayor and the Township Council of the Township of Berlin, as follows:

**SECTION 1:** Chapter 239 of the Code of the Township of Berlin, entitled "Peddling and Soliciting," hereby deleted in its entirety and replaced with a new Chapter 239 as follows:

**CHAPTER 239 – PEDDLING AND SOLICITING**

**ARTICLE I – GENERAL PROVISIONS**

§239-1 Purpose

The purposes of this Chapter are as follows:

1. to establish reasonable controls over the time, place and manner in which persons who solicit, hawk, peddle and/or canvass within the Township of Berlin may conduct such activities;
2. to permit such activities within the Township while preserving the individual privacy of the residents;
3. to prevent fraud, crimes, undue public inconvenience or annoyance, and unethical and/or dishonest soliciting, hawking, peddling and/or canvassing within the Township of Berlin; and
4. to raise revenues through the collection of license fees as permitted in N.J.S.A. 40:52-1.

§239-2 Definitions

As used in this Chapter, the following words shall have the meaning indicated unless a different meaning clearly appears from the context:

**BUSINESS AND MORAL CHARACTER AND TURPITUDE**

As used herein, the term "business and moral character and turpitude" shall mean or refer to behavior involving fraud, larceny and/or the intent to harm persons or things.

**CHIEF OF POLICE**

The Chief of Police of the Township of Berlin, or his or her designee.

**GOVERNING BODY**

The Mayor and Township Council of the Township of Berlin

**PEDDLE or CANVASS or SOLICIT or HAWK**

The act of peddling, canvassing, soliciting and/or hawking goods or services on the streets of the Township of Berlin and/or from house to house or door to door as further defined herein in the context of the definition of "peddler." As used herein, the terms "peddle," "canvass," "solicit," and "hawk," shall have the same meanings and may be used interchangeably.

**PEDDLER or CANVASSER or HAWKER or SOLICITOR**

A person who goes from place to place by traveling on foot or by any other means of transportation or type of conveyance on the streets of the Township of Berlin and/or from house to house or door to door carrying, transporting, selling or causing to be sold or offered for sale, and/or taking or attempting to take orders for future delivery or provision of, services, merchandise, goods, wares, foods, farm products, orders, subscriptions, alms, and/or any and all other form of personal property or services of any nature whatsoever, whether or not such person has, carries or offers for sale a sample or whether such person is collecting advance payment on any sales or services to be rendered in the future. As used herein, the terms "canvasser," "hawker," "peddler," and "solicitor" shall have the same meanings and may be used interchangeably. As used herein, this definition shall also include the word "huckster."

**PERSON**

Any individual and/or business, including but not limited to individuals, partnerships, limited liability companies and/or corporations and any owner, shareholder, officer, director, employee and/or agent thereof.

**TOWNSHIP CLERK**

The municipal clerk of the Township of Berlin, or his or her designee.

**ARTICLE II – LICENSES**

§239-3 License Required; Exemptions

A. Except as provided below, it shall be unlawful for any person to engage in the business of soliciting, canvassing, peddling or hawking, as such conduct is otherwise defined herein, within the Township of Berlin without first obtaining a license therefore as provided herein.

B. A separate license must be obtained for every agent or employee working for any business or person.

C. Notwithstanding the above, the following persons shall be exempt from the licensing provisions of this Chapter:

- (1) the employee of any public utility which is subject to regulation by the State Board of Public Utilities; provided, however, that such employee shall prominently display the identification card and/or badge issued by the public utility by which he or she is employed; and provided further that independent businesses selling and/or soliciting the purchase of equipment for the provision of alternative energy shall not be deemed a "public utility" hereunder unless same has been recognized as such by the Board of Public Utilities and/or applicable state laws or regulations governing such alternative energy providers; and
- (2) bona fide members of any church, social, civic, fraternal, educational or philanthropic organization located and/or operating within the Township of Berlin.

#### §239-4 Application for License

A. Any person desiring a license pursuant to this Chapter shall file an application with the Township Clerk on the form to be kept on file with the Township Clerk, which application shall contain the following information:

- (1) The name, permanent address and cellular telephone number of the applicant and the place or places of residence of the applicant for the three (3) years preceding the date of submission of the application;
- (2) The age, weight and height of the applicant;
- (3) The name and current registered business address of the applicant's employer or, if self-employed, the name under which the applicant proposes to conduct the licensed business and the business address of same as well as all business names used by the applicant in the five (5) years prior to the date of submission of the application;
- (4) The vehicle license plate number and registration number of the applicant's vehicle and/or the vehicle the applicant will be utilizing while conducting the licensed business;
- (5) A description of the goods, wares, merchandise and/or services to be sold or offered for sale, and/or the purpose of the proposed soliciting, canvassing, peddling and/or hawking;
- (6) The name, address and telephone number of the person from whom goods making up the stock, if any, were or are to be purchased;

- (7) At least three (3) business and character references;
- (8) The length of time for which the license is desired;
- (9) A statement indicating whether the applicant has ever been convicted of a crime or misdemeanor or violation of any ordinance concerning peddling, soliciting canvassing or hawking and, if so, a detailed description of the circumstances giving rise to same, including but not limited to identifying when and where the offenses occurred;
- (10) A valid and/or current government-issued or employer-issued photo identification; and
- (11) The applicant's fingerprints.

B. The application required pursuant to Section 239-4 above shall be accompanied by a letter from the individual, firm or corporation employing the applicant in which the employer attests and/or certifies that the applicant is authorized to act as the employer's agent and/or representative for the purposes described in the application.

C. The application shall be accompanied by the application fee established in Section 239-9 of this Chapter.

#### §239-5 Investigation of Application; Endorsement by Chief of Police

A. Upon receipt of an application filed pursuant to this Chapter, the Township Clerk shall deliver the original thereof to the Chief of Police who shall cause such investigation of the applicant's business and moral character and turpitude to be made as he deems necessary for the protection of the public good. If, as a result of such investigation, the applicant's business and moral character and turpitude are found to be unsatisfactory, the Chief of Police shall endorse the application with his disapproval and his reasons for same and return the application to the Township Clerk. If, as a result of such investigation, the applicant's business and moral character and turpitude are found to be satisfactory, the Chief of Police shall endorse the application with his approval thereof and return the application to the Township Clerk.

B. Upon receipt of the application with the Chief of Police's endorsement as set forth above, the Township Clerk shall present the application to the Governing Body pursuant to the procedures set forth in Section 239-6 of this Chapter.

#### §239-6 Approval or Denial of Applications by Governing Body

- A. The Governing Body shall approve or deny all applications submitted pursuant to this Chapter in accordance with the provisions of this Section.
- B. The Township Clerk shall maintain an agenda item on the agenda for each regular meeting of the Governing Body for the approval or denial of a license pursuant to this Chapter. Upon the Township Clerk's receipt of an application with the Chief

of Police's endorsement thereon, the Township Clerk shall add each such application to the agenda for review and consideration by the Governing Body.

- C. The Governing Body shall consider the endorsement of the Chief of Police and shall vote to approve or deny each application for a license hereunder after examining the qualifications of the applicant as set forth on the application and in the endorsement of the Chief of Police to determine whether said applicant is of sufficient business and moral character and turpitude so as to not pose a threat to the public good and/or the health, safety and welfare of the residents of the Township of Berlin.
- D. The Governing Body shall approve or deny an application for a license pursuant to this Chapter within forty-five (45) days of receipt of same by the Township Clerk. In the event the Governing Body fails to take action within said period of time, the application shall be deemed denied unless the Governing Body takes action to extend the 45-day period for a reasonable period of time to allow the Chief of Police to complete its review and/or investigation or for other reasons which the Governing Body may reasonably determine. In no event, however, shall the time be extended beyond sixty (60) days such that any application not acted upon within sixty (60) days shall be deemed approved *nunc pro tunc* to the date same was first filed with the Township Clerk.

#### §239-7 Issuance of Licenses; Monthly Reports

A. Upon the Governing Body's approval of an application submitted pursuant to this Chapter, the Township Clerk shall issue a license to the applicant. Licenses issued pursuant to this Chapter shall be in the form of a card or badge bearing at least the following information:

- (1) the license number, which shall be issued consecutively;
- (2) the name of the licensee;
- (3) a photograph of the licensee showing the licensee's head and shoulders;
- (4) the word "peddler" or "solicitor" or such other inscription suitable to identify the applicant as a recipient of a license pursuant to this Chapter;
- (5) the date of issuance and the date of expiration of said license; and
- (6) the name of the Township.

B. It shall be the duty of the Township Clerk to incorporate as part of his or her monthly report to the Mayor and Council the number of licenses issued pursuant to this Chapter, the term of each license and the fees paid therefore. The Township Clerk also shall submit a check in the payment of all license fees collected each month pursuant to this Chapter.

#### §239-8 Revocation of Licenses; Hearing

A. The Mayor and Council may revoke a license issued pursuant to this Chapter if, after a hearing held pursuant to this Section, the Governing Body determines the person holding such license has done any of the following:

- (1) violated any of the terms of this Chapter, including without limitation any of the regulations set forth in Section 239-10, or violated any other provision of the Code of the Township of Berlin and/or any other applicable state or federal law;
- (2) falsified and/or intentionally provided false and/or untrue information on the license application under which the license was issued;
- (3) has conducted himself or herself in such an unethical and/or dishonest manner as to have caused undue inconvenience or annoyance and/or has created an unacceptable risk or threat of harm to the public and/or the residents of the Township of Berlin; or
- (4) for such other good and sufficient reasons as the Governing Body, in the exercise of sound discretion, may determine.

B. Upon the receipt of a written complaint delivered to the Township Clerk by any resident of the Township of Berlin, owner of a business properly licensed to operate and/or conduct business within the Township of Berlin, or any municipal official, officer or employee of the Township, the Governing Body shall schedule a hearing to determine whether a license issued pursuant to this Chapter should be revoked as provided above. The Township Clerk shall provide the licensee who is the subject of such complaint with a notice of hearing and copy of the written complaint. The notice of hearing shall set forth the date and time of the hearing, which shall be at least ten (10) days from the date of such notice.

C. If, after a hearing conducted pursuant to this Section, the Governing Body determines that a license issued pursuant to this Chapter should be revoked such revocation shall be effective immediately and the licensee shall be required to immediately surrender the license and metal plate issued to him or her pursuant to Section 239-7(A) and (B). Upon revocation of a license pursuant to this Section 239-8, any and all fees paid by the licensee shall be deemed forfeited and the licensee shall not be entitled to a refund of any part or portion thereof.

### **ARTICLE III – FEES & REGULATIONS**

#### **§239-9 Fees; Exemptions**

A. Every application for a license pursuant to this Chapter shall be accompanied by an application fee in the amount of \$500.00.

B. At the time of issuance of a license in accordance with this Chapter, the licensee shall pay a license fee of \$10.00.

C. The licensee shall pay a fee of \$15.00 for each replacement license issued by the Township Clerk in the event the licensee requires a replacement because the original license has been lost or stolen.

D. Notwithstanding the above, the following persons shall be exempt from payment of any fees set forth in this Chapter:

- (1) any person honorably discharged from the military services of the United States who obtains and/or holds a license issued in conformity with N.J.S.A. 45:24-9 and N.J.S.A. 45:24-10;
- (2) any person who is an exempt fireman of a volunteer fire department, as defined in N.J.S.A. 45:24-9 and N.J.S.A. 45:24-10, and who possesses a license in conformity with said law; and
- (3) bona fide members of any church, social, civic, fraternal, educational or philanthropic organization which is not located and/or operating or regularly conducting business from within the Township but which has otherwise received the approval and endorsement of the Governing Body of the Township of Berlin.

#### §239-10 Regulations Applicable to All Licensees

Every person issued a license pursuant to this Chapter shall be subject to the following conditions and/or regulations pertaining to the licensed operations:

A. No person shall solicit, canvass, peddle or hawk within the Township of Berlin except on Mondays through Saturdays between the hours of 9:00A.M. and 5:00P.M. during the months of November through April and Mondays through Saturdays between the hours of 9:00A.M. and 7:00P.M. during the months of May through October. No person shall solicit, canvass, peddle or hawk within the Township of Berlin on Sundays or legal holidays.

B. Every licensee shall wear the license issued by the Township Clerk conspicuously upon his or her clothing at all times while the licensee is working within the Township of Berlin. Every licensee shall exhibit his or her license upon the request of any citizen or employee of the Township of Berlin.

C. No peddler, solicitor, canvasser or hawker shall shout, make any outcry, blow a horn, ring a bell or use any sound device, including any loud-speaking radio or sound-amplifying system upon any of the streets, alleys, parks or other public places of the Township of Berlin, or upon any private premises in the said Township where such sounds are capable of being heard upon the streets, alleys, parks or other public places of the Township, for the purpose of attracting attention to any goods, wares, merchandise or services which such person proposes to sell.

D. No peddler, solicitor, canvasser or hawker shall have any exclusive right to any location in the public streets, nor shall any such person be permitted a stationary location or be permitted to operate in any congested area where the operations might impede or inconvenience the public.

#### **ARTICLE IV – ENFORCEMENT**

## §239-11 Police; Duty to Enforce

Notwithstanding the right of revocation reserved to the Governing Body herein, and in addition to same, it shall be the duty of any police officer of the Township of Berlin to require any person peddling, soliciting, canvassing or hawking and who is not known by such officer to be duly licensed, to produce his or her peddler's license and/or to otherwise enforce the provisions of this Article against any person found to be violating same.

## §239-12 Violations and Penalties

Any person violating or failing to comply with the provisions of this Chapter shall, upon conviction thereof, be subject to a fine of not more than \$1,000.00 or by imprisonment for a term not to exceed 90 days, or both, in the discretion of the court. Each successive day a violation continues shall be deemed a separate offense hereunder.

**SECTION 2:** Except as set forth in Section 1 above, the balance of the Code of the Township of Berlin shall not be affected by this Ordinance.

**SECTION 3:** All Ordinances or parts of Ordinances inconsistent with this Ordinance are hereby repealed to the extent of such inconsistency.

**SECTION 4:** If the provisions of any section, subsection, paragraph, subdivision, or clause of this Ordinance shall be judged invalid by a court of competent jurisdiction, such order of judgment shall not affect or invalidate the remainder of any section, subsection, paragraph, subdivision, or clause of this Ordinance.

**SECTION 5:** This Ordinance shall take effect twenty (20) days after final adoption and publication as required by law.

Introduced: November 23, 2015

Notice is hereby given that the foregoing Ordinance was introduced and passed upon first reading at a meeting of the Mayor and Council of the Township of Berlin, Camden County, New Jersey on November 23, 2015 and the same was ordered published pursuant to statute. Said ordinance will be further considered for final adoption at a meeting of the Mayor and Council of the Township of Berlin on December 14, 2015 at 6:30 p.m. at the Berlin Township Municipal Hall, 135 Route 73 South, West Berlin, NJ.

Catherine Underwood  
Township Clerk

