

TOWNSHIP OF LEBANON
HUNTERDON COUNTY, NEW JERSEY

ORDINANCE NO. 2019-04

AN ORDINANCE AMENDING CHAPTER 274 OF THE CODE OF THE TOWNSHIP OF
LEBANON REGARDING PEDDLING AND SOLICITING

WHEREAS, Chapter 274 of the Code of the Township of Lebanon regulates peddling and soliciting; and

WHEREAS, the Mayor and Committee have determined that additional regulation is needed to prevent fraud, crime, and unethical and dishonest business practices; and

WHEREAS, the Mayor and Committee have determined that regulation will promote safety of Township residents.

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Committee of the Township of Lebanon that Chapter 274 of the Code of the Township of Lebanon is hereby amended as follows:

SECTION 1. Chapter 274, Article I, Peddlers and Solicitors, of the Code of the Township of Lebanon is hereby amended and supplemented as follows:

ARTICLE I. PEDDLERS AND SOLICITORS

§274-1. Definitions.

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

Merchandise

Includes all goods, wares, food, fruit, vegetables, farm products, magazines and periodicals, and all kinds of articles of personal property for domestic use and orders or contracts for services, home improvements or alterations.

Non-Profit Organization

- A. Any organization tax exempt under §501(c)(3) of the Internal Revenue Code;
- B. Any organization created under or otherwise subject to the provisions of Title 15A of the New Jersey Statutes;
- C. Any organization, whether or not qualified under §501(c)(3) of the Internal Revenue Code or subject to the provisions of Title 15A of the New Jersey Statutes, whose primary purpose is to benefit the school age children of the Township, including but

not limited to schools, school clubs and organizations, Cub Scouts, Boy Scouts, Brownies, Girl Scouts and similar youth groups;

- D. Any organization whose primary purpose is to advocate for religious or political causes, whether or not qualified under §501(c)(3) of the Internal Revenue Code or subject to Title 15A of the New Jersey Statutes; or
- E. Any department within the Township's municipal governmental structure, including, but not limited to, the Police Department and any volunteer fire or first aid company that is located in, has a substantial membership from or serves the Township.

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. This definition shall not include integrated and commercial roadside stands.

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 they are collecting advance payments on such sales.

§274-2. Purpose.

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

Nothing herein shall be construed to affect the sale of fruit, vegetables, and farm produce, such as meat poultry, butter and eggs, from premises owned, leased or controlled by the person selling the same. Additionally, nothing herein shall be construed to affect the sale of goods at a farmer's market.

§274-3. License Required

Except as otherwise provided in this chapter, it shall be unlawful for any solicitor 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, within the corporate limits of the Township, without first obtaining a license in compliance with the provisions of this chapter. The 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 or peddler for every agent or employee working for licensee.

§274-4. Exemptions and Exceptions.

The licensing requirements of this article shall not apply to the categories of persons listed in Subsections A through E below. Persons who fit into the categories described in Subsections F and G below shall present satisfactory evidence thereof and proof that they possess the proper license pursuant to N.J.S.A. 45:24-9 and 45:24-10 to the Clerk, who shall then issue a license in accordance with this article without charging a fee.

A. Any public utility or its employees subject to regulation by the State Board of Public Utility Commissioners, provided that such employees shall display identification badges or cards issued by their employer.

B. 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.

C. Any non-profit organization as defined in §274-1 of this Chapter, including charitable and religious organizations, provided that the means of identification assigned by such organization, if any, is carried by the peddler or solicitor. If no means of identification is assigned by such organization, the peddler or solicitor shall be required to carry a bona fide means of identification, including but not limited to a valid driver's license or other government-issued identification. This exception shall include members or advocates for a non-profit organization engaging in the advocacy or non-commercial, non-for-profit causes, whether or not in connection. This exception also includes any non-profit organization that conducts sales of personal property when the proceeds are applied to the payment of expenses and to the charitable or religious purpose for which the organization exists.

D. Any person intending to distribute non-commercial or not-for-profit handbills, pamphlets, leaflets, circulars, advertisements or printed material, provided that such person carries a bona fide means of identification, including, but not limited to, a valid driver's license or other government issued identification.

E. Any person:

- 1) Campaigning for any elected public office or public question, which is to be voted upon in the Township at a general, special, primary or school board election, or in a national or State election;
- 2) Distributing handbills, pamphlets, leaflets, circulars, advertisements or printed material with respect thereto; or
- 3) Otherwise engaging in political speech, provided that such person carries a bona fide means of identification, including, but not limited to, a valid driver's license or other government issued identification.

F. 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.

G. Any person who is an exempt fireman 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 the law.

H. Any person selling fruits, vegetables, and farm produce (such as meats, poultry, butter, and eggs) from premises owned, leased, or controlled by the person selling the same.

I. Any person selling goods at a farmer's market.

J. Any person selling food from a mobile retail food establishment as defined in N.J.A.C. 8:24-1.1, et seq., including but not limited to food trucks and ice cream trucks, as long as such person is in compliance with N.J.A.C. 8:24-1.1, et seq., and the Township Code.

§274-5. Application for License.

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

A. Name and description of the applicant.

B. 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. The length of time for which the license is desired.

F. If a vehicle is to be used, a description of the vehicle, and its license plate number, and its VIN number.

G. A driver's license or other government issued identification that is valid for the entire period for which the peddler and solicitor's license is issued.

H. The place where the goods or property to be sold or offered for sale are manufactured or produced, where the goods or property are located at the time such application is filed, and the proposed method of delivery.

I. A photograph of the applicant taken within 60 days immediately prior to the date of application, which photograph clearly shows the head and shoulders of the applicant and measures

two inches by two inches.

J. 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.

§274-6. Application Fee.

At the time the application is filed, a fee in the amount of \$100 shall be paid to the Township Clerk by bank or cashier's check to cover the cost of processing the application and investigating the facts set forth therein.

§274-7. Investigation of applicant.

When the application is properly filled out and signed by the applicant, the original and duplicate shall be filed with the Township Clerk. The Clerk shall refer the original to the Chief of Police, who shall make or cause to be made such investigation of the applicant.

§274-8. Issuance of license; refusal.

A. Grounds for refusal of license.

- 1) If as a result of the investigation of the applicant's request for license is found to be unsatisfactory, the Chief of Police shall endorse on the application their disapproval and the reasons therefor and return the application to the Township Clerk, who shall notify the applicant that the application is disapproved and that no license shall be issued. Any determination by the Chief of Police that an 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, including but not limited to theft, fraud, aggravated assault, and sexual offenses.
 - b. Prior violation of a peddling or soliciting ordinance.
 - c. Previous fraudulent acts or conduct.
 - d. Record of breaches of solicited contracts.
- 2) In the absence of any such finding, the Chief of Police shall find the application satisfactory. The Chief shall complete the review of this process within ten (10) days for an applicant.

B. If as a result of the applicants are found to be satisfactory, the Chief of Police shall endorse on the application their approval, and return the application to the Township Clerk, who shall issue the license to the applicant. The license shall contain the signature of the Township Clerk and show

the name, address and photograph of the licensee, the class of license issued, the kind of goods or services to be sold, the date of issuance, the length of time the license shall be operative and the license number and other identifying description of any vehicle used in the peddling or soliciting activity licensed.

C. The Township Clerk shall issue to each licensee at the time of delivery of the license a badge which shall show the nature of the license, the period for which the license is issued and the number of the license in letters and figures easily discernible from a distance of 10 feet. During the time the licensee is engaged in peddling or soliciting, the badge shall be worn constantly by licensee on the front of licensee outer garment in such a way as to be visible to a person facing licensee.

§274-9. Duties of licensee.

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 under the authority of N.J.S.A. 45:24-9 shall be required to carry the license with licensee while engaged within the Township in the business or activity licensed. The licensee shall produce the license at the request of any official resident of the Township with whom they wish to conduct business or activity. Every peddler or solicitor, shall restrict their selling or soliciting activity within the Township to the hours between 8:00 a.m. and 9:00 p.m. Licensees and every person referred to in §274-4A on each day of such activity shall notify the police officer on duty immediately before commencing his selling or soliciting activity. If soliciting activities will be conducted on consecutive days, notification need only be made on the first day of such activity and the licensee shall notify the police officer of the length of the soliciting period. Notification shall include a statement as to the general area of the Township in which the licensee, as well as every person referred to in § 274-4A, intends to conduct or has conducted the activity.

§274-10. Prohibitions.

It shall be unlawful for a peddler or solicitor to:

A. Attempt to peddle or distribute merchandise or printed material, or solicit funds or canvass for information, without first having identified themselves as a peddler, solicitor, transient merchant, or canvasser registered with the municipality and displaying the licensed issued therefor.

B. Call attention to their business or to their merchandise by crying out, blowing a horn, ringing a bell, other than the doorbell to a building, or any other loud or unusual noise prohibited by the Township Code.

C. Conduct or attempt to conduct their business at any residence or on any property on which is posted a sign expressly prohibiting the activity.

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

E. Distribute obscene merchandise or printed material, printed material that advocates unlawful conduct.

F. Litter the streets, public places, or other property within the Township with any merchandise or printed material.

§274-11. Enforcement; Violations and Penalties

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

B. Any person convicted of violating the provisions of this chapter shall be subject to the penalties set forth in Section 1-15 of the Township Code.

§274-12. Record of licenses.

The Township Clerk shall maintain a record of all licenses issued under the provisions of this chapter and record therein all convictions for violations and other pertinent circumstances and incidents reported by the Chief of Police.

§274-13 Revocation of license.

A. Licenses issued under the provisions of this chapter may be revoked by the Chief of Police upon notice to the licensee to the address listed on licensee's application for any of the following causes:

- 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 theft, dishonesty or violence or the threat of violence.
- 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 revocation shall be communicated to licensee by telephone and regular mail at the telephone number and address set forth on licensee's application. If the licensee requests a hearing pursuant to §274-14, notice of hearing shall be given in writing setting forth the specific grounds of complaint and the time and place of hearing. Such notice shall be sent by regular and certified mail to the licensee at his last known address at least five days prior to the date set for hearing.

§274-14. Appeals to Township Committee.

Any person aggrieved by the action of the Chief of Police or of the Township Clerk in the denial or revocation of a license shall have the right of appeal to the Township Committee. The appeal shall be taken by filing with the Township Committee, within 14 days after the notice of the action complained of has been mailed to the person's last known address, a written statement setting forth fully the grounds for the appeal. The Township Committee shall set a time and place for hearing of the appeal, and notice of the hearing shall be given to the applicant in the same manner as provided in § 274-13. The decision of the Township Committee shall be final.

§274-15. Expiration and renewal of license.

All licenses issued under the provisions of this chapter shall expire on December 31 of the calendar year in which they are issued. Any license may be renewed without payment of an additional registration fee upon submission by the licensee of a new application in conformity with the requirements of § 274-5 or, in lieu thereof, a sworn statement in writing setting forth all changes in the information contained in the application for the expired license which are necessary to bring the application completely up to date. A new application or statement in lieu thereof shall be subject to the provisions and standards set forth in § 274-5.

§274-16. (Reserved)

SECTION 2. All Ordinances or parts of Ordinances inconsistent herewith are repealed as to such inconsistencies.

SECTION 3. If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

SECTION 4. Any ordinance inconsistent with the terms of this Ordinance is hereby repealed.

SECTION 5. This Ordinance shall take effect upon final passage and publication according to law.

RECORD OF COMMITTEE VOTE:


Mike Schmidt, Mayor


ATTEST:


Karen J. Sandorse, RMC/CMC/CMR
Township Clerk

Date of Introduction and First Reading: May 1, 2019

Date of Second Reading and final adoption: 5/15/19

I certify that the foregoing Ordinance is a true and accurate copy of an Ordinance adopted by the Lebanon Township Committee on 5/15/19.


Karen J. Sandorse, RMC/CMC/CMR
Township Clerk