

BOROUGH OF WESTWOOD

NOTICE

NOTICE IS HEREBY GIVEN that the following Ordinance was introduced and passed on first reading on regular meeting of the Mayor and Council on the 21st day of April, 2020, and that said Ordinance will be taken up for further consideration for final passage at a regular meeting of the Mayor and Council to be held on the 19th day of May, 2020 at 8:00 p.m. or as soon thereafter as said matter can be reached, at which time and place all persons who may be interested therein will be given an opportunity to be heard concerning same.

Karen Hughes, Borough Clerk
Borough of Westwood

**BOROUGH OF WESTWOOD
ORDINANCE NO. 20-7**

An Ordinance to Reinstate and Amend Chapter 249 Peddling and Soliciting

BE IT ORDAINED by the Mayor and Council that Chapter 249 Peddling and Soliciting, shall be reinstated in its entirety and amended as follows (deleted sections are noted by strikethroughs, new sections are **bold and underlined**):

Section 1. Reinstate and Amend:

§ 249-1. Definitions.

For the purposes of this chapter, the following words and phrases shall have the meanings respectively ascribed to them by this section:

DISTRIBUTOR — A person who goes from house to house on public thoroughfares or in public places disposing of circulars, posters, pamphlets, newspapers and other forms of advertising matter. [Added 1-18-2011 by Ord. No. 11-04]

MULTIPLE TRANSIENT MERCHANT FACILITY — A facility in which groups of transient merchants, as defined below, band together to conduct functions commonly known as "trade shows," "craft shows" and similar functions within the facility for the same dates and times.¹

NONPROFIT VENDOR — An organization, person or entity possessing a tax-exempt status, which shall be evidenced by furnishing to the Borough a tax-exempt number provided by the State of New Jersey and/or the government of the United States.

PEDDLER — A person, commonly referred to as a "peddler" or "hawker" or "itinerant merchant," who goes from place to place or house to house by traveling on the streets and carries with him or her goods, wares, merchandise or other things of value for the purpose of selling and delivering them to consumers.

PERSON — Any individual, firm, partnership, corporation, voluntary association, incorporated association or agent thereof. [Added 1-18-2011 by Ord. No. 11-04]

SOLICITOR — A person who goes from house to house selling or buying goods, wares, merchandise or other things of value by sample or by taking orders for future delivery or selling a service, with or without acceptance of an advance payment for the goods, wares, merchandise, other things of value or service.

TRANSIENT MERCHANT — A person who, whether a resident of the Borough or not, engages in a temporary business within the Borough of selling and delivering goods, wares, merchandise or services within the Borough 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 Borough for the exhibition and sale of such goods, wares and merchandise, either privately or at public auction.

§ 249-2. Purpose.

The purpose of this chapter is to prevent dishonest business practices, to provide for traffic and pedestrian safety by regulating the use of the streets and property adjacent thereto by itinerant or transient merchants, to prevent extended parking or trespassing on private or public property, to prevent violations of the zoning provisions of Chapter 195, Land Use and Development, of the Code of the Borough of Westwood, and, in the case of mobile food vendors, to prevent violations of the State Sanitary Code, to protect traffic and pedestrian safety and to prevent violations of the Motor Vehicle Code, and to generally provide for the safety of the residents of this community in the best interest of its welfare.

§ 249-3. Exemptions.

A. This chapter shall not apply to:

- (1) Any person conducting a sale pursuant to statute or court order.
- (2) Any person soliciting a vote or support for any political candidate or program.
- (3) Any person engaged in delivering goods, wares, merchandise or other articles or things in the regular course of business to the premises of a person ordering or entitled to receive the same.
- (4) Any person delivering or soliciting newspapers.
- (5) Any person conducting a sale within a multiple transient merchant facility as defined in § 249-1.

B. The provisions of § 249-6 shall not apply to any person honorably discharged from the military, naval or marine forces of the United States possessing a license for one of the activities defined in § 249-1, issued in conformity with N.J.S.A. 45:24-10 and any amendments thereto, except that such person shall present such license to the Borough Clerk. All other provisions of this chapter shall be applicable.

C. The provisions of § 249-6 shall not apply to any person who is an exempt member of a volunteer fire department possessing a license for one of the activities as defined in § 249-1, issued in conformity with N.J.S.A. 45:24-9b and the amendments thereto, except that such person shall present his or her license to the Borough Clerk. All other provisions of this chapter shall be applicable.

§ 249-4. Applicability to transient merchants.

A transient merchant shall not be relieved from complying with the provisions of this chapter merely by reason of associating temporarily with any local dealer, trader, merchant or auctioneer or by conducting such transient business in connection with, as part of or in the name of any local dealer, trader, merchant or auctioneer.

§ 249-5. Use of public streets.

It is unlawful for any transient merchant, itinerant vendor, itinerant merchant, peddler, hawker, or solicitor to sell, buy, dispose of or offer to sell or dispose of any goods, wares, merchandise, or other things of value or services in or on any portion of a public right-of-way.

§249-6 Licensing Requirements

- A. It is unlawful for any transient merchant itinerant vendor, itinerant merchant, peddler, hawker, or solicitor to sell, buy, dispose of or offer to sell or dispose of any goods, wares, merchandise or other things of value or services or to solicit contributions, gifts, pledges, or subscriptions of money or goods without first obtaining a license thereof.
- B. Any commercial and/or nonprofit organization may acquire a single license for the sole purpose of conducting door-to-door solicitation of the organization upon submission of a list of all dates for such solicitation and the names and addresses of all solicitors and upon compliance with all other terms of the chapter. The license shall be valid until December 31 of the year of issuance.
 - 1. **Door-to-door solicitation may only be conducted from 9:00 a.m. to dusk, Monday through Saturday.**
 - 2. **Organizations are limited to a total of twelve (12) solicitors going door-to-door at one time and to two (2) solicitors going on to any single private property at one time.**
 - 3. **All persons under the age of 18 are to be accompanied by an adult. A maximum of two juveniles may accompany an adult in door-to-door solicitation.**
- ~~C. Any nonprofit vendor may acquire a single license for the sole purpose of conducting canister drives at commercial establishments upon submission of a list of all dates and locations for such solicitation, and the names and addresses of all solicitor and upon compliance with all other terms of this chapter. Such solicitation is limited to two persons per ingress and/or egress doorway and shall not involve any structures, displays or furniture. The license shall be valid until December 31 of the year of issuance.~~
- D. C. Separate Licenses. A separate license must be obtained by a licensed peddler for every agent or employee working for him or her unless such agent or employee is selling goods from the same vehicle that the licensed peddler is selling from, but no more than two employees shall sell from the same vehicle without a separate license.

§ 249-7. Application for license. [Amended 1-18-2011 by Ord. No. 11-04]

Any person desiring to obtain a license for the purposes heretofore mentioned in this chapter shall apply therefor, in writing, to the Chief of Police of the Borough on an application blank provided by the Police Department.

§ 249-8. Review of application for license; appeals. [Amended 1-18-2011 by Ord. No. 11-04]

- A. When said application is properly filled out and signed by the applicant, and the appropriate fee is paid to the Borough Treasurer, it shall be presented to the Chief of Police, or his or her designee, whose duty it shall be to investigate the statements made therein. A period of not more than three days shall be allowed for such investigation, whereupon the Chief of Police will indicate his or her approval or disapproval upon the application.
- B. In the case of disapproval of an application by the Chief of Police, the applicant may appeal to the Mayor and Council, whereupon opportunity will be granted for hearing reasons for and against the issuance of a permit. The decision of the Mayor and Council shall be final.

§ 249-9. License fees. [Amended 1-18-2011 by Ord. No. 11-04; 6-19-2012 by Ord. No. 12-12]

The license fees shall be as follows:

- A. Solicitors: \$50 per person, per year, which is hereby determined to be the reasonable cost of investigating the character and record of such solicitor.
- B. Distributors: \$50 per person, per year, which is hereby determined to be the reasonable cost of investigating the character and record of such distributor.
- C. Peddlers: \$50 per person, per day, or \$250 per person, per year. Any person securing a license after July 1 shall pay \$125 for the remainder of the year.

§ 249-10. Issuance of license; records. [Added 1-18-2011 by Ord. No. 11-04]

- A. It shall be the duty of the Chief of Police to issue licenses in cases where the provisions of this chapter have been complied with. Licenses, except daily, will expire on December 31 of each year and will be in the form of a card bearing the name of the licensee, the purpose for which it is issued, the date of expiration and the signature of the Chief of Police and the Seal of the Westwood Police Department.
- B. All licenses shall be issued on forms drawn in accordance with this chapter and consecutively numbered.
- C. It shall be the duty of the Chief of Police to keep a record entitled "Solicitor's, Distributor's, Non-Profit-Making Vendor's and Peddler's Record." In this record shall be entered the following information:
 - (1) Date of issuing licenses.
 - (2) To whom issued.
 - (3) Address.
 - (4) Purpose.
 - (5) Fee paid.
 - (6) License plate.
 - (7) Remarks.

- D. It shall be the duty of the Chief of Police to incorporate as a part of his or her monthly report to the Commissioner of Police the number of licenses issued and fees paid for all licenses.

§ 249-11. Display of license; alterations. [Amended 1-18-2011 by Ord. No. 11-04]

The license issued under this chapter shall be posted conspicuously in the place of business named therein. In the event that such person or persons applying for the license desire to do business in more than one place within the Borough, separate licenses may be issued for each place of business. Every person who is required to hold a license under this chapter shall carry the same when engaged in the business for which the license is issued, and he or she must produce the license at the request of any official or householder of the Borough of Westwood. In addition, each licensee shall be required to have on his or her person a full and complete copy of the application for the license. Any alterations, erasures or mutilations shall void the license.

§ 249-12. Expiration of license; renewal.

- A. Other than a license issued to a nonprofit organization for the purpose of conducting door-to-door solicitation, and pursuant to the provisions of § 249-6, all licenses issued under the provisions of this chapter to a nonprofit vendor, a transient merchant or a solicitor shall be valid only for a four-day period.
- B. Each additional four-day period shall be the subject of a separate license. No applicant shall be issued more than four licenses in any one calendar year. All other licenses issued under the provisions of this chapter shall expire each December 31.

§ 249-13. Revocation of license. [Amended 1-18-2011 by Ord. No. 11-04]

The Mayor and Council may revoke any license for sufficient cause after giving notice to the holder thereof and an opportunity to be heard.

§ 249-14. Record of violations.

The Borough Clerk shall deposit the license number with the Chief of Police. The Chief of Police shall report to the Borough Clerk any complaints against any person licensed under the provisions of this chapter. The Borough Clerk shall keep a record of all such licenses and of such complaints and violations.

§ 249-15. Violations and penalties. [Amended 1-18-2011 by Ord. No. 11-04]

Any violation of this chapter shall be punishable as provided in Chapter 1, General Provisions, Article III, General Penalty, of the Code of the Borough of Westwood.

§249-16. ~~Collection, preparation and maintenance of a nonsolicitation list.~~ No-Knock List

~~A. Collection, preparation and maintenance of a nonsolicitation list. The Office of the Clerk shall collect, prepare and maintain a list of addresses of those residential premises where the owner and/or occupant has notified the Clerk that soliciting and canvassing for the sale of goods or services or other items of value is not permitted on his/her premises. To be included on the nonsolicitation list, residents shall complete a form supplied and maintained by the Borough, without cost to the resident. With the adoption of this section, the Office of the Clerk shall make~~

~~the form available to all property owners or occupants and may distribute same thereafter in any manner directed by the governing body.~~

Establishment of No-Knock List. All residents of the borough may register their name, address and/or unit/apartment number with the Westwood Police Department to be placed on the No-Knock List, indicating that they do not want canvassers, distributors, solicitors, peddlers, transient merchants or hawkers of any sort to approach their homes and/or seek personal contact with the occupants of the registered residence. The Westwood Police Department shall provide the registration form, which shall be available during normal business hours. By registering for the No-Knock List, the resident acknowledges that the Borough police, fire, other emergency services groups, and those group enumerated in subsection E herein, are exempt from the requirements of this section.

~~B. The Borough Clerk, or her designees, shall submit the nonsolicitation list to the Chief of Police on a quarterly basis, which nonsolicitation listing shall be distributed to applicants seeking a license to solicit or canvass pursuant to the provisions of this chapter. The applicant shall acknowledge, in writing, receipt of this list as part of the application process. The licensee shall not solicit or canvass at any address on the nonsolicitation list.~~

Updating and provision of list. The Westwood Police Department shall maintain a No-Knock List, a copy of which shall be provided to all persons or organizations required to obtain a license or register pursuant to this chapter. Registrants shall remain on the No-Knock List for a period of five years from the date of registration or until such time as they advise the Westwood Police Department, in writing, that they wish to be removed from the list. The Westwood Police Department shall ensure that the list is updated periodically.

~~C. On or about January 1, April 1, July 1, and October 1 of each year, the Office of the Clerk shall update the list. The updated list shall then be forwarded to the Chief of Police for distribution to solicitors and/or canvassers, and said list shall not contain residents' names. Nothing herein shall prohibit the more frequent updating of the list by the appropriate Borough official.~~

Registration and display of decal. Upon completion of registration on the No-Knock List, the subscriber shall receive a decal stating “DO NOT KNOCK; Registered on the No-Knock List with the Borough of Westwood Police Department; VIOLATORS WILL BE PROSECUTED” which may be displayed in a clearly visible location (e.g., front door or window adjacent to the front door).

~~D. Any solicitor or canvasser violating the provisions of this section as described above shall be punishable by a fine and/or imprisonment as prescribed in §249-15.~~

Violations. It shall be unlawful for any canvasser, distributor, solicitor, peddler, transient merchant or hawker to approach and/or seek personal contact with the occupants of any resident if that residence is registered on the No-Knock List. Anyone violating this subsection shall, upon conviction thereof, be subject to fines and penalties in accordance with Chapter 1, General Provisions Article III, General Penalty, of the Borough Code.

~~E. The Police Department shall keep a list of organizations whose members violate this Ordinance and shall deny permits to any organization which violates this Ordinance.~~

Exemptions. Section D of this Ordinance shall not apply to candidates for political office disseminating campaign or election information, speech or literature; any bona fide and not for profit charitable endeavors; and, any recognized not for profit religious organization, however, such organizations, with the exception of those enumerated in §249-3 are still required to comply with the provisions of §249-6 requiring licensure.

§ 249-17. **Roadway charitable solicitation.** [Added 3-17-2015 by Ord. No. 15-4; amended 5-15-2018 by Ord. No. 18-17]

Roadway charitable solicitation is prohibited in the Borough of Westwood.

Section 2. If any section, subsection, paragraph, sentence or any other part of this ordinance is adjudged unconstitutional or invalid, such judgment shall not affect, impair or invalidate the remainder of this ordinance.

Section 3. All ordinances or parts of ordinances which are inconsistent with the provisions of this ordinance are hereby repealed to the extent of such inconsistency.

Section 4. If any section, subsection, part, clause or phrase of this Ordinance shall be declared invalid by judgment of any court of competent jurisdiction, such section, subsection, part, clause or phrase shall be deemed to be severable from the remainder of this Ordinance.

Section 5. This Ordinance shall take effect immediately upon final passage and publication as required by law.

Adopted: _____

Approved:

Attest:

Ray Arroyo., Mayor

Karen Hughes, Borough Clerk