

TOWNSHIP OF SOUTHAMPTON

ORDINANCE No. 2014-26

AN ORDINANCE OF THE TOWNSHIP OF SOUTHAMPTON, COUNTY OF BURLINGTON, STATE OF NEW JERSEY REPEALING AND REPLACING CHAPTER 4-1 OF THE GENERAL CODE ENTITLED CANVASSING AND SOLICITING

WHEREAS, the Township Committee of the Township of Southampton ("Township") endeavors to keep its ordinances revised and up-to-date, consistent with current law and court decisions; and

WHEREAS, Chapter 4-1 of the General Code of the Township of Southampton entitled "Canvassing and Soliciting" is in need of such revision and updating; and

WHEREAS, the Township has reviewed the opinion of its legal counsel with respect to the current status of the law in this area;

NOW, THEREFORE, BE IT ORDAINED AND ENACTED, by the Township Committee of the Township of Southampton, County of Burlington and State of New Jersey that Chapter 4-1 of the General Code of Southampton be and is hereby repealed and replaced in its entirety to read as follows:

§ 4-1. Definitions.

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

"Article of Value": means any goods, wares, merchandise, food, liquids, meats, fish, vegetables, fruits, garden truck farm products or provisions or other things which may be sold or purchased by persons for a value.

"Do Not Solicit List": means a list of persons residing in the Township who do not wish to be solicited for any purpose which list shall be maintained by the Township Administrator or her designee as authorized by this Chapter.

“Non-Profit-Making Vendor”: means a person who sells articles of value or seeks donations without private profit, the proceeds of which are devoted exclusively to societies or organizations which are organized for charitable, educational, fraternal, literary or religious purposes and on whose behalf he acts as agent, with or without pay.

“Peddler”: includes the words "hawker" and "huckster" and shall mean any person traveling by foot, wagon, automobile vehicle or any other type of conveyance, from place to place, from house to house or from street to street, carrying, conveying or transporting articles of value, offering and exposing same for sale or making sales and delivering articles of value to purchasers or who, without traveling from place to place, shall sell or offer the same for sale from a vehicle or other conveyance, or a person who solicits orders and as a separate transaction makes deliveries to purchasers as a part of a scheme or design to evade the provisions of this chapter.

“Permit”: as used in this Chapter, the term permit shall be interchangeable with the word “License.”

“Person”: includes any adult individuals, partnerships, joint ventures, societies, associations, clubs, trustees, trusts, corporations or unincorporated groups, or any officers, agents, employees, servants, factors or any type of personal representatives thereof in any capacity acting either for himself or for any other person under personal appointment or pursuant to law.

“Transient Merchant”: includes the terms "itinerant merchant" and "itinerant vendor" and shall mean any person who engages in a temporary business of selling articles of value within the Township of Southampton and who, in furtherance of such purposes, hires, leases, uses or occupies any building, structure, motor vehicle, tent, public rooms in hotels, lodging

houses, apartments, shops or any street, alley or other public place within the Township, for the exhibition and sale of such articles of value, either privately or at public auction.

“No Solicitors Sign”: means a sign as authorized by this Chapter placed or mounted in plain view near the primary entrance or walkway to that entrance of a residence.

“Soliciting”: means proceeding from door-to-door or house-to-house in the Township selling, causing to be sold, offering for sale, causing to be offered for sale, or taking orders for present or future delivery of any merchandise or service of any description. This term shall include the going from door-to-door or house-to-house for the purpose of obtaining donations, orders or subscriptions or the making of canvasses or surveys or other solicitations without limitation including opinion polls and the like.

“Solicitor”: means any person or itinerant vendor of merchandise proceeding from door-to-door or house-to-house in the Township selling, causing to be sold, offering for sale, causing to be offered for sale, or taking orders for present or future delivery of any merchandise or service of any description. This term shall include persons or vendors going from door-to-door or house-to-house for the purpose of obtaining alms, donations, orders or subscriptions or the making of canvasses or surveys or other solicitations without limitation including opinion polls and the like.

§4-2. Notice and Permit Required; Do Not Solicit List.

- A. No person, except as provided in this Chapter, shall canvass, solicit, sell, or distribute merchandise or services without first having reported to the Township Clerk and received a license and a copy of the current Do Not Solicit List.
- B. Solicitors shall apply to the Clerk (hereafter Department) for a license to solicit.
- C. The Department shall provide all solicitors with a copy of the current Do Not Solicit

List and, upon payment of the fee forth herein, provide a license to each solicitor unless rejection for good cause based upon evaluation of the requirements herein as appropriate. Licenses shall be valid for a period of six months from the date of issue.

§4-3. Maintenance of Do Not Solicit List.

- A. The Township Administrator or her designee shall maintain a list of addresses where the owners have indicated in writing their desire not to have any solicitors appear at their door at any time. The Administrator shall provide a notice to residents and homeowners of the opportunity to be placed on the Do Not Solicit List through periodic notices by means deemed appropriate by her to provide a reasonable opportunity for residents and homeowners to be placed on the list.
- B. The list shall contain the addresses of all properties which do not wish to have any solicitors appear at their door at any time.
- C. The list shall be dated as of the time it is prepared and updated not less than once every three (3) years thereafter. Those whose names are on the list shall be notified of the need to indicate their desire to remain on the list. Those persons who do not indicate that they wish to remain on the list shall be purged from the Do Not Solicit List.
- D. The Administrator shall cause to be provided this ordinance and the current Do Not Solicit List to the State Police Barracks for it to possess in the event of a complaint pursuant to this chapter.

§4-4. No Solicitors Sign.

Every resident or homeowner in the Township shall have the right to place a sign with

the words "No Solicitors", "No Soliciting", "No Peddling" or words of similar effect near the primary entrance to their place of residence provided the same is no larger than four inches by ten inches in size. Such signs shall contain no integral illumination and shall not be of fluorescent or reflective material or color.

§4-5. No visitation at posted properties or properties on Do Not Solicit List.

No person, whether or not they have received a license as provided in this Chapter, shall visit or call upon any residence for the purpose of soliciting whose address appears on the Do Not Solicit List or who has posted a No Solicitors sign.

§4-6. Required information to be carried by solicitors.

All solicitors shall carry on their person at all times (i) the license issued by the Township, (ii) a copy of the Do Not Solicit List, (iii) identification and contact information of the person or organization conducting the solicitation, and (iv) personal identification. Each of these items that are required to be carried shall be exhibited to the person or persons being solicited and/or a Southampton Township official or law enforcement officer upon request.

§4-7. Limitation on hours of solicitation.

No person shall conduct any soliciting between the hours of 9:00 p.m. and 9:00 a.m. from Sunday night through Saturday night. No person shall conduct any soliciting between the hours of 9:00 p.m. the previous evening until 11:00 a.m. on any Sunday or state or federal holiday. This section shall not apply to peddlers or solicitors who are expressly invited by residents of the Township to come to their home at a different time.

§ 4-8. Conduct of solicitor.

- A. The person soliciting shall be courteous to all persons with whom he shall meet, shall not annoy any of the inhabitants of the Township and shall conduct himself or herself in a lawful manner at all times.
- B. The person soliciting shall not enter or attempt to enter the house of any resident of the Township without an express invitation from the occupant of the house.

§ 4-9. Applicability.

This chapter shall not affect 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 or persons ordering or entitled to receive them.

§4-10. License required for peddlers and transient merchants; exceptions.

- A. License required. It shall be unlawful, for any person, either directly or indirectly, to operate or conduct a business as a transient merchant or peddler or to use, in connection with the foregoing, any vehicle, structure, building, premises, machine or device, in whole or in part, unless a license therefor is first procured and kept at all times as is required by this chapter. The agents or other representatives of nonresidents shall be personally responsible for the compliance with this chapter by their principals, and of the businesses they represent. The aforementioned entities shall operate in the Township only in accordance with the terms and provisions of this chapter and only in the areas of the Township as permitted herein.
- B. Exceptions. The provisions of Subsection A of this section shall not apply to the following:

1. Any person engaged in delivering articles of value in the regular course of business to the premises of the person ordering or entitled to receive the same. Examples include, but are not limited to, food delivery and overnight delivery services.
2. Any veteran who holds a special state license issued under the laws of the State of New Jersey, but said individual shall be required to comply with all applicable sections of this chapter and shall be required to produce from the Township Clerk a special veteran's license, which shall be issued by the Township Clerk upon proper identification in accordance with a form of license, which is on file in the office of the Township Clerk and approved by the Township Attorney, and available for public inspection during regular business hours.
3. Persons selling articles of value at wholesale to dealers in such articles.
4. Any sale required by statute or by order of court.
5. A non-profit-making vendor, who has applied for and received a license pursuant to § 4-13 of this chapter.
6. Any person licensed by the Commissioner of Banking and Insurance or the Real Estate Commission of the State of New Jersey.
7. Persons selling personal property at wholesale to dealers in such articles.
8. Auction houses.
9. Any person soliciting votes for a bona fide candidates for political office or to support or oppose a public question on or to be placed on an official election ballot.

10. Members of a volunteer fire company or first aid squad as defined by the New Jersey Revised Statutes if that company or squad serves Southampton Township on a regular basis.
11. Persons selling products grown on their own property and selling them from their own property.

§ 4-11. Use of vehicles.

No licensee shall transact business from his vehicle unless it is properly parked immediately adjacent to the curb of a public street in a permitted locality. No licensee shall at any time double-park his vehicle while transacting business, nor transact business other than on the curbside of his vehicle.

§ 4-12. Location restrictions.

No licensee shall have an exclusive right to any location in the public streets, nor shall he be permitted a stationary location on the streets or permitted to operate in a congested area where his operations may impede or inconvenience the free flow of pedestrian and vehicular traffic. For the purposes of this section, the reasonable judgment of a Township official or law enforcement officer shall be conclusive as to whether the area is congested or traffic impeded or inconvenienced.

§ 4-13. Nonprofit organizations.

- A. Nonprofit organizations desiring to engage in any of the activities for which a license is required by this chapter shall not be required to apply for or secure a license, to pay a license fee or to post a bond, provided that there is filed with the Township Clerk a sworn statement containing the following information:
 - (1) The name and purpose of the organization for which the license is sought.

- (2) Names and addresses of the officers of the organization.
- (3) Names of the agents or representatives who will solicit, sell merchandise or distribute literature in the Township.
- (4) The federal tax exemption number of the organization.
- B. Each representative or agent of the organization shall carry proper identification indicating the name of the organization and his own name and address and shall be prepared to display it upon request.
- C. Nonprofit organizations shall comply with all other applicable provisions of this chapter including adherence to the Do Not Solicit List.
- D. The special license issued to the organization in question shall bear the name and address of the person by whom the solicitation is to be made, the date issued, the dates within which the license holder may solicit and a statement that the license does not constitute an endorsement by the Township of Southampton. All licenses must be signed by the Township Clerk.

§ 4-14. Restrictions on license privilege; rights of license holders.

- A. Notwithstanding the issuance of a license, it shall be unlawful, either directly or indirectly, for any license holder to operate or conduct a business at the location of a special event which is to be held on certain day(s), or to operate or conduct a business within 500 feet from the boundaries of said special event, in any direction unless the individual pays any additional fee for the special event and receives a valid license to participate in that event.
- B. The days during which the license privileges are so restricted shall be days during which special events of the Township may occur, such as public parades, concerts

and occasions where the public is generally invited. The Township Committee shall, by resolution or motion, at least 45 days prior to the special event, or as soon before as practical, designate the special event, informing the public of the location of the special event and the requirement that only permit holders may sell articles of value at said location, or within 500 feet of the boundaries of said location. A copy of the resolution or motion shall be provided to the solicitor with the Do Not Solicit List.

§ 4-15. Application for license.

- A. Information. Every person required to procure a license, pursuant to the provisions of this chapter, shall submit a sworn application for such license to the Township Clerk at least 15 calendar days prior to the date of the commencement of the sale. The application shall be a written statement upon the form which shall be provided by the Township Clerk and approved by the Township Attorney, and placed on file in the office of the Township Clerk and available for public inspection during regular business hours. At a minimum, said form shall contain the following information: the name and purpose of the cause for which the license is sought; names and addresses of the officers of the organization; and the names and addresses of the agents or representatives who shall sell goods in the Township, provided that in the event that a non-profit-making vendor shall be the agent or representative who shall sell goods in the Township, a statement as to the name and address of the non-profit-making vendor, without specifying individual members thereof, shall satisfy this requirement.
- B. Applications. All applications for licenses shall be made to the Township Clerk upon forms provided by the Clerk and shall contain the following information:

1. Name and permanent and local address of the applicant.
2. All activities carried on at a fixed location or that involve other than door-to-door solicitation shall require site plan review, site plan review waiver or an exemption letter from the Building Inspector, the latter to be issued for temporary activities only. Exemption letters may be granted by the Building Inspector for temporary activities of less than seven days' duration which entail use of a completely enclosed, preexisting fixed location if he finds no violation of the site plan review criteria resulting from the proposed use. All other fixed location uses shall be reviewed by the Land Use Board.
3. If a vehicle is to be used, its description, including the license number.
4. If the applicant is employed by another, the name and address of the employer, together with credentials establishing the exact relationship and authority to work in Southampton Township.
5. The days of the week and the hours of the day during which the licensed activity will be conducted.
6. A description of the nature of the business and the goods, property or services to be sold.
7. A statement as to whether the applicant has ever been convicted of any crime or the violation of any municipal ordinance other than traffic offenses and a description of the same including the offense and date of the offense.
8. If a vehicle is to be used, the drivers' license numbers of the proposed operators, a description of the vehicle including make, model and license plate number.

- C. Partnerships and corporations. Applications for partnerships or corporations shall be executed by a partner or corporate member authorized by corporate resolution to take such action.
- D. Fee. At the time of filing the application, a fee of \$75 shall be paid to the Township Clerk, except that nonprofit-making vendors are not required to pay a fee.

§ 4-16. Issuance of license.

- A. Investigation. After submission of the application and requisite fee by the applicant, the Township Clerk, or her designee shall review the application to corroborate the information required by the application form and to aid the Township Clerk in determining whether the applicant is a qualified applicant; for example, whether the applicant is a bona fide, non-profit-making vendor.
- B. Disapproval.
 - 1. If the investigation indicates that the applicant has been convicted of an offense involving moral turpitude, or if the application information is false or misleading in a material respect, or if the applicant's moral character or business responsibility or record of other offenses is of such a nature as to present a clear and present danger to the public good, safety and welfare, the Township Clerk may disapprove the issuance of the license.
 - 2. If the Township Clerk disapproves the issuance of the license, the Township Clerk shall forthwith notify the applicant, in writing, of such disapproval and the reasons therefor and furnish the applicant with a copy of the investigation reports, by certified mail to his permanent address, or by handing it to him personally. No license shall issue to said applicant, provided that the applicant

shall have the right, within 10 days of the date of such notice, to file a request for a hearing before the Township Committee to request the Committee to reconsider the decision of the Township Clerk.

- C. Approval. Upon being satisfied that the applicant is a qualified applicant, the Township Clerk, immediately upon receipt of the requisite fee, shall endorse his approval on said application and shall issue the license in the form provided for by the Township Clerk, which is approved by the Township Attorney. All licenses shall be issued by the Township Clerk and shall bear the seal of the Township attested by her.
- D. Term. The license issued pursuant to this section shall be valid for six months and may be renewed.
- E. Renewal. Applications for the renewal of licenses issued pursuant to this chapter shall be made within 30 days of the expiration thereof and in the manner provided herein. The renewal fee shall be \$50.00 for another six month period.

§ 4-17. Duplicate licenses; identification.

- A. A duplicate license may be issued by the Township Clerk to replace any license previously issued, provided that said license has been lost, stolen, defaced or destroyed without any willful conduct on the part of the licensee and provided that the licensee file on a sworn affidavit before a notary public of the State of New Jersey attesting to such fact and pay to the Township Clerk a fee of \$5.
- B. Each representative or agent of the licensee shall carry the license and proper identification or credentials indicating the name of the organization and the name and addresses of the representative and shall display same upon request.

§ 4-18. Nontransferability of licenses.

A licensee shall have no right to transfer his license to another person.

§ 4-19. Fee rebates or refunds.

No rebate or refund of any license fee, or any part thereof, shall be made for any reason.

§ 4-20. Suspension or revocation of licenses.

Any license granted or issued pursuant to this chapter may be revoked by the Township Committee after notice and hearing for any of the following causes:

- A. Any fraud, misrepresentations or false statement contained in the application for a license.
- B. Any fraud, misrepresentation or false statement made in connection with the selling of the articles of value.
- C. Any violation of this chapter.
- D. Any conviction of the licensee of any felony or of a misdemeanor involving moral turpitude.
- E. Conducting the business licensed under this chapter, through the applicant himself or any of his agents, servants or employees, in any unlawful manner or in such a manner as to constitute a breach of the peace or to constitute a menace to the health, safety or general welfare of the public.

§ 4-21. Notice of hearing for revocation.

- A. Notice of hearing for revocation of a license under the preceding section shall be given in writing by the Township Clerk, setting forth the grounds of the complaint and the time and place of the hearing. Such notice shall be mailed, by certified and regular mail, to the licensee at his address indicated on his license application, at

least five days prior to the date set forth for the hearing unless the five day notice would cause a threat to public health and welfare in which case the Township shall take any reasonable action to notify the licensee.

- B. The Township Committee may issue another license to a person whose license has been revoked, if, after the hearing, it is satisfied by clear and convincing evidence that the acts which led to the revocation will not occur again; otherwise, no person whose license has been revoked, nor any person acting for him, directly or indirectly, shall be issued another license to carry on the same activity for the period of twelve months.

§ 4-22. Complaints.

The Township Clerk, any law enforcement officer or any taxpayer or resident of the Township may make a complaint in the Municipal Court of the Township of Southampton for any violation of this chapter.

§ 4-23. Violations and penalties.

Upon conviction for each and every violation, a person committing, taking part or assisting in such violation or violations shall be subject to a fine of not more than \$500 or be imprisoned in the county jail for a period not to exceed 90 days, or both, at the discretion of the Municipal Court Judge and shall, in addition thereto, be subject to the temporary suspension or absolute forfeiture of any license issued to such person under this chapter. Each day that a violation is permitted to exist shall constitute a separate offense.

ACTION ON INTRODUCTION:

Motion made by:

Tiver

Motion seconded by:

Rossell

VOTE:

Committeeman Heston:	<u>Yes</u>	No	Abstain	Not Present
Committeeman Raftery:	<u>Yes</u>	No	Abstain	Not Present
Committeewoman Rossell:	<u>Yes</u>	No	Abstain	Not Present
Committeeman Tiver:	<u>Yes</u>	No	Abstain	Not Present
Mayor Young, Sr.:	<u>Yes</u>	No	Abstain	Not Present

ACTION ON ADOPTION (after public hearing)

Motion made by: Tiver

Motion seconded by: Rossell

VOTE:

Committeeman Heston:	<u>Yes</u>	No	Abstain	Not Present
Committeeman Raftery:	<u>Yes</u>	No	Abstain	Not Present
Committeewoman Rossell:	<u>Yes</u>	No	Abstain	Not Present
Committeeman Tiver:	<u>Yes</u>	No	Abstain	Not Present
Mayor Young, Sr.:	<u>Yes</u>	No	Abstain	Not Present

CERTIFICATION

I HEREBY CERTIFY that the foregoing is a true copy of the ordinance that was introduced after first reading at a meeting of the Southampton Township Committee held on Nov. 12 2014 and adopted after a public hearing at a meeting of the Southampton Township Committee held on Dec. 16 2014.


Kathleen D. Hoffman, RMC
Township Clerk / Administrator