

## Title 5

# BUSINESS LICENSES AND REGULATIONS

### Chapters:

## Chapter 5.04 LICENSES GENERALLY

### Sections:

#### **5.04.010 Purpose.**

The purpose of this title is to provide a uniform set of procedures for administering the issuance, renewal and revocation of all licenses issued by the borough, except alcoholic beverage licenses, dog licenses and taxicab licenses.

(Prior code § 6-1.1)

#### **5.04.020 Application and fee.**

All applicants for licenses shall be accompanied by the required fee and shall be made to or through the borough clerk upon forms provided by the clerk and shall contain the following information:

- A. Name and complete permanent home and local address of applicant. If the applicant is a corporation, the name and address of its registered agent;
- B. If the licensed activity is to be carried on at a fixed location, the address and description of the premises;
- C. If a vehicle is to be used, its description including the license number;
- D. If the applicant is employed by another, the name and address of the employer, together with credentials establishing the exact relationship;
- E. The days of the week and the hours of the day during which the licensed activity will be conducted;
- F. A description of the nature of the business and the goods, property or services to be sold or supplied;
- G. Three recent photographs of the applicant, which shall be approximately two inches by two inches, showing the head and shoulders of the applicant in a clear and distinguishable manner;
- H. Applicant shall provide to the borough clerk and police chief a criminal history report with each application for license, to be provided at the applicant's own cost and expense. Instructions for obtaining the criminal history report may be obtained through the borough clerk or the police department.

The applicant shall be fingerprinted. If the applicant is a New Jersey Resident, the fingerprinting shall be conducted by the Freehold Borough police department and the applicant shall provide a consent for the criminal history report to be obtained by the borough police. In the event the applicant is not a resident of New Jersey, the applicant shall have a fingerprint check conducted by the applicant's home state which shall submit the criminal history reply together with a copy of the fingerprints to the borough clerk and police chief;

- I. Appropriate evidence as to the good character and business responsibility of the applicant as will enable an investigator to properly evaluate such character and business responsibility;
- J. Applications for partners shall be signed by all partners with the foregoing provisions of this section answered in detail as to each partner. Applications of corporations shall have attached thereto individual statements, in accordance with all of the provisions of this section relating to every employee, agent or servant who shall engage in any of the functions authorized by this chapter and each person shall comply with this chapter.

(Ord. 2000/11 § 1: prior code § 6-1.2)

#### **5.04.030 Investigation of applicant.**

Each application shall be referred to the chief of police or a police officer designated by him or her, who shall immediately institute whatever investigation of the applicant's business responsibility, moral character and ability to properly conduct the licensed activity he or she considers necessary for the protection of the public. He or she shall communicate his or her findings in writing to the borough clerk within a reasonable time after the application has been filed. If the investigator decides that the applicant's character, ability or business responsibility is unsatisfactory, or the products, services or activity are not free from fraud, he or she shall disapprove the application and the clerk shall refuse to issue the license and shall so notify the applicant. Otherwise, the borough clerk shall issue the license immediately, provided the required license fees have been paid, except in cases where approval of the mayor and council is required. In the case of an application for a solicitor's, peddler's or canvasser's license, the license may be issued immediately subject to the investigation. In the event refusal of the issuance of a license, the applicant may of the appeal to the council for hearing. The appeal must be filed, in writing, with the borough clerk within fourteen (14) days after notification of the refusal. The council shall hold its hearing within ten (10) days thereafter, and its decision shall be final.

(Prior code § 6-1.3)

#### **5.04.040 Contents of license.**

Licenses shall be in a form which the council shall prescribe by resolution, and shall contain the following information:

- A. The name and address of the licensee;
- B. The number and type of the license and the nature of the licensed activity;
- C. The address at which the licensed activity is conducted, if the activity is carried on at a fixed location;
- D. If the licensed activity is conducted from a vehicle, the make, model and license number of the vehicle;
- E. The expiration date of the license;
- F. Any other appropriate information which the mayor and council may require by resolution.

(Prior code § 6-1.4)

#### **5.04.050 License record.**

The borough clerk shall keep a record of all licenses issued under this title. The record shall be in a form prescribed by resolution of the council and shall contain the same information as is required by Section 5.04.040 to be contained in the license. It shall also indicate the amount of the fee paid for the license, the date upon which

payment was received, the date of the issuance of the license, whether the license is a new license or a renewal, and any other information which the mayor and council may require by resolution.

(Prior code § 6-1.5)

#### **5.04.060 Display of license.**

When the licensed activity is conducted at a fixed location, or from a vehicle, the license shall be prominently displayed at the location or locations, or on the vehicle or vehicles. In all other cases, every person holding a license under this title shall be required to carry the license with him or her at all times and, in door to door canvassing or soliciting he or she must hand the license to the person being solicited or canvassed for his or her inspection at the time the license holder first approaches the individual. In addition, each such canvasser or solicitor shall wear on his or her lapel or other clothing a badge supplied by the borough setting forth the name of the solicitor or canvasser and the organization with which the solicitor or canvasser is associated. His or her badge shall be worn in a manner so that the name and organization shall be clearly and easily identifiable by a person being solicited or canvassed.

(Prior code § 6-1.6)

#### **5.04.070 Transferability.**

Every license shall apply only to the person to whom it was issued and shall not be transferable to another person. Licenses may be transferred from place to place, in cases where the licensed activity is conducted at a fixed location, but only with the approval of the council by resolution. The fee for the transfer of a license from place to place shall be five dollars (\$5.00).

(Prior code § 6-1.7)

#### **5.04.080 Expiration date—Renewal—Proration of fees.**

- A. Except where expressly provided otherwise, all licenses shall expire on December 31st of the year of issue at twelve midnight. Applications for the renewal of licenses shall be made not later than December 1st of the year of issue.
- B. Unless provided otherwise, when an application for a license is made during the course of any calendar year, the fee shall be prorated to the nearest month. Any period of time greater than one-half a month shall be considered as a full month for this purpose.

(Prior code § 6-1.8)

#### **5.04.090 Revocation of license—Causes.**

Any license or permit issued by the borough may be revoked by the council after notice and a hearing for any of the following causes:

- A. Fraud or misrepresentation in any application for a permit or license;
- B. Fraud, misrepresentation or other dishonesty in the conduct of the licensed activity;
- C. A violation of any provision of this code;
- D. Conviction of the licensee for any felony or high misdemeanor or a misdemeanor or disorderly person's offense involving moral turpitude;

- E. Conduct of the licensed activity whether by the licensee himself or herself or his or her agents or employees in an unlawful manner or in a manner that constitutes a breach of the peace or a menace to the public health, safety or general welfare;
- F. Whenever a license has been issued immediately upon an application, pending the results of the investigation provided for by this title, such license may be summarily revoked if the result of the investigation is such as would have resulted in denial of the application.

(Prior code § 6-1.9)

#### **5.04.100 Notice of hearing.**

Notice of a hearing for the revocation of a license or permit shall be given in writing by the borough clerk. The notice shall specifically set forth the grounds upon which the proposed revocation is based and the time and place of the hearing. It shall be served by mailing a copy to the licensee at his or her last known address by certified mail, return receipt requested, at least five days prior to the date set for the hearing.

(Prior code § 6-1.10)

#### **5.04.110 Hearing—Determination.**

At the hearing the licensee shall have the right to appear and be heard, to be represented by an attorney, to present witnesses in his or her own behalf, to cross-examine opposing witnesses and to have a permanent record made of the proceedings at his or her own expense. The council shall revoke or suspend the license if they are satisfied by a preponderance of the evidence that the licensee is guilty of the acts charged.

(Prior code § 6-1.11)

#### **5.04.120 Reinstatement of revoked licenses.**

The council may issue another license to a person whose license has been revoked or denied as provided in this chapter if after hearing they are satisfied by clear and convincing evidence that the acts which led to the revocation or denial will not occur again; otherwise, no person whose license has been revoked or denied, nor any person acting for him or her, directly or indirectly, shall be issued another license to carry on the same activity.

(Prior code § 6-1.12)

#### **5.04.130 Power to make rules and regulations.**

The council may by resolution make rules and regulations which interpret or amplify any provision of this title or for the purpose of administering the provisions of this title or making them more effective. No regulation shall be inconsistent with or alter or amend any provision of this title and no regulation shall impose any requirement which is in addition to or greater than the requirements that are expressly or by implication imposed by any provision of this title.

(Prior code § 6-1.13)

#### **5.04.140 Payment of outstanding taxes, special assessments or special charges.**

No license or permit shall be issued by the borough clerk if there are delinquent tax payments, delinquent special assessments, or delinquent special charges duly established by law encumbering the property for which the license or permit is sought. Furthermore, any license or permit issued by the borough may be suspended or

revoked when the taxes and/or special assessments due on property on which the licensed or permitted activity is occurring have not been paid for three consecutive quarters. Upon payment of the delinquent taxes or assessments the license or permit shall be restored. The provision of this section shall not apply to or include any alcoholic beverage license or permit.

(Prior code § 6-1.14)

## **Chapter 5.08 BUSINESS LICENSES SPECIFICALLY**

### **Sections:**

#### **5.08.010 Business license required.**

It is unlawful for any person designated in Section 5.08.060 to sell or dispose of or to offer to sell or dispose of any goods, wares, merchandise or render any services for fees within the borough without first registering and obtaining a license and paying the license fee prescribed therefor.

(Prior code § 6-2.1)

#### **5.08.020 Exemptions from license.**

This chapter shall not apply to:

- A. Those persons specifically exempt from payment of license fee as provided by statute or court order;
- B. Any blind person who is a resident of the borough;
- C. Any persons selling fruits, vegetables and farm products raised or grown by him or her;
- D. Any person selling fish, clams or oysters caught or gathered by him or her.

Such exempted persons shall make application to the borough clerk for a permit and upon payment of one dollar (\$1.00) application and filing fee receive their license from the clerk within thirty (30) days after the application is filed, provided regulations described in Section 5.04.020 have been observed.

(Prior code § 6-2.2)

#### **5.08.030 Separate places of business.**

No person shall transact any business under any license granted under this chapter except the business for which such license was especially granted, and a separate license must be obtained for each branch establishment or place of business.

(Prior code § 6-2.3)

#### **5.08.040 Licensing official.**

The clerk shall issue and grant licenses and collect license fees, which shall be payable at the office of the clerk. The clerk shall or shall not be provided with clerical help in the performance of his or her licensing duties at the discretion of the mayor and council.

(Prior code § 6-2.4)

### **5.08.050 Suspension of license.**

A license may be suspended by the clerk or by the mayor and council by reason of the violation of the terms of the license, the violation of any municipal ordinance, state or federal statute or falsification in applying for a license. No license shall be suspended for more than two weeks without a hearing by the mayor and council.

(Prior code § 6-2.5)

### **5.08.060 License fees and regulations.**

The license fees of this chapter shall be as follows:

- A. Cartmen, baggagemen, expressmen, ten dollars (\$10.00).
- B. Peddlers, twenty-five dollars (\$25.00) per day.
- C. Traveling shows, circuses and parades in connection therewith, twenty-five dollars (\$25.00) for every day that they do business or parade within the limits of the borough.
- D. Theaters, moving picture shows, opera houses, concert halls, public dance halls, skating rinks, fifty dollars (\$50.00).
- E. Exhibition grounds, fifty dollars (\$50.00), provided the fee shall be two dollars (\$2.00) for nonprofit organizations.
- F. Pool and billiard parlors, fifty dollars (\$50.00) per table.
- G. Bowling alleys, ten dollars (\$10.00) per day for each alley.
- H. Auction stores for the sale of goods and chattels and jewelry shall pay a fee of one hundred dollars (\$100.00) per day for each day of operation; and for the purpose of this chapter, a new day shall be deemed to be in effect if any auction is conducted at any time within the next twenty-four (24) hours following the conclusion of any one-day auction sale; provided, however, that if an auction is personally conducted by the owner of the goods being auctioned and at a site owned or rented by the owner within the borough, then no fee for such license shall be required to be paid; but a license shall be obtained and, provided further, that in no event shall any license be issued for more than thirty (30) days for each such purpose, notwithstanding anything else to the contrary hereinbefore contained in this title, and provided further, that if the auction is conducted for the purpose of or held at or represented to be as a forced sale at reduced prices, or as insurance, bankruptcy, mortgage foreclosure, insolvency, removal, loss or expiration of lease or closing out sales, or as sales of goods distrained, or as sales of goods damaged, or as assignee's, receivers' or trustee's sales, except where the same is held under a judicial order, judgment or decree or a writ issuing out of any court to enforce any lawful lien or power of sale, whether by judicial process or not, or by a licensed auctioneer, and such sale would then become subject to the provisions of a section regulating such sales, then, the provisions of such section with respect to the payment of a license fee and the application for the license shall prevail, instead of the provisions of this chapter.
- I. Merry-go-rounds and similar amusements, rides, twenty-five dollars (\$25.00) for one week or part thereof.
- J. Carnivals, one hundred dollars (\$100.00) for one week or part thereof, except, however, the fee shall be five dollars (\$5.00) per week for local nonprofit organizations.
- K. Parades, block parties, services, revivals, events in public parks or on public property, foot, bicycle, horse and other races (other than as conducted at the Freehold Raceway which is a licensed facility),

family entertainment events which affect public property or streets, twenty-five dollars (\$25.00), (ten dollars (\$10.00) for not for profit organizations) per event per day.

- L. Street Closures. In the event a license is issued under this section, and the applicant requests a street closing for the subject of the license, the applicant shall submit a street closing plan, containing the time, date and place of the closure, a plan for the rerouting of traffic and emergency services. The applicant shall pay an administrative fee of ten dollars (\$10.00) for the review of the street closing request and plan.

(Ord. 2004/26 §§ 1, 2; prior code § 6-2.6)

## Chapter 5.12 ALCOHOLIC BEVERAGE LICENSES

### Sections:

#### 5.12.010 Purpose.

This chapter is enacted to regulate the sale and transportation of alcoholic beverages in the borough in accordance with the provisions of "An Act Concerning Alcoholic Beverages," comprising Chapter 436 of the Laws of 1933, its supplements and amendments and also comprising N.J.R.S. 33:1-1, et seq., and in accordance with the rules and regulations of the State Director of Alcoholic Beverage Control.

(Prior code § 8-1)

#### 5.12.020 Definitions.

As used in this chapter, words and phrases shall have the same meanings they have in R.S. 33:1-1, et seq., and the rules and regulations of the Director of Alcoholic Beverage Control.

(Prior code § 8-2)

#### 5.12.030 Licenses.

- A. Laws Applicable. All applications for licenses, all licenses issued, and all proceedings under this chapter shall be in accordance with the act, rules and regulations referred to in Section 5.12.010 and all other applicable laws of the state of New Jersey or of the United States.
- B. Issuing Authority. All licenses required by this chapter shall be issued by the governing body, which shall also administer the provisions of this chapter.
- C. License Required. No person shall sell or distribute alcoholic beverages within the borough without having obtained a license in accordance with the act referred to in Section 5.12.010 and the provisions of this chapter.
- D. License Fees—Maximum Number. The annual license fee and maximum number of licenses for the sale or distribution of alcoholic beverages in the borough shall be as follows:

Class of License	Annual License Fee	No. of Licenses
Plenary retail consumption license	\$ 1,700.00*	7
Seasonal retail consumption license	1,089.00	1
Plenary retail distribution license	1,350.00*	2
Club license	180.00	6

\* This fee is for the year 2005. Thereafter, the fee shall increase at the rate of twenty (20) percent per year up to the maximum established by stature, as amended from time to time.

- E. Licenses shall only be issued to premises contained wholly within the borough of Freehold.
1. Relief from this section may be granted by a majority vote of the council, after a public hearing on the request has been held. Notice of the hearing must be given by the applicant to the holder of the license, the potential transferee of the license and by publishing notice of the hearing in the official newspaper at least ten (10) days prior to the hearing. The notice must contain the time, date and place of the hearing, the nature of the request, the proposed location of the licensed premises, and the reasons for the requested relief.
  2. To obtain such relief, applicant has the burden of showing that:
    - a. The strict application of this section would result in exceptional practical difficulties to, or exceptional and undue hardship upon the applicant;
    - b. The relief can be granted without substantial detriment to the public good;
    - c. That special reasons exist for the requested relief.

(Ord. 2006/18 § 1; Ord. 2004/26 § 12; Ord. 18/95 § 1; prior code § 8-3)

#### **5.12.040 Regulation of licenses.**

- A. Hours of Sale. No alcoholic beverage shall be sold, served, consumed, or delivered to any consumer in or from any licensed premises between the hours of two a.m. and eight a.m. except on Sundays and New Year's Day, each year as herein provided.
- B. Sunday. No alcoholic beverage shall be sold, served or delivered to any consumer in or from any licensed premises between the hours of two a.m. and ten a.m. on Sunday.
- C. New Year's Day. Provisions of subsection A of this section shall not apply on January 1st when that day falls on a weekday. On that day no alcoholic beverages may be sold, served, consumed or delivered to any consumer in or from any licensed premises between the hours of three a.m. and eight a.m.
- D. Election Day. No licensee shall sell, serve, deliver or allow or permit the sale, service or delivery of any alcoholic beverage, or allow the consumption of any alcoholic beverage on licensed premises, on Election Day, between the hours of two a.m. and eight a.m.

(Prior code § 8-4)

#### **5.12.050 Revocation of licenses.**

Any license issued under this chapter may be suspended or revoked for violation of any of the provisions of this chapter or any provision of any applicable statute or any of the rules and regulations of the State Director of Alcoholic Beverage Control.

Proceedings for suspension or revocation shall be in accordance with the provisions of R.S. 33:1-31 by service of a five-day notice of charges preferred against the licensee and affording a reasonable opportunity for hearing.

Suspension or revocation of a license shall be in addition to any other penalty which may be imposed for a violation of this chapter.

(Prior code § 8-6)



## Chapter 5.16 AMUSEMENT DEVICES

### Sections:

#### **5.16.010 License required—Exceptions.**

No person shall install, maintain, operate or possess in any building where business is conducted or other place wherein the public is invited or where the public may enter or in any building or place where any club or organization meetings are held within the borough, any amusement, game and/or machine of the type commonly known and designated as pinball, electric crane, bagatelle, baseball, console, cathode ray tube game machines, electronic or video game machines, jukebox and any other machine similar to the above or otherwise operated by the insertion of coins or tokens received in exchange of consideration, except merchandise vending machines, without first obtaining a license. This chapter shall not apply to coin-operated amusements commonly known as kiddie rides; more specifically, those coin-operated machines which are sat upon or in and cause a certain motion or gyration following the insertion of a coin, and are designated primarily for use by children under the age of ten (10).

(Ord. 2004/26 § 7 (part); prior code § 6-4.1)

#### **5.16.020 License fee.**

The annual license fee for each amusement game or machine as defined in the previous section, shall be one hundred fifty dollars (\$150.00) per machine or device except that the annual fee for jukeboxes shall be one hundred dollars (\$100.00) per year.

(Ord. 2004/26 § 7 (part); prior code § 6-4.2)

#### **5.16.030 Application information required.**

In addition to the information required in Section 5.04.020, the application shall designate the exact location of the machine and any other information required by the mayor and council.

(Prior code § 6-4.3)

#### **5.16.040 Inspection—Issuance of license.**

Upon receipt of the application, the clerk shall refer it to the chief police official who shall inspect the premises and the type of machine. Upon completion of this inspection and investigation, the chief police official shall attach to the application his or her written report stating the nature and type of machine, the place and time it is to be operated or maintained, the name of the proprietor of the store in which the same is to be operated, the name and address of the owner of the particular machine and such other information as the chief may deem pertinent. In addition, the chief police official shall state his or her approval or disapproval and the reasons therefor.

(Prior code § 6-4.4)

#### **5.16.050 Approval or disapproval.**

A separate application with the recommendation of the chief police official shall be submitted to the mayor and council for approval or disapproval. Upon approval, the clerk shall issue the license. Upon disapproval, the

clerk shall be directed to return the fee deposited with the application to the applicant and shall file the application after making notation upon it of the action taken.

(Prior code § 6-4.5)

#### **5.16.060 Contents of license.**

In addition to the information required in Section 5.04.040, the license shall indicate the serial number of the licensed machine, the name and address of the actual owner and the license fee for the use, possession, operation, installation or maintenance of each device.

(Prior code § 6-4.6)

#### **5.16.070 License limitation—Sound control.**

- A. Not more than two machines or devices shall be licensed or operated within the first two hundred (200) square feet of public floor space of any one place of business. A license may be issued for additional machines or devices for every additional fifty (50) square feet or four times the area of the machine whichever is greater, of public floor space. Music machines (jukeboxes) shall not be counted in the determination of the original two machines or devices.
- B. The licensee shall, at all times, control the sound so as not to cause disturbance or nuisance to others in the vicinity of the machines. The licensee shall, at all times, place the machine so that the part of the machine from which the sound emits shall not be within five feet of the front entrance of the place of business, and the licensee shall not, at any time, place a music machine so that the sound is disturbing to the public in the street or to other persons in the immediate vicinity.

(Prior code § 6-4.7)

#### **5.16.080 Rules and regulations for licensing of premises of more than six machines or devices.**

If an applicant requests a license for more than four machines for any one location, he or she shall provide the following:

- A. A minimum of one on-site, off-street parking space for each amusement machine or device requested;
- B. Provide a uniform security guard and, at least, two full-time supervisory personnel who shall be on the premises at all times during the hours of operation;
- C. No machine shall be licensed if it is to be located on a second floor or below ground level and all machines shall be visible from the street or outside the premises;
- D. The applicant shall submit plans to the construction official or other designated borough official demonstrating that the building or place where the machine is to be located is properly insulated to prevent noise of both the patrons and the machines from disturbing or entering adjacent buildings at the location. Furthermore, he or she shall offer proof that the location will conform with all state noise level regulations;
- E. The applicant will submit to the chief of police a plan demonstrating how the applicant intends to provide for change, temporary storage of any and all money, and any and all other security he or she intends to operate under within his or her place of business or the location of the machines. The chief of police shall submit a written report to the mayor and council of the borough of this proposed plan and shall state his or her approval or disapproval and recommendations;

- F. A license for more than six machines in any one location shall not be granted if the location is within one thousand (1,000) feet of a public school giving instruction at least five days per week, holidays excepted, for eight or more months per year;
- G. An application for more than six machines shall not be granted if the location of the machine is within five hundred (500) square feet of any of the following:
  - 1. A church or any house of worship of any religious faith,
  - 2. A nursing home,
  - 3. A rest home,
  - 4. A public library.

(Prior code § 6-4.7)

#### **5.16.090 Substituting machines.**

The licensee may substitute one machine for a similar machine without paying any additional licensing fee, providing that he or she first applies to the borough clerk for permission to make the exchange and supplies all the information required for the original license. The new machine shall be described in the license as a substituted machine and the mayor and council of the borough may delegate authority to the borough clerk to issue the license for substitution.

(Prior code § 6-4.8)

#### **5.16.100 General regulations.**

- A. The person operating the place of business where a machine is located shall be responsible for the proper operation thereof regardless of whether or not he or she is the actual owner of the machine or has rented it; but this shall not in any way release the actual owner of the machine or device from liability or responsibility for compliance with this section and all other laws and ordinances.
- B. No person under the age of seventeen (17) years shall be permitted to play or operate any amusement device or machine as defined in Section 5.16.010 except music machines, unless that person is accompanied by his or her parent or guardian. It shall be the responsibility and duty of the licensee and his or her employees to insure compliance of this chapter.
- C. Shooting galleries, where guns or firearms are used, for a consideration or prize or otherwise, shall not be licensed or permitted within the limits of the borough.
- D. An automatic amusement device or machine as defined in Section 5.16.010 may only be used or operated between the hours of ten a.m. and ten p.m. on any day in which the location is open to the public except Sunday. If the location is open to the public on Sunday, an automatic amusement device may only be operated between the hours of twelve noon and ten p.m.

(Prior code § 6-4.9)

#### **5.16.110 Revocation of licenses.**

In addition to the causes specified in Section 5.16.100, the mayor and council may revoke the license issued at any time if the machine or device is causing a nuisance or disturbance of the peace or a condition which the mayor and council may deem to be detrimental to the welfare of the community.

The mayor and council shall be the sole judge as to whether or not a machine is causing an annoyance to others, and upon its finding that the machine does disturb others in the neighborhood, shall have the authority to revoke the license by resolution. In the event that a license is revoked, the mayor and council shall return a proportionate share of the license fee to the licensee.

(Prior code § 6-4.10)

#### **5.16.120 Removal of machines.**

The chief of police or any member of the police force under his or her direction, upon authority from the mayor and council may, when licenses are revoked, enter any premises where the machine or device is located and may break and enter into the premises, if need be, to remove a machine unless the owner immediately takes possession and removes the same. The officer in that event may confiscate the machine or may dispose of it in any manner directed by the mayor and council. The proceeds realized from a sale shall be retained by the mayor and council and used for the relief of the poor. Should any officer or employee of the borough enter any place of business for the purpose of removing a machine or confiscate, remove and dispose of a machine, neither the officer or employee of the borough nor the borough shall be responsible or liable for damages, trespassing or in any other manner for the entry upon the premises, the confiscation of the machine or machines or the disposition thereof. The approval of the licensee to enter upon the premises, confiscate or dispose of the machine shall be considered as having been given by acceptance of the license pursuant to this chapter and no legal action for damages or otherwise shall be maintained against the borough or its agents. When a license is revoked, in addition to all other remedies the borough may take proceedings to restrain the use of the machine or such other proceedings as may be deemed advisable to cause discontinuance of the use of the machine.

(Prior code § 6-4.11)

#### **5.16.130 License renewed.**

Each machine or amusement device which is licensed, must be renewed annually, at which time, the mayor and council of the borough may request reports from the chief of police, building code official, fire code official and any other borough official or employee for the purpose of determining whether the applicant has conformed to the rules and regulations as set down in this code in determining whether the licenses shall be renewed.

(Prior code § 6-4.12)

#### **5.16.140 Violations—Penalties.**

Any person who any provision of this chapter shall, upon conviction thereof, be punished by a fine not to exceed one thousand dollars (\$1,000.00) or by imprisonment for a term not exceeding ninety (90) days or both. Each day that a violation occurred or is committed shall constitute a separate offense.

(Ord. 2004/26 § 7 (part); prior code § 6-4.13)

## **Chapter 5.20 BED AND BREAKFAST RESIDENCES**

### **Sections:**

### **5.20.010 Permit and license required.**

Bed and breakfast residences may be established upon receipt of a conditional use permit. No person, however, shall establish, maintain, own or operate a bed and breakfast residence without first having obtained a license from the clerk of the borough.

(Ord. 17/96 (part): prior code § 6-17.1)

### **5.20.020 Applications, investigation, issuance or denial.**

An application for a bed and breakfast residence shall be available on a form to be issued by the clerk of the borough. Once a completed application is received by the clerk with the appropriate fee, it shall be forwarded to the chief of police who shall conduct an investigation into the data contained in the application. Upon the completion of the investigation by the chief of police, the mayor and council of the borough will examine the application. The mayor and council shall issue or deny the license as in their unlimited discretion they deem appropriate. The mayor and council will take into consideration residential uses in the area, the business record of the applicant, public safety, and health and welfare considerations. No license shall be issued until a resolution of the mayor and council of the borough authorizing the issuance of a license shall have been adopted by a majority vote of the mayor and council of the borough.

(Ord. 17/96 (part): prior code § 6-17.2)

### **5.20.030 Application fees and licensing fees.**

Any person submitting an application for a bed and breakfast residence shall submit an application fee in the amount of fifty dollars (\$50.00) with the application. Should an application be approved by the mayor and council of the borough as specified in Section 5.20.020, the applicant shall pay an annual licensing fee in the amount of two hundred fifty dollars (\$250.00). Applicants seeking renewals of the licenses shall pay a licensing fee in the amount of two hundred fifty dollars (\$250.00) per year, payable upon the filing of the application for the annual renewal. The first year license fee shall be prorated on a calendar year basis and shall be paid prior to commencing business. Thereafter, applicants seeking renewal shall do so by January 30th of each year and shall submit the licensing fee of two hundred fifty dollars (\$250.00) with the application.

(Ord. 17/96 (part): prior code § 6-17.3)

### **5.20.040 Application contents.**

- A. The application must set forth the number of employees working at the premises. No more than two employees, either full or part-time, excluding lawn care and general maintenance employees hired on an incidental basis, shall be permitted to work on the premises at any time. Members of the owner's immediate family who are residents of the premises shall not be considered employees whether or not paid.
- B. The application shall further set forth whether or not off-street parking requirements are being met, on-site or off-site, by written lease agreement or easement for utilization of rear yard or existing off-street parking areas of contiguous property. The applicant must provide proof that the easement or lease is still in effect at the time of the application for the issuance or renewal of license and will continue in effect for the full license year.
- C. Such other information as the mayor and council may deem necessary.

(Ord. 17/96 (part): prior code § 6-17.4)

### **5.20.050 State law requirements.**

Bed and breakfast residences shall be subject to state law regarding requirements of the BOCA Code, Uniform Fire Safety Act, and shall be registered with the Bureau of Housing Inspection in the Division of Housing and Development at the Department of Community Affairs. The bed and breakfast residence shall comply with all local ordinances concerning housing, and any and all municipal and county health department regulations as applicable.

(Ord. 17/96 (part): prior code § 6-17.5)

### **5.20.060 Maximum rooms.**

A bed and breakfast residence shall contain no less than three guest rooms nor more than eight guest rooms with sleeping accommodations for no more than twelve (12) persons. This maximum room limitation shall not apply to separate areas for household members or employees. The applicant must submit a detailed floor plan setting forth the location of bedrooms (guest rooms) and bathrooms, dining facilities and guest common areas.

(Ord. 17/96 (part): prior code § 6-17.6)

### **5.20.070 Duration of occupancy.**

Occupancy by any guest within the bed and breakfast residence shall be limited to fourteen (14) consecutive nights and not more than twenty-one (21) nights in any period of fifty (50) consecutive days.

(Ord. 17/96 (part): prior code § 6-17.7)

### **5.20.080 Cooking facilities prohibited.**

No guest room in any bed and breakfast residence shall contain any cooking facilities of any kind.

(Ord. 17/96 (part): prior code § 6-17.8)

### **5.20.090 Operation as rooming or boarding house prohibited.**

No bed and breakfast residence shall operate as a rooming house or boarding house as defined in either N.J.S.A. 55:13b-3 or Chapter 5.28 of this code.

(Ord. 17/96 (part): prior code § 6-17.9)

### **5.20.100 Site plan approval—Quarterly reports.**

The applicant shall obtain site plan approval from the planning board, after obtaining the license from the mayor and council and prior to commencing operation. The owner or operator of the bed and breakfast residence shall file, with the borough zoning officer, quarterly reports by January 15th, April 15th, July 15th and October 15th of each year, on forms provided or approved by the borough, containing a list of the names, address and nights stayed of all guests for the preceding three months. An owner or operator who fails to file in a timely manner will incur a late filing fee of twenty-five dollars (\$25.00) to reimburse the borough for having to send a late filing notice. Failure to file such list within fifteen (15) days after notice is given by the zoning officer of the owner's or operator's failure to file same shall cause a suspension of the bed and breakfast residence license to operate for a period of ten (10) days. Successive failures to file after notice has been given shall cause successive suspensions of the bed and breakfast residence license for minimum periods of thirty (30) days each.

(Ord. 17/96 (part): prior code § 6-17.10)

### **5.20.110 Noncompliance by owner or operator.**

Failure of a bed and breakfast residence owner or operator to continue to meet the requirements of the approved site plan, or the bed and breakfast residence conditional use requirements, or failure to meet the requirements of any applicable health or safety code, statute or regulation or ordinance of the borough, after notice from the zoning officer, shall cause the zoning officer, or any other public official with appropriate authority, to take action in municipal court to temporarily suspend during the period of noncompliance or permanently terminate for failure to take corrective action, the bed and breakfast residence's license to operate.

(Ord. 17/96 (part): prior code § 6-17.11)

### **5.20.120 Violation—Penalty.**

Any person violating the provisions of this chapter may, unless otherwise set forth, upon conviction, be punished by imprisonment in the county jail for a term not exceeding six months or by a fine not exceeding five hundred dollars (\$500.00) or both.

(Ord. 17/96 (part): prior code § 6-17.12)

### **5.20.130 Revocation of licenses.**

Any license issued under this chapter may be suspended or revoked by the mayor and council after notice is given to the owner and the opportunity for a hearing to be held.

(Ord. 17/96 (part): prior code § 6-17.13)

### **5.20.140 Compliance with general provisions.**

The terms of Chapter 5.04 of this code are fully applicable to this chapter.

(Ord. 17/96 (part): prior code § 6-17.14)

## **Chapter 5.24 BINGO AND RAFFLES**

### **Sections:**

#### **5.24.010 Purpose—Administration.**

This chapter is for the purpose of regulating all games of chance held, operated or conducted within the borough pursuant to the Acts of the Legislature of the state of New Jersey, known as the "Bingo Licensing Law" and the "Raffles Licensing Law," and in accordance with the rules and regulations issued or to be promulgated by the "Legalized Games of Chance Control Commission" in the Department of state of the state of New Jersey. All applications, licenses and proceedings in connection therewith shall be subject to the provisions of the Acts and the rules and regulations and any laws, rules and regulations hereafter enacted, and shall be further subject to the provisions of this chapter.

(Prior code § 6-7.1)

### **5.24.020 Regulations.**

- A. Hours. A licensee authorized by law may hold, operate or conduct any game of chance at the place where the game of chance is being conducted under any license on Sunday between the hours of 12:01 a.m. and two a.m.
- B. Organizations Eligible for License. No license to conduct a game of chance as authorized by law shall be issued to any organization not having a bona fide situs established in good faith within the state of New Jersey and actively engaged in serving one or more of the authorized purposes as defined by the rules and regulations of the Legalized Games of Chance Control Commission.
- C. Games of Chance During Elections Prohibited. No game of chance shall be conducted under any license at any time during which a general, municipal, primary or special election or board of education election is being held while the polls are open for voting at the election.

(Prior code § 6-7.2)

## **Chapter 5.32 CHARITABLE SOLICITATIONS**

### **Sections:**

### **5.32.010 Definitions.**

As used in this chapter:

"Charitable" and "philanthropic" means and includes patriotic, religious, service, welfare, benevolent, educational, civic or fraternal corporations, organizations, associations, societies and the like.

"Contribution" means and includes alms, food, clothes, money, subscription or property of any nature or kind.

"Solicit" and "solicitation" means the request, directly or indirectly, of money, credit, property, financial assistance and other things of value on the plea or representation that such money, credit, property, financial assistance or other things of value will be used for a charitable and philanthropic purpose as defined in this chapter. "Solicitation" shall be deemed to be complete when made, whether or not the person making the solicitation receives any contribution.

(Prior code § 6-10.1)

### **5.32.020 Permit required—Exemption.**

No person or organization shall solicit charitable and philanthropic contributions within the borough without first having obtained a permit authorizing such public solicitations; provided, however, that the provisions of this chapter shall not apply to any established person or organization authorized and not operated for the pecuniary profit of any person if the solicitations by such person or organization are conducted among the members thereof or if the solicitations are in the form of collections or contributions at the regular assembly or meetings of any such person or organization.

(Prior code § 6-10.2)



### **5.32.030 Application for permit.**

Application for a permit to make a public solicitation of funds by charitable and philanthropic organizations shall be made to the borough clerk upon forms provided by the borough.

In addition to the application herein stipulated in Section 5.04.020, the application herein required shall contain the following information:

- A. The purpose for which the solicitation is to be made and the estimated amount of funds proposed to be raised thereby;
- B. A specific statement showing the need for the solicitation;
- C. The name and address of the person who will be in direct charge of conducting the solicitation;
- D. The names and addresses of all persons making the proposed solicitation;
- E. A brief outline of the method to be used in conducting the solicitation;
- F. The time and dates when the solicitation shall be made, giving preferred dates and alternate dates for the beginning and ending of the solicitation;
- G. The amount of any wages, fees, commissions or expenses to be paid to any person or organization for conducting the solicitation and the names and addresses of all such persons;
- H. A full statement of the character and extent of the charitable and philanthropic work conducted by the applicant within the borough;
- I. A statement to the effect that if the permit is approved, it will not be used or represented in any way as an endorsement of the proposed solicitation by the borough or by any of its officers or departments.

If, while the application is pending or during the term of any permit granted thereunder, there is any change in fact, policy or method that would alter the information given in the application, the applicant shall notify the clerk in writing within twenty-four (24) hours after the change.

(Prior code § 6-10.3)

### **5.32.040 Investigation and approval of application.**

The investigation required under Section 5.04.030 shall be limited to that sufficient for the chief of police to make a determination that the person or organization is bona fide. Upon making such a determination, the chief of police shall approve the application and notify the borough clerk.

(Prior code § 6-10.4)

### **5.32.050 Approval—Disapproval of application.**

If the application shall be approved, the clerk shall immediately notify the applicant of the approval and issue the permit without charge. If the application is disapproved, a notification of that decision shall immediately be sent to the applicant by the clerk stating the reasons for the disapproval.

(Prior code § 6-10.5)

### **5.32.060 Appeal of disapproval.**

If the application has been disapproved, the applicant may appeal the decision to the council by filing a written notice of appeal with the clerk within fourteen (14) days after the notice of disapproval. The council shall hold its hearing within ten (10) days thereafter, and the decision of the council shall be final.

(Prior code § 6-10.6)

### **5.32.070 Calendar of solicitations.**

It shall be the duty of the clerk to keep a current calendar of approved solicitations to be conducted within the borough.

The borough clerk shall have the right to propose alternate dates for the solicitation if the requested dates should conflict with other solicitations being conducted within the borough.

(Prior code § 6-10.7)

### **5.32.080 Fee.**

There shall be no fee payable to the borough for any charitable and philanthropic solicitation permit.

(Prior code § 6-10.8)

### **5.32.090 Time limit.**

No permit may grant the right to solicit for a period longer than ninety (90) consecutive days.

(Prior code § 6-10.9)

### **5.32.100 Written receipts required.**

Any person or organization receiving money or any other thing for a value of one dollar (\$1.00) or more from any contributor under a solicitation made pursuant to this chapter shall give to the contributor a written receipt signed by the solicitor showing the date and the amount received, provided, however, that this chapter shall not apply to any contribution collected by means of a closed box or receptacle used in solicitation where the use thereof has been approved by the borough where it is impractical to determine the amount of each contribution.

(Prior code § 6-10.10)

### **5.32.110 Regulation of hours of solicitation.**

All solicitations conducted under the authority of this chapter shall take place between the hours of nine a.m. and five p.m., and no solicitations shall be conducted on Sundays or holidays. Any person or organization desiring to solicit at hours other than those stated herein shall make special request therefor on their application, and this special request shall be approved or disapproved by the mayor and council. If approval is given for the solicitation to be held at other than the hours stated in this chapter, the approval shall be plainly stamped on the permit issued by the clerk.

(Prior code § 6-10.11)

## Chapter 5.36 DISTRESS SALES

### Sections:

#### **5.36.010 License required.**

No person shall conduct within the borough a sale of goods, wares and merchandise which is advertised, held out or represented or which are advertised, held out or represented to the public by any means directly or by implication as forced sales at reduced prices or as insurance, bankruptcy, mortgage foreclosure, insolvency, removal, loss or expiration of lease or closing out sales or as assignees', receivers' or trustees' sales or as sales of goods distrained or as sales of goods damaged by fire, smoke or water, except any sale which is to be held under a judicial order, judgment or decree or a writ issuing out of any court or to enforce any lawful lien or power of sale whether by judicial process or not or by a licensed auctioneer, unless such person shall first comply with the provisions of this chapter.

(Prior code § 6-6.1)

#### **5.36.020 Declaration as to goods.**

Before any sale as described in Section 5.36.010 or any offering for such sale is made, the person making the sale and the owner of the goods and wares involved or both if they are not the same shall make a declaration to the clerk under oath of the number of days they propose to engage in the sale, together with a specific statement as to the location of the personal property, goods, wares and merchandise to be advertised and sold, the location at which the sale is to be conducted and a statement under oath that the personal property, goods, wares and merchandise to be sold is personal property, goods, wares and merchandise which is presently on hand and in the borough and that none of the goods, wares and merchandise to be advertised in the sale or sold by virtue of any license granted hereunder shall from the date of the declaration be hereafter brought into the borough or located in the store or building where the sale is going to be conducted.

(Prior code § 6-6.2)

#### **5.36.030 License fee.**

The license fee shall be one hundred dollars (\$100.00).

(Prior code § 6-6.3)

#### **5.36.040 Duration of license.**

The initial license shall be issued for ninety (90) days. Upon filing another declaration as provided in Section 5.36.020, an additional thirty (30)-day extension may be granted by the clerk, provided that an additional fifty-dollar (\$50.00) fee is paid.

(Prior code § 6-6.4)

#### **5.36.050 Application.**

In addition to the requirements of Section 5.04.020, the applicant shall furnish the following:

- A. The name of the owner of the property to be sold;
- B. The quantity and kind of property to be sold;

- C. The names and addresses of the sellers of the property to be sold;
- D. The location of the stock at the time of application.

(Prior code § 6-6.5)

### **5.36.060 Service of process.**

Before any license shall be issued, the applicant shall file with the licensing official an instrument in writing nominating and appointing the clerk his or her or their true and lawful agent with full power and authority to acknowledge service or notice of process for and on behalf of the applicant with respect to any matters connected with or arising out of the license; and the same shall contain recitals to the effect that the applicant consents and agrees that service of any notice of process may be made upon the agent and when so made shall be as valid and official as if personally served upon the applicant according to the laws of this or any other state and waiving all claim or right of error by reason of such acknowledgment of service or manner of service upon the agent.

(Prior code § 6-6.6)

## **Chapter 5.40 GARAGE SALES**

### **Sections:**

### **5.40.010 Definitions.**

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

"Garage sale" means and includes all sales entitled "garage sale," "lawn sale," "yard sale," "attic sale," "rummage sale," or any similar casual sale of tangible personal property which is advertised by any means whereby the public at large is or can be made aware of the sale. Such sales are an occasion whereby used items owned by the resident of the premises are offered for sale on the premises.

"Goods" means and includes any goods, or other property capable of being the object of a sale regulated hereunder.

"Person" means and includes individuals, groups, partnerships, corporations and other voluntary associations.

(Prior code § 6-11.1)

### **5.40.020 License required.**

It shall not be lawful for any person to carry on or conduct a garage sale without first having obtained a license to do so from the borough clerk.

(Prior code § 6-11.2)

### **5.40.030 Application for license.**

The person making application for a garage sale shall file a completed application with the borough clerk at least two days before the first day of the proposed sale in order to provide adequate time for the processing of the license. An application for a license shall be made on forms furnished by the borough clerk and shall be accompanied by payment of the required license fee. The information to be submitted with the license shall include the following:

- A. The name, address and telephone number of the person conducting the sale;
- B. The name, address and telephone number of the owner of the property on which the sale is to be conducted;
- C. The location at which the sale is to be conducted;
- D. The dates of the proposed sale and the hours of sale;
- E. The dates and nature of any past sales by the applicant or at the proposed sale location within the past twelve (12) months;
- F. Whether or not applicant has been issued any other vendor's license by any other governmental agency;
- G. Such other information as the clerk deems necessary to properly process the application; and
- H. An affirmation or sworn statement by the person signing the application that the information as given is complete and truthful.

(Prior code § 6-11.3)

#### **5.40.040 Fees.**

The fee for the issuance of a license for a garage sale shall be five dollars (\$5.00) per day payable to "Borough of Freehold" and delivered to the clerk with the application.

(Prior code § 6-11.4)

#### **5.40.050 Designated hours of sale.**

No garage sale shall be conducted before eight a.m. nor after six p.m.

(Prior code § 6-11.5)

#### **5.40.060 License restrictions.**

- A. The license shall be issued only to premises upon which a residential dwelling is located, it being the intention to prohibit garage sales on vacant lots and further to limit the issuance of the licenses to specified premises rather than to any individual. The license may be issued to any premises only twice within any twelve (12) month period, and the license shall be issued for no more than two consecutive calendar days except with the approval of mayor and council, the license may be issued for three consecutive calendar days. Furthermore, no person shall directly or indirectly conduct a garage sale at any premises within the borough more than twice in any twelve (12) month period.
- B. Nonprofit charitable, religious, educational and other civic organizations may be allowed more than two licenses within any twelve (12) month period with the approval of the mayor and council and for good cause shown.
- C. Any person to whom a license is granted shall be required to exhibit such license whenever called upon to do so.

(Prior code § 6-11.6)

#### **5.40.070 Regulations.**

- A. No display of items for sale at any garage sale shall be displayed on the sidewalk; between the sidewalk and curb; or within ten (10) feet of the sidewalk on the applicant's property; provided, however, the borough clerk in writing may waive this request upon a showing by the applicant that: (1) space for the display of items is not otherwise reasonably available; and (2) that the granting of the waiver will not create any potential safety problem.
- B. Every license for a garage sale shall be valid and remain in effect for the day or dates issued and shall apply only to the person to whom granted and shall not be transferable.

(Prior code § 6-11.7)

#### **5.40.080 Signs.**

- A. All persons are prohibited from making, causing to be made or erecting any signs to be used in conjunction with any sale under this chapter other than as authorized herein.
- B. No sign concerning the proposed sale shall be displayed more than five days prior to the proposed sale.
- C. No signs shall be posted or permitted on public or utility poles; on trees located off the premises licensed for the sale; nor at any location that will create any potential safety problem.
- D. Any sign concerning the sale shall be removed within twelve (12) hours of the conclusion of the sale.

(Prior code § 6-11.8)

#### **5.40.090 Exceptions.**

The provisions of this chapter shall not apply to or affect the following persons or sales:

- A. Persons selling goods according to an order or process of a court;
- B. Persons acting in accordance with their duties and powers as public officials;
- C. Persons selling or advertising for sale an item or items of personal property which are specifically named or described in the advertisement and which items do not exceed five in number.

(Prior code § 6-11.9)

#### **5.40.100 Enforcement.**

- A. This chapter shall be enforced by the police department and code enforcement office of the borough. It shall be the duty of the chief of police and the code enforcement office, or their designated agent, to investigate any violation of this chapter.
- B. The person to whom a license is issued and the owner or tenant of the premises on which such sale or activity is conducted shall be jointly and severally responsible for the maintenance of good order and decorum on the premises during all hours of such sale or activity. No such person shall permit any loud or boisterous conduct on the premises nor permit vehicles to impede the passage of traffic on any roads or streets or interfere with the orderly passage of pedestrian traffic on sidewalks in the area of such premises. In order to maintain the public health, safety and welfare, all such persons shall obey the orders of any member of the police department, including orders to terminate the sale.

(Prior code § 6-11.10)

#### **5.40.110 Violations—Penalties.**

Any person convicted of violating any provision of this chapter shall be subject to a fine not less than one hundred dollars (\$100.00) nor exceeding five hundred dollars (\$500.00) for each violation. Each day that such violation shall continue shall be considered a separate violation.

(Ord. 2004/26 § 9; prior code § 6-11.11)

### **Chapter 5.44 RESERVED<sup>1</sup>**

### **Chapter 5.48 JEWELRY, PRECIOUS METALS AND SECONDHAND GOODS DEALERS<sup>2</sup>**

#### **5.48.010 Purpose and intent.**

The purpose and intent of this chapter is to assist law enforcement officials and victims of crime in recovering stolen precious metals and other secondhand goods by requiring minimum identification, reporting, maintenance, and distribution criteria for licensed dealers in these goods.

No person shall use, exercise, or carry on the business, trade, or occupation of the buying, selling, or pawning of precious metals or other secondhand goods without complying with the requirements of this chapter in the exact manner described herein.

(Ord. No. 2016/1, § 1, 3-21-16)

#### **5.48.020 Definitions.**

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

"Acceptable identification" means a current valid New Jersey Driver's License or Identification Card, a current valid photo driver's license issued by another U.S. state, a valid United States Passport, or other verifiable U.S. government-issued identification, which will be recorded on the receipt retained by the dealer and subsequently forwarded to the local police department on request.

"Administrative hold" means an order issued by a police officer, to hold on site, certain merchandise, obtained through a transaction covered under this chapter, and not to dispose of said property until a police investigation is completed and the property hold is released.

"Business" means the activities of those persons engaged in the purchase and/or subsequent sale of commodities for financial gain.

"Dealer" means any person, partnership, limited liability company, corporation, or other entity who, either wholly or in part, engages in or operates any of the following trades or businesses: the buying for purposes of

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<sup>1</sup>Editor's note(s)—Ord. No. 2015/14, adopted Nov. 2, 2015, repealed Ch. 5.44 in its entirety. Former Ch. 5.44, §§ 5.44.010—5.44.050, pertained to gasoline service stations and derived from prior code § 6-8.1—6-8.5; and Ord. 24/95 § 1.

<sup>2</sup>Editor's note(s)—Ord. No. 2016/1, § 1, adopted March 21, 2016, repealed Ch. 5.48 in its entirety and enacted a new Ch. 5.48 to read as set out herein. Former Ch. 5.48, §§ 5.48.010—5.48.070, pertained to jewelry, precious metals and secondhand dealers and derived from Ord. No. 2013/1, § 1, adopted April 15, 2013.

resale of precious metals, jewelry, or other secondhand goods as defined herein; pawnbrokers as defined herein; itinerant businesses as defined herein. For the purposes of this chapter, transient buyers, as defined herein, are subject to the same licensing and reporting requirements as any other dealers.

"Itinerant business" means a dealer who conducts business intermittently within the municipality or at varying locations.

"Municipal clerk" means the statutory officer whose duties are defined in N.J.S.A. 40A:9-133 and may refer to the duly appointed clerk of the "city," "town," "township," "village," or "borough."

"Pawnbroker" means any person, partnership, association or corporation: lending money on deposit or pledge of personal property, other than chooses in action, securities, or printed evidences of indebtedness; purchasing personal property on condition of selling it back at a stipulated price; or doing business as furniture storage warehousemen and lending money on goods, wares or merchandise pledged or deposited as collateral security.

"Precious metals" means gold, silver, platinum, palladium, and their alloys as defined in N.J.S.A. 51:5-1 et seq. and N.J.S.A. 51:6-1 et seq. or items comprised of same including gems, precious and semi-precious stones and all forms of previously owned jewelry.

"Public" means individuals and retail sellers, not to include wholesale transactions or transactions between other merchants.

"Reportable transaction" means every transaction conducted between a dealer and a member of the public in which precious metals, jewelry, or any other secondhand goods as defined herein are purchased or pawned. It shall also include every such transaction between dealers, and other businesses dealing in secondhand goods.

"Secondhand goods" means used goods such as antiques, gold, silver, platinum, or other precious metals, jewelry, coins, gemstones, gift cards, any tools, telephones, typewriters, word processors, GPS devices, computers, computer hardware and software, television sets, radios, record or stereo sets, electronic devices, musical instruments, sporting goods, automotive equipment, collectibles, game cartridges, DVDs, CDs, and other electronically recorded material, firearms, cameras and camera equipment, video equipment, furniture, clothing, and other valuable articles. For the purposes of this chapter, secondhand goods shall not include goods transacted in the following manner:

1. Judicial sales or sales by executors or administrators;
2. Occasional or auction sales of household goods sold from private homes;
3. Auctions of real estate;
4. The occasional sale, purchase, or exchange of coins or stamps by a person at his permanent residence or in any municipally owned building who is engaged in the hobby of collecting coins or stamps and who does not solicit the sale, purchase, or exchange of such coins or stamps to or from the general public by billboard, sign, handbill, newspaper, magazine, radio, television, or other form of printed or electronic advertising.

"Secondhand dealer," "pawn shop", means any person or business entity who shall engage in or operate the trade or business of purchasing and/or selling used goods such as precious and semi-precious stones, used jewelry, coins, any tools, television sets, radios, record or stereo sets, electronic devices, musical instruments, sporting goods, automotive equipment, collectibles, game cartridges, DVDs, CDs, and other electronically recorded material, firearms, cameras and camera equipment, video equipment either as a primary business or in connection with another business.

"Secondhand dealer," "pawn shop," "precious metal dealer" shall not be deemed to include:



1. Judicial sales or sales by or on behalf of executors or estate administrators.
2. Occasional or auction sales of household goods sold from private homes.
3. Auction of real estate.
4. The occasional sale, purchase or exchange of coins, stamps or collectibles by a person at his other permanent residence who is engaged in the hobby of collecting coins or stamps and who does not solicit the sale, purchase or exchange of such coins or stamps to or from the general public by billboard, sign, handbill, newspaper, magazine, radio, television, social media or other form of printed or electronic advertising.
5. Thrift shops operated by or for the benefit of hospitals, churches, schools or charitable organizations.
6. Stores devoted to the sale of secondhand clothing.

"Seller" means a member of the public who sells or pawns used goods such as precious metal, jewelry, or other secondhand goods to a dealer.

"Transient buyer" means a dealer, as defined herein, who has not been in a registered retail business continuously for at least six months at any address in the municipality where the dealer is required to register or who intends to close out or discontinue all retail business within six months.

(Ord. No. 2016/1, § 1, 3-21-16)

#### **5.48.030 License requirement.**

- A. No person, partnership, limited liability company, corporation, or other entity shall engage in the business of buying, selling, or pawning of precious metals or other secondhand goods, as defined above, within the jurisdiction of the municipality, without having first obtained a license therefore from the municipal clerk, which license shall bear a number issued by the municipal clerk. The application for a license to the municipal clerk shall set forth the name, date of birth, and address of the dealer, whether or not he or she is a citizen of the United States, and whether or not he or she has ever been convicted of any crime(s), disorderly person's offense(s), or municipal ordinance violation(s), and the date(s) thereof, along with information pertaining to the structure and history of the business to be licensed.
- B. Advertising in any print or electronic media or by sign that any of those articles or secondhand goods referred to in Section 5.48.010 above are being bought in any location within the municipality shall constitute engaging in business as a dealer of secondhand goods for purposes of this chapter. No person, partnership, limited liability company, corporation or other entity shall place or cause to be placed any advertisement for purchase of such articles or goods without stating in the advertising the license number issued to a person or entity by the municipality. In any print advertisement, the license number shall appear in type no smaller than eight points in the lower-right-hand corner of the advertisement. In any advertisement in electronic media, the license number shall be visually or audibly stated. Failure to state or indicate the license number shall be a violation of this chapter and shall be subject to the penalties established herein.
- C. This chapter shall not apply to purchases made by dealers from wholesalers or other legitimate suppliers, but shall only apply to those purchases made from the public which includes other retailer sellers as defined herein. The dealer shall keep records of all wholesale purchases for a period of six months from the date of such purchase, which records shall be opened to investigation by the Freehold Borough Police Department, or any sworn law enforcement officer in the performance of their duties.
- D. The following are exempt from the requirements of this chapter:

1. Garage sales: As used in this section, a "garage sale" is the sale of used personal property by the lawful residents of residentially zoned property that is not conducted on a periodic or ongoing basis. A garage sale shall be deemed to be periodic or ongoing if a garage sale is held by the lawful resident of residentially zoned property more than five days in any consecutive ninety-day period;
2. Sales or purchases which are regulated by the licensing laws of the State of New Jersey, including automobile dealers, used parts dealers and automotive parts recyclers;
3. Antique dealers: As used in this section, an antique dealer is defined as one who derives seventy-five (75) percent of his/her gross sales each year from the sale of antiques and/or primitives. As used in this section, an "antique" or "primitive" is defined as an old and valuable art object or article no longer in production that is at least fifty (50) years old. As used in this section, the term "sale" does not include an exchange, trade, or swap of items.

(Ord. No. 2016/1, § 1, 3-21-16)

#### **5.48.040 Application process for dealers; approval or denial.**

- A. Upon receipt of an application completed pursuant to this chapter, the municipal clerk shall refer such application to the chief of police, who shall make an investigation of the prospective licensee, pursuant to this chapter for the purpose of determining the suitability of the applicant for licensing. The investigation shall include, but shall not be limited to, the following:
  1. The experience of the applicant in the business of purchase and sale of those articles or goods referred to hereinabove, although nothing in this section shall be construed to warrant denial of a license solely on the basis of lack of experience;
  2. The reputation of the applicant for fair dealing in the community, which shall be made among credible sources, which sources shall be disclosed to the applicant in the event of a denial of any license;
  3. Any criminal record of the applicant including any past convictions for any crime(s), disorderly person's offense(s), or municipal ordinance violation(s) within this or any other jurisdiction. The chief of police may, as part of the application process, require a fingerprint criminal background check through the Federal Bureau of Investigation, Criminal Justice Information Services Division, which may require an additional fee from the applicant.
  4. The type of operation contemplated to be conducted by the applicant, particularly whether the business is to be operated from a fixed location, whether it is to be conducted from a location primarily devoted to the purchase and sale of precious metal or other secondhand goods, and other factors bearing on whether the licensed business will be of a fixed and permanent nature. This section shall not be construed to require denial of any license solely on the grounds that the business is not from a fixed location or that the applicant is a transient buyer or itinerant business, however applicants who fall under the category of a transient buyer or itinerant business must state with specificity on the license application the business address where transaction records required herein will be stored as well as the location where purchased goods will be retained during the mandatory inspection period required herein.
- B. The chief of police shall, upon completion of the investigation, recommend "grant" or "denial" of the license to the mayor and council and municipal clerk, who shall grant or deny the license. Any recommendation of the chief of police shall be in writing and, in the case of a recommendation of denial, shall state fully and specifically the reasons for said recommendation. The clerk shall place the approval or denial of the license on the next governing body agenda. Approval shall be contingent upon the receipt of a bond as required by this chapter.

C. Grounds for recommending denial of license may include reliable information indicating that the applicant has in the past engaged in fraudulent or deceptive business practices in a business identical to or similar to a dealer in secondhand goods. A license may be denied if the investigation reveals a conviction of the applicant or any of its principal officers or employees of any crime(s), disorderly persons offense(s) in which deceit or misrepresentation is an element; or any conviction of any crime(s), disorderly persons offense involving theft or the receiving of stolen goods, regardless of whether the applicant was a principal, accessory before the fact, after the fact, or a co-conspirator; or any prior municipal ordinance violation(s) by the applicant or any of its principal officers or employees in this or any other jurisdiction. A license may be denied if the applicant fails to demonstrate an ability to satisfactorily comply with the electronic reporting requirements specified herein, the retention and inspection requirements specified herein, or any other portion of this chapter.

D. No license shall be assignable by the dealer.

(Ord. No. 2016/1, § 1, 3-21-16)

#### **5.48.050 Appeal and hearing.**

If an application has been denied, the applicant may appeal the denial to the mayor and council by filing a notice of appeal with mayor and council within ten (10) days following receipt of the notice of denial. The notice of appeal shall specify the grounds upon which the applicant shall rely in contending that the denial was made in error. A hearing of the appeal shall be held by the mayor and council, or by a three-person panel appointed by the mayor and council, within thirty (30) days after receipt of the notice of appeal. The applicant shall be afforded at least ten (10) days' notice of the hearing date and may appear with counsel and call and cross-examine any witnesses and present such evidence as is relevant to the issue. Mayor and council or the appointed panel shall notify the applicant in writing of their decision within ten (10) days following the hearing date.

(Ord. No. 2016/1, § 1, 3-21-16)

#### **5.48.060 Identification of seller; recordkeeping requirements for dealers.**

For every reportable transaction between a dealer and the public, a dealer and another dealer or dealer and another secondhand goods business, the dealer shall be required to do as follows:

- A. Require of each person selling or pawning precious metals or other secondhand goods acceptable identification as defined above.
- B. Require each seller to execute a "declaration of ownership," which shall contain the following certification: "My signature confirms that I am the sole legal owner of and am legally authorized to sell the goods being sold. By signing below I certify that I did not obtain and do not possess the identified goods through unlawful means. I am the full age of eighteen years and the identification presented is valid and correct."
- C. Record and issue to each person selling or pawning such goods on a sequentially numbered receipt:
  1. The name, address, and telephone number of the purchaser, including the clerk or employee of the licensee making the purchase;
  2. The name, address, date of birth, and telephone number of the seller or sellers;
  3. A photographed recording of the seller in a format acceptable to the chief of police, along with a physical description of the seller, including height and weight (approximate), hair color, eye color, facial hair, if any, etc.;

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4. A photographed recording of the seller's presented acceptable identification, in a format acceptable by the chief of police;
  5. A photographed recording of all items sold in a format acceptable by the chief of police. When photographing, all items must be positioned in a manner that makes them readily and easily identifiable. Items should not be grouped together when photographing or imaging. Each item should have its own photograph;
  6. The receipt number;
  7. A detailed, legible description of the item(s) and the manufacturer and model of the item(s) if known; in the case of jewelry, the descriptions must include style, length, color, design, and stones, if any; any identifying marks, including numbers, dates, sizes, shapes, initials, names, monograms, Social Security Numbers engraved thereon, serial numbers, series numbers, or any other information, which sets apart the particular object from others of like kind;
  8. The price paid for the purchase or pawn of the item(s);
  9. If precious metals, the net weight in terms of pounds Troy, pennyweight (Troy) or kilograms/grams; fineness in terms of karats for gold, and sterling or coin for silver, in accordance with N.J.S.A. 51:5-1, N.J.S.A. 51:6-1 et seq.;
  10. The time and date of the transaction.
- D. The information outlined in subsection C. above, must additionally be electronically documented through the use of an electronic database system authorized by the chief of police. Installation and training in this software will be made mandatory as of the effective date of this chapter and licensing will be conditional upon compliance with proper use of the system as described herein. These records shall be subject to the inspection of any authorized police officer or any sworn law enforcement officer acting in the performance of their duty as set forth in subsection F. below. Through the use of applicably required computer equipment, and using the electronic format approved by the chief of police, every dealer shall enter all reportable transactions into the electronic database by the end of the close of business on the same date as the purchase or receipt of property for pawn or consignment. The information entered must contain all pertinent information outlined in subsection C. above.
- E. In the event of a database failure, or dealer's computer equipment malfunction, all transaction information is required to be submitted on paper forms approved by the chief of police within twenty-four (24) hours from the date of purchase. In the event that paper forms are used, the dealer is responsible to enter all transaction information set forth in subsection C. above into the database as soon as possible upon the dealer's equipment being repaired or replaced, or the database coming back into service. Failure by the dealer to properly maintain computer equipment in a reasonable fashion, or failure by the dealer to replace faulty computer equipment, may result in the dealer being cited for a violation of this chapter and subsequently being subject to the penalties for doing so including revocation of the dealer's license.
- F. It shall be the requisite duty of every dealer, and of every person in the dealer's employ, to admit to the premises during business hours any member of the police department to examine any database, book, ledger, or any other record on the premises relating to the reportable transactions of precious metals or other secondhand goods, as well as the articles purchased or received and, where necessary, relinquish custody of those articles. Itinerant businesses and transient buyers will be responsible for notifying the chief of police of the address where these records and articles will be stored.

(Ord. No. 2016/1, § 1, 3-21-16)

#### **5.48.070 Retention; revocation; other restrictions.**

- A. All precious metals and other secondhand goods purchased, received for pawn, or received for consignment as described above, are to be made available for inspection by the chief of police or designee thereof at the designated business address for a period of at least seven calendar days from the date the transaction information is actually reported to the chief of police in the approved manner described above except for jewelry, which must be maintained for at least ten (10) business days. All precious metal or other secondhand goods subject to inspection must remain in the same condition as when purchased or received for pawn and shall not be sold, disposed of, changed, modified, or melted by the dealer until the seven-day retention period has expired. Itinerant businesses and transient buyers will be responsible for notifying the chief of police of the location where the purchased item(s) are being held.
- B. Upon probable cause that goods held by a dealer are stolen, and providing that the seller signed the mandatory statement required herein upon the sale of those goods, a law enforcement officer with jurisdiction should charge the seller with theft by deception under N.J.S.A. 2C:20-4 on behalf of the dealer, who shall be considered the "victim" of the offense for the purposes of N.J.S.A. 2C:43-3. The officer shall seize the goods, provide the dealer with a receipt, and issue a criminal complaint against the seller for theft by deception and any other criminal charges for which the officer has probable cause that the seller has committed. If convicted of theft by deception and if so found by an order of a court of valid jurisdiction, the seller will be responsible for providing restitution to the dealer under N.J.S.A. 2C:44-2 for the amount paid by the dealer to the seller for the stolen goods.
- C. If market conditions would create a hardship on the dealer by holding precious metals or other secondhand goods for such period, the dealer may present the property to the chief of police in order that it may be photographed and, if deemed necessary by the chief of police, an investigation may be implemented. The chief of police shall have the authority to grant the dealer a waiver of the requirement under this section.
- D. In addition to all other reporting requirements, every dealer shall maintain for at least five years, a written record of all purchases of precious metals and other secondhand goods in the form prescribed herein.
- E. No dealer shall purchase any item covered by this chapter from any person under the age of eighteen (18) or in the absence of providing prior notification of such purchase to the chief of police or business designee identifying the individual from whom such purchase is to be made and the item to be purchased.
- F. Suspension. The mayor and council or a designee thereof is hereby empowered to temporarily suspend for cause any dealer's license and rights to operate hereunder. This penalty shall be in addition to any fines and penalties the dealer may incur pursuant to this chapter.
  - 1. Grounds for suspension. The following shall constitute grounds for suspension: violation of any provisions of this chapter, including failure to comply with any training or fees associated with the electronic database software system in use by the municipality; violation of any other statute, regulation, or local ordinance; or any other illegal, improper, or fraudulent activity.
  - 2. Procedure for suspension. Upon determination that appropriate grounds exist and that a suspension is warranted, the mayor and council shall direct the borough clerk or a designee thereof to issue a written notice of suspension of license to the offending dealer and to the chief of police, which shall set forth the grounds for the suspension and notify the dealer of his or her right to appeal. A temporary suspension shall issue immediately, pending the outcome of any appeal taken. Suspended dealers must immediately cease engaging in the business of purchasing for resale, receiving for pawn, and/or selling of precious metals and/or other secondhand goods in the municipality until reinstatement.
  - 3. Reinstatement. Suspended dealers may be reinstated only when the grounds leading to the suspension have, in the determination of the mayor and council, been cured, corrected, or appropriately rectified;

- or if reinstatement is deemed appropriate by the three-person panel appointed by the mayor and council, upon the timely filing of an appeal.
- G. Revocation. A license issued under this chapter may be revoked by the mayor and council upon written recommendation from the chief of police or the chief's designee that the dealer is no longer qualified, capable or competent to comply with the requirements of this chapter. This penalty shall be in addition to any fines and penalties the dealer may incur under this chapter.
1. Grounds for revocation. The following shall constitute grounds for revocation: a third violation under this chapter; a second violation under this chapter less than one year after an earlier violation under this chapter; conviction for a criminal offense within this or any jurisdiction; or multiple violations of any other regulations or local ordinances within this or any jurisdiction.
  2. Procedure for revocation. Upon a determination that appropriate grounds exist and that a revocation is warranted, the chief of police or the chief's designee shall so report to the mayor and council in writing. A temporary suspension will immediately and automatically issue, if one is not already in effect, pending the outcome of the charge. A three-person panel, appointed by the chief of police, shall review the stated grounds for revocation and the panel shall issue an appropriate disposition of suspension, revocation, or reinstatement. If the panel determines that revocation is the appropriate disposition, it shall set forth the grounds for the same in writing in the form of a notice of revocation, which shall be provided to the dealer. The notice shall advise the dealer of the right to appeal. If the panel determines that suspension is the appropriate disposition, it shall provide the dealer with a notice of suspension that shall advise the dealer of the right to appeal. Following revocation, the dealer must relinquish his or her license and must immediately and indefinitely cease operating as a dealer of precious metals or other secondhand goods within the municipality.
- H. Appeal. The licensee may appeal an issuance of a suspension or revocation to the mayor and council by filing a notice of appeal with mayor and council within ten (10) days following receipt of the notice of denial. The notice of appeal shall specify the grounds upon which the applicant shall rely in contending that the suspension or revocation was made in error. A hearing of the appeal shall be held by the mayor and council, or by a three-person panel appointed by the Mayor and Council, within thirty (30) days after receipt of the notice of appeal. The applicant shall be afforded at least ten (10) days' notice of the hearing date and may appear with counsel and call and cross-examine any witnesses and present such evidence as is relevant to the issue. Mayor and council or the appointed panel shall notify the applicant in writing of their decision within ten (10) days following the hearing date.
- I. A dealer shall have the right to change the location of the licensed business, provided that he or she notifies the municipal clerk, in writing, of the street address of said new location.

(Ord. No. 2016/1, § 1, 3-21-16)

#### **5.48.080 Bond.**

Each licensee covered under this chapter shall deliver a bond to the municipal clerk executed by the applicant as principal and executed by a surety company authorized to do business under the laws of the State of New Jersey as surety. The bond shall be subject to review and approval by the municipal attorney, as defined in N.J.S.A. 40A: 9-139, and shall be in the penal sum of ten thousand dollars (\$10,000.00), conditioned for the due and proper observance of and compliance with the provisions and requirements of all ordinances of the municipality in force or which may be adopted respecting the conduct of this business and conditioned also that the bond shall be and remain for the benefit of any person or persons who shall have received judgment against the dealer licensed under this chapter, which damage shall be established by a judgment of a court of proper jurisdiction. Said bond shall contain the following language: "The obligation of this bond shall, in addition to the

Borough of Freehold, be and remain for the benefit of any person who shall obtain a judgment against obligor as a result of damage sustained in operation pursuant to any license granted under this chapter." Said bond shall be kept for a minimum of one year from the date of issuance of license and must be renewed annually along with the license.

(Ord. No. 2016/1, § 1, 3-21-16)

#### **5.48.090 Fees; period of license validity.**

A nonrefundable fee for initial application and license for a pawnbroker or a dealer in precious metals or other secondhand goods, as covered under this chapter, is five hundred dollars (\$500.00). The annual renewal fee for a license is five hundred dollars (\$500.00). These fees include any costs the dealer must pay in relation to the mandatory electronic database system designated by the chief of police, as provided herein. Payments are to be made in the manner directed by the municipal clerk. A license is valid for a one-year period from the date of its issuance.

(Ord. No. 2016/1, § 1, 3-21-16)

#### **5.48.100 Violations and penalties.**

Violation of any provision of this chapter by any dealer shall, upon conviction thereof, be punished by a fine not in excess of the limitations of N.J.S.A. 40:49-5 or by a term of imprisonment or a period of community service not exceeding ninety (90) days in addition to a suspension or revocation of operating license as provided hereinabove. Each and every violation shall be considered a separate violation. Each violation shall result in an additional suspension period. Any person who is found guilty of violating the provisions of this chapter within one year of the date of a previous violation and who was fined for the previous violation may be sentenced by the court to an additional fine as a repeat offender and, in addition, may be subject to revocation proceedings as provided herein. The additional fine imposed as a repeat offender shall not be less than the minimum or exceed the maximum fine provided herein, and same shall be calculated separately from the fine imposed for the violation of this chapter.

(Ord. No. 2016/1, § 1, 3-21-16)

#### **5.48.110 Time limit for conformance.**

- A. Any person, partnership, limited liability company, corporation, or other entity engaging in the business of a pawnbroker, or a dealer in precious metals or other secondhand goods shall conform to the provisions of this chapter within ninety (90) days following the effective date of this chapter.
- B. All ordinances or parts of ordinances inconsistent herewith are hereby repealed.
- C. Nothing contained in this chapter is intended to replace any pre-existing statutory requirements governing pawnbrokers, as in N.J.S.A. 45:22-1 et seq., the sale of precious metals as in N.J.S.A. 51:6A-1 et seq., the sale of secondhand jewelry as in N.J.S.A. 2C:21-36 et seq., or any other statutory provision regarding any subject matter discussed herein.

(Ord. No. 2016/1, § 1, 3-21-16)

## **Chapter 5.52 JUNKYARDS**

### **Sections:**

### **5.52.010 License required.**

No person shall engage in the business or occupation of a junk shop keeper or junk dealer or motor vehicle junk dealer in or on any premises located in the borough without first having obtained a license therefor in accordance with the provisions of this chapter.

(Prior code § 6-5.1)

### **5.52.020 Definitions.**

As used in this chapter:

"Junk" means any old discarded or unused waste iron or other metal or substance, glass, paper, machine parts, accessories, discarded machinery or discarded machines in whole or in part, unregistered motor vehicles which are unfit for reconditioning or for sale for highway transportation, used parts of motor vehicles and any material commonly known and generally referred to as junk in the ordinary meaning of the word, acquired or collected commercially.

"Junk dealer" means any person who buys or otherwise acquires junk for commercial purposes within the borough or who collects and stores junk therein and shall include any auto-wrecking business, the sale of used automobile parts and the sale or storage of used lumber, used plumbing fixtures, and other used or secondhand article.

"Junkyard" means any lands within the borough on which junk is placed, collected, stored or kept.

(Prior code § 6-5.2)

### **5.52.030 Application.**

In addition to the information required by Section 5.04.020, the applicant shall furnish the following information:

- A. The detailed nature of the business to be conducted;
- B. If the applicant is not the owner of the site where the business is to be conducted, the owner's consent to the conduct of the business shall accompany the application;
- C. Every such application shall have attached thereto a sketch or drawing of the property at which the business is to be conducted showing thereon the names of all streets and the names of all property owners abutting or adjoining the premises or any part thereof and showing the dimensions of the property.

(Prior code § 6-5.3)

### **5.52.040 Procedure for license approval.**

Each application filed with the clerk as provided herein shall promptly be referred to the bureau of fire prevention, the chief of police and the administrative director of code enforcement. Each such agency shall promptly investigate and review the application to ensure complete compliance with all applicable state and local laws, rules and ordinances. The report shall be presented to the mayor and council not later than the second regular meeting following the filing of such application at which meeting the mayor and council shall hold a public hearing upon the application for the purpose of determining whether the applicant qualifies to receive the license. In those instances where the applicant is one for renewal, it shall be the responsibility of the applicant to demonstrate that the applicant has complied with the terms and provisions of all federal, state and local laws and



regulations which are applicable to the applicant's business operation. No licenses shall be issued by the clerk of the borough until the public hearing herein described has been held and a resolution authorizing issuance of the license adopted by the governing body of the borough. At the hearing, the applicant may be represented by an attorney and may preset such information in testimony in his or her behalf as the applicant shall deem fit. In the event that the mayor and council shall determine that the applicant should be denied a license, the reasons for the denial shall be set forth in a resolution adopted by the mayor and council.

(Prior code § 6-5.4)

#### **5.52.050 License limitation.**

There shall be only one licensed junk dealer in the borough at all times, at one time.

(Prior code § 6-5.5)

#### **5.52.060 Fence required.**

No junk dealer shall conduct his or her business in any junkyard as defined in this chapter at any point on the premises which shall be located nearer than fifty (50) feet from the center of any street or highway or nearer than fifty (50) feet to any of the side lines on the premises where the side lines are more than fifty (50) feet from the center of any street or highway which does not run parallel with or along the front of the premises, and the business may be so maintained and conducted in the permissible area of the premises only so long as the business is enclosed by a wooden fence at least eight feet in height and not less than one inch in thickness, which fence shall either be a solid fence or a picket fence at least eight feet in height, not less than one inch apart for each picket board that is eight feet in height and which fence shall be painted either green or white not less than every two years, and shall be so constructed that the business carried on within the permissible area shall not be visible from the exterior except only during the time that junk is being actually transported in the regular course of business or the owner, operator, agent, servant or employees of the business are gaining access to or making exit from the permissible area through an opening in the fence for the purpose which openings in the fence shall not be in excess of fifteen (15) feet in width and which openings shall not exceed more than one opening on each side of the permissible area of the premises so enclosed by the fence.

(Prior code § 6-5.6)

#### **5.52.070 Assignment and transfer.**

Assignment of the license is prohibited and any transfer to another location shall be endorsed upon the original license by the clerk of the borough after the adoption of a resolution by the mayor and council approving the transfer and the payment to the clerk of a transfer fee of twenty-five dollars (\$25.00).

(Prior code § 6-5.7)

#### **5.52.080 License fee.**

The annual license fee shall be six hundred fifty dollars (\$650.00). It is the express purpose of this license fee to defray the costs of administration of the licensing procedure and to generate reasonable revenues in excess of the actual cost of regulation and administration pursuant to the provisions N.J.S.A. 40:52-1.

(Ord. 2004/26 § 3 (part); prior code § 6-5.8)

### **5.52.090 Regulations.**

- A. No motor vehicle or junk shall be stored or dismantled with one hundred (100) feet of any dwelling house, except such dwelling house as may be situated on the licensed premises.
- B. No junk or refuse material shall be burned.
- C. Precaution shall be taken by each licensee to safeguard all inflammable, combustible or explosive materials from fire; and no licensee shall stack, pile or place junk upon the licensed premises in such manner as to create a fire hazard; and in addition, all gasoline, fuel or other explosive material shall be drained and removed from any motor vehicle within eight hours after it is received on any premises licensed as a junkyard conducted by the junk dealer located in the borough; and the gasoline, fuel or other explosive material shall be either removed from the premises or kept in a leakproof tank buried on the premises at a point not closer than one hundred (100) feet from any dwelling house and to a sufficient depth so that the top of the tank shall not be nearer to the ground level than two and one-half feet and which tank shall be located within the permissible portion of the premises.
- D. No junk shall be stacked, piled, placed or stored in such a fashion so that it shall be visible above the fence required by Section 5.52.060.
- E. No junk dealer shall conduct his or her business or occupation at any premises in the borough on a Sunday or at any other time other than between the hours of eight a.m. and six p.m.
- F. No licensee shall at anytime trade or make any purchase of any person under the age of seventeen (17) years.

(Ord. 36/95 § 2; prior code § 6-5.9)

### **5.52.100 Stolen property.**

Any licensee or his or her agent or servant who shall receive or be in possession of any goods, articles or things which may have been stolen or lost or alleged or supposed to have been stolen or lost shall upon demand to view the same present the same to any official of the borough, including police officers, health inspectors, members of the board of health, and any other law enforcement agency or agent therefor.

(Prior code § 6-5.10)

### **5.52.110 Inspection.**

All licensed premises shall be subject to inspection at all times by the council, the board of health, fire department, police department or any of its or their duly authorized agents, servants or employees; and every license shall be kept in a conspicuous place on the licensed premises and shall be produced and available for inspection by any of the officials mentioned in the chapter.

(Prior code § 6-5.11)

### **5.52.120 Records required.**

- A. Every junk dealer is required to keep a written book or record at the premises licensed which shall at all times be open to the inspection by any persons mentioned in this chapter and in which book the licensee shall currently and daily record the description of all articles purchased and the name and address of the person from whom the same was purchased.

- B. A video tape recording or recordings which depict(s) all persons and vehicles entering onto the property for the purpose of selling articles, and the articles being sold may be utilized in lieu of the requirements as set forth in subsection A of this. All video tapes shall show date and time and shall be maintained by the licensee for a period of sixty (60) days and shall be open to inspection by any of the persons mentioned herein.

(Ord. 36/95 § 1: prior code § 6-5.12)

### **5.52.130 Exemption.**

Nothing in this chapter shall apply to persons maintaining a licensed motor vehicle junk business or motor vehicle junkyard under the provisions of R.S. 39:11-1 to and including R.S. 39:11-11 as amended and supplemented.

(Prior code § 6-5.13)

## **Chapter 5.56 MASSAGE BUSINESSES**

### **Sections:**

### **5.56.010 License required for massage/bodywork establishment.**

No person, corporation or business entity shall operate any establishment or utilize any premises in the borough as and for a massage business, acupressure therapy, reflexology, bodywork therapy or a massage therapy business unless and until there first has been obtained a license for such establishment or premises from the borough clerk in accordance with the terms and provisions of this chapter.

(Ord. 16/97 § 1 (part): prior code § 6-12.1)

### **5.56.020 License required for a massage or bodywork therapist.**

No person shall render or perform services as a masseur, masseuse, massage therapist, reflexologist, bodywork therapist, acupressure therapist or engage in the business of or be employed as a masseur, masseuse, massage therapist, reflexologist, bodywork therapist or acupressure therapist unless and until he or she has obtained a license from the borough clerk in accordance with the terms and provisions of this chapter.

(Ord. 16/97 § 1 (part): prior code § 6-12.2)

### **5.56.030 Application for license.**

Each and every application for a license, either for an establishment or premises to be used for a massage business or for a masseur's, masseuse's, massage therapist's, reflexologist's, bodywork therapist's or acupressure therapist's license shall provide the borough clerk with satisfactory evidence of:

- A. The name and address of the applicant and all former addresses for a period of three years prior to making the application;
- B. The applicant is eighteen (18) years of age or older;
- C. The address of the establishment or premises to be used in the massage business and a physical description of the property and facilities, if an applicant desires a license for such establishment or premises;

- D. If the applicant desires a masseur's or masseuse's, massage therapist, reflexologist's, bodywork therapist's or acupressure therapist's license, a statement of all employment for a period of three years prior to making the application;
- E. A statement as to whether or not the applicant, or any officer or director thereof, if a corporation, has even been convicted of a crime in this or any other state;
- F. A diploma or certificate of graduation from an approved school or other institution of learning wherein the method, profession and work of massage therapists is taught. The term "approved school or other institution of learning" means and includes any school or institution of learning which complies with the following criteria:
  - 1. It has been accredited by either The American Massage and Therapy Association or the International Myomassethics Federation, Inc., or
  - 2. It has been approved by the New Jersey Department of Education,
  - 3. It shall have as its principal purpose the teaching of the theory, method, profession or work of massage therapists,
  - 4. It shall require a residence course of study of not less than six hundred (600) hours to be given in not less than six calendar months before the student shall be furnished with a diploma or certificate of graduation from such school or institution of learning, showing the successful completion of such course of study or learning.

It shall be the responsibility of the applicant to provide the borough clerk with the information substantiating that the applicant's course of study meets the above criteria.

Schools offering correspondence courses and not requiring actual class attendance shall not be deemed approved schools. The clerk shall have the right to confirm the fact that an applicant has actually attended classes and matriculated in an accredited school;

- G. Active professional membership in good standing with the Associated Bodywork & Massage Professionals or American Massage Therapy Association.

(Ord. 16/97 § 1 (part): prior code § 6-12.3)

#### **5.56.040 License fees.**

- A. Massage/Bodywork Establishment. The applicant for a license for an establishment or premises shall pay an annual license fee of fifty dollars (\$50.00) which license fee shall become due on the first day of January each year.
- B. The applicant for a massage therapist or acupressure licensee shall pay an annual license fee of two hundred dollars (\$200.00) which license fee shall become due on the first day of January of each year.

(Ord. 2004/26 § 11 (part): Ord. 16/97 § 1 (part): prior code § 6-12.4)

(Ord. No. 2009-18, § 1, 9-21-2009)

#### **5.56.050 Approval.**

Each applicant for a license or the renewal thereof, either to operate a massage/bodywork establishment or premises or to engage in the business of or to be employed as a massage therapist, reflexologist, bodywork therapist or acupressure therapist, which is submitted to the borough clerk, shall be approved by the borough

council before any license is issued. The borough council shall not approve such application if, on the basis of past criminal record of the applicant or of the principals thereof, or on the basis of other evidence of bad character or morals, or on the basis that the individual applicant or establishment has violated this or any other borough ordinance, it shall be determined that the granting or renewal of such license would tend to encourage or permit criminal or immoral activities within the borough.

(Ord. 16/97 § 1 (part); prior code § 6-12.5)

#### **5.56.060 Exceptions.**

The provisions of this chapter shall not apply to massage, acupressure or physical therapy treatments given:

- A. In the office of a licensed physician, osteopath, chiropractor or physical therapist;
- B. In a regularly established medical center, hospital or sanitarium having a staff which includes licensed physicians, osteopaths, chiropractors and/or physical therapists;
- C. By any licensed physician, osteopath, chiropractor or physical therapist in the residence of his or her patient.

(Ord. 16/97 § 1 (part); prior code § 6-12.7)

#### **5.56.070 Violation—Penalty.**

Any person, corporation or business violating the provisions of this chapter shall, upon conviction, be punished by imprisonment in the county jail for a term not exceeding six months or by a fine not exceeding one thousand dollars (\$1,000.00) or both at the discretion of the court.

Any person, corporation or business violating the provisions of this chapter may, at the discretion of the mayor and council may have their license to operate and perform services suspended and/or revoked. Any violation of an employee, agent or servant shall be deemed a violation by the employer business.

(Ord. 2004/26 § 11 (part); Ord. 16/97 § 1 (part); prior code § 6-12.8)

## **Chapter 5.60 NEWSPAPER VENDING MACHINES**

### **Sections:**

#### **5.60.010 Definitions.**

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

"Distributor" means any person, firm or corporation responsible for placing, locating, installing or maintaining a newsrack in a public place in the borough.

"Driveway" means surface, whether or not improved, over and by which ingress and egress are made into private or public property by vehicles.

"Newspaper" means any newspaper, periodical or magazine of general circulation as defined by general law; any newspaper, periodical or magazine duly entered with the Post Office Department of the United States in accordance with federal statute or regulation; and any newspaper, periodical or magazine filed and recorded with any recording officer as required by general law.

"Newsrack" means any machine, vending machine, rack, self-service or coin-operated box, container, storage unit or other dispenser used and maintained for the sale and distribution of newspapers, news periodicals, news magazines, and other similar publications.

"Roadway" means that portion of any street improved, designed or ordinarily used for vehicular traffic.

"Sidewalk" means any surface provided for the exclusive use of pedestrians, including the area between the curb of any street and the property line adjacent thereto or, if there is no curb, the area between the edge of the street and the property line adjacent thereto, and the sidewalk shall include the public right-of-way along such street or sidewalk.

"Street" means all that area dedicated to public use for public street purposes, and includes but is not limited to roadways, parkways, alleys and sidewalks.

(Ord. 31/98 § 1 (part))

### **5.60.020 Notification of location.**

- A. Any distributor having a newsrack which is already located or installed on any public sidewalk or public right-of-way within the borough on the effective date of this chapter shall, within thirty (30) days of the effective date of this chapter, notify the construction code official, in writing, of the location and placement of each such newsrack. Such notice shall include:
1. The precise location of each such newsrack;
  2. The name, address and telephone number of the distributor; and
  3. A certification by the distributor that the location, installation and maintenance of such newsrack conforms to and will continue to conform to the municipal code of the borough and that the distributor assumes the unconditional obligations for any legal liability occasioned by such installation and maintenance and that the distributor agrees to indemnify and hold harmless the borough, its servants, agents and employees for any and all claims arising out of the distributor's installation, use or maintenance of such newsrack.
- B. From and after the effective date of this chapter, any distributor who shall locate or install a newsrack which rests in whole or in part on any public sidewalk or public right-of-way within the borough shall, within ten (10) days of the date of such installation, provide to the construction code official the written notice as set forth in subsection A of this section.

(Ord. § 31/98 § 1 (part))

### **5.60.030 Maintenance and installation.**

Any newsrack which in whole or in part rests upon or over any public sidewalk or public right-of-way shall comply with the following standards:

- A. No newsrack shall exceed sixty (60) inches in height, twenty-four (24) inches in width or twenty (20) inches in depth.
- B. No newsrack shall be used for advertising signs or publicity purposes other than those dealing with the display, sale or purchase of the newspaper sold therein.
- C. Each newsrack shall be equipped with a coin-return mechanism to permit a person using the machine to secure an immediate refund in the event that he is unable to receive the newspaper paid for. The coin-return mechanism shall at all times be maintained in good working order.

- D. Each newsrack shall have affixed to it in a readily visible location a notice setting forth the name and address of the distributor and a telephone number which persons may call to report a malfunction or to secure a refund in the event of a malfunction of the coin-return mechanism or to give the notices provided for in this chapter.
- E. Each newsrack shall be maintained in a neat and clean condition and in good repair at all times. In particular, each newsrack shall be maintained so that:
  - 1. It is reasonably free of loose, chipped, peeling or cracked paint on the exterior surfaces thereof.
  - 2. It is reasonably free of rust and corrosion on the exterior surfaces thereof.
  - 3. The clear plastic or glass parts thereof, if any, are not broken or cracked so as to create danger to users thereof.
  - 4. Structural parts are not broken, cracked or otherwise in a condition which might render them dangerous to users thereof.

(Ord. § 31/98 § 1 (part))

#### **5.60.040 Placement.**

- A. Any newsrack which rests in whole or in part upon or on any portion of a public sidewalk or public right-of-way or which projects onto, into or over any part of a public right-of-way shall be located in accordance with the provisions of this section.
- B. No newsrack shall be used or maintained which projects onto, into or over any part of the roadway of any public street or which rests, wholly or in part, upon, along or over any portion of the roadway of any public street.
- C. No newsrack shall be permitted to rest upon, in or over any public sidewalk when such installation, use or maintenance:
  - 1. Endangers the safety of persons or property;
  - 2. Unreasonably interferes with or impedes the flow of pedestrian or vehicular traffic, including any legally parked or stopped vehicle;
  - 3. Unreasonably interferes with the ingress to or egress from any residence or place of business;
  - 4. Unreasonably interferes with passengers boarding or exiting from buses at designated bus stops; or
  - 5. Unreasonably interferes with the use of traffic signs or signals, fire hydrants or mailboxes located or permitted at or near said location.
- D. Newsracks shall be chained, bolted or otherwise secured so as to prevent their being blown or knocked down or otherwise moved onto or around the public right-of-way; provided, however, that no newsrack shall be chained, bolted or otherwise secured to any traffic or street sign, signals or poles without obtaining the permission of the construction code official.
- E. Newsracks may be placed next to each other in groups at same location, provided that no group of newsracks shall extend for a distance of more than six feet along a curb, and provided further that there shall be a minimum of fifty (50) feet between any such group of newsracks and any other newsrack or group of newsracks.
- F. No newsrack shall be placed, installed, used or maintained:

1. Within six feet of any marked crosswalk;
2. Within twelve (12) feet of a curb return of any unmarked crosswalk;
3. Within five feet of any fire hydrant, fire or police call box or other emergency communication facility;  
or
4. Within five feet of any driveway.

(Ord. § 31/98 § 1 (part))

#### **5.60.050 Enforcement.**

- A. If the construction code official shall determine that a newsrack does not comply with the provisions of this chapter, including the requirement to provide the notification required by Section 5.60.020 of this chapter, then the construction code official shall mail a written notice to the distributor of such newsrack, by certified mail, return receipt requested, stating the specific reasons why such newsrack does not comply with the provisions of this chapter.
- B. If a distributor fails to adjust, correct, register or otherwise cause such newsrack to be brought into compliance with the provisions of this chapter within ten (10) days of the date the written notice of noncompliance is mailed by the construction code official, then such distributor shall be deemed to be in violation of this chapter.

(Ord. § 31/98 § 1 (part))

#### **5.60.060 Violations and penalties.**

- A. Any distributor who, following written notice as set forth in Section 5.60.050 of this chapter, fails to comply with the provisions of this chapter shall, upon conviction therefor in municipal court, be subject to a fine not to exceed two hundred and fifty dollars (\$250.00). Each day for which a distributor fails to comply with the provisions of this chapter shall constitute a separate violation hereunder.
- B. If a distributor is convicted of a violation of this chapter by the municipal court and if such distributor thereafter refuses to remedy or correct said violation within twenty (20) days of the date of said conviction or, in the event of a direct appeal, within twenty (20) days of the date upon which said conviction shall become final, then the construction code official of the Borough of Freehold shall be empowered to remove the newsrack which was the basis for such conviction from the public sidewalk or public right-of-way and return such newsrack to the distributor identified on the newsrack.

(Ord. § 31/98 § 1 (part))

### **Chapter 5.61 BICYCLE PARKING RACKS, SECURING OF BICYCLES**

#### **Sections:**

#### **5.61.010 Definitions.**

"Bicycle parking rack" is a rack for the storage, parking and securing of bicycles.

(Ord. No. 2009/24, § 1, 12-21-2009)



### **5.61.020 Intent and purpose.**

- A. The uncontrolled placement and tethering or securing of bicycles in public rights-of-way and semi-public rights-of-way, on or to public property, presents an inconvenience and danger to the safety and welfare of persons using such rights-of-way, including pedestrians and persons entering and leaving vehicles and buildings.
- B. Bicycles so located on public property as to cause an inconvenience or danger to persons using public rights-of-way and semi-public rights-of-way, and as to cause an unsightly appearance, constitute public nuisances.
- C. These factors constitute an unreasonable interference with and obstruction of the use of the public rights-of-way and semi-public rights-of-way, are injurious to health, offensive to the senses, and constitute such an obstruction of the free use of property as to interfere in the comfortable enjoyment of life and property by the entire community.
- D. The governing body recognizes, however, that many residents use bicycles as a primary means of transportation as well as for recreational purposes, as a means to visit the downtown business district and that adequate facilities need to be in place for the safe and secure parking storage of these bicycles. These competing interests require a reasonable accommodation which can be satisfactorily achieved through this chapter, designed to provide for the placement of bicycle parking racks and to regulate the place and manner of bicycle parking on public property and in public rights-of-way and semi-public rights-of-way in the borough.
- E. The provisions and prohibitions hereinafter enacted are for the purpose of securing and promoting the general welfare of persons in the borough in their use of public rights-of-way and semi-public rights-of-way and other public property through the regulation of bicycle parking in the borough so as to:
  - 1. Provide for pedestrian and driving safety and convenience;
  - 2. Ensure no unreasonable interference with the flow of pedestrian or vehicular traffic including ingress to, or egress from, any place of business, or from the street to the sidewalk, use of the sidewalk, use of public parks or property;
  - 3. Provide reasonable access for the use and maintenance of public sidewalks, poles, traffic signs and signals, hydrants, mailboxes, trees, and similar appurtenances, and access to locations used for public transportation purposes;
  - 4. Reduce visual blight on the public rights-of-way and semi-public rights-of-way, protect the aesthetics and value of surrounding properties, and protect the quiet enjoyment of public areas;
  - 5. Reduce exposure of the borough to personal injury or property damage claims and litigation.
  - 6. Protect and safeguard bicycles from vandalism, damage or theft.

(Ord. No. 2009/24, § 1, 12-21-2009)

### **5.61.030 Prohibited acts.**

- A. No person shall park, tether or secure a bicycle upon or to any sidewalks, poles, traffic signs or signals, hydrants, mailboxes, trees, and similar appurtenances or on or in any public rights-of-way and semi-public rights-of-way or in any other fashion on or to anything other than a bicycle parking rack installed for that purpose, except that bicycles may be parked on private property with the consent of the property owner.
- B. All bicycles discovered by the borough to have been tethered or secured upon or to any sidewalks, poles, traffic signs or signals, hydrants, mailboxes, trees, and similar appurtenances or on or in any public rights-of-

way and semi-public rights-of-way or in any other fashion on or to anything other than a bicycle parking rack installed for that purpose, abandoned or otherwise left on public streets, sidewalks, public property or on private property without the consent of the owner shall be seized and impounded by the borough. The owner of such bicycles may claim them from the borough by paying the sum of twenty dollars (\$20.00) per bicycle, or an amount to be established by the borough by resolution from time to time, for each bicycle claimed, to cover the municipal retrieval costs, and, in addition thereto, shall pay one dollars (\$1.00) per day, or an amount to be established by the borough by resolution from time to time, for storage of each such bicycle. All such bicycles unclaimed after a period of six months shall be sold, in accordance with the provisions of N.J.S.A. 40:14-157, at public auction as unclaimed property.

- C. In order to claim a bicycle from impound, the owner must identify the bicycle by make, color or in a fashion sufficient to identify the bicycle. The borough shall not be responsible for any bicycle impounded or released to a person claiming to be the owner thereof.

(Ord. No. 2009/24, § 1, 12-21-2009)

#### **5.61.040 Bicycle parking rack locations.**

For the public convenience, the borough, together with private contributions, has placed bicycle parking racks throughout the municipality, and with emphasis on areas where bicycles have historically been parked. Interested persons may obtain a list of the locations of all borough bicycle racks from the borough clerk.

(Ord. No. 2009/24, § 1, 12-21-2009)

### **Chapter 5.64 PEDDLERS AND SOLICITORS**

#### **Sections:**

#### **5.64.010 Definitions.**

As used in this chapter:

"Canner" means a person, whether a resident of the borough or not, who solicits donations for nonprofit, charitable, educational, athletic, youth group, religious organizations on street corners from vehicles stopped at red lights.

"Canning" or "cannister solicitation" means soliciting donations on street corners from vehicles stopped at red lights.

"Commercial solicitor" or "canvasser" or "peddler" or "hawker" means a person, whether a resident of the borough or not, traveling either by foot, automobile, or any other type of conveyance, from place to place, from house to house, or from street to street, to distribute circulars for business or commercial purposes, to offer to sell or purchase real property, to offer for sale or to take or attempt to take orders for sale of goods, wares and merchandise, personal property of any nature whatsoever for immediate or future delivery, or for services to be furnished or performed immediately or in the future, whether or not the individual has, carries or exposes for sale a sample of the subject of the sale, and whether or not he or she accepts an advance payment for the goods. Any person taking a poll or a survey from house to house or on the streets, or distributing advertisements or handbills is included.

"Charitable or political canvass or canvassing" means a person or persons going from place to place or house to house to interview, interact or inform another person or persons in an attempt to convince him/her/them to

embrace or support (in a non-monetary manner) or vote for a proposition, person, candidate, philosophy, idea, concept or organization.

"Charitable or political solicit or solicitation" means the request, directly or indirectly, of money, credit, property, financial assistance, and other things of value on the plea or representation that such money, credit, property, financial assistance or other thing of value will be used for a charitable or philanthropic purpose as defined in this chapter or for a political purpose. "Solicitation" shall be deemed to be complete when made, whether or not the person making the same receives any contribution.

"Charitable" and "philanthropic" mean those person and/or organizations with a valid and unexpired registration and/or written exemption from the Attorney General of the state of New Jersey issued pursuant to N.J.S.A. 45:17A-1, et seq. To qualify, such organization must submit its latest Form 990 filed with the Internal Revenue Service.

"Contribution" means and includes the giving of alms, food, clothes, money subscriptions, pledges or property of any nature or kind.

"Person" or "organization" means any individual firm, co-partnership, corporation, company, association, church, religious denomination, society, class or league.

(Ord. 2007/6 § 1 (part): prior code § 6-9.1)

(Ord. No. 2015/3, § 1, 3-16-15)

#### **5.64.030 License required commercial solicitor.**

- A. It is unlawful for any commercial solicitor or canvasser to engage in such business within the borough without first obtaining a license except that this section shall not apply to any person who has obtained a charitable solicitor's or canvasser's permit in accordance with Section 5.64.150 et seq.
- B. It is unlawful for any commercial solicitor or canvasser to engage in such business within the borough to canvass or solicit, any owner or occupant or address contained on the nonsolicitation list as set forth in Section 5.64.157.

(Ord. 2007/6 § 1 (part): prior code § 6-9.3)

#### **5.64.040 Application information.**

Applicants for a license under this chapter shall file with the borough clerk a sworn application in writing, which shall give the following information:

- A. Name and physical description of applicant;
- B. Complete permanent home and local address of applicant;
- C. A description of the nature of the business and the goods, services or wares to be sold;
- D. If employed, the name and address of the employer, together with credentials therefrom establishing the exact relationship;
- E. The length of time for which the right to do business is desired and the days of the week and the hours of day within which the business will be conducted;
- F. The source of supply of the goods or properties or services proposed to be sold, where such goods, services or products are located and the method of delivery;

- G. Three recent photographs of the applicant, which shall be approximately two inches by two inches, showing the head and shoulders of the applicant in a clear and distinguishable manner;
- H. Appropriate evidence as to the good character and business responsibility of the applicant as will enable an investigator to properly evaluate such character and business responsibility;
- I. A statement as to whether or not the applicant has been convicted of any crime, misdemeanor or violations, the nature of the offense and the punishment assessed therefor;
- J. Applicant shall provide to the borough clerk and police chief a criminal history report with each application for license, to be provided at the applicant's own cost and expense. Instructions for obtaining the criminal history report may be obtained through the borough clerk or the police department.

The applicant shall be fingerprinted. If the applicant is a New Jersey resident, the fingerprinting shall be conducted by the Freehold Borough police department and the applicant shall provide a consent for the criminal history report to be obtained by the borough police. In the event the applicant is not a resident of New Jersey, the applicant shall have a fingerprint check conducted by the applicant's home state which shall submit the criminal history reply together with a copy of the fingerprints to the borough clerk and police chief;

- K. No license shall be issued until the application is approved by the borough clerk allowing adequate time for the investigation of the facts set forth in the application. The borough clerk shall submit the application to the police department and to the borough council at the next succeeding meeting for action and any and all applications may be granted or refused by a vote of the majority of the members of the body present at the meeting;
- L. Applications for partners shall be signed by all partners with the foregoing provisions of this section answered in detail as to each partner. Applications of corporations shall have attached thereto individual statements, in accordance with all of the provisions of this section relating to every employee, agent or servant who shall engage in any of the functions authorized by this chapter and each person shall comply with this chapter;
- M. Any and all information that is set out in Sections 5.04.020 through 5.04.040.

(Ord. 22/99 § 1: prior code § 6-9.4)

#### **5.64.050 Investigation of applicants.**

- A. The borough clerk shall immediately upon the filing of an application institute such investigation of the applicant's qualification for a license, including moral character, business responsibility and nature of product or services, which shall be reasonably necessary for the protection of the public welfare and if the application is approved, he or she shall issue the necessary license.
- B. If, as a result of such investigation, the application is not approved because the applicant's character or business responsibility is found to be unsatisfactory, or the product or services are not free from fraud, or for other valid reasons the applicant does not qualify for a license, the borough clerk shall endorse on such application his or her disapproval and the reasons therefore and shall notify applicant in writing at his or her last known address that his or her application has been disapproved and the reasons therefor.

(Prior code § 6-9.5)

#### **5.64.060 License fees.**

- A. Every applicant for a license shall pay to the borough clerk a fee of one hundred dollars (\$100.00) per year.
- B. Any veteran who holds a special state license issued under the laws of the state of New Jersey, shall be exempt from securing a license as provided herein for hawking and peddling, but shall be required to procure from the borough clerk a special veteran's permit which shall be issued upon proper identification.
- C. There shall be no fee for a non-profit organization that applies for a canning permit.

(Ord. 2007/6 § 1 (part); Ord. 2004/26 § 10; prior code § 6-9.6)

(Ord. No. 2015/3, § 1, 3-16-15)

#### **5.64.070 General regulations.**

General regulations are established to read as follows:

- A. All circulars, samples or other matter shall be handed to an occupant of the property and not left on or about the same.
- B. No person subject to this chapter shall conduct themselves in such a manner as to become objectionable or to annoy any person.

(Ord. 2007/6 § 1 (part); prior code § 6-9.7)

#### **5.64.080 Noise prohibited.**

No peddler or solicitor nor any person on his or her behalf shall shout, make any cry out, 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, parks or public places or private premises of the borough where sound of sufficient volume is emitted or produced to be capable of being primarily heard upon the streets, parks or other public places, for any purpose directly or indirectly associated with attracting attention to or selling or disposing of any goods, wares, merchandise, articles or services which such licensee proposes to sell or otherwise dispose of or distribute.

(Prior code § 6-9.8)

#### **5.64.090 Exclusive rights in streets.**

No licensee or permit holder shall have any exclusive right to any location in the public streets, nor a stationary location thereon, nor be permitted to operate in a congested area where such operation might impede or inconvenience the public use of such streets. The judgment of a police officer, exercised in good faith, shall be deemed conclusive as to whether the area is congested and the public impeded or inconvenienced.

(Prior code § 6-9.9)

#### **5.64.100 Badges.**

The borough clerk shall issue to each licensee at the time of delivery of his or her license a badge on which shall appear the words "Licensed Commercial Solicitor," a photograph of the licensee, the period for which the license is issued and the number of the license, in letters and figures easily discernible from a distance of ten (10) feet. During the time such licensee is engaged in soliciting, the badge shall be worn constantly and conspicuously on the front of his or her outer garment.

(Ord. 2007/6 § 1 (part): prior code § 6-9.10)

#### **5.64.110 Reports of violations.**

The borough violations clerk shall report to the mayor and council all convictions for violation of this chapter and the borough clerk shall maintain a record for each license issued and record the reports of violation therein.

(Prior code § 6-9.11)

#### **5.64.120 Revocation of licenses.**

- A. Licenses issued hereunder may be revoked by the mayor and council after notice and hearing for any of the following causes:
1. Fraud, misrepresentation, or a materially incorrect statement contained in the application for license;
  2. Fraud, misrepresentation, or a materially incorrect statement made in the course of carrying on his or her business as solicitor, or peddler;
  3. Any violation of this chapter;
  4. Conviction of any crime or misdemeanor;
  5. Conducting the business of peddler or solicitor, as the case may be, in an 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.
- B. Notice of the hearing for revocation of a license shall be given by the borough clerk in writing, setting forth specifically the grounds of complaint and the time and place of hearing. Such notice shall be mailed postage prepaid, to the licensee at his or her last known address at least five days prior to the date set for hearing or shall be delivered by a police officer in the same manner as a summons at least three days prior to the date set for hearing.

(Prior code § 6-9.12)

#### **5.64.130 Appeal.**

Any person aggrieved by the action of the borough clerk in the denial of an application for a license as provided herein shall have the right to appeal to the mayor and council. Such application shall be taken within fourteen (14) days after notice of the denial of the application has been mailed to such person's last known address. The mayor and council shall set a time and place for hearing on such application and notice of such hearing shall be given to the applicant in the same manner as provided in Section 5.64.120 for notice of a hearing on revocation.

(Prior code § 6-9.13)

#### **5.64.140 Delivery of ordered merchandise.**

This chapter shall not affect any person engaged in delivering wares, goods or merchandise, services, or other articles or things in the regular course of business, to the premises of the person ordering or entitled to receive the same.

(Prior code § 6-9.14)

### **5.64.150 Registration of canvassers, solicitors and canners.**

Political, charitable or philanthropic organizations or individuals who desire to make a public solicitation or canvass shall register with the borough clerk and provide a list of individuals who will be involved in canvassing or soliciting.

Registration information shall include that required by Sections 5.64.040A., B., D., E. and N.; and if the registration is made for a charitable or philanthropic cause it shall contain the information required by subsections A. through I. below. If made for a political cause, the information in Section 5.64.040N. shall not be required but shall contain the information required by subsections A. through F. and H. below:

- A. The purpose for which such canvassing or solicitation is to be made and, if for solicitation, the estimated amount of funds proposed to be raised thereby.
- B. A specific statement showing the need for the canvassing or solicitation.
- C. The name and address of the person who will be in direct charge of conducting the canvassing or solicitation.
- D. The names, addresses, date of birth, social security number and driver's license number (including state of issuance) of all persons making the proposed canvassing or solicitation.
- E. A brief outline of the method to be used in conducting the canvassing or solicitation.
- F. The time and dates when such canvassing or solicitations shall be made, giving preferred dates and alternate dates for the beginning and ending of such canvassing or solicitation.
- G. If solicitation is proposed, the amount of any wages, fees, commissions or expenses to be paid to any person or organization for conducting such solicitation and the names and addresses of all such persons.
- H. A statement to the effect that the registration will not be used or represented in any way as an endorsement of the proposed canvassing or solicitation by the borough or by any of its officers or departments.
- I. If a solicitation is proposed, the registrant shall provide a financial statement setting forth the total funds collected during the previous calendar year by the organization seeking the permit; the portion of the funds which were used directly for the purposes or cause stated for the collection and the portion used indirectly to support the purpose or cause stated, i.e., used for administrative expense, related causes, etc.

(Ord. 2007/6 § 1 (part))

(Ord. No. 2015/3, § 1, 3-16-15)

Editor's note(s)—Ord. No. 2015/3, § 1, adopted March 16, 2015, repealed § 5.64.150 in its entirety and renumbered § 5.64.151 as § 5.64.150. Former § 5.64.150 pertained to noncommercial charitable and political canvassing and solicitations and derived from Ord. 2007/6 § 1(part).

### **5.64.151 Regulations for canning.**

- A. In order to accommodate the maximum number of requests, applications for canning for the following time slots:

During Daylight Savings Time:

Time Slot 1: nine a.m. to one p.m.

Time Slot 2: one p.m. to five p.m.

During Daylight Standard Time:

Time Slot 1: nine a.m. to twelve-thirty p.m.

Time Slot 2: twelve-thirty p.m. to four-thirty p.m.

- B. Solicitation of funds shall be permitted at the following intersections only:  
East Main Street/Center Street/Spring Street and Broadway.  
Main Street and South Street.
- C. Canning shall not be permitted during any other town event requiring police presence and supervision such as parades, Spooktacular, Olde Freehold Day, National Night Out, cultural festivals and the like.
- D. The organization seeking a permit for canning shall fully indemnify and hold harmless the Borough of Freehold and all municipal employees and shall assume all liability for damages and injuries that may occur.
- E. Participants shall not stand on the street to solicit funds from passing motorists. Participants may only approach vehicles stopped at red lights.
- F. Participants shall wear reflective vests.
- G. Participants shall not solicit donations between moving or unmoving traffic.
- H. Participants shall wear tags, t-shirts or other outward signs of the organization for which they are fundraising.

(Ord. No. 2015/3, § 1, 3-16-15)

#### **5.64.152 Calendar of canvassing/solicitations.**

It shall be the duty of the borough clerk to keep a current calendar of approved canvassing and solicitations to be conducted within the borough.

The borough clerk shall have the right to propose alternate dates for a canvassing or solicitation if the requested dates should unfairly conflict with other canvassing or solicitations being conducted within the borough.

(Ord. 2007/6 § 1 (part))

#### **5.64.153 Time limit.**

No permit may grant the right to canvass or solicit for a period longer than ninety (90) consecutive days.

(Ord. 2007/6 § 1 (part))

#### **5.64.154 Canvassing/solicitations at shopping centers.**

Whenever any person or organization shall be limiting its proposed canvassing or solicitation activity to a particular shopping center, all approvals for such proposed canvassing or solicitation shall be received from the shopping center management. Such person or organization seeking to canvass or solicit shall make application to the shopping center management for permission to canvass or solicit. If the shopping center management approves of the proposed canvassing or solicitation, it shall have the applicant complete an application form provided to the shopping center management by the borough clerk's office. The shopping center management



shall then forward the completed application to the borough clerk together with notification of the dates and times during which the canvassing or solicitation shall take place. The duration, coordination and timing of any such canvassing or solicitation(s) shall be at the discretion of the shopping center management. Upon receipt of a canvassing or solicitation application approved by the shopping center management, the borough clerk's office shall notify the borough's code enforcement department and police department of the canvassing or solicitation activity which has been approved at the particular center.

(Ord. 2007/6 § 1 (part))

#### **5.64.155 Regulation of hours of canvassing/solicitation.**

All canvassing or solicitations conducted shall take place between the hours of nine a.m. and nine p.m. Any person or organization desiring to canvass or solicit at hours other than those stated herein shall make special request therefor on their application and this special request shall be approved or disapproved by the borough council. If approval is given by the borough council for canvassing or solicitation to be conducted at other than the hours stated in this subsection, the approval shall be plainly stamped on the permit issued by the borough clerk.

(Ord. 2007/6 § 1 (part))

#### **5.64.156 Display of badge.**

Every person and/or member of any organization permitted hereunder to conduct canvassing or solicitations shall attach and display on the front outer layer of his or her clothing a badge to be supplied by the borough clerk. The badges shall be lettered and delivered by the borough clerk and shall be uniform in style and design. The following information shall be printed on the badge:

- A. Name of the canvasser or solicitor.
- B. Name and address of the organization on whole behalf the canvassing or solicitation is made.
- C. A statement that the borough of Freehold has permitted the canvassing or solicitation, but neither approves or disapproves of the organization and/or its activities.

(Ord. 2007/6 § 1 (part))

#### **5.64.157 Nonsolicitation list.**

- A. The borough clerk shall prepare a list of addresses of those premises where the owner and/or occupant has notified the clerk that canvassing and soliciting is not permitted on the premises. Notification shall be by completion of a form available at the borough clerk's office during normal business hours. The list shall be updated on January 1, April 1, July 1 and October 1 of each year.
- B. The borough clerk shall submit the nonsolicitation list to the applicants for a license to canvass or solicit pursuant to the provisions of this chapter. The licensee shall not canvass or solicit at any address on the nonsolicitation list.
- C. The tax assessor shall, upon being advised of a transfer of ownership of a residential premises, notify the borough clerk of said conveyance, whereupon the borough clerk shall remove the premises from the nonsolicitation list.

(Ord. 2007/6 § 1 (part))

### **5.64.158 Violations and penalties.**

In addition to revocation of the permit, any person, organization or agent thereof found guilty of violating any provision of this chapter shall upon conviction, be subject to a fine not to exceed one thousand two hundred fifty dollars (\$1,250.00) or imprisonment for up to ninety (90) days or both, unless the penalty prescribed for such conduct by state statute is less, in which case the lesser penalties shall apply.

(Ord. 2007/6 § 1 (part))

## **Chapter 5.68 POOL AND BILLIARD PARLORS**

### **Sections:**

#### **5.68.010 General regulations.**

- A. During weekdays pool or billiard parlors may be open during the hours from nine a.m. to midnight. They shall not be open during the hours from midnight to nine a.m. On Sundays pool or billiard parlors may be open from one p.m. to midnight. They shall not be open from midnight to one p.m.
- B. No person owning, keeping or having the management or control of a pool or billiard parlor or any agent or servant of such person shall knowingly permit a minor under the age of sixteen (16) years unaccompanied by a parent to play pool or billiards or games of a similar nature or to frequent or lounge or congregate or gather in a pool or billiard parlor. There shall be a rebuttable presumption against each and every person charged with permitting a minor under the age of sixteen (16) years unaccompanied by a parent to play pool or billiards or games of a similar nature or to frequent or lounge, or congregate or gather in a pool or billiard parlor, that he or she knowingly permitted the same.

(Prior code § 6-2.7)

## **Chapter 5.72 SHOPPING CARTS**

### **Sections:**

#### **5.72.010 Definitions.**

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

"Cart" means a hand-drawn or propelled vehicle or wheeled container made of metal, wood, plastic or other material such as is generally provided by merchants for carting or carrying merchandise or foodstuffs to automobiles or other places.

"Street" means and includes street, avenue, road, alley, lanes, highway, highway median, shoulder or berm, boulevard, concourse, driveway, culvert, crosswalk, sidewalk, parks, parking lots, parking areas and places used by the general public.

(Prior code § 5-21.1)

#### **5.72.020 Name tag.**

Any person providing to his or her customers or patrons shopping carts which, being mounted on wheels, are able to be moved off the premises of such person, shall cause to be placed and maintained upon such shopping carts in a conspicuous manner the name of the owner thereof and shall likewise place and maintain thereon in

such conspicuous manner a further notice reading as follows: "The removal of this cart from these premises is prohibited by law."

(Prior code § 5-21.2)

#### **5.72.030 Use on business premises.**

The person operating a place of business which supplies shopping carts for the use of customers or patrons shall keep the sidewalk, parking lots and parking areas in front of or upon his or her business premises clear of such shopping carts by removing therefrom any such carts left thereon by his patrons or customers; provided, however, that he or she may, while his or her place of business is open, maintain in a suitable area a place for the orderly collection of such shopping carts; provided, however, that such area shall not be so situated as to interfere with the ingress and egress of customers or patrons on foot or in automobile.

(Prior code § 5-21.3)

#### **5.72.040 Abandoned carts.**

- A. Business operators who supply shopping carts for the use of its customers and patrons shall be responsible for keeping such carts contained on the business premises in an orderly manner. Such business operators shall routinely canvass the borough and retrieve any of their shopping carts abandoned or otherwise left on public streets, sidewalks, public property or on private property.
- B. All shopping carts discovered by the borough to have been abandoned or otherwise left on public streets, sidewalks, public property or on private property shall be seized and impounded by the borough. The owner of such carts may claim them from the borough by paying the sum of twenty dollars (\$20.00) per cart, or an amount to be established by the borough by resolution from time to time, for each cart claimed, to cover the municipal retrieval costs, and, in addition thereto, shall pay one dollar (\$1.00) per day, or an amount to be established by the borough by resolution from time to time, for storage of each such cart.

All such carts unclaimed after a period of six months shall be sold, in accordance with the provisions of N.J.S.A. 40:14-157, at public auction as unclaimed property.

- C. Any business operator that allows or suffers the removal of shopping carts from its premises shall be in violation of this chapter.

(Ord. 2007/15 § 1: Ord. 2001/27 § 2(B); prior code § 5-21.4)

#### **5.72.050 Prohibited acts.**

No person shall remove a shopping cart as defined herein from the property of the owner nor move, push or carry any shopping cart upon any street, sidewalk or other public place or private property other than the premises of the owner of the cart nor leave, suffer or permit to be left any shopping cart upon any borough street, sidewalk or public land.

(Prior code § 5-21.5)

#### **5.72.060 Disposal.**

If the cart shall not be sold at public auction, the borough may dismantle, destroy or otherwise dispose of such cart or carts. Any disposition of such cart made pursuant to this chapter shall be without liability of the borough to the owner of such cart or other person lawfully entitled thereto or having an interest therein. Upon a redemption or sale of a cart, the proceeds shall be deposited in the general funds of the borough.

(Prior code § 5-21.6)

### **5.72.070 Violations—Penalties.**

Any person or entity in violation of this chapter shall, upon conviction, be punishable by a fine not to exceed two thousand dollars (\$2,000.00), or imprisonment for a term of not more than ninety (90) days, or both.

(Ord. 2007/15 § 2: prior code § 5-21.7)

## **Chapter 5.76 SIDEWALK SALES**

### **Sections:**

### **5.76.010 Sidewalk sale defined.**

"Sidewalk sale" means an occasion where items regularly on sale in the abutting place of business are displayed on counters or racks arranged on the sidewalk directly in front of the place of business.

(Prior code 5-14.1)

### **5.76.020 License required.**

No person shall conduct a sidewalk sale unless a request for a date for the sale has been made by a sponsoring service organization of the borough, and a license has first been obtained to carry on or conduct the sidewalk sale. The mayor and council shall approve the request at a regular or special meeting.

(Prior code § 5-14.2)

### **5.76.030 Application.**

An application for such license shall be made on forms furnished by the clerk and shall be accompanied by the proper fee. The borough clerk shall issue the license only if he or she shall find and determine that:

- A. The application complies with all provisions of this chapter and all other applicable state or borough requirements;
- B. The applicant is of full age and of good moral character;
- C. Any premises on which a licensed business is to be conducted conforms to all requirements of this chapter and other applicable state and borough requirements and will be free of fire and other safety hazards;
- D. The applicant maintains sufficient public liability insurance coverage to protect the public with respect to the proposed operations under this chapter;
- E. The date on which the sidewalk sale will be held has been clearly determined.

(Prior code § 5-14.3)

### **5.76.040 Fee.**

The fee for a license for a sidewalk sale shall be two dollars (\$2.00), which shall be collected for the purpose of defraying administrative expenses related thereto.

(Prior code § 5-14.4)

### **5.76.050 Regulations.**

- A. No sidewalk sale for each individual business shall occupy any part of the sidewalk other than that directly abutting the front of the business and shall not interfere with, nor impede the passage of pedestrians using the sidewalk.
- B. Every license for a sidewalk sale shall be valid for one day only and shall apply only to the person to whom granted and shall not be transferable.
- C. Any person to whom such a license is granted is required to exhibit the license whenever called upon to do so.

(Prior code § 5-14.5)

## **Chapter 5.80 SIDEWALK CAFES AND RESTAURANTS**

### **Sections:**

### **5.80.010 License required.**

Sidewalk cafes and restaurants may be established in any B-2 zone. No person, however, shall establish, maintain, own or operate a sidewalk cafe or restaurant nor serve food, liquor or other beverages on any public street, sidewalk or alleyway without first having obtained a license from the clerk of the borough.

(Prior code § 6-15.1)

### **5.80.020 Application—Investigation—Issuance or denial.**

An application for a sidewalk cafe license shall be available on a form to be issued by the clerk of the borough. Once a completed application is received by the clerk with the appropriate fee, it shall be forwarded to the chief of police who shall conduct an investigation into the data contained in the application. Upon completion of the investigation by the chief of police, the mayor and council of the borough will examine the application. The mayor and council shall issue or deny license as in their unlimited discretion they deem appropriate. The mayor and council shall take into consideration, the location, potential interference with pedestrian or vehicular traffic, appropriateness of design, the business record of the applicant, any proposed structures to be erected on public sidewalks, public safety, health and welfare considerations. No license shall be issued until a resolution of the mayor and council of the borough authorizing the issuance of a license shall have been adopted by a majority vote of the mayor and council of the borough.

(Prior code § 6-15.2)

### **5.80.030 Application fees and licensing fees.**

Any person submitting an application for a sidewalk cafe or restaurant shall submit an application fee in the amount of seventy-five dollars (\$75.00) with the application. Should an application be approved by the mayor and council of the borough by resolution as specified in Section 5.80.020, the applicant shall pay an annual licensing fee in the amount of five dollars (\$5.00) per square foot of sidewalk utilized for the sidewalk cafe or restaurant. Applicants seeking renewals of the licenses shall pay a licensing fee in the amount of three dollars (\$3.00) per square foot of sidewalk utilized for the sidewalk cafe or restaurant for the year 1991 and a licensing fee in the

amount of four dollars (\$4.00) per square foot of sidewalk utilized for the sidewalk cafe or restaurant for the year 1992 and all subsequent years.

(Ord. 2004/26 § 3 (part); prior code § 6-15.3)

#### **5.80.040 Season.**

Any and all licenses issued pursuant to the terms of this chapter shall permit sidewalk cafe operations to begin no earlier than April 1st. Any and all sidewalk cafe operations so established shall terminate no later than November 1st of the year in which the permit is issued.

(Prior code § 6-15.4)

#### **5.80.050 Annual renewal.**

Any license for a sidewalk cafe issued pursuant to the terms of this chapter shall be renewed annually in the discretion of the mayor and council.

(Prior code § 6-15.5)

#### **5.80.060 Violation—Penalty.**

Any person violating any of the provisions of this chapter shall, upon conviction, be punished by imprisonment in the county jail for a term not exceeding six months, or by a fine not exceeding five hundred dollars (\$500.00) or both in the discretion of the court.

(Prior code § 6-15.6)

#### **5.80.070 General provisions.**

The terms of Chapter 5.04 are fully applicable to this chapter.

(Prior code § 6-15.7)

#### **5.80.080 Insurance requirements.**

- A. Any person obtaining a license for a sidewalk cafe or restaurant shall submit, for the protection of the borough and its representatives as well as the general public a comprehensive policy of liability insurance protecting the licensee and borough against any liability whatsoever occasioned by accident on or about the licensed property or any appurtenances thereto. This policy shall be written by a good and solvent insurance company or companies authorized to do business in the state of New Jersey and the limits of liability thereunder shall not be less than the amount of one million dollars (\$1,000,000.00) in respect of any one person, and in the amount of one million dollars (\$1,000,000.00) in respect of any one accident or occurrence.
- B. Prior to the time such insurance is first required to be carried by the sidewalk cafe license holder and thereafter, at least fifteen (15) days prior to the expiration of any such policy, licensee agrees to deliver to the borough clerk a certified true copy of the aforesaid comprehensive liability policy naming the borough as an additional insured and including an endorsement that such insurance policy may not be modified or cancelled except upon thirty (30) days written notice to borough; the licensee shall also deliver to the borough clerk evidence of payment for the policy. Licensee shall promptly provide, at the request of the

borough from time to time, certification or other proof acceptable to borough, that the insurance policy is in good standing and in full force and effect.

(Prior code § 6-15.8)

## **Chapter 5.84 TAXICABS AND LIMOUSINES<sup>3</sup>**

### **Sections:**

#### **5.84.010 Definitions as used in this chapter.**

"Additional stop" means all stops with the exception of the final destination to which the taxi cab driver proceeds at the direction of the passenger.

"Applicant" shall mean a person seeking a license to own or drive a taxi in the Borough of Freehold.

"Autocab" has the meaning set forth in N.J.S.A. 48:16-1 as amended and supplemented, and includes any automobile or motor car, commonly called taxi, engaged in the business of carrying passengers for hire, which is held out, announced or advertised to operate or run or which is operated or run over any of the streets or public highways of this state, and particularly, accepts and discharges such persons as may offer themselves for transportation from points or places to points or places, within or without the state.

"Base" shall mean a place of business from which for hire vehicles are dispatched.

"Base owner" shall mean any individual, partnership or corporation or other entity licensed by the Borough of Freehold to own and operate a taxi.

"Cruising" means the practice of driving along the streets of the borough with a taxicab so as to solicit passengers or to bring the presence of the taxicabs to the attention of prospective passengers. A taxicab driving along the streets of the borough for any purpose other than while transporting a passenger, going to a definite destination by the most direct route in response to a call for a taxicab by a prospective passenger, or returning by the most direct route to the taxicab's base or home terminus after discharging a passenger or going to or from the base to the driver's home by the most direct route shall be prima facie evidence of cruising.

"Deliveries" shall mean any situation where the taxicab driver delivers any item to the customers.

"Dispatch" shall mean an instruction to a driver by a base to provide transportation to a passenger who has previously arranged for such transportation with the base.

"Dispatch record sheet" shall mean a record kept at all times of the operation by the dispatcher. Information includes trips assigned to drivers, times, dates, identification numbers and any other information required by the Borough of Freehold. Operation of a taxicab or autocab shall consist of transporting in such taxicab or autocab one or more persons for hire along any of the borough's streets. Accepting a passenger to be transported for hire from a point of departure within the borough to destination within or without the borough shall be considered operation of a taxicab or autocab within the borough. The operation of a taxicab by one other than the owner shall be deemed operation by the owner as well as by the person actually driving the taxicab. The transportation of any person other than the owner or driver in any motor vehicle bearing a sign using the words taxi, taxicab, cab, autocab or hack shall be prima facie evidence of operation.

"Driver" means any person who drives a taxicab or autocab within the borough.

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<sup>3</sup>Editor's note(s)—Ord. No. 2018/14, § I, adopted Dec. 17, 2018, amended the title of Ch. 5.84 to read as herein set out. The former Ch. 5.84 title pertained to taxicabs.

"Limousine" has the meaning set forth in N.J.S.A. 48:16-13 as amended and supplemented, and includes any automobile or motor car used in the business of carrying passengers for hire to provide prearranged passenger transportation at a premium fare on a dedicated, nonscheduled, charter basis that is not conducted on a regular route and with a seating capacity of no more than 14 passengers, not including the driver, provided, that such a vehicle is certified by the manufacturer of the original vehicle and the second-stage manufacturer, if applicable, to conform to all applicable Federal Motor Vehicle Safety Standards promulgated by the United States Department of Transportation pursuant to 49 CFR Part 567 (49 CFR 567.1 et seq.). In addition, a "vehicle emission control information" label which contains the name and trademark of the manufacturer and an unconditional statement of compliance with the emission requirements of the Environmental Protection Agency, shall be present on the vehicle. Nothing in this article contained shall be construed to include taxicabs, hotel buses, buses employed solely in transporting school children or teachers, vehicles owned and operated directly or indirectly by businesses engaged in the practice of mortuary science when those vehicles are used exclusively for providing transportation related to the provision of funeral services, autobuses which are subject to the jurisdiction of the department of transportation, or interstate autobuses required by federal or state law or regulations of the department of transportation to carry insurance against loss from liability imposed by law on account of bodily injury or death.

"Mailing address" shall mean the address designated for the mailing of all notices and correspondence from the borough and for the issuance of summonses.

"Medallion" or "decal" is the official number and medallion/decal issued by the Borough of Freehold to each taxicab.

"Operator" shall mean taxi owner, person operating the taxi business or lease holder. Operator must obtain a license to operate.

"Owner" shall mean any persons in whose name title to any limousine, taxicab or autocab is registered within the New Jersey Department of Motor Vehicles or who appears in such records to be the conditional vendee or licensee thereof.

"Passenger" shall mean a person who has engaged a taxi, autocab or limousine for hire vehicle for the purpose of being transported to a destination or a person who is awaiting the arrival of a dispatched taxi or limousine.

"Prearranged passenger transportation" shall mean that a passenger has contacted the limousine owner or company via telephone, text, email or on-line to arrange for transportation at least thirty (30) minutes prior to the service to be provided.

"Premium fare" shall mean a minimum fare of fifty dollars (\$50.00).

"Renewal applicant" shall mean a person seeking to renew a taxi driver's license within the time period established by the Borough.

"Risk retention group" means a group formed to purchase insurance free from state laws, rules or regulations as set forth in the Liability Risk Retention Act of 1986 (15 USC 3901-3906, 1981, as amended 1986).

"Taxicab" or "taxi" or "autocab" has the meaning set forth in N.J.S.A. 48:16-1 as amended and supplemented, and includes any automobile or motor car, commonly called taxi, engaged in the business of carrying passengers for hire, which is held out, announced or advertised to operate or run or which is operated or run over any of the streets or public highways of this state, and particularly, accepts and discharges such persons as may offer themselves for transportation from points or places to points or places, within or without the state.

(Ord. No. 2010/2, §§ I, II, 3-1-10; Ord. No. 2018/14, § I, 12-17-18; Ord. No. 2020/16, § I, 12-7-20)



### **5.84.020 License required.**

- A. Taxi. No person shall operate a taxicab within the borough unless both the owner and the driver of the taxicab are licensed under this chapter.
- B. Limousine.
  - (1) No person shall operate a limousine within the borough unless the limousine has been registered with the borough clerk, has provided proof of insurance as required by law and has paid a filing fee of fifty dollars (\$50.00).
  - (2) Upon the filing of the proof of insurance and payment of the fee, the borough clerk shall issue in duplicate a license to operate showing that the owner of the limousine has complied with the terms and provisions of this chapter. The license shall recite the name of the insurance company, the number and date of expiration of the policy, a description of every limousine insured thereunder, and the registration of same.
  - (3) No person shall operate a vehicle registered as a limousine in the same fashion as a taxicab. Limousines shall not be parked in any taxi stand or assigned a taxi parking space; shall not cruise in or around the bus station or other bus stops in an effort to solicit or engage passengers. Limousines may only transport passengers who have pre-arranged the trip and who are paying a minimum of fifty dollars (\$50.00) fare per one-way or round trip.
  - (4) Limousines shall not drive through the streets of Freehold without passengers unless for the specific purpose of picking up passengers, receiving maintenance (including car wash) or returning to home base after transporting passengers on a pre-arranged trip.

(Ord. No. 2010/2, §§ I, II, 3-1-10; Ord. No. 2018/14, § I, 12-17-18; Ord. No. 2020/16, § I, 12-7-20)

### **5.84.030 Types of taxi licenses.**

- A. Owner's License. No person, corporation or entity shall hire out, keep or use for hire or pay or cause to be kept for use for hire or pay, any vehicle commonly known as a taxicab, within the borough without first having obtained a license for that purpose. A taxicab owner's license shall entitle the taxicab therein described to be operated in the borough provided that the person driving the taxicab holds a valid taxicab/autocab driver's license. The owner's license shall not be transferable.
- B. Driver's License. No person shall drive a taxicab/autocab in the Borough of Freehold without first having obtained a license therefore. The holder of a taxicab/autocab driver's license shall be entitled to operate within the borough any taxicab/autocab whose owner has been licensed under this chapter.

(Ord. No. 2010/2, §§ I, II, 3-1-10; Ord. No. 2018/14, § I, 12-17-18; Ord. No. 2020/16, § I, 12-7-20)

Editor's note(s)—Ord. No. 2018/14, § I, adopted Dec. 17, 2018, amended the title of § 5.84.030 to read as herein set out. The former § 5.84.030 title pertained to types of licenses.

### **5.84.040 Licensing of taxicab/autocab owners.**

- A. (1) Applications. All applications for a taxicab/autocab owner's license shall be in writing upon a form to be furnished by the borough clerk. The application shall contain but not be limited to, full name and address of the owner, the serial number, type, color, year and model of the vehicle to be licensed and the number of persons it is capable of carrying and shall be accompanied by the required fee. All applicants shall submit fingerprints and provide a criminal history report at the applicant's expense.

- (2) All applicants shall furnish with the application two recent photographs of the applicant of a size measuring two inches by two inches.
- B. No person shall be issued an owner's license unless the vehicle can accommodate a minimum of four passengers and the owner provides the insurance certificate as set forth herein.
- C. The applicant must supply the name and address of two responsible references from Freehold Borough. Any and every change of address of the owner shall be reported in writing to the borough clerk within three days after such change.
- D. All applications shall be filed with the borough clerk who shall forward a copy of the application together with the criminal history report to the police chief for review and recommendation. The police chief or his designee shall submit a report or review of the application to the borough council. A copy of the application together with the report and recommendation of the police department and proof of insurance shall be submitted to borough council for action and any and all applications may be granted or refused by the majority vote of the members of the body present at such meeting.
- E. Factors Considered. In determining whether to grant or deny the license, the council shall take into consideration the following factors:
- (1) The character, business and financial responsibility and experience of the applicant and the probability that if granted a license, the applicant will operate the taxicab/autocab in accordance with the provisions of this chapter;
  - (2) Any factors contained in the review or report from the police department including, but not limited to, convictions of any section of the New Jersey criminal code, motor vehicle violations and borough ordinance violations;
  - (3) The owner licensee is over twenty-one (21) years of age, and provides an employer identification number;
  - (4) Any other factors directly related to the granting or denial of the license which would substantially affect the public safety or convenience.
- F. Issuance of License. The council shall, by resolution, grant or deny the license. If the application is approved, the clerk shall issue the license upon forms established by the council by resolution.
- G. License Terms—Fees. Applications shall be accepted by the borough clerk between November 1st and November 30th of each year. A taxicab/autocab owner's license shall be valid for two years and shall expire on December 31st of the second year after issuance. The license fee shall be five hundred dollars (\$500.00) for the two-year term or portion thereof per vehicle payable upon the filing of an application for the issuance or renewal of a license, fifty dollars (\$50.00) of which shall be non-refundable for the processing of the application. In addition, the applicant shall also pay to the borough clerk the sum of thirty dollars (\$30.00) for each decal set or medallion set issued.
- H. The owner's license may be renewed by council upon the licensee's filing with the borough clerk a new application and fee bi-annually and provided that the owner has not been convicted of three or more ordinance or motor vehicle violations in the preceding thirty-six (36) months and further provided that the criminal history report is satisfactory.
- I. The owner's license shall at all times be prominently displayed and adequately protected in the interior of the taxicab and be plainly legible to any passenger seated in the rear seat.
- J. No license shall be issued unless the applicant is current on all outstanding fees.

- K. Every owner is responsible for their respective drivers. The owner must verify that all drivers are properly licensed by the borough. An owner's license may be revoked in the event a non-licensed driver operates the owner's taxi.
- L. Every owner must have in its employ at least one licensed taxi driver at all times. In the event an owner does not have at least one licensed taxi driver in its employ, such owner's license shall be suspended until such time as it employs a qualified and licensed taxi driver.
- M. For every owner's license, there must be a designated taxi vehicle that is available for taxi service.
- N. Every owner must have a designated office that complies with all zoning requirements.

(Ord. No. 2010/2, §§ I, II, 3-1-10; Ord. No. 2018/14, § I, 12-17-18; Ord. No. 2020/16, § I, 12-7-20)

#### **5.84.050 Taxicab/autocab driver's license.**

- A. Application. Every applicant for a taxicab/autocab driver's license shall, in addition to the requirements herein provided and of any law in the state:
  - (1) Be twenty-one (21) years of age or older and have a valid New Jersey driver's license.
  - (2) Present a doctor's report to the borough clerk, evidencing that he or she has been examined within the last thirty (30) day period and that he or she is of sound physical condition, with good eye sight and not subject to any infirmity of the body or mind which may make him or her unfit for the safe operation of a vehicle.
  - (3) Never have been convicted of a felony or any drug offense, been the subject of a final restraining order or weapons charge and shall not have violated any provision of this chapter.
  - (4) Be of good character.
  - (5) Not have been convicted of driving under the influence or reckless driving within three years next preceding the filing of such application and not have more than six points on his or her driver's license within the three years next preceding the filing of such application.
  - (6) Have knowledge of the state motor vehicle laws and traffic regulations.
  - (7) Have and evidence knowledge of the ordinances and geography of the Borough of Freehold. The borough may establish a written test to determine the applicant's knowledge of the streets and points of interest in the borough. If so established, each applicant must take and pass such test by completing at least seventy-five (75) percent of the questions correctly.
  - (8) Furnish with the application three recent photographs of the applicant of a size measuring two inches by two inches.
  - (9) Provide references or recommendations, including the names and addresses, from two responsible persons in the Borough of Freehold.
  - (10) Provide to the chief of police a criminal history report with each application for driver's license and/or renewal to be provided at the applicant's own cost and expense.
  - (11) Pay a fee of seventy-five (\$75.00), twenty-five (\$25.00) of which shall be a non-refundable processing fee in the event the license is not granted.
  - (12) Provide to the borough clerk the following documentation with the application:
    - a. Valid New Jersey driver's license.

- b. A certified New Jersey driver's abstract, dated no longer than one month prior to the application.
- (13) Provide to the clerk a sworn statement setting forth the applicant's place of residence for the preceding five years, age, height, color of eyes and hair, place of birth, previous employer, marital status.

All applications for a taxicab driver's license shall be filed with the borough clerk who shall submit the application to the police department for review. The council shall act upon such application at the next succeeding meeting and any and all applications may be granted or refused by the vote of the majority of the members of the body present at the meeting.

B. Issuance of Taxi Driver License. Content.

- (1) Upon the filing of the taxi driver license application, including the CCH limited criminal background check together with the requisite fee, and review of the CCH by the chief or designee, and in the sole discretion of the police chief or designee, a temporary taxi driver license may be issued. The temporary license may be revoked at any time.
- (2) Upon full approval of application by the borough council, the clerk shall immediately issue the applicant a taxicab/autocab driver's license. The license shall contain the licensee's name and address, physical description, signature and photograph.

C. Term of License/fees. The term for a taxicab/autocab driver's license shall be one year, running from January 1st to December 31st. The fee for taxicab/autocab driver's license shall be one hundred dollars (\$100.00) per year or portion thereof, twenty-five dollars (\$25.00) of which shall be non-refundable in the event the license is not granted. The licenses may be renewed annually upon payment of all fees and provided the driver meets all of the requirements set forth above. No license shall issue unless the applicant is current on all outstanding fees.

(Ord. No. 2010/2, §§ I, II, 3-1-10; Ord. No. 2018/14, § I, 12-17-18; Ord. No. 2020/16, § I, 12-7-20)

#### **5.84.051 Business license required to operate a limousine.**

- A. No person shall operate a limousine service providing service on an intra-municipal, point-to-point basis within the municipality without obtaining a license as required herein.
- B. No limousine shall be operated in the borough unless it has a license issued pursuant to N.J.S.A. 48:16-17 and the limousine is equipped with the apparatus required in accordance with the minimum standards established by the director of the division of motor vehicles in the department of transportation.
- C. Every person who owns a limousine shall require all of its drivers to comply with the requirements of N.J.S.A. 48:16-22.3.

(Ord. No. 2018/14, § I, 12-17-18; Ord. No. 2020/16, § I, 12-7-20)

#### **5.84.060 Taxi license form.**

- A. Each applicant granted a taxicab/autocab driver's license shall be issued a printed license in a form approved by the clerk. This license shall, at all times, be prominently displayed and adequately protected in the interior of any taxicab/autocab operated by the licensee so that the face thereof shall be at all times in full view and plainly legible to any passenger seated in the rear seat of such taxicab/autocab and there be affixed to such license, in full view of such passenger, a photograph measuring not less than two inches by two inches, of such licensed driver. Each photograph shall have indicated thereon the words "licensed taxicab/autocab driver or owner" as the case may be.

- B. If the owner's application is approved, the clerk shall issue the owner's license upon forms established by the council by resolution. The owner's license shall at all times be prominently displayed and adequately protected in the interior of the taxicab and be plainly legible to any passenger seated in the rear seat.

(Ord. No. 2010/2, §§ I, II, 3-1-10; Ord. No. 2018/14, § I, 12-17-18; Ord. No. 2020/16, § I, 12-7-20)

Editor's note(s)—Ord. No. 2018/14, § I, adopted Dec. 17, 2018, amended the title of § 5.84.060 to read as herein set out. The former § 5.84.060 title pertained to license form.

#### **5.84.061 Limousine license/certificate form.**

- A. Issuance of Certificate or License. The borough clerk, upon filing of the required insurance policy or bond, shall issue a certificate in duplicate showing that the owner of the limousine has complied with the terms and provisions of this chapter, which certificate shall recite the name of the insurance company, the number and date of expiration of the policy or bond, a description of the limousine insured thereunder and the registration number of the same. The duplicate certificate shall be filed with the division of motor vehicles before any such car is licensed as a limousine. The original certificate shall be posted in a conspicuous place within the taxicab/autocab. The fee for this license/certificate is fifty dollars (\$50.00).

(Ord. No. 2018/14, § I, 12-17-18; Ord. No. 2020/16, § I, 12-7-20)

#### **5.84.070 Inspection of taxi vehicles.**

- A. Proof of State Inspection. No taxi vehicle covered by the terms of this section shall be licensed until proof has been presented that the vehicle has been inspected and approved as required under Title 39 of the Statutes of the state of New Jersey.
- B. The police department reserves the right to further inspect all taxi cab or limousine vehicles to ensure the public safety.

(Ord. No. 2010/2, §§ I, II, 3-1-10; Ord. No. 2018/14, § I, 12-17-18; Ord. No. 2020/16, § I, 12-7-20)

Editor's note(s)—Ord. No. 2018/14, § I, adopted Dec. 17, 2018, amended the title of § 5.84.070 to read as herein set out. The former § 5.84.070 title pertained to inspection of vehicles.

#### **5.84.080 Identification of taxicabs/autocabs.**

- A. Each taxicab/autocab operated in the borough shall have a sign painted on each rear door. The sign shall contain the owner's name and the words "taxicab" or "taxi" in letters which shall be no less than four inches nor more than eight inches in height.
- B. Each taxicab/autocab operated in the borough shall have a number on the front and rear bumper measuring no less than three inches in height. Each vehicle owned and operated by a licensed owner shall bear a different number, which number shall be set forth in the application indicating the specific number for each specific taxicab/autocab.
- C. Upon the issuance of a taxicab/autocab owner's license, the borough clerk shall provide to the owner two decals or medallions to be attached to the front driver and passenger door of the taxicab and which will identify the taxicab/autocab as having been licensed by the borough. There shall be a charge of thirty dollars (\$30.00) for each set of medallions or decals issued and a fee of thirty dollars (\$30.00) for each replaced set of medallions or decals. Decals or medallions shall be placed on those taxicab/autocabs set forth in the owners application and may not be transferred from vehicle to vehicle without prior permission of the chief of police. No replacement decal shall be issued without proof presented to the clerk of removal or

destruction of both decals from original vehicle and proof that the original vehicle is no longer included in the insurance policy of the taxi owner. Proof of insurance for any replacement vehicle must be presented to the clerk before the issuance of decals for the replacement vehicle.

- D. Operation of a taxicab/autocab without the required decal or medallion shall be a violation of this chapter.
- E. Each driver of a taxicab who has been issued a license shall prominently display a copy of the license in the interior of the taxicab/autocab while the driver is operating same. The copy of the license shall at all times be prominently displayed and adequately posted in the interior of any taxicab or autocab operated by the licensee so that the face thereof shall be at all times in full view and plainly legible to any passenger seated on the rear seat. The owner's license shall also be prominently displayed and adequately posted in the interior of the taxicab so as to be plainly legible to any passenger seated on the rear seat.

(Ord. No. 2010/2, §§ I, II, 3-1-10; Ord. No. 2018/14, § I, 12-17-18; Ord. No. 2020/16, § I, 12-7-20)

#### **5.84.090 Fares.**

- A. The fare which may be charged by the driver or owner of a taxicab/autocab for a trip wholly within the limits of the borough may not exceed the rates approved by the borough council from time to time by resolution. A schedule of approved rates, together with a schedule of rates charged for trips outside of the borough, shall be displayed in the taxicab in a manner so as to be easily read by all passengers.

Taxi fares as set forth hereinafter may be amended by the mayor and council by resolution from time to time. The initial taxi fares are as follows:

- (1) The maximum taxi fare is seven dollars (\$7.00) per trip for those up to sixty (60) years of age, and six dollars (\$6.00) per trip for those over sixty (60) years of age.
  - (2) Each additional passenger shall be charged on dollar (\$1.00).
  - (3) Each additional stop shall be charged one dollar (\$1.00).
  - (4) There shall be a charge of five dollars (\$5.00) for deliveries.
  - (5) Waiting time once the taxicab is employed by the user shall be charged two dollars (\$2.00) per five minutes waiting time.
  - (6) The loading/unloading of all bags, luggage and similar items shall be charged at twenty-five cents (\$.25) per item for all items over two items.
- B. Receipts. The driver of a taxicab/autocab upon request shall give the passenger a receipt for the amount charged. The receipt shall show the name of the owner, the license number of the taxicab/autocab, the amount of the fare, and the date of the transaction.
  - C. Refusal to Pay Fare. No person after hiring a taxicab/autocab shall refuse to pay the legal fare, nor shall any person hire a taxicab/autocab with the intent not to pay the legal fare.

(Ord. No. 2010/2, §§ I, II, 3-1-10; Ord. No. 2018/14, § I, 12-17-18; Ord. No. 2020/16, § I, 12-7-20)

#### **5.84.100 Records.**

The owner of each taxicab shall keep or cause to be kept a written daily record of each trip made by the taxicab showing the date time and place the cab was engaged, the place and time of the discharge of the passenger, the number of passengers carried, fair received, distance traveled and the driver license number of the person driving the taxicab on the trip. The records shall be kept in a place that is convenient for a proper

authorized representative of the borough to inspect the same and the owner shall give his cooperation in expediting any inspection.

(Ord. No. 2010/2, §§ I, II, 3-1-10; Ord. No. 2018/14, § I, 12-17-18; Ord. No. 2020/16, § I, 12-7-20)

#### **5.84.110 Insurance policy.**

- A. Required. Every applicant for taxicab owners license shall submit and file with the borough clerk an insurance policy of a company duly authorized to transact business under the insurance laws of the State of New Jersey in the sum of a minimum of three hundred thousand dollars (\$300,000.00) against loss from the liability imposed by law upon the taxi cab owner for damages on account of bodily injury or death suffered by any one person and five hundred thousand dollars (\$500,000.00) against loss from the liability imposed by law upon the taxi cab owner for damages on account of bodily injury or death suffered by more than one person and in the sum of a minimum of one hundred thousand dollars (\$100,000.00) against loss on account of property damage suffered by any person or persons as a result of an accident occurring by reason of the ownership, maintenance or use of such taxicab, covering the taxicab or taxicabs to be licensed.

The taxicab owner license shall be effective and operation thereunder shall be permitted only so long as the insurance policy shall remain in force to the full and collectible amounts as aforesaid. The insurance policy shall specifically provide for the payment of any final judgment recorded by any person on account of the ownership, maintenance or use of the taxicab or any faults in respect thereto and shall be for the benefit of every person suffering loss, damage or injury as aforesaid.

The insurance policy must be issued by an admitted insurance company subject to the rules and regulations of the State of New Jersey and shall not be issued by a risk retention group. No owner's insurance policy may contain a "named driver endorsement" that would exclude coverage if the vehicle was being driven by any individual other than the named driver, or a "radius of operation" Endorsement which limits coverage to a specific radius of operation.

The insurance provider must be a member of an insolvency fund in the event of default, or, in the alternative, must provide an alternative guarantee for coverage of claims for third party complaints.

- B. Power of Attorney. Concurrently with the filing of the insurance policy with the borough clerk, the applicant for a taxicab/autocab owner's license shall execute and deliver to the borough clerk a power of attorney wherein and whereby the owner shall nominate, constitute and appoint the borough clerk his or her true and lawful attorney for the purpose of acknowledging service of any process out of a court of competent jurisdiction to be served against the insured by virtue of the indemnity granted under the insurance policy filed.
- C. Bond. If the taxicab/autocab owner applicant operates more than one taxicab/autocab, he or she may file with the borough clerk, in lieu of the policy, a bond or insurance policy of a company duly licensed to transact business under the insurance laws of this state, in the sums hereinabove provided, which shall be blanket insurance covering all taxicabs/autocabs operated by such owner under the terms and conditions set forth above, which bond shall provide for the payment of any final judgment recorded by any person on account of the ownership, maintenance and use of any such taxicabs/autocabs or any faults in respect thereto, and shall be for the benefit of every person suffering loss, damage or injury.
- D. Issuance of certificate, the borough clerk, upon filing of the required insurance policy or bond, shall issue a certificate in duplicate showing that the owner of the taxicab/autocab has complied with the terms and provisions of this chapter, which certificate shall recite the name of the insurance company, the number and date of expiration of the policy or bond, a description of the taxicab/autocab insured thereunder and the registration number of the same. The duplicate certificate shall be filed with the division of motor vehicles

before any such car is licensed as a taxicab/autocab. The original certificate shall be posted in a conspicuous place within the taxicab/autocab. The fee for this certificate is fifteen dollars (\$15.00).

(Ord. No. 2010/2, §§ I, II, 3-1-10; Ord. No. 2018/14, § I, 12-17-18; Ord. No. 2020/16, § I, 12-7-20)

#### **5.84.120 Rules and regulations.**

The council may establish, by resolution, rules and regulations relating to the operation of taxicabs/autocabs and the conduct of licensees. A copy of the rules and regulations shall be furnished to each licensee.

- A. **Taxi Stands.** No person shall park or place any taxicab/autocab on any of the streets or public parking lots of the borough (unless the taxi owner has the permission of the owner of said public parking lot to park the taxi therein) at any time except at such place or places as the mayor and council may by resolution from time to time designate as municipal taxi stands.
- B. **Cruising Prohibited.** No person shall cruise on the streets of the borough with any taxicab/autocab at any time for the purpose of soliciting passengers.

(Ord. No. 2010/2, §§ I, II, 3-1-10; Ord. No. 2018/14, § I, 12-17-18; Ord. No. 2020/16, § I, 12-7-20)

#### **5.84.130 Suspension or revocation of driver's or owner's licenses.**

- A. **Generally.** In addition to the causes for revocation of a license set forth in Chapter 5.04, any license issued under this chapter may be revoked or suspended, or any application for the issuance or renewal of a license denied, for any of the following reasons:
  - (1) Failure to render reasonable, prompt, safe and adequate taxicab/autocab service.
  - (2) The existence of a judgment unsatisfied of record against the licensee or applicant in any suit arising over the operation of a motor vehicle.
  - (3) Permitting any taxicab/autocab owned or driven by the licensee to become unsafe, unsanitary or dirty.
  - (4) Failure to comply with all applicable laws of the state of New Jersey, the ordinances of the borough or the rules and regulations adopted in accordance with this chapter.
  - (5) Conviction of a felony crime or conviction of three or more ordinance or motor vehicle violations in the preceding twelve (12) months, or conviction of a motor vehicle violation of three points or greater in the preceding twelve (12) months.
  - (6) Determination that the licensed motor vehicle is unsafe or unsanitary, is dangerous to the safety or health of the occupants or others, or if the policy of insurance or bond or power of attorney required herein has not been furnished or kept in force or if the owners shall fail to comply with any terms or conditions imposed by the borough council or any law of state.
  - (7) Failure of an owner to have at least one licensed taxi driver.
  - (8) Failure to maintain a place of business in a zone permitting same.
  - (9) Failure to have a specific taxi vehicle for each owner's license issued.
  - (10) Storage of taxi vehicles in a residential zone.
- B. **Drivers.** If the licensee is a driver, his or her license may also be revoked or suspended for the following reasons:
  - (1) Revocation or suspension of his or her New Jersey motor vehicle operator's license.



- (2) Contracting by the licensee of a communicable or contagious disease.
- (3) Operating a taxicab/autocab in a reckless or grossly negligent manner, or habitually operating a taxicab/autocab in a negligent manner.
- (4) Conviction of a felony crime or conviction of three or more ordinance or motor vehicle violations in the preceding twelve (12) months, or conviction of a motor vehicle violation of three points or greater in the preceding twelve (12) months.
- (5) Applicant has made false answers in the application for this license or the New Jersey State driver's license application, or any renewal thereof or has failed or fails to render reasonably prompt, safe and adequate taxicab service or has not complied fully with all of the requirements of this chapter for such class of license.
- (6) Violation of this or any other ordinance of Freehold Borough.

(Ord. No. 2010/2, §§ I, II, 3-1-10; Ord. No. 2018/14, § I, 12-17-18; Ord. No. 2020/16, § I, 12-7-20)

#### **5.84.140 Regulations for taxicab/autocab.**

##### **5.84.140.1 Stopping restriction.**

No person shall park or place any taxicab, while in service, on any of the streets of this borough at any time except at such place or places as the borough council may designate as municipal taxi stands unless the operator is stopped for a limited time in order to pick up or discharge its passengers or is stopped for the purpose of obtaining food for himself/herself or conducting personal business, in which case, the taxi may not be in service and available for hire.

(Ord. No. 2009/9, §§ I, II, 12-21-09; Ord. No. 2018/14, § I, 12-17-18; Ord. No. 2020/16, § I, 12-7-20)

##### **5.84.140.2 Prohibited solicitation of passengers.**

- A. No person shall cruise the streets of the borough with any taxicab or limousine at any time for the purpose of soliciting passengers.
- B. No taxicab or limousine driver or other person shall solicit, attempt to solicit or otherwise seek to engage a passenger of any public street and/or sidewalk in the borough.

(Ord. No. 2009/9, §§ I, II, 12-21-09; Ord. No. 2018/14, § I, 12-17-18; Ord. No. 2020/16, § I, 12-7-20)

##### **5.84.140.3 Refusal to carry certain passengers.**

Every taxi driver so licensed as aforesaid shall not refuse to carry local fares or passengers unless the fare or passenger is unruly or intoxicated.

(Ord. No. 2009/9, §§ I, II, 12-21-09; Ord. No. 2018/14, § I, 12-17-18; Ord. No. 2020/16, § I, 12-7-20)

##### **5.84.140.4 Regulations governing taxicabs licensed by other municipalities.**

Owners and drivers of taxicabs licensed out of the jurisdiction of this borough, or who have their principal office or place of business out of the jurisdiction of the borough, may be allowed to enter their taxicab in this borough on a specific call only while in the process of discharging a passenger transported from a point outside of the borough limits to a point within the borough limits and the name of the passenger shall be given by the owner or driver when requested by the borough police or other lawful person. Such taxicabs shall not be parked in this

borough nor shall the driver's thereof cruise on the streets of this borough at any time for the purpose of soliciting passengers, nor shall they in the night time or other periods of darkness, when in this borough, permit any advertising lights on the taxicab to remain lighted, provided, however, that the same or similar substantial reciprocal rights are granted to owners and drivers of taxicabs licensed in this borough by the municipalities in which the aforesaid owners or drivers are licensed.

(Ord. No. 2009/9, §§ I, II, 12-21-09; Ord. No. 2018/14, § I, 12-17-18; Ord. No. 2020/16, § I, 12-7-20)

#### **5.84.150 Penalty.**

Any owner and/or driver who shall violate any of the provisions of this chapter shall, upon conviction thereof, be subject to a fine not exceeding two thousand dollars (\$2,000.00) for each violation or imprisonment in the county jail for a term not exceeding thirty (30) days or both.

(Ord. No. 2009/9, §§ I, II, 12-21-09; Ord. No. 2018/14, § I, 12-17-18; Ord. No. 2020/16, § I, 12-7-20)

### **Chapter 5.88 TRANSIENT MERCHANTS AND ITINERANT VENDORS**

#### **Sections:**

#### **5.88.010 License required—Fee—Term.**

All transient merchants or itinerant vendors shall before offering for sale any personal property pay to the licensing official of the municipality a sum of one hundred dollars (\$100.00); and upon payment of such sum, he or she shall be entitled to apply for and receive a license which shall continue in favor of the person to whom it is issued for the period of one hundred eighty (180) days after issuance

(Ord. 2004/26 § 8; prior code § 6-3.1)

#### **5.88.020 Definitions.**

The words "transient merchants" or "itinerant vendors" as used in this chapter mean any person who engages in the merchandising business within the borough with the intent to close out or discontinue such business within one year from the date of commencement, including those who for the purpose of carrying on such business, hire, lease or occupy any building, structure or railroad car for the exhibition and sale of such goods, wares and merchandise; but nothing in this chapter shall be construed to affect the sale of fruits, vegetables and farm products such as meat, poultry, butter and eggs.

(Prior code § 6-3.2)

#### **5.88.030 Declaration as to goods to be sold—Contents.**

All transient merchants or itinerant vendors shall before offering for sale any personal property, make a declaration under oath to the licensing official of the borough of the number of days they propose to engage in such business, together with a specific statement as to the location of such personal property by street and number and whether on the premises from which they are to be sold or in warehouses or storage.

(Prior code § 6-3.3)

### **5.88.040 Application.**

In addition to the requirements of Section 5.04.020, all applications shall be sworn to and shall disclose the name and residence of the owner or person in whose interest such business is conducted and shall further state the average quantity and kind as nearly as can be and the value of the personal property intended to be sold or exposed for sale in the municipality. It shall also give the names and post office addresses of the persons from whom goods making up the stock were or are to be purchased; and the licensing official of the municipality in arriving at the valuation may require the submission of bills or invoices of such personal property. A separate license shall be obtained for each branch, establishment or separate place of business in which the occupation of a transient merchant or itinerant vendor is carried on; and each license shall authorize the licensee to carry on, pursue or conduct the business of transient merchant or itinerant vendor only at the location indicated thereby.

(Prior code § 6-3.4)

### **5.88.050 Bond required.**

Before a license shall be issued, the applicant shall execute and deliver to the licensing official a good and sufficient surety to be approved by the borough attorney equal in amount to twenty-five (25) percent of the value of the personal property shown in the declarations and disclosures required in this chapter; but in no event shall the bond be less than one thousand dollars (\$1,000.00). It shall remain in force for one year and be conditioned to indemnify and pay the borough any penalties or costs incurred in the enforcement of this chapter and to indemnify or reimburse any purchaser of personal property in a sum equal to at least the amount of any payment such purchaser may have been induced to make through the misrepresentation as to the kind, quality or value of personal property, whether the misrepresentations were made by the owners or their servants, agents or employees, either at the time of making the sale or through any advertisement printed or circulated with reference to such personal property or any part thereof.

(Prior code § 6-3.5)

### **5.88.060 Service of process.**

Before a license shall be issued, the applicant shall file with the licensing official of the borough an instrument in writing nominating and appointing the licensing official his or her true and lawful agent with full power and authority to acknowledge service or notice of process for and on behalf of the applicant in respect to any matters connected with or arising out of the license and the bond given as required by the provisions of R.S. 45:24-5 or for the performance of the conditions of the bond or for any breach thereof. It shall also contain recitals to the effect that the applicant consents and agrees that service of any notice or process may be made upon such agent and when so made shall be as valid as if personally served upon the applicant according to the laws of this or any other state and waiving all claim or right of error by reason of such acknowledgment of service or manner of service.

(Prior code § 6-3.6)

## **Chapter 5.90 BODY ART REGULATIONS**

### **Sections:**

### **5.90.005 Body art regulations.**

The New Jersey Department of Health and Senior Services has promulgated certain regulations known as the "New Jersey State Sanitary Code Chapter 8 Body Art Procedures", N.J.A.C. 8:27-1.1 through 8:27-11.4, which establishes standards for sterilization, sanitation and safety for persons engaged in the business of tattooing, permanent cosmetics, and ear and body piercing and same is hereby adopted in its entirety, with the exception of N.J.A.C. 8:27-10.1 through 8:27-10.3, and shall be controlling unless higher standards are prescribed herein by the governing body.

(Ord. No. 2009/14, § 1, 9-8-2009)

### **5.90.010 Definitions.**

"Body art establishment" shall mean any place or premises, whether public or private, where the practices of body art, body piercing or permanent cosmetics, whether or not for profit, are performed.

"Health officer" shall mean the appointed licensed municipal Health Officer or authorized representative.

(Ord. No. 2009/14, § 2, 9-8-2009)

### **5.90.020 License required.**

- A. It shall be unlawful for any person to operate a body art establishment without a current license to operate from the health department to operate such establishment, in accordance with the provisions hereof. An establishment operating with an expired license shall be considered as operating without a license.
- B. The application for an initial license shall be accompanied by the appropriate fee. The license shall not transferable. Any change of ownership shall require a new application and license with payment of the requisite fees therefore. All licenses shall expire on the last day of December annually and must be renewed annually for continuing operation of the establishment.
- C. An application for renewal and the appropriate license fee shall be submitted prior to the expiration of the current license as further set forth herein.

(Ord. No. 2009/14, § 3, 9-8-2009)

### **5.90.030 Requirements to obtain license.**

- A. The operation of the body art establishment shall take place within a permanent, nonmobile building. The location of the building shall be indicated in the initial license application. The license shall not be transferable to any other building, place, location or person.

Body art establishments that perform tattooing or piercing of body parts other than ears may only be located in the CM or B-2b zones in the borough. No body art establishment that includes tattooing and body piercing, other than piercing limited strictly to the ears, shall take place in any residential zone, B-1, B-2 or B-2a zones in the Borough of Freehold.

- B. Prior to the issuance or renewal of a license, the health officer or authorized representative shall inspect the body art establishment. A license may not be issued if the establishment is found to be in violation of any of the requirements of this chapter, including the state regulations (N.J.A.C. 8:27 et. seq.) as referenced in Section 5.90.005.
- C. A body art establishment license may be renewed if said establishment has been inspected by the health officer or authorized representative and found to comply with all the requirements of this chapter and the

state regulations, providing the inspection is performed and compliance is determined within ninety (90) days prior to the expiration of the license.

- D. A license shall not be issued for operation of a temporary body art establishment or to perform body art procedures outside of the physical site of a licensed establishment.
- E. A license shall not be issued to any temporary establishment for the purposes of product demonstrations, industry trade shows, educational reasons or any other purpose.
- F. Any establishment not served by a NJDEP approved public community water supply shall be required to sample for total coliform bacteria on a quarterly basis. The sample must be collected from the sampling point by personnel employed by a New Jersey licensed laboratory and tested by a New Jersey licensed laboratory. The results must be provided to the health department upon receipt.
- G. An establishment shall employ the services of a licensed pesticide operator to inspect the premises on a monthly basis and to treat, as needed, for insects and rodents.

(Ord. No. 2009/14, § 4, 9-8-2009)

#### **5.90.040 Fees.**

- A. Initial application fee for license—\$250.00.  
Initial application fee for license for establishment limited solely to piercing of the ear—\$100.00.
- B. Renewal application fee for license—\$150.00 (including revocation or suspension reinstatement); \$50.00 for establishment limited solely to piercing of the ear.
- C. Issuance of license (new or renewal)—No fee.

(Ord. No. 2009/14, § 5, 9-8-2009)

#### **5.90.050 Violations.**

- A. Any person or business in violation of this chapter shall, upon conviction, be punished by a fine of not less than two hundred fifty dollars (\$250.00) for each violation of this chapter. Each day that a violation exists shall be considered a separate offense.

(Ord. No. 2009/14, § 6, 9-8-2009)

#### **5.90.060 Severability and conflicts.**

- A. In the event that any court of competent jurisdiction determines that any word, phrase, paragraph, or any other portion of this chapter is void, then that portion of the chapter shall be severable from the remaining portion of this chapter and only that specific portion of the chapter shall be void and all other portions of this chapter shall remain completely in force and full effect.
- B. All other township ordinances which are in conflict with this chapter are hereby repealed to the extent of such conflict.
- C. This chapter shall take effect immediately after passage and publication according to law.

(Ord. No. 2009/14, § 7, 9-8-2009)

## Chapter 5.92 LICENSING, REGISTRATION AND INSPECTION REGULATIONS FOR RENTAL PROPERTY AND OPERATORS<sup>4</sup>

### 5.92.010 Definitions.

[The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:]

"Agent" shall mean the individual or individuals designated by the owner as the person(s) authorized by the owner to perform any duty imposed upon the owner by this chapter. The term does not necessarily mean a licensed real estate broker or salesman of the State of New Jersey. The agent shall reside in Monmouth County. The name, physical address and telephone number of such registered agent must be filed with the Borough of Freehold. The agent must sign an affidavit or notarized statement indicating that he or she has accepted the responsibility to act as the registered agent for the property owner and that he or she will accept service of process, etc., for the owner. This document is part of and must be submitted with the application for the registration of a rental facility or unit.

"Apartment" shall mean and include that portion of a dwelling unit rented or offered for rent, for living and dwelling purposes, to one individual or family unit together with all privileges, services, furnishings, furniture, equipment, facilities and improvements connected with the use or occupancy of such portion of the property.

"Available for rent to tenant" shall mean fit for habitation as defined by the Statutes of the State of New Jersey, codes and ordinances of the Borough of Freehold.

"Dwelling" shall mean and include any building or structure rented or offered for rent to one or more tenants or family units.

"Dwelling unit" shall mean and include that portion of a building or structure forming a single habitable unit with facilities which are used or intended to be used for living or sleeping and which is provided with facilities for cooking and eating and which is rented or offered for rent.

"Immediate family members" shall mean parent(s), child, sibling(s), grandparent or grandchild.

"Landlord" shall mean the same as "owner."

"License" shall mean the license issued by the Borough of Freehold attesting that the rental unit has been properly registered in accordance with this chapter.

"Licensed registered property" shall mean every rental property which has been offered for rent as a residential dwelling and has been duly registered by the borough.

"Occupants of rental units" or "tenants" shall mean those persons who have leased the unit from the owner regardless of the type of tenancy under which they occupy the unit.

"Owner" shall mean any person who owns any legally cognizable interest in any apartment complex including but not limited to outright ownership, ownership through a partnership, corporation or limited liability company.

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<sup>4</sup>Editor's note(s)—Ord. No. 2018/16, § I, adopted Dec. 3, 2018, repealed the former Ch. 5.92, §§ 5.92.010—5.92.070, and enacted a new Ch. 5.92 as set out herein. The former 5.92 pertained to similar subject matter and derived from Ord. No. 2011/14, §§ I—VII, adopted Dec. 19, 2011 and Ord. No. 2013/3, § I, adopted March 18, 2013.

"Maintenance" or "property maintenance" shall mean the cleanliness and proper working order and upkeep of all areas and facilities of the complex used by the tenants and the public.

"Rental Property" or "rental facility" shall mean every structure or building which contains one or more individual residential rental units other than owner occupied structures or buildings.

"Individual condominium units" shall be treated as separate and individual rental properties.

"Rental unit" shall mean and include that portion of a dwelling, building or structure rented or offered for rent, for living and dwelling purposes to individuals or family units.

"Reside" shall mean to live or dwell permanently or continuously for ten (10) or more days; to occupy a place as one's domicile.

"Owner occupied" shall mean the primary residential living unit of the owner.

"License year" shall run from July 1 to June 30.

"Annual fee" shall mean the fee for the license year.

(Ord. No. 2018/16, § I, 12-3-16)

### **5.92.020 Registration.**

- A. No building or part thereof shall be occupied as a rental facility or offered to the public for rent, prior to registration with the borough as hereinafter provided. All rental units shall be registered on an annual basis. This chapter shall not apply to owner-occupied rental units.
- B. Licensed Registered Property Application. The borough shall make available at the code office the licensed registered property application. Application to register the rental facility shall be made in writing within thirty (30) days after the issuance of the certificate of occupancy, on an annual basis, and/or upon any change in occupancy and shall be signed by the owner on the form provided. The annual application forms shall be submitted prior to the due date, as set forth in this chapter. The application shall require the following information:
  - 1. The name, email address, physical address, home, office and cell phone number of all record owners and agent/operator of the rental property, building or of the rental business (including all general partners in the case of a partnership and all members in the case of limited liability company and all shareholders in the case of a corporation).
  - 2. A certified statement from the owner and/or operator that, to the best of their knowledge, the rental property is current with all applicable municipal taxes, utility charges, that the exterior and interior or the rental property comply with applicable building codes and that there are no current or pending violations of applicable building codes for the rental property.
  - 3. If fuel oil is used to heat the operator's rental units and the operator furnishes heat, the name and address of the fuel oil dealer servicing the unit and the grade of oil used.
  - 4. As to the initial rental of each rental unit, the operator shall provide a floor plan of the unit, which shall depict the number, dimensions and location of each room in the unit. No space shall be used for sleeping purposes which has not been so designated as a sleeping area on the sketch provided by the owner and approved by the construction official/local enforcing agency which shall be on file with the construction official/local enforcing agency. If there has been no change in the floor plan since the prior submission of a registration statement, the operator may provide a certification to the borough

to that effect. If such a certification is provided, the operator shall not be required to provide an additional floor plan in subsequent years.

5. A certified statement from the owner and/or operator that the designated agent is authorized to act on behalf of the owner, may accept service of process and that service upon the agent shall be service upon the owner.
  6. A certified statement from the agent that he or she has accepted the responsibility to act as the registered agent for the property owner and that he or she will accept service of process, etc., for the owner. This document is part of and must be submitted with the application for the registration of a rental facility or unit.
- C. Rental Property Registration Statement Updates. In the event a tenancy or portion thereof changes during the year, the licensed registered operator or its authorized agent shall, within thirty (30) days of the change in tenancy, provide an updated rental property registration statement for every rental unit in which a change in tenancy has occurred. This shall be in addition to the requirements for obtaining a certification of occupancy for the change of the tenancy. There shall be no additional charge for submitting this registration statement update.
- D. Prior to every change of less than fifty (50) percent of the registered occupants or at least once every three years, an inspection of the dwelling shall be made of the dwelling and premises by the code officer for visible life safety violations, including but not limited to smoke detectors, CO detectors, handrails, guardrails, electrical and any other life safety related items, including but not limited to sleeping in non-habitable areas and areas which have not been designated for sleeping on the registration floor plan.
- A missed inspection fee of one hundred twenty-five dollars (\$125.00) shall be charged to any landlord who fails to appear or have an authorized agent appear for an inspection or reinspection as scheduled or whose tenant refuses to allow the inspection by the code officer.
- E. Licensed Registered Property Fee. Consistent with the provisions of this section, each owner shall pay a single annual fee as follows:
1. Rental property with 1—5 units: \$100.00
  2. Rental property with 6—10 units: \$125.00
  3. Rental property with 11—25 units: \$175.00
  4. Rental property with 26 or more units: \$250.00
- F. Payment of Licensed Registered Property Fee. Consistent with the term of the registration year, at the option of the operator, the licensed registered property fee may be paid in semi-annual increments, July 1 and January 1. Payments not received within fifteen (15) days of the due date will be deemed to be in default and shall constitute a violation of this chapter.
- G. Hardship Waiver. Owners who rent to immediate family members at a discounted rent may apply to the mayor and council for a hardship waiver of all or a portion of the licensed registered operator fee. Application for the hardship waiver must be made within fifteen (15) days of the commencement of the tenancy by the family member and the award of all or a portion of the fee shall be within the sole discretion of the mayor and council based on the extent of the discounted rent amount.
- H. Authorization as Licensed Registered Property. Upon completion of the licensed registered property application and payment of the fee, the property shall be deemed a "licensed registered property" and is authorized to be occupied as a rental property or facility.



- I. Licensed Registered Operator Term and Cost. Upon compliance with this section, a licensed registered operator is an authorized operator for one year. The licensed registered operator term/year shall run from July 1 through June 30 and shall be renewed on an annual basis.
- J. Revocation of Licensed Registered Property. In the event a licensed registered property is the subject of more than three sustained violations of this chapter in any given two-year period, the mayor and council may seek to revoke the registered rental property registration status. In any case in which revocation of the licensed registered property is sought, the borough shall provide the owner with notice of the grounds for revocation and a right to request a hearing, which must be scheduled no less than seven days after service of the notice of the grounds for revocation. The owner of the licensed registered property shall be permitted to provide written submissions objecting to the grounds for revocation and appear at a hearing regarding the revocation. To the extent that the mayor and council determine that the property or owner has engaged in a pattern of violating this chapter, the registration as licensed registered property may then be revoked and penalties assessed consistent with section. Upon payment of any assessed penalties, payment of the licensed registered property fee and re-inspections of the operator's rental property to establish that the operator's rental property comply with the chapter, the status as licensed registered property shall be reinstated. The reinstatement fee shall be seventy-five dollars (\$75.00) per rental property. To the extent that property and/or owner fails to become reinstated, the owner shall be prohibited from offering rental units/property to the public for rent.
- K. Transfer of Licensed Registered Property. In the event ownership of the rental property is transferred during the licensed registered operator year, the new owner shall apply for a transfer of the licensed registered property registration within ten (10) days of the transfer. There will be a fifty dollar (\$50) transfer fee associated with this transfer so long as the new owner completes the licensed registered property application. The transferor owner shall forfeit any claim against the municipality for amounts previously paid to become an authorized licensed registered operator.

(Ord. No. 2018/16, § I, 12-3-16)

### **5.92.030 Inspection of rental property.**

- A. Systematic Inspection of Rental Property. All rental property shall be inspected under a systematic plan at least once every three years by persons or agencies duly authorized by the borough for inspections for purposes of determining zoning ordinance compliance, and to determine if the rental property or rental unit comply with applicable ordinances, statutes and regulations, including but not limited to, the property maintenance code, BOCA, uniform construction code, health code, housing code and fire code, to check for visible life safety violations, including but not limited to smoke detectors, CO detectors, handrails, guardrails, electrical and any other life safety related items, including but not limited to sleeping in non-habitable areas and areas which have not been designated for sleeping on the registration floor plan. Nothing contained in this section shall limit the operator's obligation to make payment of the registered operator and registration statement fee and a file registration statement(s) in compliance with Section 5.92.020.
- B. Timing and Location of Inspections. On the first of the month preceding the month of inspections, the borough shall provide notice to affected owners of licensed registered property at the address given on the registration statement, of the scheduling of inspections. In that notice, the borough shall identify each property to be inspected and the date that the property will be subject to inspection. Inspections shall take place between 9:00 a.m. and 9:00 p.m. during the work week (Monday—Friday), or at any other time agreed upon between the operator and the borough's inspectors. Absent good cause shown by the owner, the inspection of the identified rental property shall take place on the noticed date. Notice of the inspection schedule shall be made through mailing to the owner's authorized agent and publication of the proposed

schedule at borough hall. It shall be the obligation of the owner/agent to notify the tenant of the scheduled inspection.

- C. Requirement to Cooperate. Upon proper notice, the owner and tenant(s) of the licensed registered property shall make the rental property available for such inspections. The owner/agent and tenant(s) have a duty to cooperate in facilitating these inspections. It is understood that it may be necessary to reschedule inspection appointments based on scheduling conflicts with the owners/agents and/or the tenants. Inspection appointments may be changed upon two weeks' notice, provided the inspections are within the same inspection month. In the event a mutually convenient time and date cannot be agreed upon between the tenant, owner/agent and inspector, the inspector shall have the authority to schedule the appointment to meet the inspector's schedule and the owner/agent shall cooperate and allow the inspection. The owner/agent has the right to be present at the inspection.

It shall be the responsibility of the owner/agent to assure that the tenant is notified of the proposed inspection and that inspection takes place at the scheduled time. A tenant's refusal to allow entry to their unit shall not be considered an owner's violation of the within section unless the refusal is based upon the owner's failure to provide the proper notice to the tenant.

In the event a tenant who has received notice of the inspection refuses entry by the inspector, the tenant shall be subject to a fine as set forth herein.

- D. Method and Cost of Inspection. Systematic inspections shall be made in accordance with the code enforcement protocols, with the consent of the occupant, who is of legal age to grant such consent, or, absent tenant consent, with the owner's consent or with a court order, unless there is reason to believe that a violation exists which poses an immediate threat to health or safety, requiring inspection and abatement without delay. Failure to grant consent on the part of the owner/agent after proper notice shall constitute a violation of this section. The fee for the inspections shall be one hundred dollars (\$100.00) per rental property (the "inspection fee"). Payments not received within fifteen (15) days of the due date will be deemed to be in default and shall constitute a violation of this section. Any time that a rental property has undergone a certificate of occupancy inspection, the rental property will not be subject to a systematic inspection during at least the next twelve (12) months. The scheduled systematic inspection date will then be noticed to the owner consistent with this section.
- E. Failure to Meet Standards and Right to Cure. In the event that the inspection(s) of a rental property does not result in a satisfactory inspection, the owner/agent of the licensed registered property shall cause all necessary repairs or corrections to be made as per the borough notice of violation or provide proof that the owner has commenced legal or administrative proceedings to cure the violation. Prior to the issuance of a summons, the owner/agent shall have, consistent with state statute, thirty (30) days to cure non-health and safety related violations and ten (10) days for health and safety related violations, other than overcrowding, for which a summons may issue immediately. An owner's failure to make repairs or corrections, within the time period, may be deemed in violation of this section and every day that the violation continues shall constitute a separate and distinct violation subject to the penalty provisions herein. The owner shall be entitled to a hearing before the code enforcement office or its designated hearing officer.
- F. Failure to Comply With Requested Inspection. The refusal of entry for a properly noticed systematic inspection shall be a violation of the within section, for which a summons may issue.

Any tenant who refuses to allow inspection of the rental unit after receipt of proper notice shall be subject to a minimum fine of two hundred fifty dollars (\$250.00) for a 1<sup>st</sup> offense and five hundred dollars (\$500.00) for each subsequent offense.

In the event the inspection fails to take place due to the owner or agent not appearing for same, the owner and/or agent shall be subject to a fine of two hundred fifty dollars (\$250.00) for a first offense, five hundred dollars

(\$500.00) for a second offense and one thousand dollars (\$1,000.00) for each subsequent offense in addition to the missed inspection fee.

- G. Non-Systematic Inspections. Nothing contained herein shall limit the ability of the borough to conduct non-systematic inspections which are complaint driven, based on observations of the code officials or required for the issuance of a certificate of occupancy.

(Ord. No. 2018/16, § I, 12-3-16)

#### **5.92.040 Occupancy.**

- A. Occupancy. No person shall occupy any rental unit, nor shall the owner permit occupancy of any rental unit unless the operator is properly registered and the rental unit is identified on a properly filed rental property registration statement.
- B. Notice of Occupancy. Pursuant to P.M. 901.5, the borough shall maintain and the owner of the licensed registered property shall post the maximum number of occupants in a conspicuous area within the rental property. In every written lease for each rental unit, the owner shall include a statement setting forth the maximum number of residents permitted in the unit and the location of designated and permitted sleeping areas.
- C. Occupants. Only those occupants whose names are on file with borough as provided in this chapter may reside in the licensed premises. It shall be unlawful for any other person to reside in said premises, and this provision may be enforced against the landlord/owner, agent tenant or other person residing in said premises.
- D. Violations. It shall be a violation of this section for any person, including the owner or tenant, to knowingly (a) rent or offer for rent an unregistered property; (b) fail to file the rental property registration statement; (c) fail to post and provide the appropriate notice(s) of occupancy; (d) fail to cooperate with the municipality in scheduling its systematic inspection; and (e) permit a rental property or rental unit to be conducted or maintained in a manner to constitute a nuisance.

(Ord. No. 2018/16, § I, 12-3-16)

#### **5.92.050 Exceptions.**

The provisions of the chapter shall not apply to public housing authorities, not-for-profit housing corporations, and rental property restricted to senior housing or housing for the developmentally disabled.

(Ord. No. 2018/16, § I, 12-3-16)

#### **5.92.060 Violations and penalties.**

Failure to comply with any of the provisions of this chapter may result in the imposition of a fine in the amount of not more than one thousand two hundred fifty dollars (\$1,250.00). In addition to the fine set forth above, the court may impose a period of community service not exceeding ninety (90) days. It shall be deemed a separate and distinct violation, subject to the penalty provisions of this chapter, for each and every day that such violation continues and for each and every rental property and/or rental unit for which the violation continues. Unpaid fines and fees shall constitute a lien against the property.

(Ord. No. 2018/16, § I, 12-3-16)

**5.92.070 Conflict with other laws.**

Nothing contained in this chapter is intended to or shall surpass or supersede the regulations, standards, requirements and obligations set forth in the duly adopted property maintenance code.

(Ord. No. 2018/16, § I, 12-3-16)