

BOROUGH OF WOODCLIFF LAKE
Bergen County, New Jersey

ORDINANCE NO. 18-14

**AN ORDINANCE TO AMEND CHAPTER 255 ENTITLED "PEDDLING AND SOLICITING" OF THE
BOROUGH CODE OF THE BOROUGH OF WOODCLIFF LAKE, STATE OF NEW JERSEY**

**BE IT ORDAINED BY THE BOROUGH COUNCIL OF THE BOROUGH OF
WOODCLIFF LAKE IN THE COUNTY OF BERGEN AND STATE OF NEW JERSEY, AS FOLLOWS:**

WHEREAS, there is a need to amend Chapter 255 of the Borough of Woodcliff Lake Code entitled " Peddling and Soliciting" to make same consistent and compliant with current State and Federal law.

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Council of the Borough of Woodcliff Lake, Bergen County, New Jersey, that Chapter 255 of the Borough of Woodcliff Lake Code entitled " Peddling and Soliciting shall be amended and shall be read and numbered as follows:

Section 1: That the definition of **NON-PROFIT ORGANIZATION** contained in §255-2 is stricken in its entirety.

Section 2: That the definition of **CHARITABLE ORGANIZATIONS** shall be added to §255-2 and shall read as:

CHARITABLE ORGANIZATIONS

Any person which is or holds itself out to be organized or operated for any charitable purpose.

Section 3: That the definition of **PEDDLER** contained in §255-2 is stricken in its entirety and replaced with the following language and shall now read as:

PEDDLER

Any person traveling from house to house or from street to street carrying, conveying or transporting goods, wares and merchandise, offering and exposing the same for sale or making sales of food by traveling from house to house or who shall sell or offer the same for sale from a wagon, automotive vehicle, motor truck, railroad car or other vehicle or conveyance, and further provided that one who solicits orders and, as a separate transaction, makes deliveries to purchasers a part of his/her scheme or design to evade the provisions of this chapter shall be deemed a "peddler," subject to the provisions of this chapter. The word "peddler" shall often include the words "hawker" and "huckster."

Section 4: That the definition of **PERSON** shall be added to §255-2 is stricken in its entirety and shall read as:

PERSON

Any individual, organization, trust, foundation, association, partnership, corporation, society or other group or combination acting as a unit.

Section 5: That the definition of **SOLICITOR** contained in §255-2 is stricken in its entirety and replaced with the following language and shall now read as:

SOLICIT and SOLICITATION

The request, directly or indirectly, for the donation of money, property, anything of value or financial assistance of any kind, and shall include the selling or offering for sale of any property, real or personal, tangible or intangible, whether of value or not, including but not limited to goods, books, tags, service emblems, tickets, publications or subscriptions to publications or brochures, and conducted from house to house or on the public streets. A "solicitation" is complete when the solicitation is communicated to any individual then located within the corporate limits of the Borough of Woodcliff Lake.

Section 6: That §255-3 is stricken in its entirety and replaced with the following language and shall now read as:

§255-3 UNLAWFUL SOLICITATION.

It shall be unlawful for any person, directly or through an agent or employee, or for a peddler, solicitor or canvasser to ply or conduct his/her trade or solicitation within the Borough of Woodcliff Lake without having first obtained a Certificate of Registration from the Borough Clerk, as hereinafter provided.

- A. It shall be unlawful for any person, individually or as the agent or employee of a person, or for any peddler, solicitor or canvasser to ply or conduct his/her trade or solicitation within the Borough unless his/her principal or employer has received a certificate of registration, as hereinafter provided.
- B. It shall be unlawful for any person or for any peddler, solicitor or canvasser to ply or conduct his/her trade or solicitation within the Borough without visibly displaying an identification card issued to that person by the Borough Clerk, as hereinafter provided.
- C. It shall be unlawful for any peddler, solicitor or canvasser to ply or conduct his/her trade or to solicit between the hours of 30 minutes after sunset and 9:00 a.m. on any day.
- D. It shall be unlawful for any person, directly or through an agent or employee, or for any peddler, solicitor or canvasser to ply or conduct his/her trade or to solicit within the Borough of Woodcliff Lake after expiration of any certificate of registration.
- E. It shall be unlawful for any person engaged in solicitation or for any peddler, solicitor or canvasser to knock at the door or ring the doorbell of any home, apartment or any other dwelling unit in the Borough upon which is clearly displayed at the entrance, a notice which reads "No Solicitors" or which

otherwise clearly purports to prohibit solicitation on the premises, unless such person is or has been invited upon the premises by the occupant thereof.

Section 7: That section §255-5 is stricken in its entirety and replaced with the following language and shall now read as:

§255-5 REGISTRATION REQUIRED

All persons, except as otherwise provided in this chapter or by law, desiring to solicit for charitable or other purposes or to peddle, solicit or canvass within the Borough shall file with the Police Department prior to any such solicitation, a solicitation application on forms provided by the Police Department containing the following information:

- A. The name of the person registering and desiring to solicit or to peddle, solicit or otherwise canvass.
- B. Whether the person registering is a natural person, partnership, or corporation and:
 - i. If a natural person, the business and residence address and telephone number must be given.
 - ii. If a partnership, the names of all partners and the principal business address and telephone number of each partner must be given.
 - iii. If a corporation, the person registering must state whether it is organized under the laws of New Jersey or is a foreign corporation and must state the mailing address, the business location, the telephone number, the name of the individual in charge of the local office of such corporation.
- C. The name, address, date of birth, social security number, personal photograph(s) and complete driver's license information of the person or persons who shall be conducting the solicitation or otherwise peddling, soliciting or canvassing.
- D. A brief description of the nature of the business and the goods to be sold or services to be performed for which funds are to be solicited and an explanation of the intended use of the funds toward that purpose.
- E. The time-period within which the solicitation or the peddling, soliciting or canvassing is to be conducted, giving the date of the commencement and termination of the effort.
- F. If a vehicle or vehicles are to be used in the solicitation, a description of the same, including year, make and model, together with a Certificate of Registration plate number, registration certificate information and liability insurance information or other satisfactory means of identification.
- G. The names of any other municipalities in which the person registering has solicited or otherwise peddled, solicited or canvassed within the previous 12 months.

Section 8: That section §255-6 is stricken in its entirety and replaced with the following language and shall now read as:

§255-6 PROCEDURE UPON FILING SOLICITATION APPLICATION.

The Department of Police shall review the registration statement to determine its compliance with the terms of this chapter within 48 hours after receipt of the same.

Thereafter, upon payment of the prescribed fee or in the event of an applicant who is not required to pay a fee, the Borough Clerk shall either issue a certificate of registration within 48 hours or notify the person registering that the registration statement does not comply with the requirements of this chapter and to specifically point out the information that has not been furnished and that is required before a Certificate of Registration can be issued.

Section 9: That §255-7 is stricken in its entirety and replaced with the following language and shall now read as:

§255-7 DENIAL OF CERTIFICATE OF REGISTRATION

The Chief of Police may, upon review of the application, refuse to issue a Certificate of Registration to the applicant for any of the following reasons:

- A. The location and time of the activities described in the application would endanger the safety and welfare of the applicant or its customers;
- B. An investigation reveals that the applicant falsified information on the application;
- C. The applicant has been convicted of a felony, misdemeanor or ordinance violation involving a sex offense, trafficking in controlled substances, or any violent acts against persons or property; or
- D. The applicant is a person against whom a judgment based upon, or conviction for, fraud, deceit or misrepresentation has been entered within the five (5) years immediately preceding the date of application.

The Chief of Police's disapproval and the reasons for disapproval shall be noted on the application, and the applicant shall be notified that his/her application is disapproved and that no Certificate of Registration will be issued. Notice shall be mailed to the applicant at the address shown on the application form, or at the applicant's last known address.

Section 9: That §255-8 is stricken in its entirety and replaced with the following language and shall now read as:

§ 255-8 CONTENTS OF CERTIFICATE OF REGISTRATION

Certificate of Registration shall contain the following information:

- A. The name and address of the applicant.
- B. The number of the Certificate of Registration and the nature of their activity.
- C. The address at which the activity is conducted, if the activity is carried on in a fixed location.
- D. If the activity is conducted from a vehicle, the make, model and Certificate of Registration number of the vehicle.
- E. The expiration date of the Certificate of Registration.

Section 10: That §255-9 is stricken in its entirety and replaced with the following language and shall now read as:

§ 255-9 RECORD OF CERTIFICATE OF REGISTRATION.

The Borough Clerk shall keep a record of all Certificate of Registrations issued under this chapter. The record shall contain the same information as is required by § **255-8** to be contained in the Certificate of Registration. It shall also indicate the amount of the fee paid for the Certificate of Registration, the date upon which payment was received, the date of the issuance of the Certificate of Registration, whether the Certificate of Registration is a new Certificate of Registration or a renewal.

Section 11: That §255-10 is stricken in its entirety and replaced with the following language and shall now read as:

§ 255-10 DISPLAY OF CERTIFICATE OF REGISTRATION.

When the Certificate of Registration activity is conducted at a fixed location or from a vehicle, a Certificate of Registration shall be prominently displayed at the location or in the vehicle. In all other cases, the Certificate holder shall have the Certificate of Registration in his/her possession at all times and shall display it upon the request of any police officer or any person with whom he is doing business.

Section 12: That §255-11 is stricken in its entirety and replaced with the following language and shall now read as:

§ 255-11 TRANSFERABILITY OF CERTIFICATE OF REGISTRATION.

Every Certificate of Registration shall apply only to the person, location (where the activity is to be conducted at a fixed location) and vehicle (where the activity is to be conducted from a vehicle) to whom or to which it was issued and shall not be transferable.

Section 13: That §255-12 is stricken in its entirety and replaced with the following language and shall now read as:

§ 255-12 EXPIRATION OF CERTIFICATE OF REGISTRATION; RENEWAL.

All Certificates of Registration shall expire on December 31 of the year of issue at 12:00 midnight local time. Applications for the renewal of Certificate of Registrations shall be made no later than December 1 of the year of issue.

Section 14: That §255-13 is stricken in its entirety and replaced with the following language and shall now read as:

§ 255-13 FEES

The fee for a Certificate of Registration required by this chapter shall be established by Chapter **163**, Fees.

Section 15: That §255-14 is stricken in its entirety, this chapter subsection is reserved for future use.

Section 16: That §255-15 is stricken in its entirety and replaced with the following language and shall now read as:

§ 255-15 SALE OF FOOD AND PRODUCE.

- A. All Certificate of Registration holders selling, delivering or displaying for sale food and produce from vehicles which are wholly or partly open on any side shall, at all times, keep the food and produce completely screened or covered with satisfactory materials in order to prevent flies or other insects from alighting around or upon any merchandise.
- B. All Certificate of Registration holders selling, delivering or displaying for sale seafood, meats, poultry or dairy products shall transport them only in refrigerated vehicles. The products shall remain in the refrigerated portion of the vehicle until the time of sale or delivery. The refrigerated portion of the vehicle, while in use, shall be maintained at a temperature low enough to completely safeguard all of the products from a health and sanitary standpoint.
- C. No Certificate of Registration holders shall, at any time, permit any waste products, materials or parts of produce or other merchandise to remain in or upon any street, roadway, curb or walk, but shall remove any debris that may have fallen from his/her vehicle and place it immediately in a leak proof metal container provided with a tight-fitting cover.
- D. All food or produce sold by any Certificate of Registration holders shall, at the time of delivery, be placed in bags or other suitable containers when it is handed to the customer.

Section 17: That §255-16 is stricken in its entirety and replaced with the following language and shall now read as:

§ 255-16 CONDUCT OF CERTIFICATE OF REGISTRATION HOLDERS.

All Certificate of Registrant holders under this chapter shall conduct himself/herself according to the following rules and regulations:

- A. He shall not enter or attempt to enter the house of any resident of the Borough of Woodcliff Lake without an express invitation from the occupant of the house.
- B. He shall not conduct himself/herself in a manner that is objectionable or annoying to the occupant of any house.
- C. No Certificate of Registration holder or any person acting on his/her behalf shall shout, blow a horn, ring a bell or use any other sound-making or sound-amplifying device on any street, park or other public place or on any private premises so that sounds are produced which can be plainly heard on streets, avenues, parks or other public places for the purpose of attracting attention to the Certificate of Registration holder or to the activities carried on by him/her.
- D. All Certificate of Registration holders and any vehicles used by them in the course of the Certificate of Registration activity shall fully comply with all of the provisions of this chapter or other applicable municipal ordinances and all applicable State laws or regulations, particularly those which deal with the protection of the public health, safety and welfare.

Section 18: That §255-17 is stricken in its entirety and replaced with the following language and shall now read as:

§ 255-17 USE OF VEHICLES.

- A. No Certificate of Registration holder shall permit any debris, waste material, rotting produce or similar matter to remain in or upon his/her vehicle unless it is contained in a leak proof metal container provided with a tight-fitting metal cover.
- B. No Certificate of Registration holder shall transact business from his/her vehicle unless it is properly parked immediately adjacent to the curb of a public street in a permitted locality. No Certificate of Registration holder shall, at any time, double-park his/her vehicle while transacting business nor transact business other than on the curb side of his/her vehicle.
- C. With the exception of registered food trucks as provided in the Code of the Borough of Woodcliff Lake, Certificate of Registration holders selling food and produce shall prohibit, to the extent reasonably possible, the eating of any merchandise directly from their vehicles.
- D. Before a Certificate of Registration holder selling food and produce uses any vehicle in connection with his/her business, the vehicle shall be submitted to the Borough of Woodcliff Lake Board of Health for inspection and approval relative to compliance with this chapter. Whenever requested during the term of the Certificate of Registration, the Certificate of Registration holder shall submit his/her vehicle for reasonable re-inspection. No vehicle shall be used by the Certificate of Registration holder unless it has been approved for use by the Board of Health. A certificate of written approval shall remain in the vehicle at all times and shall be shown by the operator to any member of the Borough of Woodcliff Lake Police Department or any other official of the Borough who may request to see it.
- E. Any vehicle used in connection with any active Certificate of Registration by this chapter shall have a copy of the Certificate of Registration visibly placed in the front windshield.

Section 19: That §255-18 is stricken in its entirety and replaced with the following language and shall now read as:

§ 255-18 LOCATION RESTRICTIONS.

No Certificate of Registration holder shall have an exclusive right to any location in the public streets, nor shall he/she be permitted a stationary location on the streets.

Section 20: That §255-20 is stricken in its entirety and replaced with the following language and shall now read as:

§ 255-20 REVOCATION OF CERTIFICATE OF REGISTRATION.

Any Certificate of Registration issued under the provisions of this chapter may be revoked by the Mayor and Council after notice and a hearing for any of the following causes:

- A. Fraud or misrepresentation in any application for a Certificate of Registration.

- B. Fraud, misrepresentation or other dishonesty in the conduct of the Certificate of Registration activity.
- C. A violation of any provision of this chapter or any other provision of this Code or other ordinance of the Borough of Woodcliff Lake applicable to the Certificate of Registration activity.
- D. Conviction of the Certificate of Registration holder for any felony or high misdemeanor or a misdemeanor or disorderly person's offense involving moral turpitude.
- E. Conduct of the Certificate of Registration activity, whether by the Certificate of Registration holder himself/herself or his/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 welfare.

Section 21: That §255-21 is stricken in its entirety and replaced with the following language and shall now read as:

§ 255-21 NOTICE OF HEARING.

Notice of a hearing for the revocation of a Certificate of Registration 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 Certificate of Registration holder at his/her last known address by certified mail, return receipt requested, at least five days prior to the date set for the hearing.

Section 22: That §255-22 is stricken in its entirety and replaced with the following language and shall now read as:

§ 255-22 HEARING; DETERMINATION.

At the hearing, the Certificate of Registration holder shall have the right to appear and be heard, to be represented by an attorney, to present witnesses in his/her own behalf, to cross-examine opposing witnesses and to have a permanent record made of the proceedings at his/her own expense. If such a record is made, two copies shall be furnished to the Borough without charge. The Mayor and Council shall revoke or suspend the Certificate of Registration if they are satisfied by a preponderance of the evidence that the Certificate of Registration holder is guilty of the acts charged.

Section 23: That §255-23 is stricken in its entirety and replaced with the following language and shall now read as:

§ 255-23 REINSTATEMENT OF REVOKED CERTIFICATE OF REGISTRATION.

The Mayor and Council may issue another Certificate of Registration to a person whose Certificate of Registration has been revoked or denied as provided in this chapter if, after a 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 Certificate of Registration has been revoked or denied nor any person acting for

him/her, directly or indirectly, shall be issued another Certificate of Registration to carry on the same activity.

Section 24. All prior ordinances that are inconsistent with this ordinance are repealed. All ordinances are hereby amended to be consistent with this ordinance and all ordinances, including this one, shall be construed consistent with the express purpose of this ordinance.

Section 25. This ordinance shall be construed consistent with the purpose stated in section 1 hereof. Any ambiguities in this ordinance shall be construed in accordance with the purpose of this ordinance. If any part of this ordinance is invalidated by a court of competent jurisdiction, the remainder of this ordinance shall be saved to the full extent possible. This ordinance repeals provisions of the Woodcliff Lake Code only where stated herein; otherwise this ordinance is amendatory and supplementary to existing provision of the Woodcliff Lake Code.

Section 26. This ordinance shall take effect immediately upon approval and publication of notice of adoption as provided by law.

Adopted: December 4, 2018