

4-17 COMMERCIAL SOLICITATION.

4-17.1 Definitions; Word Usage.

For the purpose of this section, the following terms, words and phrases shall be interpreted as follows:

Applicant shall mean a person or entity seeking to obtain a license for commercial solicitation.

Canvasser shall mean any person who travels, either by foot or automobile or any other type of conveyance, from place to place, from house to house or from street to street to seek or develop support for, to conduct market research about, to determine feelings or opinions about, to conduct a survey about, or explain a position about and on behalf of any commercial product, cause or organization.

Employee shall mean any individual receiving compensation, in any form whatsoever, from an entity for engaging in solicitation within the Borough.

Goods and/or Services includes but is not limited to food (including but not limited to ice cream, refreshments and farm products), magazines and periodicals, advertisements, commercial handbills, personal property, coupons, products, merchandise, wares, orders or contracts for a service, home improvement or alterations.

Itinerant Vendor or Solicitor shall mean any person who travels, either by foot or automobile or any other type of conveyance, from place to place, from house to house or from street to street taking or attempting to take orders for the sale of goods of any nature whatsoever for future delivery or for services to be furnished or performed in the future, whether or not such person has, carries or exposes for sale a sample of the object to be sold, and whether he/she is collecting advance payments on such sales; but shall not include wholesalers calling on retail merchants.

License shall mean a license for commercial solicitation issued by the Borough of Roseland pursuant to the provisions of this article.

Peddler or Hawker shall mean any person who travels, either by foot or automobile or any other type of conveyance, from place to place, from house to house or from street to street, carrying, conveying or transporting goods for the purpose of selling and delivering them to prospective customers.

Person shall mean not only an individual, but also any organization, firm, partnership, corporation, company, association, church, religious denomination, society, class, league or other entity or group.

Solicitation or Solicit shall mean to go in or upon the streets, roads, and semiprivate and private property in the Borough of Roseland without having been invited to do so by the owner or occupant of the property, for the purpose of advertising, promoting or selling any products, goods or services or conducting market research or a market or opinion survey regarding commercial goods or services. Solicitors shall include but shall not be limited to itinerant vendors, peddlers, hawkers and canvassers of commercial products or services. Solicitation shall include the placement upon private property of handbills or other written material

advertising goods or services for sale. Solicitation shall also include the sale of goods or services which the solicitor promises to donate or deliver to a charitable or other nonprofit institution on behalf of the purchaser.

(Ord. No. 2-2015)

4-17.2 License Required.

Except as otherwise provided in subsection 4-17.3 below, it shall be unlawful for any person to solicit, sell or dispose of or to offer to sell or dispose of any goods, or to solicit orders for the performance of any service or to engage in commercial canvassing within the corporate limits of the Borough of Roseland without first obtaining a license therefor in compliance with the provisions of this section. Such license shall not be transferable from the person to whom issued to any other person. A separate license shall be obtained by each solicitor, itinerant vendor, hawker, peddler or canvasser for every agent or employee working for him/her. (Ord. No. 2-2015)

4-17.3 Exemptions from Requirements.

The requirements of this section shall not apply to the following:

- a. Any person honorably discharged from the military service who has a license under N.J.S.A. 45:24-9 et seq.
- b. Any person who is an exempt firefighter of a volunteer fire department, as defined by N.J.S.A. 45:24-9 and 45:24-10, possessing a license in conformity with said law.
- c. Any public utility or its employees, which said utility is subject to regulation by the State Board of Public Utility Commissioners; provided, however, that such employee shall display the identification badge or card issued by his/her employer.
- d. Any person engaged in the delivery of goods, wares or merchandise or other articles or things in the regular course of business to the premises of persons who had ordered the same or were entitled to receive the same by reason of a prior agreement.
- e. Any individual engaged in the delivery of newspapers published in the State.
- f. Commercial travelers or selling agents calling upon commercial establishments in the usual course of business.
- g. Any person to whom Section 4-18, (Noncommercial Solicitation) of this chapter applies.

(Ord. No. 2-2015)

4-17.4 Application for License.

- a. Every applicant for a license under this section shall be 18 years of age or older and shall follow the procedures set forth in Chapter IV, Licensing and Business Regulations.
- b. Each applicant for a license shall secure through a private agency a criminal history background check, conducted not more than 14 days prior to the filing of the application. Such criminal history background check must be submitted (as part of the application) directly from the

private agency to the Chief of Police. The criminal history background check shall be in sufficient detail and scope to reveal any criminal history recorded with the State Bureau of Identification or with the Federal Bureau of Investigation and to allow the Chief of Police to reach an informed decision as required by subsection 4-17.5a.2. below.

(Ord. No. 2-2015)

4-17.5 Investigation and Approval of Application.

a. The investigation required under subsection 4-1.3 shall be limited to that sufficient for the Chief of Police or his designee to make a determination that:

1. The issuance of a license is in accordance with the provisions of subsection 4-17.3 above and N.J.S.A. 45:17A-18 et seq.; and

2. The applicant has not been convicted of any criminal offense or a violation of a municipal ordinance relating adversely to the registrant's fitness to perform activities regulated by this section, including those involving violence or the threat of violence.

b. For the purpose of this section, a plea of guilty, nolo contendere or any other similar disposition of alleged criminal activity shall be deemed a violation.

(Ord. No. 2-2015)

4-17.6 License Application Fee, Duration of License.

A license application fee of one hundred dollars (\$100.00) per person, per license, must be submitted at the time of application. The fee is non-refundable whether the license is approved or denied.

a. Duration of License. Other than licenses issued to Mobile Food Vendors, all Solicitation Licenses shall expire at the end of three (3) months following the date of issuance.

b. Mobile Food Vendors. All Solicitation licenses issued to Mobile Food Vendors shall expire at midnight on December 31st of the calendar year in which the license was issued, or upon expiration, revocation, or suspension of the vendor's Retail Food Establishment License.

4-17.7 Time Restrictions.

Solicitation shall take place within the Borough only during daylight hours but no earlier than 10:00 a.m. and no later than 7:30 p.m. on Mondays through Saturdays. Solicitation shall be prohibited on Sundays.

a. Exception: Mobile food vendors with a valid Solicitation License and a valid Retail Food Establishment License issued by the Board of Health may operate at any locations on public or private property which mobile retail food vending equipment occupies or where the

mobile retail food vendor conducts business in any manner for a total cumulative time period of no more than one hour in any twenty-four-hour period, commencing at 12:00 midnight. Any interruption or removal of equipment and/or of the vendor during any twenty-four-hour period shall not constitute the commencement of a new one hour period.

4-17.8 Carrying and Displaying of License.

Each individual and/or member of any organization permitted to conduct solicitations shall carry the approved license at all times and will present same upon request. The license shall be prepared by the Clerk and shall be uniform in style and design. The following information shall be printed on the license:

- a. Name of the solicitor;
- b. Name and address of the organization on whose behalf the solicitation is made. The municipal and state address of the organization shall be the most conspicuous writing on the license and shall be at least twice as large as any other printed matter contained on the license;
- c. Expiration date of the license;
- d. A statement that the Borough of Roseland has licensed the solicitation but neither approves nor disapproves of the organization and/or its activities.
- e. Photograph of solicitor. The applicant shall provide the clerk with a current 2" x 2" color photograph of each licensee for inclusion on the license.

4-17.9 Code of Conduct.

Every individual issued a license under this section shall conduct himself/herself according to the following code of conduct:

- a. He/she shall not enter or remain upon any resident's property that is on the "Do Not Solicit" List (See Section 4-19 of this chapter) or upon which it is posted that solicitors are not permitted, or notice of similar content.
- b. He/she shall carry the license at all times and will present same upon request as described in subsection 4-17.8.
- c. He/she shall not enter or attempt to enter any dwelling unit without express invitation from the occupant therein.
- d. He/she shall immediately leave the resident's property upon request by the resident to do so.

- e. He/she shall not leave, on or about the resident's property, any circular, samples or other matter or material unless same is handed to an occupant of the property.
- f. He/she shall not indicate that the Borough endorses or sponsors any of the views expressed or the organization for which support of contribution is sought.
- g. He/she shall not make false claims, misrepresentations or materially incorrect statements concerning the solicitation, organizations represented or the use to be made of the amount solicited.
- h. He/she shall not engage in any course of alarming conduct or conduct himself/herself so as to reasonably alarm or annoy the occupant of the dwelling.
- i. He/she shall not engage in any conduct which is prohibited by any statute, regulation or ordinance in effect in the Borough of Roseland.
- j. He/she shall present written receipts in accordance with subsection 4-17.12.
- k. He/she shall have a complete copy of this section in his/her possession at all times.
- l. He/she shall be wearing a reflective vest and carrying a functioning flashlight at dusk or later.
- m. He/she shall have in his/her possession at all times a copy of the "Do Not Solicit" List (See Section 4-19 of this chapter) that is no more than two weeks old. A current copy of the updated "Do Not Solicit" List is accessible on the Borough's official website.

4-17.10 Prohibited Practices.

- a. No individual shall go upon any property or create any sound in a manner calculated to attract the attention of any occupant of a residence on which is posted a sign expressly prohibiting such activity.
- b. No individual shall enter a roadway for the purpose of approaching occupants of motor vehicles using the roadway or approach such occupants; have any exclusive right to any location; operate or conduct any of his/her business from a fixed location; or be permitted to operate in any congested area where his/her operations might impede or inconvenience the public. For the purposes of this section, the judgment of a Police Officer, exercised in good faith, shall be deemed presumptive as to whether the area is congested or the public impeded or inconvenienced. As used herein, a licensee shall be deemed to be operating from a fixed location if he/she has been in the same location, or one within 200 feet in any direction of the location, or remains on the same lot for more than 30 consecutive minutes.
- c. No individual shall solicit any goods or services, including but not limited to food, ice cream and soft drinks, within 1,000 feet of any commercial establishment or machine selling, vending or dispensing the same or substantially similar goods or services.

d. No individual shall solicit any goods or services, including but not limited to food, ice cream and soft drinks, in any municipal park or other place of recreation or cultural activity or upon any public street or right-of-way adjacent to such municipal park or place of recreational or cultural activity.

(Ord. No. 2-2015)

4-17.11 Solicitation at Shopping Centers.

Whenever any individual or organization shall be limiting its proposed solicitation activity to a particular shopping center, as defined in Section 30-202, all approvals for such proposed solicitation shall be received from the shopping center management. Such person or organization seeking to solicit shall make application to the shopping center management for permission to solicit. If the shopping center management approves of the proposed 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 solicitation shall take place. The duration, coordination and timing of any such solicitation(s) shall be at the discretion of the shopping center management. Upon receipt of a 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 solicitation activity which has been approved at the particular center. (Ord. No. 2-2015)

4-17.12 Written Receipts Required.

Any person receiving money or any other thing for a value of \$1 or more from any contributor under a solicitation made pursuant to this section shall give to the contributor a written receipt signed by the solicitor showing the date and the amount received, provided that this subsection 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 in accordance with this section where it is impractical to determine the amount of each contribution. Copies of such receipts shall be kept and available for inspection upon the request of a Police Officer. (Ord. No. 2-2015)

4-17.13 Enforcement.

It shall be the duty of any Police Officer of the Borough of Roseland or the Code Enforcement Officer to enforce the provisions of this section. (Ord. No. 2-2015)

4-17.14 Violations and Penalties.

In addition to license revocation as set forth in subsection 4-1.9, any person, organization or agent thereof found guilty of violating any provision of this section shall, upon conviction, be subject to the penalties provided in Chapter I, Section 5, General Penalty, unless the penalty prescribed for such conduct by State statute is less, in which case the lesser penalties shall apply. (Ord. No. 2-2015)