

**PLEASE TAKE NOTICE** the following ordinance was introduced and passed on first reading at the June 26, 2017 meeting of the Mayor and Borough Council and will be considered for second reading and final passage during the meeting scheduled to begin at 8:00 p.m. on July 10, 2017 in the Municipal Building, located at 555 Brighton Avenue, Spring Lake Heights, at which time and place any person desiring to comment on this ordinance will be given the opportunity to be heard. A copy of the ordinance is available in the clerk's office.

**Janine Gillis, Borough Clerk**

**BOROUGH OF SPRING LAKE HEIGHTS**

**ORDINANCE NO. 2017-05**

**AN ORDINANCE AMENDING CHAPTER 4 (GENERAL LICENSING) OF THE REVISED GENERAL ORDINANCES OF THE BOROUGH OF SPRING LAKE HEIGHTS IN ORDER TO ESTABLISH A "NO KNOCK" REGISTRY AND PROVIDING FOR THE REGULATION OF CANVASSING, SOLICITATION AND PEDDLING**

**BE IT ORDAINED**, by the Mayor and Borough Council of the Borough of Spring Lake Heights, in the County of Monmouth, State of New Jersey, as follows:

**SECTION 1.** Section 3-2 entitled "Distribution of Handbills" and §3-18 entitled "Soliciting Business" of Chapter 3 (Regulations Enforced by the Police Department) of the Revised General Ordinances of the Borough of Spring Lake Heights, New Jersey are hereby repealed.

**SECTION 2.** Section 4-2 entitled "Canvassing" of Chapter 4 (General Licensing) of the Revised General Ordinances of the Borough of Spring Lake Heights, New Jersey is hereby amended to read in its entirety as follows:

**§4-2 CANVASSING, CHARITABLE SOLICITATION & PEDDLING.**

**§4-2.1 Purpose.** This ordinance is adopted for the purpose of protecting the health, safety and welfare of the residents of the Borough of Spring Lake Heights, to discourage unethical and dishonest business practices, to discourage littering and to prevent fraud from being perpetrated upon the Borough's residents, and to protect their privacy, while balancing such interests against the opportunity for commercial, political, religious, charitable and nonprofit organizations to exercise their right to free speech and to engage in certain commercial solicitation activities.

**§4-2.2 Exemptions.** The following persons and activities are exempt from the requirements of this ordinance:

- A. Any person who conducts a judicial sale under the authority of state or federal laws.
- B. Any exempt member of a volunteer fire department, volunteer fire engine, hook and ladder, hose or supply company, or first aid squad of any municipality or fire district in this state, who holds an exemption certificate issued as an exempt member of any such department, company or corps, who is a resident of the State of New Jersey and who has procured a license in the manner and under the conditions prescribed in N.J.S.A. 45:24-9, et seq.

- C. Any person honorably discharged from the military forces of the United States, who is a resident of the State of New Jersey and who has procured a license in the manner and under the conditions prescribed in N.J.S.A. 45:24-9, et seq.
- D. Children under 18 years of age that are members of non-commercial youth service organizations, any local elementary or high school educational fundraisers, local recreation sports teams engaged in any canvassing, charitable solicitation or commercial solicitation activities door-to-door or at a storefront with the approval of the business. Prior notification to the Police Department shall be provided to ensure the safety of those participating.
- E. Store owners or their employees handing out coupons or store fliers within ten (10) feet of the main entrance to their store.
- F. Persons engaged in the sale or delivery of newspapers qualified as legal newspapers within the meaning of N.J.S.A. 35:1-1, et seq.
- G. Officers or employees of the Borough, state or federal government when on official business.
- H. Employees of any public utility which is subject to regulation by the State Board of Public Utilities provided that such employee shall display the identification badge or card issued by the employer.
- I. Persons engaged in the delivery of goods, wares or merchandise or other items 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.

**§4-2.3 Definitions.** Unless specifically defined below, words or phrases used in this ordinance shall be interpreted so as to give them the meaning they have in common usage and to give this ordinance the most reasonable application.

**BOROUGH** – the Borough of Spring Lake Heights, Monmouth County, New Jersey.

**CANVASSING** – the act of going from street to street, place to place, house to house, or onto property without having been invited to do so by the owner or occupant for the purpose of obtaining the views of any person upon any economic or social question, conducting surveys, market research, opinion polls, asking for votes, obtaining signatures for a petition or similar document, or distributing political or non-commercial literature, pamphlets, circulars, and information.

**CHARITABLE SOLICITATION** – the act of going from street to street, place to place, house to house, or onto property without having been invited to do so by the owner or occupant for the purpose of distributing non-commercial religious or educational literature, pamphlets, circulars, information, or requesting contributions for the benefit of an entity which:

- 1) qualifies for tax-exempt status pursuant to the Internal Revenue Code;
- 2) qualifies for exemption from property tax pursuant to N.J.S.A. 54:4-3.6;
- 3) qualifies for exemption from sales tax pursuant to N.J.S.A. 54:32B-9; or
- 4) was created pursuant to or is otherwise subject to the provisions of Title 15A of the

New Jersey Statutes.

FROZEN DESSERT TRUCK – a motor vehicle in which frozen desserts, as defined at N.J.S.A. 39:4-128.3, are carried for purposes of retail sale on streets, parks and other public areas.

PEDDLING, COMMERCIAL SOLICITATION – the act of going from street to street, place to place, house to house, or onto property without having been invited to do so by the owner or occupant for a commercial purpose including, but not limited to:

- (a) offering the sale of merchandise, goods, products or services, including but not limited to magazines, periodicals, books, orders for home improvements or alterations, and including the sale of merchandise, goods or services where the person peddling promises to donate or deliver to a charitable or other nonprofit entity or organization all or some portion of the proceeds of such sale;
- (b) distributing handbills or other printed or embossed materials or samples which advertise the sale of merchandise, goods or services;
- (c) soliciting the sale, purchase or rental of real property.

PERSON – any individual, firm, partnership, company, corporation, organization, association, society, league or other entity or group.

**§4-2.4 Canvassing Registration.**

4-2.4.1 Any person or organization desiring to engage in canvassing activities as herein defined shall be exempt from the license requirements of this ordinance provided a registration statement is filed at least three (3) days in advance of such activities on a form furnished by the Borough Clerk which includes the following information and such additional information as may be reasonably required:

- A. A copy of the driver's license for each person authorized to conduct canvassing activities;
- B. If a vehicle is to be used, a description of the same, together with a copy of the current vehicle registration;
- C. A complete schedule of the date and time when the applicant proposes canvassing activities.

4-2.4.2 Canvassing registration forms shall be reviewed by the Chief of Police who shall issue a registration certificate without charge to such person or organization to canvass in the Borough.

4-2.4.3 Such organization shall furnish all of its members, agents or representatives conducting solicitation activities with a copy of the registration certificate together with a badge not smaller than 2 x 3 1/2 inches with letters and figures at least 1/4 inch high on contrasting background and displayed so that the information thereon is easily discernible from a distance of seven feet. The following information shall be printed on the badge: (1) Individual's name; (2) photograph; and (3) the name of such organization. The badge requirement may be satisfied by utilizing a photo identification card issued by any governmental agency, school or employer.

4-2.4.4 All canvassing activities shall be conducted between the hours of 9:00 a.m. and 9:00

p.m.

4-2.4.5 Persons engaged in canvassing activities shall be provided with a copy of the Borough's No Knock Registry established pursuant to this ordinance.

#### **§4-2.5 Charitable Solicitation Registration.**

4-2.5.1 Any organization, society, association or corporation desiring to solicit, or have solicited in its name, for donations of money or property, or financial assistance of any kind, or desiring to sell or distribute any item of literature or merchandise for which a fee is charged for a charitable, religious, patriotic or philanthropic purpose, shall be exempt from the license requirements of this ordinance provided a registration statement is filed at least three (3) days in advance of such activities on a form furnished by the Borough Clerk which includes the following information and such additional information as may be reasonably required:

- A. The name and purpose of the cause for which solicitation is conducted;
- B. Proof of tax exempt status as defined above;
- C. Names and addresses of the officers and directors of the organization;
- D. Whether or not any commission, fees, wages or emoluments are to be expended.
- E. A copy of the driver's license for each person authorized to conduct charitable solicitation activities;
- F. If a vehicle is to be used, a description of the same, together with a copy of the current vehicle registration;
- G. A complete schedule of the date and time when the applicant proposes charitable solicitation activities.

4-2.5.2 Charitable solicitation registration forms shall be reviewed by the Chief of Police who shall issue a registration certificate without charge to such organization to solicit in the Borough.

4-2.5.3 Such organization shall furnish all of its members, agents or representatives conducting solicitation activities with a copy of the registration certificate together with a badge not smaller than 2 x 3 1/2 inches with letters and figures at least 1/4 inch high on contrasting background and displayed so that the information thereon is easily discernible from a distance of seven feet. The following information shall be printed on the badge: (1) Individual's name; (2) photograph; and (3) the name of such organization. The badge requirement may be satisfied by utilizing a photo identification card issued by any governmental agency, school or employer.

4-2.5.4 All charitable solicitation activities shall be conducted between the hours of 9:00 a.m. and 9:00 p.m.

4-2.5.5 Persons engaged in charitable solicitation shall be provided with a copy of the Borough's No Knock Registry established pursuant to this ordinance.

#### **§4-2.6 Peddling, Commercial Solicitation License.**

4-2.6.1 No person shall engage in peddling and commercial solicitation activities as herein

defined within the Borough without having first obtained a license pursuant to this ordinance. Failure to obtain a license prior to commencing any peddling and commercial solicitation activities shall constitute a violation of this ordinance. Each day without a valid license shall constitute a separate violation.

4-2.6.2 Application for a peddling and commercial solicitation license shall be made on a form furnished by the Borough Clerk which includes the following information and such additional information as may be reasonably required:

- A. Name, address and phone number of business applying for the license;
- B. A statement of the nature and of the goods, wares or merchandise to be sold or offered for sale, and if applicable, where manufactured and located and the proposed method of delivery;
- C. A listing of all municipalities in New Jersey where the applicant has previously conducted peddling and commercial solicitation activities within the previous two (2) years;
- D. Name and business phone number of the business owners and individual(s) managing or supervising peddling and commercial solicitation activities in the Borough;
- E. A listing of all crimes or offenses or violations of any municipal ordinances for which the applicant has been convicted (within the last ten (10) years), the nature of the crime or offense and the punishment assessed therefor; if the applicant is not an individual, these provisions shall apply to its officers and managers;
- F. A copy of the driver's license for each person authorized to conduct peddling or commercial solicitation activities on behalf of the applicant together with two (2) photographs, taken within thirty (30) days immediately prior to the date of filing of the application, which pictures shall be two inches by two inches (2" x 2"), showing the head and shoulders of the applicant in a clear and distinguishing manner.
- G. If a vehicle is to be used, a description of the same, together with a copy of the current vehicle registration;
- H. A complete schedule of the date and time when the applicant proposes to conduct peddling or commercial solicitation activities.
- I. A non-refundable application fee payable to the Borough in the amount of \$100.00 plus an additional fee of \$25.00 per individual included on the application at the time of submission; a fee in the amount of \$50.00 per person is required for individuals added thereafter.

4-2.6.3 Peddling and commercial solicitation activities shall be limited to persons 18 years of age or older. A criminal history background check will be required for each person engaged in peddling or commercial solicitation activities. The Borough Police Department requires that the background check be completed by Morphotrak, or such other entity authorized by the New Jersey State Police. The fingerprint forms will be supplied to the applicant upon a determination by the Chief of Police, or the Chief's designee, that the application is complete and all required information has been submitted. The costs associated with the criminal history background check are the responsibility of the applicant, not the Borough.

4-2.6.4 Application Review. Upon receipt of the completed license application, including the results of the completed background check, the application will be reviewed by the Chief of Police; or the Chief's designee. The Chief of Police will maintain custody of the criminal history record information received from the New Jersey State Police Bureau of Identification and the Federal Bureau of Investigation.

4-2.6.5 Application Approval; Issuance of License.

- A. Upon a satisfactory determination regarding the applicant, the Chief of Police, or the Chief's designee, shall endorse the application as approved for return to the Borough Clerk for delivery to the applicant.
- B. The license shall be issued for a period of not more than ninety (90) days from the date of approval.
- C. The Borough Clerk shall be responsible for posting issued license information on the Borough's website.

4-2.6.6 License Application Denial.

- A. If upon review it is determined that a license should not be issued the Chief of Police, or the Chief's designee, shall indicate such disapproval and reasons for same and return the application to the Borough Clerk, who shall notify the applicant of its disapproval. Any determination that an application is unsatisfactory shall be based upon one or more of the following findings:
  - (1) The criminal background check reveals a record of conviction of any crime or disorderly persons offense or petty disorderly persons offense:
    - (a) Involving danger to the person, meaning those crimes and disorderly persons offenses set forth in N.J.S.A. 2C:11-1 et seq. (criminal homicides); N.J.S.A. 2C:12-1 et seq. (assault; reckless endangering; threats); N.J.S.A. 2C:13-1 et seq. (kidnapping and related offenses); N.J.S.A. 2C:14-1 et seq. (sexual offenses); or N.J.S.A. 2C:15-1 et seq. (robbery); N.J.S.A. 2C:18-1 et seq. (burglary and other criminal intrusion); N.J.S.A. 2C:20-1 et seq. (theft); or any crimes or offenses involving fraud;
    - (b) Against the family, children or incompetents, meaning those crimes and disorderly persons offenses set forth in N.J.S.A. 2C:24-1 et seq.;
    - (c) Involving any controlled dangerous substance as set forth in N.J.S.A. 2C:35-1 et seq.;
    - (d) In any other state or jurisdiction, conduct which, if committed in New Jersey, would constitute any of the crimes or disorderly person's offenses described herein;
  - (2) Prior violation of a canvassing, peddling, soliciting or similar ordinance within the last ten (10) years;
  - (3) Records of breaches of soliciting contracts; or
  - (4) Misrepresentation or false statement contained in the application for the license.

- B. If the application is denied, the applicant may appeal to the Borough Council by filing a written request for same with the Borough Clerk within seven (7) days of notice of the denial. Such appeal shall be heard by the Borough Council at any special or regular meeting conducted within 30 days of receipt of the applicant's request for appeal and shall be made on not less five (5) days notice to the Chief of Police. The Chief of Police, or the Chief's designee, shall attend such hearing and shall state the reasons for disapproval. There shall be no administrative appeal from the decision of the Borough Council.

4-2.6.7 The licensee shall furnish all persons conducting peddling and commercial solicitation activities with a copy of the license together with a badge not smaller than 2 x 3 1/2 inches with letters and figures at least 1/4 inch high on contrasting background and displayed so that the information thereon is easily discernible from a distance of seven feet. The following information shall be printed on the badge: (1) Individual's name; (2) photograph; and (3) the name of such organization. The badge requirement may be satisfied by utilizing a photo identification card issued by any governmental agency, school or employer.

4-2.6.8 All peddling and commercial solicitation activities shall be conducted Monday through Saturday between the hours of 9:00 a.m. and 6:00 p.m.

4-2.6.9 Persons engaged in peddling and commercial solicitation activities shall be provided with a copy of the Borough's No Knock registry established pursuant to this ordinance.

4-2.6.10 Code of Conduct.

- A. Any licensee shall be required to carry such license at all times which shall be produced upon the request of any resident, Borough official or Police Officer.
- B. Any license shall be surrendered to the Borough Clerk within twenty-four (24) hours of expiration, cancellation, suspension or revocation.
- C. The holder of any license shall not canvass or solicit orders for any articles from pedestrian or vehicular traffic on or adjacent to any public street, avenue or highway within the limits of the Borough in such manner as will interfere with the normal and usual use of such public street, avenue or highway.
- D. The licensee must remove themselves from the premises immediately after being asked to leave by the owner or occupant.
- E. No person shall shout, make any outcry, blow a horn, or any loudspeaker, radio or sound-amplifying system upon any streets, alleys, parks or other public places of the Borough or upon any private premises where sound of sufficient volume is emitted or produced there from to be capable of being plainly heard upon the streets, avenues, alleys, parks or other public places for the purposes to sell.
- F. No person shall have exclusive right to any location in or upon the public streets or rights-of-way thereof, nor shall any vested rights arise from the use of any location, and no person shall be permitted to operate in any location or area where his presence presents a public hazard, danger or inconvenience, contributes to vehicular or pedestrian congestion or constitutes a public nuisance.

- G. A licensee 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. A licensee shall not engage in any course of alarming conduct or conduct himself/herself so as to alarm or seriously annoy the residents.
- I. A licensee shall not engage in any conduct which is prohibited by any statute, regulation or ordinance in effect in the Borough.
- J. A licensee shall not be permitted to wear any kind of mask or head covering which in any way conceals their identity.

**§4-2.7 No Knock (No Solicitation) Registry.**

- A. The Borough Clerk shall establish and maintain a listing of addresses within the Borough, designated as the Borough of Spring Lake Heights No Knock Registry, which shall consist solely of property addresses and shall include no further identifying information regarding the resident(s) or property owner(s). The Borough Clerk shall be responsible for posting the No Knock Registry on the Borough's website.
- B. Any resident of the Borough may register their address to be placed on the No Knock Registry indicating that they do not want those conducting canvassing, charitable solicitation, and/or peddling and commercial solicitation activities to approach their premises.
- C. Registration shall be made by submitting relevant information to the Borough Clerk on a form furnished for such purpose by the Clerk. Upon receipt of the form properly signed by the resident or authorized agent, the Borough Clerk shall provide, at no cost, a decal indicating registration on the No Knock Registry.
- D. An address shall remain on the No Knock Registry until such time as the Borough Clerk is notified in writing to remove same. The Borough Tax Assessor shall notify the Borough Clerk of any change in ownership of property within the Borough at which time the property, if applicable, will be removed from the No Knock Registry. Thereafter, a new owner or resident may register such property on the No Knock Registry.
- E. Canvassing, charitable solicitation, peddling and commercial solicitation activities at any address identified on the No Knock Registry, or at any address at which a "No Trespassing," "No Soliciting" or similar notice is posted shall constitute a violation of this ordinance. Each and every solicitation by an individual solicitor shall constitute a separate violation.

**§4-2.8 Frozen Dessert Truck Regulations.**

- A. It shall be unlawful to engage in peddling activities in the Borough involving the sale of frozen desserts from vehicles without first obtaining a license required for peddling and commercial solicitation pursuant to this ordinance.
- B. All food and drink products which shall be sold or offered for sale from such vehicle shall comply with all laws and local ordinances relating to food and food products.
- C. The following regulations shall apply:



- (1) All sales are to be conducted from areas where automobiles are permitted to park.
- (2) All sales are to be conducted from the curb side of the vehicle and only to pedestrians.
- (3) All sales shall begin within five (5) minutes of the time the vehicle is parked.
- (4) Sales to any individuals remaining in another motor vehicle is prohibited.
- (5) Parking in any no-parking area, handicapped reserved area or yellow-curbed area, even temporarily, is prohibited unless the vehicle is disabled.
- (6) Parking in any fixed location for more than ten (10) minutes from the completion of the last sale is prohibited.
- (7) No sales of glass containers shall be permitted.
- (8) Each vehicle shall provide trash and recycling containers.

D. The sale of frozen desserts from vehicles shall be conducted daily between the hours of 9:00 a.m. and sunset as designated by the National Weather Service.

**§4-2.9.0 Violations and penalties.** Any person who shall violate any provision of this ordinance shall, upon conviction thereof, be punishable by one or more of the following: suspension or revocation of any license issued pursuant to this ordinance, a fine not exceeding two thousand (\$2,000.00) dollars, or imprisonment for a period not exceeding ninety (90) days, or by a period of community service not exceeding ninety (90) days.

**SECTION 3.** The provisions of this ordinance shall be severable. If any section or provision shall be held invalid by any Court of competent jurisdiction, the same shall not affect the other sections or provisions of this ordinance, which shall remain in full force and effect.

**SECTION 4.** All ordinances or parts of ordinances inconsistent herewith are hereby repealed to the extent of such inconsistencies.

**SECTION 5.** This ordinance shall take effect after final passage and publication in accordance with the law.