

ORDINANCE 2016-15

*BOROUGH OF HIGHTSTOWN
COUNTY OF MERCER
STATE OF NEW JERSEY*

AN ORDINANCE AMENDING AND SUPPLEMENTING CHAPTER 4, ENTITLED “GENERAL LICENSING” OF THE “REVISED GENERAL ORDINANCES OF THE BOROUGH OF HIGHTSTOWN, NEW JERSEY” REGARDING THE LICENSING OF RETAIL BUSINESSES

WHEREAS, the Mayor and Council of Hightstown Borough wish to make certain revisions to the Borough Code relating to business licenses within the Borough limits; and

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Council of the Borough of Hightstown as follows:

Section 1. Chapter 4 “General Licensing”, Sections 4-1 entitled “License Regulations”, 4-3 entitled “Solicitors and Canvassers”, and 4-11 entitled “Retail Establishments” are hereby amended as follows (underline for additions, strikethroughs for deletions):

Chapter 4

GENERAL LICENSING

Sections:

- 4-0A Article I. Business Licensing**
- 4-1 LICENSE REGULATIONS**
- 4-2 PEDDLERS***
- 4-3 SOLICITORS AND CANVASSERS***
- 4-4 CHARITABLE SOLICITATIONS***
- 4-5 MOVIE THEATERS***
- 4-6 POOL HALLS, BILLIARDS PARLORS AND BOWLING ALLEYS***
- 4-7 AMUSEMENT MACHINES***
- 4-8 AUTOMATIC VENDING MACHINES; COIN-OPERATED MACHINES***
- 4-9 BANKRUPTCY SALES; GOING OUT-OF-BUSINESS SALES; FIRE SALES***
- 4-10 AUCTIONS; BINGOS; RAFFLES; CIRCUSES; EXHIBITIONS***
- 4-11 RETAIL FOOD ESTABLISHMENTS***
- 4-12 RETAIL ESTABLISHMENTS***
- 4-13 RESERVED**
- 4-14 RESERVED**
- 4-15 RESERVED**
- 4-15A Article II. Newspapers, Publications and Periodicals**
- 4-16 DELIVERY OF UNSUBSCRIBED AND UNSOLICITED PUBLICATIONS**
- 4-17 RESERVED**
- 4-18 RESERVED**
- 4-19 RESERVED**
- 4-20 RESERVED**
- 4-20A Article III. Taxicabs**
- 4-21 TAXICAB LICENSING**
- 4-22 CONTRACTORS LICENSES**

Section 4-1

LICENSE REGULATIONS

Subsections:

- 4-1.1 Purpose.**
- 4-1.2 Application.**
- 4-1.3 Investigation of Applicant; Appeals to Borough Council.**
- 4-1.4 Fee Schedule.**
- 4-1.5 Contents of License.**
- 4-1.6 License Record to be Kept.**
- 4-1.7 Display of License.**
- 4-1.8 Transferability.**
- 4-1.9 Expiration; Renewal.**
- 4-1.10 Revocation of License.**
- 4-1.11 Notice of Hearing.**
- 4-1.12 Hearing.**
- 4-1.13 Reinstatement of Revoked or Denied Licenses.**
- 4-1.14 Promulgation of Rules and Regulations.**
- 4-1.15 Violation and Penalties.**

4-1.1 Purpose.

The purpose of this section 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. (1991 Code § 133-1)

4-1.2 Application.

a. All applications for licenses shall be accompanied by the required fee and shall be made to or through the Borough Clerk on forms provided by him/her. The forms shall be completed with the following information:

1. The name and permanent and local address of the applicant; if the applicant is a corporation, the name and address of its registered agent.
2. If the licensed activity is to be carried on at a fixed location, the address and description of the premises.
3. If the premises is not owned by the applicant, the owner of said premises and their contact information.
4. If a vehicle is to be used, its description, including the license number.
5. If the applicant is employed by another, the name and address of the employer, together with credentials establishing the exact relationship.
6. The days of the week and the hours of the day during which the licensed activity will be conducted.
7. A description of the nature of the business and the goods, property or services to be sold or supplied.
7. A statement as to whether the applicant has been convicted of any crime or the violation of any municipal ordinance other than a traffic offense and, if so, the date and place of conviction, the nature of the offense and the penalty imposed.

8. Statement that applicant is not violating the zoning ordinance of the Borough of Hightstown. If applicant occupies a nonconforming use, proof of date of occupancy and operation must be given.

9. Statement that applicant is not in default under the provisions of this chapter or indebted or obligated in any manner to the Borough of Hightstown, except for current taxes, both real and personal.

10. The statement of information required under this subsection shall be verified under oath, containing the signature of the applicant or agent, each of whom shall be equally responsible for the truthfulness and accuracy of the information set forth in the statement.

11. Appropriate evidence as to the good character and business responsibility of the applicant so that an investigator may properly evaluate his character and responsibility.

b. Applications by partnerships shall be signed by all partners, with the information required by this section supplied in detail as to each partner, and applications of corporations shall have attached individual statements containing all the information required by this subsection relating to each employee or agent who shall engage in the licensed activity and shall be signed by each employee or agent. (1991 Code § 133-2)

4-1.3 Investigation of Applicant; Appeals to Borough Council.

Each application shall be referred to the Chief of Police or a Police Officer designated by him, who shall immediately institute whatever investigation of the applicant's business responsibility, moral character and ability to properly conduct the licensed activity he considers necessary for the protection of the public. He shall communicate his 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 shall disapprove the application, and the Clerk shall refuse to issue the license and notify the applicant. Otherwise, the Borough Clerk shall issue the license immediately, provided that 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 investigation. In the event of the refusal of the issuance of the license, the applicant may appeal to the Council for a hearing. The appeal shall 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. (1991 Code § 133-3)

4-1.4 Fee Schedule.

a. Fees shall be as follows:

<u>License</u>	<u>Fee</u>
Peddlers, hawkers and vendors	\$75.00 per year
Solicitors and canvassers	\$75.00 per month
Charitable solicitations	No fee
Movie theatres	\$50.00 per year
Pool and billiard parlors	\$50.00 per year
Coin-operated vending machines (in coin-operated laundries):	
Automatic washers	\$10.00 per machine per year
Dryers	\$10.00 per machine per year
Coin changers	\$10.00 per machine per year
Soap-dispensing machines	\$10.00 per machine per year
Automatic vending machines:	

Vending merchandise or service of any description (Non-food)	\$40.00 per machine per year
Amusement, skill and video machines	\$100.00 per machine per year
Weighing scales	\$30.00 per machine per year
Coin-operated phonographs	\$75.00 per machine per year
Coin-operated reproducing machines	\$60.00 per machine per year
Going-out-of-business sales	\$150.00 per sale
Circuses and traveling shows	\$100.00 per day
Auctions	\$100.00 per day
Boardinghouses, rooming houses and rooming units*	
1 to 3 boarders or roomers	\$5.00 per boarder or roomer per year
4 or more boarders or roomers	\$3.00 per boarder or roomer per year
Retail Businesses (sale of goods or services)	\$100.00 per year

b. Fees shall be paid on an annual basis. However, in the event of a partial year of operation, the payment due shall be prorated to provide that one-fourth of the fee shall be paid for each quarter or partial quarter of operation.

c. All annual license holders shall register and pay the applicable fee no later than March 1, or a late fee of \$100.00 will be assessed and due with the payment.

d.. Fees listed in Section 4-1.4 shall be waived for any organization qualified as nonprofit under Section 501(c)(3) of the Internal Revenue Code. (1991 Code § 133-4; Ord. No. 860 § 2; New; Ord. No. 1999-01 § 2; Ord. 2000-15, Amended, 07/21/2000; Ord. 2008-09)

e. No rebate or refund of any license fee or any part thereof shall be made by reason of retirement of licensee from business or by reason of the nonuse of such license for all or any portion of the licensed year, or by reason of a change of location or business or by reason of fire or other accident or other casualty rendering the use of such license ineffective

* **Editor's Note:** For additional license application information and regulations, see Chapter XIII, Section 13-10.

4-1.5 Contents of License.

Licenses shall be in a form which the Council prescribes 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 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. (1991 Code § 133-5)

4-1.6 License Record to be Kept.

The Borough Clerk shall keep a record of all licenses issued under this section. The record shall be in a form prescribed by resolution of the Council and shall contain the same information as is required by subsection 4-1.5 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. (1991 Code § 133-6)

4-1.7 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 on the vehicle. In all other cases, the licensee shall have the license in his possession at all times and shall display it upon the request of any police officer or any person with whom he is doing business. (1991 Code § 133-7)

4-1.8 Transferability.

Except as otherwise provided, a 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 general fee for the transfer of a license from place to place shall be five (\$10.00) dollars. (1991 Code § 133-8)

4-1.9 Expiration; Renewal.

Except where expressly provided otherwise, all licenses shall expire on December 31 of the year of issue at 12:00 midnight. Applications for the renewal of licenses shall be made not later than December 1 of the year of issue. (1991 Code § 133-9)

4-1.10 Revocation of License.

a. 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:

1. Fraud or misrepresentation in any application for a permit or license.
2. Fraud, misrepresentation or other dishonesty in the conduct of the licensed activity.
3. A violation of any provision of this Code.
4. Conviction of the licensee for any crime or offense involving moral turpitude.
5. Conduct of the licensed activity, whether by the licensee himself or his 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.
6. Failure to permit access to the licensed premises at all reasonable times by the borough licensing officer.

b. Whenever a license is issued immediately upon an application, pending the results of the investigation provided for by this section, such license may be summarily revoked if the result of the investigation is such as would have resulted in denial of the application. (1991 Code § 133-10; Ord. No. 860 § 2)

4-1.11 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 last known address by certified mail, return receipt requested, at least five (5) days prior to the date set for the hearing. (1991 Code § 133-11)

4-1.12 Hearing.

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 own behalf, to cross-examine opposing witnesses and to have a permanent record made of the proceedings at his own expense. The Council shall revoke or suspend the license if it is satisfied by a preponderance of the evidence that the licensee is guilty of the acts charged. (1991 Code § 133-12)

4-1.13 Reinstatement of Revoked or Denied Licenses.

The Council may issue another license to a person whose license has been revoked or denied as provided in this section if, after a hearing, it is 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, directly or indirectly, shall be issued another license to carry on the same activity. (1991 Code § 133-13)

4-1.14 Promulgation of Rules and Regulations.

The Council may, by resolution, make rules and regulations which interpret or amplify any provisions of this section or for the purpose of administering the provisions of this section or making them more effective. No regulation shall be inconsistent with or alter or amend any provision of this section, 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 section. (1991 Code § 133-14)

4-1.15 Violation and Penalties.

Any person convicted by the Municipal Court of the Borough of Hightstown for a violation of the provision of this section shall be subject to a fine of not more than one hundred (\$100.00) dollars or imprisonment for a term not to exceed ninety (90) days, or both. Each day that a violation of the provisions of this section continues shall be considered as a separate offense. (1991 Code § 133-15; Ord. No. 860 § 2)

Section 4-3

SOLICITORS AND CANVASSERS*

Subsections:

- 4-3.1 Definitions.
- 4-3.2 License Required.
- 4-3.3 Exceptions.
- 4-3.4 Application.
- 4-3.5 Licenses.
- 4-3.6 Hours and Days of Activities.

* *Editor's Note: For additional licensing regulations and fees, see Section 4-1.*

4-3.1 Definitions.

As used in this section:

"Solicitor" shall mean a person, also known as a "canvasser," whether resident of the Borough or not, traveling either by foot, wagon, automobile, motor truck 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 sale of goods, wares and merchandise, personal property of any nature whatsoever for future delivery or for services to be furnished or performed in the future, whether or not the individual has, carries or exposes for sale a sample of the subject of the sale, with or without accepting in advance payment for the goods. The term "solicitor" shall also include any person who may be taking a poll or survey from house to house or on the streets or distributing advertisements or handbills. (1991 Code § 117-8)

4-3.2 License Required.

It shall be unlawful for any solicitor or canvasser to engage in such business within the Borough without first obtaining a license. (1991 Code § 117-9)

4-3.3 Exceptions.

This section shall not apply to any of the following persons:

- a. A person who has obtained a charitable solicitor's permit in accordance with Section 4-4.
- b. Any person distributing literature or handbills on behalf of a candidate for public office.
- c. Any veteran or volunteer fireman who holds a special license issued pursuant to N.J.S. 45:24-9. (1991 Code § 117-10)

4-3.4 Application.

In addition to the information required by subsection 4-1.2, the application for a solicitor's license shall indicate the place where the goods or property proposed to be sold, or orders taken for the sale thereof, are manufactured or produced, where such goods or products are located at the time the application is filed and the proposed method of delivery. (1991 Code § 117-11)

4-3.5 Licenses.

The Borough Clerk shall issue to each licensee a license on which shall appear the words " Solicitor License," the period for which the license is issued and the number of the license. During the time such licensee is engaged in soliciting, the license shall be carried with the Solicitor and presented upon request to any Police Officer or perspective customer. (1991 Code § 117-12)

4-3.6 Hours and Days of Activities.

No soliciting or canvassing activities shall be conducted before 9:00 a.m. or later than 7:00 p.m., nor on holidays. (1991 Code § 117-13; Ord. No. 1998-2 § 1)

Section 4-11

RETAIL FOOD ESTABLISHMENTS*

Subsections:

4-11.1 License Required.

4-11.2 Investigation of Applicant.

4-11.3 Suspension or Revocation of License.

* *Editor's Note: For additional licensing regulations and fees, see Section 4-1.*

4-11.1 License Required.

No person shall operate a retail food establishment as defined in the Retail Food Establishment Code of New Jersey, 1965, without having first obtained a license from the Borough and paid the required license fee pursuant to Chapter BH:IV of the Hightstown Borough Board of Health Code. (1991 Code § 105-1)

4-11.2 Investigation of Applicant.

In addition to the requirements contained in Section 4-1, each application for a license under this section shall be investigated by the Borough Health Officer, who shall report his findings, in writing, to the Mayor and Council within a reasonable time. No license shall be issued unless the Health Officer reports that the applicant conforms to all provisions of the Retail Food Establishment Code. (1991 Code § 105-2)

4-11.3 Suspension or Revocation of License.

In addition to the grounds for revocation set forth in subsection 4-1.10, a license issued under this section may be suspended or revoked for failure to comply with any provision of the Retail Food Establishment Code. (1991 Code § 105-3)

Section 2. A new section 4-12 entitled "Retail Establishments" shall be added as follows:

Section 4-12

RETAIL ESTABLISHMENTS*

Subsections:

4-12.1 Definitions.

4-12.2 License Required.

4-12.3 Exceptions.

4-12.4 Additional Application Requirements.

4-12.1 Definitions.

As used in this section "Retail Establishment" shall mean any business engaging in:

- a. Selling of any goods or services; or
- b. Soliciting business or offering goods or services for hire; or
- c. Using any vehicle, machine or device, or any premises in the Borough of Hightstown for business purposes

4-12.2 License Required.

It shall be unlawful for any retail establishment to engage in any business within the Borough without first obtaining a license.

4-12.3 Exceptions.

This section shall not apply to any of the following establishments:

- a. Any establishment that has obtained an annual retail food license.
- b. Any establishment that has obtained a Coin-operated vending machine license (in coin-operated laundries).

4-12.4 Additional Application Requirements.

- a. In addition to general requirements stated in section 4-1, the application for a license shall also require:
 1. That the use does not conflict with the regulations of Chapter 28, "Zoning".

4-12.5 Suspension or Revocation of License.

In addition to the grounds for revocation set forth in subsection 4-1.10, a license issued under this section may be suspended or revoked for failure to comply with any provision of the Retail Establishment Code.

Section 3. Severability. If any sentence, paragraph or section of this Ordinance, or the application thereof to any persons or circumstances shall be adjudged by a court of competent jurisdiction to be invalid, or if by legislative action any sentence, paragraph or section of this Ordinance shall lose its force and effect, such judgment or action shall not affect, impair or void the remainder of this Ordinance.

Section 4. Effective Date. This Ordinance shall become effective immediately upon final passage and publication in accordance with the law.

Section 5. Repealer. All other Ordinances or parts of Ordinances inconsistent herewith are hereby repealed to

the extent of such inconsistency.

Introduced: June 6, 2016

Defeated: July 18, 2016

ATTEST:

Debra L. Sopronyi
Municipal Clerk

Lawrence D. Quattrone
Mayor