

CHAPTER VI
LICENSING - GENERAL*

6-1 Transient Merchants; Hawkers; Peddlers.

6-1.1 *Definitions.* As used in this section:

a. *Hawker or peddler* shall mean any person who goes from place to place by traveling either by foot, automobile, motor truck, or any other type of conveyance, on the streets and carries with him goods, wares or merchandise of any description for the purpose of selling and delivering them to purchasers.

b. *Transient merchant* shall mean a person, corporation or partnership, whether principal or agent, commonly referred to either as a transient merchant or itinerant vendor who engages temporarily in business in the borough by occupying a room, building, tent, lot or other premises for the purpose of selling goods, wares and merchandise. "Transient merchant" shall also include any person who conducts a traveling or street show, carnival or circus and in connection therewith sells or displays for sale any goods, wares or merchandise.

c. *Transient merchant peddler* shall mean a person who engages in business in the manner defined in paragraph b. and in pursuance thereof becomes a peddler or hawker, or hires a peddler or hawker.

d. *Canvasser or solicitor* shall mean a person who goes from place to place, house to house, or person to person, selling or taking orders for or offering to sell or take orders for goods, wares, merchandise or any article for future delivery or for services to be performed in the future or for the making, manufacturing or repairing of any article or thing whatsoever for future delivery or for the solicitation of money for any purposes whatsoever.

e. *Junk dealer* shall mean a person who deals in buying and selling old iron or other metals, glass, paper, cordage or other waste or discarded material.

f. *Goods* shall mean wares or merchandise.

*The general power to license and to prescribe license fees is contained in R.S. 40:52-1, 2. Licensing is also a part of the general police power granted by R.S. 40:72-3 and R.S. 40:48-2.

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g. *Mobile retail food vendor* shall mean a peddler or solicitor who transports prepared food, foodstuffs to be prepared or cooked prior to sale, and beverages for sale in the borough by vehicle or pushcart, such food or beverage to be sold to individual patrons while said vehicle is stopped or parked. Mobile vendors who limit their sales to frozen products that are intended for immediate consumption after the sale, such as ice cream, frozen ices or frozen confectionery products, are specifically excluded from the definition of "mobile retail food vendor." Also excluded are mobile vendors who primarily offer such frozen products for sale, so long as the sale of other food, foodstuffs or beverages, by that vendor is clearly incidental to the sale of such frozen product.

h. *Nonprofit organization* shall mean an organization or entity possessing a tax exempt status which shall be evidenced by furnishing to the borough a tax exempt number provided by the State of New Jersey and/or the government of the United States.

6-1.2 *Purpose.* The purpose of this section is to prevent dishonest business practices and fraudulent solicitation, to provide for traffic and pedestrian safety by regulating the use of the streets and property adjacent thereto by transient merchants or itinerant vendors, to prevent extended parking or trespassing on private or public property, and to prevent violations of the borough zoning ordinance, by regulation of transient merchants, hawkers, junk dealers, and solicitors; and in the case of mobile retail food vendors, to prevent violations of the State Sanitary Code, to protect traffic and pedestrian safety and prevent violations of the Motor Vehicle Code, and to generally provide for the safety of the residents of the borough.

6-1.3 *License Required.* It shall be unlawful for any transient merchant, hawker, junk dealer, mobile retail food vendor, or solicitor or canvasser to sell or dispose of or to offer to sell or dispose of any goods, wares, merchandise or publications or to solicit money within the borough without first applying for and securing a license. Each person who shall engage in such activities, whether individually or on behalf of an organization or entity, shall obtain a license in accordance with the requirements of this section.

6-1.4 *Exemptions.*

a. The following persons shall be exempt from the requirements of this section, except from the provisions of subsection 6-1.14 hereof:

1. Any person selling fruits, vegetables or farm products grown by himself with or without the help of others.

2. Any person honorably discharged from the Armed Forces of the United States holding a special license issued pursuant to R.S. 45:24-9 and 45:24-10.

3. Any person who conducts a judicial sale under the authority of State or Federal laws.

4. Any person who is an exempt member of a volunteer fire company as defined in R.S. 45:24-9 and holds a special license issued pursuant to R.S. 45:24-9 and 45:24-10.

5. Any person soliciting a vote or support for any political candidate or program.

6. Any person delivering or soliciting newspapers or magazines.

7. Any person who is under the age of 14.

8. Any person who is engaged in the distribution of mail by the United States, or in the distribution of noncommercial circulars, pamphlets, leaflets, booklets or other literature for religious, charitable, political, educational or civic purposes, or in canvassing or soliciting individually or on behalf of any nonprofit organization for religious, charitable, political, educational or civic purposes.

6-1.5 *Application for License.* Any person desiring a license shall file with the borough clerk an application containing the following information:

a. *All Licenses.*

1. Applicant's name, home and business address and local address, if any.

2. Place of residence for the preceding three years.

3. His physical description setting forth the applicant's age, sex, height, weight, complexion, color of hair and eyes and any other distinguishing physical characteristics.

4. The name, address and principal or registered office in the state, of the person for or through whom or under whose auspices the applicant is authorized to conduct such activity, or a statement that the applicant is engaged in such activity solely in his own behalf.

5. A brief description of the type of articles or services to be sold or furnished and the purpose for which money is to be solicited.

6. A statement as to the approximate amount of money to be collected by the applicant and whether or not it is to be in full or partial payment for articles to be sold or services to be rendered.

7. The length of time for which a license is desired.

8. A statement as to whether or not the applicant has been convicted of any crime, misdemeanor, or violation of any borough ordinance, the nature of the offense and the penalty and/or punishment imposed. If the applicant is not engaged in the proposed activity solely in his own behalf, there shall be attached to the application a letter from the person for or through whom or under whose auspices the applicant seeks authorization to conduct such activity, together with sample copies of the order or receipt form or forms to be used by him in connection with such activity. All applicants must submit to fingerprinting by the police department at the time the application is made and shall pay a nonrefundable state processing fee for each fingerprint card required.

9. A photograph of the applicant taken within 60 days immediately prior to the date of the application which shall clearly show the head and shoulders of the applicant and shall measure two inches by two inches.

b. *Transient Merchant's License.* In addition to the foregoing items, the applicant shall file:

1. A sworn statement of the true invoice of the amount, average quantity and kind, and value of the goods to be offered for sale.

2. A statement of the location of such goods by street and number, and whether on the premises from which they are or in a warehouse.

3. To the application shall be attached, in the discretion of the borough clerk, the bills or invoices of purchase of such goods.

c. *Transient Merchant Peddler's License.* In addition to the foregoing information, the applicant must show:

1. The name and address of each peddler acting for the merchant.

2. For each peddler, the number of arrests or convictions for misdemeanors or crimes and the nature of the offense for which arrested or convicted.

d. *Persons Soliciting on Behalf of Religious or Nonprofit Organizations.* In addition to the information required under paragraph a. above, the applicant, local chairman or other person in charge of a solicitation shall set forth upon his application the names and addresses of all persons authorized to solicit on behalf of such religious or nonprofit organization for the period of the license, and shall attach to the application the form of identification card to be carried by each person engaged in such solicitation.

6-1.6 *Establishing Character of Business; Filing of Bond.*

a. For transient merchants, transient merchant peddlers and solicitors requiring advance payment in whole or in part, and new merchants, the borough clerk shall establish the character of the business by:

1. Eliciting a declaration of intention of all new businessmen as to whether they intend to remain temporarily in the borough or longer than a period of one year.

2. By requiring a bond equal to 25 percent of the value of the goods shown in the applicant's declarations required in subsection 6-1.5, but in no event shall the amount be less than one thousand (\$1,000.00) dollars in accordance with and for the purposes provided in R.S. 45:24-5.

b. The bond shall be declared forfeited upon conclusive proof of:

1. Falsification in the application for a license.

2. Willful violation of any of the provisions of this section.

3. Removal from the borough within a year after opening the business premises without payment of the license fee required of transient merchants or merchant peddlers. The bond of every merchant continuously conducting a vending business for more than one year shall be cancelled and no further bond shall be required of him under this section.

6-1.7 *Granting of License.* Following the filing of the application, the chief of police shall make, or cause to be made, an investigation of the business responsibility and criminal background of the applicant, and, if employed, the applicant's employer, as he deems necessary for the protection of the public good. The chief of police shall also examine the place or places of the proposed activity to determine whether such place or places are likely to create traffic congestion or traffic hazards as a result of the location thereof or as a result of pedestrians or operators of motor vehicles utilizing such place or places.

Any determination made by the chief of police that an application is unsatisfactory with respect to the applicant shall be based upon one or more of the following findings:

a. Conviction of a crime relating adversely to the occupation of peddling or soliciting, which shall be determined in accordance with the provisions of N.J.S.A. 2A:168A-2, and set forth in a written explanation provided to the applicant based upon consideration of the following factors or any other factors:

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1. The nature and duties of the business for which a license is sought;
2. The nature and seriousness of the crime;
3. Circumstances under which the crime occurred;
4. The date of the crime;
5. The age of the applicant when the crime was committed;
6. Whether the crime was an isolated or repeated incident;
7. Social conditions which may have contributed to the crime; and
8. Any evidence of rehabilitation, including good conduct in prison or in the community, counseling or psychiatric treatment received, acquisition of additional academic or vocational schooling, successful participation in correctional work-release programs, or the recommendation of persons who have or have had the applicant under their supervision.
 - b. Prior violation of a peddling or soliciting ordinance.
 - c. Previous fraudulent acts or conduct.
 - d. Record of breaches of soliciting contracts.
 - e. Misrepresentation or false statement contained in the application for the license.

Within six weeks of receiving the application, the chief of police shall signify his approval or rejection on the reverse side of the form and the borough clerk shall verify the financial information approving or rejecting the application on its reverse side. Upon verification of the application and payment of the prescribed fee, the license shall be issued by the borough clerk.

The license shall not be transferable from the person to whom it was issued to any other person. A separate license must be obtained by a licensed transient merchant for each branch or separate place of business in which his business is conducted and each license shall authorize the person to conduct business only at the location which is indicated therein.

If the chief of police disapproves of an application for a license, or fails to approve of it within a six week period, the applicant may appeal to the borough council to grant the license. Such appeal may be heard by the borough council at any special or regular meeting, and shall be made on five days notice to the chief of police. Either the chief of police, or a member of the police department shall attend such hearing, and shall state the reasons for disapproval.

There shall be no administrative appeal from the decision of the borough council on this appeal.

6-1.8 *Recording and Reporting Licenses.*

a. All licenses shall be issued on forms drawn in accordance with this section. They shall be consecutively numbered and shall contain blank spaces for writing in the name, the class of license granted, the location of the business and the fee paid.

b. There shall be kept in the office of the borough clerk the necessary books for recording the time the application for license is received, showing its class, whether new or renewal, name of licensee, regular number of blank form, when the application was approved by the chief of police and the borough clerk, or the borough council on appeal, the amount of fee received, and the date when the license was issued.

c. The borough clerk shall file a monthly report with the borough council showing the number of licenses granted by classes and the amounts of fees received therefor. Each report shall state the number and class of licenses suspended or revoked and the reasons for each suspension or revocation. The borough clerk shall compile a summary of all licenses granted under this section during a single year and report such at the final meeting of the borough council.

6-1.9 *License in Possession.* Every person holding a license under this section shall be required to carry the license with him or have it at his business premises while engaged in the licensed occupation. He shall produce the license at the request of any borough official. To every licensed peddler, the borough clerk shall issue either a license card, button or metal plate bearing the words "Licensed Peddler, Borough of Little Silver," together with the number of the license and the year for which it is issued. All automobiles, wagons, carts or other vehicles used for peddling shall have affixed thereon the license. A transient merchant, transient merchant peddler and new merchant shall post a license certificate in a prominent place on his business premises. The vendors of all other classes shall, if the license is in the form of a button, have the same affixed on the lapel of his garment while engaged in business. Persons soliciting money for a religious or nonprofit organization shall at all times during such solicitation carry with them and exhibit upon request their identification cards.

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6-1.10 *Fee Schedule.* License fees shall be as follows:

a. *Peddlers; Solicitors; Mobile Retail Food Vendors.* Fifty (\$50.00) dollars per year; twenty (\$20.00) dollars for one week; and ten (\$10.00) dollars for one day. Every peddler's license shall expire on December 31 of the year in which it is issued.

b. *Transient Merchants.* Four hundred twenty-five (\$425.00) dollars per year, except that in the event the transient merchant operates in the nature of a traveling or street show, carnival or circus, the fee shall be twenty (\$20.00) dollars per day.

c. *Transient Merchant Peddler.* Fifty (\$50.00) dollars per year, plus twenty (\$20.00) dollars per week for each peddler.

d. *Junk Dealer.* Fifty (\$50.00) dollars per year.

e. *For All Other Licenses.* The fee shall be ten (\$10.00) dollars to cover the cost of issuance.

f. *Fingerprint Card Fee.* For each license issued under this section, there shall be a fingerprint card processing fee which shall be nonrefundable and paid upon application for such license.

6-1.11 *Revocation and Suspension of License.* Any license issued hereunder may be suspended by the borough clerk for any infraction or violation of the terms of the license, or of any borough ordinance, State or Federal statute, or falsification in applying for a license. The suspension shall become effective by the mailing of a notice to the address appearing upon the application which states that opportunity for a hearing will be given at a time within five days from date of notice before the borough council who upon a finding of a violation may revoke the license, and in event of failure of licensee to appear the license shall automatically be revoked.

6-1.12 *Conditions of License.*

a. Upon the expiration of any license issued under the provisions of this section, the holder shall surrender the same to the borough clerk within 24 hours. Upon notice of the cancellation or revocation of any license issued under the provisions of this section, the holder shall surrender the same to the borough clerk within 24 hours after notice of such cancellation.

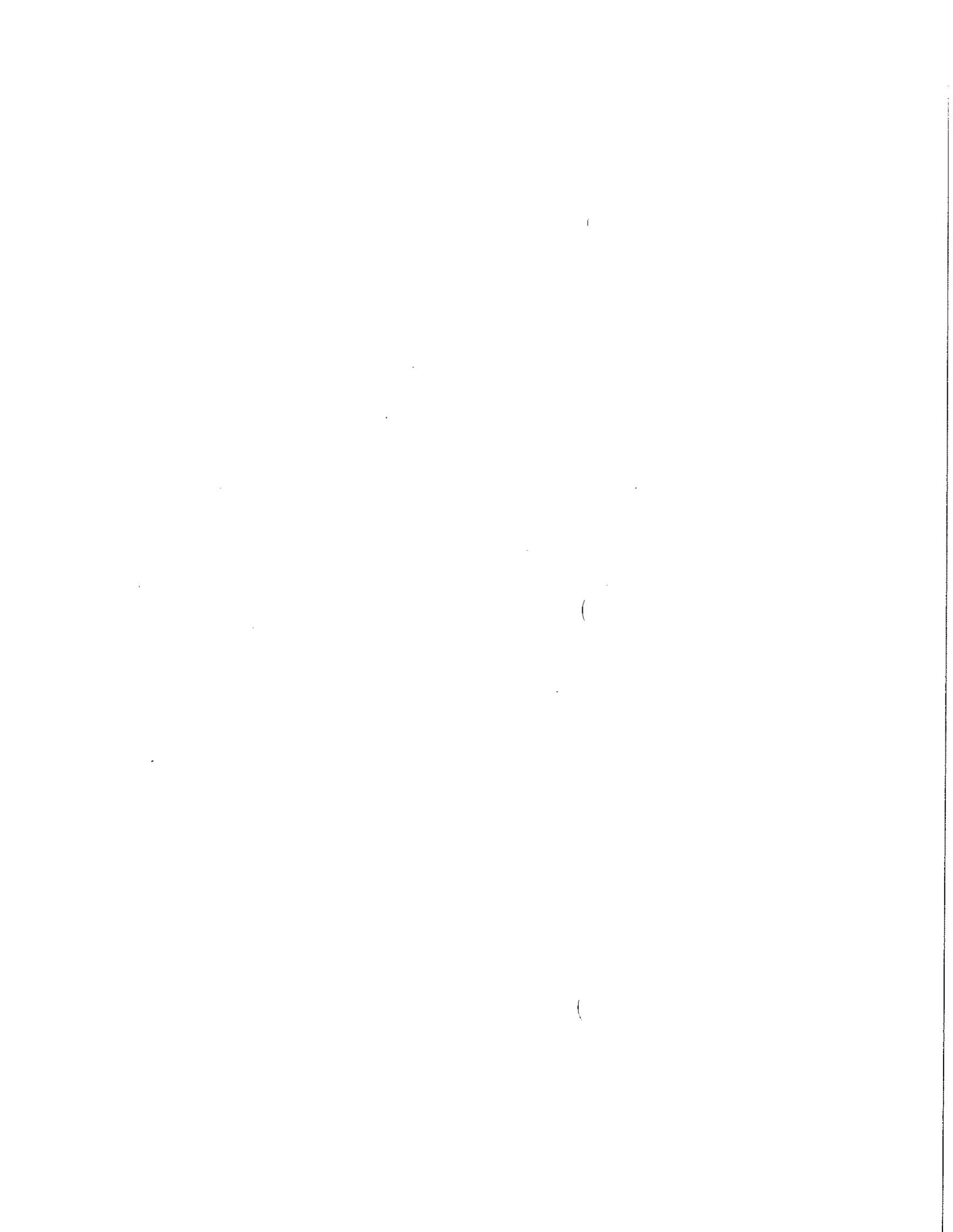
b. The holder shall not canvass or solicit orders for any articles from pedestrian or vehicular traffic on or adjacent to any public street, avenue or highway within the borough limits in such manner as will interfere with its normal use.

c. The holder shall not enter in any house, building or other structure or any land or property, without the prior consent of the owner or occupant where there is placed or posted on the premises in a conspicuous position at or near the usual means of ingress, a sign or other form of notice stating or indicating that the owner or occupant forbids or otherwise does not desire persons engaged in such a similar activity to enter upon the premises.

d. The holder shall give a written receipt to the purchaser, which shall be signed by the holder and shall set forth a brief description of the article ordered, the total purchase price and the amount of payment, if any, received by the holder from the purchaser.

e. The holder shall not canvass or solicit orders anywhere in the borough before 9:00 a.m. or after 8:00 p.m. or on Sundays and holidays.

6-1.13 *Deliveries.* This section shall not affect any person engaged in the delivery of goods, wares, merchandise or other articles or things in the regular course of business to the premises of persons ordering or entitled to receive the same.



There shall be no administrative appeal from the decision of the borough council on this appeal.

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c. The borough clerk shall file a monthly report with the borough council showing the number of licenses granted by classes and the amounts of fees received therefor. Each report shall state the number and class of licenses suspended or revoked and the reasons for each suspension or revocation. The borough clerk shall compile a summary of all licenses granted under this section during a single year and report such at the final meeting of the borough council.

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d. *Junk Dealer.* Fifty (\$50.00) dollars per year.

e. *For All Other Licenses.* The fee shall be ten (\$10.00) dollars to cover the cost of issuance.

f. *Fingerprint Card Fee.* For each license issued under this section, there shall be a fingerprint card processing fee which shall be nonrefundable and paid upon application for such license.

6-1.11 *Revocation and Suspension of License.* Any license issued hereunder may be suspended by the borough clerk for any infraction or violation of the terms of the license, or of any borough ordinance, State or Federal statute, or falsification in applying for a license. The suspension shall become effective by the mailing of a notice to the address appearing upon the application which states that opportunity for a hearing will be given at a time within five days from date of notice before the borough council who, upon a finding of a violation, may revoke the license, and in event of failure of licensee to appear the license shall automatically be revoked.

6-1.12 *Conditions of License.*

a. Upon the expiration of any license issued under the provisions of this section, the holder shall surrender the same to the borough clerk within 24 hours. Upon notice of the cancellation or revocation of any license issued under the provisions of this section, the holder shall surrender the same to the borough clerk within 24 hours after notice of such cancellation.

b. The holder 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 borough limits in such manner as will interfere with its normal use.

c. The holder shall not enter in any house, building or other structure or any land or property, without the prior consent of the owner or occupant where there is placed or posted on the premises in a conspicuous position at or near the usual means of ingress, a sign or

other form of notice stating or indicating that the owner or occupant forbids or otherwise does not desire persons engaged in such a similar activity to enter upon the premises.

d. The holder shall give a written receipt to the purchaser, which shall be signed by the holder and shall set forth a brief description of the article ordered, the total purchase price and the amount of payment, if any, received by the holder from the purchaser.

e. The holder shall not canvass or solicit orders anywhere in the borough after 9:00 p.m. prevailing time on any day.

6-1.13 *Deliveries.* This section shall not affect any person engaged in the delivery of goods, wares, merchandise or other articles or things in the regular course of business to the premises of persons ordering or entitled to receive the same.

6-1.14 *Hours of Solicitation.* There shall be no soliciting, canvassing, distributing or peddling after 9:00 p.m. prevailing time, on any day.

6-1.15 *Expiration of License; Transfer.* Except for licenses issued for one or more days, licenses shall be effective only from January 1 through December 31 of each calendar year. All licenses shall expire and be void at 12:00 midnight on December 31 of each year.

There shall be no transfers of any license from one person to another at any time or for any reason.

6-2 Reserved.*

6-3 Bicycles.

6-3.1 *Definition.* As used in this section "bicycle" shall mean a device having two wheels with tires 20 inches or more in diameter, connected by a frame of metal or wood and arranged to be propelled by human power. This definition shall not apply to toy bicycles or velocipedes.

*Editor's Note: Former section 6-2, Charitable, Philanthropic and Nonprofit Solicitations, previously codified herein was repealed in its entirety by Ordinance No. 638-07. See subsection 6-1.4 for exemptions for nonprofit solicitations.

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6-3.2 *Registration.* It shall be unlawful for any person residing in the borough to ride or use a bicycle unless the bicycle has been registered with the police department and a license obtained therefrom as prescribed in this section.

6-3.3 *Issuance of License.* The police department shall, upon written application to it, issue to residents of the borough, licenses for bicycles. The licenses shall be valid annually from October 1 to the following September 30 and shall be dated the date of issue. Upon issuance of the license, it shall be lawful to operate such bicycles upon the streets and public highways of the borough as long as the license shall not be revoked or suspended.

6-3.4 *License Plates.* The police department shall annually provide the licensee with a metal license plate, a registration certificate card and a letter indicating issuance by the borough. Both license plate and registration card shall be stamped with the year of issuance and the license number. License numbers shall be issued in numerical order.

The license plate shall be suitable for attachment to the rear of the bicycle seat at a location where it will always be plainly visible. It shall be the duty of the police department to attach or to supervise the attachment of the license plate in a manner that will prevent its removal during the valid term of the license.

Before issuance of the license plate and registration card, the fee prescribed in subsection 6-2.8 shall be paid. The police department shall keep a record of the date of issuance of each license and shall issue a report and remit all funds collected to the borough treasurer each Monday.

6-3.5 *Transfer of License.* It shall be the duty of any person who sells or transfers ownership of any bicycle to report within two days such sale or transfer by returning to the police department his registration card together with the name and address of the person to whom the bicycle was sold or transferred.

6-3.6 *Altering License.* It shall be unlawful for any person to willfully or maliciously remove, destroy, mutilate or alter the number of any bicycle frame licensed pursuant to this section. It shall also be unlawful for any person to remove, destroy, mutilate or alter any license plate, seal or registration card during the time in which the license plate, seal or registration card is operative, provided that nothing in this section shall prohibit the police department from

stamping on the frame of bicycles on which no serial number can be found or on which the number is illegible for identification purposes. The police department may also stamp upon the frame of any registered bicycle a number which shall be the secret number of the police department, if so required in the administration of this section to prevent bicycle larceny and recover stolen bicycles.

6-3.7 Regulations. The following rules and regulations shall be observed in the operation of a bicycle on the streets and public places of the borough.

a. Every person operating a bicycle shall at all times operate the bicycle with due regard for the safety of other persons and vehicles lawfully upon the streets and public places, as well as for his own safety, and shall at all times and under all conditions yield the right of way to pedestrians on the streets, public places and crosswalks.

b. Every person operating a bicycle shall comply with all vehicle traffic laws which apply to bicycles, and all vehicle traffic signs and signals erected for the regulation of traffic.

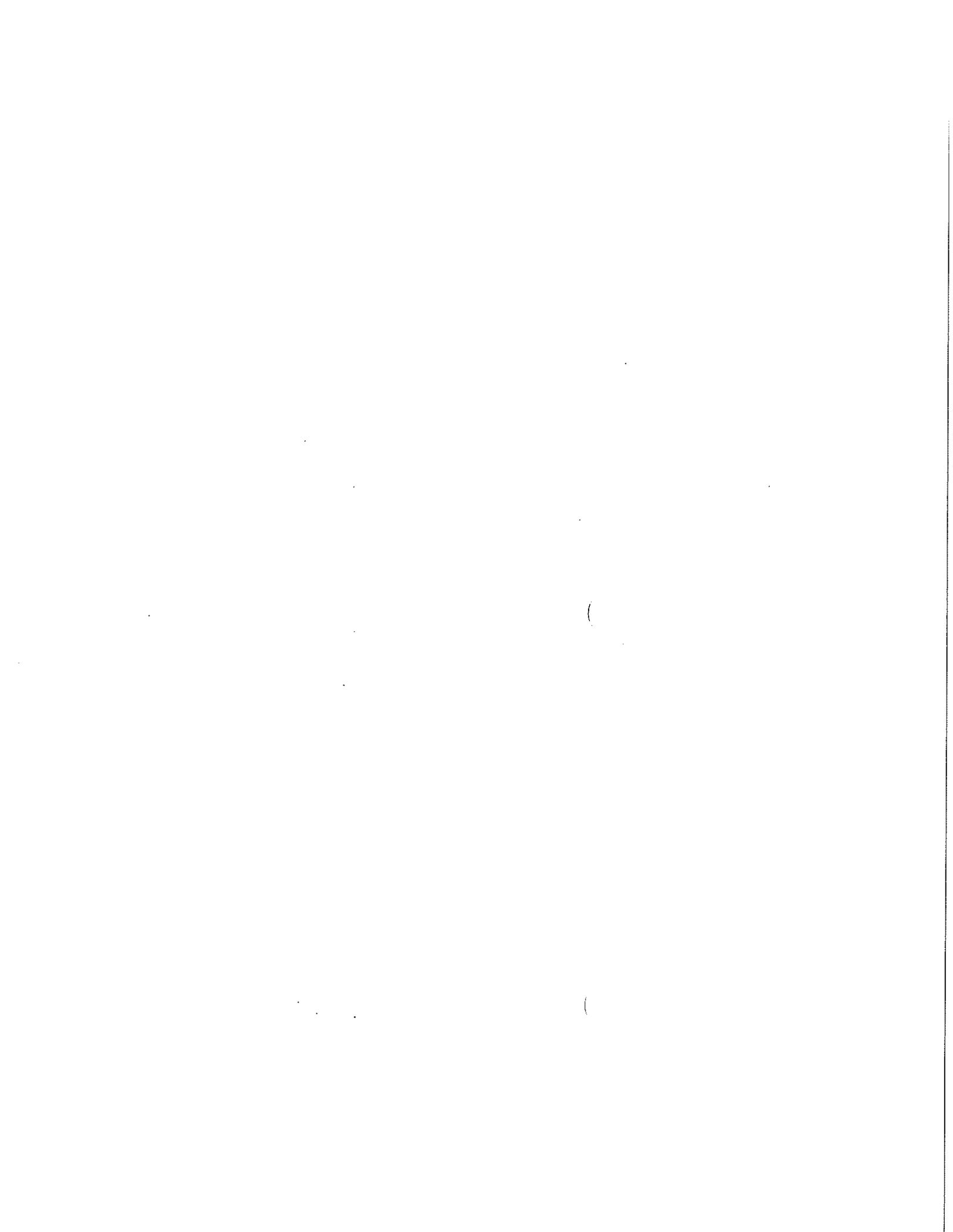
c. No person shall operate a bicycle upon the streets, and public places of the borough during the period of one hour after sunset to one hour before sunrise unless such bicycle is equipped with a front light, casting a beam of white light in front of such bicycle visible for not less than 500 feet, also a rear signal, i.e., an official reflector or red light visible for not less than 500 feet.

d. No person shall operate a bicycle upon the streets and public places of the borough, that is not equipped with adequate brakes and warning signal, all of which are in proper working order during the operation of the bicycle and have passed police inspection.

e. All persons operating a bicycle shall ride single file, in a straight line and as near the right hand curb as possible on all main highways and thoroughfares and in central business sections and when riding on other streets shall not ride in groups not more than two abreast.

f. Before turning or changing the direction of any bicycle upon any street, or public place, the bicycle rider shall give a signal, by the extension of the hand to indicate the direction he intends to proceed.

g. No person operating a bicycle upon any street, or public place shall attach himself to any other moving vehicle.



h. No person operating a bicycle equipped for carrying only the rider shall carry another person on the front or rear frame or handlebar of a bicycle.

i. No person operating a bicycle shall engage in fancy or trick riding without maintaining full control of the bicycle and keeping both hands on the handle bar, except when necessary to signal.

6-3.8 *Fees.* The following license fees shall be collected by the police department for the various types of licenses provided under this section.

a. The license fee to be paid for each bicycle registered shall be one (\$1.00) dollar for the first year, or any part of the first year for which such license shall be issued, it being understood that all licenses issued under this section expire annually on April 30.

b. In the case where the transfer of bicycle ownership is made in the manner prescribed in this section, the fee for the transfer of the license shall be one (\$1.00) dollar.

c. Upon loss of a license plate, and upon evidence satisfactory of such loss, a new license plate shall be issued upon payment of one (\$1.00) dollar and in such case where a new license plate is issued, the bicycle shall be brought in for inspection and a new license plate affixed as provided herein.

Any and all licenses shall be issued for the remainder of the license year after the date of issue.

6-3.9 *Inspection.* The chief of police, or his designated representative, shall inspect each bicycle offered for registration and shall also examine the riding qualifications of the applicant as to his knowledge of the vehicle traffic laws of the State, applying to bicycles, traffic signs and signals, as set forth in subsection 6-2.7. If the applicant's riding qualifications, knowledge of the vehicle laws of the State applying to bicycles, the bicycle safe riding rules and regulations, and the official police instructions for the safe operation of a bicycle are not satisfactory, or the bicycle is not in good rideable condition and properly equipped as provided for in this section, registration of the applicant's bicycle shall not be issued until all requirements are fulfilled.

6-3.10 *Penalties.*

a. Any person under the age of 18 years who violates any of the vehicle traffic laws or the bicycle provisions of this section relating to safe riding rules and regulations and the official police instructions for the safe operation of a bicycle, shall be, for the first offense, reprimanded in writing by the police department, addressed to the parents or guardian of the offender, stating the nature of the violation and a warning that a repetition of the violation or any other violation must

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be prevented by the parents or guardian, or the offender's registration certificate will be suspended for a period of time at the discretion of the police department and during that period of time, the offender may not ride his bicycle on the streets. On the second offense, the license shall be revoked and the registration tag shall be removed from the bicycle.

b. Any person over 18 years of age, violating any of the provisions of this section shall, upon conviction thereof, have his license suspended or revoked. This penalty shall be in addition to any other penalty provided for in section 5-13 of this revision.

6-4 Private Sales and Auctions.

6-4.1 *Definitions.* The following words and phrases as used in this section shall have the meanings and definitions indicated:

a. "Private auction" shall mean the sale, offering for sale to the highest bidder, barter, exchange or display of any new or used goods, including but not limited to furniture, sporting goods, fixtures, tools, equipment, food, clothing, metal, glass, paper, rubber, synthetics, household goods or rummage, conducted upon private premises, and conducted by a person employed for said purpose whether compensated or not.

b. "Private premises" shall mean any dwelling, house, building or other structure, designed or used either wholly or in part for private residential purposes, whether inhabited or temporarily or continuously uninhabited or vacant, and shall include any yard, grounds, walk, driveway, porch, garage, steps or vestibule belonging or appurtenant to such dwelling, house or other structure.

c. "Private sale" shall mean the sale, barter, exchange or display of any new or used goods, owned by the licensee or consigned to him/her, including but not limited to furniture, sporting goods, fixtures, tools, equipment, food, clothing, metal, glass, paper, rubber, synthetics, household goods or rummage, conducted upon private premises. Private sales shall include all sales entitled "private sale," "garage sale," "lawn sale," "attic sale," "rummage sale," "tag sale," or "flea market 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 said sale.

6-4.2 *General Requirements.*

a. No private sale or private auction shall be conducted within the Borough of Little Silver except in conformance with the provisions of this section.

b. No private sale or private auction shall be conducted within the Borough of Little Silver unless a permit shall have first been issued by the borough clerk permitting same.

c. No private sale or private auction shall be conducted within the Borough of Little Silver except between the hours of 9:00 a.m. and sunset on the day for which a permit is issued. No permit shall be issued for more than three consecutive days.

d. The provisions of this section shall not apply to or affect the following persons or sales:

1. Persons selling goods pursuant to an order or process of a court of competent jurisdiction;

2. Persons acting in accordance with their powers and duties as public officials;

3. Any person selling or advertising for sale an item or items of personal property which are specifically named or described in the advertisement, and which separate items do not exceed five in number;

4. Any sale conducted by any merchant or mercantile or other business establishment from or at a place of business, wherein such sales would be permitted by the zoning regulations of the borough, or under the protection of the nonconforming use section thereof, or any other sale conducted by a manufacturer, dealer or vendor and which sale would be conducted from property zoned premises and not otherwise prohibited by an ordinance of the borough.

6-4.3 *Licensing.*

a. Upon filing an application with the borough clerk stating the name of the person(s), firm, group, corporation, association or organization conducting such sale; name of owner(s) or lessee(s) of the property on which the sale is to be conducted; the date and place where the private sale or private auction is to be conducted; the type of merchandise to be sold; and the date upon which the last permit, if any, was issued, either to the applicant or for the same premises covered by the current application, together with the filing fee, the borough clerk shall issue a permit authorizing same.

b. An application shall be filed for a private auction not less than 21 days prior to the date of the proposed auction, and one for a private sale not less than ten days prior to the date of the proposed sale, together with a fee in the amount of five (\$5.00) dollars for a private sale, fifty (\$50.00) dollars for a private auction, for the issuance of a permit. The permit shall be issued within five business days of filing.

c. Upon receipt of an application the borough clerk shall refer same to the police department, which shall examine the proposed sale site to determine whether the proposed sale poses a possible threat to pedestrian, vehicular or public safety. In the event the police department determines that special conditions should be imposed on the sale for reasons of pedestrian, vehicular or public safety, the police department shall make such reasonable conditions as may be necessary to protect the public. These conditions may include (but are

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not limited to) requiring the permittee to employ a special police officer, or officers, to direct traffic and/or pedestrians, limiting the hours of sale; requiring additional parking; limiting the number of persons at the sale site, etc.

d. No person, firm or corporation shall be issued more than two permits within a one-year period; nor shall more than two permits be issued for any one location within a one-year period.

6-4.4 *Advertising.*

a. In connection with the conduct of any private sale or public auction, advertising signs shall be permitted only on the premises at which the sale or auction is to be held, or on other private property with the permission of the property owner. Placement of any other sign on public or private property is expressly prohibited.

b. The size of any sign permitted by the terms of this section shall not exceed two by three feet (2' x 3').

c. No sign advertising any private sale or private auction governed by the provisions of this section shall be erected earlier than two days prior to the commencement of such sale or auction, and any such sign shall be removed immediately upon the expiration of the permit authorized under subsection 6-3.3 of this section.

6-4.5 *Violations and Penalties.* Any person, firm or corporation violating any of the provisions of this section shall, upon conviction, pay a fine not exceeding two hundred (\$200.00) dollars. Each day that such violation shall continue shall be considered a separate violation.

6-4.6 *Enforcement.* This section shall be enforced by the police department. It shall be the duty of the police department to investigate any violations of this section coming to its attention, whether by complaints or arising from its own personal knowledge, and if a violation is found to exist, it shall prosecute a complaint before the local municipal court pursuant to the provisions of this section.

6-5 **Public Assembly.**

6-5.1 *Definitions.*

"Chief of Police" shall mean the chief of police of the Borough of Little Silver.

"Person" shall mean any individual, firm, partnership, association, corporation, company or organization of any kind.

"Public Assembly" shall mean any public assembly, parade, march, block party, walkathon, bikeathon, jogging group, ceremony, show, exhibition, pageant, procession of any kind or any similar display in or upon any street, sidewalk, park or other public place in the borough.

"Public Assembly Permit" shall mean a permit as required by this section.

6-5.2 *Permit Required/Exceptions.* No person or organization of any kind or class shall engage in, participate in, aid, form or start any public assembly unless a public assembly permit shall have been obtained from the chief of police.

This section shall not apply to:

- a. Funeral processions;
- b. Students going to and from school classes or participating in educational activities, provided such conduct is under the immediate direction and supervision of the proper school authorities;
- c. A governmental agency acting within the scope of its functions.

6-5.3 *Application.* Any person desiring a public assembly permit shall file an application with the chief of police on forms provided by the chief's office. There shall be no application fee. It is requested that applications be filed not less than 20 days before the date on which the public assembly is to be conducted. The chief of police shall, however, also consider applications which are filed less than 20 days before the date on which the public assembly is to be conducted. The application shall contain the following:

- a. The name, address and telephone number of the person seeking to conduct such public assembly.
- b. If the public assembly is to be conducted for or on behalf of any organization, the name, address, and telephone number of the authorized and responsible leaders of the organization, together with the address and telephone number of the headquarters of the organization.
- c. The name, address and telephone number of the public assembly chairperson or the person personally responsible for the conduct of the public assembly.
- d. The date when the public assembly is to be conducted.
- e. The route to be traveled, including the starting point and the termination point, together with all streets, sidewalks, parks or other public places to be traversed during the public assembly.
- f. The approximate number of persons who will constitute or partake, and if animals will be included in the public assembly or line of march then the specific type of animal, whether domestic or wild, and the number and description of the motor vehicles or any other type vehicle expected to be used in the public assembly.
- g. The number of monitors to be provided and the identifying marks, badges or symbols to be worn or used by the monitors.
- h. The hours when the public assembly will start and terminate.

i. Whether the public assembly will occupy all or only a portion of the width of the streets, sidewalks, parks or other public places to be traversed. If yes, describe in detail the specific streets, sidewalks, parks or other public areas and locations.

j. The time at which the public assembly will begin to assemble at the assembly areas designated above.

k. The interval of space to be maintained between each unit of the public assembly.

l. If the public assembly is being held by, on behalf of or for any person other than the applicant, the applicant for such permit shall file with the chief of police a communication in writing from the person proposing to hold the public assembly, authorizing the applicant to apply for the permit on behalf of the person holding the public assembly.

m. Insurance information.

n. A statement of the purpose of the public assembly.

o. Any additional information which the chief of police may find reasonable for a fair determination as to whether a permit should be issued.

6-5.4 *Standards for Issuance; Contents of Permit.*

a. Standards. The chief of police shall order that a permit be issued after consideration of the application, if he determines that:

1. The conduct of the public assembly will not substantially interrupt the safe and orderly movement of traffic contiguous to the route of the public assembly.

2. The conduct of the public assembly will not require the diversion of so great a number of the police officers of the borough to properly police the public assembly and contiguous area so as to prevent normal police protection of the borough.

3. The concentration of persons, animals and vehicles at assembly points of the public assembly will not unduly interfere with the proper fire and police protection or ambulance service to areas contiguous to the assembly areas.

4. The conduct of the public assembly will not interfere with the movement of fire fighting, first aid or other safety vehicles so as to interfere with normal fire protection, ambulance service or other safety services in the borough.

5. The public assembly is scheduled to move from its point of origin to its point of termination expeditiously and without unreasonable delays en route.

6. The public assembly is not held for the sole purpose of advertising any product, goods or event, and is not designed to be held purely for private profit.

b. Contents of Permit. Each permit shall state the following information:

1. Starting time.
2. Minimal speed.
3. Maximum speed.
4. Maximum interval of space to be maintained between the units of the public assembly.
5. The portions of the public property to be traversed or which may be occupied by the public assembly.
6. The maximum length of the public assembly in miles or fraction thereof.
7. Such other conditions as the chief of police shall find necessary to reduce or minimize dangers and hazards to vehicular and pedestrian traffic and the public health, safety and welfare.

6-5.5 *Denial of Permit.* If the application shall be disapproved, the chief of police shall give written notice thereof to the borough clerk and applicant setting forth the reasons for the denial of the permit.

6-5.6 *Notice of Decision.* The chief of police shall notify the applicant for a public assembly permit of his decision on such application within 24 hours of the time that the application was filed.

6-5.7 *Alternate Permit - Limitations.*

a. The chief of police, in denying an application for a public assembly permit, shall be empowered to authorize the conduct of the public assembly on a date, at a time or over a route different from that named by the applicant. If the applicant desires to accept the alternate permit, he shall notify the chief of police by written notice of acceptance, at least five days prior to the date when the public assembly is to be conducted. An alternate public assembly permit shall conform to the requirements of, and shall have the effect of, a public assembly permit.

b. The chief of police shall not approve more than one public assembly permit for any one 24-hour period. When there is more than one public assembly application for the same date, the application received first will be granted the permit, provided all the conditions of this Ordinance are met.

6-5.8 *Notice of Permit to Borough Officials.* Immediately following the issuance of a public assembly permit, the chief of police shall send a copy thereof to the following:

- a. The mayor
- b. The borough clerk

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- c. The fire chief
- d. The first aid captain
- e. The director of public works

6-5.9 *Duty of Permittee.* Any permittee under this section shall comply with all permit directions and conditions and with all applicable laws and ordinances of the borough.

6-5.10 *Liability Insurance.*

a. Insurance. The applicant, prior to any permit becoming effective, shall procure and maintain for the permitted public assembly an insurance policy with not less than one million (\$1,000,000.00) dollars combined single limit for bodily injury and property damage as well as automobile public liability (if applicable) and property damage insurance with limits in amounts not less than one million (\$1,000,000.00) dollars for bodily injury and five hundred thousand (\$500,000.00) dollars for property damage. The comprehensive general liability policy shall include the Borough of Little Silver as an additional insured. The applicant shall provide the borough clerk with certificates evidencing the required insurance coverage at least three working days prior to the date of the parade and said insurance may not be canceled or altered without written consent of the borough.

b. Exceptions. If the applicant is a nonprofit organization or a group of individuals and the person or organization represents in the application that it is unable to obtain such insurance, the insurance requirements shall be waived.

6-5.11 *Possession of Permit.* The public assembly chairperson or such person in charge of or leading the activity shall carry the public assembly permit upon his person during the conduct of the public assembly.

6-5.12 *Public Conduct During Public Assembly.*

a. Interference. No person shall unreasonably hamper, obstruct or impede any public assembly or any person, vehicle or animal participating or being used in the public assembly.

b. Driving through public assembly. No person shall drive a motor vehicle between the vehicles or persons participating in any public assembly when the vehicles or persons are in motion and are conspicuously designated as a public assembly.

c. Parking on public assembly route. The chief of police shall have the authority, when reasonably necessary, to prohibit or restrict the parking of vehicles along any road or part thereof constituting part of a route of a public assembly. The chief of police shall post signs to such effect and no person shall park or leave unattended any vehicle. This section shall be effective only upon posting of proper signs.

6-5.13 *Violations and Penalties.* Any person, firm or corporation that shall be convicted of a violation of any provision of this section shall, upon conviction thereof by any court authorized by law to hear and determine the matter, be subject to a fine not exceeding five hundred (\$500.00) dollars or imprisonment for a term not exceeding 30 days, or community service not exceeding 90 days, or any combination of such penalties as the court in its discretion may impose. Each day that such violation exists shall constitute a separate offense.

