

**BOROUGH OF NORTH CALDWELL
ORDINANCE O-12-19**

**AN ORDINANCE REPEALING AND REPLACING CHAPTER
33 CANVASSING AND SOLICITING OF THE CODE OF
THE BOROUGH OF NORTH CALDWELL**

BE IT ORDAINED By the Mayor and Council of the Borough of North Caldwell, County of Essex, State of New Jersey as follows:

1. Chapter 33 "Canvassing and Soliciting" be and is hereby repealed and replaced with the following:

§ 33-1. Purpose. The purpose of this chapter is to license, regulate and control soliciting and canvassing and to regulate the distribution of advertising and other printed matter within the Borough of North Caldwell in order to prevent fraud, crime and dishonest business practices and to protect the general welfare of the residents of North Caldwell.

§ 33-2. Definitions. As used in this chapter, the following terms shall have the meanings indicated:

CANVASSER or SOLICITOR - Any person traveling from house to house or from street to street taking or attempting to take orders for the sale of goods, wares or merchandise, subscriptions or 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 such or whether he is collecting advance payment on such sales or not; any person engaged in soliciting information and going from house to house or from street to street for the purpose of conducting a poll, survey or similar activity for any purpose; any person conducting a solicitation, as defined herein, or requesting contributions of any kind and going from house to house or from street to street on the public streets.

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

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

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

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

§ 33-3 Unlawful solicitation. It shall be unlawful for any person, directly or through an agent or employee, or for a peddler, solicitor or canvasser to ply or conduct his trade or solicitation within the Borough of North Caldwell without having first obtained a permit from the Borough Clerk, as hereinafter provided.

- (a) It shall be unlawful for any person, individually or as the agent or employee of a person, or for any peddler, solicitor or canvasser to ply or conduct his trade or solicitation within the Borough unless they or their principal or employer, has received a permit for them, as hereinafter provided.
- (b) It shall be unlawful for any person or for any peddler, solicitor or canvasser to ply or conduct his trade or solicitation within the Borough without visibly displaying an identification card issued to that person by the Borough Clerk, as hereinafter provided.
- (c) It shall be unlawful for any peddler, solicitor or canvasser to ply or conduct his trade or to solicit between the hours of 30 minutes after sunset and 9:00 a.m. on any day.
- (d) It shall be unlawful for any person, directly or through an agent or employee, or for any peddler, solicitor or canvasser to ply or conduct his trade or to solicit within the Borough of North Caldwell after expiration of any permit.
- (e) It shall be unlawful for any person engaged in solicitation or for any peddler, solicitor or canvasser to knock at the door or ring the doorbell of any home, apartment or any other dwelling unit in the Borough upon which is clearly displayed at the entrance a notice which reads "No Solicitors", which is included by address on a "No Solicitation" list maintained by the Borough which shall be provided with issued permits, or which otherwise clearly purports to prohibit solicitation on the premises, unless such person is or has been invited upon the premises by the occupant thereof.

§ 33-4. Application Required

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

- (a) The name of the person applying and desiring to solicit or to peddle, solicit or otherwise canvass.
- (b) Whether the person applying is a natural person, or whose application is being submitted on their behalf by a partnership, or corporation and:
 - i. If a natural person, the business and residence address and telephone number must be given.
 - ii. If a partnership, the names of all partners and the principal business address and telephone number of each partner must be given.
 - iii. If a corporation, the person registering must state whether it is organized under the laws of New Jersey or is a foreign corporation and must state the mailing address, the business location, the telephone number, the name of the individual in charge of the local office of such corporation.

- (c) The name, permanent and local address, date of birth, social security number, personal photograph(s) and complete driver's license information of the person or persons who shall be conducting the solicitation or otherwise peddling, soliciting or canvassing.
- (d) A brief description of the nature of the business and the goods to be sold or services to be performed for which funds are to be solicited and an explanation of the intended use of the funds toward that purpose.
- (e) The time period within which the solicitation or the peddling, soliciting or canvassing is to be conducted, giving the date of the commencement and termination of the effort.
- (f) If a vehicle or vehicles are to be used in the solicitation, a description of the same, including year, make and model, together with a license plate number, registration certificate information and liability insurance information or other satisfactory means of identification.
- (g) The name and address of the organization or entity for whom solicitation is being made;
- (h) A photograph of the applicant taken within one (1) year preceding the date of the application, which photograph shall be approximately two (2") inches square, showing the head and shoulders of the applicant.
- (i) A statement as to whether or not the applicant has been convicted of a crime, misdemeanor or disorderly conduct offense, where and when so convicted, the nature of the offense and the penalty, if any.
- (j) The names of any other municipalities in which the person registering has solicited or otherwise peddled, solicited or canvassed within the previous 12 months.
- (k) The applicant shall only be fingerprinted if the Police Chief determines that fingerprints are necessary for purposes of proper identification or for a determination as to an applicant's criminal background.

§ 33-5. Procedure upon filing solicitation application.

The Department of Police shall review the permit application to determine its compliance with the terms of this chapter within 72 hours after receipt of the same. Thereafter, upon payment of the prescribed fee, the Borough Clerk shall either issue a permit within 72 hours or notify the person applying that the applicant does not comply with the requirements of this Chapter and to specifically designate the information that has not been furnished and that is required before a solicitation permit can be issued, or otherwise advise of the basis for denial.

§33-6. Denial of Permit

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

- (1) The location and time of the activities described in the application would endanger the safety and welfare of the applicant or the residents of the Borough of North Caldwell;
- (2) An investigation reveals that the applicant falsified information on the application;

- (3) The applicant has been convicted of a felony, misdemeanor or ordinance violation involving a sex offense, trafficking in controlled substances, moral turpitude, any violent acts against persons or property;
- (4) The applicant is a person against whom a judgment based upon, or conviction for, fraud, theft, deceit or misrepresentation has been entered within the five (5) years immediately preceding the date of application;
- (5) The applicant has previously violated canvassing or soliciting ordinances.

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

§33-7. Fees.

A \$50.00 license fee shall be charged to defray the cost to the Borough of investigating, processing, verifying, issuing and supervising the application information. The fees shall not be prorated over the calendar year.

§33-8. Exemptions. The licensing provisions of this Chapter shall not apply to the following acts:

- A. Soliciting done by the legal owner, lessee or agent of the same upon the property owned or leased by the solicitor.
- B. Soliciting done for the purpose of sale of personal property at wholesale to retailers of such articles.
- C. Delivery of newspapers as defined by the laws of the State of New Jersey, and newspapers duly entered with the United States Postal Service in accordance with federal statutes or regulations, and shall include any periodical or current magazine regularly published, with not fewer than four (4) issues per year, and sold to the public delivery of goods previously ordered by the homeowner or occupant in the regular course of business or the collection of payment therefor.
- D. The services of public utilities and their duly authorized agents or representatives, provided that such exemption for public utilities shall not apply to the selling of other than public service.
- E. Soliciting by persons lawfully exempt by state statute or federal law from the permitting requirements set forth herein, or by persons lawfully entitled to conduct a business wherein a license or certificate is required by any department, board, commission or agency of the United States, the State of New Jersey or the Borough of North Caldwell.
- F. Soliciting by any religious, charitable or other nonprofit organization, provided that there is filed with the Police Chief an application, in writing, giving the following information:
 1. Names of solicitors and purposes or cause for which solicitation is being made.
 2. Names and addresses of the officers of the organization and, if the applicant is a nonprofit corporation, a copy of its certificate of incorporation, together with any amendments or supplements thereto.
 3. Names and addresses of the agents or representatives

who will solicit, canvass or distribute literature in the Borough.

- G. Soliciting by, or on behalf of, a candidate for election to public office.

§ 33-9. Permit to be Produced upon Request. Each licensee shall carry their permit with them and shall produce it at the request of any solicited resident or police officer of the Borough.

§ 33-10. Conduct of Canvassers and Solicitors. Soliciting and canvassing shall be done at the front door of a residence, unless directed otherwise by the homeowner or occupant. Licensees shall be courteous and shall conduct themselves in a lawful manner at all times. Canvassers and solicitors shall honor "no solicitor" signs posted by residents and shall immediately depart from premises so posted.

§ 33-11. Distribution of printed matter. Unless said printed matter has been requested by the homeowner, resident or occupant, no person or persons, whether licensed under the terms or provisions of this Chapter or unlicensed, shall scatter, throw or deposit any newspapers, handbills, advertisements, circulars, pamphlets or other printed matter in and about the streets, sidewalks, parks and public places within the Borough of North Caldwell or upon the premises of any resident or property owner, but such newspapers, handbills, advertisements, circulars, pamphlets or other printed matter shall be handed in person to an occupant of such house or deposited in a receptacle placed on said property for such purposes, or at any other location so designated by the homeowner or occupant.

§ 33-12. Revocation of Permit. Under this Chapter, permits issued may be revoked by the Chief of Police by reason of the violation of the terms of the permit or any Borough Ordinance, state or federal statute or because of any falsification made in the application for the license, or whenever the licensee shall cease to possess the qualifications and character required in this Chapter for the original issuance of the permit.

§ 33-13. Violations and Penalties. Any person or persons who shall violate any of the terms or provisions of this Chapter, or who shall do any act or thing prohibited in this Chapter, shall, upon conviction thereof before the Municipal Court Judge of the Borough of North Caldwell, be subject to a penalty as stated in Chapter 1, Article II General Penalty, Section 1-5 et. seq., or a term of imprisonment in the County Jail not exceeding ninety (90) days, or both, in the discretion of the Municipal Court Judge. Each day that such violation shall occur shall be considered a separate and distinct offense.

§ 33-14. Expiration. Every permit and identification card issued by the Borough Clerk shall be issued on a calendar-year basis and shall terminate on December 31 in the year in which it was issued. The fees shall not be prorated over the calendar year.

2. All ordinances and parts of ordinances inconsistent herewith are hereby repealed.
3. If any section, paragraph, subdivision, clause or provision of this ordinance shall be adjudged invalid, such adjudication shall apply only to that section, paragraph, subdivision, clause or provision so adjudged, and the remainder of this ordinance shall be deemed to be valid and effective.
4. This Ordinance shall take effect immediately upon passage and publication in accordance with law.

INTRODUCED: July 16, 2019

Moved By: Councilman Raymond
Seconded By: Council President Santomauro

COUNCIL MEMBER	YES	NO	ABSTAIN	ABSENT	COUNCIL MEMBER	YES	NO	ABSTAIN	ABSENT
ASTORINO				X	RAYMOND	X			
CHIAIA	X				REES	X			
KESSLER	X				SANTOMAURO	X			

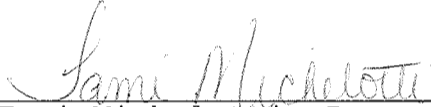
PUBLIC HEARING: August 13, 2019


ADOPTED: August 13, 2019

Moved By: Councilman Raymond
Seconded By: Councilman Chiaia

COUNCIL MEMBER	YES	NO	ABSTAIN	ABSENT	COUNCIL MEMBER	YES	NO	ABSTAIN	ABSENT
ASTORINO				X	RAYMOND	X			
CHIAIA	X				REES	X			
KESSLER				X	SANTOMAURO	X			

ATTEST:


Tami Michelotti, Borough Clerk


Joseph H. Alessi, Mayor