

CHAPTER V

GENERAL LICENSING

5-1 LICENSING PROCEDURES.

5-1.1 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, with the exception of alcoholic beverage licenses, dog licenses and taxicab licenses. (1969 Code § 6-1.1)

5-1.2 Applications. All applications for licenses shall be made to the Borough Clerk upon forms provided by him, and shall contain the following information:

- a. Name and permanent and local address of the applicant. If the applicant is a corporation, the name and address of its registered agent.
- b. If the licensed activity is to be carried on at a fixed location, the address and description of the premises.
- c. If a vehicle is to be used, its description, including the license number.
- d. If the applicant is employed by another, the name and address of the employer, together with credentials establishing the exact relationship.
- e. The days of the week and the hours of the day during which the licensed activity will be conducted.
- f. A description of the nature of the business and the goods, property or services to be sold or supplied.
- g. A statement as to whether the applicant has been convicted of any crime or the violation of any

municipal ordinance other than traffic offenses and, if so, the date and place of conviction, the nature of the offense, and the punishment or penalty imposed.

- h. Appropriate evidence as to the good character and business responsibility of the applicant so that an investigator may properly evaluate his character and responsibility.
- i. Fingerprints are necessary for proper identification and to perform the appropriate background check. Each applicant must be fingerprinted upon their initial application for a license which shall be immediately processed. The applicant shall be required to pay the appropriate annual fee in the amount and form as required by the New Jersey Division of State Police for processing of the fingerprints and performance of the necessary background investigation and/or criminal history investigation. Background investigation shall be performed on all applicants each and every year.
- j. Applications by partnerships shall be signed by all partners with the information required by this subsection supplied in detail as to each partner, and applications of corporations shall have attached individual statements containing all of 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.
- k. Physical description of applicant and two (2) recent photographs approximately two (2") inches by two (2") inches showing the applicant's head and shoulders.
- l. The source of supply of the goods, products or services proposed to be sold, where such goods, services or products are located and the method of delivery.
- m. Applicants shall maintain and produce proof of insurance coverage in the minimum amounts of one hundred thousand (\$100,000.00) dollars per person for

personal injuries, three hundred thousand (\$300,000.00) dollars per occurrence for personal injuries and fifty thousand (\$50,000.00) dollars for property damage. The Borough of Surf City shall be named as an additional insured on all such insurance policies. The insurance coverage shall not be terminated or canceled prior to the expiration date thereon unless thirty (30) days' advance written notice is provided to the Borough of Surf City. (1969 Code § 6-1.2; Ord. No. 82-14; Ord. No. 93-8; Ord. No. 95-5 § 1; Ord. No. 03-05 § I; Ord. No. 2005-12 § 1; Ord. No. 2008-05 § II)

5-1.3 Investigation of Applicants.

- a. The Chief of Police shall initiate criminal history record background checks on present and prospective canvassers, peddlers, itinerant vendors or owners and employees of a door-to-door sales enterprise as set forth in this chapter.
- b. No person shall be licensed as a canvasser, peddler, itinerant vendor or owner or employee of a door-to-door sales enterprise unless the Chief of Police certifies that the person has no criminal history record of a conviction for an offense enumerated in paragraph c. of this subsection.
- c. A person subject to paragraph b. of this subsection whose criminal history record background check reveals a conviction for any of the following crimes and offenses shall be disqualified from receiving a license to conduct canvass, peddle, itinerant vend or perform door-to-door sales:
 1. If the conviction was in New Jersey, for a crime:
 - (a) Involving danger to the person, meaning those crimes and disorderly persons offenses as set forth in N.J.S.A. 2C:11-1 et seq., N.J.S.A. 2C:12-1 et seq., N.J.S.A. 2C:13-1 et

seq., N.J.S.A. 2C:14-1 et seq., or N.J.S.A. 2C:15-1 et seq.; or

- (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. or N.J.S.A. 2C:25-17 et seq.; or
 - (c) Involving theft as set forth in Chapter 20 of Title 2C of the New Jersey Statutes; or
 - (d) Involving any controlled dangerous substance or analog as set forth in Chapter 35 of Title 2C of the New Jersey Statutes except paragraph (4) of subsection a. of N.J.S.A. 2C:35-10.
- 2. If the conviction was in any other state or jurisdiction, for conduct constituting any of the crimes described in paragraph c.1. of this subsection.
 - 3. The Chief of Police is authorized to receive criminal history record information from the State Bureau of Identification in the Division of State Police and the Federal Bureau of Investigation consistent with applicable State and Federal laws, rules and regulations. Authorization for fingerprint based access to the Interstate Identification Index for the purpose of conducting this noncriminal justice licensing is found in New Jersey Statute Annotated 40:48-1.4. The applicant shall bear the cost, if any, for the criminal history record background check, including all costs of administering and processing the check.
 - 4. The Division of State Police in the Department of Law and Public Safety, upon the request of the Chief of Police, shall conduct a criminal history background check requested by the Chief of Police in accordance to the provisions of this subsection. The check shall be performed only upon

certification by the Chief of Police that the person has submitted to the Chief of Police the person's name, address, fingerprints and written consent for a criminal history record background check to be performed. For the purposes of conducting the criminal history background check, the State Police shall examine its own files and arrange for a similar examination of Federal criminal records. The information obtained as a result of any such check shall be forwarded to the Chief of Police.

5. (a) A criminal history record background check shall not be initiated pursuant to this subsection without written consent of the person. The consent required under this subsection shall be in the same manner and form prescribed by the Chief of Police and shall include, but not be limited to, the signature, name, address and fingerprints of the person.
- (b) Upon receiving the results of a criminal history record background check, the director shall promptly notify any person who has not been convicted of a disqualifying offense. Along with that notice, the Chief of Police shall forward a certification stating that the check has not revealed any record that the person has been convicted of a disqualifying offense. The certificate shall be in a form, and contain any additional information, as the Chief of Police may prescribe by rule and regulation.
- (c) The Chief of Police shall promptly notify a person whose criminal record background check reveals a disqualifying criminal conviction of the results of the background check. The person shall have thirty (30) days

from the receipt of that notice to petition the Chief of Police for a review and cite reasons substantiating the review. If the person successfully challenges the accuracy of the criminal history record information indicating a criminal conviction or the person demonstrates affirmatively to the Chief of Police clear and convincing evidence of rehabilitating, the Chief of Police may issue a certificate indicating that the person has successfully cleared a background check.

In determining whether the rehabilitation of a person has been affirmatively demonstrated, the Chief of Police shall consider:

- (1) The nature and seriousness of the offense;
- (2) The circumstances under which the offense occurred;
- (3) The date of the offense;
- (4) The age of the person when the offense was committed;
- (5) Whether the offense was repeated;
- (6) Social conditions which may have contributed to the offense; and
- (7) Any evidence of rehabilitation, including good conduct in the community, counseling, psychological or psychiatric treatment, additional academic or vocational training or personal recommendations.

- (d) In the case of a door-to-door sales enterprise, a copy of the notification required under paragraphs b. and c. of this subsection also shall be forwarded to the owner of the enterprise.
 - (e) The Chief of Police shall not certify a person subject to the provisions of this subsection who refuses to consent to, or cooperate in, the securing of a criminal history record background check.
6. The Chief of Police shall communicate their findings, in writing, to the Municipal Clerk as soon as such information is made available.
(Ord. No. 2005-12 § 2; Ord. No. 2008-06 § I)

5-1.4 Contents of License. Licenses shall be in a form which the Mayor and Council shall prescribe 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 the 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, by resolution require.
- (1969 Code § 6-1.4)

5-1.5 Expiration Date; Renewal; Proration of Fees. Except where expressly provided otherwise, all licenses shall expire on December 31 of the year of issue at 12:00 midnight

local time. Applications for the renewal of licenses shall be made not later than December 1 of the year of issue. (1969 Code § 6-1.8; Ord. No. 2003-10 § 1)

5-1.6 Transferability. Every license shall apply only to the person to whom it is 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 by resolution of the Mayor and Council. (1969 Code § 6-1.7)

5-1.7 License Record. The Municipal Clerk shall keep a record of all licenses issued under this chapter. The record shall be in a form prescribed by resolution of the Mayor and Council, and shall contain the same information as is required by subsection 5-1.4 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 it is a new license or a renewal, and any other information which the Mayor and Council may, by resolution, require. (1969 Code § 6-1.5)

5-1.8 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 the 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. (1969 Code § 6-1.6)

5-1.9 Revocation of License; Causes. Any license or permit issued by the Borough may be revoked by the Mayor and Council after notice and a hearing for any of the following causes:

- a. Fraud or misrepresentation in any application for a permit or license.
- b. Fraud, misrepresentation or other dishonesty in the conduct of the licensed activity.
- c. A violation of any provision of this Revision.
- d. Conviction of the licensee for any felony or high misdemeanor or a misdemeanor or disorderly person's offense involving moral turpitude.
- e. 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.
- f. Whenever a license has been issued immediately upon an application, pending the results of the investigation provided for by this chapter, such license may be summarily revoked if the result of the investigation is such as would have resulted in denial of the application.

(1969 Code § 6-1.9)

5-1.10 Notice of Hearing. Notice of a hearing for the revocation of a license or permit shall be given in writing by the Municipal 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. (1969 Code § 6-1.10)

5-1.11 Hearing; Determination. 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 Mayor and Council shall revoke or suspend the license if they are satisfied by a preponderance of the evidence that the licensee is guilty of the acts charged. (1969 Code § 6-1.11)

5-1.12 Reinstatement of Revoked Licenses. The Mayor and Council may issue another license to a person whose license has been revoked or denied as provided in this section if, after hearing, they are 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. (1969 Code § 6-1.12)

5-1.13 Power to Make Rules and Regulations. The Mayor and Council may, by resolution, make rules and regulations which interpret or amplify any provision of this chapter or for the purpose of administering the provisions of this chapter or making them more effective. No regulation shall be inconsistent with, alter or amend any provision of this chapter, 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 chapter. (1969 Code § 6-1.13)

5-1.14 Exceptions. The requirements of subsection 5-2.3 and 5-3.4 entitled Fees and subsection 5-2.10 entitled Limitation on License, shall not be construed to apply to the following persons:

- a. Any honorably discharged veteran of the armed services of the United States, as defined in, and who has procured a license under the provisions of N.J.R.S. 45:24-9, et seq.
- b. Any exempt member of a volunteer fire department, volunteer fire engine, hook and ladder or hose company, or salvage corps of any municipality, or fire district in this State who holds an exemption certificate issued to him as an exempt member of any such department or 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.R.S. 45:24-9, et seq.
- c. Any person, as defined in Chapter 1, Section 1-2, soliciting for a lawful and recognized religious, charitable, educational or political organization; provided, however, that the local chairman or other person in charge of solicitation of such lawful and recognized religious, charitable, educational or political organization in the Borough of Surf City shall apply for and obtain a license.
(1969 Code § 6-3.14)

5-2 PEDDLERS AND HAWKERS.

5-2.1 Definitions. As used in this section:

Peddler shall mean and include any person, whether a resident of the Borough or not, traveling by foot, wagon, automotive vehicle or any other type of conveyance, from place to place, from house to house, or from street to street, carrying, conveying or transporting goods, wares, merchandise, meats, fish, vegetables, fruits, food, ice cream, fruit ices, soda water, garden farm products or provisions, offering and exposing the same for sale, or making sales and delivering articles to purchasers. The

word peddler shall include the words hawker and huckster.
(1969 Code § 6-3.1)

5-2.2 License Required. It shall be unlawful for any person to engage in the business of peddling and hawking as defined in this section within the corporate limits of the Borough without first obtaining a permit and license as provided by this section. No license shall be issued until the certificate of inspection from either the Ocean County Board of Health or the Long Beach Island Board of Health is presented to the Municipal Clerk, license fee paid and the bonding requirements of this section have been fulfilled. (1969 Code § 6-3.2; Ord. No. 95-5 § 1)

5-2.3 Fees. The fee for a peddler's, hawker's or vendor's license shall be as follows:

- a. A fee of one thousand (\$1,000.00) dollars shall be assessed for the vehicle, cart or any other type of device being used.
- b. A fee of one thousand (\$1,000.00) dollars per person making an application shall be assessed. This shall be assessed in addition to the fee as assessed in paragraph a. above and shall include but not be limited to the original driver and/or operator, any relief drivers and operators, and any other person who shall be engaged in the sale or dispensing of goods.
- c. No portion of the fees designated in this subsection shall be prorated for any part of the year.
(1969 Code § 6-3.3; Ord. No. 93-6 § 1; Ord. No. 2000-2 § I; Ord. No. 2008-05 § I)

5-2.4 Noises and Speaking Devices. After 7:00 p.m., prevailing time, no peddler, or any person in his behalf, shall shout, cry out, blow a horn, ring a bell or use any sound device, including any loudspeaking radio or sound amplifying system, upon any of the streets, parks, or other public places of the

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Borough, or upon any private premises in the Borough where sound of sufficient volume is emitted or produced therefrom to

be capable of being plainly heard upon the streets, parks or other public places, for the purpose of attracting attention to any goods, wares or merchandise which such licensee proposes to sell. (1969 Code § 6-3.4)

5-2.5 Use of Streets. No peddler shall have any exclusive right to any location, nor shall he be permitted to operate in any congested area where his operations might impede or inconvenience the public. For the purpose of this section, the judgment of a Police Officer, exercised in good faith, shall be deemed conclusive as to whether the area is congested or the public impeded or inconvenienced. (1969 Code § 6-3.5)

5-2.6 Time Restrictions. No person shall sell, offer for sale, hawk or peddle in the Borough any of the items enumerated in subsection 5-2.1 after 10:00 p.m. prevailing time. (1969 Code § 6-3.6)

5-2.7 Enforcement. It shall be the duty of any Police Officer to require any person seen peddling who is not known by such Officer to be duly licensed, to produce his peddler's license, and to enforce the provisions of this section against any person found to be violating the same. (1969 Code § 6-3.7)

5-2.8 Bonding Provisions. Prior to the issuance of any license or permit to any vendor or hawker, the prospective vendor shall file with the Municipal Clerk a bond to the Borough of Surf City in the amount of one thousand (\$1,000.00) dollars, which shall be executed by the proposed vendor as principal, and the surety company licensed to do business in the State of New Jersey. The Bond shall be in accordance with and for the purposes provided for in N.J.S.A. 45:24-5, and shall remain in force for the term of the license to be issued and be conditioned as follows:

- a. To indemnify and pay the Borough any penalties or costs incurred in the enforcement of any of the provisions of this section and to indemnify or reimburse any purchase or personal property from the vendor in a

sum equal to at least the amount of any payment such purchaser may have been induced to make through the misrepresentation as to the kind, quality or value of the personal property, whether the misrepresentations were made by the vendor or his agents, servants or employees, either at the time of making the sale or through any advertisement printed or circulated with reference to such personal property or any part thereof.

- b. The bond shall be declared forfeited upon proof of falsification in the application for a license.
- c. The bond shall be deemed forfeited upon proof of the violation of any of the provisions of this section by the vendor or his agents, servants or employees.
(Ord. No. 95-5 § 1)

5-2.9 Acceptance of Application and Issuance of License. No application shall be considered or accepted by the Municipal Clerk prior to May 1 of each calendar year. No vendors license shall be issued by the Municipal Clerk prior to May 5 of each calendar year and shall be issued in accordance with subsection 5-2.10. Upon the completion of the appropriate investigation and recommendation by the appropriate Police Official, the Municipal Clerk shall issue the license during the course of normal office hours, Monday through Friday. (Ord. No. 95-5 § 1; Ord. No. 03-05 § II)

5-2.10 Limitation on License. The Municipal Clerk shall not issue more than four (4) licenses in any given calendar year. No more than one (1) license shall be issued to any one person or company. Each application received by the Clerk shall be stamped with the date and time of receipt and an investigation shall be conducted in accordance with this chapter.

Consideration for a license shall be given to the four (4) most senior licenses issued by the municipality in the past, who have been, and are in good standing with no violations or written complaints on record.

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If any of the first four (4) senior applications thereafter are rejected or not received during the license year, the issuance of

that license shall be terminated only to be reinstated by an amendment to this subsection.

If, in the event, the Municipal Clerk does not receive a sufficient number of applications to issue four (4) licenses in any given year, it shall not entitle any license holder to receive an additional license in any given year.

Licenses issued shall not be transferable except in the case where the license was issued to a corporation or company and the business is sold or transferred in which case the license may be transferred for the remainder of the license period only. Reconsideration will be given in the next license year. (Ord. No. 95-5 § 1; Ord. No. 95-9 § 1; Ord. No. 98-4 § I)

5-2.11 Exemptions. Any veteran or exempt fireman as defined in subsection 5-1.14, and who holds a special State license issued under the laws of the State of New Jersey, shall be exempt from subsections 5-2.3, 5-2.10 and 5-3.4, but shall be required to comply with all other applicable subsections of this section and shall be required to procure from the Municipal Clerk a special veteran's or exempt firemen permit which shall be issued by the Clerk upon proper identification. Any person issued a license pursuant to this section, shall be ineligible for any such license issued under subsection 5-2.10.

Such persons, employees, agents or servants shall be required to comply with all applicable provisions of this section and procure from the Municipal Clerk a permit upon proper identification and compliance herewith. (Ord. No. 95-5 § 1)

5-3 SOLICITORS AND CANVASSERS.

5-3.1 Definitions. As used in this section:

Canvasser or solicitor shall mean any individual, whether a 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 or personal property of any nature whatsoever for future delivery, or for services to be furnished or performed in the future, whether or not such individual has, carries or exposes for sale a sample of the subject of such sale or whether he is collecting advance payments on such sales or not, provided that such definition shall include any person who, for himself or for another person, hires, leases, uses or occupies any building, structure, tent, railroad boxcar, boat, hotel room, lodging house, apartment, shop, or any other place within the Borough for the sole purpose of exhibiting samples and taking orders for future delivery. (1969 Code § 6-4.2)

5-3.2 Permit and License Required. It shall be unlawful for any solicitor or canvasser as defined in this section to engage in such business within the Borough without first obtaining a permit and license. (1969 Code § 6-4.1)

5-3.3 Application. An applicant for a permit and license under this section must file with the Borough Clerk, a sworn application in writing and in duplicate, which, in addition to the information required in subsection 5-1.2, shall indicate:

- a. 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.
- b. A statement as to whether or not the applicant has been convicted of any crime, misdemeanor, or violation of any municipal ordinance, the nature of the offense and the punishment or penalty assessed therefor.

At the time of filing the application, a fee of five (\$5.00) dollars shall be paid to the Municipal Clerk to cover the cost of investigation of the facts stated therein. (1969 Code § 6-4.3)

5-3.4 Fees. The license fee to be charged by the Municipal Clerk for a solicitor's and canvasser's license shall be ten (\$10.00) dollars. (1969 Code § 6-4.4; Ord. No. 93-6 § 1)

5-3.5 Badges. The Municipal Clerk shall issue to each licensee, at the time of delivery of his license, a badge which shall contain the words "Licensed Solicitor," the period for which the license is issued, and the number of the license, in letters and figures easily discernible from a distance of ten (10') feet. Such badge shall, during the time the licensee is engaged in soliciting, be worn constantly by the licensee on the front of his outer garment in such a way as to be conspicuous. (1969 Code § 6-4.5)

5-3.6 Time Restrictions. No soliciting or canvassing activities shall be conducted later than 9:00 p.m. prevailing time. (1969 Code § 6-4.6; Ord. No. 88-10 § 1; Ord. No. 95-5 § 1)

5-3.7 Restriction on Solicitations Made in the Name of or on Behalf of the Borough of Surf City. No "canvassers" or "solicitors" as defined in this section, or any other person or entity shall solicit funds in the name of or on behalf of the Borough for any purpose, unless:

- a. The applicant has complied with subsection 5-3.2 and 5-3.3 and;
- b. The Mayor and Council has approved such application for Resolution.

The applicant shall provide to the Municipal Clerk, upon completion of the solicitation, the names and addresses of all contributors. The Municipal Clerk shall maintain anonymity of such names and addresses, unless otherwise directed by the Mayor and Council.
(Ord. No. 93-11 § 1)

5-4 PRIVATE SALES AND AUCTIONS.**5-4.1 Definitions.** As used in this section:

Private sale shall mean the sale, exchange or display for sale of any used personal property, conducted on or about lands and premises located within the Municipality in areas which are not zoned to permit commercial use. The terms "private sales" and "auction" shall also include garage sales and shall include sales conducted by negotiation or by auction.

(Ord. No. 78-10)

5-4.2 Permitted Sales. Private sales as herein above defined shall be permitted only in accordance with the terms of this section. (Ord. No. 78-10)

5-4.3 License Required. No person shall conduct any private sale or auction in the Borough without first making application to the Clerk for a license to conduct such sale. Application shall be made prior to the date of such sale. The application shall be accompanied by a fee of three (\$3.00) dollars. (Ord. No. 80-8)

5-4.4 Application Requirements. The application for any such license shall contain the following information:

- a. The name and address of the applicant.
- b. The name and address of the owner of the property at which the sale is to be conducted, if different from the applicant.
- c. The location of the property at which the sale is to be conducted.
- d. The date or dates proposed for the execution of the sale.
- e. The date and location of any past sales conducted by the applicant.

- f. A description of any other past sales conducted by the applicant.
- g. A certification that the statements contained in the application are true.
(Ord. No. 78-10)

5-4.5 Issuance of License Restricted. No license shall be issued to any one person more than once in any calendar year nor shall any license be issued for a sale at any one location more often than once in any calendar year. No license shall be issued for more than two (2) consecutive calendar days.
(Ord. No. 78-10; Ord. No. 83-3)

5-4.6 Hours of Sale. All private sales shall be conducted between the hours of 8:00 a.m. and 6:00 p.m. (Ord. No. 78-10)

5-4.7 Signs. No signs for advertising or soliciting customers for the sale shall be placed other than on the lands licensed for the execution of the sale. A single sign, double spaced so that the legend is legible from either side, not exceeding two (2') feet overall dimensions, including trim, shall be permitted. The sign may be placed on the site no more than five days prior to the sale and shall be removed by 9:00 p.m. on the last day of the sale. (Ord. No. 78-10)

5-4.8 Prohibited Merchandise. No foodstuffs, no perishable items, no personal property other than the property of the applicant, no property purchased for the express purpose of sale, shall be offered for sale. In addition, no goods or merchandise or personal property of any sort, kind or description requiring treatment by any laws of the State of New Jersey or the United States shall be offered for sale without first supplying such treatment. (Ord. No. 78-10)

5-4.9 Exempt Sales. The provisions of this section shall not apply to:

- a. Sales pursuant to judicial process.

- b. Sales conducted by public officials performing public business.
- c. Any person selling or advertising for sale an item or items of personal property which are specifically named and described in the advertisement offering them for sale and which separate items do not exceed five (5) in number.
- d. Any sale by any merchant in any area of the Borough zoned for business or retail sales.
- e. Any sale made by any licensed veteran licensed under the New Jersey Veterans Vending Laws.
- f. Any sale made by any vendor licensed under Borough vending laws.
- g. Any sale made by a charitable, religious, civic or eleemosynary organization.
(Ord. No. 78-10)

5-4.10 Enforcement. The provisions of this section shall be enforced by the Code Enforcement Officer as well as the Police Department. Where any sale has taken place without being properly licensed, the Code Enforcement Officer or member of the Police Department shall immediately order the sale to cease and desist, and in the event of a failure to cease and desist, all persons continuing to operate the sale or participate therein, shall be guilty of a violation of this section. (Ord. No.78-10; New)

5-4.11 Penalty; Violation. Any person violating any of the provisions of this section for the first time may, upon conviction, be punished by a fine not exceeding one hundred (\$100.00) dollars in the discretion of the court. Any person violating any of the provisions of this section more than one time, upon conviction, may be punished by a fine not exceeding five hundred (\$500.00) dollars or by imprisonment in the County Jail for a term not exceeding six (6) months, or both, in the discretion of the Court. Each day of violation may

be deemed by the Court to be a separate violation. (Ord. No. 78-10)

5-5 TAXICABS.

5-5.1 Definitions. As used in this section:

Exempt operation shall mean the operation of any taxicab duly licensed in any other municipality which may have occasion to deliver a fare within the territorial jurisdiction of the Borough. Such a taxicab, however, shall not deliver fares into the Borough more often than once in any thirty (30) day period, and in no event more often than six (6) times in any calendar year.

Fare shall mean and include any person hiring a taxicab and paying the required charges therefor, as well as such charges.

Operate shall mean and include the discharging, picking up and solicitation of fares and other business and the hiring out of the taxicab.

Taxicab shall mean and include any motor vehicle engaged in the business of carrying persons for hire and seating no more than six (6) passengers in addition to a driver.

(Ord. No. 82-3 § 1)

5-5.2 License Required. No person shall operate any taxicab in the Borough without first having obtained a license for the taxicab and a license for the operator, as hereinafter set forth. The operation of any unlicensed taxicab within the Borough, or the operation of any taxicab by an unlicensed operator within the Borough, shall be punished as hereinafter provided. (Ord. No. 82-3 § 2)

5-5.3 Licensing Requirements.

- a. *Taxicab License.* The taxicab shall be licensed for operation within the Borough, except as may be provided by N.J.S.A. 48:16-1, et seq., except that in lieu and instead of the insurance requirements contained in N.J.S.A. 48:16-3, the liability insurance requirement shall provide for the payment of a sum of not less than one hundred thousand (\$100,000.00) dollars to satisfy claims for damages claimed by reason of bodily injury or death of any one person and a sum of not less than three hundred thousand (\$300,000.00) dollars to satisfy all claims arising from bodily injury or death of all persons involved in any single accident. The policy shall further provide for property damage liability insurance coverage of not less than twenty-five (\$25,000.00) dollars to satisfy any single claim for property damage suffered by any one person, and not less than fifty thousand (\$50,000.00) dollars to satisfy all claims for property damage suffered by more than one person arising from a single accident.

Upon posting of the insurance bond as required, the applicant for a taxicab license shall then complete the form of application provided by the Police Department. Within fourteen (14) days of the filing of the form with the Police Department, the Police Department shall complete a thorough and complete investigation of the applicant and render a complete written report to the Mayor and Borough Council. The Mayor and Council shall grant or deny the taxicab license sought by the applicant within thirty (30) days of the rendering of the report by the Director of Police to them.

- b. *Operator's License.* Operators shall submit an application on the form provided by the Police Department. Within fourteen (14) days, the Police Department shall complete a review and investigation of the applicant, giving due consideration to the

applicant's moral character, prior criminal record, if any, prior driving record and state of health, and shall submit the completed application to the Mayor and Council together with a report on the applicant, signed by the Director of Police, with a recommendation from the Police Department as to the action to be taken on the application. Within thirty (30) days thereafter, the Mayor and Council shall grant or deny the application for the operator's license, by resolution adopted at a public meeting and stating, if the application is denied, the reasons for the denial. If the application is approved, the Clerk shall issue the operator's license in accordance with the provisions hereinafter set forth and upon the payment of fees hereinafter required.
(Ord. No. 82-3 § 3; Ord. No. 93-8)

5-5.4 Fees. Prior to the issuance of any license, the following fee shall be paid to the Borough Clerk:

- a. For each taxicab license, seventy-five (\$75.00) dollars.
- b. For each operator's license, twenty-five (\$25.00) dollars.
(Ord. No. 82-3 § 7)

5-5.5 Number of Licenses. The maximum number of taxicab licenses permitted in the Borough shall be two (2). There shall be no limitation on the number of operator's licenses issued by the Borough. (Ord. No. 82-3 § 4)

5-5.6 Contents of Licenses; Issuance.

- a. *Taxicab Licenses.* Licenses issued for the operation of cabs shall be consecutively numbered and shall set forth the name and address of the licensee, the purpose of the license, a brief description of the vehicle or vehicles licensed and the registration number of the vehicle or vehicles licensed.

- b. *Operator's License.* The operator's license shall contain the name and address of the operator, together with a sufficient description to identify the operator. A photograph of the operator shall be affixed to the license. Operator's licenses shall be consecutively numbered.
- c. *Expiration Date.* All taxicab and operator's licenses shall expire on December 31 in each year.
- d. *Registration.* The Clerk shall keep a register of all licenses granted, which shall contain all the details required by this section.
- e. *Renewal.* Any license issued by the Borough shall be renewed under the same terms and conditions as originally issued. An application for renewal shall be filed with the Director of Police no later than November 15 of each year.

(Ord. No. 82-3 § 5; Ord. No. 93-8)

5-5.7 Vehicle Identification; Display of License. Any taxicab licensed by the Borough shall contain in letters at least two (2") inches high, the following statement on the front doors on the right and left side of the vehicle:

"Surf City License Taxicab Number..."

All licenses issued pursuant to this section, shall be conspicuously displayed so as to be easily read by any passenger.

(Ord. No. 82-3 §§ 6, 8)

5-5.8 Revocation and Suspension of License. Any license issued pursuant to this section may, upon written notice to the holder thereof, be suspended or revoked for cause. The written notice of the proposed revocation or suspension shall set forth the reasons for such proposed revocation or suspension. The holder of the license, within ten (10) days of the receipt of such written notice, may request, in writing, a hearing on the charges for revocation or suspension. If no hearing is requested by the holder of the license, the

revocation or suspension proposed in the written notice shall automatically take place. If written request is made for a hearing, the Mayor and Council shall hold a hearing on the charges and by resolution either suspend or revoke the license or dismiss the charges. If the license is suspended or revoked, the resolution shall set forth the details upon which such suspension or revocation is based. Upon any suspension or revocation, the license shall be surrendered forthwith to the Director of Police. (Ord. No. 80-7 § 14; Ord. No. 93-8)

5-5.9 Regulations.

- a. *Taxicab Maintenance.* No taxicab license shall be issued until the applicant has given satisfactory proof to the Police Department that the vehicle has passed State inspection. In addition, the Police Department shall make a personal inspection of any taxicab to be licensed to ensure that, insofar as the Department is able to determine, the vehicle, at the time of the issuance of the license, is still capable of meeting New Jersey State Inspection Standards.
- b. *Refusal to Convey.* No taxicab, while waiting for employment at any place in the Borough during hours when the taxicab is available for hire, shall refuse to convey any person who has demonstrated the ability to pay the required fee and who is not acting in an unlawful or intoxicated manner.
- c. *Baggage.* Each passenger shall be entitled to have carried and conveyed in any licensed taxicab, without charge, his ordinary traveling baggage and luggage, not exceeding fifty (50) pounds.
(Ord. No. 80-7 §§ 9, 10, 13)

5-5.10 Fares. The maximum fare to be charged for each passenger transported in a taxicab, licensed pursuant to this section, shall be seventy-five (\$0.75) cents per mile per passenger. (Ord. No. 80-7 § 12)

5-5.11 Taxicab Stands. The Mayor and Council may by resolution designate public stands for taxicabs. (Ord. No. 80-7 § 11)

5-5.12 Violation; Penalty. Any person violating any term or provision of this section may, upon conviction by the Surf City Municipal Court, be liable to the penalty stated in Chapter I, Section 1-5. (Ord. No. 80-7)

5-6 LICENSING OF RETAIL FOOD ESTABLISHMENTS.

5-6.1 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. (1969 Code § 6-2.1)

5-6.2 Investigation. In addition to the requirements contained in Section 5-1, 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. (1969 Code § 6-2.2)

5-6.3 Fees. The fees for licenses under this section shall be as follows:

Retail food establishment, permanent location, fifteen (\$15.00) dollars per year. (1969 Code § 6-2.3)

5-6.4 Suspension or Revocation. In addition to the grounds for revocation set forth in subsection 5-1.9, any license issued under this section may be suspended or revoked for failure to comply with any provision of the Retail Food Establishment Code. (1969 Code § 6-2.4)

5-7 MASSAGE PARLORS; MASSEURS AND MASSEUSES.

5-7.1 Massage Business; License Required. No person shall operate any establishment or utilize any premises in the Borough as or for a massage business, unless, and until, there first has been obtained a license for such establishment or premises from the Municipal Clerk in accordance with the terms and provisions of this section. (Ord. No. 76-8 § 1)

5-7.2 Masseur; Masseuse; License Required. No person shall render or perform services as a masseuse or a masseur or engage in the business of or be employed as a masseuse or masseur unless, and until, she or he has obtained a masseuse or masseur's license from the Municipal Clerk in accordance with the terms and provisions of this section. (Ord. No. 76-8 § 2)

5-7.3 Applications. Each and every applicant for a license, either for an establishment or premises to be used for a massage business or for a masseuse's or masseur's license shall set forth the following information, in writing, witnessed by a notary of the State of New Jersey, on forms which shall be provided to such applicant by the Municipal Clerk:

- a. The name and address of the applicant and all former addresses for a period of three (3) years prior to the making of this application.
- b. The address of the establishment or premises to be used in a massage business and a physical description of the property and facilities.
- c. A statement whether such massage facility meets all requirements of the Borough with respect to zoning and parking, and other applicable land use laws of the Borough.

- d. If the applicant desires a masseuse's or masseur's license, a statement of all employment for a period of three (3) years immediately prior to the date of the application.
- e. A statement as to whether or not the applicant or any officer or director thereof or any masseur or masseuse being employed by the applicant has ever been convicted of a crime in the State of New Jersey or in any other jurisdiction.
(Ord. No. 76-8 § 3)

5-7.4 License Fees. The applicant for license for an establishment or premises shall pay an annual license fee of one hundred (\$100.00) dollars, which license fee shall become due on the date of the application and on February 1 in each year thereafter. The applicant for a masseur's or masseuse's license shall pay an additional annual license fee of one hundred (\$100.00) dollars, which license fee shall become due on the date of the application and on the following February 1 in each and every year. (Ord. No. 76-8 § 4)

5-7.5 Borough Council to Approve Application. Each application for a license or the renewal thereof, either to operate a massage establishment or premises or to engage in the business of or to be employed as a masseur or masseuse, which is submitted to the Municipal Clerk shall be considered for approval by a majority of those present of the Borough Council before any such license is issued. The Borough Council shall not approve such application if, on the basis of the past criminal record of the applicant or of any principal thereof, or of the masseur or masseuse, or on the basis of other evidence of bad character or bad morals, it shall determine that the granting or renewal of such license would tend to encourage or permit criminal or immoral activities within the Borough. (Ord. No. 76-8 § 5)

5-7.6 Prohibition. No person engaged or employed as a masseur or masseuse shall treat a person of the opposite sex,

nor shall the owner or applicant of the massage parlor business permit same. (Ord. No. 76-8 § 6)

5-7.7 Exceptions. The provisions of this section shall not apply to massage or physical therapy treatments given:

- a. In the office of a licensed physician, osteopath, chiropractor or physical therapist.
- b. By a regularly established and licensed medical center, hospital or sanitarium having a staff which authorizes licensed physicians, osteopaths, chiropractors or physical therapists to conduct such massages or physical therapy.
- c. By any licensed physician, osteopath, chiropractor or physical therapist in the residence of the patient.
(Ord. No. 76-8 § 7)

5-7.8 Penalty; Violation. Any person violating any of the provisions of this section shall, upon conviction, be subject to the penalty stated in Chapter I, Section 1-5. Each day of violation may be deemed by the Court to be a separate violation. (Ord. No. 76-8 § 8)

5-8 LEGALIZED GAMES OF CHANCE.

5-8.1 License Required. It is hereby acknowledged that a referendum was passed on April 20, 1954, authorizing games of chance to be played within the Borough of Surf City and the issuance of licenses for the games. (Ord. No. 95-4 § 1)

5-8.2 Exemptions from Licensing Fees. In accordance with N.J.A.C. 13:47-4.10, a licensing municipality may, by ordinance, exempt all qualified organizations from the payment of any municipal licensing fee for games of chance. The Borough of Surf City, by this section, hereby exempts all organizations, qualified in accordance with the regulation set forth by the Legalized Games of Chance Control

Commission of the State of New Jersey, from the payment of any municipal licensing fee for games of chance, applied for and to be played within the Borough of Surf City. (Ord. No. 95-4 § 1)

5-9 "DO NOT KNOCK" REGISTRY.

- a. The Borough Clerk shall prepare a list of addresses of those premises where the owner and/or occupant has notified the Clerk that canvassing, peddling, itinerant vending and door-to-door sales enterprises are not permitted on the premises (hereafter referred to as the "Do Not Knock" Registry). Notification shall be by completion of a form available at the Borough Clerk's office during normal business hours. The list shall be updated January 1 and July 1 of each year.
- b. Any owner and/or occupant who has requested enlistment on the "Do Not Knock" Registry, pursuant to paragraph a. herein, shall be able to purchase from the Clerk's office, for a nominal fee, a sticker for display at his/her premises indicating enlistment on the "Do Not Knock" Registry.
- c. The Borough Clerk shall submit the "Do Not Knock" Registry to the Chief of Police biannually to be distributed to the applicants for a license to peddle, canvass, vend or otherwise sell door-to-door pursuant to the provisions of this chapter. The licensee shall not peddle, canvass, vend or conduct door-to-door sales at any premises identified on the then current "Do Not Knock" Registry.
- d. Any canvasser, peddler, itinerant vendor or owner or employee of a door-to-door sales enterprise who violates any provision of this section shall be:
 1. Liable to the penalty stated in Chapter I, Section 1-5.

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2. Subject to a one-year revocation of any license issued pursuant to the within chapter; and
3. Ineligible to receive a new license, pursuant to the within chapter, for a period of one (1) year, coinciding with the terms of one-year revocation noted in paragraph 2. herein.
(Ord. No. 2005-12 § 3)