

ORDINANCE #35-23
AN ORDINANCE AMENDING AND SUPPLEMENTING
CHAPTER VIII OF THE REVISED GENERAL ORDINANCES
OF THE BOROUGH OF SAYREVILLE TO AMEND
SECTION 8-3 "PEDDLERS AND HAWKERS"

WHEREAS, the Borough previously established Section 8-3, "Peddlers and Hawkers", to provide rules and regulations associated with Peddlers and Hawkers within the Borough; and,

WHEREAS, the Mayor and the Borough Council desire to amend 8-3, "Peddlers and Hawkers", to reflect the Borough's determination that the Borough citizens and the community in general will benefit from provisions and availability of food and nonalcoholic beverages at Buchanan River Front Park; and,

WHEREAS, the Mayor and the Borough Council wish to amend the existing ordinance to create a new license, P-4 Food/Beverage Peddler - Buchanan River Front Park, to permit the aforementioned sale of food and beverages in this specific location; and,

WHEREAS, all additions are shown in ***bold italics with underlines***. The deletions are shown as ~~*strikeovers in italics*~~. Those sections of Section 8-3 that will remain unchanged are shown in normal type.

BE IT AND IT IS HEREBY ORDAINED by the Mayor and Borough Council of the Borough of Sayreville, in the County of Middlesex, that the Revised General Ordinances of the Borough of Sayreville are hereby amended as follows and shall be added and/or amended to reflect said changes:

SECTION ONE. Section 8-3.1 through 8-3.9 shall be amended as follows:

8-3.1 Definitions. As used in this section:

Food/beverage shall mean edible items that are normally consumed by human beings.

Merchandise shall mean items other than food/beverage.

Motor vehicle shall be defined as set forth in N.J.S.A. 39:1-1.

Peddler shall include any person, whether or not a resident of the Borough, 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. "Peddler" shall also mean and include any person offering and exposing for sale, or making sales of food items, ice cream, fruit ices, soda, water and other consumable food products which are sold for the purpose of immediate consumption from a vehicle on wheels located in a permanent location on a daily basis, the vehicle capable of being moved either under its own power or being towed by a motor vehicle. "Peddler" shall mean and include the works "hawker" and "huckster".

Special event shall mean a temporary event occurring within the Borough of Sayreville, such as a circus, fair, parade, carnival or similar event having a temporary duration which does not exceed two (2) weeks.

Specific location shall mean the presence of a peddler at a single location for more than one (1) hour, with written approval from property owner for the purpose of selling or distributing the peddler's product(s). This section only applies to all P-2 Site Specific License holders.

8-3.2 License required. It shall be unlawful for any person to engage in the business of peddler within the corporate limits of the Borough without first obtaining an appropriate permit and license as provided by section 8-3.3. Such license shall only be issued in the name of the individual who actually engages in the activity for which the license is issued and no such license may be transferred to another individual.

8.3-3 Type of license. Each and every peddler shall be required to obtain one (1) of the following licenses which shall conform to the actual activity of each peddler:

- a. *P-1 Food/Beverage Peddler - Mobile.* Each and every peddler who engages, in whole or in part, in the activity of business of selling or distributing food/beverage using a motor vehicle shall first obtain a P-1 (Food/Beverage Peddler - Mobile) license. Such a license holder shall nevertheless be prohibited from engaging in such activity or business at a specific location as defined in subsection 8-3.1. The purpose of this license is to stop, make a sale and move on.
- b. *P-2 Food/Beverage Peddler - Site Specific.* Each and every peddler who engages, in whole or in part, in the activity or business of selling or distributing food/beverage at a specific location shall first obtain a P-2 (Food/Beverage Peddler-Site Specific) license.
- c. *P-3 Bait and Tackle at River Road Waterfront Park.* Each and every peddler who engages in whole or in part in the activity of selling or distributing bait and tackle at the River Road Waterfront Park shall first obtain a P-3 (Bait and Tackle Peddler) license. This license shall be limited to the sale of bait, tackle and water. There shall be a limit of two (2) licenses, issued on a first come/first serve basis only at the River Road Waterfront Park. The hours of operation shall be from dawn to dusk and expiring on December 31st of the licensed year.
- d. **P-4 Food/Beverage Peddler - Buchanan River Front Park. Each and every peddler who engages in whole or in part in the activity of selling or distributing of selling or distributing food/beverage at the Buchanan River Front Park shall first obtain a P-4 (Buchanan River Front Park) license. This license shall be limited to the sale of food and/or non-alcoholic beverages. There shall be a limit of one (1) license, issued on a first come/first serve basis only at the Buchanan River Front Park. The hours of operation shall be from dawn to dusk and expiring on December 31st of the licensed year. This license shall be nontransferable.**

No P-2 license shall be issued to any peddler unless the peddler has a valid P-2 license on the effective date of this subsection.

- e. ~~*Transferability of a P-2 License. A peddler holding a valid P-2 license, or the legal representative for the estate of a peddler which held a valid P-2 license, may transfer the license to any individual providing that the new holder be subject to a background check by the Sayreville Police Dept. and Business Administrator for any history of business malfeasance or crimes that may affect the operation of a food peddler with the Borough. An application for transfer of a P-2 license shall be processed in the same manner as an application for a new license. In the event that a peddler holding a P-2 license fails to renew his license in a timely manner*~~

prior to the expiration of the license, the license shall be deemed to have been abandoned and such licenses shall no longer be renewed nor reissued.

(Ord. No. 184-12, 5-29-2012; Ord. No. 236-13, 11-12-2013; Ord. No. 406-18, 5-18-2018)

8-3.4 Sale of merchandise prohibited. Peddlers shall be prohibited from selling or distributing merchandise within the Borough of Sayreville, except that peddlers who currently possess a valid peddlers license may sell merchandise until said license expires, provided that in no event shall said license be renewed.

(Ord. No. 184-12, 5-29-2012; Ord. No. 236-13, 11-12-2013)

8-3.5 Special event permit. Any other provision in this section notwithstanding a permit may be issued to a peddler for the sole purpose of selling merchandise or food/beverage at a special event. The duration of such special event permit shall not exceed two (2) weeks or the actual duration of the special event, whichever is less. The Special Event License holder is also restricted to operate only on the premises of the event and may not conduct business elsewhere in the Borough before, during, or after the event. Fees will be waived for any current holder of a P1 or P2 License who applies to participate in any Special Event within the Borough of Sayreville.

(Ord. No. 184-12, 5-29-2012; Ord. No. 236-13, 11-12-2013; Ord. No. 406-18, 5-18-2018)

8-3.6 Fees. The following fees shall be established for a Peddlers or Hawkers License issued in the Borough:

- a. Annual Peddlers P1 Mobile license: \$125.00
- b. Annual Peddlers P2 Site license: \$100.00
- c. Annual Peddlers P3 Bait and Tackle license: \$125.00
- d. Annual Peddlers Buchanan River Front Park license: \$125.00**
- e. ~~e~~ Annual Peddlers License (after December 31st) fee surcharge:**
 - 30 days late - \$ 50.00
 - 60 days late - \$100.00
 - 90 days late - \$200.00
- f. ~~e~~ Peddlers special permit license: \$35.00**

8-3.7 Use of streets.

- a) No peddler shall have an exclusive right to any location, nor shall the peddler be permitted to operate in any congested area where the operations might impede or inconvenience the public. For the purpose of this section, the judgement 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.
- b) No Peddler Holding a P-1 (Mobile) License may operate within a two-mile radius of any P-2 (Site Specific) License holder.

8-3.8 Time restrictions. No person shall sell, offer for sale, hawk or peddle in the Borough any of the items listed in subsection 8-3.1 of the Revised General Ordinances of the Borough of Sayreville before 9:00 a.m. on weekdays and 12:00 noon on Sundays and after 6:00 p.m. from November 1 to March 31, and 8:00 p.m. from April 1 to October 31, except at and in conjunction with a special event.

8-3.9 Enforcement. The provisions of this section may be enforced by the Zoning Officer of the Borough of Sayreville or by any police officer of the Borough of Sayreville. It shall be the duty of any peddler who holds a license issued pursuant to this section to maintain the license on their person whenever transacting business. Upon request of an enforcement officer, the peddler shall be required to produce a valid license. Any person found to be in violation of this ordinance shall be subject to the general penalty provisions in Section 1-5 of the Revised General Ordinances of the Borough of Sayreville.

SECTION 2. Severability Clause.

If any article, subsection, sentence, clause or phrase of this Ordinance is, for any reason, held to be unconstitutional or invalid, such decision shall not affect the remaining portions of this Ordinance and they shall remain in full force and effect, and to this end the provisions of this ordinance are hereby declared severable.
(*** sections contain no changes and will remain in full force and effect).

SECTION 3. Repealer.

All other ordinances in conflict or inconsistent with this ordinance are hereby repealed, to the extent of such conflict or inconsistency. In the event of any inconsistencies between the provisions of this Ordinance and any prior ordinance of the Borough, the provisions are hereof shall be determined to govern. All other parts, portions and provisions of the Ordinances of the Borough are hereby ratified and confirmed, except where inconsistent with the terms hereof.

SECTION 4. Effective Date.

This Ordinance shall take effect immediately upon adoption and publication in accordance with the laws of the State of New Jersey.

INTRODUCED/APPROVED ON FIRST READING

DATED: October 10, 2023

Jessica Morelos, R.M.C.
Clerk of the Borough of Sayreville

Daniel Balka, Councilman
(Admin. & Finance Committee)
Borough of Sayreville

ADOPTED ON SECOND READING

DATED: October 23, 2023

Jessica Morelos, R.M.C.
Clerk of the Borough of Sayreville

Daniel Balka, Councilman
(Admin. & Finance Committee)
Borough of Sayreville

APPROVAL BY THE MAYOR ON THIS _____ DAY OF _____, 2023.

Victoria Kilpatrick, Mayor
Borough of Sayreville

APPROVED AS TO FORM:

SEAN KEAN, ESQ., Borough Attorney