

TOWNSHIP OF FAIRFIELD

APPLICATION FORM FOR TRANSIENT MERCHANTS AND ITINERANT VENDORS  
ORDINANCE #95-15

96-07

LICENSE REQUIRED

A. IT SHALL BE UNLAWFUL FOR ANY TRANSIENT MERCHANT TO TRANSACT BUSINESS WITHIN THE CONFINES OF THE TOWNSHIP OF FAIRFIELD UNLESS SUCH MERCHANT AND THE OWNERS OF ANY GOODS, WARES OR MERCHANDISE TO BE OFFERED FOR SALE OR SOLD, IF SUCH ARE NOT OWNED BY THE MERCHANT, SHALL HAVE FIRST SECURED A LICENSE AND SHALL HAVE OTHERWISE COMPLIED WITH THE REQUIREMENTS OF THIS CHAPTER.

B. ANY PERSON OR ENTITY THAT TRANSACTS A TRANSIENT BUSINESS AS DEFINED HEREIN WITHOUT HAVING FIRST OBTAINED A LICENSE IN ACCORDANCE WITH THE PROVISIONS OF THIS CHAPTER OR WHO KNOWINGLY ADVERTISES, OFFERS FOR SALE OR SELLS ANY GOODS, WARES, MERCHANDISE OR SERVICES IN VIOLATION OF THE PROVISIONS OF THIS CHAPTER SHALL BE A DISORDERLY PERSON. THE PENALTIES PRESCRIBED HEREIN SHALL BE IN ADDITION TO ANY OTHER PENALTIES PRESCRIBED BY LAW FOR ANY CRIME COMMITTED BY THE LICENSEE.

1. NAME AND PERMANENT ADDRESS OF TRANSIENT MERCHANT, (IF THE APPLICANT IS A FIRM OR CORPORATION, SUPPLY THE NAME AND BUSINESS AND HOME ADDRESSES OF THE MEMBERS OF THE FIRM OR THE OFFICERS OF THE CORPORATION AS THE CASE MAY BE): TELEPHONE NUMBER

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2. IF THE APPLICANT IS A CORPORATION, PROVIDE THE FOLLOWING:

- A. DATE OF INCORPORATION: \_\_\_\_\_
- B. THE STATE OF INCORPORATION: \_\_\_\_\_
- C. DATE WHEN QUALIFIED TO TRANSACT BUSINESS IN STATE OF NEW JERSEY: \_\_\_\_\_

3. STATE THE NAME AND ADDRESS OF THE TRANSIENT MERCHANT'S REGISTERED AGENT OR OFFICE:

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4. PROVIDE A STATEMENT ILLUSTRATING THE TYPE OF BUSINESS PROPOSED:

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5. PROVIDE THE LENGTH OF TIME FOR WHICH THE APPLICANT DESIRES TO TRANSACT SUCH BUSINESS:

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6. PROVIDE THE LOCATION OR LOCATIONS OF SUCH PROPOSED PLACE OF BUSINESS:

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7. PROVIDE, IF ANY, THE NUMBER OF CONVICTIONS FOR MISDEMEANORS OR CRIMES AND THE NATURE OF THE OFFENSES FOR WHICH CONVICTED:

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8. DOCUMENTS TO BE PRODUCED AND ATTACHED TO THIS APPLICATION:

- a. \_\_\_\_\_ Proof that the applicant has acquire all other required township, county and state permits and licenses, including those for the collection of sales taxes.
- b. \_\_\_\_\_ Proof that the applicant has obtained the consent of the owner of the premises upon which the transient business shall take place.
- c. \_\_\_\_\_ Copy of written agreement whereby the registered agent agrees to act as the agent for the transient merchant upon whom any process, notice or demand required or permitted by law to be served upon the transient merchant may be served.

9. FEE REQUIREMENT:

EACH APPLICATION FOR A TRANSIENT MERCHANT LICENSE SHALL BE ACCOMPANIED BY A LICENSE FEE AS FOLLOWS:

1 DAY -	\$50.00	30 DAYS -	\$150.00
3 DAYS -	\$75.00	90 DAYS -	\$250.00

10. NON-TRANSFERABILITY AND VALIDITY OF LICENSE:

A TRANSIENT BUSINESS LICENSE SHALL NOT BE TRANSFERABLE, SHALL BE VALID ONLY WITHIN THE TERRITORIAL LIMITS OF THE TOWNSHIP OF FAIRFIELD, SHALL BE VALID ONLY FOR THE SPECIFIED PERIOD, SHALL BE VALID ONLY FOR THE BUSINESS STATED IN THE APPLICATION AND SHALL BE VALID ONLY ONE (1) PERSON UNLESS SUCH PERSON SHALL BE A MEMBER OF A PARTNERSHIP OR EMPLOYEE OF FIRM OR CORPORATION OBTAINING SUCH A LICENSE.

11. PROFESSION AND DISPLAY REQUIREMENTS:

EVERY PERSON HOLDING A LICENSE UNDER THIS CHAPTER SHALL CARRY THE LICENSE WITH HIM OR AT HIS BUSINESS PREMISES WHILE ENGAGED IN THE BUSINESS LICENSED. SUCH LICENSE SHALL BE PRODUCED AT THE REQUEST OF ANY OFFICIAL OF THE TOWNSHIP.

12. VIOLATIONS AND PENALTIES:

- a. First Offense: A fine of not more than one thousand dollars (\$1,000.00) or ninety (90) days in jail or a period of community service not to exceed ninety (90) days.
- b. Second Offense: A fine of not less than one hundred fifty dollars (\$150.00) nor more than one thousand dollars (\$1,000.00) or ninety (90) days in jail or a period of community service not to exceed ninety (90) days.
- c. Third and Subsequent Offense: A fine of not less than three hundred dollars (\$300.00) nor more than one thousand dollars (\$1,000.00) or ninety (90) days in jail or a period of community service not to exceed ninety (90) days.

WITNESS:

BY: \_\_\_\_\_

AFFIX CORPORATE SEAL

DATE: \_\_\_\_\_

TOWNSHIP OF FAIRFIELD  
ORDINANCE NO. 96-07

AN ORDINANCE AMENDING AND  
SUPPLEMENTING THE CODE OF THE  
TOWNSHIP OF FAIRFIELD, COUNTY OF  
ESSEX, STATE OF NEW JERSEY, TO  
REGULATE TRANSIENT MERCHANTS AND  
ITINERANT VENDORS

BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE TOWNSHIP OF FAIRFIELD, COUNTY OF ESSEX, STATE OF NEW JERSEY, that the Township Code be supplemented to add the following Chapter:

TRANSIENT MERCHANTS AND ITINERANT VENDORS

1. DEFINITIONS

As used in this Chapter, the following terms shall have the meanings respectively ascribed to them in this section:

(a) PERSON - Any individual, corporation, partnership, association or other entity.

(b) TEMPORARY OR TRANSIENT BUSINESS - Any business conducted for the sale or offer for sale of goods, wares or merchandise, which is carried on in any building, structure, motor vehicle, railroad car or real estate, for a period of less than three (3) months in each year.

(c) TRANSIENT MERCHANT - Any person, firm, corporation, partnership or other entity which engages in, does or transacts any temporary or transient business in the Township of Fairfield, either in one (1) locality or by traveling from place to place in the township, offering for sale or selling goods, wares, merchandise or services, and includes those merchants who, for the purpose of carrying on such business, hire, lease, use or occupy any building, structure, motor vehicle, railroad car or real estate. "Transient merchant" shall also include any person who, as a private enterprise, schedules, organizes or promotes any entertainment, concerts, athletic events, contests or competitions or beauty pageants to be held on a non-regular basis and which require the payment of a fee for entry or admission, wherein such event is to take place within the confines of the Township of Fairfield; provided, however, that no such person shall be classified as a "transient merchant" if he is sponsored by any bona fide civic, fraternal, educational or religious organization having a local chapter in the Township of Fairfield.

2. EXCEPTIONS

A. The provisions of this Chapter shall not apply to:

(1) Sales at wholesale to retail merchants by commercial travelers or selling agents in the usual course of business.

(2) Wholesale trade shows and/or conventions.

(3) Sales of goods, wares or merchandise by sample catalogue or brochure for future delivery.

(4) The retail sale of ice cream and/or flavored water ice by motor vehicle during the summer months.

(5) Any general sale, fair, auction or bazaar sponsored by any civic, fraternal, educational or religious organization.

(6) Garage sales held on the premises devoted to residential use.

(7) Sales of crafts or items by hand and sold or offered for sale by the person making such crafts or handmade items.

(8) Any new-home construction contractor, residential developer, master plumber or electrical contractor who is licensed or regulated by any state, county or municipal agency, division, department or professional board and any contractor of home improvements as defined in N.J.A.C. 13:45A-16.1, who, in the normal of course of business, advertises or performs his services in the Township of Fairfield, provided that any such tradesman complies with all state, county and municipal regulations enforceable by the Township Construction Official.

(9) The sale of produce, flowers or other agriculture products from buildings or from roadside stands where the premises in question are owned by the farmer, it being the express intention of this Chapter that nothing herein shall prohibit the sale of agriculture products on land owned by the farmer unless prohibited by the Township Zoning Ordinance.

B. A Transient merchant not otherwise exempted from the provisions of this Chapter shall not be relieved or exempted from the provisions of this Chapter by reason of associating himself temporarily with any local dealer, auctioneer, trader, contractor or merchant or by conducting such temporary or transient business in connection with or in the name of any local dealer, auctioneer, trader, contractor or merchant.

### 3. LICENSED REQUIRED

A. It shall be unlawful for any transient merchant to transact business within the confines of the Township of Fairfield unless such merchant and the owners of any goods, wares or merchandise to be offered for sale or sold, if such are not owned by the merchant, shall have first secured a license and shall have otherwise complied with the requirements of this Chapter.

B. Any person or entity that transacts a transient business as defined herein without having first obtained a license in accordance with the provisions of this Chapter or who knowingly advertises, offers for sale or sells any goods, wares, merchandise or services in violation of the provisions of this Chapter shall be a disorderly person. The penalties prescribed herein shall be in addition to any other penalties prescribed by law for any crime committed by the licensee.

### 4. APPLICATION FOR LICENSE

Any transient merchant desiring to transact business within the confines of the Township of Fairfield shall make application for and obtain a license therefor. The application for license shall be filed with the Township Clerk and shall include the following information:

A. The name and permanent address of the transient merchant making the application and, if the applicant is a firm or corporation, the name and business and home addresses of the members of the firm or the officers of the corporation, as the case may be.

B. If the applicant is a corporation, there shall be stated on the application form the date of incorporation, the state of incorporation and, if the applicant is a corporation formed in a state other than the State of New Jersey, the date on which such corporation qualified to transact business as a foreign corporation in the State of New Jersey.

C. A statement showing the kind of business proposed to be conducted, the length of time for which the applicant desires to transact such business and the location or locations of such proposed place of business.

D. The name and permanent address of the transient merchant's registered agent or office.

E. Proof that the applicant has acquired all other required township, county and state permits and licenses, including those for the collection of sales taxes.

F. Proof that the applicant has obtained the consent of the owner of the premises upon which the transient business shall take place.

G. The number of convictions for misdemeanors or crimes and the nature of the offenses for which convicted.

#### 5. REGISTERED AGENT FOR SERVICE OF PROCESS

A. Each registered agent designated by a transient merchant in the application for a license shall be a resident of the State of New Jersey and shall be agent of the transient merchant upon whom any process, notice or demand required or permitted by law to be served upon the transient merchant may be served. The registered agent shall agree, in writing, to act as such agent, and a copy of the agreement to so act shall be filed by the applicant with the application for a license.

B. The Township Clerk shall maintain an alphabetical list of all transient merchants in the township and the names and addresses of their registered agents.

C. If any transient merchant doing business or having done business in the Township of Fairfield shall fail to have or maintain a registered agent in the State of New Jersey or if such registered agent can not be found at his permanent address, the Township Clerk shall be an agent of such transient merchant for service of all process, notices or demands. Service on the Township Clerk shall be made by delivering to and leaving with him or any person designated by the Clerk to receive such service duplicate copies of the process, notice or demand. When any such process, notice or demand is served on the Clerk, he shall immediately cause one (1) copy thereof to be forwarded by certified mail to the permanent address of the transient merchant. The provisions of this section shall not limit or otherwise affect the right of any person to serve any process,

notice or demand in any other manner now or hereafter authorized by law.

#### 6. FEE

Each application for a transient merchant license shall be accompanied by a license fee hereby set as follows:

1 day license	\$ 50.00
3 day license	\$ 75.00
30 day license	\$150.00
90 day license	\$250.00

#### 7. ISSUANCE, NON-TRANSFERABILITY AND VALIDITY OF LICENSE

A transient business license shall be issued hereunder by the Clerk of the Township of Fairfield and only when all requirements of the Chapter have been met. Such license shall not be transferable, shall be valid only within the territorial limits of the Township of Fairfield, shall be valid only for the period of time set forth thereon and shall be valid only for the business stated in the application. A license so issued shall be valid for only one (1) person unless such person shall be a member of a partnership or employee of a firm or corporation obtaining such license. The Township of Fairfield may, in its sole discretion, deny the issuance of a transient business license if it determines that the issuance of said license will be inimicable to the health, safety and welfare of the people of Fairfield Township or any of them.

#### 8. REVOCATION OF LICENSE, HEARING

The Mayor and Council of the Township may revoke any license issued hereunder at any time if it finds that the conduct of the licensee or the continued existence of the license is inimicable to the health, safety and/or welfare of the people of the Township or any of them. In such event, the licensee shall be entitled to a hearing before the Mayor and Council within thirty (30) day from the date of the revocation. The licensee shall be entitled to appear with an attorney at said hearing and to present witnesses and other proofs tending to show that continuance of his license is not inimicable to the health, safety and/or welfare of the people of the Township or any of them.

## 9. ENFORCEMENT

It is the duty of the Township Police Department and the Township Construction Official to enforce the provisions of this Chapter.

## 10. VIOLATIONS AND PENALTIES

A. Any person who violates any section of this Chapter shall be subject to penalty as follows:

(1) First offense; a fine of not more than one thousand dollars (\$1,000.00) or ninety (90) days in jail or a period of community service not to exceed ninety (90) days.

(2) Second offense; a fine of not less than one hundred fifty dollars (\$150.00) nor more than one thousand dollars (\$1,000.00) or ninety (90) days in jail or a period of community service not to exceed ninety (90) days.

(3) Third and subsequent offenses; a fine of not less than three hundred dollars (\$300.00) nor more than one thousand dollars (\$1,000.00) or ninety (90) days in jail or a period of community service not to exceed ninety (90) days.

B. Each day on which a violation occurs shall be deemed to constitute a distinct and separate violation of this Chapter.

## 11. REPORTS

The Township clerk shall, monthly, file a report with the Mayor and Council, showing the number of licenses granted by and the amounts of fees received therefor. Each report shall state the number of licenses suspended or revoked and the reasons for such suspension or revocation. The monthly report shall be cumulative during the course of the year so that each report summarizes the action of all preceding months of the current year.

## 12. POSSESSION AND DISPLAY OF LICENSE

Every person holding a license under this Chapter shall carry the license with him or at his business premises while engaged in the business licensed. He shall produce the license at the request of any official of the Township.

13. THIS ORDINANCE SHALL TAKE EFFECT IMMEDIATELY UPON  
PASSAGE AND PUBLICATION IN ACCORDANCE WITH LAW.

*Muriel M. Shore*

MURIEL M. SHORE, MAYOR

ATTEST:

*Joseph Catenaro*

JOSEPH CATENARO, MUNICIPAL CLERK

NOTICE

NOTICE is hereby given that the foregoing Ordinance was introduced and passed upon First Reading at a Meeting of the Mayor and Council of the Township of Fairfield on July 8, 1996. Said Ordinance shall have a Second Reading and Public Hearing and be considered for final adoption at a Meeting of said Governing Body to be held on July 22, 1996 starting at 7 p.m. in the Township Municipal Bldg., 230 Fairfield Rd., Fairfield, N.J.

Patricia E. Fahy  
Deputy Municipal Clerk

INTRODUCTION ORDINANCE #96-07 JULY 8, 1996

INTRODUCED BY: Councilman Smallheer

SECONDED BY: Councilman Purpura

ROLL CALL,

AYES: Smallheer, Purpura, Floria, Shore

NAYS: None

ABSENT: Palmieri

2ND READING AND PUBLIC HEARING JULY 22, 1996

INTRODUCED BY: Councilman Smallheer

SECONDED BY: Councilman Purpura

ROLL CALL,

AYES: Smallheer, Purpura, Floria, Palmieri, Shore

NAYS: None