

ORDINANCE NO. 04-50

AN ORDINANCE SUPPLEMENTING AND AMENDING ORDINANCE NO. 1576 AND ORDINANCE NO. 1629, ENTITLED AN ORDINANCE GOVERNING, REGULATING, FIXING LICENSE FEES OF CERTAIN PROFESSIONS, TRADES, BUSINESSES, CALLINGS, SOLICITORS, PEDDLERS, HAWKERS, CANVASSERS, ITINERANT MERCHANTS, TRANSIENT VENDORS OF MERCHANDISE AND OCCUPATIONS IN THE TOWNSHIP OF NEPTUNE, IN THE COUNTY OF MONMOUTH AND STATE OF NEW JERSEY AND PROVIDING PENALTIES THEREOF.

BE IT ORDAINED BY THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF NEPTUNE, COUNTY OF MONMOUTH:

The Caption of the Ordinance shall be amended to now be entitled,

“ AN ORDINANCE GOVERNING, REGULATING AND ESTABLISHING REGISTRATION FEES FOR ALL PROFESSIONS, TRADES, BUSINESSES, CALLINGS, SOLICITERS, CANVASSERS, PEDDLERS, HAWKERS, ITINERANT MERCHANTS, TRANSIENT VENDORS AND OTHER OCCUPATIONS CONDUCTING BUSINESS IN THE TOWNSHIP OF NEPTUNE, IN THE COUNTY OF MONMOUTH AND STATE OF NEW JERSEY AND ESTABLISHING PENALTIES FOR FAILURE TO COMPLY WITH THIS ORDINANCE.”

SECTION 1

Delete Ord. 1576, § 1, Codified as Chapter 4, §1, in the Revised General Ordinances of the Township of Neptune, and Modify as follows:

4-1 REGISTRATION REQUIRED; ENFORCEMENT: It shall be unlawful for any person, firm, corporation or other business entity to commence or carry on any profession, trade, business, calling, soliciting, canvassing, peddling, hawking, or any itinerant merchant or transient vending occupation or business (hereinafter inclusively referred to as “occupation”) in the Township of Neptune, (the “Township”), in the County of Monmouth, State of New Jersey, without first having procured a mercantile registration from the Township authorizing such occupation to conduct such business in the Township. An applicant conducting an occupation at one or more locations shall be required to obtain a mercantile registration for each address, building, building unit (unless connected by a common interior door and used for the same occupation), property, structure or premises to conduct such occupation. Non-compliance with any and all of the provisions of this Ordinance, or any other Ordinance adopted by the Township being in full force and effect, shall constitute a separate and distinct violation for each and every day that such occupation continues to be conducted without procuring a mercantile registration. Neptune Township Code Enforcement and the Neptune Township Police Department, or any of their designated representatives, shall enforce the Mercantile Registration, and the codes and regulations adopted herein, in all buildings, structures and premises within the established boundaries of Neptune Township, excluding one family owner-occupied structures. The applicant shall also faithfully comply with the requirements of the Uniform Fire Safety Act, Uniform Fire Code and any and all other ordinances adopted by the Township, or any regulations, statutes, laws, codes or otherwise enforceable by the Township of

Neptune, County of Monmouth, State of New Jersey, United States of America or any other governmental entity who may have authority to regulate the applicant's business.

SECTIONS 3 THROUGH 12

Delete Ord. 1576, §§ 3-12, Codified as Chapter 4, §3 and more specifically as Chapter 4, §§ 3.1-3.10 in the Revised General Ordinances of the Township of Neptune, and Modify as follows:

4-3 GENERAL REQUIREMENTS FOR MERCANTILE REGISTRATION

4-3.1 **REGISTRATION.** It shall be the duty of the Township Registration Officer to review applications and approve or deny registrations under this Ordinance for every person, firm, corporation or other business entity required to pay a registration hereunder. The registration shall set forth the fee and the calendar dates for which such shall be effective. The registration shall also state the name of the person, firm, corporation or other business entity to whom the registration was issued; the categorization of the occupation; and the address, location or place of business where such occupation is permitted.

4-3.2 **REGISTRATION NOT TRANSFERABLE.** Unless otherwise specifically provided for herein or written in the registration, no registration granted or issued under the provisions of this Ordinance shall be transferred or assigned to any other person, firm, corporation or other business entity, other than as set forth in the registration. It is a violation of this ordinance if any other person, firm, corporation or other business entity conducts the same or different occupation at the same or any other address without first obtaining a registration required under this ordinance.

4-3.3-**TRANSFER OF REGISTRATION TO NEW PLACE OF BUSINESS:** A registration may, with approval from the Township Registration Official, be transferred by the person, firm, corporation or other business entity named therein to a different location in the event of removal from the place designated on said registration. A fee of \$25.00 shall be paid for any request to transfer the registration from one location to another. Transfers shall only be valid if approved and signed by the Township Registration Officer.

4-3.4 **REGISTRATION EXHIBITION:** Registrations shall be posted and exhibited in a conspicuous part of the place of business, and readily visible by consumers and Township officials. Every person, firm, corporation or other business entity who has a registration, without having a fixed place of business, shall carry such registration with him at all times while conducting the business for which the same was granted. Every person, firm, corporation or other business entity with a registration under the provisions of this Ordinance shall produce and exhibit the same whenever requested to do so by any Township police officer, the Township Registration Officer or by any other Township official authorized to inspect registrations.

4-3.5 **REGISTRATION DUPLICATES; FEE ERRORS:** An applicant shall pay a fee of TEN DOLLARS (\$10.00) for each duplicate registration requested to replace any registration issued under the provisions of this Ordinance. In no case shall any error made by the Township Registration Officer in calculating the amount of a registration fee prevent or prejudice the collection by the Township of Neptune of the amount which shall be actually due from anyone carrying on a business subject to a registration under this Ordinance.

4-3.6 REGISTRATION FEES NOT REFUNDED: No refund shall be made for a Mercantile Registration application fee as a result of denial or withdrawal of any registration application.

4-3.7 REGISTRATION OF UNLAWFUL BUSINESS: The payment of a registration fee required by this Ordinance, its acceptance by the said Township, and the issuance of a mercantile registration shall not entitle or authorize the holder thereof to carry on any business in the Township of Neptune if such business would violate any ordinance of the Township of Neptune, or any statute, rule, regulation or otherwise promulgated by the United States of America, the State of New Jersey, County of Monmouth, Township of Neptune or other governmental entity.

4-3.8 COMPLIANCE WITH LAWS AND ORDINANCES; INSPECTIONS: Every person, firm, corporation or other business entity required to register under this Ordinance shall comply with all laws of the State of New Jersey and ordinances of the Township of Neptune relating and pertaining to the preservation and protection of the lives, health, morals and general welfare of the citizens and visitors of the Township. For that purpose, the person, firm, corporation or other business entity hereby authorizes the Township Registration Officer, Code Enforcement Supervisor, Health Officer, Fire Inspector, Police Officer or any of their designated representatives to conduct inspections of any structure, building or premises at reasonable hours to ensure compliance with this Ordinance. Upon completing such inspections, it shall be the duty of those Township officials or their designated representatives to report to the Township Committee any violation of any laws of the State of New Jersey or of the Ordinances of the Township of Neptune, relating to the preservation and protection of the lives, health, morals and general welfare of the citizens and visitors in the Township. The Township Committee shall order and direct said officers forenamed to take such actions as they deem necessary and lawful to remedy and correct any of violation.

4-3.9 REGISTRATION OF NEW BUSINESS: When any person, firm, corporation or other business entity applies for a registration to conduct any business which is not then being conducted at the building, land or premises for which the registration is sought, the Township Registration Officer shall first require the applicant to apply for a zoning permit with the Township Zoning Officer, to determine if the use is a permitted use in accordance with all applicable zoning ordinances or a continuation of a preexisting, non-conforming use at the building, land or premises, which has been grandfathered as a continuous use. If it is determined by the Zoning Officer that the proposed use does not comply with the zoning ordinance or it jeopardizes or constitutes a menace to the lives, health, morals, safety or general welfare of the citizens and visitors of the Township of Neptune, the Township Registration Officer shall refuse to issue the mercantile registration. Any denial or other action taken by the Township Registration Officer may be appealed within fifteen (15) days from the date of denial or action by the Township Registration Officer. Appeals may be made to the Township Committee who shall, after notice and hearing, determine whether the action of the Township Registration Officer shall be affirmed or reversed.

4-3.10 REGISTRATION FEES, HOW AND WHEN PAYABLE: All registration fees shall be paid in advance of any determination by the Township Registration Officer, and shall be tendered in lawful money of the United States at the office of the Mercantile Registration Officer of the Township of Neptune. All annual registrations shall date from the first day of January and expire on the last day of December of each year. The registration fee shall be one-half of the registration fees contained herein for any new registration applied for after June 30th of the current licensing year, No greater or lesser amount of money shall be received for any registration than is provided in the Ordinance, and no registration shall be issued for any period of time other than as provided herein.

4-3.11 REGISTRATIONS FOR HOME OCCUPATIONS – Home occupations are permitted occupations set forth in the Neptune Township Zoning Ordinance or other applicable Township Ordinances that are incidental to residential use of the premises and are conducted in the main building by a resident of the premises without assistance from non-residents. Such occupations may not occupy more than thirty (30%) percent of the floor area of one (1) floor of the main building.

Registrations for home occupations shall prohibit the following:

- a. Client appointments shall not be conducted at the home.
- b. Frequent deliveries of merchandise shall not be accepted at the home
- c. Non-resident employees shall not work at the home.
- d. Displaying goods or signs on the residence or grounds to identify the occupation shall not be permitted.
- e. Storing hazardous materials in the home or on the grounds shall be prohibited.
- f. Storing large equipment or supplies on the grounds of the residence shall be prohibited.

Any behavior or activity related to operating the Home Occupation that disturbs the quiet demeanor of the residential area will be cause for The Mercantile Registration Officer to give notification, in writing, to the Township Committee to schedule a hearing for review of compliance or non-compliance with the regulations for operating a home occupation as cited in this Ordinance or any related Ordinance.

SECTION 16

Delete Ord. 1576, § 16, Codified as Chapter 4, §7 in the Revised General Ordinances of the Township of Neptune, and Modify as follows:

4-7 EXEMPTIONS; WHO ENTITLED: The registration provisions of this Ordinance shall not be deemed or construed to require the payment of a registration fee to conduct, manage or operate any business, occupation or activity from any institution or organization which is conducted, managed or operated wholly for charitable purposes, or from which profit is not derived, either directly or indirectly, by any individual, firm, corporation or other business entity based within the Township of Neptune. In addition, any professional occupation licensed in accordance with the Laws of the State of New Jersey, for which a licensing fee is paid, shall not be required to register under the provisions of this Ordinance.

SECTION 17

Delete Ord. 1576, § 17, Codified as Chapter 4, §8 in the Revised General Ordinances of the Township of Neptune, and Modify as follows:

4-8 INSPECTIONS BY REGISTRATION OFFICER, POLICE OFFICERS OR OTHER DULY AUTHORIZED TOWNSHIP EMPLOYEES; ENFORCEMENT: The Registration Officer, all Township police officers and any Township employee authorized by the Registration Officer, are hereby appointed inspectors of registrations required in this Ordinance. Such individuals are required to examine all places of business, and persons, firms, corporations or other business

entities conducting business in the Township, to ascertain whether or not registrations have been approved. These Township employees/officials are authorized to do the following:

- a. To enter any place or business for which a registration is required, and request the manager, employees or any other individual to exhibit the registration for the business for the current term. Failure of the individual to exhibit a current registration constitutes a violation of this Ordinance and shall subject the person, firm, corporation or other business entity to penalties as herein provided.
- b. To cause complaints to be filed against all persons, firms, corporation or other business entity violating any of the provisions of this Ordinance.
- c. To report to the Township Registration Officer all persons, firms, corporations or other business entities operating a business without a registration required pursuant to the provisions of this Ordinance.

Upon report of any violation of this Ordinance, it shall be the duty of the Registration Officer of the Township of Neptune to carry into effect all of the provisions of the Ordinance, and to file complaints in the Neptune Township Municipal Court, or other appropriate forum, for any violations of any provisions of this Ordinance.

SECTION 18

Delete Ord. 1576, § 18, as supplemented and amended by Ord. 16291, § 18, Codified as Chapter 4, § 9 in the Revised General Ordinances of the Township of Neptune, and modify as follows:

4-9 POWER TO REVOKE OR SUSPEND REGISTRATIONS: Any registration issued under the terms and provisions of this Ordinance may be revoked or suspended for any violation of any provision of this Ordinance when it shall appear that the occupation conducted by any person, firm, corporation or other business entity to whom such registration was issued is conducted in a manner that is:

- (a) disorderly or improper;
- (b) in violation of any law, rule, regulation, statute or ordinance of the United States of America; the State of New Jersey; the Township of Neptune or any other governmental entity
- (c) improperly conducted by a person or persons who is/are unfit to conduct the business, trade, calling, profession or occupation;
- (d) abusive and against the purpose for which the registration had been issued, detrimental to the public health, safety and general welfare, or for a different purpose than stated in the application.

A REGISTRATION issued under the terms and provisions of this Ordinance shall not be revoked or suspended until a hearing thereon shall have been held by the Township Committee. Written notice of the time and place of such hearing shall be served upon the person, firm, corporation or other business entity at least three days prior to the date set for such hearing. The notice shall also contain a brief statement of the grounds to be relied upon for revoking or

¹ The Revised General Ordinances, Township of Neptune, Volume I, incorrectly refer to Ord. No. 1629 § 1, although it should refer to §18

suspending such registration. Notice may be given either by personal delivery thereof to the person to be notified, or by delivery via the United States Post Office in a sealed envelope, postage prepaid, addressed to the aggrieved party, and mailed by both regular and certified mail return receipt requested. It shall be presumed to have been received by the aggrieved party if the notice was mailed to the aggrieved party at the last known address as indicated in the registration application or any update thereto.

At the hearing before the Township Committee, the aggrieved person, firm, corporation or other business entity shall have any opportunity to answer questions and may thereafter be heard on the issues surrounding the revocation or suspension. Upon due consideration and deliberation by the Township Committee, the complaint may be dismissed, or if the Township Committee concludes that the charges have been sustained and substantiated, it may revoke, cancel or suspend the registration held by the registrar. The aggrieved party shall be entitled to any appeals from the Township Committee's decision provided that such appeal is taken within the minimum statutory time frames as may be permitted for any action taken by a municipality.

If any such registration shall have been revoked, neither the holder thereof, nor any person acting for him directly or indirectly, shall be entitled to another registration to carry on the same business within the Township of Neptune, unless the application for such registration shall be approved by the Township Committee.

SECTION 19

Delete Ord. 1576, § 19, Codified as Chapter 4, §10 in the Revised General Ordinances of the Township of Neptune, and Modify as follows:

4-10 INTERSTATE COMMERCE: No provision of this Ordinance shall be applied so as to impose any harmful burden on either interstate commerce or any activity of the State or Federal Government.

SECTION 20

Delete Ord. 1576, § 20, Codified as Chapter 4, §11 in the Revised General Ordinances of the Township of Neptune, and Modify as follows:

4-11. PENALTY: Any person, firm, corporation or other business entity violating any of the provisions of this Ordinance shall, upon conviction, be punished by a fine not to exceed Five Hundred Dollars (\$500.00) or by imprisonment in the county jail for a period not to exceed ninety (90) days, or both. Each violation of any of the provisions of this Ordinance shall be considered a separate offense, and each day the violation continues to persist shall also be considered a separate and distinct offense.

SECTION 23

Delete Ord. 1576, § 23, Codified as Chapter 4, §12 in the Revised General Ordinances of the Township of Neptune, and Modify as follows:

4-12 REGISTRATION FEES, AMOUNT OF: The annual fee under this section shall be fifty

(\$50.00) dollars for the first two thousand (2,000) square feet, or fraction thereof, of improved floor area occupied by the applicant to conduct the occupation. If the occupied square footage is greater than 2,000 square feet, the annual fee shall be increased by twenty-five (\$25.00) dollars for each additional one thousand square feet or fraction thereof. This fee shall be paid annually to the Township of Neptune, and shall be paid separately for each non-contiguous location in which the business is conducted.

For inspections requested to be scheduled outside of regular Township's regular business hours, in addition to the regular registration fee set forth above, the following fee schedule shall be in addition to the minimum fees:

1. A minimum fee of one hundred (\$100.00) dollars.
2. For each man hour in excess of two (2) man hours, an additional fifty (\$50.00) dollars per man-hour.

"Regular business hours" shall mean the hours the Mercantile Registration office is open.

"man-hour" shall mean the time up to one (1) hour for one (1) inspector. Any fraction of a man-hour shall be considered one (1) man-hour.

- As indicated, the following fee schedule may be in addition to the fees designated above:

SCHEDULE OF ADDITIONAL FEES

"A"		
Automobile Sales New/Used	As per § 23 (4-12) Plus	\$
	1-200 Vehicles	100.00
	201-500 Vehicles	200.00
	501 or more Vehicles	300.00
"B"		
Bathing Beaches	As per § 23 (4-12), Plus (if applicable)	\$ 200.00
Boat Sales - New/Used		
	As per § 23 (4-12) Plus	\$
	1-50	100.00
	51-100	200.00
	More than 100	300.00
Boat Slips and Docks		
	As per § 23 (4-12) Plus	\$
	1 - 5 slips	50.00
	6 + slips	5.00 per additional slip
Boat Storage (outside)		
		100.00 per lot
"C"		
Coin Operated Machines** (All types and uses) per machine		\$ 15.00 for each machine

**excluding Laundromats

"H" Home Occupation	In lieu of § 23 (4-12)	\$ 35.00
"J" Junk and/or Salvage Yard		\$ 300.00
"R" Residential Units for all rented units	In lieu of § 23 (4-12)	\$ 25.00 per unit
"T" Trailer Park	As per § 23 (4-12) Plus	\$ 100.00
"V" Vendors, Transient Vendors or Itinerant Merchants	In lieu of § 23 (4-12)	\$
	First registration request in any one the Calendar year	200.00
	Each Additional registration request in any one calendar year	25.00

SEVERANCE CLAUSE: The provisions of this Ordinance are declared to be severable, and if any section, subsection, sentence, clause or phrase hereof shall, for any reason, be held to be invalid, unconstitutional or unenforceable, such declaration shall not affect the validity of the remaining sections, subsections, sentences, clauses or phrases of this Ordinance, which shall remain in full force and effect.

REPEAL OF CONFLICTING ORDINANCES: All ordinances or parts of ordinances of the Township of Neptune, in conflict or inconsistent with this Ordinance, are hereby repealed, but, only however, to the extent of such conflict or inconsistency.

EFFECTIVE DATE: This Ordinance shall take effect immediately upon its final passage, and publication pursuant to law and shall repeal any and all prior ordinances pertaining to this subject matter.

APPROVED ON FIRST READING: December 13, 2004

APPROVED, PASSED AND ADOPTED: December 27, 2004

ATTEST:

Richard J. Cuttrel, Clerk

Thomas J. Catley, Mayor