

ORDINANCE #14-05-OA

**AN ORDINANCE OF THE TOWNSHIP OF BERKELEY,
COUNTY OF OCEAN, STATE OF NEW JERSEY AMENDING
AND SUPPLEMENTING THE MUNICIPAL CODE OF THE
TOWNSHIP OF BERKELEY, SO AS TO ADD CHAPTER 5-27,
ENTITLED "MERCANTILE ESTABLISHMENTS."**

March 24, 2014

BE IT ORDAINED by the Mayor and Township Council of the Township of Berkeley, County of Ocean, and State of New Jersey, as follows:

SECTION 1. The Township Code of the Township of Berkeley is hereby amended and supplemented so as to add Chapter 5-27, entitled "Mercantile Establishments," so as to add § 5-27.1, entitled "Purpose" which shall read as follows:

The purpose of this chapter is to require the licensing of any person, firm, corporation, partnership or other entity engaging in, conducting or operating any business within the limits of the Township of Berkeley.

SECTION 2. The Township Code of the Township of Berkeley is hereby amended and supplemented so as to add Chapter 5-27, entitled "Mercantile Establishments," so as to add § 5-27.2, entitled "License Required" which shall read as follows:

Hereafter, any person, firm, corporation, partnership or other entity engaging in, conducting or operating any business within the limits of the Township of Berkeley shall be required to secure a license for any business conducted or operated and to pay annually a fee to the Township of Berkeley for a license to conduct or carry on the business or operation.

SECTION 3. The Township Code of the Township of Berkeley is hereby amended and supplemented so as to add Chapter 5-27, entitled "Mercantile Establishments," so as to add § 5-27.3, entitled "License Fee required, Renewal" which shall read as follows:

- (a) The license fee for each mercantile establishment shall be twenty-five dollars (\$25) per year.
- (b) The term of the license shall be for the calendar year. Each license shall expire on December 31st of the year in which it was issued.
- (c) The fee for the renewal of a license shall be twenty-five dollars (\$25) payable thirty (30) days prior to the expiration of the license. Failure to renew a license prior to its expiration shall result in loss of license and shall require a new application.

SECTION 4. The Township Code of the Township of Berkeley is hereby amended and supplemented so as to add Chapter 5-27, entitled "Mercantile Establishments," so as to add § 5-27.4, entitled "Application, Inspection required, Appeals " which shall read as follows:

- (a) Upon receipt of a license application, the Township Clerk shall refer the application to the proper officer for a physical inspection of the premises for which the license is to be issued. The inspecting officer shall make a report thereon after receiving the licensing application. This inspection is necessary to ensure that the operation of this business will not endanger the health, safety or welfare of the general public and that the business and premises are in compliance with all applicable ordinances of the Township of Berkeley. The inspection shall specifically cover the care and handling of food, if applicable, and preventing of nuisances and the spread of disease. Inspections will also require compliance with the Property Maintenance, Building and Zoning Codes; and reasonable fire prevention standards.
- (b) Establishments found to be in compliance with all applicable Health, Property Maintenance, Building and Zoning Codes will be issued licenses and included in a booklet created and maintained by the Township, identifying all licensed establishments within the Township that will be made available to the public.
- (c) If the applicant's premises are found to not comply with the applicable Health, Building, Property Maintenance or Zoning Codes, the Township Clerk shall notify the applicant of the denial. This notice shall be in writing, and clearly state the reasons for the denial.
- (d) Appeal of a license denial shall be made to the Township Council at a Township Meeting. A full report of the reasons for refusal or revocation shall be made to the Mayor and Council. In considering the appeal, the Mayor and Council shall give due regard to the seriousness of the violations; the good faith efforts, or lack thereof, by the licensee to remedy such violations; and the reasonable time period necessary to correct the violations.

SECTION 5. The Township Code of the Township of Berkeley is hereby amended and supplemented so as to add Chapter 5-27, entitled "Mercantile Establishments," so as to add § 5-27.5, entitled "Periodic Inspections; Right of Entry; Revocation" which shall read as follows:

- (a) Periodic Inspections:
 - 1. To ensure the continued health, safety and welfare of the community, the Township may make periodic inspections of

the premises of any business conducted within the Township. The licensee or its agent shall admit the inspector to the premises to be inspected at any reasonable time that admission is requested.

2. If any violations are found on inspection, the licensee shall be given five (5) days to correct such violations. If the violation still persists after re-inspection, the license for that operation of such business shall be revoked.

(b) Any license issued pursuant to this chapter may be suspended or revoked by the Township Council for cause, after notice and a hearing, or pending such hearing for:

1. Fraud, misrepresentation or false statements contained in the initial license application or renewal form.
2. Conducting the mercantile activity himself or herself, by an agent, servant or employee in an unlawful manner that violates the provisions of this chapter, Federal Law, State Law or any ordinance of the Township of Berkeley.

(c) Notice of a hearing to suspend or revoke a license issued pursuant to this Chapter shall be given in writing personally or by regular mail to the address contained in the license application. The notice shall set forth the grounds for the hearing. The hearing date shall be set at least ten (10) days from the date of the notice.

(d) Appeal of a license revocation shall be made to the Township Council at a Township Meeting. A full report of the reasons for revocation shall be made to the Mayor and Council. In considering the appeal, the Mayor and Council shall give due regard to the seriousness of the violations; the good faith efforts, or lack thereof, by the licensee to remedy such violations; and the reasonable time period necessary to correct the violations.

SECTION 6. The Township Code of the Township of Berkeley is hereby amended and supplemented so as to add Chapter 5-27, entitled "Mercantile Establishments," so as to add § 5-27.6, entitled "Display of License," which shall read as follows:

The license shall be displayed in a conspicuous location on the premises of the licensed establishment.

SECTION 7. The Township Code of the Township of Berkeley is hereby amended and supplemented so as to add Chapter 5-27, entitled "Mercantile Establishments," so as to add § 5-27.7, entitled "Non-transferability," which shall read as follows:

No license granted to any person, persons or corporation shall be assignable or transferable to any other person, persons or corporation.

In the event the licensee wishes to move the license from one location to another, the licensee must first advise the Township Clerk.

SECTION 8. The Township Code of the Township of Berkeley is hereby amended and supplemented so as to add Chapter 5-27, entitled "Mercantile Establishments," so as to add § 5-27.8, entitled "Unlicensed Business Unlawful" which shall read as follows:

It shall be unlawful for any person, persons or entity to manage or conduct any business or to use for any business purpose any vehicle, room, building, home or other place of thing herein required to be licensed or to aid or assist or act as employee, clerk or otherwise in the carrying on of such business unless such license fee has been paid and such certificate obtained as required pursuant to the provisions of this Chapter. The purpose of this chapter is to require the licensing of any person, firm, corporation, partnership or other entity engaging in, conducting or operating any business within the limits of the Township of Berkeley.

SECTION 9. The Township Code of the Township of Berkeley is hereby amended and supplemented so as to add Chapter 5-27, entitled "Mercantile Establishments" and Penalties," so as to add § 5-27.9, entitled "Violations and Penalties" which shall read as follows:

Any person who violates one or more of the provisions of this article shall be subject to a fine of not more than \$1,000 for each separate offense and/o confinement in the Ocean County jail for a period of not more than ninety (90) days. In the case of a continuing violation or violations, a fine of not more than \$1,000 may be assessed for each day that said violation or violations are not corrected. A separate offense shall be deemed committed on each day during or on which a violation occurs or continues. Existing businesses shall comply with the terms of these provisions by July 1, 2014, or be subject to penalties. Businesses started after the effective date of this section shall comply immediately or be assessed violations.

SECTION 10. The Township Code of the Township of Berkeley is hereby amended and supplemented so as to amend Chapter 5-27, so as to add §5-27.10, entitled "Severability," which shall read as follows:

Each section, subsection, sentence, clause and phrase of this Ordinance is declared to be an independent section, subsection, sentence, clause and phrase, and the finding or holding of any such portion of this Ordinance to be unconstitutional, void, or ineffective for

any cause, or reason, shall not affect any other portion of this Ordinance.

SECTION 11. This ordinance shall take effect after the second reading and publication as required by law.

CARMEN F. AMATO, JR, MAYOR

JAMES J. BYRNES, Council President
JUDITH NOONAN, Council Vice Pres.

NOTICE

NOTICE IS HEREBY GIVEN that the foregoing ordinance was introduced and passed on first reading at a regular meeting of the Township Council of the Township of Berkeley, in the County of Ocean, State of New Jersey, held on **March 24, 2014**, and will be considered for second reading and final passage at the regular meeting of said Governing Body to be held on the **7th** day of **April, 2014**, at 7:00 p.m., or as soon thereafter as this matter can be reached, at the meeting room of the Municipal Building located at 627 Pinewald-Keswick Road, Bayville, New Jersey, at which time all persons interested shall be given an opportunity to be heard concerning this ordinance.

BEVERLY CARLE, RMC

Township Clerk, Township of Berkeley