

**BOROUGH OF EDGEWATER**

**ORDINANCE NO. 1406-2009**

**AN ORDINANCE AMENDING AND SUPPLEMENTING CHAPTER 249, "LAND USE AND DEVELOPMENT," OF THE CODE OF THE BOROUGH OF EDGEWATER, COUNTY OF BERGEN, STATE OF NEW JERSEY, BY ADDING A NEW ARTICLE XVIII, "TEMPORARY SALE OF SEASONAL ITEMS AND HOLIDAY DECORATIONS"**

**WHEREAS**, the Mayor and Council of the Borough of Edgewater desire to enact rules to regulate the sale and storage for sale by temporary merchants of seasonal items and holiday decorations, such as Christmas Trees during the December holiday season; and

**WHEREAS**, the Mayor and Council have determined that the issuance of temporary business licenses provides a feasible means of regulating the sale and storage for sale of seasonal items and holiday decorations.

**NOW, THEREFORE, BE IT ORDAINED**, by the Mayor and Council of the Borough of Edgewater, County of Bergen, State of New Jersey, that the Code of the Borough of Edgewater is hereby amended as follows:

**Section 1.** The Code of the Borough of Edgewater, Chapter 249, Land Use and Development, is hereby amended and supplemented by adding a new Article XVIII, Temporary Sale of Seasonal Items and Holiday Decorations, as follows:

**ARTICLE XVIII**

**Temporary Sale of Seasonal Items and Holiday Decorations**

- § 249-122. Intent.
- § 249-123. Definitions.
- § 249-124. License required.
- § 249-125. Application; approval.
- § 249-126. Fees; deposit.
- § 249-127. Permissible locations.
- § 249-128. Conditions for issuance of license; revocation.
- § 249-129. Term of license.
- § 249-130. Penalties for offenses.

§ 249-122. Intent.

The intent of this Article is to establish regulations and procedures for the outdoor sale of seasonal items and holiday decorations in the Borough of Edgewater.

**§ 249-123.** Definitions.

SEASONAL ITEMS and/or HOLIDAY DECORATIONS – Displays erected on a seasonal basis in observance of religious, national, or state holidays throughout the year, including, but not limited to, Christmas trees, wreaths, poinsettias, garland, etc.

TEMPORARY MERCHANT -- A merchant or vendor who chooses a specific location within the Borough upon which to erect or park a cart, tent, wagon, truck or stand from which to engage in merchandising, with the intent to return to the same location each day. A temporary merchant must not have a vested interest in the location, must have the written permission from the owner(s) of the location to conduct the sale of the intended products, and must obtain a temporary business license pursuant to this Article.

**§ 249-124.** License required.

- A. It shall be a violation of this ordinance for any person to either sell, or store for sale, seasonal items and holiday decorations in the Borough of Edgewater without having a license therefor.
- B. It shall be a violation of this ordinance for any owner to allow his property to be used to either sell, or store for sale, seasonal items and holiday decorations by any person who does not have a license therefor.
- C. The foregoing notwithstanding, no license shall be required for the storage or sale of seasonal items and holiday decorations when conducted indoors in the normal course of business of any establishment for which a site plan has been approved and a certificate of occupancy has been granted; or indoors or outdoors in the normal course of business of any garden shop or nursery for which a site plan has been approved and a certificate of occupancy has been granted.

**§ 249-125.** Application; approval.

- A. All applications for a license that allowed the outdoor storage and sale of seasonal items and holiday decorations shall be made to the Borough Clerk on a form prescribed by the Clerk.
- B. The application shall include:
  - a. name, address and telephone number of the temporary merchant, whether an individual or organization, seeking such license;
  - b. a plan, drawn to scale, showing the general location of the lot where such storage and sales are to take place;
  - c. provisions for site access and parking;

- d. written consent of the owner of the lot; and
  - e. Certificate of Insurance for the business, naming the Borough of Edgewater as the Certificate Holder and as an "additional insured" under the general liability policy description.
- C. Within ten (10) days after the application has been fully submitted, the Clerk shall approve, with conditions, said application and issue a temporary license; or deny the application. If the application is denied, the Clerk shall state his or her reasons for denial in writing.

**§ 249-126.** Fees; deposit.

- A. The application shall be accompanied by a non-refundable processing fee of fifty dollars (\$50.00).
- B. A site restoration deposit of five hundred dollars (\$500.00), determined to be an amount sufficient to cover cleanup costs, shall be collected in order to assure removal of unsold trees and any remaining decorations after storage or sale.
- C. The site restoration deposit shall be refunded in full, within thirty (30) days after the termination of the license, if the lot on which the trees were sold has been cleaned up and restored to the condition that existed prior to the temporary sale, as determined by the Borough Clerk or his or her designee, or refunded in full if the application is denied.

**§ 249-127.** Permissible locations.

The outdoor sale as permitted in this Ordinance may be conducted on any vacant lot or on such other land which, in the discretion of the Borough Clerk or his or her designee, shall be deemed sufficient, suitable or compatible within the B-1, B-2, B-2A, B-3, B-4, OR-1, and PD Zoning Districts of the Borough of Edgewater. Seasonal items and holiday decorations for sale, or storage or sale, shall be stored in a manner which is safe and not a fire hazard.

**§ 249-128.** Conditions for issuance of license; revocation.

- A. The Borough Clerk shall approve an application and issue a license to a temporary merchant if the lot is suitable for the sale in terms of vehicular access, parking and pedestrian safety. For build-up lots, the Borough Clerk or his or her designee shall also make certain that other uses on the lot will permit vehicular access and parking, if such sales are also permitted on the lot.
- B. The license may be revoked at any time if the licensee deviates from the plan as submitted and/or if the sale is deemed to create a public health or safety hazard. If the license is revoked, all sales shall be terminated immediately and

shall not be permitted until the licensee complies with the plan and the Borough Clerk or his or her designee is satisfied that all safety and health hazards are eliminated.

**§ 249-129.** Term of license.

All licenses shall commence no more than 45 days prior to the date of observance of the religious, national, or state holiday(s) for which the temporary license is sought, and shall expire five (5) days after said date of observation.

**§ 249-130.** Penalties for offenses.

Any person determined to have violated any provision of this Ordinance shall be subject to a fine of not more than \$500, nor less than \$100.

**Section 2. Severability.**

If any provision or portion of a provision of this ordinance is held to be unconstitutional, preempted by federal or State law, or otherwise invalid by any court of competent jurisdiction, the remaining provisions of the ordinance shall not be invalidated and shall remain in full force and effect.


**Section 3. Effective date.**


This Ordinance shall become effective thirty (30) days after final passage and publication as required by law.

**Section 4. Repeal of inconsistent ordinances.**

All ordinances and parts of ordinances which are inconsistent with the provisions of this ordinance are hereby repealed to the extent of such inconsistency.

**ATTEST:**

  
Barbara Rae, RMC, CMC  
Borough Clerk

  
Nancy Merse,  
Mayor

**INTRODUCED: February 17, 2009**  
**ADOPTED: April 20, 2009**  
**APPROVED: April 20, 2009**