

NOTICE OF PUBLIC HEARING ON A  
PROPOSED AMENDMENT TO THE  
TOWN OF PORTER CODE

LEGAL NOTICE IS HEREBY GIVEN that the Town Board of the Town of Porter will hold a public hearing at the Town Hall, 3265 Creek Road, Town of Porter on the 8<sup>th</sup> day of August, 2016 at 7:00 P.M. to hear all interested parties and citizens for or against the adoption of Local Law #2 of 2016. The proposed local law would provide regulations related to peddling, soliciting and transient business conducted within the Town. A copy of the proposed text of the law is on file in the Town Clerk's office where it may be examined during normal business hours.

By the Order of the Town Board  
Barbara Dubell  
Town Clerk

## Peddling, Soliciting and transient Businesses

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§ 1 Purpose.

The purpose of this chapter is to promote and protect the health, safety and general welfare of the community, and the preservation and protection of property of the Town of Porter and its residents.

§ 2 Definitions.

The following words and phrases shall have the meanings set forth unless the context of their use clearly indicates otherwise:

### APPLICANT

Any person by or for whom an application is made under this chapter.

## CHARITABLE ORGANIZATION

### A.

Any benevolent, philanthropic, patriotic, military veterans, not-for-profit, educational or religious association, society or other organization or any other association, society or organization qualified as a tax-exempt organization under Section 501 of the Internal Revenue Code.

### B.

Any governmental entity or organization, including, without limitation, a school district, fire district and fire company.

## PEDDLER

A person who engages in peddling.

## PEDDLING

### A.

Selling or offering for sale, barter or exchange any property or service, either for immediate or future delivery or performance upon any street, road or highway or from house to house in the Town, and including, without limitation, activities commonly known as "hawking."

### B.

Delivery or distribution of advertising matter, literature, pamphlets, samples or handbills house to house or on any of the streets, roads or highways or by going from place to place in the Town, but not including the delivery or distribution of newspapers, magazines or political or religious materials.

## PERSON

A natural person, corporation, partnership, association, joint venture, society or other organization or association of any kind, whether acting as principal, agent, employer or employee.

## PROPERTY

Any goods, wares, merchandise or other article or thing of every kind or nature except newspapers.

## SOLICITING

### A.

Seeking, taking or offering contracts or orders for any property for future sale or delivery or performance of any service upon any street, road or highway or from house to house in the Town.

### B.

Seeking or taking subscriptions or contributions of money or property, upon any street, road or highway or from house to house in the Town.

## SOLICITOR

A person who engages in soliciting.

## TOWN

The Town of Porter outside the Village of Youngstown.

## TRANSIENT BUSINESS

A retail or wholesale business conducted from a temporary structure or tent, truck, van or trailer, stand, parking lot or vacant parcel of land, in a public right-of-way or in or on any other place in the Town, but not (1) outdoor sales of property or services accessory to a business conducted within a permanent structure on a same premises or (2) the sale of food products raised or produced on the same premises from a temporary or seasonal stand, provided that the principal structure or activities otherwise comply with the zoning and other ordinances of the Town.

§ 3 Permit or registration required.

### A.

No person shall engage in peddling, soliciting or a transient business without first obtaining a permit or registering or both as required by this chapter.

B.

No motor vehicle shall be used for peddling or conducting a transient business unless a permit shall first have been obtained, which permit shall at all times be displayed in a conspicuous location that is visible from the outside of the vehicle.

§ 4 Exemptions.

No permit under this chapter shall be required:

A.

By any charitable organization or its agents or employees or veterans licensed pursuant to General Business Law § 32.

B.

By any business, service or activity licensed under any other ordinance or law of the Town of Porter.

C.

For lawn cutting, leaf raking and snow shoveling services for residential property.

D.

By political parties and candidates for public office.

E.

For peddlers and solicitors not over sixteen (16) years old.

§ 5 Requirements for charitable organizations.

No charitable organization shall engage in soliciting before it files with the Town Clerk a list of the names, addresses and dates of birth of the persons who will conduct the activity on its behalf and a statement of the time period during which the solicitations shall occur. The Clerk shall provide a copy of the list to the Police Department. No person shall engage in soliciting on behalf of a charitable organization until this information has been provided to the Town Clerk.

§ 6 Hours.

No peddling, soliciting or transient business activities, whether or not exempt from the permit requirements of this chapter, shall be conducted before 9:00 a.m. or after 8:00 p.m.

§ 7 Application requirements.

A.

An application for a permit under this chapter shall contain the following:

(1)

The name, home address and local address, if any, of the applicant.

(2)

A physical description of the applicant, giving date of birth, height, weight and color of hair and eyes. A photograph may be required.

(3)

The name and address of the person, if any, by whom the applicant is employed and for whom or through whom orders are to be solicited, cleared, filled or delivered.

(4)

A description of the business or activity in which the applicant intends to engage and of the nature of any property or services involved.

(5)

For peddlers or solicitors, a list of crimes for which the applicant has been arrested or convicted, including the dates and places.

(6)

A statement as to the period of time during which the applicant intends to engage in the business or activity regulated under this chapter.

(7)

Proof that the applicant, or his or her employer or principal, is registered for sales tax purposes, if the business or activity to be conducted is subject to sales or use tax.

(8)

A description of any motor vehicle that will be used for pickup or delivery of property or for the purpose of bringing any such property into the Town for peddling, soliciting or transient business purposes, or from which a transient business will be conducted, to include the name of manufacturer, year, type of vehicle, vehicle identification number, registration plate number, title holder and name of the person other than the title holder to whom the vehicle is registered, if any.

(9)

The location where a transient business is to be conducted.

(10)

Further information required by the Town Clerk or the Police Department.

B.

The application shall be signed by the applicant and sworn to before a notary public or other officer authorized to administer oaths.

C.

If a transient business is to be conducted on private property, the written consent of the property owner, if other than the applicant, shall be filed with the application or shall be prominently displayed at the transient business site.

#### § 8 Investigation of applicant.

A.

For peddling or soliciting permit applications, the Town Clerk shall forward a copy of the application to the Police Department. A copy of any application for a transient business or mobile food vendor shall be forwarded to the Building Department. The Police Department shall, to the extent possible, determine whether or not the applicant has accurately reported convictions and is otherwise a person of good moral character and reputation. The Police and Building Departments shall report the results of their investigations of applications to the Town Clerk within ten (10) business days of the receipt of the copy.

B.

The Police Department shall perform the same investigation and provide the report of the results to the Town Clerk within ten (10) business days of the receipt of a copy of a list filed pursuant to the requirements of § 5 of this chapter.

§ 9 Fees.

The following fees shall be paid to the Town Clerk with an application for a permit:

Peddlers Permit \$50.00

Transient Business Permits \$50.00

Permit fees may be amended from time to time by Town Board Resolution

§ 10 Permit regulations.

A.

After receipt of reports from the Police Department and Building Department, when required, the Town Clerk shall issue the permit requested unless the applicant for a peddler's or solicitor's permit has been convicted of a felony at any time or a misdemeanor involving moral turpitude within five (5) years prior to the application, and has not been granted relief from civil disabilities, or otherwise is found not to be a person of good moral character and reputation.

B.

Solicitors', peddlers' or transient business permits issued pursuant to this chapter

automatically expire ninety (90) days after issuance.

C.

Permits issued under this chapter shall not be transferable.

D.

A permit issued pursuant to this chapter may be revoked if, following its issuance, the Police Department determines that the applicant was convicted for any crime not reported in the application or is otherwise not a person of good moral character and reputation. A permit may also be revoked for any violation of this chapter committed after its issuance.

E.

A transient business permit shall be limited to a single location. If the location is in a public right-of-way, it must be approved by the state, county or town authority having jurisdiction. If the location is not in a public right-of-way, it must be approved by the Building Department.

§ 11 Prohibited acts.

A.

No person shall use private real property for any activity requiring a permit under this chapter without the written consent of the owner, and in compliance with § 7C.

B.

No person regulated by this Local Law shall hawk or cry property, offers, contracts or services upon any location in the Town, or use any loudspeaker, horn or other sound making device.

C.

No person holding a permit under this chapter shall engage in any activity regulated hereunder unless he or she has the permit on his or her person.

§ 12 Trespassing.

A.

The owner or occupant of a residential building may post a notice prohibiting peddlers and solicitors. The notice shall be placed in a conspicuous place adjacent to the entrance door of the building. The letters of the notice shall be at least 1/2 inch in height and shall contain a statement saying in substance that "peddlers or solicitors are prohibited." No person shall engage in any activity regulated by this chapter by attempting to enter a building or ringing a doorbell or knocking on an entrance door to any residence building at which entrance such a notice has been posted.

B.

Any person engaged in an activity regulated under this chapter, whether that person is exempt or not, who has entered upon private property, whether invited or not, shall immediately and peacefully depart therefrom when requested to do so by any occupant.

§ 13 Penalties for offenses.

Any person who violates any provision of this chapter shall be guilty of a violation. Each violation shall be punishable by a fine not to exceed \$250 or by imprisonment for a period not to exceed fifteen (15) days, or both.

§ 14 Enforcement.

This chapter shall be enforced by the Building Department Code Enforcement Officer of the Town of Porter.

§ 15 Severability.

The invalidity of any section or provision of this Local Law shall not invalidate any other section or provision of this Local Law.