

TOWN OF PUTNAM ORDINANCE REGARDING PEDDLING, SOLICITATION AND VENDING

BE IT ORDAINED by the Town Meeting of the Town of Putnam that the Ordinance that the Town of Putnam adopted on August 17, 2009, regarding Peddling and Solicitation is hereby repealed in its entirety and the following is substituted in lieu thereof. A copy of the text of the proposed Town of Putnam Ordinance regarding Peddling, Solicitation and Vending is on file in the Offices of the Mayor and Town Clerk and available for public inspection during normal business hours.

ARTICLE 1: DEFINITIONS

The following words, terms, and phrases, and their derivations, when used in this Ordinance, shall have the meanings ascribed to them in this Article, except where the context clearly indicated a different meaning:

- a. *Charitable* means and includes the words patriotic, philanthropic, social service, health, welfare, benevolent, educational, civic, cultural or fraternal. Provided the primary purpose of said agency is the promotion of the public good on a non-profit basis. The existence of an exemption from Federal taxation under Section 501 of the Internal Revenue Code as it may be amended from time to time shall be definitive proof of a charitable intent. Likewise, local affiliates of nationally recognized charitable or benevolent entities such as Boy Scouts, Girl Scouts, 4-H and the like shall also be within this definition.
- b. *Contributions* means and includes the words alms, money, subscription, property or any donations under the guise of a loan or money or property.
- c. *Department* means for any solicitation, peddling or vending to take place within the Special Services District, the Putnam Police Department, and with regard to any solicitation, peddling or vending taking place exclusively outside the limits of the Putnam Special Services District, the Connecticut State Police, Troop D.
- d. *Director of Public Safety* means the Chief of Police for any solicitation or peddling taking place within the Special Services District and the Mayor, or the designee of the Mayor, for any solicitation, peddling or vending taking place in the Town of Putnam outside of the Special Services District.
- e. *Food Vendors* means anyone who offers for sale to the general public, either from a vehicle, cart stand or otherwise, food items for immediate consumption shall be considered as a Food vendor and subject to the provisions of this Ordinance.
- f. *Peddler* means any person who goes upon the premises of any private residence in the Town, or upon the public street, or upon any State highway or any land abutting such streets or highways, not having been invited by the occupant thereof, carrying or transporting goods, wares, merchandise or personal property

of any nature and offering the same for sale. This definition also includes any person who solicits orders and as a separate transaction makes deliveries to purchasers as part of the scheme to evade the provisions of this Ordinance.

- g. *Peddling* includes all activities ordinarily performed by a peddler as indicated under paragraph (f) of this Article
- h. *Person* means a natural person or any firm, corporation, association, club, society or other organization.
- i. *Solicitor* means any person who goes upon the premises of any private residence in the Town, not having been invited by the occupant thereof, for the purpose of taking or attempting to take orders for the sale of goods, merchandise, wares, or other personal property of any nature for future delivery, or for services to be performed in the future. This definition also includes any person who, without invitation, goes upon private property, or upon the public street or upon any State highway or any land abutting such streets or highways to request contribution of funds or anything of value, or sell goods or services for political, charitable, religious, or other non-commercial purposes.
- j. *Solicitation* includes all activities ordinarily performed by a solicitor as indicated under paragraph (h) of this Article.
- k. *Town Clerk* shall be the Town Clerk of the Town of Putnam or her assistant.
- l. A *Vendor* is a peddler with a fixed location.

ARTICLE 2: PERMIT REQUIREMENTS AND EXEMPTIONS

- A. It shall be unlawful for any person to engage in peddling, solicitation or vending activities including food vending within the Town of Putnam without first obtaining a permit issued by the Town Clerk of the Town of Putnam; provided, however, that the following are exempted from the provisions of this Ordinance:
 - a. Any solicitation made upon premises owned or occupied by an organization upon whose behalf the solicitation is made;
 - b. Any communication by an organization soliciting contributions solely from persons who are members of the organization at the time of such solicitation;
 - c. Any solicitation in the form of a collection at a regular meeting, assemble or service of a charitable event;
 - d. Any solicitation for the relief of any individual specified by name at the time of the solicitation where the solicitor represents in each case that the entire amount collected shall be turned over to the named beneficiary;

- e. Any entity specifically invited by and permitted for a specific Town sponsored/partnered event, including but not limited to, food vendors at the Kennedy Drive Farmers' Market, the Car Cruise, the Craft Fair, First Fridays, etc.
- B. The following entities are exempt from fees and background checks but not exempt from the duty to register.
 - a. No permit fee shall be required of a veteran as defined pursuant to the provisions of Section 21.-37 of the Connecticut General Statutes.
 - b. No permit fee shall be required of a charitable or non-profit entity as defined herein.

ARTICLE 3: PERMIT FOR SPONSORING JUVENILE PEDDLERS

Any person engaged in peddling, solicitation or vending under the age of sixteen (16) shall, in addition to all other requirements set forth in this Ordinance, observe all of the following requirements:

- a. A permit shall be obtained by a sponsoring person, company or organization for the conduct of any peddling, solicitation or vending activities involving, in whole or in part, a sales force of one (1) or more persons under sixteen (16) years of age.
- b. The sponsor shall be responsible for supervising and controlling the conduct of all persons, including juveniles, peddling under the sponsor's permit.
- c. The sponsor shall provide to each individual in its sales force a badge or other easily readable form of identification which identifies the name of the sponsor and the name of the individual. The sponsor shall require all individuals in its sales force to wear such identification so that it is clearly visible at all times when the individuals are peddling, soliciting or vending.

Any solicitation by juveniles under the age of sixteen (16) for a nationally recognized non-profit or on behalf of a public or private school shall be exempt from the provisions of this Ordinance.

ARTICLE 4: PERMIT APPLICATION

Every person subject to the provisions of this Ordinance shall file with the Town Clerk, who shall promptly transmit to the Director of Public Safety, an application in writing on a form to be furnished by the Department, which shall include the following information and such other information as the Department deems pertinent and necessary to process the application:

- a. Proof of age, address and identification of the applicant, to be provided through the applicant's driver's license, articles of incorporation (for sponsors), or other legally recognized form of identification;

- b. A brief description of the business or activity to be conducted;
- c. The hours and location for which the right to peddle, solicit or vend is desired;
- d. If employed, the name, address and telephone number of the employer; or if acting as an agent, the name, address and telephone number of the principal who is being represented, with credentials in written form establishing the relationship and the authority of the employee or agent to act for the employer or principal, as the case may be;
- e. A statement as to whether or not the applicant has been convicted of a felony, misdemeanor or Ordinance violation (other than traffic violations), the nature of the offense or violation, the penalty or punishment imposed, the date when and place where such offense occurred, and other pertinent details thereof;
- f. Proof of possession of any license or permit which, under federal, state or local laws or regulations, the applicant is required to have in order to conduct the proposed business, or which, under any such law or regulation, would exempt the applicant from the licensing requirements of this Ordinance; and
- g. Two (2) photographs of the applicant which shall have been taken within sixty (60) days immediately prior to the date of filing of the application. The photographs shall measure two (2) inches by two (2) inches and show the head and shoulders of the applicant in a clear and distinguishing manner.
- h. Proof of insurance coverage for comprehensive general liability insurance with a minimum coverage of \$1,000,000 per occurrence and \$2,000,000 aggregates for personal injury and property damage combined, automobile liability insurance for owned, non-owned and hired vehicles, with limits of at least \$1,000,000 per occurrence, and \$2,000,000 in the aggregate annually for bodily injury and property damage combined. Such general liability shall name the Town of Putnam as an additional named insured and shall include a provision prohibiting cancellation of said policy except upon thirty (30) days prior written notice to the Town. Certificates of coverage as required by this subsection shall be delivered to the Town before issuance of a license. The required coverage limits maybe adjusted as required by the Town's insurance carrier.

ARTICLE 5: FEES

- a. At the time the application is filed with the Town Clerk, each applicant shall pay a fee to cover the cost to the Town of processing each application and investigating the facts stated therein in the amount of Fifty and 00/100ths (\$50.00) Dollars payable to the Putnam Police Department

- b. The applicant, after being notified by the Board that the application has been approved shall pay a license fee in the amount of Two Hundred and 00/100ths (\$200.00) Dollars for each solicitor, peddler or vendor. Payment shall be payable to the Town of Putnam.

ARTICLE 6: APPLICATION REVIEW AND PERMIT ISSUANCE

- a. Upon receipt of an application, the Town Clerk shall transmit the application to the Director of Public Safety, or authorized representative, who shall review the application as deemed necessary to ensure the protection of the public health, safety and general welfare.
- b. If the Director finds the application to be satisfactory, the Director shall endorse his approval of the application and return it to the Town Clerk who shall notify the applicant that upon payment of the prescribed fee, the required permit is available to the applicant at the Town Clerk's office.
- c. The permit shall show the name, address and photograph of the permittee, the class of permit issued, the kinds of goods or services to be sold or delivered, the date of issuance, and the length of time that the permit shall be in effect. The permit shall also show the permit number and identifying description of any vehicle to be used in carrying on the business for which the permit is issued.
- d. A record of all permits issued shall be maintained by the Town Clerk for a period of two (2) years.
- e. All applications shall be submitted with all required supporting data and fees at least thirty (30) business days prior to the proposed date of issuance of the permit.

ARTICLE 7: DENIAL OF PERMIT

- a. Upon the recommendation of the Director of Public Safety following their review of the application, the Town Clerk may refuse a permit to the applicant under this Ordinance for any of the following reasons:
 - 1. The location and time of solicitation or peddling would endanger the safety and welfare of the solicitors, peddlers, vendors, or their customers;
 - 2. An investigation reveals that the applicant falsified information on the application;
 - 3. The applicant has been convicted of a felony misdemeanor or violation involving a sex offense, trafficking in controlled substances, or any violent acts against persons or property, such conviction being entered within the five (5) years preceding the date of application;

4. The applicant is a person against whom a judgment based upon, or conviction for, fraud, deceit or misrepresentation has been entered within the five (5) years immediately preceding the date of the application;
 5. There is no proof as to the authority of the application to serve as an agent to the principal; or
 6. The applicant has been denied a permit under this Ordinance within the immediate past year, unless the applicant can and does show to the satisfaction of the Director that the reasons for such earlier denial no longer exist.
- b. The Director's disapproval and the reasons for disapproval shall be noted on the application, and the applicant shall be notified that his application is disapproved and that no permit will be issued. Notice shall be mailed to the applicant at the address shown on the application form, or at the applicant's last known address.

ARTICLE 8: PERMIT EXPIRATION

All permits issued under the provisions of this Ordinance shall expire on December 31st of the year of issue.

ARTICLE 9: VENDING LOCATIONS

- a. This Ordinance shall designate the location where vending will be allowed in the Simonzi Park parking lot located off Kennedy Drive. There will be three (3) designated parking spaces marked with "Vendor Only" parking signs. No more than three (3) vendors will be allowed in the designated area.
- b. The Town shall maintain and make available for public inspection during regular business hours a complete list of all permitted vending locations as designated by this Policy.
- c. Applicants filing between January 1st and March 31st will be chosen through a lottery system. On April 1st and thereafter, applicants will be chosen on a first come, first serve basis.

ARTICLE 10: PERMITTED STAND DESIGNS AND REQUIRED STAND MAINTENANCE

- a. Licensed vendors must ensure that stands are placed on the public rights-of-way, be maintained in a neat, clean and orderly fashion, and does not interfere with anyone using the parking lot for its normal business; and
- b. Have advertising and other signage limited to the name of the stand or items sold and listing of items sold and price; as outlined in the Zoning Regulations;

- c. (i) be readily movable by vendor; (ii) cannot be attached to any property or affixed to the parking lot; and (iii) does not do any damage to the parking lot or any other municipally owned property.
- d. For stands from which are sold prepared food, produce, flowers, or any other item or items which the Town designates as generating trash, provide, within the vendor's allotted space or above the area occupied by a trailer hitch, at least a twenty (20) gallon capacity trash storage area.
- e. Licensees are responsible for maintaining the sidewalk and parking area within fifteen feet of their stands clean of all trash generated by their vending operations.
- f. Licensee must take with them at the end of each day all trash, litter, garbage and refuse generated by their vending operations. No licensee may place or deposit any trash litter, garbage or refuse generated by his licensed operations on the sidewalk or parking area, in any public receptacle, or on any private property without the express permission of the property owner;
- g. Stands from which food or beverages are sold must also be in compliance with all applicable provisions of the Health and Fire Codes.

ARTICLE 11: IDENTIFICATION BADGE

At the same time the permit is issued, the Department, for activities located within the Special Services District, and the Mayor's Office for those activities located exclusively outside the Special Services District, shall issue to each permittee a badge, which shall be worn by the permittee in such a way as to be conspicuous at all times while the permittee is soliciting or peddling in the Town.

ARTICLE 12: PERMIT EXHIBITION

Every person required to obtain a permit under the provisions of this Ordinance shall exhibit the permit when requested to do so by any prospective customer or Department employee.

ARTICLE 13: TRANSFER PROHIBITED

It shall be unlawful for any person other than the permittee to use or wear any permit or badge issued under the provisions of this Ordinance.

ARTICLE 14: HOURS OF SOLICITATION

No person, while conducting the activities of a peddler, solicitor or vendor, whether licensed or unlicensed, shall engage in any activity regulated by this Ordinance between the hours of 11:00 P.M. and 9:00 A.M. in any public area. No person, while conducting such activities as referred to in this Article, whether licensed or unlicensed, shall engage in

any activity regulated by this Ordinance on residential property between the hours of 9:00 P.M. and 9:00 A.M.

ARTICLE 15: PERMIT REVOCATION

Any permit issued under this Ordinance may be revoked or suspended by the Director of Public Safety, after notice and hearing, for any of the following reasons:

- a. Fraud, misrepresentation or false statement contained in the application for a permit;
- b. Fraud, misrepresentation or false statement made by the permittee in the course of conducting solicitation or peddling activities;
- c. Conducting peddling, solicitation or vending activities contrary to the provisions contained in the permit;
- d. Conviction for any crime involving moral turpitude; or
- e. Conducting peddling, solicitation or vending activities in such a manner as to create a public nuisance, constitute a breach of peace or endanger the health, safety or general welfare of the public.

ARTICLE 16: NOTICE AND HEARING

Notice of a hearing for revocation of a permit issued under this Ordinance shall be provided in writing and shall set forth specifically the grounds for the proposed revocation and the time and place of the hearing. Notice shall be mailed, postage prepaid, to the permittee at the address shown on the permit application or to the last known address of the permittee.

ARTICLE 17: APPEALS

- a. Any person aggrieved by the action or decision of the Town Clerk to deny, suspend or revoke a permit applied for under the provisions of this Ordinance shall have the right to appeal such action or decision to a hearing officer designated by the Board of Selectmen, said appeal to be taken within fifteen (15) days after the notice of the action or decision has been mailed to the person's address as shown on the permit application form, or his last known address.
- b. An appeal shall be taken by filing with the Town Clerk a written statement setting forth the grounds for the appeal.
- c. The Town Clerk shall transmit the written statement to the Office of the Mayor within five (5) days of its receipt and the Mayor shall set a time and place for a hearing on the appeal.

- d. A hearing shall be set not later than twenty (20) days from the date of receipt of the appellant's written statement by the Mayor.
- e. Notice of the time and place of the hearing shall be given to the appellant in the same manner as provided for the mailing of notice of action or decision.
- f. The decision of the hearing officer on the appeal shall be final and binding on all parties concerned.

ARTICLE 18: CLAIMS OF EXEMPTION

Any person claiming to be legally exempt from the regulations set forth in this Ordinance, or from the payment of a permit fee, shall cite to the Director of Public Safety the statute or other legal authority under which exemption is claimed and shall present to the Director proof of qualification for such exemption.

ARTICLE 19: VIOLATIONS AND PENALTY

- a. Violation of any of the provision of this Ordinance shall be treated as a violation. The first violation of this Ordinance shall be punished by a Two Hundred and 00/100th (\$200.00) Dollar fine and each subsequent violation shall be punished by a Two Hundred Fifty and 00/100ths (\$250.00) Dollar fine. Each day of violation shall be deemed a separate offense.
- b. Violations may also result in a license suspension of up to thirty (30) days, or license revocation. Licenses may be revoked if any fine is not paid within ten (10) days of imposition by a final order from which all appeals have been exhausted. An order of the Board of Selectmen revoking a license shall also specify when the licensee may reapply for a license, which shall be not less than ninety (90) days nor more than one (1) year from the date of revocation.
- c. All fines are payable to the Town of Putnam.
- d. In addition to any criminal enforcement, the Town or any individual may pursue any available civil remedies deemed appropriate and necessary.

ARTICLE 20: SEVERABILITY

The provisions of this Ordinance are declared to be severable. If any section, sentence, clause or phrase of the Ordinance shall for any reason be held to be invalid or unconstitutional by a court of competent jurisdiction, such decisions shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance, but they shall remain in effect; it being the legislative intent that this Ordinance shall remain in effect notwithstanding the validity of any part.

