

## **NOTICE OF PUBLIC HEARING**

NOTICE IS HEREBY GIVEN, that the Town Board of the Town of Carmel will conduct a Public Hearing at Town Hall, 60 McAlpin Avenue, Mahopac, New York 10541 on Wednesday, January 17, 2024 at 7:00 p.m. or as soon thereafter that evening as possible on a proposed Local Law Amending Chapter 111 of the Town Code of the Town of Carmel, entitled "Peddling and Soliciting", as follows:

**TOWN OF CARMEL  
PROPOSED LOCAL LAW #\_\_\_ OF THE YEAR 2024  
A LOCAL LAW AMENDING CHAPTER 111 OF THE TOWN CODE  
OF THE TOWN OF CARMEL, ENTITLED "PEDDLING AND SOLICITING"**

**BE IT ENACTED** by the Town Board of the Town of Carmel, County of Putnam, State of New York as follows:

**SECTION 1:**

This chapter is adopted pursuant to the authority, of Article 2, § 10 of the New York State Municipal Home Rule Law.

**SECTION 2: AMENDMENT OF CHAPTER 111 "PEDDLING AND SOLICITING"**

CHAPTER 111 of The Town Code of the Town of Carmel is hereby amended in its entirety to read as follows:

**CHAPTER 111 PEDDLING & SOLICITING  
ARTICLE I – PEDDLING**

**§ 111-1. PURPOSE**

The purpose of this Chapter to preserve the peace, health, safety, welfare and order of the Town and its inhabitants.

**§ 111-2 DEFINITIONS**

As used in this chapter, the following terms shall have the meanings indicated:

**ESTABLISHED PLACE OF BUSINESS** – A building or store in which or where a person transacts business and deals in goods, wares and merchandise on a regular, continuing and ongoing basis.

**PEDDLER** — Any person who, in any public street or public place or by going from house to house or from place of business to place of business, on foot or from any vehicle, sells or barter or offers for sale or barter or carries or displays for sale or barter any goods, wares or merchandise.

**PEDDLE** – The merchandising of any goods, wares, commodities, books, periodicals, labor or services; or requesting or seeking contributions of goods and/or money by going from house to house, place(s) of residence to place(s) of residence or by temporarily occupying a room, building, structure, land or other premises therefor.

**PERSON** — Is singular and shall apply to the individual who is actually going to do or is doing the peddling or soliciting.

**SOLICITOR** — Any person, either principal or agent, traveling either by foot or by any conveyance from place to place, from house to house, from street to street

or from place of business to place of business, who takes or offers to take orders for the sale of any goods, wares or merchandise, including books or periodicals, for future delivery or for the performance of future services, whether or not he collects advance payments for such sale or service.

**VENDOR**— A person who engages in the act or occupation of selling or offering for sale from a fixed location or locations, and at times and from time to time, goods, wares merchandise or labor, meats, fish, produce and prepared foods from any portable cart, stand, vehicle or display device of any nature.

**§ 111-3 PEDDLER'S LICENSE REQUIRED; EXEMPTIONS.**

- A. It shall be unlawful for any person to engage in the business of peddler, as defined in § 111-2 of this chapter, within the Town of Carmel without having first duly obtained and having in force a license therefor as herein provided.
- B. Nothing contained in this chapter shall be deemed to apply to any of the following:
  - (1) A sale conducted pursuant to order of any court.
  - (2) A sale of personal property at wholesale to a retail dealer in such personal property having an established place of business in the Town of Carmel.
  - (3) A sale made by a person who has or represents an established place of business within the County of Putnam, provided that such sale results from an order given through a deliveryman according to the usual custom.
  - (4) The peddling of meats, fish, fruit and farm produce by farmers and persons who produce such commodities on their own land, provided that they have otherwise complied with any licensing and health and safety requirements of any other competent governmental body or agency and the sale takes place from a stationary location upon property owned or leased by the seller.
  - (5) Any person peddling at the express invitation of any person or organization;
  - (6) A child or student regularly attending any public, private or parochial school; veterans organizations; fraternal organizations; civic groups; churches; tax-exempt charitable or religious organizations or sects; provided, however, that such child or member of such exempt organization shall carry on an otherwise prohibited conduct only in connection with an authorized activity of the school which the child attends or another school which has authorized such child to carry on the activity or, in the case of an exempt organization, which has authorized such member to carry on the activity. It shall be required, however, that prior to the commencement of such otherwise prohibited conduct, the school or otherwise exempt organization for which the activity shall be carried on shall notify the Clerk of the Town, in writing, of the intention of such school or exempt organization to conduct such activity within the Town, together with a brief description thereof.

#### **§111-4 PEDDLERS LICENSE – APPLICATION AND ISSUANCE**

- A. Any person desiring a license as herein provided shall file with the Town Clerk a written application therefor duly verified by the applicant upon blank forms provided by the Town Clerk. A license may be taken out only by such person and not in the name of a firm, corporation, association, club, etc. Such application shall include but not be limited to the following information:
- (1) The name of the applicant together with proof of age as 18 years of age or older.
  - (2) The permanent home residence and the address the applicant if different than his home address.
  - (3) The name and address of all entities whose products the applicant intends to peddle.
  - (4) An itemized statement of all property or services to be sold or offered for sale.
  - (5) All municipalities (name and state) in which the applicant has carried on the business of hawking, selling or soliciting orders during the six months immediately preceding the application.
  - (6) A statement of the name, address and telephone number of any person and of any corporation, entity etc. which is employing and/or supervising the applicant's local selling activities under contractual or employment arrangement.
  - (7) Copies of all forms of order and of receipt used by the applicant in soliciting sales or orders.
  - (8) An enumeration of the number and kind of vehicles, if any, to be used by the applicant in carrying on the business for which the license is requested.
  - (9) The name and address of a person upon whom a legal notice may be served.
  - (10) A statement to the effect that, if a permit is granted, it will not be used or represented in any way as an endorsement by the Town of Carmel or by any department or officer thereof.
  - (11) Results of a national database criminal history/background investigation for all individuals which the applicant may intend to utilize and/or employ in connection with peddling activities sought under the application. Said investigation, reports and accompanying materials shall be from source(s) and in form in acceptable to the Chief of Police of the Town of Carmel.

- B. Any application submitted may be denied if such application and investigation reveals any of the following:
- (1) Prior conviction(s) of an applicant, employer or any involved employees of a crime involving moral turpitude.
  - (2) A prior violation of a peddling or soliciting ordinance or law.

**§111-5 TERMS AND CONDITIONS OF LICENSE.**

- A. Any license issued hereunder shall be valid for a period of 120 (one-hundred twenty) days from the date of its issuance. The dates of issuance and expiration of the license as well as the purpose for which it has been issued shall be set forth on the face thereof.
- B. Any license issued hereunder shall be carried on the person of the licensee at all times while being exercised and shall be exhibited by the licensee to any person on demand. A picture of the applicant shall appear on the valid license with the Town Seal imprinted on the same.
- C. Any license issued hereunder shall not be transferable or assignable. In the event that a licensee shall permit any person other than the licensee to possess or use such license, such license shall automatically be revoked, subject to the provisions of §111-8 herein, and the licensee shall thereby be guilty of violating this chapter, and no application for a further license may be made for a period of one year from the date of revocation.
- D. The license is good only for the purposes stated thereon, and a change of product being sold or offered for sale without written consent from the Town Clerk shall constitute cause for revocation of the license, and the licensee shall thereby be guilty of violating this chapter, and no application for a further license may be made for a period of one year from the date of revocation.

**§111-6 FEES.**

The application fee for such a license shall be in accordance with the Standard Schedule of User Fees of the Town of Carmel.

**§111-7 APPEALS.**

Any person aggrieved by the action of the Chief of Police or of the Town Clerk in the denial of a license shall have the right of appeal to the Town Board. Such appeal shall be taken by filing with the Board, within 14 days after the notice of the action complained of has been mailed to such person's last known address, a written statement setting forth fully the grounds for appeal. The Town Board shall set a time and place for a hearing on such appeal, and notice of such hearing shall be given in the same manner as provided in § 167-13B of this chapter for notice of hearing on revocation. The decision of the Town Board on such appeal shall be final and conclusive.

## **§111-8 REVOCATION**

- A. Licenses issued under the provisions of this chapter may be revoked by the Town Board after notice and hearing for any of the following causes:
- (1) Fraud, misrepresentation or a materially incorrect statement contained in the application for a license.
  - (2) Fraud, misrepresentation or a materially incorrect statement made in the course of carrying on the business of solicitor, peddler, distributor or transient merchant.
  - (3) Any violation of this chapter.
  - (4) Conviction of any crime, misdemeanor or violation.
  - (5) Conducting the business of peddler, solicitor, distributor or transient merchant in an unlawful manner or in such a manner as to constitute a breach of the peace or to constitute a menace to the health, safety or general welfare of the public.
- B. A notice of the hearing for the revocation of a license shall be given by the Town Clerk, in writing, setting forth specifically the grounds of complaint and the time and place of the hearing. Such notice shall be mailed, postage prepaid, to the holder of the license at the address given on the application at least five days prior to the date set for the hearing or shall be delivered by an agent of the Town in the same manner as a summons at least three days prior to the date set for the hearing.

## **§111-9 PENALTIES FOR OFFENSES**

In addition to the provision of §118 above, any person committing an offense against any provision of this chapter shall, upon conviction thereof, be guilty of a violation pursuant to the Penal Law of the State of New York, punishable by a fine not exceeding \$250 or by imprisonment for a term not exceeding 15 days, or by both such fine and imprisonment. The continuation of an offense against the provisions of this chapter shall constitute, for each day the offense is continued, a separate and distinct offense hereunder.

## **ARTICLE II – CANVASSING AND SOLICITING**

### **§ 111-10 PURPOSE**

The purpose of this article is to prevent fraud, crime and unethical conduct and is for the general protection, health and welfare of the residents of the Town of Carmel.

### **§ 111-11 DEFINITIONS**

**CANVASSING AND SOLICITING** – The personal contact one makes with another, either on the highways and streets of this Town or on public or private property other than his own, for the purpose of raising funds for, supporting goals of or

recruiting new members into any organization. "Canvassing" and "soliciting" shall also be deemed to be making surveys for research purposes, analysis, opinion, polls, rating data and any such similar work which, of its nature, involves a door-to-door or place-to-place activity.

**CANVASSING AND SOLICITING PERMIT** – The permit issued by the Town Clerk to a representative or representatives of an organization to canvass and solicit.

**PERSONAL CONTACT** – The face-to-face canvassing or soliciting of a person by another. Mail and telephone contact does not require a permit under this article.

**§ 111-12 PERMIT REQUIRED**

It shall be unlawful for any person to canvass and solicit within the Town of Carmel without having first obtained and having in full force and effect a permit therefor.

**§ 111-13 CANVASSING AND SOLICITING PERMIT – APPLICATION AND ISSUANCE**

The following data must be furnished by the applicant on the application form to be furnished by the Town Clerk:

- A. The name of applicant together with proof of age as 18 years of age or older.
- B. Name and address of the organization represented by the applicant.
- C. The purpose or purposes of the canvass or solicitation.

**§ 111-14 ISSUANCE OF PERMIT; CONDITIONS.**

- A. Provided that the applicant has furnished the data required by §111-13 of this article, the Town Clerk shall forthwith issue a permit to the applicant. Each canvasser or solicitor must plainly display his or her permit on his or her clothing while canvassing or soliciting.
- B. A permit shall not be denied unless the applicant fails to furnish the information required by § 111-13 of this article.

**§ 111-15 TERM OF PERMIT**

Any permit issued hereunder shall be valid for a period of 60(sixty) days from the date of its issuance. The dates of issuance and expiration of the license as well as the purpose for which it has been issued shall be set forth on the face thereof.

**§ 111-16 REVOCATION OF PERMIT.**

No permit, once duly issued hereunder, shall be revoked, except upon one or more of the following grounds:

- A. The use of the permit by a person other than the person to whom such permit is issued.
- B. The conviction of the permit holder of any crime or offense committed in the Town of Carmel during the permit period.
- C. Failure to obey any of the listed requirements of this article.

**§111-17 FEES.**

The application fee for such a permit shall be in accordance with the Standard Schedule of User Fees of the Town of Carmel.

**§ 111-18 CONSTRUAL OF PERMIT ISSUANCE.**

No canvasser or solicitor shall represent that the granting of a permit hereunder signifies an endorsement of the methods, goals or precepts of the organization by the Town of Carmel.

**§ 111-19 PROHIBITED ACTIONS.**

Should an owner, tenant or manager of private property display a sign prohibiting canvassing or soliciting, the permit granted hereunder shall not authorize the permittee to enter upon such property. Further, no permittee should engage in any unconsented touching of another person or interfere with the pedestrian or vehicular traffic flow while conducting his solicitation. Disregard of such prohibitions shall result in revocation of the permit.

**§ 111-20 EXEMPTIONS**

- A. Certain persons exempt. A child 18 years or under, enrolled in any public, parochial or private school and living within the Town of Carmel, is exempt from the provisions of this article.
  
- B. Political activities exempt. Political activities are exempt from the provisions of this article.

**§ 111-21 PENALTIES FOR OFFENSES**

Anyone canvassing or soliciting without a permit shall be guilty of a violation of this article punishable by a fine not to exceed \$250 or a jail term not to exceed 15 days, or by both fine and imprisonment.

**SECTION 4 – HOME RULE**

Nothing in this Local Law is intended, or shall be construed (a) to limit the home rule authority of the Town under State Law to limit the Town’s discretion in setting fees and charges in connection with any applications requiring Town approval.

**SECTION 5 – SEVERABILITY**

If any part or provision of this Local Law or the application thereof to any person or circumstance be adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the part or provision or application directly involved in the controversy in which judgment shall have been rendered and shall not affect or impair the validity of the remainder of this Local Law or the application thereof to other persons or circumstances, and the Town Board of the Town of Carmel hereby declares that it would have passed this Local Law or the remainder thereof had such invalid application or invalid provision been apparent.

**SECTION 6 – EFFECTIVE DATE**

This Local Law shall take effect immediately upon filing in the office of the Secretary of State in accordance with Section 27 of the Municipal Home Rule Law.

At said Public Hearing, all interested persons shall be heard on the subject thereof. The Town Board will make every effort to assure that the Public Hearing is accessible to persons with disabilities. Anyone requiring special assistance and/or reasonable accommodations should contact the Town Clerk.

By Order of the Town Board  
of the Town of Carmel  
Alice Daly, Town Clerk