

A RESOLUTION ESTABLISHING TRANSIENT VENDOR REGISTRATIONS, REGULATIONS AND A DO NOT KNOCK REGISTRY AND RELATED PROCEDURES AND PENALTIES WITHIN PERRY TOWNSHIP, STARK COUNTY, OHIO

The Board of Trustees of Perry Township, Stark County, Ohio met in regular session on the 15th day of DECEMBER, 2020, with the following members present:

Ralph DeChiara

Doug Haines

Michael Shreffler

Trustee DE Chiara moved the adoption of the following resolution:

WHEREAS, ORC 504.04(A) and ORC 505.94 authorize a Township Board of Trustees to exercise powers of local self-government and to adopt and enforce within the Township local police, sanitary, and other similar regulations; and

WHEREAS, ORC 505.94 specifically authorizes a Township Board of Trustees to register, regulate and prohibit door to door solicitation by transient vendors; and

NOW, THEREFORE, BE IT HEREBY RESOLVED, by the Perry Township Board of Trustees, Stark County, Ohio, pursuant to Chapter 504 of the Ohio Revised Code, and within the authority of Limited-Self Government, and pursuant to RC 505.94, that that this Board does hereby adopt the following regulation of the transient vendors within Perry Township and the implements corresponding fines for violation thereof to take effect and to be enforced from and after the earliest period allowed by law.

WHEREAS, these regulations place reasonable restrictions upon persons and organizations visiting private residential properties for the purpose of peddling or soliciting goods, wares, merchandise, periodicals or services; and

WHEREAS, the Board has a substantial interest in regulating transient vendors and also in allowing individuals to determine their level of comfort with privacy and whether or not they want to receive solicitation for goods, wares, merchandise, periodicals or services; and

WHEREAS, the Board desires to regulate transient vendors and to maintain a list of residents within the unincorporated area of the Township who desire not to be visited by any transient vendor; and

WHEREAS, it is the intent of this Resolution to organize both the transient vendor regulations and the Do Not Knock Registry regulations into one limited home rule Resolution; and

WHEREAS, it is the opinion of the Board that such regulations are immediately needed to protect the health, safety and welfare of the residents of the Township.

NOW, THEREFORE, BE IT RESOLVED THAT THE TOWNSHIP SHALL HEREBY ESTABLISH TRANSIENT VENDOR REGULATIONS AND A DO NOT KNOCK REGISTRY AND RELATED PROCEDURES AND PENALTIES.

TRANSIENT VENDOR REGISTRATIONS, REGULATIONS AND A DO NOT KNOCK REGISTRY AND RELATED PROCEDURES AND PENALTIES WITHIN PERRY TOWNSHIP, STARK COUNTY, OHIO

SECTION 1. DEFINITIONS

“Charitable” means the purpose of an organization that is determined as tax exempt under Title 26 U.S.C. Section 501(C)(3), or other related code section; or, for the purpose of a school club recognized and affiliated with a public or private school situated within any school district within Perry Township, Stark County.

“Commercial” means the purpose of solicitation that is not charitable, and as further referred to in this Resolution.

“Corporation: means any legal entity that has a legal status separate and distinct from an individual. For purposes of this Resolution “corporation” includes firm, partnership, joint venture, association, social club, league, fraternal organization, joint stock company, estate, trust, business trust, receiver, trustee, syndicate or any other group action as a unit, including corporation and limited liability company, and any recognized entity not an individual person.

“Goods” means goods, wares, services, merchandise, periodicals and other articles or publications. (ORC 50594 (B)(1).

“Noncommercial” means the purpose of solicitation that is charitable, religious or political.

“Person” means any individual, firm, partnership, joint venture, association, social club, league, fraternal organization, joint stock company, estate, trust, business trust, receiver, trustee, syndicate or any other group action as a unit, including corporation and limited liability company.

“Solicitation” means the act of any person, resident or non-resident, going from house to house, business to business, place to place, in or along any street, road or sidewalk requesting, either directly or indirectly, money, credit, funds, contributions, personal property, or anything of value; or, taking or attempting to take orders for the sale of any goods of any kind, or description for future delivery or for services to be performed in the future, either in person or by distributing flyers and leaflets; and, services of any kind or description, commonly understood as and referred to as “peddling”.

Solicitation does not include a person communicating or otherwise promulgating an idea, view or belief or disseminating oral or written information to a person directly receptive such information, so long as the information is of a political, charitable, social or religious nature and is not commercial or for goods; conducting a poll, surveyor petition drive in regard to any noncommercial matter; or delivery of subscribed goods (U.S. Mail, newspaper or periodical, or similar delivery).

“Solicitor” means any person engaged in the act of solicitation.

“Vehicle” means the same as ORC 4501.01.

“Transient vendor” means any person who opens a temporary place of business for the sale of goods or who solicits goods for future delivery or attempt to arrange an appoint for a future estimate or sales call.

SECTION 2. TRANSIENT VENDOR REGISTRATION AND REGULATIONS.

- A. These provisions shall apply to permits for transient vendors and any person engaged in commercial solicitation:
 - 1. A person soliciting on behalf of, or engaged to solicit by another person, must have a valid solicitation permit under this Resolution
 - 2. A person operating a temporary place of business outside of a building or traveling within the township engages in solicitation must have a valid solicitation permit under this Resolution.
- B. Any person engaging in solicitation shall comply with the following:
 - 1. Carry and display a photo identification and a copy of a valid permit issued pursuant to this Resolution and written authorization to act on behalf of the third-party supplier of any good.
 - 2. Immediately present a transient vendor-solicitation permit, identification and authorization to act on behalf of any third party, if applicable, to any person approached for said solicitation and to any law enforcement official or township official upon request.
 - 3. The permit shall contain the name, permanent residential address of the transient vendor-solicitor, and a brief description of the solicitor.
 - 4. The permit is not assignable.
 - 5. The permit and authorization to act for any third-party is not transferable.
- C. Any “Transient Vendors” who does business within Perry Township, Stark County, Ohio shall register with the Township, at the Perry Township Police Department, 622 Genoa Avenue SW, Massillon, Ohio 44646, between the hours of 8:00 a.m. and 4:00 p.m., Monday through Friday, except holidays.
- D. As used in this Resolution, “Transient Vendor” means any person who opens a temporary place of business for the sale of goods or who, on the streets or while traveling about the Township, either sells or offers for sale goods, or solicits orders for future delivery of goods or attempts to arrange an appointment for a future estimate or sales call. “Transient Vendor” does not include any person who represents any entity exempted from taxation under Section 5709.04 of the Revised Code or licensed under Ohio Revised Code Chapter 4707. As used in this Resolution, “goods” means goods, wares, services, merchandise, periodicals, and other articles or publications.

Application, qualification and fees:

Application:

- E. An application for a transient vendor permit shall be made to and upon a form prescribed by the Perry Township Chief of Police or his designate, and shall contain the following information
1. Name, permanent residential address of the applicant, brief description of the applicant, a copy of a valid Ohio or other state issued identification and any other information deemed necessary to process the application and background check.
 2. Disclosure of any criminal conviction, infraction or misdemeanor conviction or pending matter; including pending matters.
 3. A statement that the applicant is not currently under investigation or charged with any criminal offense.
 4. Requests for time and places of solicitation within the Township.
 5. The applicant shall truly set forth all information as required on the application or upon reasonable further inquiry by the Police Chief or designate.
 6. The application shall be submitted under oath and penalty of perjury not less than thirty (30) days prior to the time requested to commence solicitation.
 7. The applicant shall timely submit any change or modification to the information supplied on the application to the Chief of Police or designate.
 8. The application shall be accompanied by a nonrefundable permit fee of One Hundred Fifty Dollars (\$150.00) payable in cash, money order or certified bank draft. The money order or certified bank draft shall be payable to the "Perry Township Fiscal Officer". (RC 505.94).
- F. Each person who sells, offers for sale, or solicits orders for goods shall be required to submit to a background check by the Perry Township Police Department. No Transient Vendor applicant shall receive a Transient Vendor Permit, prior to the completion of the Police Department's background check.
1. The background check shall include the Stark County Criminal Justice Information Systems (CJIS) of any prospective transient vendor or solicitor, including each person acting on behalf of an employer or other person.
 2. A criminal history record shall be initiated by the Chief of Police or his designate, with the consent of the applicant, however no permit shall be approved prior to the completion of both the CJIS background check and the criminal history record check. Any person who refuses to consent to or cooperate in securing a criminal history record check shall not be eligible for a transient vendor permit.
 3. An applicant having a prior conviction for any criminal offense, including, but not limited to: violent crimes, sexual assault, possession of controlled substances, theft, fraud or burglary shall not be issued a transient vendor permit.

4. The Chief of Police or designate shall promptly notify, by email or ordinary U.S. mail, an applicant whose permit is denied for an issue identified in a background check or criminal history record check.
 5. An applicant shall have thirty (30) calendar days from the date of the notice to seek a reconsideration from the Chief of Police or his designate and to cite reasons substantiating the request for reconsideration.
 6. Upon clear and convincing evidence of rehabilitation the Chief of Police or his designate may issue a permit providing all other regulations are met.
- G. The Perry Township Police Department shall maintain a registration log where all Transient Vendors shall register. All Transient Vendors shall register with the Perry Township Police Department and obtain a Transient Vendor permit prior to coming into the Township to sell, offer for sale, or solicit orders for their goods. All Transient Vendors must complete a Transient Vendor application in order to register and obtain a Transient Vendor permit. No Transient Vendor shall enter the Township until registered and a permit is issued. Incomplete Transient Vendor applications will not be accepted.
 - H. The application for Transient Vendor registration and permit can be made between the hours of 8:00 a.m. and 4:00 p.m., Monday through Friday, at the Perry Township Police Department, 622 Genoa Avenue SW, Massillon, Ohio 44646,
 - I. Transient Vendors, not working at a fixed location, shall be permitted to sell, offer for sale, or solicit orders, door-to-door, or location-to-location as follows:
 1. Before 9:00 a.m. or after 9:00 p.m. when daylight savings time is in effect nor after 8:00 p.m. during the remainder of the year.
 2. No door to door or location to location solicitation shall conducted on Sunday or on any legal holiday.
 - J. Transient Vendors shall make a payment of \$150.00 made payable to Perry Township Fiscal Officer for the registration fee at the time an application is made for registration and permit at the Perry Township Police Department. All payments shall be in cash, money order or certified bank draft in the exact amount of \$150.00. If an application is denied the Fiscal Officer shall refund the registration fee made by a Transient Vendor.
 - K. Each individual person who sells, offers for sale, or solicits orders for goods shall be required to submit an application for registration and permit according to this Resolution even though they may be one or more of several Transient Vendors who sell, offers to sell, or solicits orders for goods for the same group, company, or other business entity or entities, or firms. Each separate Transient Vendor shall be required to separately and individually pay the \$150.00 registration fee provided in (F) above, even though he/she is one of several persons who sell, offer for sale, or solicits orders for goods for the same group, company, or other business entity or entities, or firms.
 - L. The Transient Vendor registration and permit shall be valid for ninety (90) consecutive days and shall commence on the issuance of the permit.

- M. All companies, corporations, businesses, business entities or firms shall provide to their Transient Vendors a written statement signed by a duly authorized representative of the company, corporation, business or firm, that the Transient Vendor is in fact authorized to sell, offer for sale, or solicit orders for its goods within the Township for the company, corporation, business or firm, or under its authority or agency. An original of this written statement shall be provided to the Perry Township Police Department at the time of application for the Transient Vendor registration and permit.
- N. Any Transient Vendor, company, corporation, business or firm submitting or supplying false, misleading or untrue information on or in connection with any Transient Vendor application, registration or permit shall be subject to penalties as provided in Section 3 of this Resolution.
- O. All individuals or organizations conducting business as a Transient Vendor and working at a fixed location to sell, offer for sale, or solicit orders for future delivery of goods where payment is required prior to delivery of the goods, and/or who establish a temporary place of business within the Township shall, in addition to the other requirements mandated herein:
1. not establish temporary place of business in an area that is zoned for a use other than retail business;
 2. where applicable, not violate any Township Police Regulations in regard to temporary uses or signage;
 3. shall, after meeting all requirements set forth in this Resolution, receive a permit that is valid for a maximum of ninety (90) consecutive days, with one renewal for each twelve (12) month period;
 4. provide documentation that they have received the property owners' permission to establish a fixed temporary place of business at the subject location, provided that no property owner shall give permission for more than one (1) sale on a single property at any given time; and
 5. not sell, offer for sale, or solicit orders for future delivery of goods from the temporary place of business between 9:00 a.m. and 7:00 p.m.

Permit denial or cancellation

- P. Any applicant who is denied a permit or who is alleged to have violated any of the terms, conditions, or requirements of this Resolution and gives the Township reasonable grounds to cancel the permit shall be subject to the penalties as provided in Section 4 of this Resolution.
- Q. The Perry Township Board of Trustees, or the Perry Township Police Chief or designate, shall have the authority to take actions to terminate, revoke and/or cancel registrations and permits, and/or initiate the penalties as provided in Section 4 of this Resolution.
- R. No Transient Vendor shall together with, or in combination with, twelve (12) or more persons who are Transient Vendors, operate within the Township at any one time, whereby they are all selling, offering for sale, or soliciting the same goods.

- S. Where applicable, no Transient Vendor shall open a temporary place of business that is in violation of or diverges from the Township Resolution.
- T. The Perry Township Police Chief shall establish the administrative mechanism to implement this Resolution, including but not limited to, briefing Township employees, establishing a registration log and preparing an application for registration and permit.
- U. Informational brochures, pamphlets, fliers or any other written materials distributed by a Transient Vendor shall not be placed and/or left on the ground, including but not limited to, any driveway, yard, lawn, curb or sidewalk, of any property located in the Township, including any individual parcel and/or lot. Placement of any informational brochures, pamphlets, fliers or other written materials upon the front porch or stoop of a dwelling, building or structure is permitted. Transient Vendors are also specifically prohibited from placing or affixing any informational brochures, pamphlets, fliers or any other written materials on or in the actual mailbox.
- V. Transient Vendors shall not sell, offer for sale, or solicit orders for goods where the owners and/or occupants of a dwelling, building, or other structure has posted a notice by means of a sign that its owners and/or occupants do not want Transient Vendors to enter upon the property, and such sign is reasonably calculated by its size and placement to notify the Transient Vendor of this fact. By way of example and not limitation, a sign stating "NO SALESMEN" or "NO SOLICITATIONS" posted in a conspicuous place near the primary entrance to the dwelling, building or structure shall be sufficient to notify Transient Vendors of the owner's and/or occupant's intent.

SECTION 3. DO NOT KNOCK REGISTRY.

- A. The Township shall hereby establish and maintain a list of residential addresses within the Township who have expressed a desire not to be visited by any Transient Vendor for a commercial purpose. This list shall be known as the Transient Vendor Do Not Knock Registry.
- B. Upon the issuance of any permit required by this Resolution, a Transient Vendor shall be provided with a copy of the list of Township residential addresses that have expressed a desire in writing not to have any such Transient Vendor enter upon their property. Every Transient Vendor shall agree not to visit the premises so enumerated on the list provided to it by the Department.
- C. Any person in lawful possession and occupancy of any residence, house, apartment or other dwelling in the Township may request the Township to place and maintain his or her residence, house, apartment or other dwelling on the Transient Vendor Do Not Knock Registry by submitting a separate request for each registry on form(s) supplied by the Township, each of which shall contain the following information:
 - 1. The name of the person completing the form(s);
 - 2. The complete address of the residence, house, apartment or other dwelling to be placed on the registry;
 - 3. The date the form was completed;

4. A statement that No Transient Vendor shall knock, ring the doorbell or otherwise call at this address, or words of similar import, on the applicable form; and
 5. Such other information that verifies the identity of the person completing the form(s) as a lawful possessor and occupant as may be required by the Township.
- D. Any person in lawful possession and occupancy of any residence, house, apartment, or other dwelling in the Township may request the Township to remove his or her residence, house, apartment or other dwelling from the Transient Vendor Do Not Knock Registry by submitting a separate Notice of Removal from said registries on form(s) supplied by the Township, each of which shall contain the following information:
1. The name of the person completing the form(s);
 2. The complete address of the residence, house, apartment or other dwelling to be removed from each registry;
 3. The date the form was completed;
 4. A statement that the residence, home, apartment or other dwelling be removed from the Transient Vendor Do Not Knock Registry, or words of similar import, on the applicable form; and
 5. Such other information that verifies the identity of the person completing the form(s) as a lawful possessor and occupant as may be required by the Township.
- E. The Transient Vendor Do Not Knock Registry is voluntary. The decision whether to place a residence, house, apartment or other dwelling on the Transient Vendor Do Not Knock Registry, shall be solely that of the lawful possessor and occupant thereof, and no official, employee or other agent of the Township shall interfere with said decision.
- F. A residence, house, apartment or other dwelling, after being lawfully placed on the Transient Vendor Do Not Knock Registry shall remain on such Registry until the earliest of any of the following:
1. The Township receives a Notice of Removal pursuant to subsection (D) above;
 2. The Township receives notice that the person who submitted the form pursuant to subsection (C) above is not or is no longer a lawful possessor or occupant of the premises; or
- G. A copy of the Transient Vendor Do Not Knock Registry shall be made available for public inspection at all times on the internet website of Perry Township and during normal business hours of the Perry Township Police Department office.
- H. No Transient Vendor, while peddling or soliciting, shall enter upon the premises of, call upon, knock at the door of, or ring the doorbell of any residence, house, apartment or other dwelling in the Township which is at that time on the "Do Not Knock Registry" established and maintained pursuant to this Resolution ***OR*** upon which there is clearly posted at the entrance a notice that reads "No Peddlers or Solicitors Allowed," or words of similar import, which clearly prohibit Peddlers and Solicitors (i.e. Transient Vendors) on the premises unless such

person has previously been invited upon the premises by the lawful possessor and occupant thereof.

SECTION 4. PENALTIES.

- A. Whosoever violates Ohio Revised Code Section 505.94 or any of the regulations set forth herein, for the first offense is guilty of a misdemeanor punishable by a fine up to one hundred dollars (\$100.00), for the second and subsequent offense's is guilty of a misdemeanor punishable by a fine up to two (\$200.00).
- B. Each violation of a provision of this Resolution shall be considered a separate offense and punishable in accordance with the fine schedules set forth above. Citations may contain multiple violations. By way of illustration and not limitation, a Transient Vendor who, without any prior violations of this Resolution, knocks on a residence that is at that time on the "Do Not Knock Registry," before 9:00 a.m. or after 9:00 p.m. when daylight savings time is in effect nor after 8:00 p.m. during the remainder of the year. before 9:00 a.m. or on a Sunday or other legal holiday, shall be in violation of the provisions of this Resolution and subject to a \$100.00 fine for each of the three violations (sections 2(H), 1(E)(2), and 1(E)(2)), for a total fine of \$300.00.
- C. If a citation is warranted under this Section 3, the peace officer serving the Township pursuant to Section 504.16 of the Ohio Revised Code shall issue such citation to any person violating this Resolution. The issuance of a citation shall not prohibit the issuance of additional citations, in the event such violation is continued or repeated. The citation shall be the limited home rule citation previously adopted by the Township.
- D. Any Transient Vendor found to be in violation of this Resolution shall have their permit revoked and/or be prohibited from applying for and obtaining a permit for a period of one (1) year.
- E. If a citation is issued, the Transient Vendor shall immediately forfeit the Transient Vendor Permit Badge, (which was issued by the Perry Township Police Department, and the Officer issuing the citation shall then advise the Transient Vendor that they will cease the sale of goods, soliciting orders for future delivery of goods or attempts to arrange an appointment for a future estimate or sales, and advise them to report to the Perry Township Police Department, to ascertain whether they will be permitted to continue either selling or offering for sale goods, or soliciting orders for future delivery of goods or attempting to arrange an appointment for a future estimate or sales call. The sheriff's deputy will then drop the Transient Vendor Permit Badge off at the Perry Township Police Office.
- F. Nothing herein shall be construed to impair any common law or statutory cause of actions, including criminal trespass, or legal remedies available under Ohio Revised Code Chapter 504 therefrom, of any person or the Township, for any injury or damage arising from other law.

SECTION 5. APPEAL.

- A. Any applicant denied a permit, or whose permit has been canceled, by the Chief of Police or his designate, for any reason may file an appeal to the Perry Township Board of Trustees.

B. The appeal shall be in writing and filed within twenty (20) days of the Notice of denial or cancellation and shall state the basis of the appeal and reasons supporting the application and why the applicant believes the permit should be granted or reinstated.

C. The Perry Township Board of Trustees shall set the appeal for a public hearing at the next regularly scheduled meeting of the Board.

D. The final determination of the appeal shall be served in writing to the applicant and the Board of Trustee's final determination is subject to the appeal procedure set forth in Ohio Revised Code Chapter 2506.

SECTION 6. MISCELLANEOUS.

A. All fees, fines and civil penalties under this Resolution shall be placed in the Perry Township Police Department Drug Alcohol Resistance Education (D.A.R.E.) account, line item 14-D-08.

B. This Resolution does not apply to any person invited by an owner and/or occupant to visit the owner's and/or occupant's premises to sell, offer for sale, or solicit orders for future delivery of goods.

C. Should any one or more parts of this Resolution be adjudged unconstitutional or otherwise unenforceable by any Court or other body or person empowered to do so, this adjudication shall not invalidate those other parts or Section herein.

D. All prior Resolutions, statutory or limited home rule, concerning the registration and regulation of transient vendors and the establishment of a Do Not Knock Registry are hereby repealed.

WHEREAS, the Perry Township Fiscal Officer is hereby authorized and directed to send a certified copy of this Resolution to the Stark County Prosecuting Attorney as required by RC 505.94 (A); and,

BE IT FURTHER RESOLVED, that it is found and determined that all formal actions of this Board concerning and relating to the adoption of this Resolution were conducted in an open meeting of this Board, and that all deliberations of this Board that resulted in such formal actions, were in meetings open to the public, in compliance with all legal requirements including section 121.22 of the Ohio Revised Code.

Trustee Haines seconded the motion and upon a roll call the vote resulted as follows:

Mr. DeChiara	<u>Yes</u>
Mr. Haines	<u>Yes</u>
Mr. Shreffler	<u>Yes</u>

First Reading: 12-1-20

Second Reading: 12-15-20

Adopted: 12-15-20

CERTIFICATE OF CLERK

STATE OF OHIO

SS:

COUNTY OF STARK

I, Craig E. Chessler, Fiscal Officer and Clerk of the Board of Trustees of Perry Township, Stark County, Ohio, in whose custody and control the files and records of said Board are required by the laws of the State of Ohio to be kept, do hereby certify that the foregoing is taken and copied from the original Resolution now on file, and that the foregoing has been compared by me with said original Resolution, and that the same is a true and correct copy thereof.

WITNESS my signature this 16th day of December, 2020.



Craig E. Chessler, Fiscal Officer and Clerk of the
Board of Trustees of Perry Township,
Stark County, Ohio

Approved as to form and legal sufficiency by Charles D. Hall III, Law Director, Perry Township Board of Trustees, Stark County, Ohio.



Charles D. Hall III