

Charter Township of Orion

Ordinance No. 95

Peddlers & Solicitors Regulation

Adopted February 4, 1991

AMENDED

August 15, 1994

July 7, 1997

January 21, 2003

November 21, 2011

AN ORDINANCE TO LICENSE, REGULATE, AND CONTROL PEDDLERS AND SOLICITORS AND TO PROVIDE PENALTIES FOR THE VIOLATION THEREOF.**Section 1 - Title**

This Ordinance shall be known and cited as the "Peddlers and Solicitors Regulation Ordinance" and it shall be deemed sufficient, in any action for the enforcement of the provisions hereof, to define the same by such short title and/or by reference to the number hereof.

Section 2 - Purpose

The purpose of this Ordinance shall be:

- A. To further secure and protect the general welfare and safety of the citizens and other persons within the Township of Orion.
- B. To require solicitors and peddlers to obtain a license to solicit and/or peddle within the Township of Orion.
- C. To establish an application process for the issuance of a peddler's or solicitor's license and the fee to be paid therefore.
- D. To set forth the information that must be supplied to the Township before a peddler's or solicitor's license may be granted.
- E. To set forth the exemptions from this Ordinance which may be granted in the Township Board's discretion.
- F. To provide for penalties upon the violation of the provisions of this Ordinance.

Section 3 - Definitions

- A. **Peddler** - the word "peddler" in this Ordinance shall include any person traveling by foot, wagon, automobile, or other conveyance, from place to place, from house to house, street to street, or remaining stationary on public property, carrying, conveying, or transporting goods, wares, merchandise, meats, fish, vegetables, fruits, ice cream, flyers or other reading material, offering or exposing the same for sale, gift, or information. The word "peddler" shall include the words "hawker" and "huckster". (*amended 07.07.97, 11.21.11*)
- B. **Solicitor** - the word "solicitor", as used in this Ordinance, shall include any person traveling by foot, wagon, automobile or other conveyance, from place to place, house to house, street to street, or remaining stationary in any place, taking or attempting to take orders for the sale or gift of goods, wares, merchandise, meats, fish, vegetables, fruits, flyers or other reading material, for future delivery or for services to be furnished or performed in the future, or requesting money donations. The words "solicitor" shall include the word "canvasser".
- C. **Person** - the word "person", as used in this Ordinance, shall include a business, firm, corporation, partnership or other organization or entity.
- D. **Local Tax Exempt Entity** – the words “local tax exempt entity”, as used in this Ordinance, is considered an entity which has tax exempt status, has its primary address within Orion Township or a majority of its membership is within Orion Township and whose primary purpose is to benefit charitable or other community initiatives within Orion Township. (*added 11.21.11*)

Section 4 - License Application Process

- A. No person shall peddle or solicit within the Township without first obtaining a license therefore. An application for such license shall be made to the Township Clerk. In the event an application is made by an organization, business, firm, corporation, partnership or other entity, an application must be made for each agent or employee who will be engaging in active soliciting or peddling.
- B. (*amended 07.07.97*) The application shall be made on a form supplied by the Township Clerk and the applicant shall supply all information listed on the application before the application will be processed. Information, which shall be supplied by the applicant, shall include the following:

1. Proof that all vehicles used in the business operations of the applicant are properly insured. Such proof shall specify the name of the applicant's insurance company and the amount of the personal liability and property damage carried by the applicant.
 2. Results of a background check from the Oakland County Sheriff's Department. It is the responsibility of the applicant to request a background check from the Oakland County Sheriff's Department and provide such result to the Township Clerk along with the application for license under this Ordinance.
 3. If the business operation involves food products, the applicant must provide copies of all required health department inspections. *(added 11.21.11)*
 4. The application must include requested period of operation. The period of operation shall not exceed ninety (90) calendar days. *(added 11.21.11)*
- C. The application shall be made on a form supplied by the Township Clerk and the applicant must supply all information requested on the application before the application will be processed.

Section 5 - License

- A. Upon verification of the information contained in the application for a license under this Ordinance by the Oakland County Sheriff's Department, the Clerk shall submit the application and all information submitted by the applicant to the Township Board along with the Clerk's recommendation of approval or denial of the license. If the Township Board approves the license, the Clerk shall issue a license to the applicant. If the Township Board denies the application for license, the Clerk shall notify the applicant of the reasons for such denial. *(amended 07.07.97)*
- B. Any license issued by the Township Clerk under this Ordinance shall display a photograph of the applicant being at least 2 inches by 2 inches and shall show the head and shoulders of the applicant in a clear and distinguishing manner. The applicant shall provide two such photographs before a license will be issued. *(amended 07.07.97)*

Section 6 - License Fee *(amended 01.21.03, 11.21.11)*

- A. The application submitted pursuant to this Ordinance shall be accompanied by a non-refundable license application fee of thirty-five dollars (\$35.00).
- B. A local tax exempt entity may request a waiver of the license application fee to the Township Board as part of the submitted application. If the Township Board does not approve the fee waiver, the Clerk shall not issue an approved license to the applicant until the license application fee is paid.

Section 7 - Prohibitions

The following acts or activities shall be prohibited:

- A. No peddler or solicitor shall stop or remain in any one place upon any street, alley or public place.
- B. No peddler or solicitor shall obstruct any street, alley, sidewalk, driveway or other public place.
- C. No peddler or solicitor shall stop or remain in any one place upon private property. *(added 11.21.11)*
- D. No peddler or solicitor shall operate or maintain any stand, vehicle, store, or place of solicitation or peddling on or near any highway.
- E. No peddler or solicitor shall enter upon and/or call upon the place of residence or business within Orion Township after having been expressly notified by the occupant or place of residence or business that no solicitation is desired.

- F. No peddler or solicitor shall threaten or annoy any resident of the Township in the course of their solicitation or peddling or in any way engage in conduct which is or would tend to create a nuisance.
- G. No peddler or solicitor shall engage in peddling or soliciting without carrying the license issued under the terms of this Ordinance.
- H. No peddler or solicitor shall conduct any business within any Township Park or upon any property owned or controlled by the Township, without specific approval of the Township Board, separate from this license. *(amended 07.07.97)*

Section 8 - Hours of Operation

Peddling or soliciting may take place within the Township of Orion between the hours of 11:00 a.m. in the forenoon and one-half (1/2) hour before sunset in the evening. *(amended 07.07.97)*

Section 8.1 - Suspension and Revocation *(amended 07.07.97)*

In addition to the penalties which may be imposed under Section 10 of this Ordinance, a license issued pursuant to the provisions of this Ordinance may be revoked or suspended by the Township Board after notice and hearing for any of the following reasons:

- A. Any fraud, misrepresentation, or false statement made in connection with the selling of goods, wares, or merchandise.
- B. Any fraud, misrepresentation, or false statement contained in the application for license.
- C. Any violation of this Ordinance.
- D. Any conviction of licensee of any felony or any misdemeanor involving theft or dishonesty.
- E. Conducting any business operations in an unlawful manner, or in such a manner as to constitute a breach of the peace or constitute a menace to health, safety, or welfare of the public.

Section 9 - Exempted Persons

- A. Persons engaged in the occupation of selling or distributing newspapers within the Township shall be exempt from the licensing requirements of this Ordinance, but shall be subject to the other provisions herein.
- B. Persons engaged in soliciting or peddling in the neighborhood of their residence under the direct supervision of any school or recognized non-profit organization may be exempt from one or more of the provisions of this Ordinance upon application to the Township Board.
- C. Persons engaged in canvassing, distributing printed material, or obtaining signatures for political candidates, ballot issues, or other political issues shall be exempt from the licensing requirements of this Ordinance, but shall be subject to the other provisions herein.
- D. Exemptions under this subsection may be granted by the Board at its sole discretion and under any conditions that the Board may proscribe.

Section 10 - Violation and Penalties

- A. Municipal Civil Infraction / Payment of Fine.

Any person, firm, or corporation violating a provision of this Ordinance, upon an admission or a finding of responsibility for such violation, shall be deemed responsible for a municipal civil infraction as that term is defined and used in MCL 600.101, *et seq.*; MSA 27A.101, *et seq.*, as amended, and shall pay a civil fine as prescribed by ordinance or as determined by the district court, district court judge, or district court magistrate.

- B. Costs.

A person, firm, or corporation ordered to pay a fine under Subsection A shall be ordered by the district court judge or magistrate to pay costs of not less than Nine Dollars (\$9) or more than Five Hundred Dollars (\$500), which costs may include all expenses, direct or indirect, to which the Township of Orion has been put in connection with the violation of the Ordinance up to the entry of the court's judgment or order to pay fines and costs.

C. Additional Writs and Orders.

A person who admits or is found responsible for violation of this Ordinance shall comply with any order, writ, or judgment issued by the district court to enforce this Ordinance pursuant to Chapter 83 and Chapter 87, of the Revised Judicature Act, MCL 600.101, *et seq.*; MSA 27A.101, *et seq.*, as amended.

D. Default on Payment of Fines and Costs.

A default in payment of a civil fine, costs, or damages, or expenses ordered under Subsection A or B or an installment of the fine, costs, or damages or expenses as allowed by the court, may be collected by the Township of Orion by a means authorized for the enforcement of a judgment under Chapters 40 or 60 of the Revised Judicature Act, MCL 600.101, *et seq.*; MSA 27A.101, *et seq.*, as amended.

E. Failure to Comply with Judgment or Order.

If a defendant fails to comply with an order or judgement issued pursuant to this section within the time prescribed by the court, the court may proceed under Subsection G.

F. Failure to Appear in Court.

A defendant who fails to answer a citation or notice to appear in court for a violation of this Ordinance is guilty of a misdemeanor, punishable by a fine of not more than Five Hundred Dollars (\$500) plus costs and/or imprisonment not to exceed ninety (90) days.

G. Civil Contempt.

1. If a defendant defaults in the payment of a civil fine, costs, or other damages or expenses, or installment as ordered by the district court, upon motion of the Township of Orion or upon its own motion, the court may require the defendant to show cause why the defendant should not be held in civil contempt and may issue a summons, order to show cause, or bench warrant of arrest for the defendant's appearance.
2. If a corporation or an association is ordered to pay a civil fine, costs, or damages or expenses, the individuals authorized to make disbursements shall pay the fine, costs, or damages or expenses, and their failure to do so shall be civil contempt unless they make the showing required in this subsection.
3. Unless the defendant shows that the default was not attributable to an intentional refusal to obey the order of the court or to a failure on his or her part to make a good faith effort to obtain the funds required for payment, the court shall find that the default constitutes a civil contempt and may order the defendant committed until all or a specified part of the amount due is paid.
4. If it appears that the default in the payment of a fine, costs, or damages or expenses does not constitute civil contempt, the court may enter an order allowing the defendant additional time for payment, reducing the amount of payment or of each installment or revoking the fine, costs, or damages or expenses.
5. The term of imprisonment on civil contempt for nonpayment of a civil fine, costs, or damages or expenses shall be specified in the order of commitment and shall not exceed one (1) day for each Thirty Dollars (\$30) due. A person committed for nonpayment of a civil fine, costs, or damages or expenses shall be given credit toward payment for each day of imprisonment and each day of detention in default of recognizance before judgment at the rate of Thirty Dollars (\$30) per day.
6. A defendant committed to imprisonment for civil contempt for nonpayment of a civil fine, costs, or damages or expenses shall not be discharged from custody until one of the following occurs:

- a. Defendant is credited with an amount due pursuant to Subsection G(5).
- b. The amount due is collected through execution of process or otherwise.
- c. The amount due is satisfied pursuant to a combination of Subdivisions G(6)(a) and (b).

7. The civil contempt shall be purged upon discharge of the defendant pursuant to Subsection G(6).

H. Suspension / Revocation of License.

A Peddlers and Solicitors License of any person or persons soliciting or peddling in violation of this Ordinance may be suspended or revoked by the Township Board after reasonable notice and opportunity to be heard.

1. The Township Board may suspend any license on an emergency basis without hearing when the Township Board specifies, in a notice of emergency suspension, the reasons and grounds indicating the violation of this Ordinance which constitutes the emergency.
2. The notice of emergency suspension shall set forth that within forty-eight (48) hours, at a designated time and place, a hearing shall be held on whether the license shall be permanently suspended or revoked.
3. The peddler or solicitor may show compliance with the requirements of this Ordinance and shall have the burden of producing the evidence.

Section 11 - Severability *(amended 11.21.11)*

The various parts, sections and clauses of this Ordinance are declared to be severable. If any part, sentence, paragraph, section or clause is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of the Ordinance shall not be affected.

Section 12 - Effective Date *(amended 11.21.11)*

This Ordinance shall be published in full in a newspaper of general circulation in the Charter Township of Orion, qualified under State law to publish legal notices, and shall become effective upon publication, as provided by law.