

**ONEIDA CHARTER TOWNSHIP
SOLICITATION ORDINANCE**

ORDINANCE NO. 2016-05-01

At a meeting of the Township Board of Oneida Charter Township, Eaton County, Michigan, held at the Oneida Charter Township Hall on July 12, 2016, at 7:30 p.m., Board Member Jan Schultz moved to adopt the following Ordinance which motion was seconded by Board Member Tom Campbell:

An Ordinance to protect the welfare and safety of Township citizens by requiring certain solicitors to provide relevant data and to obtain a license for such activities; to define terms and provide exceptions; to set forth and identify information to be supplied when applying for licensure; to require display of such licenses and to define prohibitive conduct and hours of operation; to provide for the enforcement of the Ordinance and suspension and revocation of a license issued hereunder; to provide for appeals, indemnification, and penalties; and to provide an effective date hereof.

THE CHARTER TOWNSHIP OF ONEIDA ORDAINS:

SECTION 1. TITLE. This Ordinance shall be known as the “Oneida Charter Township Solicitation Ordinance.”

SECTION 2. PURPOSE. The Purpose of this Ordinance shall be to secure and protect the general welfare and safety of the citizens and other persons within the Charter Township of Oneida; to prevent crime and protect citizens from the disruption of their quiet enjoyment and peace; and to establish a process to permit a solicitor to operate in the Township.

SECTION 3. DEFINITIONS.

- a. “Charitable Organization” means an entity that solicits or collects contributions from the general public where the contribution is used to support charitable activities.
- b. “Nonprofit Organization” means an entity registered as a nonprofit corporation with the State of Michigan, or an entity exempt from federal income tax under Section 501(c) of the Federal Income Tax Code.
- c. “Religious Organization” means an entity duly organized and operating in good faith and entitled to receive a declaration of current tax exempt status for religious purposes from the State of Michigan or the United States government, and the duly organized branches or chapters of those organizations.
- d. “Solicitor” means:
 - a. Any person, firm, or corporation selling goods or services; or offering to sell goods or services to be delivered in the future; or obtaining information to be used

by another in the sale or offer of sale of any goods or services; or requesting donations of money, goods, or services; and who pursues these activities by travelling from door to door. A solicitor for purposes of this Ordinance shall not include persons, firms, or corporations who shall occupy any of such places for the purpose of conducting a permanent business or for exercising First Amendment rights. No person, firm, or corporation shall be relieved from the licensure provisions of this Ordinance by reason of temporary association with any such local property owner, trader, merchant, or auctioneer, or by conducting such temporary transient business in connection with, or as part of, or in the name of, a local business owner or operator.”

- e. “Soliciting” means the act of engaging the citizens of Oneida Charter Township as a solicitor.

SECTION 4. LICENSE REQUIRED. It shall be unlawful for any solicitor to engage in such business within the Charter Township of Oneida without first obtaining a license in compliance with this Ordinance.

SECTION 5. EXEMPTIONS. Unless as qualified below, this Ordinance does not apply to:

- a. Persons engaged in soliciting under the direct supervision of any local school, farmer’s market, charitable organization, religious organization, or nonprofit organization.
- b. Persons engaged in canvassing and distributing printed material or obtaining signatures for political candidates, ballot issues, or other political issues.
- c. Regular route delivery persons.
- d. Persons dealing with only merchants, businesses, or professional consumers.
- e. Solicitations made in books, magazines, periodicals, newspapers and other similar publications, or through the mail.
- f. Solicitations made over the radio, television, telephone, or internet.
- g. Persons offering merchandise for wholesale to retailers, or for resale to manufacturers for use in their process.
- h. Garage sales by owners of the property thereon, or any auction sales on property owned by the resident and involving the sale of the property of said owner.
- i. Advertising sales persons calling on commercial enterprises; or any sale under court order.
- j. Making sales of, or taking orders for, farm products produced or raised by that merchant. In addition, no license is required to sell an agricultural commodity on the same property on which it was grown/raised.
- k. Persons under the age of 18, unless employed by another person or organization.

SECTION 6. APPLICATION PROCESS.

- a. Except as provided in Section 5, no person shall solicit within the Township without first obtaining a license therefor. 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 solicitation. The application shall be made on the form supplied by the Township Clerk, and the applicant shall supply all of the information listed on the application before the application will be processed. The application filed with the Clerk shall be a sworn application and include, at a minimum, the following information:
 - a. The name, sex, height, hair color and eye color of the applicant.
 - b. The applicant's address, legal and local;
 - c. The applicant's date of birth, driver's license number, and home and work telephone numbers;
 - d. The applicant's e-mail address, if available, where a copy of the license can be sent, if approved;
 - e. A brief description of the nature of the business and the goods or services to be offered;
 - f. If the applicant is employed, the name and address of the employer, together with credentials establishing the exact relationship. An applicant is exempt from this requirement if a principal for the organization being represented has already supplied this information on an application for a license under this Ordinance for the same time period;
 - g. The length of time for which the right to do business is desired;
 - h. If a vehicle(s) is/are to be used, a description of the vehicle(s), together with the license number(s), State(s) of registration, and proof(s) of insurance;
 - i. The applicant shall provide two (2) recent photographs of the applicant taken within sixty (60) days immediately prior to the date of the filing of the application, which are, at minimum, two (2) inches by two (2) inches in size and depict the head and shoulders of the applicant;
 - j. A statement as to whether the applicant has been convicted of any crime or violation of any municipal ordinance and the nature of the offense;
 - k. A statement as to whether the applicant has ever received a similar license from any other Michigan municipal authority and whether said license was revoked for any cause whatsoever. If so, the name of the municipality and the circumstances of the revocation, if any, are required;

- l. The signature of the applicant acknowledging his/her understanding of the regulations contained within this Ordinance and acknowledging that failure by the applicant to comply with any of these regulations may result in revocation of the license; and
 - m. For solicitation occurring at a fixed temporary location(s), the application shall identify all locations where solicitation is proposed to take place, and shall demonstrate that each such location shall not cause a hazard to vehicular traffic, that adequate off-street parking is available, and that the owner of the property has authorized in writing its use by said solicitor. Said written authorization shall be provided to the Township Clerk.
- b. An application/license fee of \$50.00 will be collected by the Clerk. The foregoing fee shall be determined by the Township Board and modified at the discretion of the Board from time to time. The license fee will be for one of the following two types of licenses:
- n. Yearly license. A fee per person, per calendar year.
 - o. Temporary license. A fee per person per calendar month. This fee may be applied toward a yearly license for any period inclusive of the temporary license.

SECTION 7. ISSUANCE OF LICENSE. If the payment of the prescribed license fee has been made, and the necessary application information completed, the Clerk shall issue to the applicant a solicitor's license, which shall contain the signature of the Clerk and show the name, type of license issued, date of issue, and expiration. If the applicant fails to complete the application, provide the necessary information, or pay the appropriate fee, the Clerk shall issue the applicant a Notice of Denial, stating the specific reason for denial and including notice of the right to appeal pursuant to this ordinance. The Notice shall be in writing and served by certified mail, return receipt requested, postage prepaid, to the mailing address on the application.

SECTION 8. DISPLAY OF LICENSE.

- a. A licensee shall carry his/her license at all times when engaged in the activity for which the license is granted;
- b. A licensee shall exhibit his/her license at the request of any properly identified public authority or by any person with whom the licensee is dealing in connection with the license activities;
- c. A licensee shall not loan, sell, give, or assign to any other person, or allow any other person to use or display, any license which has been issued to the licensee;
- d. No person shall display an expired license, a license for which a duplicate has been issued, a license which has been suspended or revoked, or a license which was approved and issued for another person.

SECTION 9. PROHIBITED CONDUCT. The following acts or activities shall be prohibited:

- a. No solicitor shall enter upon or call upon a place of residence or business within the Township after having been expressly notified by the occupant that no solicitation is desired, or where the owner/occupant has displayed a “no soliciting,” “no peddlers,” “no solicitors,” “no salespersons,” “no trespassing,” or similar sign containing words of similar meaning on the premises;
- b. No solicitor shall threaten or annoy any resident of the Township in the course of their solicitation, or in any way engage in conduct which is or would tend to create a nuisance;
- c. No solicitor shall engage in business without carrying the license issued under the terms of this Ordinance.
- d. No 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;
- e. No solicitor shall obstruct any street, alley, sidewalk, driveway, or other place.
- f. No person shall write upon, alter, amend, modify, or change a license, except as authorized by the Clerk.

SECTION 10. HOURS OF OPERATION. Soliciting may take place within the Township only between the hours of 9:00 a.m. and 7:00 p.m. Mondays through Saturdays.

SECTION 11. ENFORCEMENT, SUSPENSION, REVOCATION, APPEAL.

- a. *Enforcement*. It shall be the responsibility of the Township Board, or its designee, or local law enforcement personnel to enforce the terms of this Ordinance, together with the authority to issue cease and desist orders immediately upon evidence that a solicitation activity is being conducted within the Township prior to the issuance of a license, or are occurring in violation of any of the terms of this Ordinance. Failure to produce a license or information necessary to verify a claimed exemption under this Ordinance shall constitute probable cause for an enforcement action.
- b. *Suspension*. A license issued pursuant to this Ordinance may be suspended by the Clerk for any of the following causes:
 - i. Fraud, misrepresentation, or a false statement contained in the application for the license;
 - ii. Fraud, misrepresentation, or a false statement made in the course of carrying on the business of a solicitor;
 - iii. Any violation of this Ordinance or any other Ordinance of the Township;
 - iv. Any felony or misdemeanor conviction directly related to the fitness of a licensee to carry on the activities of soliciting.

- v. Soliciting in such a manner as to constitute a breach of the peace or a menace to the health, safety, or general welfare of the public or in violation of any duly issued court order.
- c. *Revocation.* Upon suspension, the licensee shall be provided with notice that they have 10 days to request, in writing, a hearing at which the licensee can show cause why the license should not be revoked. Said notice shall be given in writing and shall set forth the specific grounds for suspension. If a licensee requests a hearing, the Township Supervisor shall hold a hearing to determine whether the license should be revoked. The Township Supervisor may continue the suspension, revoke, or reinstate the license. If no request for such a hearing is made within the specified time, the license shall automatically be revoked. Any decision of the Township Supervisor may be appealed, by written application, to the Township Board. The action taken by the Township Board shall be final, and any licensee whose license has been revoked shall not be eligible to apply for a new license for a period of one (1) year after such revocation.
- d. *Appeal of Denial of License.* Any person aggrieved by the Township's denial of an application for licensure may appeal to the Township within fourteen (14) days after the mailing of the notice of license denial. The appeal shall contain a written statement setting forth the grounds for the appeal and, upon receipt, the Township Board shall consider the appeal as provided in Part c of this section.

SECTION 12. INDEMNIFICATION. Application for a license under this Ordinance shall be deemed an agreement by the applicant to observe all pertinent ordinances and regulations of the Township and defend, indemnify, and hold harmless the Township from all damages, costs, or actions at law that may arise or may be brought on account of injury to persons or property resulting from the licensee's activities.

SECTION 13. PENALTIES. Any person, firm, or corporation violating any provision of this Ordinance may be charged with a civil infraction and subject to a civil fine of not less than one hundred dollars (\$100.00) and not more than five hundred dollars (\$500.00). Nothing contained herein shall be construed to prohibit the Township from pursuing injunctive relief or any other relief provided by law.

SECTION 14. SEVERABILITY. If a court of competent jurisdiction declares a provision of this Ordinance to be unenforceable, in whole or in part, such declaration shall only affect the provision or section held to be unenforceable and shall not affect any other part, provisions, or section.

SECTION 15. REPEAL. Ordinances inconsistent herewith shall be and are hereby repealed.

SECTION 16. EFFECTIVE DATE. This Ordinance shall take effect 30 days after the date of publication thereof following final adoption.

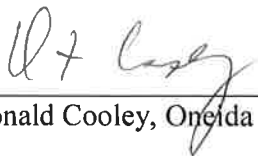
Roll call vote:

YEAS: Robin McCloud, Madelyne Lawry, Don Cooley, Rich Palermo, Jan Schultz, Kevin O'Malley, Tom Campbell

NAYS: None

ABSENT/ABSTAIN: None

INTRODUCED FOR PUBLICATION AND SUBSEQUENT FINAL ADOPTION.

A handwritten signature in cursive script, appearing to read "D. Cooley", is written over a horizontal line.

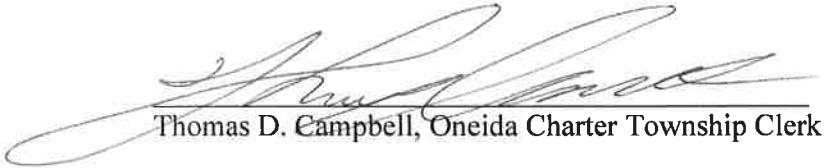
Donald Cooley, Oneida Charter Township Supervisor

AFFIDAVIT OF POSTING AND PUBLICATION

I hereby certify that:

1. The above is a true copy of an Ordinance adoption for posting and publication of the final adoption by the Oneida Charter Township Board at a duly scheduled and noticed meeting of that Township Board held on July 14, 2016, pursuant to the required statutory procedures.
2. The complete text of the proposed Ordinance was posted at the Township Clerk's office and on the Township's website on August 4, 2016.
3. The attached Notice of Posting of the Ordinance was duly published in the Grand Ledge Independent newspaper, a newspaper that circulates within Oneida Charter Township, on August 7, 2016, within not more than seven (7) days after the posting.

ATTESTED:


Thomas D. Campbell, Oneida Charter Township Clerk

AUG. 3, 2016