

**ORDINANCE NO. 6**

**AN ORDINANCE TO CONTROL AND LICENSE PEDDLERS, SOLICITORS  
AND TRANSIENT MERCHANTS**

**THE TOWNSHIP OF MENTOR, OSCODA COUNTY, Ordains:**

**ARTICLE I. IN GENERAL**

**Section 1.** Operation or use of vehicles and equipment on streets and other public places between sunset and sunrise

No vehicle or other equipment shall be operated, propelled, located, or otherwise used on the public streets, sidewalks, parks or other public ways or places, between the hours of sunset and sunrise, by any person licensed under this chapter, for the purpose of carrying on the licensed activity; provided, however, that the police department may authorize the use of equipment for street vending within such hours, where the occasion, location and circumstances are such that there is no danger to the public or the operator, and on such terms and conditions as the department finds necessary as to the time, location, equipment, and mode of operation to protect the public and operator from hazard; and provide further, that motor vehicles, licensed under the state statutes and meeting their requirements, may be operated as authorized thereby

**Section 2.** Misrepresentations by Solicitors

No person shall, directly or indirectly, solicit contributions for any purpose, by misrepresenting of his name, occupation, financial condition, social condition, or residence, and no persons shall make or perpetrate any other misstatement, deception, or fraud in connection with any solicitation of any contribution for any purpose in the Township.

**ARTICLE II. HAWKERS AND PEDDLERS**

**Section 1. Definitions.**

The term "hawkers" or "peddlers" used in this article, shall be construed to mean any person who travels from house to house or place to place, or who, on the streets or

alleys or open places, or in public grounds or places, sells or offers for sale, any goods, wares or merchandise to any person not a dealer therein, or who takes orders for the purchase of goods, wares or merchandise or samples, lists, or catalogue or subscription for magazine and books from any person not a dealer therein. The term "hawker" or "peddler" as used in this article, shall not be applicable to any party selling the products of his own farm, orchard or garden.

## **Section 2. License Required.**

No person shall follow the business or occupation of a hawker or peddler within the limits of the Township unless he shall have obtained a license in accord with this division. No person shall act as a helper or assistant to a licensed peddler, unless he has a helper's license

## **Section 3. Application.**

Any person desirous of obtaining a license as a hawker or peddler shall apply to the Township clerk, upon proper blanks to be furnished by the Clerk and signed by such applicant, and stating in what manner he intends to travel and trade or to conduct business, his address, physical description and the name and class of the license desired and a true photograph of the applicant.

## **Section 4. Fee prescribed.**

Licenses issued under this article shall be charged and paid for, at the time the application is filed, a fee of \$25.00

## **Section 5. Issuance.**

The Township Clerk is authorized to issue licenses to those who have complied with the provisions of this division, unless otherwise directed by the Township Board

## **Section 6. Contents: To be carried by Licensee.**

Each license granted under this division shall be in such form as to contain a true photograph of the licensee, address, and physical description, and the name of the class of his license paid for. All licensees shall carry with them, at all times, while peddling, the license herein described.

## **Section 7. Alteration, Etc., Prohibited.**

No licensee under this division shall alter, remove or obliterate any entry made on his license.

## **Section 8. Expiration.**

All licenses issued under the provisions of this division shall expire on the thirty-first day of December, unless a prior date is fixed therein

### **Section 9. Suspension or Revocation.**

The Township Clerk shall have the power to suspend any license issued under this division for violation of a Township Ordinance or any condition or regulation under which the license was granted, or for undesirable business practices. The Township Clerk shall report all suspensions to the Township Board, which may for cause shown, revoke or reinstate the license after giving the licensee reasonable notice and an opportunity to be heard. No person whose license has been revoked shall receive another license for a period of one year thereafter. In the event of revocation, the license fee shall not be refunded.

### **Section. 10. Records to be kept.**

A full, complete record of each license issued under this division, including renewals, suspensions, or revocation thereof, and serious complaints and charges against the licensee, together with his photograph, shall be kept on file by the Township Clerk

## **ARTICLE III. TRANSIENT MERCHANTS**

### **DIVISION I. GENERALLY**

#### **Section 1. Definition.**

The term "transient merchant" as used in this article, shall be construed to mean and to include all persons, associations, firms, and corporations, and their agents, servants, and employes, who engage temporality in a retail sale of goods, wares, or merchandise within the limits of the Township and, specifically, such terms shall include the taking and sales of photographs at retail. The transaction of such business by any person for a period of time of less than part of two (2) separate days of each week for six (6) consecutive months shall be prima facie evidence that such person was or is a transient merchant within the meaning of this article

#### **Section 2. Association with local merchant does not exempt transient merchant from article.**

No transient merchant shall be exempt from any provisions of this article by reason of associating himself temporarily with any merchant, tradesman, or other person doing business permanently within the township, or by conducting his business in connection with or as a part of the business of, or in the name of, any merchant, tradesman or other person doing business permanently in the Township.

## **DIVISION 2. LICENSE**

### **Section 1. Required.**

No person, either as a principal or an agent, shall engage in business as a transient merchant within the limits of the Township without having first obtained a license in the manner provided in this division. All agents and employees must obtain separate licenses.

### **Section 2. Application.**

Any person desiring to engage in business as a transient merchant within the limits of the Township shall make and file, with the Township Clerk, a written application for a license to engage in business as a transient merchant. Such application shall be signed by and sworn to by the applicant and shall state his full name, his physical description, his local and permanent residential address. Such application shall also list the names of the last five cities in which the applicant has worked and shall further state the nature of the business proposed to be conducted within the limits of the Township. Such application shall further state the name and address of the owner of such business.

### **Section 3. Applicant to furnish photographs and fingerprints.**

At the time of filing an application for a license under this division, the applicant shall furnish the Township with two (2) photographs of himself and two (2) complete sets of his fingerprints upon forms to be provided by the Township Clerk.

### **Section 4. Applicant to appoint Township Clerk as agent for service of process.**

At the time of filing an application for a license under this division, the applicant shall cause to be filed with the Township Clerk a power of attorney appointing the Township Clerk the agent of the applicant and of the applicant's principal, if such applicant is acting as the agent of another person, upon whom service of process may be made in any suit commenced against the applicant or his principal.

### **Section 5. Applicant's bond or cash deposit.**

(A) At the time of filing an application for a license under this division, the applicant shall deposit with the Township Clerk the sum of five hundred (\$500.00) dollars as a cash bond or shall file a surety company bond in a like amount. Such cash bond or surety bond shall be conditioned for the faithful performance of his promises and contracts made during his course of business as a transient merchant within the Township and for compliance with all ordinances of the Township. Such bond shall be further conditioned that any person injured by the breach of any obligation which the bond is given to secure may sue upon such bond in his own name in any court of competent jurisdiction to recover

any damages such person may have sustained by such breach. Such bond shall be for a term of not less than six (6) months

(B) Deposits of money or bonds made with the Township Clerk as required by the provisions of this section shall be subject to the claims of creditors in all cases where a judgment has been obtained against such transient merchant and the date for the appeal of such judgment has expired. In such cases, garnishment proceedings may be commenced against the Township Clerk. It shall be the duty of the Township Clerk to remit to any court any balance of such cash deposit remaining in his hands not exceeding the amount of the judgment for the purpose of satisfying the same. Any balance of such cash deposit remaining in the hands of the Township Clerk for a period of six (6) months after the expiration of the license shall be remitted to the transient merchant.

(C) Any license issued under the provisions of this division shall expire and be void as soon as the amount of the bond filed with the Township Clerk shall have been diminished or used in whole or in part because of suits as provided for in subsection (B).

(D) The Township Clerk may, if the applicant is a Township resident, in his discretion waive the requirement of a bond

#### **Section 6. Fee.**

(A) The fee for a license required by this division shall be twenty-five (\$25.00) dollars, which shall be paid to the Township Clerk at the time the application is filed

(B) No license fee shall be required under this section from any person exempt from such fee by state or federal law, but such person shall be issued a license without charge and shall comply with all other provisions of this article

#### **Section 7. Issuance.**

The Township Clerk shall withhold the granting of a license applied for under this division until such time as he may receive information from the police departments of the last two (2) cities in which the applicant has worked concerning the applicant's conduct in such cities, whichever event occurs first in time. Whenever the Township Clerk receives information from any source indicating that the applicant has violated any law or ordinance of any state or municipality, or whenever the Township Clerk shall receive information from any source derogatory of the applicant's character or honesty, the Township Clerk shall refer the application to the Township board, which shall determine whether the license shall be granted. If the circumstances do not require the Township Clerk to refer such application to the Township Board, the Township Clerk shall issue the license

#### **Section. 8. Contents: To be carried by Licensee.**

All licenses granted under this division shall be in such form as to contain a true photo graph of the licensee, his name, address, physical description, and the period of time for which the license is issued. All licensees shall carry with them at all times the license herein described.

#### **Section 9. Alteration, Etc., Prohibited.**

No licensee under this division shall alter, remove or deliterate any entry made on such license.

#### **Section 10. Expiration and Renewal.**

The Township clerk shall have the power to suspend any licenses issued under the provisions of this division shall expire six (6) months from and after the date of issue and all licenses must thereafter be renewed by compliance with the revisions of this article.

#### **Section 11. Revocation; Suspension.**

The Township Clerk shall have the power to suspend any license issued under this division for violation of a Township Ordinance or any condition or regulation under which the license was granted, or for undesirable business practices. The Township Clerk shall report all suspensions to the Township Board, which may, for cause shown, revoke or reinstate the license after giving the licensee reasonable notice and an opportunity to be heard. No person whose license have been revoked shall receive another license for a period of one year thereafter. In the event of revocation, the license fee shall not be refunded.

#### **Section 12. Records to be kept.**

A full, complete record of each license issued under this division, including renewals or revocations thereof, and serious complaints and charges against the licensee, together with his photographs and fingerprints, shall be kept on file by the Township Clerk.

### **ARTICLE IV. CHARITABLE AND RELIGIOUS SOLICITATIONS**

#### **DIVISION I. GENERALLY**

##### **Section 1. Definitions.**

For the purpose of his article, the following definitions shall apply, unless a different meaning is clearly indicated by the context:

Charitable. The word "charitable" shall mean and include the words patriotic, philanthropic, social service, welfare, benevolent, educational, civic or fraternal, either actual or purported.

Contribution. The word "Contribution" shall mean and include the words alms, food, clothing, money, subscription, property or donations under the guise of a loan of money or property.

Person. The word "Person" shall mean any individual firm, copartnership, church, religious sect, religious denomination, society, organization or league, and includes any trustee, receiver, assignee, agent, or other similar representative thereof.

Promoter. The term "promoter" shall mean any person who promotes, manages, supervises, organizes, or attempts to promote, manage, supervise, or organize a campaign of solicitation.

Religious and religion. As used in this article the words "religious and religion" shall not mean and include the word "charitable" as herein defined, but shall be given their commonly accepted definitions.

Solicit and solicitation. The terms "solicit" and "solicitation" shall mean the request, directly or indirectly, of money, credit, property, financial assistance, or other thing of value on the plea or representation that such money, credit, property, financial assistance, or other thing of value will be used for a charitable or religious purpose by means of going from door to door.

## **Section 2. Solicitor's credentials.**

All persons to whom permits have been issued under this article shall furnish proper credentials to their solicitors for such solicitation. Such credentials shall include the name of the permit holder, the date, a statement describing the holder's charitable or religious activity, a description of the purpose of the solicitation, the signature of the permit holder or of the holder's chief executive officer, and the name, address, age, sex and signature of the solicitor to whom such credentials are issued and the specific period of time during which the solicitor is authorized to solicit on behalf of the permit holder. A copy of such credentials must be filed with the Township Clerk at the time the application for a permit is filed under this article and must be approved by him as conforming to the requirements of this section. No person shall solicit under any permit granted under this article, unless he has such credentials in his immediate possession, and the same shall be shown upon the request of any person solicited or any police officer of the Township.

## **Section 3. Records of Donations and Disbursements.**

No person shall solicit any contributions for any charitable or religious purpose for which a permit is required by this article, without maintaining a system of accounting.

whereby all donations and all disbursements are entered upon the books or records of such person's treasurer or other financial officer.

## **DIVISION 2. PERMITS**

### **Section 1. Required: Exceptions.**

It shall be unlawful for any person, or for any agent, member, or representative thereof, directly or indirectly to solicit money, donations of money, property or financial assistance of any kind, or sell or offer to sell any article, tag, service, emblem, publication, ticket, advertisement, subscription, or anything of value on the plea or the representation that such sale or solicitation, or the proceeds or any part thereof, is for a charitable or religious propose, on the streets, in any office or business building, by house to house canvass, or in any other public or private place or personal solicitation unless such person shall have a permit issued in accord with this division

The provisions of this section shall not apply to any established society, association or corporation that is organized and operated exclusively for religious, philanthropic, benevolent, fraternal, charitable or reformatory purpose, and not operated for pecuniary profit, where no part of the net earnings of which benefits any person, private shareholder or individual, and where the solicitation of such organization is conducted among the members thereof by other members or officers thereof, voluntarily and without remuneration for such solicitation, or where such solicitation is in the form of collection or contributions at the regular exercises or services of any church, religious society, lodge, benevolent order of fraternity or similar organizations, or any branch thereof.

### **Section 2. Application Generally.**

A. An application for a permit required by this division shall be made to the Township Clerk upon forms provided by the Township.

Such application shall contain the following information or in lieu thereof a detailed statement of the reason or reasons why such information cannot be furnished:

1. The name, address or headquarters of the person applying for the permit
2. If the applicant is not an individual, the names and addresses of the applicant's principal officers and managers and a copy of the resolution if any, authorizing such solicitation certified to as a true and correct copy of the original by the officer having charge of the applicant's records.
3. The purpose and use for which such solicitation is to be made
4. The name and address of the person who will be in direct charge of conducting the solicitation, and the names of all promoters connected or to be connected with the proposed solicitation.
5. An outline of the method or methods to be used in conduction the solicitation.
6. The time when such solicitation shall be made giving the preferred dates of beginning and ending of such solicitation.

7. The amount of any wages, fees, commissions, expenses or emoluments to be expended or paid to any person in connection with such solicitation, and the names and addresses of all such persons.

8. A statement that the actual cost of the solicitation will not exceed twenty-five per centum (25%) of the total amount to be raised

9. A statement to the effect that, if a permit is granted, it will not be used or represented in any way an endorsement by any department or office thereof.

10. Such other information as may be reasonably required by the Township in order for the Township to determine the kind and character of the proposed solicitation and whether such is in the interest of and not inimical to the public welfare.

B. If, while any application is pending, or during the term of any permit granted thereon, there is any change in fact, policy or method that would alter the information given in the application, the applicant shall notify the Township Clerk in writing thereof within twenty-four (24) hours after such change

C. No person shall, directly or indirectly, make or perpetrate any misstatement, deception, or fraud in connection with any application or report filed under this section.

### **Section 3. Investigation of Application and Applicant.**

A. The Township Clerk shall examine all applications filed under this division and shall make or cause to be made such further investigation of the application and ate applicant as the Township Clerk shall deem necessary.

B. The Township Clerk shall not issue a permit required by this division unless he finds:

1 That all of the statements made in the application are true.

2 That the applicant has a good character and reputation for honesty and integrity, or, if the applicant is not an individual person, that every member or co-partner, managing officer or agent of the applicant has a good character and reputation for honesty and integrity.

3 That the control and supervision of the solicitation will be under responsible and reliable persons.

4. That the applicant has not engaged in any fraudulent transaction or enterprise

5 That the solicitation will not be a fraud on the public.

6. That the solicitation is prompted solely by a desire to finance the charitable or religious cause described in the application and will not be conducted primarily for private profit.

7. That the cost of raising the funds will be reasonable Any such cost in excess of twenty-five (25%) percent of the amount collected shall be considered to be unreasonable unless special facts are presented showing that peculiar reasons make a cost higher than twenty-five (25%) percent reasonable in the particular case.

### **Section 4. Issuance.**

A permit required by this division shall be issued by the Township Clerk, when all of the provisions of this division have been complied with and when such issuance has been approved by the Township Clerk, provided that, such permit shall not be issued until the credentials of the applicant's solicitors have been approved

**Section 5. Content: duration.**

Permits issued under this article shall bear the name and address of the person by whom the solicitation is to be made, the number of the permit, the date issued, the dates within which the permit holder may solicit, and a statement that the permit does not constitute an endorsement by the Township or by any of its department, officers or employees of the purpose or of the person conducting the solicitation. All permits must be signed by the Township Clerk. No permit may grant the right to solicit longer than ninety days (90) from its date, but the Township Clerk may extend any permit for not more than ninety (90) additional days, upon a showing that unnecessary hardship would be created by a failure to so extend the original ninety (90) day period, and upon approval of such extension by the Township Board.

**Section 6. Copy to be carried by Solicitors and Displayed upon Request.**

No person shall solicit under a permit issued pursuant to this division, unless he has, in his immediate possession, a facsimile copy of such permit, which copy must be shown upon the request of any person solicited or any police officer of the Township.

**Section 7. Nontransferable: Return upon expiration.**

Any permit issued under this division shall be nontransferable and shall be returned to the Township Clerk within two (2) days after its date of expiration, together with all facsimile copies thereof.

**Section 8. Suspension and Revocation.**

Whenever it shall be shown or whenever the Township Clerk has knowledge that any person to whom a permit has been issued under this division has violated any of the provisions of this article or has misrepresented the purpose of the solicitation, the Township Clerk may revoke the license by mailing a notice of revocation by certified mail to the licensee. The licensee shall have the right to appeal to the Township Board at their next regular meeting.

**ARTICLE V. PENALTY SECTION**

**Section 1. Effect of Ordinance: severability.**

If any part or parts of this ordinance are for any reason held to be invalid or unconstitutional, such decision shall not affect the validity or constitutionality of the remaining portions of this ordinance. The ordinance-making body hereby declares that it would have passed this ordinance and each part or parts thereof, irrespective of the fact that any one part or parts be declared or unconstitutional.

## **Section 2. Penalties.**

In addition to the other penalties provided any person, firm or corporation violating any of the provisions of this Ordinance shall be deemed guilty of a misdemeanor and each such person shall be deemed guilty of a separate offense for each occurrence thereof and upon conviction of such violation such person shall be punishable by a fine of not more than three hundred dollars (\$300.00) or by imprisonment for not more than ninety (90) days or by both such fine and imprisonment

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Bigler, Bohlinger, Wehrmeister, Kinney YES  
Crane: Absent.