

SOLICITATION ORDINANCE

AN ORDINANCE OF OCONEE COUNTY FOR THE PURPOSE OF REGULATING STREET AND OTHER SOLICITATION; PROVIDING FOR PERMITS FOR STREET SOLICITATION; CONTROLLING LOCATION AND REQUIREMENTS FOR SOLICITORS; PROVIDING FOR ENFORCEMENT AND PENALITES; AND FOR OTHER PURPOSES.

WHEREAS, UNDER O.C.G.A. §§40-6-97 and 40-6-97.1, and under the general powers vested by law, Oconee County has the authority to regulate solicitation on roadsides and elsewhere in the County; and

WHEREAS, unlicensed solicitation by unregistered solicitors is a health and safety hazard to the solicitors, drivers and other pedestrians, and also exposes the citizens of Oconee County to fraudulent solicitors, and harms legitimate charities; and

WHEREAS, the Commissioners deem it to be in the best interests of the citizens of the County that a Solicitation Ordinance be enacted in accordance with law;

NOW THEREFORE BE IT ORDAINED, and IT IS HEREBY ORDAINED, the Oconee County Solicitation Ordinance is adopted as follows:

SECTION ONE PURPOSE

The purpose of this ordinance is to protect, maintain and enhance the public health, safety, and general welfare by regulating roadside solicitation and other charitable events where contributions are sought. Solicitors are put at risk by entering the roadway and also put drivers and other pedestrians at risk. The citizens of Oconee County are subject to unregulated solicitation by sometimes questionable organizations or solicitations in a hazardous manner or location. It is the purpose of this Ordinance to regulate solicitation on streets and highways and other public areas of the County, to protect the public health, safety and welfare.

SECTION TWO DEFINITIONS

A. Definitions. The following words as used in this Ordinance shall have the following meanings:

1. *Applicant* shall mean the charitable organization seeking a permit.
2. *Charitable Organization* means organization which is qualified under Section 501(c) of the Internal Revenue Code of 1986, as amended; Georgia registered non-profit corporations; churches; and public and private schools. Charitable organizations must also either be registered with the Secretary of State under O.C.G.A § 43-17-5 or be exempt from such registration under O.C.G.A

§ 43-17-9.

3. *Event* means a charitable solicitation with the County.
4. *Event Permit* means a permit issued pursuant to this Ordinance to conduct an event.
5. *Organizer* means the person responsible for organizing the event and whose name shall be on the application.
6. *Permit* shall mean an event permit.
7. *Sheriff* means Sheriff of Oconee County or his designee.
8. *Solicitor* means any person who engages in solicitation as described herein.
9. *Solicitation* or *Charitable Solicitation* means the act of asking for employment, business or contributions on a public road, street, highway, right-of-way, sidewalk or other public property from the occupant of any vehicle or pedestrian.
10. *Travel Lanes* means the marked lanes on a road or highway, or the lanes of travel for vehicles, including turn lanes, access lanes and acceleration or deceleration lanes.

SECTION THREE RESTRICTIONS

- A. Solicitation Restricted. Pursuant to O.C.G.A. § 40-6-97(b), Oconee County prohibits any person from standing or entering on a highway or public street of the County for the purposes of soliciting employment, business solicitations, and/or contributions from the occupant of any vehicle or any pedestrian without a permit. Solicitation shall only be allowed by charitable organizations under the terms of this Ordinance.
- B. Permit Required. No charitable organization is allowed to engage in solicitation on any public street or highway in the County without first obtaining an event permit from Oconee County. Persons, businesses and organizations that are not charitable organizations, as defined in this Ordinance, are not eligible to receive a permit for solicitation. An event permit shall be obtained from the Code Enforcement Director of Oconee County.
- C. Exemption. An event permit is not required for any event sponsored or conducted by Oconee County or its departments and agencies, such as firefighter “boot drives” and similar collections.

SECTION FOUR PERMIT REQUIREMENTS

- A. Permit Application All requests for a permit must be provided to the Code Enforcement Director at least fifteen (15) calendar days but no more than sixty (60) calendar days prior to the date of the requested activity. The Code Enforcement Director shall issue a decision no later than one week prior to the scheduled event. An application and permit shall be required for each event, provided however; only one (1) application and permit shall be required for each proposed event.
- B. Required Information. All applications for permits must include the following information, and shall be signed by the organizer(s):
1. Name and address of charitable organization, including headquarters address and address of the Oconee County office, or the address of the closest branch office if there is no Oconee County office;
 2. Type of organization and certification, if listed below. The organization must be one of the following types to apply for a permit:
 - a. Organization qualified under Section 501(c) of the Internal Revenue Code of 1986, including certification from IRS;
 - b. Nonprofit corporation registered in Georgia, including certification from Secretary of State;
 - c. Church; or
 - d. Public or private school;
 3. Name of organizer(s), and address, height, weight, age, sex, race and social security number of each organizer for background check purposes;
 4. Photocopy of driver's license or other official photo identification of each organizer;
 5. Proposed solicitation activity and purpose for activity (i.e., use of funds);
 6. Specific location(s) for solicitation activity, including specific intersections and number of solicitors at each such location;
 7. Dates and times of solicitation activity;
 8. Names of all participants proposed to be solicitors and their ages;
 9. If any solicitors are under 18, the names and addresses of adult supervisors; one adult supervisor per four solicitors under age 18 is required;

10. If the event is to be held on behalf of any person or organization other than the applicant, a communication in written form from that person or organization authorizing the applicant to apply for the permit;
 11. The application shall contain a statement that the submission of the application shall be considered to be consent by the organizer(s), the charitable organization and the officers of the organization for a background check to be run by the Code Enforcement Director at his discretion on any person named on the application, and a statement that all information contained thereon is true and correct; and
 12. Any additional information the Code Enforcement Director may find reasonable or necessary for a fair determination as to whether the proposed event will endanger public health, safety or welfare.
- D. Organizer. A minimum of one organizer is required for an event. No more than five (5) persons shall be designated organizers for any event. The organizer(s) are required to be at the event in person at all times. There shall be one organizer for each location where solicitation is occurring. All events shall be conducted under the supervision of a person or persons making application for same (the organizer) and shall be conducted in a peaceable and orderly manner in compliance with the laws and ordinances applicable thereto.
- E. Permit Onsite. The signed permit is to be kept on-site in the possession of an organizer at all times that solicitation is underway. If multiple locations are involved, a permit copy shall be kept at each location by each organizer. Permits shall be displayed at the request of any citizen or law enforcement personnel.
- F. Fees. An application shall be accompanied by an application fee of \$50 to cover the cost of investigation and an additional \$50 permit fee (\$100 total). If the permit application is denied, the \$50 permit shall be refunded. These fees may be raised from time to time by the County.

SECTION FIVE INVESTIGATION AND ISSUANCE

- A. Investigation. The Code Enforcement Director shall review the application for completeness and compliance with the terms of this Ordinance. The Code Enforcement Director shall determine that the charitable organization is registered with the Secretary of State, or is exempt under O.C.G.A. §43-17-9. The Code Enforcement Director, assisted by the Sheriff, shall determine whether there are any records of complaints against the applicant or organizers in the records of the Sheriff's Department or the GCIC/NCIC crime database system. The Code Enforcement Director, assisted by the Sheriff, may, at his discretion, conduct a background check of the organizers or corporate officers, or any other person named on the application. The Code Enforcement Director, assisted by the Sheriff, may, at his discretion, make any other inquiries he deems necessary for the investigation of the applicant or organizers.

B. Decision. The Code Enforcement Director may grant, deny, or grant a restricted permit. The Code Enforcement Director shall issue a permit as provided in this Ordinance from a consideration of the application and from such information as may otherwise be obtained, unless he finds that any of the following apply:

1. The conduct of the event will substantially interrupt the safe and orderly movement of traffic;
2. The conduct of the event will substantially interrupt the safe and order movement of firefighting equipment en route to a fire, or other emergency services;
3. The applicant or any organizers or participants have any criminal complaints pending against them, or have a criminal record involving crimes of theft, fraud, or other moral turpitude;
4. The applicant is not a qualifying charitable organization or is otherwise not a legitimate organization;
5. The Code Enforcement Director has reasons to believe the event is a fraud or sham;
6. If a charitable organization required to be registered with the Secretary of State under O.C.G.A. §43-17-5, is not so registered;
7. The conduct of the event is contrary to the public's health, safety or general welfare; or
8. The application was not complete, or either the application or the permit requested is not fully in compliance with the requirements of this Ordinance.

The Code Enforcement Director shall indicate on the application review form the reasons for rejection of the application.

C. Restrictions. The Code Enforcement Director shall indicate on the permit the permitted activities, locations, and times of the event. The Code Enforcement Director may approve a smaller or shorter event than requested, may reduce the number of solicitors, may approve a different location, or may generally make any other adjustments he believes necessary to the application to serve the public health, safety and welfare.

D. Non-Content Based Review. The content of the message of any applicant, their beliefs, the identification of the participants, or any other matter which does not directly impact on the public health, safety, and welfare shall not be relevant to the determination of whether to grant or deny a permit.

SECTION SIX APPEALS

- A. Appeals. Any person aggrieved by the denial or restriction of a permit shall have the right to appeal the denial or restriction to the Administrative Hearing Officer of Oconee County. A written appeal shall be filed with the County Clerk and the Clerk of the Courts.

- B. Procedure. The Code Enforcement Director shall appear and present his case and evidence as to why the application was denied. The applicant shall have the opportunity to present its case and evidence in support of the application. The hearing shall be conducted as a magistrate court proceeding.

- C. Standard of Review. The Administrative Hearing Officer, keeping in mind the purpose of this Ordinance, the substantive provisions, and giving deference to the judgment of the Code Enforcement Director, shall make a determination as to whether the denial or restriction was lawful and in the interest of the public health, safety and welfare, or whether the permit should be issued or modified. If the latter, the Administrative Hearing Officer shall enter an order providing guidance as to the location, time, persons and other criteria of this Ordinance.

SECTION SEVEN SOLICITATION REGULATIONS; LOCATIONS AND TIMES

- A. Prohibited Times. No solicitation shall be allowed during the following times:
 - 1. Before 9:30 a.m. or after 4:00 p.m. Monday through Friday;
 - 2. Between the hours of 11:30 a.m. and 1:30 p.m. Monday through Friday;
 - 3. Before 7:00 a.m. or after 6:00 p.m. on Saturday or Sunday;
 - 4. At any time after sunset or before sunrise.

- B. Locations. Solicitation may only occur at signalized intersections. The Code Enforcement Director, in consultation with the Sheriff, shall determine and post a list of such intersections where no solicitation shall be allowed due to concerns for the public health, safety and welfare. Solicitation from travel lanes is not permitted. When all vehicles are stopped at an intersection, solicitors may approach cars to receive donations if the occupants have indicated they seek to make a donation. Walking along a line of cars shall only be permitted if the solicitor stays out of the travel lanes. No more than one organization may solicit at the same intersection at the same time. An event may occur at more than one location or intersection on the same day pursuant to the terms of this Ordinance and the permit issued hereby.

- C. Duration. An event may last no longer than two (2) days. No organization shall be allowed more than one permit per calendar year.

- D. Solicitors under 18. All charitable organizations which are permitted to solicit funds must have one adult supervisor over the age of twenty-one (21) for every four persons under the age of eighteen.
- E. Safety Equipment. All persons participating in such solicitations shall wear a safety vest approved by the Code Enforcement Director at all times when engaged in such solicitation. Any such safety vest must meet the standard for Class I safety vests as set forth by the American National Standard Institute (American National Standard for High-Visibility Safety Apparel ANSI/ISEA 107-2004).

SECTION EIGHT VIOLATIONS, ENFORCEMENT

- A. Persons soliciting without a permit or in violation of the permit shall be cited with a citation for prosecution in the Magistrate Court, in accordance with the requirements of law for such citations.
- B. Any person, organization, business or entity in violation of the provisions of this Ordinance is subject to a fine of up to one thousand dollars (\$1,000.00) per day per violation per individual participant. The minimum fine shall be one hundred dollars (\$100.00) per day per violation per individual participant.
- C. Any violation of this Ordinance shall immediately revoke the permit. Either the Sheriff or the Code Enforcement Director shall also have the discretion to revoke the permit upon charge of violation being made, or upon awareness of illegal or unauthorized activity or if in the best interest of public health, safety and welfare.
- D. Any person, organization, business or entity found guilty of violating this Ordinance may not be issued a permit for a two-year period from the date of the violation. Upon second offense, the person, organization, business or entity found guilty of violating this Ordinance shall be banned from further solicitation in Oconee County.
- E. The County Attorney shall be authorized to seek injunctive relief and other relief in Superior Court if necessary to effectuate the intent of this Ordinance. The County shall be entitled to seek civil fines in the amounts specified above, and shall be entitled to its attorney's fees for any successful action.

SECTION NINE SEVERABILITY

If any paragraph, subparagraph, sentence, clause, phrase or any portion of this Ordinance be declared invalid or unconstitutional by a court of competent jurisdiction, or if any provision of any part of this Ordinance as applied to any particular situation or set of circumstances be declared invalid, or unconstitutional, such invalidity shall not be construed to affect the remaining portions of this Ordinance not so held to be invalid, or the application of this

Ordinance or other circumstances not so held to be invalid. It is hereby declared to be the intent of the Commissioners to provide for separable and devisable parts and they do hereby readopt any and all parts hereof as may not be held invalid for any reason.

SECTION TEN REPEALER

This Ordinance repeals any prior ordinance or resolution in conflict herewith, except to the extent that said ordinance or resolution is more restrictive than this Ordinance, in which case that ordinance or resolution shall control.

SECTION ELEVEN EFFECTIVE DATE

This Ordinance shall become effective and shall be enforced from and after the date of its adoption, the public welfare demanding it.

Adopted and approved by the Board of Commissioners of Oconee County, Georgia, this **3rd** day of **November, 2009**, after a first reading on the **27th** day of **October, 2009**

Chairman

Member

Member

Member

Attest: _____
Gina Lindsey, County Clerk

Member

(County Seal)