**SAGINAW CHARTER TOWNSHIP**

**CODE OF ORDINANCES – PANHANDLERS, PEDDLERS, CHARITABLE SOLICITORS ACTIVITY**

**CHAPTER 46**

**Cross reference—** Businesses, ch. 18; streets, sidewalks and other public places, ch. 58.

**State Law reference—** Home solicitation, MCL 445.111 et seq.; transient merchants, MCL 445.371 et seq.

### ARTICLE I. PANHANDLING

Sec. 46-1. Panhandling.

As used in this section, "panhandling" means any solicitation made in person upon any street, public place or park in the township, in which a person requests an immediate donation of money or other gratuity from another person, and includes but is not limited to seeking donations:

(a) By vocal appeal or for music, singing, or other street performance; and

(b) Where the person being solicited receives an item of little or no monetary value in exchange for a donation, under circumstances where a reasonable person would understand that the transaction is in substance a donation. However, panhandling shall not include the act of passively standing or sitting nor performing music, singing or other street performance with a sign or other indication that a donation is being sought, without any vocal request other than in response to an inquiry by another person.

1. It shall be unlawful to engage in an act of panhandling on any day after sunset, or before sunrise.

2. It shall be unlawful to engage in an act of panhandling when either the panhandler or the person being solicited is located at any of the following locations: at a bus stop; in any public transportation vehicle or public transportation facility; in a vehicle which is parked or stopped on a public street or alley; outdoor eating area; or within 20 feet in any direction from an automatic teller machine or entrance to a bank.

3. It shall be unlawful to engage in an act of panhandling in an aggressive manner, including any of the following actions:

a. Touching the solicited person without the solicited person's consent;

b. Panhandling a person while such person is standing in line and waiting to be admitted to a commercial establishment;

c. Blocking the path of a person being solicited, or the entrance to any building or vehicle;

d. Following behind, ahead or alongside a person who walks away from the panhandler after being solicited.

e. Using profane or abusive language, either during the solicitation or following a refusal to make a donation, or making any statement, gesture, or other communication which would cause a reasonable person to be fearful or feel compelled; or

f. Panhandling in a group of two or more persons.

g. Each act of panhandling prohibited by this section shall constitute a public nuisance and a separate violation of this Code. Each violation shall be punishable as a municipal civil infraction per section 1-7

(Ord. No. 730, 8-12-2013)

**Editor's note—** Ord. No. 730, adopted Aug. 12, 2013, amended chapter 46, arts. I, and II to read as herein set out. Former arts. I, and II pertained to similar subject matter, consisted of §§ 46-1—46-4, 46-31—46-34, 46-51—46-63, and derived from the 1986 Code.

**Cross reference—** Streets, sidewalks and other public places, ch. 58.

ARTICLE II. PEDDLERS AND SOLICITORS ENTERING PRIVATE PREMISES

Sec. 46-2. Statement of purpose.

(a) It is hereby determined that the regulation of solicitation and peddling is sufficiently connected to the township's interest in preventing crime and protecting citizens' quiet enjoyment and peace as to warrant regulation, but such regulation should not prohibit otherwise lawful activity.

(b) It is also determined that a connection exists among evening solicitation and the disruption of citizens' quiet enjoyment and peace such that reasonable limits on solicitation between 9:00 a.m. and dusk or 8:00 p.m. Eastern Standard or Daylight Saving Time, whichever is earlier, Mondays through Saturdays and between 11:00 a.m. and 6 p.m. on Sundays is warranted.

(c) It is further determined that the township has no other less restrictive means available to achieve its objectives but through reasonable regulation.

(d) It is further determined that prohibiting solicitation after dusk or 8:00 p.m. (6:00 p.m. on Sundays), whichever is earlier, and before 9:00 a.m. (11:00 a.m. on Sundays) leaves ample alternative channels of communication open to solicitors in the township.

(e) The investigation and licensing fees provided herein are levied to defray the costs of regulation and not to place an undue burden on interstate commerce.

(f) It is expressly the purpose of this article to provide for and promote the safety and welfare of the general public and not to create or designate any particular class of persons who will or should be specially protected by its terms.

(Ord. No. 730, 8-12-2013)

Sec. 46-3. Immunity.

(a) It is the specific intent of this article to place the obligation of complying with its terms on the licensee, and no provision of this article is intended to impose any duty upon the township or its employees.

(b) Nothing contained in this article is intended to be nor shall be construed to create any liability on the part of the township or its employees for any injury or damage resulting from the failure of the licensee to comply with the provisions of this article, or by reason or consequence of any act or omission in connection with the implementation or enforcement of this article on the part of the township or its employees.

(Ord. No. 730, 8-12-2013)

Sec. 46-4. Definitions.

(a) *Peddler* or *solicitor* means a person 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 traveling from door to door, street to street, or place to place.

(b) *Principal* of an organization engaged in peddling or soliciting means a person organizing, supervising or managing peddlers or solicitors.

(c) *Charitable or religious organization* shall be defined for the purposes of this article as a benevolent, educational, philanthropic, humane, or patriotic nonprofit organization of persons which solicit or obtain donations solicited from persons for benevolent, education, philanthropic, humane, or patriotic purposes. This term shall also include any duly constituted religious organization when no part of the net income of which directly benefits any individual if said organization has received a declaration of current tax exempt status from the United States.

(Ord. No. 730, 8-12-2013)

Sec. 46-5. Exemptions.

Unless as qualified below, this article does not apply to:

(a) Persons dealing with only merchants, businesses or professional consumers.

(b) Newspaper carriers, state-licensed insurance and real estate agents; advertising sales persons calling on commercial enterprise or a sale under court order.

(c) Transient merchants making sales or taking orders for farm products produced or raised by that merchant.

(d) Officers or members acting on behalf of nonprofit, charitable or religious organizations.

(e) Persons under the age of 18, unless employed by another person or organization.

(f) Honorably discharged members of the armed forces of the United States, as to licensing, application, fees, revocation, appeal and exhibition [of sections] 46-6 through 46-14 provided they comply with the provisions of Act 359 of the Public Acts of 1921, as amended, being MCL 35.441 et seq. and the sales by the member are those exempted by that Act.

(Ord. No. 730, 8-12-2013)

Sec. 46-6. License/registration required.

It is unlawful for a person to peddle or solicit within the township's limits without having a current and valid peddlers/solicitors license, as provided in this article. Charitable/religious organizations are required to register with the township prior to engaging in any hawking, peddling, vending, door-to-door selling or soliciting.

(Ord. No. 730, 8-12-2013)

Sec. 46-6.1. Registration of charitable/religious organizations.

Charitable/religious organizations shall complete and file with the township clerk a registration form disclosing the following information:

(a) Name and address and phone of applicant.

(b) Name and address and phone of the charitable organization and purpose and use for which solicitation is to be made.

(c) A fee, as required, to cover the costs associated with a background check for each individual.

(d) The area or place of solicitation.

(e) A general description of the method of solicitation.

(f) Documentation required ascertaining compliance with the ordinance's definition of a charitable/religious organization.

(g) State license number or reason one is not required.

(Ord. No. 730, 8-12-2013)

Sec. 46-7. Contents of application for peddlers.

Applicants for a license under this article must file a written application on a form provided by the township. The application must be filed with the township's clerk's office and contains the following information:

(a) Name, date of birth, and a color copy of driver's license or state issued identification card of applicant.

(b) Permanent home address, and if applicable, full local address of the applicant.

(c) A brief description of the nature of the business and goods to be sold.

(d) Place of manufacture or production of goods to be offered for sale, the present location of such goods, and the proposed method of delivery of such goods.

(e) Length of time for which the right to do business is desired.

(f) Name and address of the employer or parent organization the applicant is representing. 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 article for the same time period.

(g) Signature of the applicant authorizing an investigation of the applicant.

(h) Two, two-inch by two-inch current photos of the applicant if the township intends to use them on identification cards provided by the township.

(i) Description and license plate number(s) of the vehicle(s) used by the applicant(s) when peddling or soliciting.

(Ord. No. 730, 8-12-2013)

Sec. 46-8. Applicant investigation.

(a) Upon receipt of a completed written application for a license under this article, the original application shall be referred to the police department for investigation of the applicant.

(Ord. No. 730, 8-12-2013)

Sec. 46-9. Fees.

The applicant shall pay a fee to cover the costs of the background investigation. Fees for license and duration of said license shall be as provided for in the township's adopted rates and charges resolution.

(Ord. No. 730, 8-12-2013)

Sec. 46-10. Duration of license.

All licenses shall expire 31 days from the date of issuance, unless a different date has been approved by the clerk. No license shall be issued for more than one year. Fees for license by duration shall be as provided for in the township's adopted rates and resolutions.

(Ord. No. 730, 8-12-2013)

Sec. 46-11. Issuance or denial of license.

The clerk's office shall issue a license upon police department approval and payment of the prescribed license fee. In the event of police department disapproval, the clerk's office shall notify the applicant of the denial and the procedures for appeal pursuant to this article within 14 days of the date of application.

(Ord. No. 730, 8-12-2013)

Sec. 46-12. Revocation.

Licenses issued under this article may be revoked by the township clerk subject to appeal pursuant to this article. Licenses may only be revoked for good cause including, but not limited to, the following:

(a) Fraud, misrepresentation, or false statement(s) contained in the application for license.

(b) Fraud, misrepresentation, or false statement(s) made in the course of carrying on the business of peddling or soliciting.

(c) Any violation of this article.

(d) Any felony or misdemeanor conviction directly related to the fitness of a licensee to carry on the activities of peddling or soliciting.

(e) Conducting business in an unlawful manner or in such a manner as to constitute a breach of the peace or to constitute a threat to the health, safety, or welfare of the general public.

(Ord. No. 730, 8-12-2013)

Sec. 46-13. Appeal procedure.

Any person aggrieved by denial or revocation of a license may file an appeal with the township board. The notice of appeal must be filed within 14 days after notice of the denial or revocation has been mailed to the person's last known address. The request must be in writing and must explain the grounds for appeal.

(Ord. No. 730, 8-12-2013)

Sec. 46-14. Exhibition of license required.

All licenses issued must be carried with the licensee at all times.

If the township issues a badge (with or without a photograph of the individual) to a peddler, such person shall wear or affix such badge on the outside of their clothing while working within the township so that the badge will be readily visible to any person encountering the peddler. No such badge shall be altered, except by a township official pursuant to this article.

Only the person to which the license is issued shall use and exhibit the license and/or badge.

(Ord. No. 730, 8-12-2013)

Sec. 46-15. Restrictions on the time and place.

(a) A peddler or solicitor, whether exempt from the provisions of licensing or not, shall not engage or attempt to engage in activity at any home, residence, apartment, apartment complex, or business that displays a "No Solicitors" or other similar sign, or otherwise provides notice that the occupants do not desire to be contacted by them.

(b) A peddler or solicitor shall not engage in the act of peddling or soliciting between the hours as provided in 46-2(b).

(c) A peddler or solicitor shall not intentionally obstruct vehicular or pedestrian traffic.

(d) Unless specifically approved by the township, no peddling or soliciting shall occur on any township park or township property.

(Ord. No. 730, 8-12-2013)

Sec. 46-16. Enforcement and penalty.

(a) In addition to the exhibition of license requirements in section 46-14, any person peddling or soliciting shall be required to produce his or her peddler's or solicitor's license if requested to do so by any police officer. In the absence of a license, the person shall be required to provide information reasonably necessary to verify a claim of exemption from this article.

(b) Any police officer shall enforce the provisions of this article against any person found to be violating it, and failure to produce a license or information necessary to verify a claimed exemption under this article shall constitute probable cause for enforcement action.

(c) Each violation shall be punishable as a municipal civil infraction per chapter 1, section 1-7

(Ord. No. 730, 8-12-2013)

Sec. 46-17. Severability.

If a court of competent jurisdiction declares any provision of this article 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, provision, or section; provided that if a court of competent jurisdiction declares a penalty provision to exceed the authority of the township, the penalty shall be construed as the maximum penalty that is determined by the court to be within the authority of the township to impose.

(Ord. No. 730, 8-12-2013)