

**ORDINANCE #345
PANHANDLER**

Adopted: 01/12/16
Effective: 01/21/16

An ordinance to provide for the regulation of panhandling and loitering in Bangor Township, and to provide penalties for the violation of it.

THE CHARTER TOWNSHIP OF BANGOR, BAY COUNTY, MICHIGAN, HEREBY ORDAINS:

SECTION 1. This ordinance shall be known and may be cited as the “Bangor Township Panhandling Ordinance”.

SECTION 2. Definitions. The following words, terms and phrases, when used in this ordinance, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning.

- A. “Obstruct” means to render impassible with unreasonable inconvenience or hazard. A gathering of persons to hear a person speak or otherwise communicate does not constitute an obstruction.

- B. “Panhandling” means any solicitation made in person upon any street, public place or park in Bangor 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:
 - 1. By vocal appeal or by vocal appeal in exchange for music, singing, or other street performance; and
 - 2. Where the person being solicited receives nothing or an item of little or no monetary value in exchange for a donation, under circumstance where a reasonable person would understand that the transaction is in substance a donation.
 - 3. 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.
 - 4. Panhandling shall not include charitable solicitations for monetary support by a civic event organizer during the course of the event or performance.

- C. “Public Place” means a place to which the public or a substantial group of persons has access, and includes, but is not limited to highways, in any vehicle on the street, transportation facilities, schools, places of amusement, parks, playgrounds and hallways, lobbies and other portions of apartment houses not constituting rooms or apartments designed for actual residence.

- D. “Transportation facility” means any conveyance, premises, or place used for or in connection with public passenger transportation, whether by air, railroad, motor vehicle, or any other method. It includes aircraft, watercraft, railroad cars, buses, and air, boat, railroad and bus terminals and stations, and all appurtenances thereto.

SECTION 3. Loitering

- A. A person commits the crime of loitering if he/she:
1. Loiters or remains in a public place for the purpose of gambling with cards, dice, or other gambling paraphernalia;
 2. Loiters or remains in a public place for the purpose of engaging or soliciting another person to engage in prostitution, sexual intercourse or other sexual behavior of a deviate nature;
 3. Being masked or in any manner disguised by unusual or unnatural attire, loiters, remains, or congregates in a public place with other persons so masked or disguised, or knowingly permits or aids persons so masked or disguised to congregate in a public place;
 4. Loiters or remains in or about a school building or grounds, not having any reason or relationship involving custody of or responsibility for a pupil or any other specific legitimate reason for being there, and not having written permission from a school administrator;
 5. Loiters or remains in any transportation facility, unless specifically authorized to do so for the purpose of soliciting or engaging in any business, trade, or commercial transactions involving the sale of merchandise or services, or for the purpose of entertaining persons by singing, dancing or playing any musical instrument;
 6. Loiters or remains in any place with one or more persons for the purpose of unlawfully using or possessing a dangerous drug; or
 7. Prowls or loiters on foot, in a motor vehicle or in any other way, in a place at a time, or in a manner not usual for law-abiding individuals under circumstances that warrant alarm for the safety or health of any person or property in the vicinity. Among the circumstances which may be considered in determining whether such alarm is warranted is the fact that the person:
 - a. Takes flight upon appearance of an investigation by a police officer.
 - b. Refuses or fails to adequately identify themselves.
 - c. Manifestly endeavors to conceal himself or any object.
 - d. Loiters on a street, sidewalk, alley, parking lot on any public place or place open to the public for no legitimate purpose.

This enumeration shall be deemed partial and shall not operate to exclude other circumstances which are within the general terms of subsection (A)(7) of this section.

- B. Unless flight by the person or other circumstances make it impractical, a police officer shall, prior to an arrest for an offence under this subsection, afford the person an

opportunity to dispel any alarm which would otherwise be warranted, by requesting him to identify themselves and explain their presence and conduct.

- C. No person shall be convicted of an offense under subsection (A) if the police officer did not comply with the above subsection, or if it appears at trial that the identification and explanation were true and, if believed by the police officer at the time, would have dispelled the alarm.
- D. A person does not commit a crime under subsection (A)(3) of this section if they are going to or from a masquerade party or Halloween event, or is participating in a public parade or presentation of an educational, religious or historical character or is in a lecture, theater performance, show, concert, circus, contest or any other entertainment, amusement, cultural or educational event.
- E. The term “sexual intercourse,” as used in subsection (A)(2) of this section, means any act of sexual gratification between one or more persons.
- F. The term “dangerous drug,” as used in subsection (A)(6) of this section, means any narcotic drug, barbiturate or amphetamine.

SECTION 4. Panhandling.

- A. It shall be unlawful to engage in any act of panhandling on any day after sunset or before sunrise.
- B. 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 an outdoor eating area; or within 50 feet in any direction from any automatic teller machine or bank entrance.
- C. It shall be unlawful to engage in any act of panhandling when the person being solicited is the operator or other occupant of a motor vehicle upon a street or is conducted in a manner so as to obstruct or interfere with the flow of vehicular or pedestrian traffic.
- D. It shall be unlawful to engage in false or misleading solicitation. Any person who knowingly makes any false or misleading representation in the course of soliciting a donation. False or misleading representations include but are not limited to, the following:
 - 1. Stating the donation is needed to meet a specific need, when the solicitor already has sufficient funds to meet that need and does not disclose that fact;
 - 2. Stating the donation is needed to meet a need which does not exist;

3. Wearing a military uniform or other indication of military uniform or other indication of military service, when the solicitor is neither a present nor former member of the service indicated;
4. Stating the solicitor is homeless, when he/she is not.

SECTION 5. Violation and Penalty. A violation of any of the provisions of this ordinance shall be a misdemeanor offense punishable by up to 90 days in jail, or a fine of up to \$500.00, or both such jail and fine. Each day that a violation is permitted to exist shall constitute a separate offense. A violation of any of the provisions of this ordinance is hereby declared to be a nuisance *per se*. The Township Board, or its duly authorized representative, may apply to any court of competent jurisdiction to abate such nuisance. Any person aggrieved by, or adversely affected by such nuisance may comment suit, or join the township's suit to abate the nuisance.

SECTION 6. Severability. The provisions of this ordinance are hereby declared to be severable and if any part is declared invalid for any reason by a court of competent jurisdiction, it shall not affect the remainder of the ordinance which shall continue in full force and effect.

SECTION 7. Repealer. All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed and shall be of no further force and effect on the effective date of this ordinance.

SECTION 8. This Ordinance shall become effective immediately after the last required publication following adoption.

The above Ordinance was adopted at a regular meeting of the Township Board on the 12th day of January, 2016, and shall be published in the *Bay City Democrat and Legal News* on or before the 21st day of January, 2016.