

ORDINANCE #266
SOLICITOR ORDINANCE

Adopted: 05/08/01
Effective: 06/16/01

An ordinance to provide for the defining and licensing of certain solicitors, vendors, peddlers or transient merchants desiring to conduct solicitations or business within the Charter Township of Bangor; to limit the times and places where such solicitations or sales may occur; and to provide for penalties for violating the ordinance.

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

ARTICLE I: GENERAL

SECTION 1. Definitions

1. The term "Bangor Township" or "Township" shall be construed to be the Charter Township of Bangor, Bay County, Michigan.
2. The word "charitable" shall mean and include the words patriotic, philanthropic, social service, welfare, benevolent, educational, civic or fraternal, either actual or purported.
3. The word "contribution" shall mean and include the words alms, food, clothing, money, subscription, property or donations given outright or given under the guise of a loan of money or property
4. The term "peddler" or "vendor" as used in this ordinance, 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, or exposes 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 by samples, lists, or catalog, or subscription for magazines and books from any person not a dealer therein. The term "peddler" or "vendor" as used in this article shall not be applicable to any party selling the products of its own farm, orchard or garden from the party's own land.
5. The word "person" shall mean any individual firm, co-partnership, corporation, company, association or joint stock association, church, religious sect, religious denomination, society, organization or league, and includes any trustee, receiver, assignee, agent, or other similar representative thereof.
6. The word "photograph" means a picture of the applicant facing the camera which shows the applicant's head and shoulders in a clear and identifiable manner and which shall be not less than 2" wide x 3" long.
7. The word "promoter" shall mean any person who promotes, manages, supervises,

organizes, or attempts to promote, manage, supervise, or organize a campaign of solicitation.

8. As used in this ordinance, the words "religious" and "religion" shall not mean and include the word "charitable" as herein defined, but shall be given their commonly accepted definitions.
9. 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 direct request or by going from door to door.
10. The term "transient merchant" as used in this ordinance shall be construed to mean and to include all persons, associations, firms and corporations and their agents, servants, and employees, who engage in the temporary business of selling and/or delivering of goods, wares, merchandise and/or service within the Township, and who, in the furtherance of such purpose, hires, leases, uses or occupies any motor vehicle, tent, parking lot or other place within the Township for exhibition of sale of such goods, wares and merchandise, either privately or at public auction. Specifically excluded from the term "transient merchant" is a person who engages in such a business herein defined completely within the confines of a building.

SECTION 2. 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 Ordinance, for the purpose of carrying on the licensed activity; provided, however, that the Township Board 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 Township Board finds necessary as to the time, location, equipment, and mode of operation to protect the public and operator from hazard; and provided further, that motor vehicles, licensed under the state statutes and meeting their requirements, may be operated as authorized thereby.

SECTION 3. Misrepresentations by Solicitors. No person shall, directly or indirectly, solicit contributions for any purpose, by misrepresentation 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.

SECTION 4. Exceptions to Licenses. The provisions of this ordinance shall not apply to any established society, association or corporation that is organized and operated exclusively for religious, philanthropic, benevolent, fraternal or charitable purposes, 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 only 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 or fraternity or similar organization, or of any branch thereof and only during the time of a meeting of such organization.

SECTION 5. Alteration Prohibited. No licensee under this ordinance shall alter, remove or obliterate any entry made on the license as issued by the Bangor Township Clerk.

SECTION 6. Expiration. All licenses issued under the provisions of this ordinance shall expire on the thirty-first day following issuance unless a prior date is fixed therein, or unless the license is extended after written application to the Township Clerk.

SECTION 7. Suspension or Revocation. The Township Clerk shall have the power to suspend any license issued under this ordinance for violation of a Bangor Township ordinance or any condition or regulation under which the license was granted. If the Township Clerk shall receive a written complaint from any offended citizen of the Township, the Clerk shall meet with the licensee to determine whether or not the complaint justifies the immediate suspension of the license. 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 8. Endorsement Prohibited. Every license issued pursuant to the terms of this ordinance shall contain a statement that the license does not constitute an endorsement by the Township or by any of its departments, officers or employees of the purpose or of the person conducting the solicitation.

SECTION 9. Signed license. All licenses upon approval must be signed by the Township Clerk or the Deputy Clerk.

SECTION 10. Records to Be Kept. A full and complete record of each license issued under this ordinance, including renewals or revocations thereof, and serious complaints and charges against the licensee, together with the licensee's photograph shall be kept on file by the Township Clerk.

ARTICLE II: PEDDLER/VENDOR LICENSE

SECTION 1. License Required. No person shall conduct the business or occupation of a peddler or vendor within Bangor Township, unless that person shall have obtained a license in accord with this article. No person shall act as a helper or assistant to a licensed peddler or vendor unless that person also has a license.

SECTION 2. Application. Any person desiring to obtain a license as a peddler or vendor shall apply to the Bangor Township Clerk, upon forms furnished by the Clerk and signed by such applicant, and stating the following:

1. The applicant's name;

2. Applicant's residence address;
3. Applicant's taxpayer identification number;
4. Two photographs of the applicant;
5. The names, residential addresses and two photographs of any agent or employee or contractor who will be engaging in the business on behalf of the applicant;
6. The nature of the business proposed to be conducted and the manner the applicant intends to travel and trade or to conduct business.

SECTION 3. Fee. *The fee for a license required by this division shall be as adopted by resolution of the Township Board, which shall be paid to the Township Clerk at the time the application is filed. (Amended by Ordinance #301, effective 11/17/05)*

SECTION 4. Issuance. The Township Clerk is authorized to issue licenses to those who have complied with the provisions of this ordinance.

SECTION 5. Extension. The Township Clerk may extend the term of the license for up to an additional thirty-one days if the applicant on or before the date the license expires requests an extension for an additional period of time not exceeding thirty-one days and the license has not been suspended during the initial term of the license.

SECTION 6. License to be Carried by Licensee. Each license granted under this ordinance shall be in such form as to contain a true photograph of the licensee, address, and the name of the class of the person's license. All licensees shall carry on their person at all times while peddling the license herein described.

ARTICLE III: TRANSIENT MERCHANTS

SECTION 1. License Required. No person, either as a principal or an agent, shall engage in business as a transient merchant within the limits of Bangor Township without having first obtained a license in the manner provided in this article. All agents and employees must obtain separate licenses.

SECTION 2. Association with Local Merchant Does Not Exempt Transient Merchant. No transient merchant shall be exempt from the provisions of this article by reason of associating temporarily with any merchant, tradesman, or other person doing business permanently within Bangor Township, or by conducting 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 Bangor Township.

SECTION 3. Application. Any person desiring to engage in business as a transient merchant within the limits of Bangor Township shall make and file with the Bangor Township Clerk a written application for a license to engage in business as a transient merchant. Such application shall be signed by the applicant and shall state the following:

1. The applicant's name;
2. Residence address;
3. Federal taxpayer identification number;
4. Two photographs of the applicant;

5. The names, residential addresses and two photographs of any agent or employee or contractor who will be engaging in the business on behalf of the applicant;
6. The nature of the business proposed to be conducted and the manner the applicant intends to conduct business.

SECTION 4. Fee. *The fee for a license required by this division shall be as adopted by resolution of the Township Board, which shall be paid to the Township Clerk at the time the application is filed. (Amended by Ordinance #301, effective 11/17/05)*

SECTION 5. License to Be Displayed by Licensee. All licenses granted under this article shall be in such form as to contain a true photograph of the licensee, the licensee's name, address, and the period of time for which the license is issued. All licenses shall be prominently displayed where the licensee conducts business.

ARTICLE IV: CHARITABLE AND RELIGIOUS SOLICITATIONS

SECTION 1. Required license. 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 representation that such sale or solicitation, or the proceeds or any part thereof, is for a charitable or religious purpose, on the streets, in any office or business building, by house to house canvass, or in any other public or private place or by personal solicitation unless such person shall have a license issued in accord with this article.

SECTION 2. Exemptions from license. Any group or individual associated with a public, private and charter school related activity or youth related activity, such as but not limited to, classroom activities, recognized Scout groups, Little League, or similar youth oriented activity shall not be required to obtain a license so long as such activity is not conducted within the public roadways of the Township if the group presents written permission for the group to conduct such activity to the Township Clerk. The written permission shall describe the activity to be conducted and the time period of such activity which shall not exceed thirty-one days and shall be signed by the authoritative head of the organization, such as the Superintendent or Principal of a school class or group, or the presiding body's managing director such as the Boy Scout Council's managing director or Little League local organization's managing director.

A political action committee shall not be required to obtain a license in order to sell fund raising tickets or otherwise raise money for the committee within the Township so long as such activity is not conducted within the roadways of the Township.

An organization which is properly licensed by the State of Michigan Charitable Gaming Division shall not be required to obtain a license in order to sell fund raising tickets or otherwise raise money for the organization within the Township so long as such activity is not conducted within the roadways of the Township.

SECTION 3. Solicitor's Credentials. All persons to whom licenses have been issued under this article shall furnish proper credentials to their solicitors for such solicitation. The credentials

shall include the name of the license holder, the date of the license, a statement describing the holder's charitable or religious activity, a description of the purpose of the solicitation, the signature of the license holder or of the holder's chief executive officer, and the name 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 license holder. A copy of such credentials shall be filed with the Township Clerk at the time the license is issued to the applicant under this article. No person shall solicit under any license granted under this article, unless that person has such credentials in his or her immediate possession and a copy is filed with the Township Clerk, and the same shall be shown upon the request of any person solicited or any police officer.

SECTION 4. Records of Donations and Disbursements. No person shall solicit any contributions for any charitable or religious purpose for which a license 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.

SECTION 5. Application Generally.

A. An application for a license required by this article 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 license.
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 conducting the solicitation.
6. The time when such solicitation shall be made, giving the preferred dates for the 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 to the effect that, if a license is granted, it will not be used or represented in any way as an endorsement by the township or by any department or officer thereof.
9. 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 solicitation 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 license 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 three (3) business days 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 6. Investigation of Application and Applicant.

- A. The Township Clerk shall examine all applications filed under this article and shall make or cause to be made such further investigation of the application and the applicant as the Clerk shall deem necessary in order to make an informed decision as to whether to grant or deny any license. Upon request of the Clerk, the applicant shall make available for inspection by the Clerk, or any person designated in writing by the Clerk as representing the Clerk, all of the applicant's books, records, and papers at any reasonable time before the application is granted, during the time the license is in effect, or after a license has expired.
- B. The Township Clerk shall not issue a license required by this ordinance, unless the Clerk finds:
 - 1. That all of the statements made in the application are true.
 - 2. That the applicant has not engaged in any fraudulent transaction or enterprise.
 - 3. That the solicitation will not be a fraud on the public.
 - 4. 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.
 - 5. That the solicitation is prompted by a desire to finance the charitable or religious cause described in the application and will not be conducted for private profit.

SECTION 7. Fee. The Township Clerk shall charge no fee for a license required by this article.

SECTION 8. Issuance. A license required by this article shall be issued by the Township Clerk, when all of the provisions of this article have been complied with and when such issuance has been approved by the Clerk; provided that such license shall not be issued until the credentials of the applicant's solicitors have been approved and filed with the Clerk.

SECTION 9. Contents of License and Duration.

- A. A license issued under this article shall bear the name and address of the person for whom the solicitation is to be made, the number of the license, the date issued, the dates within which the license holder may solicit between the hours of 7:00 a.m. and 8:00 p.m.
- B. No license may grant the right to solicit longer than 31 days from its date, but the Township Clerk may extend any license for not more than 31 additional days, upon a showing that an unnecessary hardship would be created by a failure to so extend the original 31-day period, and upon approval of such extension by the Township Board.

SECTION 10. Copy to Be Carried by Solicitors and Displayed upon Request. No person shall solicit under a license issued pursuant to this article, unless the person has in his or her immediate possession, a facsimile copy of such license and the person's credentials as filed with the Clerk both of which must be shown upon the request of any person solicited or any police officer.

SECTION 11. Nontransferable; Return Upon Expiration. Any license issued under this article shall be nontransferable and shall be returned to the Township Clerk within three (3) business days after its date of expiration, together with all facsimile copies thereof.

ARTICLE V: SEVERABILITY, EFFECTIVE DATE AND PENALTY SECTION

SECTION 1. Effect of Ordinance; Severability. If any part of this ordinance is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity or constitutionality of the remaining portion of this ordinance. The Township Board 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 invalid or unconstitutional.

SECTION 2. Penalties. Any violation of or any failure to comply with a provision or provisions of this Ordinance shall be deemed a misdemeanor and shall be punishable by a fine not to exceed \$500.00 or by imprisonment not to exceed 93 days or both. Each day that a violation of this Ordinance is continued or permitted to exist without compliance shall constitute a separate offense punishable upon conviction in the manner prescribed in this Section provided no person shall be imprisoned for a single but continuing violation of this Ordinance for a period of longer than 93 days. In addition to the criminal sanctions herein provided, the Township specifically reserves the right and shall have the authority to proceed in any Court of competent jurisdiction for the purpose of obtaining an injunction, restraining order, or other appropriate civil proceedings to prevent, enjoin, abate, or remove any violation of this Ordinance.

SECTION 3. Effective date. This Ordinance shall become effective 30 days after publication and shall be published once in full in the *Bay City Democrat and Bay County Legal News*, a newspaper circulating within the boundaries of the Charter Township of Bangor on or before the 17th day of May, 2001.