

ORDINANCE NO. 17 – 329

Amendment to Chapter 16 of the City Code

An ordinance to amend Chapter 16 of the City Code of the City of Morenci to establish rules and regulations for solicitation, peddling, and panhandling in the City of Morenci.

CITY OF MORENCI, LENAWEE COUNTY, MICHIGAN, HEREBY ORDAINS:

Section 1. Amendment.

Chapter 16 of the City of Morenci municipal code is amended to read the following:

Sec. 16-1 – Purpose.

Door-to-door solicitation and aggressive panhandling and peddling within the City of Morenci has become a public nuisance by putting into jeopardy the physical safety and economic well being of the residents and visitors of the City of Morenci. The issue of solicitation and aggressive panhandling and peddling can be an impediment and disruption to vehicle and pedestrian traffic flow as well as economic productivity for a variety of commercial business establishments. The intent of this legislation is to enact and implement content-neutral regulations barring unwanted solicitations and aggressive peddling, along with placing a registration process for such activity that will ensure the physical safety and economic well being of residents and visitors of the City of Morenci is preserved. Furthermore, the intent and force of this ordinance is not at odds with the individual liberties guaranteed under the First Amendment of the Federal Constitution.

Sec. 16-2 – Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

- (a) *Panhandling* means verbal request made in person upon any street, public place, or park in the city for an immediate donation of money or other thing of value, including a request to purchase an item or service of little or no monetary value in circumstances where a reasonable person would understand that the purchase is in substance a donation.
- (b) *Peddler* means any person who travels by foot, motor vehicle or any other type of conveyance, from place to place; or stands in one place on public property, except when in front of the person's

established business location, selling or offering for sale goods or services. In addition, aggressive panhandling is defined as:

1. Touching another person without that person's consent;
2. Blocking the path of the person solicited or blocking the entrance to any building or vehicle;
3. Continuing to solicit or to request a donation from a person after that person has refused an earlier request;
4. Following or remaining alongside a person who walks away from the solicitor after being solicited;
5. Making any statement, gesture, or other communication that would cause a reasonable person to feel threatened into making a donation; or
6. Using profane or abusive language during the solicitation or following a refusal to make a donation.
7. Within 20 feet of an automated teller machine (ATM) or entrance to a bank, other financial institution, or check cashing business; or
8. On private property, if the owner, tenant, or occupant has asked the person not to solicit on the property or has posted a sign prohibiting soliciting.

- (c) *Solicitor* means any person traveling either by foot, motor vehicle or any other type of conveyance from place to place seeking to obtain orders for the purchase of goods or services for future delivery or performance.

Neither the word "solicitor", "panhandler", or "peddler" shall include any person who shall be engaged exclusively in wholesale sales to retail merchants.

Sec. 16-3 – Registration—required.

It is unlawful for any person, either as a principal or agent, to conduct himself as a solicitor, panhandler, or peddler, as defined in this article, in the city, without first having registered in the manner herein provided.

Sec. 16-4 – Same—Exemptions.

- (a) Persons soliciting, panhandling, or peddling as the duly authorized representative or agent of any church, charitable, educational or

fraternal organization, or of any political group seeking funds or membership shall be exempt from the registration requirements of this article.

- (b) Every honorably discharged member of the armed forces of the United States who served at least 180 days of active duty service in the armed forces or has a service connected disability as a result of that service and is a resident of this state has the right to sell his or her own goods within this city at no registration cost if the proceeds from the sale of the goods are to be used for the direct personal benefit or gain of that former member, by procuring a license for that purpose issued as provided in Public Act No. 359 of 1921 (MCL 35.441 et seq.)

Sec. 16-5 – Same—Procedure.

- (a) *Generally.* Any person desiring to conduct himself as a solicitor, panhandler, or peddler, as defined in this article, shall first file with the City Administrator / Clerk's office a written registration stating the registrant's name, date of birth, residence address, business address, mailing address, and a brief description of the type of goods or services which he intends to sell or offer for sale or for which he intends to seek to obtain orders for future delivery or performance. Applicant should also disclose criminal record, if any, on application. The City Administrator / Clerk's office shall charge a fee for the processing of such application with the fee established in the City of Morenci's annual fee schedule.
- (b) *Acceptance by City Administrator / Clerk.* The completed registration shall then forthwith be turned over to the City of Morenci Police Department, which shall have the responsibility of verifying the contents of the registration through a local background check. Upon receipt of written verification by the City of Morenci Police Department of the contents of the registration or upon the passage of three business days after the filing of the registration, whichever shall occur first, the city clerk shall accept the registration.
- (c) *Notification in event of conflicts.* In the event that the results of the investigation conducted by the City of Morenci Police Department conflict with the contents of the registration, the City of Morenci Police Department shall notify the City Administrator / Clerk's office thereof and the City Administrator / Clerk's office shall notify the applicant for registration, in writing, that the registration is not acceptable and shall state the reasons therefor.

- (d) *Denial of Application.* The application may be recommended for denial by the City of Morenci Police Department, if the City of Morenci Police Department finds felony convictions of any kind and / or convictions, either misdemeanor or felony, related to fraudulent activities and / or larceny in the applicant's criminal record. The City of Morenci Police Department shall notify the City Administrator / Clerk's office thereof and the City Administrator / Clerk's office shall notify the applicant for registration, in writing, that the registration is not acceptable and shall state the reasons therefor.

Sec. 16-6 – Validity of registration.

A registration filed and accepted pursuant to this article shall be valid for a period of 30 days from the time and date of the acceptance.

Sec. 16-7 – Prohibited acts.

The following conduct shall be punishable as a violation of this article as provided in section 1-13:

- (1) Aggressive panhandling, as defined in section 16-2.
- (2) Entering a private residence under pretenses of entering for purposes other than soliciting or peddling;
- (3) Remaining in a private residence or on the premises thereof after the owner or occupant thereof has requested the solicitor, panhandler, or peddler to leave;
- (4) Going in and upon the premises of a private residence by such solicitor, panhandler, or peddler to solicit, panhandle, or peddle when the owner or occupant thereof has displayed a "No Soliciting", "No Panhandling", or "No Peddling" sign on such premises;
- (5) Soliciting or peddling at a private residence prior to 10:00 a.m. and after 7:00 p.m.

Section 2. Repeal of Conflicting Provisions.

All other City ordinances, City Council resolutions, and parts thereof that conflict with provisions of this Ordinance are hereby repealed and shall be of no further force or effect.

Section 3. Severability.

All sections, terms, provisions or clauses of this Ordinance shall be deemed independent and severable. Should a court of competent jurisdiction hold any section,

term, provision or clause void or invalid, all remaining sections, terms, provisions and clauses not held void or invalid shall continue in full force and effect.

Section 4. Publication and Effective Date.

Publication of this ordinance shall be made by causing a true copy thereof to be inserted once in the State Line Observer, a newspaper circulating within the City of Morenci. This ordinance shall take effect ten (10) days after the ordinance is published.

YEAS: Councilors Berger, Lampson, Leahy, Seger, and Mayor Bell

NAYS: None

ABSENT: Councilor Cox

Ordinance declared adopted on March 13, 2017.



Jeffrey D. Bell, Mayor
City of Morenci

CERTIFICATION OF ADOPTION AND PUBLICATION

I, Michael S. Sessions, the City Clerk, certify that the foregoing ordinance was properly enacted by the City Council of the City of Morenci, Lenawee County, Michigan on March 13, 2017 and that it was published in the State Line Observer on March 15, 2017.



Michael S. Sessions, City Clerk
City of Morenci