

# Soliciting in Public Roadway by Charitable or Civic Organizations

## Introduction

A new law was passed, PA 112 of 2017, to address a 2016 Attorney General opinion (OAG 7291 of 2016) that concluded nonprofit organizations were prohibited from fundraising within road rights-of-way. As of July 27, 2017, charitable or civic organizations are permitted to solicit contributions in a public roadway under specific circumstances, such as at an intersection with traffic control devices.

A “charitable or civic organization,” as defined in this new Act, means a nonprofit organization that is qualified under Section 501(c)(3), 501(c)(4), 501(c)(7), 501(c)(8) or 501(c)(10) of the Internal Revenue Code (26 USC 501), or a veterans’ organization that has tax-exempt status under the Internal Revenue Code.

## Local Control

The Michigan Constitution provides that “except as otherwise provided in this constitution,” local units of government shall have reasonable control of their “highways, streets, alleys and public places.” Art 7, section 29. The Constitution further provides that each city and village has the power to adopt resolutions and ordinances relating to municipal concerns. Art 7, section 22. State statutes have been adopted permitting a city, village, or township to adopt by reference the Michigan Vehicle Code (MCL 257.1 to 257.923) and also the Uniform Traffic Code, promulgated by the State Police (MCL 257.951).

## New Law

PA 112 of 2017 amends the Michigan Vehicle Code to allow a person to solicit contributions on behalf of a charitable or civic organization during daylight hours on a public street or roadway under certain conditions.

Local government conditions:

- A local government or road authority with jurisdiction over a roadway on which solicitation occurs is not be liable for any claim for damages arising out of the use of the roadway;
- A local government may enact or enforce regulations restricting, but not prohibiting, solicitation by charitable or civic organizations; and,
- A local government that previously enacted or was enforcing solicitation regulations prohibited under PA 112 is now required to bring those regulations into compliance within 60 days after its effective date of July 27, 2017.

Charitable or civic organization conditions:

- The organization must comply with applicable local government regulations;
- The organization must maintain at least \$500,000 in liability insurance;
- The person soliciting contributions on behalf of the charitable or civic organization must be at least 18 years old;
- The person soliciting contributions on behalf of the charitable or civic organization must wearing high-visibility safety apparel; and
- The portion of the roadway where solicitation occurs cannot be a work zone and must be within an intersection where traffic control devices are present.

PA 112 went into effect on July 27, 2017. Local government regulations were required to be in compliance with the new Act within 60 days of the effective date..

**CITY OF FRASER  
MACOMB, COUNTY, MICHIGAN**

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE REGULATING SOLICITATION OR STANDING IN THE TRAVELED PORTION OF THE ROADWAY, PROVIDING FOR REPEALER, SEVERABILITY, PENALTIES AND EFFECTIVE DATE.**

**THE CITY OF FRASER ORDAINS:**

**Section 1. Preamble.**

**WHEREAS**, in order to protect public health, safety and welfare and to advance legitimate and rational regulation of conduct within the traveled portion of streets and roads within the city, to avoid and limit injuries to pedestrians, automobile collisions, injuries to occupants of motor vehicles, in order to avoid traffic congestion and interruption and otherwise to promote and protect public health, safety and welfare, the city is desirous of regulating solicitation or standing in the traveled portion of the roadway by persons.

**Section 2.** Chapter 25 of the Code of Ordinances is amended and revised adding Article VIII as follows:

**ARTICLE VIII. – SOLICITATION OR STANDING WITHIN TRAVELED ROADWAY BY PERSONS.**

**Sec. 25-67. - Definitions.**

As used in this Article, unless the context requires a different meaning, the following words and phrases shall have a meaning ascribed by this Section.

- A. Charitable Organization. Shall mean a non-profit person or entity which establishes proof of identification as a charitable organization through furnishing Articles and Incorporation, Articles of Organization, Organization, United States or State Tax Returns and filings, registration as a charitable organization with the State of Michigan, or other information as determined acceptable by the City Manager demonstrating bona fide charitable purpose.
- B. Civic Organization. Shall mean an organization organized and established as a non-profit entity for civic related purposes which shall be established through presentation of Articles of Incorporation, Article 5 of Organization, By-Laws, Federal or State Tax Returns and Filings or other information as determined acceptable by the City Manager.
- C. Insurance. Insurance shall mean general liability insurance of a minimum of \$500,000.00 per person per occurrence issued with the City of Fraser, its agents and employees as additional named insureds primary and non-contributory with a Notice of Cancellation or Non-Renewal directed to the City of Fraser, attention City Manager, such notice to be furnished at least 30 days prior to any cancellation or non-renewal.
- D. Roadway. Shall mean the area of a paved or unpaved private, or public street, highway or road designed for vehicular travel generally including the area from curb to curb, or if no curb is present, from outer edge of shoulder to outer edge of shoulder.
- E. Solicitation. Shall mean to, by words or other conduct, to request or invite the receipt of money or other personal property.

- F. Standing. Shall mean to remain within the roadway other than is reasonably necessary to traverse across the roadway, or to complete activity within an area of the roadway necessitated by an emergency such as a traffic accident, mechanical breakdown, or other similar event.

**Sec. 25-68. - Location Restrictions.**

Solicitation or standing in the roadway within the City of Fraser is only permitted within the intersection of 14 Mile Road and Garfield, any of the four quadrants, or the intersection of 14 Mile Road and Utica, any of the four quadrants.

**Sec. 25-69. - Permitted Charitable and Civic Solicitation, Frequency of Solicitation or Standing.**

Only charitable and civic organizations are permitted to solicit or complete solicitation transactions within the roadway. Any charitable or civic group may only solicit or stand at a permitted intersection on two occasions not more than three consecutive days in each calendar year (365 days January 1<sup>st</sup> through December 31<sup>st</sup>).

**Sec. 25-70. - Required Attire.**

All persons engaged in permitted solicitation shall wear high visibility safety apparel meeting the current American Standards promulgated by the International Safety Equipment Association. In the event that such persons are acting for or on behalf of any entity or agency, lettering identifying such entity or agency upon clothing, a hat, or any small container utilized by such individuals shall be provided legible from twenty feet.

**Sec. 25-71. - Reflective Cones.**

Such persons shall attempt to move off the roadway portion of the road when traffic is moving and shall locate two highly reflective orange cones in the center of the roadway and attempt to operate within that area when engaged in activity and return off the traveled portion of the roadway when not engaged in solicitation activity and traffic is not moving.

**Sec. 25-72. - Minors Restricted.**

No person under the age of eighteen (18) shall be permitted to solicit on behalf of any charitable or civic organization.

**Sec. 25-73. - Restrictions Objects Carried.**

Persons shall only carry or hold a container of a small size, shape and weight so as to not impede safe pedestrian and vehicular movement as determined by the City Manager. Signs and other objects are prohibited unless approved by the City Manager.

**Sec. 25-74. - Approval Required.**

Persons and entities shall obtain the approval of the City Manager who shall require a name, address and phone number and who shall grant approval unless such applicant has previously violated this ordinance within the last two (2) years, or such approval would allow for violation of sections of this ordinance.

**Sec. 25-75. - No Solicitation During Adverse Weather Conditions.**

Solicitation shall not occur at any time which rain or snow are falling, or when snow or ice are present upon the roadway or shoulders areas.

**Sec. 25-76. - Solicitation During Daylight Hours Only.**

Solicitation shall occur only during daylight hours which is defined to mean one half hour after the sunrise and one half hour before sunset based on published sunrise and sunset days on the applicable day where solicitation occurs.

**Sec. 25-77. - Work Zone Solicitation Prohibited.**

Solicitation is not permitted within any work zone.

**Sec. 25-78. - Working Traffic Signals Required.**

Solicitation shall not occur at any permitted intersection where traffic controlled devices are either not present or not functioning.

**Section 3. Penalty.** Any entity, organization, employee, or person who violates the terms and provisions of this Article shall be guilty of a civil infraction punishable by up to a \$500.00 fine plus costs. Each instance of solicitation or standing, is considered a separate offense subject to penalties under the provisions of this section.

**Section 4. Repealer.** All ordinances or parts of ordinances in conflict herewith are repealed only to the extent necessary to give this ordinance full force and effect.

**Section 5. Severability.** If any article, section, subsection, sentence, clause, phrase, or portion of this ordinance is held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of remaining portions of the ordinance, it being the intent of the City that this ordinance shall be fully severable.

**Section 6. Effective Date.** This Ordinance shall be effective immediately after publication of notice of its adoption.

\_\_\_\_\_  
Joe Nichols, Mayor

Attested:

\_\_\_\_\_  
Kelly Dolland City Clerk

**CERTIFICATION**

I, Kelly Dolland, City Clerk for the City of Fraser, County of Macomb, State of Michigan, certify that this is a true copy of an ordinance adopted by the Council of the City of Fraser at its Regular meeting on \_\_\_\_\_, 2017.

\_\_\_\_\_  
Kelly Dolland, City Clerk

PUBLICATION DATE:

Macomb Daily, \_\_\_\_\_, 2017.