

85D. AGGRESSIVE PANHANDLING

85D.01. Purpose. Subdivision 1. Panhandling is a growing social and public safety concern faced by cities of all sizes including Rochester. Many panhandlers passively ask for money or hold a sign. Federal and state courts have ruled such passive panhandling is protected speech under the First Amendment. This ordinance is not directed towards such protected speech. This ordinance is not intended to limit any person from exercising his or her constitutional right to solicit funds, picket, protest, or engage in other constitutionally protected activity.

Subd. 2. Other panhandlers are much more aggressive in seeking money or assistance by making loud and repeated demands, by touching or following the solicited person, or by panhandling in places that are particularly intimidating such as near an ATM machine, near a restroom, on a public bus, on a sidewalk café, or near a person's car. Under these circumstances, persons approached by panhandlers asking for money, objects, or other things of value are particularly vulnerable to real, apparent, or perceived coercion, fear, and intimidation when the request is accompanied by aggressive behavior or in a "captive audience" setting. This is considered Aggressive Panhandling. Federal and state courts have ruled Aggressive Panhandling to be outside the protection of the First Amendment. This ordinance is directed towards Aggressive Panhandling only.

Subd. 3. Aggressive panhandling is disturbing and disruptive to residents of and visitors to the City, and contributes to the loss of access to and enjoyment of public places out of a sense of fear, intimidation, and disorder. The purpose of this chapter is to protect the public safety, health, and welfare by balancing the rights of those who seek to panhandle with the rights of others to be free of intimidation, fear, harassment or threats upon their personal safety as they travel upon the City streets and sidewalks. The City of Rochester has a duty to protect the rights of all people to exercise their First Amendment rights safely and without intimidation. The City of Rochester has a compelling governmental interest in imposing certain reasonable time, place, and manner regulations whenever potential First Amendment activities, such as panhandling, occur on streets, highways, sidewalks, plazas, and other public venues within the City.

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85D.02. Definitions. Subdivision 1. The term “Aggressive Panhandling” shall mean Panhandling that occurs in any of the following situations or locations:

- A. The Panhandler intentionally touches or causes physical contact with the solicited person without the solicited person’s consent;
- B. The Panhandler repeats the solicitation when the solicited person has refused an immediate prior solicitation made at that location;
- C. The Panhandler blocks the path of the Solicited Person;
- D. The Panhandler follows behind, alongside, or ahead of the Solicited Person during or after the Panhandling Request with the intent to intimidate or continue the solicitation;
- E. The Panhandler speaks profane or abusive language, or uses an obscene gesture at the Solicited Person immediately before, during, or after the Panhandling event; or
- F. During the Panhandling event, the Panhandler makes any statement other than the solicitation or acts in any manner which would cause a reasonable person to feel harassed, intimidated, or compelled to make a donation.
- G. The Panhandler is within fifteen feet of an ATM or entrance to a financial institution.
- H. The Panhandler is within fifteen feet of a public restroom.
- I. The Panhandler is in a public transportation vehicle or public transportation facility, including a bus stop or taxi stand.
- J. The Panhandler is within 15 feet of a Sidewalk Café, Vending Cart, or outdoor dining area.
- K. The Panhandler approaches a vehicle which is traveling, parked, or stopped on a public street.
- L. The Panhandler approaches a person in line waiting to be admitted to a commercial or government establishment.

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Subd. 2. The term “Automated Teller Machine” or “ATM” means a device linked to a financial institution’s account records, which is able to carry out transactions including, but not limited to, account transfers, deposits, cash withdrawals, and balance inquiries.

Subd. 3. The term “Panhandler” means a person who engages in Panhandling.

Subd. 3. The terms “Panhandling” or “Panhandling Event” means any solicitation made in person upon any street, public place, or park in which a person requests an immediate donation of money or other gratuity (by words, bodily gestures, or signs) when approaching or stopping another person. Panhandling or Panhandling Event includes the act of soliciting a donation by vocal appeal or by music, singing, or other street performance, as well as 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. Panhandling or Panhandling Event does not include the act of passively standing, sitting, or 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 a response to an inquiry by another person.

Subd. 4. The term “Sidewalk Cafe” means any establishment licensed under chapter 73B.

Subd. 5. The term “Solicited Person” mean any person who receives a solicitation under circumstances that constitute Panhandling.

Subd. 6. The term “Vending Cart” means any establishment licensed under chapter 73D.

85D.04. Prohibition. No person shall engage in Aggressive Panhandling.

85D.05. Penalty. Subdivision 1. Any person who violates this chapter may be prosecuted for a misdemeanor offense subject to the notice requirement in subdivision 2.

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Subd. 2. No person may be prosecuted under this chapter until the person has been informed by law enforcement, including a community service officer, about: (A) the rules as to where panhandling can and cannot occur; (B) the penalty for violating those rules; and (C) the various charitable and social services available to the person.

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