

Effective Date: February 21, 2013

2/5/2013
1/22/2013

18-O-13

AN ORDINANCE

**Amending Title 9, Chapter 5, Section 25 of the Evanston City Code
Limiting Panhandling and Soliciting**

WHEREAS, pursuant to Article VII of the Illinois Constitution of 1970, the City of Evanston ("City") is a Home Rule municipal corporation authorized to exercise powers and perform functions pertaining to its government and affairs including, but not limited to, the power to regulate for the protection of the public health, safety, morals and welfare; and

WHEREAS, the City currently restricts panhandling in public places to deter and prevent fraud and crime, and to protect the privacy and safety of people in and about the public ways of the City; and

WHEREAS, in furtherance of the City's interest in protecting the public health, safety, morals and welfare, and in order to further deter and prevent fraud and crime, and to protect the privacy of residents in the City, the City Council desires to place certain reasonable limits on panhandling and soliciting activities in the City, including at residential locations; and

WHEREAS, the regulation of solicitation and panhandling set forth below is narrowly tailored to provide ample alternative channels of communication to solicit and panhandle; and

WHEREAS, time restrictions on panhandling in residential areas were discussed during City Council deliberations of this ordinance, stemming from public

health, welfare, and safety concerns associated with residents being approached at their homes after daylight hours by a panhandler; and

WHEREAS, the comments received from citizens informed the legislative deliberations of Council concerning this ordinance; and

WHEREAS, certain City residents expressed concerns over unregulated panhandlers and solicitors engaging in activity during times of day after sunset; and

WHEREAS, the City seeks to balance the interests of resident and neighborhood safety with the interests of panhandlers and solicitors; and

WHEREAS, the City Council and staff received comments on this proposed ordinance during Council and Committee meetings, as well as through alternate channels of communications; and

WHEREAS, the City Council finds that it is in the best interests of the community to regulate time restrictions for panhandling in residential areas differently than time restrictions for solicitations,

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF EVANSTON, COOK COUNTY, ILLINOIS, THAT:

SECTION 1: Section 9-5-25 of the Evanston City Code of 2012, as amended, is hereby further amended to read as follows:

9-5-25 – PANHANDLING AND SOLICITING.

(A) Definitions:

PANHANDLING:	An act made in person in or upon any street, public place, park, Premises, or Residence in the City, 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 verbal or written appeal, or 2. By music, singing, or other street performance; and 3. Where the person to whom the request is made receives an item or service of little or no monetary value in exchange for a donation, under
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	<p>circumstances where a reasonable person would understand that the transaction is in substance a donation.</p> <p>However, panhandling shall not include passively standing or sitting, or performing music or song or any other street performance with a sign or other indication that a donation is being sought, without any verbal request other than in response to an inquiry by another person.</p>
PERSON:	A natural person or persons, partnership, firm, corporation, or organization of any kind.
PREMISES:	Any occupied building or structure, including but not limited to all buildings or structures containing Residences, including the surrounding outdoor property owned or leased by the occupant, or any separate dwelling unit contained within any occupied building or structure, of any type.
SOLICITING:	<p>An act made in person in or upon any street, public place, park, Premises or Residence in the City, in which a person requests or seeks to obtain:</p> <ol style="list-style-type: none"> 1. Orders or customers for the purchase of goods, wares, merchandise, foodstuffs, and/or services, of any kind, character or description whatever, for any kind of consideration whatever; or 2. Prospective customers for application or purchase of insurance of any type, kind, or character; or 3. Subscriptions to books, magazines, periodicals, newspapers, and every other type or kind of publication; or 4. Gifts or contributions of money, clothing, or any other valuable thing for the support or benefit of any charitable non-profit association, organization, corporation, or project.

(B) Limitations on Panhandling and Soliciting. It shall be unlawful to engage in an act of Panhandling or Soliciting in the City:

1. If the person to whom the Panhandling or Soliciting request is made is located in a sidewalk cafe, in a public transportation vehicle, or in a public transportation facility.
2. If the panhandler or solicitor, or the person to whom the Panhandling or Soliciting request is made, is located at any of the following locations: a bus stop; in any public transportation vehicle or public transportation facility; in a vehicle which is parked or stopped on a public street or alley; in a sidewalk cafe, or within twenty feet (20') in any direction from an automated teller machine or entrance to a bank.

3. By going upon any Premises and ringing the doorbell upon or near any door located thereon, or rapping or knocking upon any door, or creating any sound in any other manner calculated to attract the attention of the occupant(s) thereof, for the purpose of securing an audience with the occupant(s) thereof and engaging in Soliciting as herein defined, prior to 9:00 a.m. or after 6:00 p.m. Monday through Saturday, or at any time on a Sunday or on a State or National Holiday.
 4. By going upon any Premises and ringing the doorbell upon or near any door located thereon, or rapping or knocking upon any door, or creating any sound in any other manner calculated to attract the attention of the occupant(s) thereof, for the purpose of securing an audience with the occupant(s) thereof and engaging in Panhandling as herein defined, prior to 9:00 a.m. or after 4:00 p.m. of any weekday, or prior to 9:00 a.m. or after 4:00 p.m. on any Saturday, or at any time on a Sunday or on a State or National Holiday.
 5. By going upon any Premises and ringing the doorbell upon or near any door located thereon, or rapping or knocking upon any door, or creating any sound in any manner calculated to attract the attention of the occupant(s) thereof, for the purpose of securing an audience with the occupant(s) thereof and engaging in Panhandling or Soliciting, in defiance of a Notice posted in accordance with Subsection (D) of this Section, or in defiance of an oral notice given by an owner or occupier of the Premises that Panhandling and Soliciting are not invited.
 6. By perpetrating a fraud or misrepresentation of any kind.
 7. In a manner that creates a danger or threat of any kind to the public health, safety, or welfare, or that violates any provision of this Code.
- (C) Aggressive Panhandling or Soliciting Prohibited. It shall be unlawful to engage in an act of Panhandling or Soliciting in an aggressive manner. A person's manner is aggressive if the person engages in any of the following actions:
1. Panhandling or Soliciting a person who is standing at an automated teller machine while located within ten feet (10') of that person.
 2. Panhandling or Soliciting a person who is standing at an automated teller machine while the person is standing at the machine and within fifteen (15) seconds after the person begins to leave the machine.
 3. Repeating a Panhandling or Soliciting request when the person to whom the Panhandling or Soliciting request is made is stationary and has refused an immediately prior request made at that location. Examples of a person who is stationary include, but are not limited to:

- a. Someone waiting in line, at a bus stop, or for a traffic signal,
 - b. Someone seated on a public bench or in a car parked or stopped in a public street or alley, or
 - c. Someone sitting, standing, or otherwise in or upon a Premises they own or occupy.
4. At any time immediately before, during, or after the Panhandling or Soliciting request, touching the person to whom the Panhandling or Soliciting request is made without that person's consent.
 5. Panhandling or Soliciting while blocking the path of the person to whom the Panhandling or Soliciting request is made, or blocking the entrance to any premises, building or vehicle.
 6. Following behind, alongside, or ahead of the person to whom the Panhandling or Soliciting request is made during or after the Panhandling or Soliciting request.
 7. Directing profane or abusive language at the person to whom the Panhandling or Soliciting request is made at any time immediately before, during, or after Panhandling or Soliciting.
 8. Immediately before, during, or after Panhandling or Soliciting, making any statement other than the Panhandling or Soliciting request or acting in any other manner which, in light of the circumstances taken as a whole, e.g., darkness, would cause a reasonable person to feel harassed, intimidated, or compelled to contribute.
- (D) Notice Prohibiting Panhandling and Soliciting. Any owner or occupant desiring to prohibit any individual from entering their Premises for the purpose of engaging in Panhandling or Soliciting shall give notice to panhandlers or solicitors by the following means:
1. Upon or near the main entrance door to such Premises a weatherproof card, approximately three inches by five inches or larger in size, shall be posted containing the following words: "NO SOLICITORS ALLOWED," "NO SOLICITING," or a statement substantially similar to the foregoing that reasonably informs a panhandler or solicitor that the owner or occupant of the Premises refuses invitation to panhandlers and solicitors.
 2. The letters of any such card shall be at least one-third inch (1/3") in height.
 3. Any such card so exhibited shall constitute sufficient notice to any panhandler or solicitor of the determination by the owner or occupant of the Premises that Panhandling or Soliciting on the Premises is prohibited.

- (E) Duties of Panhandlers and Solicitors. Every Panhandler or Solicitor shall:
1. Upon going into or upon any Premises within the City, examine any Notice provided for in Subsection (D) of this Section, and comply with the statement contained on the Notice.
 2. Upon gaining entrance to any Premises located within the City, whether invited or not, immediately and peacefully depart from the Premises when requested to do so by any owner or occupant thereof.
 3. Approach a Premises only by using the principal approach route thereto, and attempt to make contact with the occupants thereof only at the main entrance door for such Premises.
- (F) Penalty: Each act of Panhandling or Soliciting in violation of this Section shall constitute a public nuisance and a separate violation of this Code and is punishable by a fine or community service.

SECTION 2: All ordinances or parts of ordinances in conflict herewith are hereby repealed.

SECTION 3: If any provision of this Ordinance 18-O-13 or application thereof to any person or circumstance is held unconstitutional or otherwise invalid, such invalidity shall not affect other provisions or applications of this Ordinance 18-O-13 that can be given effect without the invalid application or provision, and each invalid application of this Ordinance 18-O-13 is severable.

SECTION 4: The findings and recitals contained herein are declared to be prima facie evidence of the law of the City and shall be received in evidence as provided by the Illinois Compiled Statutes and the courts of the State of Illinois.

SECTION 5: This Ordinance 18-O-13 shall be in full force and effect from and after its passage, approval, and publication in the manner provided by law.

Introduced: January 28, 2013

Approved:

Adopted: February 11, 2013

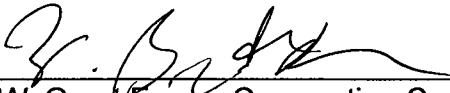
_____, 2013

Attest:

Elizabeth B. Tisdahl, Mayor

Approved as to form:

Rodney Greene, City Clerk



W. Grant Farrar, Corporation Counsel

