



MEMORANDUM

To: Mayor Laurel Prussing and Urbana City Council

From: Mike Monson, chief of staff, and Curt Borman, acting city attorney.

Date: July 6, 2011

Re: An ordinance regulating panhandling

Summary: The city of Urbana currently has no ordinance prohibiting or regulating panhandling, where a person makes a verbal request for an immediate donation of money or other item of value.

Court decisions have upheld panhandling as a constitutionally protected form of free speech, but allow it to be regulated. If enacted, this ordinance would (1) place reasonable restrictions on panhandling; and (2) prohibit a type of panhandling known as “aggressive panhandling.”

The restrictions on panhandling include prohibiting it after sunset and before sunrise or in groups of two or more panhandlers. The ordinance also will prohibit the following:

- Panhandling on public property within the Philo Road Business District;
- Panhandling on all private property in the City unless the panhandler has the owner’s consent; and
- Panhandling if the person solicited is located at a bus stop, inside a motor vehicle on a public street, within 20 feet of an automated teller machine or a bank, in any city-owned parking lot or garage, and at other designated locations.

The ordinance also prohibits “aggressive” panhandling at all times. Aggressive panhandling is defined as panhandling that includes touching another person without that person’s consent, blocking a person’s path, continuing to solicit a person after that person has refused an earlier request, following or remaining alongside a person who walks away from the panhandler after being solicited, and using profane or abusive language during the solicitation or following a refusal to make a donation.

Violators of the ordinance would be subject to a \$165 fine.

Background: This proposed ordinance has been suggested by Mayor Laurel Prussing as part of the city's comprehensive response to a recent crime problem in southeast Urbana.

According to Police Chief Pat Connolly, city police have been receiving a steady stream of calls from residents, many of them elderly, who are being solicited for money in the Philo Road Business District. In some cases, panhandlers are knocking on car windows of people waiting in the drive-through lanes at fast-food restaurants.

Some of the solicitors are aggressive, not taking no for an answer and following people. Residents contacting police say they are frightened by such tactics.

The city has spent significant amounts of money in a successful effort to revive the Philo Road Business District, and that corridor's continued success is threatened when shoppers are solicited for money, which often discourages shoppers from returning. For that reason, the proposed ordinance would prohibit panhandling at all times in the Philo Road Business District, defined as the area bounded by East Florida Avenue on the north, East Mumford Drive to the south, South Cottage Grove Avenue to the west and all the businesses east of Philo Road and located within 500 feet of Philo Road to the east.

With no current ordinance addressing panhandling, panhandlers are free to ask for money, even in an aggressive manner, except in cases where their conduct rises to the level of disorderly conduct or a battery, according to the police chief.

Connolly said Urbana police would initiate an educational campaign if the ordinance is approved. For at least the first month after implementation, violators would receive an initial written warning before they would be subject to a fine, he said.

Issues: Panhandling is a form of expression protected by the First Amendment. While local governments may not completely prohibit it, they may place content-neutral time, place, and manner restrictions on panhandling that are narrowly tailored to achieve significant government interests while leaving open ample alternative channels of communication. The regulations contained in the attached ordinance are similar to those the courts have allowed in other municipalities. These would apply not only to one group of people but to anyone who solicits immediate donations of money. Nevertheless, the ordinance allows for alternate means of soliciting donations.

Fiscal impact: The proposed ordinance is likely to have little or no immediate fiscal impact because it merely places reasonable limitations on panhandling. However, it will likely have the long-term effect of promoting a safer environment in the City and in enhancing the business climate in the Philo Road Business District.

Recommendation: Approve the ordinance amending Urbana City Code Chapter 15 to regulate panhandling.

ORDINANCE NO. 2011-07-080

**AN ORDINANCE AMENDING URBANA CITY CODE CHAPTER FIFTEEN
(Addition of Section 15-68 regulating panhandling)**

WHEREAS, the City Council of the City of Urbana, Illinois ("City") finds that an increase in panhandling is degrading the quality of life within the City by contributing to an enhanced sense of fear or by creating a threatening environment or a nuisance for the general population; and

WHEREAS, the City Council finds that unregulated panhandling jeopardizes the City's legitimate interests in fostering a safe and harassment-free climate for its citizens and in preserving its public places as areas where citizens may be free of intimidation or coercion; and

WHEREAS, the City has a significant interest in the continued economic vitality of the Philo Road Business District, and panhandling jeopardizes that interest by making people less likely to frequent that area due to the fear generated by and the inconvenience of being accosted; and

WHEREAS, the City is a home rule unit of local government pursuant to Article VII, Section 6, of the Illinois Constitution, 1970, and may exercise any power and perform any function pertaining to its government and affairs, including the power to regulate for the protection of the public health, safety, and welfare; and

WHEREAS, Section 11-5-4 of the Illinois Municipal Code (65 ILCS 5/11-5-4) provides that the corporate authorities of each municipality may prevent vagrancy, begging, and prostitution; and

WHEREAS, the City Council finds that amending Chapter 15 of the Urbana City Code to regulate panhandling as hereinafter defined will protect the health, safety, and welfare of the citizens of the City; and

WHEREAS, in promulgating this Ordinance, the City Council's intent is not to impermissibly limit an individual's exercise of free speech but to impose narrowly tailored time, place, and manner restrictions on panhandling to protect citizens from the fear and intimidation accompanying certain kinds of solicitations, while leaving open ample alternative channels of communication.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Urbana, Champaign County, Illinois, as follows:

Section 1.

Urbana City Code Chapter 15, "Miscellaneous Offenses and Provisions," Article IV, "Offenses Affecting Public Health, Safety and Decency," Division 1, "Generally," is hereby amended by adding the following section thereto:

Sec. 15-68 Panhandling.

(a) *Definitions.* For the purposes of this Section, the following definitions shall apply:

Aggressive panhandling means panhandling accompanied by any of the following actions:

- (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 panhandler after being solicited;
 - (5) Making any statement, gesture, or other communication that would cause a reasonable person to feel threatened or to feel compelled to make a donation; or
 - (6) Using profane or abusive language during the solicitation or following a refusal to make a donation.

Automated teller machine means any automated teller machine as defined by the Automated Teller Machine Security Act, 205 ILCS 695/1 *et seq.*, as amended.

Bank means any bank or financial institution as defined by the Illinois Banking Act, 205 ILCS 5/1 *et seq.*, as amended.

Panhandling means a 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. Panhandling does not include the act of passively standing, sitting, or engaging in a musical performance or other street performance with a sign or other indication that donations are being sought, without any verbal request for a donation other than in response to an inquiry by another person. Nothing in this section shall be construed to permit any loud and raucous noise currently prohibited by chapter 16 of this Code.

Philo Road Business District means that area bounded by East Florida Avenue to the north, East Mumford Drive to the south, South Cottage Grove Avenue to the west, and all businesses east of Philo Road and located within 500 feet of Philo Road to the east.

Public property means any real property owned, controlled, or managed by the City of Urbana or the Urbana Park District or the Urbana School District No. 116. Any street, alley, sidewalk, public parking lot, parkway, school grounds or park shall be prima facie public property for the purpose of this section.

(b) *Unlawful panhandling.* No person shall engage in aggressive panhandling. No person shall engage in panhandling in a group of two (2) or more persons or on any day after sunset or before sunrise. No person shall engage in panhandling when the person solicited is located in any of the following places within the city:

- (1) Within ten (10) feet of any official sign designating a taxi stand or Champaign-Urbana Mass Transit District bus stop;
- (2) In any vehicle parked or stopped on a public street or alley;
- (3) In any public transportation vehicle;
- (4) In a parking lot or garage owned or operated by the city;
- (5) Within twenty feet (20') of an automated teller machine (ATM) or entrance to a bank, other financial institution, or check cashing business;
- (6) In a line waiting to be admitted to a business establishment or government office;
- (7) On private property, unless the panhandler has permission from the owner or occupant; or
- (8) On public property in the Philo Road Business District.

(c) *Penalty.* Any person who commits an act prohibited by this section shall be subject to a fine as provided in the minimum fine schedule for certain violations adopted by the city council by ordinance. The circuit court may enjoin the person from committing further violations of this section. Each act of panhandling prohibited by this section shall constitute a separate

offense.

State law reference: Vagrancy; prostitution, 65 ILCS 5/11-5-4.

Section 2.

Urbana City Code Chapter 1, "General Provisions," Section 1-18, "Minimum fine schedule for certain violations," is hereby amended by adding the following minimum fine thereto:

Chapter 15 Miscellaneous Offenses and Provisions

Section	Section Title	Minimum Fine
15-68	Panhandling.	\$165

Section 3.

Those sections, paragraphs, and provisions of the Urbana City Code that are not expressly amended or repealed by this Ordinance are hereby re-enacted, and it is expressly declared to be the intention of this Ordinance not to repeal or amend any portions of the Urbana City Code other than those expressly set forth as amended or repealed in this Ordinance. The invalidity of any section or provision of this Ordinance hereby passed and approved shall not invalidate other sections or provisions thereof.

Section 4.

This Ordinance shall not be construed to affect any suit or proceeding pending in any court, or any rights acquired, or a liability incurred, or any cause or causes of action acquired or existing prior to the effective date of this Ordinance; nor shall any right or remedy of any character be lost, impaired, or affected by this Ordinance.

Section 5.

The City Clerk is directed to publish this Ordinance in pamphlet form by authority of the corporate authorities, and this Ordinance shall be in full force and effect from and after its passage and publication in accordance with Section 1-2-4 of the Illinois Municipal Code.

This Ordinance is hereby passed by the affirmative vote, the "ayes" and "nays" being called, of a majority of the members of the Council of the City of Urbana, Illinois, at a meeting of said Council.

PASSED BY THE CITY COUNCIL this ____ day of _____, _____.

AYES:

NAYS:

ABSENT:

ABSTAINED:

Phyllis D. Clark, City Clerk

APPROVED BY THE MAYOR this ____ day of _____, _____.

Laurel Lunt Prussing, Mayor