

ORDINANCE NO. 02-12
CITY OF CENTERVILLE, OHIO

Sponsored by Council Member Brooks Compton on the 20th day of February, 2012.

**AN EMERGENCY ORDINANCE ADOPTING NEW SECTION 648.11
PANHANDLING TO THE CENTERVILLE MUNICIPAL CODE
REGULATING PANHANDLING AND PROHIBITING ANY
AGGRESSIVE PANHANDLING.**

PREAMBLE AND PURPOSE

WHEREAS, Centerville City Council recognized the safety of the public is threatened by aggressive panhandling, and that any panhandling which does occur within the City of Centerville needs to be regulated so that there are reasonable restrictions in place that respect the right of free speech while providing for the safety and security of the public; and

WHEREAS, Centerville City Council acknowledges there is the need to enact a new Section to the Centerville Municipal Code that will regulate panhandling, and define and prohibit aggressive panhandling for the safety of the public.

NOW, THEREFORE, THE MUNICIPALITY OF CENTERVILLE HEREBY ORDAINS:

Section 1. That the following new Section 648.11 entitled "Panhandling" of the Centerville Municipal Code is hereby enacted as follows:

648.11 PANHANDLING

(a) As used in this section:

- (1) "Public Property" means all property owned, controlled, or operated by any governmental entity, including but not limited to governmental offices or facilities, public streets, publicly owned parking lots, schools, libraries, post offices, transit facilities, and other public lands, parks, buildings, or grounds.
- (2) "Automated-teller machine" means a bank or other financial institution's machine that is able to effectuate financial transactions, including, but not limited to: cash withdrawals, deposits, transfers, and other financial transactions or inquiries.
- (3) "Right-of-Way" shall have the same meaning as in Section 4511.01 (UU) of the Ohio Revised Code.
- (4) "Panhandling" shall mean to request verbally, in writing, or by gesture or other actions, money, items of value, a donation, or other personal financial assistance. Further, panhandling shall include any request for a person to

purchase an item for an amount that a reasonable person would consider to be in excess of its value.

(5) "Aggressive Manner" shall mean as follows:

i) Before, during, or after attempting to engage in panhandling, any behavior that would cause a reasonable person to feel alarmed, intimidated, threatened, restrained, menaced, harassed, or coerced including but not limited to the use of any verbal threats, threatening gestures, abusive language, obscene gestures or obscene language, or screaming and other unreasonable noises;

ii) Before, during, or after attempting to engage in panhandling, blocking the passage of any person or vehicle that impedes the entrance into, or the exit out, of any vehicle, building, business, or establishment, or impedes the person's activities in the vehicle, building, business, or establishment;

iii) Any further attempt to solicit for panhandling after a person has given a negative response, verbally or physically, to a solicitation for panhandling that such solicitation should stop, or that it is unwelcome or offensive;

iv) Before, during, or after attempting to engage in panhandling, having any physical contact with the person that is being solicited by the person panhandling and/or touching or having physical contact with the clothing, purse, or other personal property of the person being solicited by the person panhandling without a statement or other communication that the person being solicited consents to the physical contact and/or touching of the person and/or the person's clothing, purse, or other personal property;

v) Before, during, or after attempting to engage in panhandling, following behind, ahead, or alongside the person that is being solicited;

vi) Any further attempt to solicit for panhandling after the owner or occupant of private property requests that the person cease all solicitation for panhandling, or upon the request of the owner or occupant of the private property for the person panhandling to leave the property;

vii) Any type of panhandling which interferes or disrupts any activity or event occurring on public property, as defined in this Section;

viii) By coming within three (3) feet of the person solicited after that person has indicated that he or she does not wish to make a donation;

ix) By following a person who walks or drives away from the solicitor;

x) By making unreasonable noise or offensively coarse utterance, gesture, or display or communicating unwarranted or grossly abusive language, either during the solicitation or following a refusal; or

xi) By panhandling in a group of two or more persons.

(6) "False or misleading representations" shall mean as follows:

i) Making statements or representing, either verbally or in writing, that the person panhandling suffers from a medical condition, mental or physical disability, or deformity when the person does not suffer from a medical condition, mental or physical disability, or deformity;

ii) Making statements or representing, either verbally or in writing, that the person panhandling has a minor child or other family member they are supporting who suffers from a medical condition, mental or physical disability, or deformity, when in fact that child or other family member does not suffer from a medical condition, mental or physical disability, or deformity and/or the person panhandling does not support that minor child or other family member;

iii) Making statement or representing, either verbally or in writing, that the person panhandling is a military veteran or active duty military member, when the person is not a military veteran or active duty military member;

iv) Making statement or representing, either verbally or in writing, that the person panhandling needs a donation to meet a specific need, when the person panhandling does not have the specific need and/or that person already has sufficient funds to meet that need and does not disclose that the person already has sufficient funds:

v) Making statement or representing, either verbally or in writing, that the person panhandling is unemployed when the person panhandling is not unemployed; or

vi) Making statement or representing, either verbally or in writing, that the person panhandling is homeless and/or is stranded when in fact the person is not homeless or stranded.

b) No person shall solicit for panhandling in any of the following manners:

1) In any type of aggressive manner as defined in this Section;

2) On any private property in which there is any type of written notice prohibiting solicitation and/or panhandling;

3) On any other private property, unless the person panhandling has obtained prior permission from the owner or occupant;

4) From any operator or occupant of a motor vehicle or from any person entering or exiting a motor vehicle;

5) Within twenty (20) feet of any pedestrians waiting in line for service or waiting in line for an event;

6) Within twenty (20) feet of any pedestrians waiting in line to obtain access to a building;

7) Within twenty (20) feet of any entrance or exit of the building for any check cashing business, bank, credit union, or savings and loan during the hours of operation of any of these businesses;

8) Within twenty (20) feet of any automated-teller machine, as defined in this Section, during its hours of operation;

9) At any bus stops or bus shelters;

10) In any vehicle within the right-of-way as defined in this Section;

11) In any public transportation vehicle or any public transportation facility;

12) Within twenty (20) feet of the entrance or exit of any public facility;

13) On public property within twenty (20) feet of an entrance to a building;

14) On public property within twenty (20) feet of an entrance to a parking lot; or

15) On a public street, by intentionally or recklessly blocking the safe or free passage of a person or vehicle.

16) In any manner which involves the use of false or misleading representations as defined in this Section.

c) No parent, guardian, or other custodian of a minor child shall allow or cause, or direct a minor to engage in panhandling. Further, no other adult shall cause a minor to panhandle.

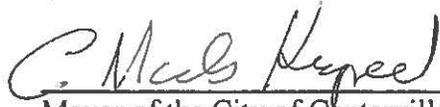
d) Panhandling shall not include solicitations made for money or a donation by a charitable or civic organization which does so with the prior permission of the owner or occupant of the premise.

e) Whoever violates this Section is guilty of Panhandling, a misdemeanor of the fourth degree. Whoever violates this section three times or more within one year is guilty of a third degree misdemeanor.

Section 2. The adoption of new Section 648.11 addressing "Panhandling" repeals any prior ordinances that may be inconsistent with these new Sections.

Section 3. This Ordinance is hereby declared to be an emergency measure and shall become effective immediately upon passage. An emergency affecting public health, safety and welfare is hereby declared to exist by virtue of the fact that the number of violations in the City have increased greatly in the past year and for the protection of individuals in the right-of-way.

PASSED THIS 20th day of February, 2012.



Mayor of the City of Centerville, Ohio

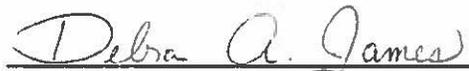
ATTEST:



Clerk of Council
City of Centerville, Ohio

CERTIFICATE

The undersigned, Clerk of Council of the City of Centerville, Ohio, hereby certifies the foregoing to be a true and correct copy of Ordinance No. 02-12, passed by the Council of the City of Centerville, Ohio on the 20th day of February, 2012.



Clerk of Council

Approved as to form,
consistency with existing
ordinances, the charter
and constitutional provisions:

Department of Law
Scott Liberman
Municipal Attorney