

City of Providence

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

CHAPTER 2002-14

No. 223

AN ORDINANCE

RELATING TO AGGRESSIVE PANHANDLING,
AS AMENDED

Approved April 25, 2002

Be it ordained by the City of Providence:

Prohibition Against Certain Forms of Aggressive Solicitation

Section 1. For purposes of this section:

A. "Aggressive manner" shall mean:

1. Approaching or speaking to a person(s), or following a person(s) before, during, or after soliciting, if that conduct is intended or is likely to cause a reasonable person to fear bodily harm to oneself or to another, or damage to or loss of property;
2. Following the person being solicited, with the intent of asking that person for money or other things of value;
3. Intentionally touching or causing physical contact with another person without the person's consent in the course of soliciting;
4. Intentionally blocking or interfering with the safe or free passage of a pedestrian or vehicle by any means, including unreasonably causing a pedestrian or vehicle operator to take evasive action to avoid physical contact;
5. Using violent or threatening gestures toward a person solicited;
6. Continuing to solicit from a person after the person has given a negative response to such soliciting;
7. Speaking in a volume unreasonably loud under the circumstances;
8. Soliciting money from anyone who is waiting in line for entry to a building or for another purpose.

B. "Soliciting" shall mean asking for money or objects of value, with the intention that the money or object be transferred at that time, and at that place. Soliciting shall include using the spoken, written or printed word, bodily gestures, signs or any other means of communication with the purpose of obtaining an immediate donation of money or other thing of value.

C. "Public place" shall mean a place to which a governmental entity has title, to which the public has access, including but not limited to any street, highway,

CHAPTER

AN ORDINANCE Relating to Aggressive Panhandling

IN CITY COUNCIL
OCT 18 2001
FIRST READING
REFERRED TO COMMITTEE ON
ORDINANCES

Michael R. Clement
ams

THE COMMITTEE ON

Ordinances
Recommends *Continue*
Barbara A. Provenzano
CLERK
2-23-02
3-12-02 *AMS*

THE COMMITTEE ON
ORDINANCES
Approves Passage of
The Within Ordinance

as Amended
Anna M. Stetson
3-25-02 CLERK

Councilmen Iqbalwazi, Councilwoman Nelson, DiPuzzo, Romano, Councilman Hessel + Merisani

parking lot, plaza, transportation facility, school, place of amusement, park or playground.

Section 2. No person shall solicit in an aggressive manner in a public place.

Section 3. Violations of these sections shall be punishable by the penalties listed in Section 1-10 of the Code of Ordinances.

Section 4. If any section, sentence, clause or phrase of this law is determined to be invalid or unconstitutional by any court of competent jurisdiction, it shall in no way affect the validity of any remaining portions of this law.

Section 5. This Ordinance shall take effect upon passage.

IN CITY-COUNCIL
APR 4 2002
FIRST READING
READ AND PASSED
Michael R. Clement
CLERK

APR 18 2002
IN CITY
COUNCIL
FINAL READING
READ AND PASSED
John Harbo
PRESIDENT
Michael R. Clement
CLERK CB

APPROVED
APR 25 2002
Vincent A. Camij
MAYOR



Rhode Island Affiliate, American Civil Liberties Union

128 Dorrance Street, Suite 220 - Providence, Rhode Island 02903
Telephone: (401) 831-7171 Fax: (401) 831-7175 E-mail: riaclu@aol.com

April 18, 2002

City Clerk's Office
Providence City Hall
Providence, RI 02903

Dear Sir or Madam:

Enclosed please find copies of a letter we have written to City Council members regarding Item #7 on this evening's Council meeting agenda. We would appreciate it if you could have this letter distributed to the Council members tonight in advance of their discussion of this item.

Thank you in advance for your attention to this request.

Sincerely,

Steven Brown
Executive Director

Enclosures

ACLU





Rhode Island Affiliate, American Civil Liberties Union

128 Dorrance Street, Suite 220 - Providence, Rhode Island 02903
Telephone: (401) 831-7171 Fax: (401) 831-7175 E-mail: riaclu@aol.com

April 18, 2002

Dear Providence City Council Member:

I am writing to urge your opposition to second passage tonight of an ordinance relating to "aggressive panhandling." We believe this ordinance is unnecessary, raises serious constitutional concerns, and ultimately only serves to criminalize poverty.

The ordinance is unnecessary because other statutes on the books, such as those relating to disorderly conduct, are perfectly capable of dealing with any inappropriate behavior associated with particular cases of panhandling. There is no need to adopt a special ordinance governing panhandling specifically unless its goal is really to prohibit begging itself.

We believe the ordinance raises constitutional concerns because the definition of "aggressive" panhandling is extremely broad. For example, the ordinance bans panhandlers from "speaking in a volume unreasonably loud under the circumstances." This type of open-ended and standardless restriction on speech has been found constitutionally infirm in City ordinances before. See *Fratiello v. Mancuso*, 653 F.Supp. 775 (1987) (striking down Providence noise ordinance on vagueness and overbreadth grounds). Similarly, it is difficult to understand how "soliciting money from anyone who is waiting in line" constitutes "aggressive" panhandling which should be prohibited, much less lead to criminal penalties.

Finally, the ordinance's ultimate effect is to criminalize poverty. Any person found to have violated this ordinance will either face a fine of up to \$500, or up to 30 days in jail. In light of the conduct they are charged with having engaged in -- begging for money -- it is extremely unlikely that they will have the funds to pay a fine. The alternative, then, is to throw them in prison -- in essence, for the crime of being poor.

As courts have noted, beggars can communicate important political or social messages in their appeal for money, explaining, for example, their conditions related to veteran status, homelessness, unemployment and disability. "While some communities might wish all solicitors, beggars and advocates of various causes be vanished from the streets, the First Amendment guarantees their right to be there, deliver their pitch and ask for support." We urge your rejection of this ordinance.

Sincerely,

Steven Brown
Executive Director

ACLU

