

TOWNSHIP OF HAMILTON

ORDINANCE NO.: # 1824 -2016

AN ORDINANCE TO CREATE A PANHANDLING
AND BEGGING ORDINANCE
IN THE TOWNSHIP OF HAMILTON, COUNTY
OF ATLANTIC AND STATE OF NEW JERSEY

WHEREAS, a request has been made by the Township of Hamilton to create a begging and/or panhandling ordinance; and

WHEREAS, the Township Committee for the Township of Hamilton has determined that the public interest will be better served by creating, by Ordinance, a peaceful and non-threatening manner of solicitation, and to prohibit other forms of solicitation.

NOW, THEREFORE, BE IT ORDAINED by the Township Committee of the Township of Hamilton, County of Atlantic, State of New Jersey that:

§ 1: Purpose.

The Township of Hamilton recognizes a constitutional right to beg or solicit in a peaceful and nonthreatening manner. An increase in aggressive soliciting and begging throughout the Township of Hamilton, however, is disturbing and disruptive to residents and businesses and is contributing not only to the loss of access to and enjoyment of public places, but also to an enhanced sense of fear, intimidation and disorder. The concerning panhandling and begging activity usually includes approaching or following pedestrians or motorists, the use of abusive language, unwanted physical contact or the intentional blocking of pedestrian and vehicular traffic.

The Township of Hamilton is further concerned that its residents can be tricked by the misrepresentations of panhandlers to donate money that the panhandlers then use for another purpose. The Township of Hamilton further finds that the presence of individuals who solicit money from persons at or near banks or automated teller machines is especially troublesome. Panhandling and Begging activity often carries with it an implicit threat to both persons and property.

This Chapter is timely and appropriate because current laws and Township of Hamilton regulations are insufficient to address the aforementioned problems. This Chapter is designed to protect citizens from the fear and intimidation accompanying certain kinds of solicitation that have become an unwelcome and overwhelming presence in the Township of Hamilton. This Chapter is not enhanced to limit any persons from exercising their constitutional right to solicit funds, picket, protest or engage in other constitutionally protected activity. The restrictions

contained herein are neither overbroad nor vague and are narrowly tailored to serve a substantial governmental interest. The Township of Hamilton recognizes the availability of community service and other sentencing alternatives which may be appropriate remedies for violations of this Chapter.

§ 2: Definitions.

AGGRESSIVELY BEG:

Speaking or following a person in a manner that would cause a reasonable person to fear bodily harm or the commission of a criminal act upon the person or upon property upon the person's immediate possession or would intimidate another person into giving money or goods.

ASK:

See "beg."

ASK, BEG OR SOLICIT ALMS:

To ask for money or goods as a charity, whether by words, bodily gestures, signs or other means.

AUTOMATED TELLER MACHINE (ATM):

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, balance inquiries and mortgage and loan payments.

BANK:

Any banking corporation as defined in the United States Code or the New Jersey statutes.

BEG:

Using the spoken, written or printed word or bodily gestures, signs or other means with the purpose of obtaining an immediate donation of money or other thing of value or soliciting the sale of goods or services.

PANHANDLE:

Any solicitation made in person, requesting an immediate donation of money or other thing of value.

PEDESTRIAN OR VEHICULAR INTERFERENCE:

To walk, stand, sit, lie or place an object in such a manner as to block passage by another person or vehicle, or to require another person or a driver of a vehicle to take evasive action to avoid physical contact. Acts authorized pursuant to the Hamilton Township parade ordinances and regulations or other constitutionally

protected activity, such as picketing, are exempt from this Chapter.

PUBLIC PLACE:

A place to which the public or a substantial group of persons has access, and includes, but is not limited to, any street, highway, parking lot, plaza, transportation facility, school, place of amusement, park, playground and any hallway, lobby and other portion of an apartment house or hotel not constituting a room or apartment designed for actual residence. Public places shall also include door-to-door begging in an aggressive manner as defined herein.

§ 3: Prohibited Acts.

A. No person shall:

- (1) Ask, beg or solicit alms, including money and other things of value, in an aggressive manner in any public place. Acts authorized as an exercise of one's constitutional right to picket, the right to legally protest, and any acts authorized by permit issued pursuant to The Township of Hamilton Code shall not constitute obstruction of pedestrian or vehicular traffic.
- (2) Ask, beg or solicit alms in any public transportation vehicle or at any bus or train station or stop.
- (3) Ask, beg or solicit alms within 100 feet of any automatic teller machine (ATM).
- (4) Ask, beg or solicit alms from any operator or occupant of a motor vehicle that is in traffic on a public street.
- (5) Ask, beg or solicit alms from any operator or occupant of a motor vehicle on a public street in exchange for blocking, occupying or reserving a public parking space or directing the operator or occupant to a public parking space.
- (6) Ask, beg or solicit alms in exchange for cleaning motor vehicle windows while the vehicle is in traffic on a public street.
- (7) Ask, beg or solicit alms in exchange for protecting, watching, washing, cleaning, repairing or painting a motor vehicle or bicycle while it is parked on a public street.
- (8) Ask, beg or solicit alms on private property or residential property without

permission from the owner or occupant.

- (9) Ask, beg or solicit alms after sunset and before sunrise.
- (10) Ask, beg or solicit alms within 25 feet of the entrance or exit of any business establishment where the express intent of such asking, begging or soliciting of alms is to solicit directly from the employees or patrons of such business establishment, unless permission from the business establishment is granted to do so.

B. False or Misleading Representations Prohibited

- (1) It shall be unlawful for any person to knowingly make any false or misleading representation in the course of soliciting a donation. False or misleading representations include, but are not limited to, the following:
 - (a) Stating that the donation is needed to meet a specific need, when the solicitor already has sufficient funds to meet that need and does not disclose that fact;
 - (b) Stating that the donation is needed to meet a need which does not exist;
 - (c) Stating that the solicitor is from out of town and stranded, when such is not true;
 - (d) Wearing a military uniform or other indication of military service, when the solicitor is neither a present nor former member of the service indicated;
 - (e) Wearing or displaying an indication of physical disability, when the solicitor does not suffer the disability indicated;
 - (f) Use of any makeup or device to simulate any deformity; or
 - (g) Stating that the solicitor is homeless, when he or she is not.
- (2) It shall be unlawful for any person to solicit a donation stating that the funds are needed for a specific purpose and then spend the funds received for a different purpose.

§ 4: Exemptions.

Nothing in this Chapter shall prohibit passively standing or sitting with a sign or other indication that one is seeking donations, such as a coin drop, so long as one does not make false or misleading representations prohibited by § 3(B) of this Chapter.

§ 5: Violation and Penalties.

A. Maximum penalty. For violation of any provision of this Chapter, the maximum penalty shall, upon conviction for such violation, be one or more of the following:

- (1) A fine not exceeding \$2,000.
- (2) Imprisonment in the county jail for a period not exceeding 90 days.
- (3) A period of community service not exceeding 90 days.

B. Appropriateness of Maximum Penalty. Appropriateness of the maximum penalty stated in this general penalty section is not intended to state an appropriate penalty for each and every violation. Any lesser penalty, including a nominal penalty or no penalty at all, may be appropriate for a particular case or a particular violation.

C. Separate violation. Except as otherwise provided, each and every day in which a violation of any provision of this chapter exists shall constitute a separate violation.

D. Repeat Offenders. Any person who is convicted of violating any provisions of this chapter within one year of the date of a previous violation of the same provision and who was fined for the previous violation, shall be sentenced by the court to an additional fine as a repeat offender. The additional fine imposed by the court upon a person for a repeat offense shall not be less than the minimum or exceed the maximum fine fixed for a violation of this chapter, but shall be calculated separately from the fine imposed for the violation of any provision of this chapter. It shall be the responsibility of the officer signing the complaint to determine before the trial whether the person is subject to the additional fine as a repeat offender. The defendant shall be provided with a reasonable opportunity to dispute any allegation that (s)he is subject to punishment as a repeat offender.

E. Default in payment of fine. Any person convicted of the violation of any provision of this chapter in default of the payment of any fine imposed therefor, may, in the discretion of the court by which (s)he was convicted, be imprisoned in the county jail for a term not exceeding 90 days or be required to perform community service for a period not exceeding 90 days.

§ 6: Severability and Effectiveness Clause.

A. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be unconstitutional, invalid, or unenforceable by a court of competent jurisdiction, such decision shall not affect the remaining portions of this Ordinance.

B. Any Ordinance inconsistent with the terms of this Ordinance is hereby repealed to the extent of such inconsistency.

§ 7: Effective Date.

This Ordinance shall take effect upon its final passage and publication, as provided by law.

TOWNSHIP OF HAMILTON

ORDINANCE NO.

ATTEST:

**TOWNSHIP COMMITTEE OF THE
TOWNSHIP OF HAMILTON,
ATLANTIC COUNTY, NJ**

Rita Martino, RMC, Township Clerk

Roger Silva, Mayor

COMMITTEE MEMBER	MOTION	YES	NO	ABSTAIN	ABSENT
GATTO					
GUISHARD					
KURTZ					
SCHENKER					
MAYOR SILVA					

FIRST READING AND INTRODUCTION: June 6, 2016

FINAL READING AND ADOPTION: