

BILL NO. 25-157

AN ORDINANCE ENACTING A NEW SECTION 17-119. PANHANDLING AND AGGRESSIVE PANHANDLING, TO THE CODE OF ORDINANCES FOR THE CITY OF LEE'S SUMMIT, MISSOURI.

WHEREAS, the City Council recognizes that panhandling and aggressive panhandling can make life in this City less pleasant for residents and visitors, create unpleasant situations, impede pedestrian and vehicular traffic, make certain areas of the City less attractive to visitors and residents for their personal recreational or business activities; and

WHEREAS, the City Council recognizes the constitutional rights of all people for free speech, free exercise of their religion and freedom of association; and

WHEREAS, the City Council is mindful of the need to strike a balance between the public's need for a safe, pleasant City in which to live and each individual's rights to free expression; and

WHEREAS, in begging for alms, soliciting for charities, or requesting direct personal aid, individuals are exercising their constitutional rights which must be preserved; and

WHEREAS, the City Council has considered and deliberated about these issues, and requested the staff research existing legislation and case law, and the Council has considered that research product in an effort to balance constitutional rights of both those soliciting, and those hearing the solicitation; and

WHEREAS, the City Council is mindful of the unique public nature of our City parks, and the uses that members of the community make of those parks for individual and group gatherings, family recreations and activities, and that all people are entitled to the peaceful enjoyment of our common ground, and the uniquely private experience of simply enjoying a walk in the park in the state of nature in an unimpeded and quiet manner; and

WHEREAS, the City Council understands that the character of our community is at its foundation based on the small-town, walkable, small business-friendly nature of the downtown Lee's Summit and the new Green Street development which are the crown jewels of our community; and

WHEREAS the City Council recognizes the attention and effort put into by the City and interested stakeholders in enhancing, protecting and developing the Downtown Core, the area defined by the Old Lee's Summit Downtown Master Plan adopted by Resolution #08-02 of the Planning Commission on January 26, 2008, shown on Exhibit A, which area includes the new Green Street development; and

WHEREAS the City Council is mindful of the designation of the Downtown Activity Center in the Ignite Comprehensive Plan adopted by the Planning Commission on May 20, 2021, in resolution No. 2021-01 and the Downtown Core is a more limited area within and addressed by the Downtown activity center in the comprehensive plan.

WHEREAS, the City Council is mindful that begging for alms or soliciting for other purposes may impede an individual's enjoyment of the parks or the downtown business district or the Green

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Street development, which are public property paid for by public dollars and designed to be enjoyed equally by everyone; and

WHEREAS, the City Council has carefully considered how to strike a balance between those in our society who wish to exercise their First Amendment rights to solicit for themselves or for others for charity and those who would prefer to pass freely through our public, commercial, or private spaces without interference or unwanted interruption; and

WHEREAS, the City Council recognizes that no individual can be compelled to respond to or acknowledge any unrequested contact or unsolicited communication from any person, and that there is a difference between being asked once for alms and being repeatedly asked for something an individual has declined to provide after a first request; and

WHEREAS, the City Council believes it is necessary to distinguish between panhandling, what we commonly consider the solicitation for charity or an organization, and aggressive panhandling when a solicitor unasked repeats a solicitation that has been either ignored or refused as is the hearers right to do so; and

WHEREAS, the City Council finds that the damage done to an individual's enjoyment of our public spaces and parks, or the Downtown Core or the Green Street development by exposure to unwanted solicitations can damage the peaceful public character of those spaces, and such unwanted solicitations will create a situation in which individuals who wish to visit these places may forgo such a visit simply to avoid an uninvited unsolicited and unwanted conversation to the detriment of our community and our connections to one another; and

WHEREAS, the City Council seeks to preserve an individual's right the freedom of expression including speech which others may find inconvenient or unwelcome; and

WHEREAS, the City Council is sensitive to the issue that restrictions on speech must be narrowly tailored in pursuit of a compelling governmental interest; and

WHEREAS the City Council finds that preserving everyone's ability to use the parks or downtown or the Green Street development freely and without unwanted solicitation is crucial to preserving the character of our community and our civic connection with our local businesses and neighbors and allowing all Lee's Summit visitors and residents the peaceful and quiet enjoyment of these areas; and

WHEREAS the City Council understands that the range of options in connection with panhandling extends from a complete ban on all such solicitations or allowing any kind of solicitation at any location within the City and finds both these approaches to be extreme, unreasonable and flawed; and

WHEREAS, the City Council has considered and finds that it is necessary to delineate between the acts of panhandling and aggressive panhandling and to treat those two activities differently, and after due consideration the Council has concluded that the ordinance below addresses and balances both individual rights and our community's compelling interests as is best for our City, our residents and visitors.

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NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF LEE'S SUMMIT, MISSOURI, AS FOLLOWS:

SECTION 1. There is hereby enacted new Section 17-119 of the municipal code as follows:

Sec. 17-119 Panhandling and Aggressive Panhandling

A. Purpose.

1. The purpose of this section is to regulate and punish acts of aggressive panhandling or solicitation and acts of panhandling or solicitation that occur at locations or under circumstances specified herein. The purpose of this section is not to punish the status or condition of any person. Regulation is required because aggressive panhandling anywhere in the City contributes to the loss of access to and enjoyment of public places and creates a sense of fear, intimidation and disorder.
2. Regulation is required because panhandling in certain community and public areas threatens the ability of all citizens to peacefully use these public spaces, impairing the City's long-term goals of attracting citizens, businesses and tourists to these certain areas. Regulation is further required because aggressive panhandling in certain commercial locations threatens the economic vitality of those areas, impairing the City's long-term goals of attracting citizens, businesses and tourists to these certain areas and, consequently, the City overall.
3. The City has substantial interests in the protection of public safety, the safe and unobstructed flow of traffic on its public streets, the preservation of the safe use of public areas, protecting the aesthetics of historic areas within the City, protecting the City's investment in certain areas, protecting tourism and protecting the City's economy. The regulations in this section further these substantial interests.
4. This section is not intended to proscribe any demand for payment for services rendered or goods delivered or interfere with any legitimate contractual expectations. Nor is this section intended to prohibit acts authorized as an exercise of a person's constitutional right to legally picket, protest or speak.

B. Definitions.

1. *Downtown Core* means the area defined by the old Lee's Summit Downtown Master Plan generally described as an area bounded by North East Maple Street on the north, South West Jefferson Street on the west, South East 5th Street on the south, and South East Grand Avenue on the east and set out with particularity as the area outlined on Exhibit A, attached hereto and incorporated herein by reference.
2. *Lee's Summit Parks* shall include all city parks and facilities including but not limited to Arborwalk, Bailey Farm, Banner-Lower, Banner-Upper, Canterbury, Charles David Hartman, Deer Valley, Dogwood, Eagle Creek, Gamber Community Center, Happy Tails, Harris, Harris Park Community Center, Howard, Kensington, Langsford Plaza, Lea McKeighan Park North, Lea McKeighan Park South, Legacy, Longview Community Center, Lovell Community Center, Lowenstein, McKee, Miller J. Fields, Osage Trails, Park West, Pleasant Lea, Pottberg, South Lea, Summit, Summit Ice, Summit Waves, Unity Property, Velie, Wadsworth, William B. Howard Station,

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Williams Grant, Winterset Nature Area, and Woods Playground. This definition shall include any Lee's Summit owned parks, recreational facilities or community centers purchased or created after the adoption of this ordinance.

3. *Aggressive manner* means:
 - a. Threatening approaches. Approaching the person being solicited in a manner that:
 1. is intended to or is likely to cause a reasonable person to fear imminent bodily harm, the imminent loss of property, or the commission of a criminal act upon property in the person's possession, upon the person or upon other nearby persons; or
 2. Is intended to or is likely to intimidate the person being solicited into responding affirmatively to the solicitation.
 - b. Following. By following behind, ahead or alongside a person who walks or drives away from the person soliciting or who gives notice or demonstrates verbally or physically that such solicitation is offensive, unwelcome or that the solicitation should cease.
 - c. Physical contact. Intentionally or recklessly making any physical contact with or touching another person in the course of the solicitation, or approaching within an arm's length of the person, except with the person's consent.
 - d. Continuing to solicit. Continuing to solicit a person after the person has made a negative response.
 - e. Verbal threats. Intentionally or recklessly using words:
 1. Intended to or likely to cause a reasonable person to fear imminent bodily harm or the commission of a criminal act upon property in the person's possession; or
 2. Words likely to intimidate the person into responding affirmatively to the solicitation.
 - f. Blocking sidewalks or streets. Intentionally or recklessly blocking the safe or free passage of the person being solicited or requiring the person, or the driver of a vehicle, to take evasive action to avoid physical contact with the person making the solicitation.
4. *Automated teller machine* is 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.
5. *Automated teller machine facility* is the area comprised of one or more automatic teller machines, and any adjacent space which is made available to banking customers.
6. *Intimidate* means to engage in conduct which would make a reasonable person feel threatened or fearful of harm to the person's personal safety or property.
7. *Panhandling* means any verbal or non-verbal solicitation made in person upon any public street, sidewalk, alley, park or other public place, in which a person requests an

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immediate donation of any item of value, monetary or otherwise, from another person, and includes but is not limited to seeking donations of any item of value, monetary or otherwise:

- a. By a spoken, written or printed appeal or for music, singing, or other street performance; and,
 - b. Where the person being solicited receives an item of little or no monetary value in exchange for a donation, under circumstances where a reasonable person would understand that the transaction is in substance a donation.
8. *Passive manner* means standing, sitting or performing music, singing or other street performance with a sign or other indication that a donation is being sought, without any vocal request other than in response to an inquiry by another person.
9. *Public area* is an area open to use by the general public, including, but not limited to: alleys, bridges, buildings, driveways, parking lots, parks, plazas, sidewalks and streets open to the general public, and the doorways and entrances to buildings and dwellings, and the grounds enclosing them.
10. *Public safety officer* means any uniformed law enforcement officer or firefighter.
11. *To panhandle* means to engage in any act of panhandling.
12. *To solicit* includes, without limitation, the spoken, written or printed word or such other acts or bodily gestures as are conducted in furtherance of the purposes of soliciting or asking for any item of value, monetary or otherwise.

C. *Prohibitions.*

1. *Aggressive panhandling.* It shall be unlawful for any person to panhandle, or to solicit the sale of goods or services, in an aggressive manner in a public area.
2. *Automated teller machine.* It shall be unlawful to panhandle, or to solicit the sale of goods or services, within 20 feet, in any direction, of an automated teller machine or automated teller machine facility, or within 20 feet, in any direction, from any entrance or exit to a building containing an automated teller machine or automated teller machine facility.
3. *Motor vehicles and streets.* Except as otherwise provided in this section, it shall be unlawful to engage in any act of panhandling or any solicitation of the sale of goods or services, at any time of the day:
 - a. In exchange for cleaning motor vehicle windows while the vehicle is in traffic, on or entering any public street, a public street intersection, alley or other public passageway; and/or,
 - b. In exchange for protecting, watching, washing, cleaning, repairing, or painting a motor vehicle or bicycle while it is temporarily stopped or parked on a public street.
 - c. Within five feet of a curb or edge of a street.
 - d. Involving any operator or occupant of a motor vehicle that is in traffic on or entering any street, street intersection, alley or other public passageway; or involving 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 unless issued a permit and pursuant to the following restrictions:

1. Persons and organizations may engage in public solicitations, including the use of sound amplification devices, if the person or organization meets all of the following conditions:
 - A. The person or organization applies for and is granted a permit from the city to conduct its solicitation activities based upon the requirements of this section.
 - B. Solicitations may only be conducted at intersections controlled by electronic signal lights or by stop signs.
 - C. No person or organization may conduct its solicitation activities for a period of more than six calendar days and on no more than two occasions in any calendar year.
 - D. The person or organization must provide insurance and/or agree to indemnify the City in the amount of at least \$1,000,000.00 for any liability arising out of the fund-raising activities.
 - E. Appropriate signage visible to passing motorists announcing the solicitation area must be visible from a distance of at least 300 feet from the solicitation site, and if such solicitation occurs after the hour of 5:00 pm, additional adequate lighting must be provided such that the solicitation site is visible to passing motorists from a distance of at least 300 feet.
 - F. All individuals participating in such solicitation activities must be at least 18 years of age.
 - G. The person or organization engaged in the solicitation must arrange to have a uniformed public safety officer at each solicitation site.
4. *Panhandling in certain areas.* It shall be unlawful to panhandle Within the Downtown Core, and all Lee's Summit Parks.
5. Within the City except for the areas noted in subsection 4, immediately above, it shall not be unlawful to panhandle in a passive manner subject to the following exceptions:

No passive panhandling or passive solicitation is permitted within 20 feet, in any direction, from any entrance or exit to any:

 - a. Office or office building.
 - b. Commercial establishment engaged in the sale of goods or services.
 - c. Bank, credit union or other financial institution.
 - d. Single- or multi-family residence or residential complex; or
 - e. Within 20 feet of any outdoor dining area, outdoor restaurant, or outdoor cafe.

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6. *Private property.* It shall be unlawful to panhandle, or to solicit the sale of goods or services on private property if the owner, tenant or lawful occupant has asked the person not to solicit on the property or has posted a sign clearly indicating that solicitations are not welcome on the property.
 7. *Sound amplification devices.* Except as otherwise provided in this section, no person shall use any gas-powered device, or any device using a battery or batteries larger than 12 volts total, for the purpose of amplifying speech or sound, or facilitating the amplification of speech or sound, in or upon any public area within the Downtown Core or Lee's Summit Parks. When authorized by the City Manager, the use of such sound amplification device shall be exempt from the provisions of this section.
 8. *Walk-up or drive-up teller window.* It shall be unlawful to panhandle, or to solicit the sale of goods or services, if the person making the solicitation knows or reasonably should know that the solicitation is occurring within 20 feet in any direction from a walk-up or drive-up teller window located on the exterior of the building of a financial institution which is made available to its banking customers.
 9. *Panhandling in groups.* It shall be unlawful to panhandle in groups of more than three persons.
- D. *Measurement.* For purposes of subsections C(2), C(4) and C(8) hereof, measurement shall be made in a straight line, without regard to intervening structures or objects, from the nearest point at which an unlawful act is conducted to the nearest portion of any doorway, entrance, outdoor dining area, outdoor restaurant, outdoor cafe, automatic teller machine or automatic teller facility.

SECTION 2. This Ordinance shall be in full force and effect from and after the date of its passage and adoption, and approval by the Mayor.

SECTION 3. Should any section, sentence, or clause of this Ordinance be declared invalid or unconstitutional, such declaration shall not affect the validity of the remaining sections, sentences or clauses.

SECTION 4. This Ordinance shall be codified and set out in full in the "Code of Ordinances of the City of Lee's Summit, Missouri.

PASSED by the City Council of Lee's Summit, Missouri this _____ day of _____, 2025.

Mayor William A. Baird

ATTEST:

City Clerk Trisha Fowler Arcuri

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APPROVED by the Mayor of said City this _____ day of _____, 2025.

Mayor *William A. Baird*

ATTEST:

City Clerk *Trisha Fowler Arcuri*

APPROVED AS TO FORM:

City Attorney *Brian W. Head*