

South Brunswick Township      ORD-2021-33

540 Ridge Road

Monmouth Junction, NJ 08852

#### ORDINANCE 2021-33

Amending and Supplementing Chapter 86 of the Code of the Township of South Brunswick by  
Prohibiting Aggressive Panhandling

WHEREAS, the Township has seen an increase in recent months of persons panhandling, primarily by soliciting motorists for money, and residents have begun to voice their concerns over this activity, requesting that the Township address this issue; and

WHEREAS, the Township recognizes that courts have unanimously recognized on numerous occasions that panhandling is a form of speech protected by the First Amendment of the Federal and State constitutions, and as a result, numerous ordinances that prohibit panhandling have been struck down in State and Federal courts as unconstitutional; and

WHEREAS, although the First Amendment right to freedom of speech is fundamental, it is not without limit, and municipalities have the authority to place reasonable time, place and manner limitations on panhandling activities as well as to regulate the use of its streets and other public facilities to assure the safety and convenience of citizens in their use; and

WHEREAS, it is the desire of the Township Council to protect both the First Amendment rights of those engaged in panhandling as well as citizens using the public streets and other facilities open to the public, so rather than adopt a blanket prohibition of panhandling, the Township believes that prohibiting “aggressive panhandling” strikes an appropriate balance of these interests and is the most appropriate way to protect the health, safety and welfare of all persons concerned;

NOW THEREFORE BE IT ORDAINED by the Township Council of the Township of South Brunswick, County of Middlesex, State of New Jersey, that:

I.        The Township Code of the Township of South Brunswick shall be and is hereby amended and supplemented with the addition of the following:

Chapter 86.

PEDDLERS, AND SOLICITATION AND PANHANDLING

Secs. 86-69 - 86-90. Reserved.

Article IV.

Aggressive Panhandling

Sec. 86-91. Purpose and intent.

The public purpose of this Article is to protect the rights of all people to exercise their First Amendment rights as well as the people and/or property of those who choose not to participate.

1. The Township of South Brunswick has a duty to protect the rights of all people to exercise their First Amendment rights safely. The Township of South Brunswick has a compelling governmental interest in imposing certain reasonable time, place and manner regulations whenever potential First Amendment activities such as begging, solicitation and panhandling occur on streets, highways, sidewalks, walkways, plazas, and other public venues within the Township;

2. This Article is not intended to limit any persons from exercising their constitutional right to solicit funds, picket, protest or engage in constitutionally protected activities. The provisions of this Article are expressly established to most narrowly tailor any such restrictions to protect the First Amendment rights of all people within the Township as well as the rights of non-participating people and their property, and to ensure the rights and safety of all people and/or property to the fullest extent possible;

3. Persons approached by individuals asking for money, objects or other things of any value are particularly vulnerable to real, apparent or perceived coercion when such request is accompanied by or immediately followed or preceded with aggressive behavior such as:

a. Continuing to beg or solicit from a person after the person has given a negative response or has ignored such solicitation;

b. Touching another person or their property in the course of begging or soliciting without that person's consent;

c. Blocking or interfering with the safe or free passage of a pedestrian or vehicle by any means;

d. Using violent or threatening gestures which are likely to provoke an immediate violent reaction from the person who is the subject of the solicitation or request for money;

e. Closely following behind, ahead or alongside a person who has been solicited or asked for money after that person has given a negative response to such solicitation;

f. Using profane, threatening, or abusive language, either during the solicitation or begging or following a refusal;

g. Begging or soliciting money from anyone who is waiting in line for tickets, entering a public building or riding on public transportation;

h. Begging or soliciting in a manner with conduct, words or gestures intended or likely to cause a reasonable person to fear imminent bodily harm, danger or damage to or loss of property or otherwise to be intimidated into giving money or any other thing of value; or

i. Begging or soliciting in a group of two or more persons in an intimidating fashion.

4. The Township desires to respect a person's potential right to solicit, beg or panhandle while simultaneously protecting other's right to not be coerced.

5. The Township further finds that aggressive soliciting, begging or panhandling of persons within twenty-five (25) feet of any outdoor seating area of any cafe, restaurant or other business, bank, automated teller machine, automated teller machine facility, check cashing business, mass transportation facility, mass transportation stop, or pay telephone also subjects people being solicited to improper and undue influence and/or fear and should not be allowed.

6. Persons approaching other individuals in an aggressive manner asking for money, objects or other things of any value after dark in public places inspire alarm and fear, which coupled with the inherent difficulty of establishing identity should not be allowed.

#### Sec. 86-92. Definitions.

As used in this Article, the following words and terms shall have the meanings indicated. The meaning of all other terms and words not specifically defined shall be their generally accepted definition:

"Aggressive manner" shall mean:

- a. Approaching or speaking to a person, or following a person 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 or otherwise to be intimidated into giving money or other thing of value;
- b. Continuing to solicit from a person after the person has given a negative response to or ignored such soliciting;
- c. Intentionally touching or causing physical contact with another person or their property without that person's consent in the course of soliciting;
- d. 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;
- e. Using violent or threatening language and/or gestures toward a person being solicited;
- f. Following the person being solicited, with the intent of asking that person for money or other things of value;
- g. Soliciting money from anyone who is stationary, such as waiting in line for tickets, for entry to a building or for any other purpose;
- h. Soliciting in a manner with conduct, words or gestures intended or likely to cause a reasonable person to fear immediate bodily harm, danger or damage to or loss of property or otherwise be intimidated into giving money or any other thing of value;
- i. Begging in a group of two or more persons in an intimidating fashion;
- j. Soliciting any person within twenty-five (25) feet of the entrance to, or parking area of, any bank, automated teller machine, automated teller machine facility, check cashing business, mass transportation facility, mass transportation stop, public restroom, pay telephone or theatre or place of public assembly, or of any outdoor seating area of any cafe, restaurant or other business;

k. Soliciting any person in public after dark, which shall mean the time from one-half hour before sunset to one-half hour after sunrise.

"Automated teller machine" shall mean 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 which are made available to banking customers.

"Automated teller machine facility" shall mean the area comprised of one or more automatic teller machines, and any adjacent space which is made available to banking customers during and after regular banking hours.

"Bank" shall mean the same as defined in N.J.S.A. 17:20-1 a.(1).

"Beg," "begging" or "panhandling" shall be synonymous and 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. "Solicit" or "soliciting" shall include using the spoken, written, or printed word, bodily gestures, signs, or other means of communication with the purpose of obtaining an immediate donation of money or other thing of value and also include the offer to immediately exchange and/or sell any goods or services.

"Check cashing business" shall mean the same as that defined by Chapter 15A of N.J.S.A. Title 17.

"Public place" shall mean a place to which the public has access, including, but not limited to: a place which a governmental entity has title, any street open to public use, bridge, sidewalk, walkway, driveway, parking lot, plaza, transportation facility, school, park, or playground, and the doorways and entrances to building and dwellings.

#### Sec. 86-93. Prohibited Activity.

It shall be unlawful for any person to beg, panhandle or solicit any other person in an aggressive manner. Any police officer observing any person violating this provision may request or order such person to cease and desist such behavior and may issue a summons to such person if the person fails to comply with such request or order.

#### Sec. 86-94. Penalty.

Any person found guilty of violating this Article shall be punished by a fine not to exceed fifty dollars (\$50.00) for each such day during which the violation is committed, continued or permitted, or, the court may impose such community service as it shall determine in lieu of a monetary fine.

II. If any clause, sentence, paragraph, section or part of this ordinance or any other codes or ordinances incorporated herein shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder hereof, but shall be confined in its operation to the clause, sentence, paragraph, section or part thereof directly involved in the controversy in which said judgment shall have been rendered.

III. This ordinance shall become effective twenty (20) days after its final passage.

The above ordinance was introduced and passed on first reading at a meeting of the Township Council of the Township of South Brunswick held on August 24, 2021, and will be considered on second reading and final passage at a meeting of the Township Council of the Township of South Brunswick to be held either: (1) at the Municipal Building, Monmouth Junction, New Jersey; or, if that is not possible, (2) via video conference, at 6:00 p.m. on September 28, 2021. If the meeting is held via video conference, an electronic link to the meeting will be made available to the public at [www.sbtnj.net](http://www.sbtnj.net) no later than noon on the day of the meeting. In either case, at the time of second reading and final passage any person having an interest therein will be given an opportunity to be heard.

RESULT: ADOPTED [UNANIMOUS]

MOVER: Joseph Camarota, Deputy Mayor

SECONDER: Josephine "Jo" Hochman, Councilwoman

AYES: Joseph Camarota, Archana "Ann" Grover, Josephine "Jo" Hochman, Charlie Carley

ABSENT: Ken Bierman

This is to certify that the foregoing is a true copy of a Ordinance Adopted at the South Brunswick Township Council meeting held on September 28, 2021.