

# City of Salem

FIRST PASSAGE

*In the year two thousand and twelve*

**An Ordinance** *relative to panhandling*

*Be it ordained by the City Council of the City of Salem, as follows:*

**Section 1.** Chapter 24 is hereby amended by adding the following new section:

## **“Chapter 24, Section 24-29 Aggressive Panhandling**

### **(a) Purpose and intent.**

It is the purpose of this section to regulate panhandling in order to promote the health, safety, peace, and general welfare of the citizens and visitors of the city of Salem.

### **(b) Definitions.**

For the purposes of this section:

- (1) “Automated teller machine (ATM)” means 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.
- (2) “Obstructing” means to walk, stand, sit, or lie, or place an object in such a manner as to block passage by another person or a vehicle, or to require another person or a driver of a vehicle to take evasive action to avoid physical contact.
- (3) “Panhandler” means any person engaged in the act of panhandling.
- (4) “Panhandling” is any solicitation made in person, requesting an immediate donation of money or other thing of value. Purchase of an item for an amount far exceeding its value, under circumstances where a reasonable person would understand that the purchase is, in substance, a donation, is a donation for the purpose of this section.
- (5) “Public transportation vehicle” means any vehicle used as a mode of mass transit.

### **(c) Place of panhandling – Violation.**

No person shall to panhandle when the person solicited is in any of the following places within the city limits of Salem, Massachusetts:

- (1) Within a motor vehicle that is in traffic on a public street or stopped for a traffic control signal or stop sign on a public street; or
- (2) In any public transportation vehicle; or
- (3) In any vehicle on a street or on a driveway providing ingress or egress to a street where such driveway is open to the general public; or
- (4) Within 15 feet of any automated teller machine (ATM); or
- (5) On private property, unless the panhandler is in physical possession of written permission from the owner or lawful occupant thereof.

**(d) Manner of panhandling – Violation.**

It shall be unlawful for any person to panhandle in any of the following manners:

- (1) By intentionally coming within three feet of the person solicited, unless that person has indicated that he or she does wish to make a donation; or
- (2) By intentionally obstructing the path of the person or vehicle of the person solicited; or
- (3) By intentionally obstructing the passage through the entrance or exit of any building; or
- (4) By soliciting anyone under the age of 16; or
- (5) By following a person who walks away from the panhandler, if the panhandler's conduct is intended to or is reasonably likely to intimidate the person being solicited into responding affirmatively to the solicitation; or
- (6) By using profane or abusive language, either during the solicitation or following a refusal.

**(e) Panhandling – Where permitted.**

Panhandling is permitted in any place and manner not otherwise restricted by this section.

**(f) Penalty; Enforcement.**

Any person found to be in violation of this section shall be fined not more than \$50.00 for each offense. The police department shall have the authority to enforce this section.

**(g) Severability.**

If any one or more sections, subsections, or sentences of this section are held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portion of this section and the same shall remain in full force and effect."

Section II. This ordinance shall take effect as provided by city charter.

In City Council February 14, 2013

Adopted for first passage and referred to the Committee on Ordinances, Licenses and Legal Affairs co-posted with Committee of the Whole