

VILLAGE OF OBETZ
RECORD OF ORDINANCES

ORDINANCE: 89-15

PASSED: _____

AN ORDINANCE ADOPTING OBETZ CODE CHAPTER 557 RELATED TO PANHANDLING

WHEREAS, Village Council recognizes a constitutional right to beg or solicit in a peaceful and nonthreatening manner; and,

WHEREAS, Village Council finds that aggressive solicitation is disturbing and disruptive to residents and businesses; and,

WHEREAS, aggressive solicitation contributes to the loss of access to and enjoyment of public places and provides for an enhanced sense of fear, intimidation and disorder; and,

WHEREAS, Village Council desires to protect residents from the fear and intimidation accompanying certain kinds of solicitation and panhandling; and,

WHEREAS, these laws are not intended to limit any persons from exercising their constitutional right to solicit funds, picket, protest or engage in other constitutionally protected activity.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE VILLAGE OF OBETZ, OHIO, THAT:

Section 1. Chapter 557 of the Obetz Codified Ordinances is hereby adopted to read as follows:

557.01 DEFINITIONS. As used in this Chapter:

- (a) "Aggressively beg" means to beg with the intent to intimidate another person into giving money, goods, or other property of value.
- (b) "Automated teller machine" 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, withdrawals, balance inquiries, and mortgage and loan payments.
- (c) "Automated teller machine facility" means the area comprised of one or more automated teller machines and any adjacent space which is made available to banking customers after regular banking hours.
- (d) "Beg" means to ask for money, goods, or other property of value as a charity, whether by words, bodily gestures, signs or other means.
- (e) "Bus stop area" means within any shelter or area provided for public use by the Central Ohio Transit Authority (COTA), the Groveport Madison School District, the Hamilton Township Local School District, or any other entity, and any area within ten feet of the outer walls of that shelter, or, where no shelter has been erected, the area within a twenty foot radius of the sign indicating a bus stop.

- (f) “Drive thru window” means the area on a structure which is properly designed and constructed where customers of the establishment may conduct business from their motor vehicles.
- (g) “Intimidate” means to engage in conduct which would make a reasonable person fearful or feel compelled.
- (h) “Obstruct pedestrian or vehicular traffic” means to walk, stand, sit, 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 vehicle to take evasive action to avoid physical contact. Acts authorized as an exercise of one’s constitutional right to protest, and acts authorized under Chapter 709 of the Obetz Codified Ordinances – Peddlers, the Peddlers, Solicitors, and Canvassers, shall not constitute obstruction of pedestrian or vehicular traffic.
- (i) “Public place” means an area generally visible to public view and includes alleys, bridges, buildings, driveways, parking lots, parks, recreational areas and playgrounds, public libraries, plazas, sidewalks and streets open to the general public, including those that serve food or drink or provide entertainment, and the doorways and entrances to buildings or dwellings and the grounds surrounding them.
- (j) “Public transport” means any commercial vehicle providing transportation on a regular route to consumers for a standard fare.
- (k) “Sidewalk cafe or patio” means an outdoor area that is designated for sidewalks or patio dining.
- (l) “Solicit” and “solicitation” means to ask in person and by words for an immediate grant of money, goods, or other property of value as a charity from another person(s) when the person making the request is not known to the person(s) who are the subject of the request. The term “solicitor” and “solicitation” shall not mean the act of passively standing or sitting with a sign or other indicator that a donation of money, goods, or any other property of value is being sought without any vocal request other than a response to any inquiry by another person.

557.02 PANHANDLING OFFENSES. A person is guilty of pedestrian or vehicle interference, aggressive panhandling, or improper solicitation after dark if on the streets, sidewalks, outdoor patio or other public place, whether publicly or privately owned, including public transport, bus stop shelter or area, and parks, the person:

- (a) Intentionally obstructs pedestrians or vehicular traffic; or
- (b) Aggressively begs; or
- (c) Solicits door to door or conducts any public opinion poll before 10:00 a.m. in the morning or after 8:00 p.m. in the evening Monday to Saturday, or before 12:00 noon or after 6:00 p.m. on Sundays.

557.03 PRIMA FACIE EVIDENCE OF INTIMIDATION. Proof of any one of the following factors constitute prima facie evidence that begging was done with the intent to intimidate another:

- (a) That the begging was conducted within twenty-five feet of an entrance to or exit from a banking organization or licensed cashier of checks, as defined by Ohio R.C. 1315.21(C), during its business hours; that the begging was conducted within twenty-five feet of the entrance to or exit from a check cashing business as defined by Ohio R.C. 1315.21(C).

- (b) That the begging was conducted within twenty-five feet of any automated teller machine or the entrance to or exit from an automated teller machine facility;
- (c) That the begging was conducted either within the physical confines of a bus stop shelter or area, or within ten feet of an entrance to or exit from a bus stop shelter or area;
- (d) That when no bus stop shelter exists, the begging was conducted within a twenty-foot radius of the sign indicating a bus stop.
- (e) That the beggar approached the operator or occupant of a motor vehicle while the vehicle is located on any street or stopped at any intersection and offered to perform a service, or performed a service without permission and then demanded payment, or offered to sell goods or services for more than their usual value. This paragraph shall not apply to services rendered in connection with emergency repairs requested by the operator or passenger of such vehicle;
- (f) That the beggar intentionally touched or caused physical contact with another person, or that person's property without their consent in the course of begging, followed the person before, after or during begging, or persisted in begging after the other person has given a response that a reasonable person would understand to be a negative response to the request; or,
- (g) That the beggar used violent or threatening gestures toward a person solicited, or used insults, profanity, or veiled threats;
- (h) That the begging was conducted within twenty-five feet of any sidewalk café or patio.
- (i) That the begging was conducted within twenty-five feet of a drive thru window or within twenty- five feet of any vehicles that are in line at a drive thru window;
- (j) That the begging was conducted inside any store or restaurant or their immediate parking lots;
- (k) That the begging was conducted within fifteen feet of a pay telephone.

557.04 PENALTY.

- (a) Whoever violates Section 557.02(a) hereof is guilty of pedestrian or vehicle interference, a misdemeanor of the fourth degree. When a person has been previously convicted of a violation of Section 557.02(a) or Section 557.02(b) hereof, or any other substantially similar state statute or municipal ordinance, the offense of pedestrian or vehicle interference is a misdemeanor of the third degree.
- (b) Whoever violates subsection Section 557.02(b) hereof is guilty of aggressive panhandling, a misdemeanor of the second degree. When a person has been previously convicted of a violation of 557.02(a) or Section 557.02(b) hereof, or any other substantially similar state statute or municipal ordinance, aggressive panhandling is a misdemeanor of the first degree.
- (c) Whoever violates Section 557.2(c) hereof is guilty of improper solicitation after dark, a minor misdemeanor. When a person has been previously convicted of a violation of Section 557.02(a) or Section 557.02(b) hereof, or any other substantially similar state statute or municipal ordinance, the offense of improper solicitation after dark is a misdemeanor of the fourth degree.

557.05 SEVERABILITY CLAUSE. If any section, sentence, clause, or phrase contained in this Chapter is held 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 Chapter.

Section 2. This Ordinance shall take effect at the earliest time permitted by law.

Passed this _____ day of _____, 2016.

ATTESTS:

Stacey Boumis, Clerk of Council

D. Greg Scott, Mayor

Council Pres. Pro-Tem

APPROVED AS TO FORM

Eve M. Ellinger, Director of Law

CERTIFICATION OF PUBLICATION

Pursuant to the Village Charter, I, Stacey E. Boumis, Clerk of Council of the Village of Obetz, Ohio, do hereby certify that Ordinance _____ was duly posted at _____ (time) on the _____ day of _____, 2016, at the Obetz Government Center and on the Obetz website.

Stacey Boumis, Clerk

Date