

CITY OF DOVER PROPOSED ORDINANCE #2018-12

1 **BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF DOVER, IN COUNCIL**
2 **MET:**

3 That Chapter 70 - Offenses and Miscellaneous Provisions, Section 70-5 - Aggressive panhandling of the
4 Dover Code be amended by deleting the text indicated in red strikeout and inserting the bold, blue text, as
5 follows:

6 Sec. 70-5. - ~~Aggressive panhandling~~ **Panhandling and false or misleading solicitation.**

7 (a) *Definitions.* The following words, terms and phrases, when used in this section, shall have the
8 meanings ascribed to them in this subsection, except where the context clearly indicates a different
9 meaning:

10 *Accosting* means approaching or speaking to someone in such a manner as would cause a reasonable
11 person to fear imminent bodily harm or the commission of a criminal act upon his person, or upon
12 property in his immediate possession.

13 *Alms* means **money, food, or other donations given to the poor or needy; anything given as**
14 **charity.**

15 *Ask, beg, panhandle, request* and *solicit* mean and include, without limitation, the spoken, written
16 or printed word or such other acts as are conducted in furtherance of the purpose of obtaining alms.

17 *Forcing oneself upon the company of another* means continuing to request, beg or solicit alms from
18 a person after that person has made a negative response, blocking the passage of the individual
19 addressed or otherwise engaging in conduct that could reasonably be construed as intended to compel
20 or force a person to accede to demands.

21 (b) ***Time of panhandling.* Any person who panhandles after sunset or before sunrise is guilty of a**
22 **violation of this section of the city Code. ~~Solicitation of money and other things of value. It shall~~**
23 **~~be unlawful for any person to solicit money or other things of value:-~~**

24 ~~(1) On private property if the owner, tenant or lawful occupant has asked the person not to~~
25 ~~solicit on the property, or has posted a sign clearly indicating that solicitations are not~~
26 ~~welcome on the property;~~

27 ~~(2) Within 15 feet of the entrance to or exit from any public toilet facility;~~

28 ~~(3) Within 15 feet of an automated teller machine, provided that when an automated teller~~
29 ~~machine is located within an automated teller machine facility, such distance shall be~~
30 ~~measured from the entrance or exit of the automated teller machine facility;~~

31 ~~(4) Within 15 feet of any pay telephone, provided that when a pay telephone is located within~~
32 ~~a telephone booth or other facility, such distance shall be measured from the entrance or~~
33 ~~exit of the telephone booth or facility;~~

34 ~~(5) In any public transportation vehicle, or in any bus or subway station, or within 15 feet of~~

- 35 ~~any bus stop or taxistand;~~
- 36 ~~(6) From any operator of a motor vehicle that is in traffic on a public street; provided,~~
37 ~~however, that this subsection shall not apply to services rendered in connection with~~
38 ~~emergency repairs requested by the owner or passengers of such vehicle;~~
- 39 ~~(7) From any person who is waiting in line for entry to any building, public or private,~~
40 ~~including, but not limited to, any residence, business or athletic facility;~~
- 41 ~~(8) Within 15 feet of the entrance to or exit from a building, public or private, including, but~~
42 ~~not limited to, any residence, business or athletic facility;~~
- 43 ~~(9) By accosting another; or~~
- 44 ~~(10) By forcing oneself upon the company of another.~~
- 45 (c) *Place of panhandling.* Any person who panhandles when the person solicited is in any of the
46 following places is guilty of a violation of this article:
- 47 (1) At any bus stop or train stop;
- 48 (2) In any public transportation vehicle or facility;
- 49 (3) In any vehicle on any city street; or
- 50 (4) On private property, unless the panhandler has permission from the owner or the
51 occupant.
- 52 (d) *Manner of panhandling.* Any person who panhandles in any of the following manners is guilty
53 of a violation of this article:
- 54 (1) By coming within three feet of the person solicited until that person has indicated that he
55 or she does wish to make a donation;
- 56 (2) By blocking the path of the person soliciting along a sidewalk or street;
- 57 (3) By following a person who walks away from the panhandler;
- 58 (4) By using profane or abusive language, either during the solicitation or following a refusal;
- 59 (5) By panhandling in a group of two or more persons; or
- 60 (6) By any statement, gesture, or other communication which a reasonable person in the
61 situation of the person solicited would perceive to be a threat.
- 62 (e) *False or misleading solicitation.* Any person who knowingly makes any false or misleading
63 representation in the course of soliciting a donation is guilty of a violation of this article. False
64 or misleading representations include, but are not limited to, the following:
- 65 (1) Stating that the donation is needed to meet a specific need, when the solicitor already has
66 sufficient funds to meet that need and does not disclose that fact;
- 67 (2) Stating that the donation is needed to meet a need which does not exist;
- 68 (3) Stating that the solicitor is from out of town and stranded, when that is not true;
- 69 (4) Wearing a military uniform or other indication of military service, when the solicitor is
70 neither a present nor former member of the service indicated;
- 71 (5) Wearing or displaying an indication of physical disability, when the solicitor does not

- 72 suffer the disability indicated;
73 (6) Use of any make-up or device to simulate any deformity; or
74 (7) Stating that the solicitor is homeless, when he is not.

75 (f) *Permit requirement.*

76 (1) No person shall panhandle on five or more days in a single calendar year without a permit
77 issued by the police department. A person who has been issued a permit shall keep it on
78 his or her person at all times while panhandling and show it to any police officer upon
79 request. No person whose permit has been revoked shall panhandle for a period of two
80 years following the revocation. Any person who violates this subsection is guilty of a
81 violation of this article.

82 (2) The police department shall issue the permit for a fee, as provided for in Appendix F - Fees
83 and Fines, to any eligible person who presents himself at the police station, states his true
84 name, presents a photo identification or signs a declaration under penalty of perjury that
85 he has no such identification, and permits himself to be photographed and fingerprinted.

86 (3) A person is ineligible for a permit if and only if within the past five years he (1) has been
87 convicted of two or more violations of this article, (2) has had a permit revoked pursuant
88 to subsections (5) or (6) of this section, or (3) has been convicted of two or more offenses
89 under the law of any jurisdiction which involve aggressive or intimidating behavior while
90 panhandling or false or misleading representations while panhandling.

91 (4) If the police department is unable to determine eligibility within 24 hours of the
92 application, the department shall issue a permit good for 30 days and determine eligibility
93 for a regular permit before the temporary permit expires. The regular permit shall expire
94 one year from the date of issuance. Along with the permit, the police department shall give
95 the applicant a copy of this section.

96 (5) Any person who makes any false or misleading representation while apply for a period
97 under this section is guilty of a violation of this article. Upon conviction of violation of this
98 subsection, the police department shall revoke any permit issued to the subject defendant
99 under this section.

100 (6) If a permit is issued to a person under this section and that person subsequently commits
101 and is convicted of a violation of any provision of this article, the police department shall
102 revoke the permit.

103 (g) *Violations; penalties.*

104 Each section of this article is distinct and any violation of any section is a separate violation of
105 this article. A conviction of a violation of any section of this article shall be punishable by a fine
106 in accordance with Appendix F - Fees and Fines.

107 (Code 1981, § 14-13; Ord. of 9-8-2003)

108 **BE IT FURTHER ORDAINED:**

109 That Appendix F - Fees and Fines of the Dover Code be amended by inserting the text indicated in bold,
 110 blue font, as follows:

111 Chapter 70. - Offenses and Miscellaneous Provisions

Chapter 70. Offenses and Miscellaneous Provisions	Fees and Fines
Sec. 70-1. Combative fighting	
Subsec. (d)(1) Violations; penalties, fines	Not to exceed \$1,000.00. Separate fines may be issued to the promoter of such an event, participants in such an event, and the owner of the premises of such an event
Sec. 70-2. Weapons generally	
Subsec. (e)(1) Penalties; fines	Not less than \$500.00, nor more than \$1,000.00
Sec. 70-5. Panhandling and fraudulent solicitation	
Subsec. (f)(2) Permit; fee	\$250.00
Subsec. (g) Violations; penalties	Not to exceed \$500.00
Sec. 70-7. Registered sexual offenders	
Subsec. (f) Penalties	\$500.00 for any offense; each day shall constitute a separate offense
Subsec. 70-8. Disorderly premises	Not to exceed \$1,000.00 for any offense.

123 **ADOPTED: ***
 124 S:\ORDINANCES\2018\DRAFT\ORDINANCE #2018-12 CH 70-OFFENSES, SEC 70-5 AGGRESSIVE PANHANDLING\ORDINANCE #2018-12 Ch 70-Offenses and Misc, Sec. 70-5 Panhandling.wpd

125 **SYNOPSIS**

126 The amendment expands upon the existing section to include "false or misleading solicitation",
 127 prohibits panhandling between sunset and sunrise under any circumstances, prohibits
 128 panhandling in certain places and situations, requires a permit, and adds a fine for violations.

129 (SPONSORS: HARE AND POLCE)

130 Actions History
 131 10/23/2018 - Scheduled for Introduction - Council Committee of the Whole/Safety Advisory and Transportation Committee