

BILL NO. BL2019-1543 (O'CONNELL) – This ordinance would amend Metropolitan Code of Laws Section 11.12.090.B. to prohibit panhandling in certain locations.

Currently, Section 11.12.090.B prohibits panhandling when either the panhandler or person being solicited is located in, on, or at any of the following locations:

1. Any bus stop;
2. Any sidewalk cafe;
3. Any area within twenty-five feet (in any direction) of an ATM or entrance to a bank;
4. Any daycare or community education facility, as defined by MCL Sec. 17.04.060; or
5. Within ten feet of any point of entry or exist from any building open to the public, including commercial establishments.

The ordinance under consideration would add to this list a prohibition on panhandling within the DTC and CF districts on (i) Second Avenue North between Broadway and Church Street, (ii) Commerce Street between Second Avenue North and Third Avenue North, or (iii) Symphony Place between Third Avenue South and Fourth Avenue South, or (iv) the John Seigenthaler Pedestrian Street Bridge. An amendment by the sponsor is anticipated which would add Broadway, from 1st Avenue to 6th Avenue, to the restricted areas.

Under First Amendment protections, municipal governments have no power to restrict speech because of its content. Government regulation of speech is considered content-based if the regulation applies based upon the topic addressed or the idea or message conveyed, or even if the restriction applies as a result of the content's function or purpose.

Following the U.S. Supreme Court's 2015 decision in *Reed v. Town of Gilbert*, anti-panhandling ordinances have more frequently been considered content-based speech restrictions by courts. Content-based restrictions are presumptively unconstitutional and may be justified under strict scrutiny only if the enacting government establishes that the restriction is narrowly tailored to serve compelling state interests. Cities identifying panhandling as a serious concern requiring legislative remedies often cite compelling interests such as pedestrian safety in support of such legislation.