

**TILDEN TOWNSHIP
BERKS COUNTY, PENNSYLVANIA**

ORDINANCE No. 226, 2017

AN ORDINANCE OF THE TOWNSHIP OF TILDEN, BERKS COUNTY, PENNSYLVANIA, AMENDING CHAPTER XVII OF THE CODE OF ORDINANCES OF THE TOWNSHIP OF TILDEN, TITLED "LICENSES AND PERMITS AND GENERAL BUSINESS REGULATIONS," PART 2, TITLED "SOLICITATION AND PEDDLING," TO ADD A SUBPART C, TITLED "PANHANDLING" WHICH DEFINES AND REGULATES THE SAME, AND CONTAINS PENALTIES FOR VIOLATION

WHEREAS, the Board of Supervisors of the Township of Tilden ("Township") is the body authorized to enact regulations to protect the public health, safety, welfare, and morals of the community, while upholding the constitutional rights of all citizens;

WHEREAS, the Township recognizes the free speech rights for all citizens while at the same time protecting the concomitant rights of all citizens to enjoy safe and convenient travel in public spaces free from intimidation, threats, and harassment stemming from aggressive, abusive, and/or harassing solicitation practices;

WHEREAS, the United States Supreme Court has recognized that "requests for immediate payment of money create a strong potential for fraud or undue pressure, in part because of lack of time for reflection." *International Society for Krishna Consciousness v. Lee*, 112 S.Ct. 2722 (1992) (concurring opinion by Justice Kennedy);

WHEREAS, the Township recognizes there are numerous forms of solicitation which are not in and of themselves inherently threatening or

aggressive; but there are others which have occurred in increasing numbers in the Township which threaten the privacy and security of residents and visitors to the Township, and/or impede the safe and orderly flow of traffic; and,

WHEREAS, the Township seeks to impose time, place, and manner restrictions on these activities narrowly tailored to serve the significant governmental interests of public safety from threats of confrontation from aggressive solicitation, fraud, and traffic and pedestrian safety.

NOW, THEREFORE, BE IT ENACTED AND ORDAINED by the Board of Supervisors of the Township of Tilden, Berks County, Pennsylvania, and it is hereby ENACTED AND ORDAINED by the authority of the same as follows:

SECTION 1. Chapter XVII of the Code of Ordinances of the Township of Tilden, titled "Licenses and Permits and General Business Regulations," Part 2, titled "Solicitation and Peddling," is restated and amended to add the following:

Subpart C Panhandling

Section 230. Definitions

The following terms shall have the following definitions for purposes of this Subpart C:

Panhandling - Any personal solicitation made in a public place for an immediate donation of money or any other item of value. This definition applies equally to all persons requesting donations, whether the donation is intended to be used for the panhandler's personal use or on behalf of a religious group or community service organization or for any other reason.

Aggressive panhandling - (1) Approaching or speaking to a person, or following a person before, during, or after panhandling, if that conduct is intended to or likely to cause a reasonable person to fear bodily harm to oneself or another, or damage to or loss of property, or otherwise be intimidated into giving money or other thing of value; (2) intentionally touching or causing physical contact with another person without that person's consent in the course of panhandling; or (3) directing violent or threatening gestures toward the subject of panhandling.

Public area – An area open to use by the general public, including but not limited to alleys, bridges, buildings, driveways, parking lots, parks, plazas, sidewalks, and streets open to the general public, and doorways and entrances to buildings and dwellings, and the grounds enclosing them.

Section 231. Permitted Conduct

(a) **Particular time.** Panhandling shall be permitted in all public areas between sunrise and sunset as long as it does not violate:

1. The restrictions set forth in Section 232 of this Subpart; and,
2. Applicable Township ordinances regulating noise.

(b) **Non-verbal panhandling.** Panhandling made in a non-verbal manner shall not be subject to the time restrictions of Section 231(a) of this Subpart, so long as it does not violate the restrictions of Section 232, above, or any other applicable law or Ordinance.

(c) **Rights of private property owner not affected.** This Subpart notwithstanding, the owner of a private property shall have the right to prohibit any and all panhandling and other solicitation activities on his or her property.

Section 232. Prohibited Conduct.

(a) **Particular places.** Panhandling is expressly prohibited in the following places at any time and any manner, due to the coercive nature of each:

(1) Captive audience areas, which are defined as:

- Inside or within twenty five feet (25') of a sidewalk café or any outside eating, drinking, or dining establishment;

- At or within twenty five feet (25') of a line of people waiting to gain admission to a place or vehicle, waiting to purchase an item, or waiting to purchase a ticket of admission to a place or event;

- At or within ten feet (10') of a food vendor;

- At or within ten feet (10') of a public transportation stop or terminal; or,

- At or within twenty five feet (25') of the entrance to a place of religious assembly.

(2) Money accepting or dispensing areas. It shall be unlawful to solicit money or other things of value if the person making the solicitation knows or reasonably should know that the solicitation is occurring within twenty five feet (25') in any direction of a parking pay station or an automated teller machine, including within twenty five feet (25') in any direction of any entrance or exit to a building containing an automated teller machine that is visible from the street.

(b) Particular manners of panhandling. The following manners of panhandling are expressly prohibited, due to the coercive nature of each:

(1) Hindrance to traffic, meaning:

- Panhandling in any manner which serves to intentionally block, obstruct, or interfere with orderly flow of either vehicles or pedestrians.

- Panhandling in any manner which intentionally and unreasonably causes a pedestrian or vehicle operator to take evasive action to avoid physical contact.

- Panhandling in any manner that violates traffic regulations for pedestrians or vehicles.

(2) Aggressive panhandling, as defined in this Subpart.

(3) False or misleading panhandling, meaning the making of a knowingly false or misleading representation in the course of solicitation, including but not limited to the following:

- Stating that the donation is needed to meet a specific need, when the solicitor already has sufficient funds to meet that need and does not disclose that fact;

- Stating that the donation is needed to meet a need which does not exist;

- Stating that the solicitor is out of town and stranded, when such is not true;
- Wearing a military uniform or other indication of military service, when the solicitor is neither a present nor former member of the service indicated;
- Wearing or displaying an indication of physical disability, when the solicitor does not suffer the disability indicated;
- Use of any makeup or device to simulate any deformity;
- Stating that the person is homeless, when he or she is not; or,
- Soliciting a donation for a stated purpose, and then spending the funds received for a different purpose.

Section 233. Penalties for Violation. Any person who violates any provision of this Ordinance shall, in an action before a Magisterial District Judge prosecuted as a summary criminal offense shall, upon conviction thereof, be subject to a fine of not less than One Hundred Dollars (\$100.00) and not more than One Thousand Dollars (\$1,000.00) for each and every offense, and, in default of payment, imprisonment for a term not exceeding thirty (30) days in Berks County Prison. Each day or portion thereof for which a violation of this Ordinance is found to occur shall constitute a new and separate offense.

SECTION 2. Severability. If any sentence, clause, section or part of this Subpart is for any reason found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses, sections or parts of this Subpart. It is hereby declared as the intent of the Board of Supervisors of Tilden Township that this Subpart would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein.

SECTION 3. Repealer. All ordinances or parts of ordinances conflicting with the provisions of this Ordinance are hereby repealed insofar as they are inconsistent with this Ordinance.

SECTION 4. Full Force and Effect of Remainder of Code of Ordinances. The Code of Ordinances of the Township of Tilden , Berks County, Pennsylvania, as amended, shall be and remain unchanged and in full force and effect except as amended, supplemented and modified by this Ordinance. This Ordinance shall become a part of the Code of Ordinances of the Township of Tilden, Berks County, Pennsylvania, as amended, upon adoption.

SECTION 5. Effective Date. This Ordinance shall become effective five (5) days from the date of enactment.

DULY ENACTED AND ORDAINED this 19th day of July, 2017.

**BOARD OF SUPERVISORS OF
TILDEN TOWNSHIP**

**Berks County,
Pennsylvania**

By:

Gene D. Schappell

Chairman

By:

Freddie A. H.

Vice Chairman

By:

Carl Spatz

Supervisor

ATTEST:

Cheryl A. H.

(Assistant) Secretary

MUNICIPAL CERTIFICATION

I, Cheryl Haws, (~~Assistant~~) Secretary of Tilden Township, Berks County, Pennsylvania, do hereby certify that the foregoing Ordinance No. 226, was advertised in the Reading Eagle, a daily newspaper of general circulation in Tilden Township, on June 28, 2017 and was duly enacted and approved as set forth at a regular meeting of the Board of Supervisors held on July 19, 2017.

[SEAL]

Cheryl A. Haws

(~~Assistant~~) Secretary