FIRE
Foundation for Individual Rights and Expression

April 29, 2026

Andrew Medwid
Law Director
City of Ontario
555 Stumbo Road
Ontario, Ohio 44906

Sent via U.S. Mail and Electronic Mail (amedwid@ontarioohio.org)

Dear Mr. Medwid:

The Foundation for Individual Rights and Expression (FIRE), a nonpartisan nonprofit that defends free speech nationwide, is concerned by the City of Ontario's ordinance broadly banning "panhandling" across numerous public spaces while exempting similar activity by schools and nonprofit organizations. The First Amendment protects charitable solicitation, whether on behalf of an organization or by individuals seeking assistance for themselves. By suppressing protected speech on a sweeping scale—and by favoring speakers based on the purpose of their solicitation—the ordinance violates the First Amendment. We therefore call on the City to repeal or amend the ordinance to bring it into constitutional compliance.

Our concerns arise from Ordinance 17-28, which regulates "unlawful panhandling and fraudulent solicitations."[1] The ordinance broadly prohibits panhandling—defined as "any solicitation made in person requesting an immediate donation of money"[2]—in a wide array of public spaces.[3] It also bans "[f]ollowing a person who walks away from the panhandler" and panhandling "[i]n any type of aggressive manner" anywhere in the City.[4] Anyone who panhandles on five or more days in a calendar year must obtain a permit and show it to a peace officer upon request.[5] Applicants must provide their name, home address, and a photo ID (or a

[1] ONTARIO, OH, CODIFIED ORDINANCES § 509.11, https://codelibrary.amlegal.com/codes/ontario/latest/ontario_oh/0-0-0-41565. Please note that this letter does not constitute a complete analysis of all the potential constitutional problems with the ordinance.

[2] *Id.* § 509.11(a).

[3] *See id.* § 509.11(b). For example, panhandling is prohibited within 25 feet of pedestrians waiting in a line; entrances or exits of the building for any check cashing business, bank, credit union, or savings and loan; ATMs; rights of way, entrances, or exits of any public facility; and entrances to any building or parking lot when the speaker is on public property. The ordinance also bans panhandling within 50 feet of any intersection listed on a continuously updated list provided by the county planning commission.

[4] *Id.* § 5091.11(c)(2), (c)(4).

[5] *Id.* § 509.11(h)(1).

signed declaration that they lack such identification), and must submit to photographing and fingerprinting.[6] A wide range of prior convictions renders an applicant ineligible for a permit.[7] None of these restrictions apply to "the solicitation of donations by members of any schools, civic organizations or other nonprofit organizations soliciting donations by legitimate means and for legitimate purposes."[8]

I. The Restrictions on Where Panhandling May Occur Violate the First Amendment

The City's restrictions on panhandling are concerning as an overarching matter because requests for donations of money are protected speech under the First Amendment. The U.S. Court of Appeals for the Sixth Circuit—whose decisions bind the City of Ontario—squarely held more than a decade ago that "begging, or the soliciting of alms, is a form of solicitation that the First Amendment protects."[9] Importantly, this protection applies even to the "solicitation of alms when performed by an individual not affiliated with a group"[10]—that is, under Ontario's ordinance, those who are not members of schools, civic organizations, or other nonprofits.

The ordinance regulates speech based on its content because it applies only to speech requesting an immediate donation of money.[11] It draws further content- and speaker-based distinctions by exempting solicitations on behalf of schools and organizations, as officials must examine the content of speech to distinguish requests for personal aid from those for organizations. Such content-based limits are "presumptively unconstitutional" and subject to strict scrutiny,[12] the "most demanding test known to constitutional law."[13] They are upheld only if narrowly tailored to serve compelling state interests, using the "least restrictive means" available.[14]

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[6] *Id.* § 509.11(h)(2).

[7] *Id.* § 509.11(h)(3).

[8] *Id.* § 509.11(g).

[9] *Speet v. Schuette*, 726 F.3d 867, 870 (6th Cir. 2013); *see also Vill. of Schaumburg v. Citizens for a Better Env't*, 444 U.S. 620, 632 (1980) (recognizing "charitable appeals for funds, on the street or door to door, involve a variety of speech interests"). *Speet* followed the trend of federal courts across the country recognizing the First Amendment protects panhandling. *See, e.g.*, *Clatterbuck v. City of Charlottesville*, 708 F.3d 549 (4th Cir. 2013); *Gresham v. Peterson*, 225 F.3d 899 (7th Cir. 2000); *Smith v. City of Fort Lauderdale*, 177 F.3d 954 (11th Cir. 1999); *Loper v. New York City Police Dep't*, 999 F.2d 699 (2d Cir. 1993).

[10] 726 F.3d at 874.

[11] *Reed v. Town of Gilbert*, 576 U.S. 155, 163 (2015) (content-based laws are those which "target speech based on its communicative content," including "the topic discussed or the idea or message expressed"); *Norton v. City of Springfield*, 806 F.3d 411, 412 (7th Cir. 2015) (ordinance regulating panhandling was content-based).

[12] *Reed*, 576 U.S. at 163.

[13] *City of Boerne v. Flores*, 521 U.S. 507, 534 (1997); *see also Brown v. Ent. Merchs. Ass'n*, 564 U.S. 786, 799 (2011) ("It is rare that a regulation restricting speech because of its content will ever be permissible.").

[14] *United States v. Playboy Entm't Grp.*, 529 U.S. 803, 813 (2000); *see also Ashcroft v. ACLU*, 542 U.S. 656, 666 (2004) (explaining that a speech regulation having "some effect" in furthering a compelling interest is not enough to satisfy strict scrutiny; rather, the regulation must restrict speech "no further than necessary to achieve the goal, for it is important to ensure that legitimate speech is not chilled or punished.").

The ordinance fails strict scrutiny. Although the City may assert interests in preventing fraud, harassment, or threats to public safety, the ordinance sweeps far beyond what is necessary to address those concerns. It prohibits even peaceful, non-obstructive, and non-fraudulent panhandling across vast areas of the City, effectively relegating speakers to locations where they have little chance of reaching their intended audience. Expansive buffer zones—ranging from 25 to 50 feet around building entrances, parking lots, rights of way, pedestrian lines, bus stops, banks, ATMs, and designated intersections—place large swaths of public property off limits, including traditional public forums like streets and sidewalks where the government's authority to limit expressive activity is "sharply circumscribed."[15] A request for charity does not become fraudulent or dangerous simply because of where it occurs.[16] Making matters worse, overlapping buffer zones could effectively transform long stretches of public sidewalks and other traditional public forums into forbidden areas.

Not only is the ordinance overinclusive as to any asserted interest in safety or fraud prevention, it is underinclusive in that it exempts individuals soliciting on behalf of schools and nonprofits, even though those organizations are equally capable of engaging in fraud or misconduct.[17] As the Sixth Circuit stressed in *Speet v. Schuette*, "begging is indistinguishable from charitable solicitation for First Amendment purposes. To hold otherwise would mean that an individual's plight is worthy of less protection in the eyes of the law than the interests addressed by an organized group."[18] The ordinance's exemption therefore rests on an impermissible judgment that some speakers are more deserving of constitutional protection than others.

The exemption's limitation to solicitations conducted by "legitimate means and for legitimate purposes" cannot cure these defects. These terms are unconstitutionally vague: The ordinance provides no guidance as to what qualifies as "legitimate."[19] And if "legitimate" should simply be understood to mean lawful, the exemption irrationally excludes individuals who engage in equally lawful solicitation on their own behalf.

For these reasons, the ordinance is also substantially overbroad.[20] In *Speet*, the Sixth Circuit invalidated Michigan's anti-begging law on overbreadth grounds because it banned panhandling rather than narrowly targeting conduct like fraud and duress.[21] Ontario's ordinance likewise prohibits panhandling in an exceedingly broad array of public forums. It

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[15] *Perry Educ. Ass'n v. Perry Loc. Educators' Ass'n*, 460 U.S. 37, 45 (1983).

[16] *Browne v. City of Grand Junction*, 136 F. Supp. 3d 1276, 1293 (D. Colo. 2015) (striking down bans on panhandling in public parking lots and within 20 feet of ATMs and bus stops because soliciting money in these areas is not inherently threatening).

[17] *See Brown*, 564 U.S. at 802 ("Underinclusiveness raises serious doubts about whether the government is in fact pursuing the interest it invokes, rather than disfavoring a particular speaker or viewpoint.").

[18] *Speet*, 726 F.3d at 877 (quoting *Young v. N.Y.C. Transit Auth.*, 903 F.2d 146, 167 (2d Cir. 1990)).

[19] A rule is unconstitutionally vague when "men of common intelligence must necessarily guess at its meaning," *Connally v. Gen. Constr. Co.*, 269 U.S. 385, 391 (1926), or when it lacks "explicit standards" to prevent "arbitrary and discriminatory enforcement," *Grayned v. City of Rockford*, 408 U.S. 104, 108–09 (1972).

[20] A speech restriction is overbroad when "a substantial number of instances exist in which the law cannot be applied constitutionally." *Speet*, 726 F.3d at 872 (cleaned up).

[21] 726 F.3d at 879–80.

thus unconstitutionally suppresses "a substantial amount of protected speech" relative to its "plainly legitimate sweep."[22]

II. The Permit Scheme Violates the First Amendment

The permit scheme is likewise unconstitutional. Not only is it content-based, but it imposes a prior restraint by "forbidding certain communications … in advance of the time that such communications are to occur."[23] Prior restraints are the "most serious and the least tolerable infringement on First Amendment rights"[24] and bear a "heavy presumption" against their constitutionality.[25]

The lack of narrow tailoring is again fatal. Individuals who panhandle as few as five days per year must obtain a permit and comply with onerous requirements, including photographing and fingerprinting, regardless of whether they have ever broken any laws. If strictly enforced, the requirement that applicants provide a home address would exclude those without one—perhaps the very people most likely to panhandle—from obtaining a permit. The blanket disqualification of applicants convicted of one of a wide variety of crimes, including misdemeanor offenses unrelated to panhandling, further demonstrates the lack of tailoring. And again, the nonprofit exemption undercuts any claim that the City is genuinely targeting fraud or safety concerns rather than disfavored speakers.

A federal court invalidated a Louisiana city's similar permit scheme, even while accepting the city's claim that "aggressive" panhandling was increasing.[26] Neither public annoyance nor the possibility that permits would aid police in identifying aggressive panhandlers justified "such a sweeping registration requirement on prospective panhandlers."[27] The court listed a number of less restrictive alternatives, such as allocating additional police resources to enforce existing laws against panhandlers and installing cameras at locations frequented by them.[28]

III. The Ban on "Aggressive" Panhandling Is Unconstitutionally Vague

The ban on panhandling in "any type of aggressive manner" is unconstitutionally vague. The ordinance provides no definition of "aggressive," leaving speakers and law enforcement to guess at its meaning. Does it include raising one's voice, asking more than once, or standing too close? The "need for specificity is especially important" where, as here, a regulation targets speech based on content, as vagueness has an "obvious chilling effect on free speech.'"[29] The

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[22] *United States v. Williams*, 553 U.S. 285, 292 (2008).

[23] *Schmitt v. LaRose*, 933 F.3d 628, 637 (6th Cir. 2019).

[24] *Neb. Press Ass'n v. Stuart*, 427 U.S. 539, 559 (1976).

[25] *Bantam Books, Inc. v. Sullivan*, 372 U.S. 58, 70 (1963).

[26] *Blitch v. City of Slidell*, 260 F. Supp. 3d 656 (E.D. La. 2017).

[27] *Id.* at 670.

[28] *Id.* at 670–71.

[29] *Sypniewski v. Warren Hills Reg'l Bd. of Educ.*, 307 F.3d 243, 266 (3d Cir. 2002) (citing *Reno v. ACLU*, 521 U.S. 844, 871–72 (1997)).

lack of objective standards also invites arbitrary enforcement, presenting an unacceptable risk of sweeping in protected speech.[30]

The related ban on "[f]ollowing a person who walks away from the panhandler" fails strict scrutiny. As a federal court explained in striking down a similar restriction, not all instances of following are threatening or harassing.[31] For example, a panhandler might briefly follow someone to convey a longer message or because the individual did not initially notice them. To be sure, the City does not have to tolerate truly harassing conduct, such as "a panhandler who refuses to leave someone alone after a clear rejection and who then follows that person over a great distance,"[32] but this provision sweeps more broadly than necessary.

IV. Conclusion

Ontario's legitimate interests in preventing fraud, threats, obstruction, and other unlawful activity can be addressed through generally applicable laws and other less speech-restrictive measures. They do not justify sweeping, content- and speaker-based restrictions that deny individuals the same right to engage in lawful solicitation afforded to organized groups. Rather than adopting narrowly tailored solutions, the City has "taken a sledgehammer to a problem that can and should be solved with a scalpel."[33]

FIRE therefore urges the City to repeal or amend Ordinance 17-28 to comply with the First Amendment. We would welcome the opportunity to assist the City—at no cost—in revising the ordinance to ensure it is constitutionally sound.

We respectfully request a response no later than May 13, 2026.

Sincerely,

Aaron Terr
Director of Public Advocacy

Cc: Ontario City Council

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[30] *Grayned*, 408 U.S. at 108–09; *Connally*, 269 U.S. at 391; *Smiley v. Jenner*, ___ F.4th ___, No. 23-2543, 2026 U.S. App. LEXIS 11256, at *9 (7th Cir. Apr. 21, 2026) (a vague provision "risks limiting a wider range of speech and is therefore more likely to be overbroad").

[31] *McLaughlin v. City of Lowell*, 140 F. Supp. 3d 177, 193 (D. Mass. 2015).

[32] *Id.* at 194.

[33] *Browne*, 136 F. Supp. 3d at 1294.