

September 23, 2026

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

Sent via Electronic Mail (amedwid@ontarioohio.org)

Dear Mr. Medwid:

Thank you again for speaking with me about Ontario's panhandling ordinance and for your willingness to consider revisions to it. FIRE appreciates the opportunity to discuss the City's concerns and its legitimate interest in preventing harmful or unsafe conduct that sometimes accompanies panhandling. After further review, we believe for the reasons below that the best course is for the City to repeal Section 509.11 and address those harms through enforcement of existing, generally applicable laws.

As our April 29 letter explained, the First Amendment protects requests for charitable assistance, including by individuals seeking assistance for themselves.¹ Section 509.11 of the Ontario Codified Ordinances directly targets such requests and subjects them to restrictions that do not—and generally could not—apply to other speech, including broad location bans and a permitting requirement. Those restrictions render the ordinance unconstitutional.

A July decision by the Court of Appeals of Ohio reaffirms this conclusion. In *State v. Crawford*, the court held a statute prohibiting “stand[ing] on a highway for the purpose of soliciting employment, business, or contributions from the occupant of any vehicle” violates the First Amendment.² Because the statute singled out the act of standing on a highway only when expressing certain messages, the court determined it was a content-based restriction subject to strict scrutiny.³ Although the state has a compelling interest in roadway safety, the statute failed strict scrutiny because the state “provided no evidence that the dangers of roadway solicitation [are] prevalent on all state roads or that this statute is narrowly tailored to achieve

¹ FIRE's prior letter is enclosed.

² 2026-Ohio-2957, 2026 Ohio App. LEXIS 2853 (July 31, 2026).

³ *Id.* ¶ 23–26.

its stated goal.”⁴ Notably, this decision undercuts the constitutionality not only of § 509.11 but of § 371.06(b), which contains identical language to the statute invalidated in *Crawford*.

Fortunately, repealing § 509.11 and § 371.06(b) would not require the City to tolerate true threats, violence, obstruction, trespass, fraud, or similarly harmful conduct by panhandlers. Ontario already has generally applicable laws addressing such conduct. And, where necessary, the City can amend those laws to adequately cover punishable conduct without singling out a specific category of protected speech for suppression.

For example, Ontario can enforce its disorderly conduct ordinance against panhandlers who engage in violence, threats, or obstruction, or whose conduct jeopardizes the safety of others. It prohibits “recklessly caus[ing] inconvenience, annoyance or alarm to another” through “[h]indering or preventing the movement of persons on a public street, road, highway or right of way, or to, from, within or upon public or private property, so as to interfere with the rights of others, and by any act which serves no lawful and reasonable purpose of the offender.”⁵ Separately, Ontario regulates pedestrian activity on highways.⁶ The disorderly-conduct ordinance also bans “[e]ngaging in fighting, in threatening harm to persons or property, or in violent or turbulent behavior.”⁷ And the City’s General Offenses Code establishes the offenses of assault,⁸ menacing,⁹ menacing by stalking,¹⁰ and unlawful restraint.¹¹ The criminal-trespass ordinance would cover panhandling on private property without permission from the owner or occupant.¹² And to the extent the City is concerned about fraudulent panhandling, it can enforce its existing theft and fraud laws, which prohibit anyone, “with purpose to deprive the owner of property or services,” from “knowingly obtain[ing] or exert[ing] control over either the property or services” by “deception,” “threat,” or “intimidation.”¹³

⁴ *Id.* ¶ 28.

⁵ ONTARIO, OH, CODIFIED ORDINANCES § 509.03(a)(4).

⁶ *Id.* §§ 371.03, 371.05. To the extent the City believes generally applicable Ohio and Ontario traffic laws are inadequate, the City could consider a content-neutral rule regulating objectively dangerous pedestrian conduct—such as unlawfully occupying an active traffic lane or physically interfering with moving vehicles—without regard to whether the person is soliciting charitable contributions, seeking employment, or conveying any other message.

⁷ *Id.* § 509.03(a)(1). In enforcing this provision, however, “turbulent behavior” must not be broadly construed to encompass ordinary panhandling or other constitutionally protected speech, even if it causes someone to subjectively experience “inconvenience, annoyance, or alarm.”

⁸ *Id.* § 537.03.

⁹ *Id.* § 537.06.

¹⁰ *Id.* § 537.051.

¹¹ *Id.* § 537.08.

¹² *Id.* § 541.05.

¹³ *Id.* § 545.05(a)(3)-(5). The elements of false statement of fact and intent to mislead are conspicuously missing from § 509.11(e), which states, “No person shall panhandle stating that the donation is needed for a specific purpose and then spend the donation received for a different purpose.” Under this provision, a person could be prosecuted even if, at the time they requested money for a particular reason, they honestly intended to use it that way. But the First Amendment’s fraud exception applies only to “false claims . . . made to effect a fraud or secure moneys or other valuable considerations.” *United States v. Alvarez*, 567 U.S. 709,

These generally applicable laws address conduct the City may legitimately proscribe without encroaching on constitutionally protected speech, including peaceful requests for charitable assistance. The City must address the harmful conduct itself rather than single out and broadly suppress a category of protected speech merely because it sometimes accompanies such conduct. That principle is especially important in traditional public forums such as streets and sidewalks, where the government's authority to restrict expressive activity is sharply limited. While the City may consider it more efficient to target requests for charitable assistance, "the First Amendment does not permit the [government] to sacrifice speech for efficiency."¹⁴

Lastly, after FIRE sent its last letter, an Ontario resident made us aware of constitutional deficiencies in Ontario's loitering ordinance, which states in part: "No person shall loiter in a public place and do any of the following: (1) Breach the peace; or create a disturbance or unreasonable annoyance to the comfort and repose of any person; . . . [or] (4) Engage in conduct which creates an unreasonable risk of physical harm, including making remarks of an offensive, disgusting or insulting nature to another person."¹⁵ In *Coates v. Cincinnati*, the Supreme Court invalidated an ordinance making it a crime for "three or more persons to assemble . . . on any of the sidewalks . . . and there conduct themselves in a manner annoying to persons passing by."¹⁶ Because "no standard of conduct [was] specified at all," the ordinance was unconstitutionally vague.¹⁷ The Court further held the ordinance violated the First Amendment's protection for freedom of assembly, which cannot be abridged "simply because its exercise may be 'annoying' to some people."¹⁸

The Court also explained, in a point relevant to all the Ontario ordinances discussed here, that:

The city is free to prevent people from blocking sidewalks, obstructing traffic, littering streets, committing assaults, or engaging in countless other forms of antisocial conduct. It can do so through the enactment and enforcement of ordinances directed with reasonable specificity toward the conduct to be prohibited.¹⁹

It is also a "bedrock principle underlying the First Amendment" that the government cannot restrict speech simply because some find it "offensive or disagreeable."²⁰ For these reasons, the

723 (2012). We further caution that the terms "threat" and "intimidation" in § 545.05 must be narrowly construed to match the First Amendment exception for true threats. See *Counterman v. Colorado*, 600 U.S. 66, 74 (2023) ("True threats are serious expressions conveying that a speaker means to commit an act of unlawful violence.") (cleaned up); *Virginia v. Black*, 538 U.S. 343, 347 (2003) ("Intimidation in the constitutionally proscribable sense of the word is a type of true threat, where a speaker directs a threat to a person or group of persons with the intent of placing the victim in fear of bodily harm or death.").

¹⁴ *Riley v. Nat'l Fed. of the Blind of N.C., Inc.*, 487 U.S. 781, 795 (1988).

¹⁵ ONTARIO, OH, CODIFIED ORDINANCES § 509.13(b).

¹⁶ 402 U.S. 611, 611 (1971).

¹⁷ *Id.* at 614.

¹⁸ *Id.* at 615.

¹⁹ *Id.* at 614.

²⁰ *Texas v. Johnson*, 491 U.S. 397, 414 (1989).

Ontario loitering ordinance's bans on "disturbance or unreasonable annoyance" and "remarks of an offensive, disgusting or insulting nature" are unconstitutional.

FIRE urges the City to repeal § 509.11 and to repeal or amend sections 371.06(b) and 509.13(b) to remove their unconstitutional defects. Doing so would preserve the City's ability to protect residents from obstruction, threats, violence, trespass, fraud, and other harmful or unsafe conduct, while ensuring that people who peacefully request charitable assistance receive the same First Amendment protection as others who speak in Ontario's public spaces. If the City believes its existing, generally applicable laws do not adequately address the punishable conduct it seeks to prevent through its panhandling restrictions, we would be pleased to review potential amendments to those laws.

Thank you again for your willingness to work cooperatively with FIRE to resolve these issues. We look forward to your response.

Sincerely,

A handwritten signature in dark ink, appearing to read "A. Terr", with a long horizontal flourish extending to the right.

Aaron Terr
Director of Public Advocacy

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.* § 509.11(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

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

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

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

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.