

MONONGALIA COUNTY COMMISSION

C O U R T H O U S E
MORGANTOWN, WEST VIRGINIA 26505

Robert "Bob" Bell, Commissioner
Asel Kennedy, Commissioner
L.W. "Bill" Bartolo, Commissioner

Telephone: 304 291-7257

Monongalia County Commission

Ordinance Regulating Soliciting/Panhandling

West Virginia Code 7-1-3kk authorizes a county commission to enact ordinances, issue orders and take other appropriate and necessary action for the elimination of hazards to public health and safety and to abate anything which the commission deems to be a public nuisance within a county.

The Monongalia County Commission hereby finds that unauthorized soliciting/panhandling along roadways situated with the unincorporated areas of Monongalia County constitutes a public nuisance and hereby sets forth the following:

SECTION 1. JURISDICTION

This Ordinance is effective throughout the unincorporated territory of Monongalia County, West Virginia.

The Sheriff of Monongalia County shall have the authority to regulate and enforce this Ordinance and shall have the authority to issue or deny approval of any and all requests submitted to his office according to the terms of this Ordinance.

The Magistrate Court of Monongalia County and the Circuit Court of Monongalia County shall have concurrent jurisdiction with respect to misdemeanors under this Ordinance.

SECTION 2. DEFINITIONS:

The following definitions describe the purpose of this Ordinance:

Soliciting/Panhandling means to directly or indirectly request money or anything of value as a donation or in exchange for an item of little or no monetary value which would cause a reasonable person to understand that the transaction constitutes a donation, with the intent to immediately

obtain the donation, regardless of whether the request is indicated verbally, in writing or by any other action.

Roadway means any controlled access highway, non-controlled access highway, state highway, county highway, street, avenue, alleyway, sidewalk, berm, shoulder or right-of-way that is ordinarily open to the public for vehicular or pedestrian traffic.

SECTION 3. PROHIBITIONS

It is unlawful for any person to solicit/panhandle on, in or along a roadway or on, in or along the public means of ingress and egress from a roadway onto private property unless:

- (1) Each individual participating in soliciting/panhandling must maintain on his or her person a valid written authorization issued by the Monongalia County Sheriff's Department; and
- (2) Each individual participating in soliciting/panhandling must maintain on his or her person an official photo ID issued by the State of West Virginia or any other state.

It is unlawful for any individual(s), regardless of whether he or she possess valid written authorization issued by the Monongalia County Sheriff's Department, to intentionally block or interfere with the safe passage of a person or vehicle while soliciting/panhandling.

It is unlawful for any individual(s) to solicit/panhandle on private property after the owner or lawful possessor of the property gives the person verbal or written notice that soliciting/panhandling is prohibited on the property.

SECTION 4. AUTHORIZATION

Any individual(s) wishing to solicit/panhandle along the road in any unincorporated area of Monongalia County must obtain written authorization from the Monongalia County Sheriff's Office; provided that, no individual or group may apply for authorization more than twice within any six-month period.

The written authorization issued by the Sheriff's Department shall be valid for one day or no longer than twenty-four hours.

The individual(s) must submit, in person, his or her request to the Sheriff's Office no later than fourteen (14) days prior to the date designated for soliciting/panhandling, and no earlier than 30 days prior thereto. However, the Sheriff's Office may, in emergency circumstances where the applicant shows good cause, grant authorization to take effect regardless of this provision.

At the time of submission, the individual(s) must show his or her photo ID issued by the State of West Virginia or any other state.

Upon issuance of valid authorization by the Sheriff's Department, the authorization must state upon its face the name of each individual approved to solicit/panhandle along the roadway, and the date and time during which the activity is allowed. The authorization is non-transferable.

The individual(s) granted the authorization must carry both the authorization issued by the Sheriff's Office and photo ID issued by the State of West Virginia or any other state, at all times while soliciting/panhandling. If asked by any law enforcement officer to show a valid authorization while

soliciting/panhandling, the person must immediately exhibit the authorization and his or her photo ID.

The Sheriff's Office may establish a fee of no more than Twenty Dollars (\$20) per each request for authorization.

SECTION 5. PENALTIES

It is a misdemeanor for any individual(s) to violate any provisions of this Ordinance.

For the first offense, the possible penalty is a fine not more than One Hundred Dollars (\$100).

For a second offense, the possible penalty is a fine not more than Three Hundred Dollars (\$300).

For a third offense, the possible penalty is a fine not more than One Thousand Dollars (\$1,000).

SECTION 6. ENFORCEMENT

This Ordinance may be enforced by any law enforcement agency including but not limited to, the Sheriff's Department, State Police, or Department of Natural Resources. Any of the aforementioned entities would be obligated to issue citations or make arrests when necessary.

SECTION 7. SEVERABILITY

If any clause, paragraph, subparagraph, section or subsection of

this Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, the remainder of the Ordinance shall not be affected thereby, but shall remain in full force and effect.

SECTION 8. EFFECTIVE DATE

This Ordinance shall become effective on and after passage and adoption by the Monongalia County Commission.

PASSED by the County Commission of Monongalia County, West Virginia on FIRST READING this ///⁻¹⁴ day of July, 2010.

A SECOND READING and PUBLIC HEARING was held on the _____ day of August, 2010 after a Notice of Public Hearing on said ordinance was published as a Class II legal advertisement and upon motion of 6,z,a _____, seconded by LEL

This Ordinance is hereby approved and adopted by the Monongalia County Commission this ///4- day of (La,,,2,-/-, 2010.

DATED:

Robert L. Bell President
Asel Kennedy

Bill Bartolo

Commissioner

Commissioner