

**AN ORDINANCE PERTAINING TO SAFETY CONCERNS WITH REGARD TO
PEDESTRIAN ACTIVITIES OCCURRING IN TRAFFIC DIVIDING MEDIANS AND
AREAS IMMEDIATELY PERTAINING TO VEHICULAR TRAFFIC AND DEALING
WITH “AGGRESSIVE” PANHANDLING OCCURRING IN THE PUBLIC
CONCOURSE**

THE CITY OF LEWISTON HEREBY ORDAINS:

Chapter 50 of the Code of Ordinances of the City of Lewiston, Maine is hereby amended as follows:

CHAPTER 50

OFFENSES AND MISCELLANEOUS PROVISIONS

ARTICLE X. AGGRESSIVE PANHANDLING

Sec. 50-266. Purpose.

The purpose and intent of this ordinance is: to prevent dangers to persons and property, to prevent delays, and to avoid interference with traffic flow caused by persons soliciting employment, business, contributions, or sales of any kind, or collecting monies for the same, in or on a publicly maintained street, road or highway used primarily for the conveyance of motorized vehicle traffic; to ensure unobstructed pedestrian travel within the public right of way, including sidewalks; and to protect the safety of the general public by imposing reasonable manner and place restrictions on the conduct of persons engaged in solicitation while respecting their constitutional rights of free speech. These purposes are derived from the following findings:

1. Actively soliciting from occupants of vehicles distracts drivers from their primary duties to watch traffic and avoid potential hazards, including pedestrians, in the roadway, to observe all traffic control signals or warnings, and to prepare to move through the City’s travel ways and intersections.
2. When persons approach vehicles to solicit from occupants, traffic flow is impeded, delays result due to obstruction of the free flow of travel, and congestion and blockage of travel ways, driveways to parking areas, and sidewalks results.
3. Distracted drivers are more prone to accidents, which constitute a serious traffic safety problem and impede and prevent the orderly flow of traffic. Distracted drivers constitute a threat to the safety of the person engaging in solicitation as well as that of other pedestrian traffic and traffic in general.
4. Aggressive solicitation creates fear and intimidation and results in a loss of access to and enjoyment of public places.

5. The State Statute dealing with divided highways, Title 29-A M.R.S. §2052(5), authorizes a municipality to limit the use of travel ways and to prohibit pedestrians from those ways. The State Statute addressing pedestrian traffic, Title 29-A M.R.S. §2056(2), clarifies how pedestrians are expected to conduct themselves on a public way. The State Statute dealing with offenses against public order, Title 17-A M.R.S.A. §505, addresses obstruction of a public way.

Sec. 50-267. Definitions.

For the purposes of this article, the following words and phrases shall have the following meanings:

- (1) “City” means the City of Lewiston, Maine.
- (2) “Curb” means the lateral lines of a street, road or highway, whether constructed above grade or not, beyond which vehicular travel is not intended.
- (3) “Median” means the area within a street, road or highway, generally in the middle, which separates traffic traveling in one direction from traffic traveling in another direction or which, at intersections, separates traffic turning left or right from traffic proceeding straight. A median may be physically separated from the area used by motor vehicles by curbing, landscaping, or other physical obstacles. A median may also be delineated by traffic control markings which prohibit use of a portion of the pavement of a street, road or highway by motor vehicles other than to drive generally perpendicularly across them or to idle on them awaiting the opportunity to cross or merge with opposing lanes of traffic (also known as “painted medians”, which are wider than a double yellow line). Medians also include other areas of a street, road or highway that are separated from motor vehicle traffic lanes by curbing, landscaping, or other physical obstacles designed to exclude motor vehicles (also known as an “island”).
- (4) “Public right-of-way” means real property:
 - a. Owned by a governmental entity or by a non-governmental entity or person and deeded, used, reserved or dedicated to or for public use for travel, transportation, or public utility purposes, including but not limited to, sidewalks, medians, curbs, shoulders, improved shoulders, walkways, paths and any other area so owned, dedicated, used, or reserved; and
 - b. The public right-of-way includes the area extending from the right and left of the center line of a public street, road, highway, sidewalk or walkway to the nearest property line which marks the juncture of private property and the public right-of-way.
- (5) “Shoulder” means the portion of a street, road or highway that is:

- a. Adjacent to the travel way;
 - b. Designed or ordinarily used for parking, standing, or stopping;
 - c. Distinguished from the travel way by different design, construction, or markings; and
 - d. Not intended for normal vehicular travel.
- (6) “Sidewalk” means an improved surface which is located between the curb or lateral lines of a street, road or highway and the adjacent property line and which is designed, intended, and ordinarily used for pedestrian travel.
- (7) “Solicitation” means the act of asking another for money or other items of value, whether or not in exchange for a service or item of value.
- (8) “Street, road or highway” means that portion of the public way open to vehicular travel, including shoulders but excluding sidewalks.
- (9) “Traveled portion” means that portion of the publicly maintained street, road or highway which is improved, designed or ordinarily used by moving motor vehicle traffic.

Sec. 50-268. Prohibited acts generally.

- (1) It is unlawful for any person to solicit a ride, employment, business, contributions or sales of any kind, or collect monies for the same, from the occupant of any motor vehicle traveling upon any publicly maintained street, road or highway, when the person, while actively soliciting:
- a. Enters onto the traveled portion of a publicly maintained street, road or highway;
 - b. Is located on or within any median;
 - c. Is located on a sidewalk or shoulder intended for or capable of pedestrian travel such that the free passage of foot traffic is unreasonably obstructed or where such solicitation results in vehicles stopping within the travel lane to respond to the solicitation; or
 - d. Is located such that vehicles are unreasonably obstructed from moving into or out from a legal parking area into the travel way.

- (2) A person may not stand on or near any publicly maintained street, road or highway to solicit payment for watching or guarding a vehicle parked or to be parked on the public right of way.

Sec. 50-269. Invasively Aggressive Solicitation.

- (1) It is unlawful for a person to intentionally or recklessly position his or her self or any held or placed sign or object in such a manner as to interfere with the line of sight of a vehicle operator while actively engaging in solicitation.
- (2) A person may not intentionally or recklessly block, follow, accompany without consent, or threaten another person on a public right-of-way during a solicitation or after the solicited individual has declined the request.
- (3) A person may not use abusive or profane language, or make a statement, gesture, or other communication that is inherently likely to provoke an immediate violent reaction, before, during or after engaging in solicitation.
- (4) A person may not intentionally or recklessly block another person's entrance to a building or vehicle while engaging in solicitation.
- (5) A person who is making a solicitation request may not intentionally or recklessly touch or cause physical contact with another person without that person's consent.

Sec. 50-270. Penalty.

The civil penalty imposed for a citation issued for a violation of Chapter 50 Article X shall be in accordance with the city's policy manual as approved by the city council. The civil penalties imposed are cumulative.

Note: Additions are underlined; deletions are ~~struck out~~.