BILL NO. \_\_\_\_\_\_ - 2016

 ORDINANCE NO. \_\_\_\_\_\_\_\_\_

AN ORDINANCE OF THE CITY OF BETHLEHEM,

COUNTIES OF LEHIGH AND NORTHAMPTON,

COMMONWEALTH OF PENNSYLVANIA, ESTABLISHING

ARTICLE 740 OF THE CODIFIED ORDINANCES OF THE

CITY OF BETHLEHEM TITLED “ANTI-PANHANDLING”

AND ESTABLISHING PROHIBITED OFFENSES

INVOLVING SPECIFIED CASES OF PANHANDLING

 THE COUNCIL OF THE CITY OF BETHLEHEM HEREBY ORDAINS AS FOLLOWS:

SECTION 1. That Article 740 of the Codified Ordinances of the City of Bethlehem, entitled “Anti-Panhandling”, be established to read as follows:

ARTICLE 740

ANTI-PANHANDLING

740.01 PURPOSE.

 The Council of the City of Bethlehem recognizes the potential for harm that unregulated panhandling poses to pedestrians, motorists, business owners and patrons, as well as to the general safety, atmosphere and livability of a municipality. The Council, therefore, seeking to impose reasonable restrictions on panhandling in the City, enacts this Article to prohibit panhandling in certain places and by certain manners of conduct.

740.02 DEFINITIONS.

 The following words and terms, when used in this Article, shall have the meanings set forth in this section:

**“Automatic teller machine”** means a device, linked to a financial institution’s account records, which is able to carry out transactions, including but not limited to account transfers, deposits, cash withdrawals, balance inquiries, and mortgage and loan payments.

**“Automatic teller machine facility”** means the area comprised of one or more automatic teller machines and any adjacent space which is made available to banking customers after regular banking hours.

**“Check cashing business”** means any entity duly licensed by the Pennsylvania Department of Banking to engage in the business of cashing checks, drafts, or money orders for consideration pursuant to the Check Casher Licensing Act, Act of February 18, 1998, P.L. 146, as amended, 63 P.S. § 2301 et seq.

**“Financial institution”** means any entity authorized to engage in the business of receiving money for deposit or transmission pursuant to Section 105 of the Pennsylvania Banking Code, Act of November 30, 1965, P.L. 847, as amended, 7 P.S. § 105.

**“Child care facility”** means any facility in which care is provided at any one time for seven or more children unrelated to the operator of the facility. A “child” shall mean any individual 15 years of age or younger.

**“Outdoor café”** means a use characterized by outdoor table service of food or beverages prepared for service in a structure located adjacent, attached or in close proximity thereto for consumption on the premises.

**“Panhandling”** means to solicit in person for an immediate donation of money or objects of value, with the intention that the money or object be transferred at that time and at that place, for charity or personal gain. The term “panhandling” shall also include exchanges in which the

person being solicited receives an item or thing of little or no monetary value in exchange for a donation, under circumstances where a reasonable person would understand that the transaction is in substance a donation. The means of solicitation may include, without limitation, using the spoken, written or printed word, bodily gestures, signs, music, singing or other street performance with the purpose of obtaining an immediate donation of money or other thing of value.

**“Public building”** means any building owned or legally possessed by a government agency, including, but not limited to, any municipality, county, school district, the Commonwealth of Pennsylvania, or the United States federal government. The term “public building” shall include buildings owned or legally possessed by the City of Bethlehem, the Bethlehem Authority, the Bethlehem Parking Authority, the County of Lehigh, the County of Northampton, and the Bethlehem Area School District.

**“Public toilet”** means any “porta potty” located on public property or any rest room facilities located within any public park or swimming pool which are intended for use by the general public.

**“Public transportation vehicle”** means any vehicle, including a trailer bus, designed, used or maintained for carrying 10 or more persons, including the driver, or a passenger vehicle designed for carrying fewer than 10 persons, including the driver, and used to carry passengers for hire.

**“Sidewalk café”** means a use located on a public sidewalk which is located adjacent to a full service restaurant where food and beverages are prepared, served and sold and are delivered for consumption on the sidewalk. It is characterized by the presence of tables and chairs and may be shaded by canopies, awnings or umbrellas. It shall also include the public right-of-way connecting the main restaurant to the sidewalk café.

740.03 PROHIBITED ACTS.

(a) No person shall engage in an act of panhandling:

1. within 20 feet of public toilets.
2. within 20 feet of an entrance to or exit from any financial institution, check cashing business or automated teller machine without the consent of the owner of the property or another person legally in possession of such facilities; provided, however, that when an automated teller machine is located within an automated teller machine facility, such distance shall be measured from the entrance or exit of the facility.
3. with an operator or occupant of a motor vehicle while such vehicle is located on any public street for the purpose of the sale of goods or offering to perform a service in connection with such vehicle, or in exchange for blocking, occupying or otherwise reserving a public parking space or directing the operator or occupant to a public parking space; provided, however, that this subsection shall not apply to services being offered in connection with emergency repairs requested by the operator or occupant of such vehicle.
4. in any public transportation vehicle, stop or facility or in any public parking lot or facility.
5. within 20 feet of any pay telephone, provided that when a pay telephone is located within a telephone booth or other facility, such distance shall be measured from the entrance or exit of the telephone booth or facility.
6. within 20 feet of the outside perimeter of any restaurant or other establishment serving food or alcoholic beverage for immediate consumption, outdoor café or sidewalk café, licensed sidewalk food vendor, or store licensed for package sales of alcoholic beverages by the Pennsylvania Liquor Control Board, unless expressly authorized by the owner, manager, or supervisor of the establishment.
7. within 20 feet of any public building, without the consent of the owner of the building or the government agency legally in possession thereof.
8. within 20 feet of any child care facility.

(b) No person shall panhandle in an aggressive manner. “Panhandling in an aggressive manner” shall mean any of the following:

1. following behind, ahead or alongside a person for more than 50 feet either before, during or after soliciting if that conduct is intended or is likely to cause a reasonable person to fear bodily harm to oneself or to another or damage to or loss of property or otherwise be intimidated into giving money or other thing of value.
2. continuing to solicit from a person after that person has given a negative response to such soliciting or walked away from the solicitor.
3. intentionally touching or causing physical contact with the solicited person without such person’s consent.
4. intentionally blocking or interfering with the safe and free passage of a person or vehicle being solicited by any means, including unreasonably causing a person or vehicle operator to take evasive action to avoid physical contact.
5. using profane or abusive language or speaking in an unreasonably loud volume, either during the solicitation or following a refusal to make a donation, or making any statement or gestures toward a solicited person which would cause a reasonable person to be fearful or feel compelled to make a donation.
6. soliciting from a person while that person is waiting in line for entry to a building.

740.99 PENALTY.

Any person who violates any provision of this Article commits a Summary Offense and upon conviction shall be sentenced to pay a fine or to imprisonment, or both, at the discretion of the Court, according to the following schedule:

(a) First violation - A fine of $200.00, or thirty days imprisonment, or both;

(b) Second violation - A fine of $500.00, or sixty days imprisonment, or both;

(c) Third and each subsequent violation - A fine of $1,000.00, or ninety days imprisonment, or both.

SECTION 2. That all other ordinances and parts thereof that are inconsistent with this Ordinance are hereby repealed.

 Sponsored by \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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 PASSED finally in Council on the day of , 2016.

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 President of Council

ATTEST:

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City Clerk

 This Ordinance approved this day of , 2016.

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 Mayor