

Superior Court

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)
) Civil Action No. 1973-CV-00299
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)
) **PLAINTIFFS' REPLY TO**
) **DEFENDANT THOMAS QUINN'S**
) **OPPOSITION TO JOINT**
) **PETITION FOR TRANSFER**
)
)

In fact, Quinn agrees with Plaintiffs—Massachusetts Coalition for the

Homeless (“MCH”), John Correia, and Joseph Treeful—that Section 17A is unconstitutional. *See* Opp. at 2-3. This position stands in sharp contrast to that of the Fall River defendants—the City of Fall River and Fall River Police Chief Albert Dupere—who have joined in the Petition seeking this Court’s review but have *nowhere* conceded that Section 17A is unconstitutional and in fact are defending its constitutionality.

Yet, remarkably, Quinn argues that Section 17A is so blatantly unconstitutional that this Court should not bother to say so. Quinn’s counsel proposes that, when people struggling with poverty are subject to enforcement actions under Section 17A, they should secure pro bono counsel and then litigate those enforcement matters one-by-one. Opp. at 6.¹ This is neither an efficient, realistic, nor just means of protecting people experiencing poverty against the trampling of their rights. As elaborated below, Plaintiffs respectfully ask that their Joint Petition with the Fall River defendants be promptly granted.

Argument

Quinn’s primary rationale for proposing piecemeal trial court litigation of Section 17A issues, as opposed to a decisive opinion from this Court, is that his own concession about Section 17A’s unconstitutionality portends a lack of “adequate adversarial presentation” in this Court. *See* Opp. at 2-3. This contention is flawed

¹ Because the opposition at times refers to the position of the District Attorney and the position of “the Commonwealth,” it is unclear whether the Attorney General’s Office intends its filings to represent the position of the District Attorney, the Commonwealth, or both.

for at least three reasons.

First, it overlooks that the Fall River defendants intend to defend the constitutionality of the statute and their reliance thereon. Quinn nowhere explains why this representation would be inadequate. Indeed, the Fall River defendants, unlike the District Attorney, actually defended the statute below in the context of the motion for preliminary injunction. *Cf. Massachusetts v. E.P.A.*, 549 U.S. 497, 518 (2007) (“Only one of the petitioners needs to have standing to permit [the court] to consider the petition for review.”).²

Second, although Quinn’s concession of Section 17A’s unconstitutionality acknowledges the important free speech rights at stake here, he would use its flagrant unconstitutionality as reason for it to remain on the books, thereby perpetuating the very chilling of free speech rights that he purports to condemn. *See, e.g., Com. v. Lucas*, 472 Mass. 387, 390–91 (2015) (“in some contexts, resolving a case on narrower grounds may serve to perpetuate the chilling of speech protected

² As the parties stated in their filing, the Joint Petition is not an attempt to seek an appeal but rather a request that this Court decide this issue in the first instance. *See* Joint Petition at 5, 7. *Compare* Opp. at 3-5 (explaining federal standing requirements that are “an essential aspect of any appeal”). Plaintiffs have standing to seek declaratory relief in the superior court, and under G.L. c. 211, § 4A, Plaintiffs may petition this Court to transfer this original action out of the superior court and decide the question. Notably, even if this Court declined to exercise its discretionary authority, Quinn’s agreement to dismiss cases brought under Section 17A and his concession as to the statute’s unconstitutionality would not decide the case. Instead, the Fall River defendants are only preliminarily enjoined from enforcing the statute and a final court ruling is needed to resolve this matter. There remains an actual controversy, and Plaintiffs have a right to seek and to continue to seek a court order declaring the statute and defendants’ actions unconstitutional. *See* Compl. at ¶ 44-45.

by the First Amendment . . . and art. 16”); *Bulldog Inv'rs Gen. P'ship v. Sec'y of Com.*, 460 Mass. 647, 676 (2011) (explaining that in the First Amendment context, courts have altered the traditional standing rules in order to prevent a statute from chilling the First Amendment rights of other parties not before the court).³ Quinn does not dispute that Section 17A has been, and is being, enforced in other cities and towns or by other district attorneys. *See* Opp. at 5-6. In fact, not only is there indication that other cities, such as Brockton, use Section 17A to interfere with free speech rights by threat of criminal action under the statute, *see* Exhibit A, Emails from Brockton Police Department, “Directed Patrols: Panhandlers,” municipalities continue to enact and enforce local laws similar to the one at issue in this case.⁴

³ In other contexts too, this Court has recognized the value its decisions may have for providing clarity with regard to important questions of law. *See Wellesley Coll. v. Attorney Gen.*, 313 Mass. 722, 731 (1943) (in light of public interest involved and confusion existing around the issue, court expressed opinion on issue even though issue not properly presented for decision); *see also Am. Lithuanian Naturalization Club, Athol, Mass., Inc. v. Bd. of Health of Athol*, 446 Mass. 310, 322 (2006) (exercising discretion to dispose of constitutional claims summarily even though not properly presented before the Court); *Lenox Educ. Ass'n v. Labor Relations Comm'n*, 393 Mass. 276, 278 (1984) (stating even where party lacked standing, Court would grant appeal to decide important questions that “are likely to recur [] and ought to be answered by this court”).

⁴ Some municipalities have ordinances that mirror Section 17A almost exactly. *See, e.g.,* AGAWAM, MASS., CODE § 169-7 (2004) (“No person shall, for the purpose of soliciting any alms, contribution or subscription or of selling any merchandise or ticket of admission to any game, show, exhibition, fair, ball, entertainment or public gathering, signal a moving motor vehicle on a way, cause the stopping of a motor vehicle on a way or accost any occupant of a motor vehicle stopped on a way at the direction of a traffic sign, traffic signal or police officer.”); EVERETT, MASS., CITY OF EVERETT BYLAWS, Ch. 13, Sec. 15(c)(5) (“It shall be unlawful for any person to solicit money or other things of value, or to solicit the sale of goods or services from any

Further, some Massachusetts municipalities even directly incorporate Section 17A into their code of ordinances. *See, e.g.,* Holyoke, Mass., Code of Ordinances, Ch. 86, Sec. 35 (2017) (“The chief of police is hereby authorized to enforce Massachusetts General Laws Chapter 85, Section 17A. . . .”) (attached as Exhibit C). Therefore, despite Defendant Quinn’s position, there is real need for this Court to clarify the constitutionality of laws restricting the rights of individuals to request charity. As long as Section 17A remains on the books, the people who have been subject to the enforcement of this law, and the people who will be subject to such enforcement going forward, will have their free speech rights chilled.

Third, the alternative proposed by the Attorney General’s Office to this Court’s intervention is unworkable. In addition to being counsel for Defendant Quinn, the AGO is also the Commonwealth’s chief law enforcement agency. But it nowhere proposes to direct or advise the Commonwealth’s district attorneys and

operator of a motor vehicle that is in traffic on a public street or stopped for a traffic control device or stop sign on a public street. . . .”).

Others similarly target the solicitation of alms. *See, e.g.,* ASHBY, MASS., TOWN BYLAWS, Art. XI, Sec. 1 (“No person, unless otherwise authorized, shall go from place to place within the Town taking orders for any goods, wares, or merchandise, **nor shall any person go begging or soliciting alms** on foot or from a vehicle. . . .”) (emphasis added); AYER, MASS., TOWN BYLAWS, Art. IX, Sec. 7 (“No person, unless otherwise authorized, shall go from place to place within the town taking orders for any goods, wares, or merchandise, **nor shall any person go begging or soliciting alms** on-foot or from a vehicle. . . .”) (emphasis added); BUCKLAND, MASS., GENERAL BYLAWS, TOWN OF BUCKLAND, Ch. 1, Sec. 5 (“No person shall go from . . . place to place within the **town begging or soliciting alms** or contributions for any person. . . .”) (emphasis added). Copies of these ordinances are collected in Exhibit B.

police departments to cease enforcement of Section 17A.⁵ Instead, the AGO appears to expect MCH, the ACLU, and “others” to go town to town, find the individuals affected by Section 17A’s continued existence, most of whom assumedly are transient or experiencing homelessness, and attempt to wield “the Commonwealth’s” concession as a sword in future cases potentially fought in 13 other counties, 38 other cities, and 312 towns. *See* Opp. at 6. This is an uncertain, inefficient, and costly way to deal with this problem.

Relatedly, the AGO’s proposal also understates the interests of the Plaintiffs in this very case. *See* Opp. at 1, 5-6. Plaintiffs Correira and Treeful are individual plaintiffs. They are both low-income residents of Fall River who solicit funds from members of the public on their own behalves, and they are both members of MCH. Plaintiff MCH is a membership organization who provides services to individuals experiencing homelessness and works to increase income for low-income individuals, including by challenging laws and regulations that affect its members. *See, e.g., Massachusetts Coal. for the Homeless v. Sec’y of Exec. Office of Health & Human Servs.*, 422 Mass. 214 (1996); *Massachusetts Coal. for Homeless v. Sec. of Human Servs.*, 400 Mass. 806 (1987). MCH has associational standing in this case. *Massachusetts Coal. for Homeless v. Dep’t of Transitional Assistance*, No. 99-5159-C, 2000 WL 776564, at *6 (Mass. Super. June 1, 2000) (explaining MCH “exist[s] to advocate on behalf of the homeless” and has standing to seek to protect the interests

⁵ Plaintiffs do not contend that such action would obviate the need for a court ruling.

of its members through injunctive and declaratory relief).

MCH's interests involve not only protecting the rights of Mr. Correia and Mr. Treeful but the rights of all of its members across the Commonwealth. Therefore, contrary to the position of the Commonwealth, MCH has an interest in seeing this statute struck down in order to protect the Commonwealth's most vulnerable residents. Should the Court not allow the petition to transfer, MCH will likely have to be a plaintiff in multiple lawsuits challenging this unconstitutional statute, diverting its limited resources from other valuable services.

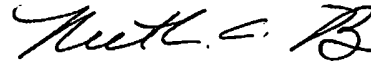
Conclusion

Defendant Quinn fails to explain why this Court should not take this case to resolve a fundamental constitutional matter of statewide import and in the process potentially articulate and reinforce principles governing ongoing efforts by state and local actors to suppress free speech rights of low-income residents of the Commonwealth. Therefore, Plaintiffs respectfully request the Court grant the relief that they and the Fall River defendants have requested: transfer the question of the constitutionality of Section 17A pursuant to G.L. c. 211, § 4A, last paragraph, for a ruling by the full Court.

Respectfully Submitted,

Plaintiffs Massachusetts Coalition for
the Homeless, John Correia, and
Joseph Treeful,

By their Attorneys,



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Dated: July 22, 2019

CERTIFICATE OF SERVICE

I, Ruth A. Bourquin, hereby certify that on this 22nd day of July, 2019, I caused a copy of Plaintiffs' Reply to Defendant Thomas Quinn's Opposition to the Joint Petition for Transfer and all accompanying exhibits to be served by email and U.S. mail service, first class postage prepaid, on Timothy J. Casey, Assistant Attorney General, One Ashburton Place, Boston, Massachusetts 02108, and Joseph I. Macy and Gary Howayeck, One Government Center, Room 627, Fall River, MA 02722.

DATED: July 22, 2019

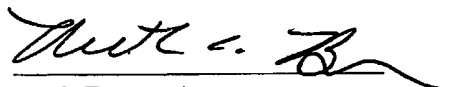

Ruth Bourquin

EXHIBIT A

From: **Mark Porcaro** <mporcaro@brocktonpolice.com>
Date: Fri, Oct 27, 2017, 1:56 PM
Subject: Directed Patrols: Panhandlers
To: Sworn <sworn@brocktonpolice.com>

Shift Commanders and Supervisors of the Uniform Patrol Division,

Regarding Sergeant Schlieman's email yesterday, please instruct the officers on your shifts to conduct Directed Patrols in the mentioned areas for panhandlers. The law that is in play here would be MGL c. 85, s. 17A, but I'm sure other laws could apply, as well, given the situation. Please become familiar with this law and pass it along to your officers for enforcement action.

The areas that were mentioned are:

North Montello and Howard Streets

Warren Avenue (from Pleasant to Spring Streets)

Reynold Memorial Highway

Various downtown intersections.

Thank you,
Capt. Porcaro

----- Forwarded message -----

From: **William Schlieman** <wschlieman@brocktonpolice.com>

Date: Thu, Oct 26, 2017 at 12:36 PM

Subject: Panhandlers

To: Mark Porcaro <mporcaro@brocktonpolice.com>, David Dickinson

<ddickinson@brocktonpolice.com>, Brian Benvie <bbenvie@brocktonpolice.com>,

Bryan Maker <bmaker@brocktonpolice.com>, Emanuel Gomes

<egomes@brocktonpolice.com>, Bruce Zeidman <bzeidman@brocktonpolice.com>

Cc: John Crowley <jcrowley@brocktonpolice.com>

Gentlemen,

I have been attending weekly quality of life meetings at city hall. Today, the mayor asked me to reach out to the shift commanders and ask them to have the patrol officers enforce the state law regarding pedestrians panhandling in the street (court complaint). He specifically mentioned the intersection of North Montello Street and Howard Street, Warren Ave between Pleasant and Spring Streets, and several other intersections in the downtown area. I know that Reynolds Memorial Highway has also been a hot spot of activity for years. Some of the panhandlers will push the pedestrian crosswalk button to trigger the traffic lights to cycle to red, forcing cars to stop.

The mayor relayed that he has received several complaints of aggressive panhandling recently and he said that it is especially problematic for the small business owners trying to attract customers from outside of the city.

Thank you,
Sgt. Schlieman

EXHIBIT B

The Charter

Chapter C

CHARTER

§ 169-2. Authority of Town Council.

The Town Council shall have the authority pursuant to MGL C. 40, § 22; C. 40, § 22A; and C. 90, § 20A1/2 to make ordinances, orders, rules and regulations for the regulation of motor vehicles used within the Town of Agawam, with penalties for the violation thereof not to exceed those specified in the Massachusetts General Laws.

§ 169-3. Authority of police officers.

- A. Except as otherwise provided herein, it shall be the duty of police officers designated by the Chief of Police to enforce the provisions of this chapter. Such police officers are hereby authorized to direct all traffic either in person or by means of visible or audible signals in conformance with the provisions of this chapter, provided that, in the event of a fire or other emergency, officers of the Fire Department or other authorized public employees may direct traffic as conditions may require, notwithstanding the provisions of this chapter.
- B. Closing streets. The Chief of Police is hereby authorized to close temporarily any way in an impending or existing emergency or for any lawful assemblage, demonstration or procession, provided that there is reasonable justification for the closing of the way.
- C. Annual accident report. The Chief of Police shall make an annual written report of motor vehicle accidents to the Mayor on or before March 1 of the succeeding calendar year.

§ 169-4. Designation of bus stops.

The Town Council shall designate, by majority vote, the location of all bus stops.

§ 169-5. Coasting and sliding.

No person shall coast, course or slide with any sleigh, sled, or other vehicle on or across any way or on the sidewalks of any way.

§ 169-6. Hitchhiking.

No person while standing, walking or running within the limits of a way shall solicit verbally, by sign or by signal transportation for himself or for other persons in any motor vehicle except motor vehicles operated for carriage of passengers for hire.

§ 169-7. Soliciting from motor vehicles.

No person shall, for the purpose of soliciting any alms, contribution or subscription or of selling any merchandise or ticket of admission to any game, show, exhibition, fair, ball, entertainment or public gathering, signal a moving motor vehicle on a way, cause the stopping of a motor vehicle on

a way or accost any occupant of a motor vehicle stopped on a way at the direction of a traffic sign, traffic signal or police officer.

§ 169-8. Exemptions.

The provisions of this chapter shall not apply to persons actually engaged in work upon a way closed to travel or under construction or repair, to public officials engaged in the performance of public duties or to drivers of emergency vehicles while operating in an emergency when the nature of the work requires a departure from any part of this chapter.

§ 169-9. Responsibility of vehicle owner for violations.

If a motor vehicle is found upon any way in violation of any provision of this chapter and the identity of the operator cannot be determined, the owner of such motor vehicle shall be held prima facie responsible for such violation.

§ 169-10. Violations and penalties.

Unless otherwise specified herein, the penalty for any violation of this chapter shall be a fine of not less than \$50 nor more than \$200.

Section 12-28 Solicitation permit.

(a) No person shall go from place to place or from door to door, or occupy or use any part of a public way within this city for the purpose of soliciting charitable contributions, or of conducting any survey or poll, or of selling or offering for sale any article or service whatsoever, without first obtaining a written permit so to do from the chief of police or other officer in charge of the police department at the time such request is made.

(b) Such permit may be issued not more than seven (7) days prior to the date on which it is to be effective and shall specify the time of day and other terms and conditions under which it is to be issued. Any person found violating this section shall be informed of its existence and must obtain a permit before continuing such activities.

(c) Whoever violates any of the terms or conditions under which the permit was issued or whoever persists in soliciting, etc. after being informed of its existence without obtaining such permit, shall be fined in accordance with the provisions of Section 1-8. Additionally, any company and/or organization for whom the solicitor is employed or otherwise associated with for the purpose of door-to-door solicitation shall be responsible for the individual's violation of the terms or conditions under which the permit was issued or for the individual's persistence in soliciting, after the individual has been informed of its existence without obtaining such permit, and shall be fined in accordance with the provisions of Section 1-8. (Rev. Ords. 1976, Pt. 2, Ch. 11, § 16; amended C0212-16)

Section 13-15 Aggressive solicitation.

(A0008-12)

(a) Definitions. The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them as listed below, except where the context clearly indicates a different meaning:

(1) Aggressive manner: Defined as any of the following:

a. Approaching or speaking to a person, or following a person before, during or after soliciting, asking or begging, if that conduct is intended or is likely to cause a reasonable person to:

1. Fear bodily harm to oneself or to another, or damage to or loss of property, or
2. Otherwise be intimidated into giving money or other thing of value;

b. Intentionally touching or causing physical contact with another person or an occupied vehicle without that person's consent in the course of soliciting, asking or begging;

- c. Intentionally blocking or interfering with the safe or free passage of a pedestrian or vehicle by any means, including unreasonably causing a pedestrian or vehicle operator to take evasive action to avoid physical contact;
 - d. Using violent or threatening gestures toward a person solicited either before, during, or after soliciting, asking or begging;
 - e. Persisting in closely following or approaching a person, after the person solicited has been solicited and informed the solicitor by words or conduct that such person does not want to be solicited or does not want to give money or any other thing of value to the solicitor; or
 - f. Using profane, offensive or abusive language which is inherently likely to provoke an immediate violent reaction, either before, during, or after solicitation.
- (2) Automated teller machine: 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/or mortgage and loan payments.
- (3) Automated teller machine facility: The area comprised of one or more automatic teller machines, and any adjacent space which is made available to banking customers after regular business hours.
- (4) Bank: Any business establishment authorized to perform one (1) or more of the following services:
- a. Receive and safeguard money and other valuables;
 - b. Lend money at an interest;
 - c. Execute bills of exchange, such as checks and drafts;
 - d. Purchase and exchange foreign currency; or
 - e. Issue notes of circulation or currency.
- (5) Check cashing business: Any person duly licensed by the superintendent of banks to engage in the business of cashing checks, drafts or money orders for consideration pursuant to the provisions of the banking laws.
- (6) Public area: An area to which the public or a substantial group of persons has access, and includes, but is not limited to, alleys, bridges, buildings, driveways, parking lots, parks, playgrounds, plazas, transportation facilities, school, place of amusement, sidewalks, median, streets, and rights-of-way open to the general public, and the doorways and entrances to

buildings and dwellings, and the grounds enclosing them.

(7) Solicit, ask or beg: To request, by the spoken, written, or printed word, or by other means of communication, an immediate donation or transfer of money or another thing of value from another person, regardless of the solicitor's purpose or intended use of the money or other thing of value, and regardless of whether consideration is offered.

(b) Purpose. This section is intended to protect citizens from the fear and intimidation accompanying certain kinds of solicitation, and not to limit a constitutionally protected activity.

(c) Prohibited activities. It shall be unlawful for any person to solicit money or other things of value, or to solicit the sale of goods or services:

(1) In an aggressive manner in a public area.

(2) In any public transportation vehicle or passenger terminal for such vehicles.

(3) Within thirty (30) feet of any entrance or exit of any bank or check cashing business or within thirty (30) feet of any automated teller machine during the hours of operation of such bank, automated teller machine or check cashing business without the consent of the owner or other person legally in possession of such facilities.

a. 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 automated teller machine facility.

(4) On private property if the owner, tenant, or lawful occupant has asked the person not to solicit on the property, or has posted a sign clearly indicating that solicitations are not welcome on the property.

(5) From any operator of a motor vehicle that is in traffic on a public street or stopped for a traffic control device or stop sign on a public street, regardless of whether in exchange for cleaning the vehicle's windows, or for blocking, occupying, or reserving a public parking space, or directing the occupant to a public parking space or even if no services are received in exchange for responding to the solicitation; provided, however, that this paragraph shall not apply to services rendered in connection with emergency repairs requested by the operator or passengers of such vehicle.

(6) By standing on or going into any street or highway, including medians, on ramps and exit ramps.

(7) From any person sitting in a parked motor vehicle.

(8) From any person under the age of sixteen (16) years who is unaccompanied by an adult.

(d) Penalty. Any person violating the provisions of this section shall be punished by a fine in accordance with Section 1-8 of these Revised Ordinances.

(1) Any person in violation of this Ordinance shall be subject to a CJIS check by the Everett Police Department.

(e) Construction of section.

The procedure and authority granted by this section shall be in addition to and not in lieu of procedures provided in other ordinances of the city. If the provisions of this section are in conflict with any other provisions of these Revised Ordinances, the provisions of this section shall govern. (C0115-19)

Editors Note: Former Section 13-15.0 was superceded by Section 13A-63.1

Section 17-12 Selling articles or goods in public ways.

(a) No person shall, without a permit from the Chief of Police, sell in a public way or from any building, any goods or articles to any person on such way.

(b) No person shall place or permit to remain on a public way for more than ten (10) minutes any goods or articles of which he is the owner or in charge.

(c) No person shall stand in a roadway for purpose of soliciting a ride, employment or business from the occupant of any vehicle.

(d) No person shall stand in a roadway for purpose of soliciting contributions from the occupant of any vehicle without first obtaining a permit from the Chief of Police.

(1) Said permits shall be limited to:

- a. A veterans' organization chartered by the Congress of the United States;
- b. A church or religious organization;
- c. A fraternal or fraternal benefit society;
- d. An educational or charitable organization;
- e. A civic or service club; or
- f. Other clubs or organizations operated exclusively and for non-profit purpose.

(2) Said organizations shall have been organized and operating in Everett; and have evidence of their non-profit IRS status.

(3) Said organization shall provide the Chief of Police with the locations, dates and times of

the solicitations; and in the case of Youth Organizations, a plan for adequate adult supervision.

(e) No person shall stand directly in a lane of moving traffic on any street or roadway and stop or attempt to stop and engage any person in any vehicle for the purpose of soliciting contributions; or sell or attempt to sell anything to any person in any vehicle; or hand or attempt to hand to any person in any vehicle any circular, advertisement, handbill or any political campaign literature, or any sample, souvenir or gift; or in any other manner, in an attempt to interfere with the normal flow of traffic for any other similar purpose. (Rev. Ords. 1976, Pt. 2, Ch. 17, § 30; (A0398-06)(A0556-06)

Cross reference(s)--Licenses and business regulations, Ch. 12.



TOWN BYLAWS

Ashby, Massachusetts

As Amended to
April 26, 1988
November 22, 1988
May 22, 1989
June 26, 1990
April 28, 1992
October 17, 1992
April 3, 1993
June 20, 1993
May 4, 1996
May 3, 1997
May 2, 1998
March 10, 1999
May 1, 1999
May 6, 2000
November 18, 2000
November 17, 2001
May 4, 2002
January 11, 2003
May 7, 2005
May 6, 2006
May 5, 2007
May 2, 2009
May 4, 2013
March 15, 2014
May 3, 2014
May 2, 2015
May 7, 2016
May 6, 2017
May 5, 2018

Fee \$5.00

Last editing
7/2/2018

ARTICLE XI

REGULATION OF VENDORS AND OTHER SOLICITORS

Section 1. No person, unless otherwise authorized, shall go from place to place within the Town taking orders for any goods, wares, or merchandise, nor shall any person go begging or soliciting alms on foot or from a vehicle, without having first recorded his name and address with the Chief of Police, and furnished such information as may be requested of him. The Chief of Police shall, thereupon, if satisfied with the honesty of the applicant, issue a permit for a period not exceeding twelve (12) months which must be shown on request, and shall state that said person has duly registered and is entitled to go from place to place within the Town for the purpose specified.

Section 2. No person, unless otherwise properly licensed by the State or Board of Selectmen, shall go from place to place in the Town selling or bartering or carrying for sale or barter or exposing therefore any goods, wares, or merchandise.

Section 3. The Chief of Police may, however, authorize the director of any worthy cause, to solicit contributions within the Town without having each solicitor under his direction registered. Religious organizations or charitable groups within the Town shall be exempt from this section.

Section 4. Whoever violates the provisions of Articles XI shall be subject to a fine of not more than twenty dollars.

ARTICLE XII

The Selectmen shall have the authority to dispose of surplus personal property of the Town no longer required for use by any Board, Officer, or Department of the Town, by sale at public auction, or by sealed bid. The date and time of such auction, or for the opening of such bids, shall be advertised in a newspaper circulating in the Town at least once a week for two successive weeks, the last publication to be at least one week before the time specified for such auction or opening of bids.

ARTICLE XIII

HAZARDOUS MATERIALS

Section 1. **AUTHORITY:** The By-law is adopted by the Town under its home rule powers, its police powers to protect public health and welfare, and its authorization under Massachusetts General Laws, Chapter 40, Section 21.

Section 2. **PURPOSE:** The purpose of the By-law is to protect, preserve, and maintain the existing and potential groundwater supply, groundwater recharge areas, and surface water within the town from contamination with hazardous materials.

Section 3. **DEFINITIONS:** The following definitions shall apply in the interpretation and implementation of the by-law.

Section 3.1 "Hazardous material" means a product or waste, or combination of substances which because of quantity, concentration, or physical, or chemical, or infectious characteristics, poses in the Chief of the Fire Department's judgment, a substantial present or potential hazard to the human health, safety, or welfare, or the environment when improperly treated, stored, transported, used, or disposed of, or



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Town Bylaws

Articles

- [Article I - Town Meetings](#)
- [Article II - Town Seal](#)
- [Article III - Town Clerk](#)
- [Article IV - Town Finances](#)
- [Article V - Legal Affairs](#)
- [Article VI - Records and Reports](#)
- [Article VII - Junk-Dealers and Collectors](#)
- [Article VIII - Hackney Carriages](#)
- [Article IX - Police Regulations](#)
- [Article X - Penalties](#)
- [Article XI - Construction](#)
- [Article XII - Trailers](#)
- [Article XIII - Motor Boats](#)
- [Article XIV - Inspectors](#)
- [Article XV - Ayer Planning Board, Municipal Planning and Subdivision Control Regulations](#)

SECTION 3. No person shall without proper authority, extinguish or remove any light place to denote an obstruction or defect in a street or way.

SECTION 4. No person shall team manure, hay, rubbish, ashes, liquid or other materials in such a manner as to litter, pollute, or injure the streets of the Town; nor shall any person throw or deposit in any street or on any sidewalk, ashes, dirt, rubbish or other refuse of any kind except in the manner provided by the Board of Health.

SECTION 5. The tenant or owner of any estate abutting on any street, highway, or town way in the town, and where there now is, or hereafter may be, a sidewalk constructed of or covered with concrete, brick, cement, stone, wood, or any other material than earth, ashes, or gravel, shall within twelve hours after the ceasing to fall, form, or drift thereon, of any snow, sleet or ice, remove or cause to be removed such snow, sleet, or ice therefrom so far as it can be removed, and if the same cannot be wholly removed shall sprinkle, or cause to be sprinkled thereon, sand, ashes, sawdust, or other suitable substance, so that such sidewalk shall not be slippery and shall be safe and convenient for public travel.

SECTION 6. Whoever violates the provisions of the preceding section shall be punished by a fine not exceeding ten dollars.

SECTION 7. No person, unless otherwise authorized, shall go from place to place within the town taking orders for any goods, wares, or merchandise, nor shall any person go begging or soliciting alms on-foot or from a vehicle, without having first recorded his name and address with the Chief of Police and furnished such information as may be requested by him. The Chief of Police shall, thereupon; if satisfied with the honesty of the applicant, issue a permit for a period of not exceeding twelve (12) months which must be shown on request, and shall state that such person has duly registered and is entitled to go from place to place within the town for the purpose specified.

SECTION 8. No person, unless otherwise properly licensed by the State or Board of Selectmen, shall go from place to-place in the Town selling or bartering or carrying for sale or barter or exposing therefor any goods, wares or merchandise.

SECTION 9. The Chief of Police may, however, authorize the Director of any worthy cause to solicit contributions within the Town without having each solicitor under his direction registered. Religious organizations or charitable groups within the town shall be exempt from this section.

SECTION 10. No person shall smoke, ingest, or otherwise use or consume marijuana or tetrahydrocannabinol (as defined in GL c.94C, sec. 1, as amended) while in or upon any street, sidewalk, public way, footway, passageway, stairs, bridge, park, playground, beach, recreation

BY-LAWS FOR TOWN OF BUCKLAND

CHAPTER I GENERAL PROVISIONS

Title

Sec. 1. The following provisions shall constitute the General By-Laws of the Town of Buckland, which shall be in lieu of all by-laws heretofore in force.

Effect of Repeal

Sec. 2. The repeal of a by-law shall not thereby have the effect of reviving any by-laws, theretofore repealed. Effect of Change of Titles of Boards, etc...

Sec. 3. Words and phrases specifying or naming any officer, board or committee of the town, shall be construed as including the lawful successor, or the person or persons having the powers and performing the duties of such officer, board or committee.

Power to License

Sec. 4. When in a by-law anything is prohibited from being done without the license or permission of a certain officer, board or committee, such officer, board or committee shall have the right to license or permit such thing to be done.

Solicitation By-Law

Sec. 5. No person shall go from house to house selling or offering to sell by sample, lists, catalogue or otherwise for future delivery, nor shall any person go from place to place within the town begging or soliciting alms or contributions for any person, cause or organization either on foot or from any animal or vehicle, without first having recorded his name and address with the Selectmen and furnished such other information as may be required of him.

The Selectmen shall thereupon, if satisfied with the honesty of the applicant, issue a written permit for a period not exceeding twelve months, which must be shown on request, and shall state that said person has duly registered and is entitled to go from place to place within the town during reasonable hours, for the purpose specified.

The Selectmen may, however, authorize the directors of any religious organization, veterans group, hospital, Community Chest, Red Cross, Y.M.C.A., or other organization engaged in social, charitable or educational service to solicit contributions without having each solicitor under direction registered during reasonable hours.

EXHIBIT C

CODE OF ORDINANCES CITY OF HOLYOKE, MASSACHUSETTS

Adopted, April 15, 1997

Effective, April 15, 1997

Published in 1997 by Order of the City Council

municode



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OFFICIALS

of the

CITY OF

HOLYOKE, MASSACHUSETTS

AT THE TIME OF THIS CODIFICATION

Daniel J. Szostkiewicz

Mayor

Daniel C. Burns

Patricia Devine

Raymond H. Feyre

Patrick J. Higgins

James J. Jackowski

Henry B. Jennings

Kevin A. Jourdain

Marc E. Joyce

Michael F. Kane

Kristian Kos Lecca

Diosdado Lopez

Joseph M. McGiverin

Jorge Neves

Helen F. Norris

Richard M. Welch

City Council

Daniel M. Glanville

City Solicitor

Susan M. Egan

City Clerk

CURRENT OFFICIALS

of the

CITY OF

HOLYOKE, MASSACHUSETTS

Alex B. Morse

Mayor

David K. Bartley, *Ward 3*
Daniel B. Bresnahan, *At-Large*
Howard Greaney Jr., *At-Large*
Kevin A. Jourdain, *Ward 6*
James M. Leahy, *At-Large*
Gladys Lebron-Martinez, *Ward 1*
Rebecca Lisi, *At-Large*
Diosdado Lopez, *At-Large*
Todd A. McGee, *Ward 7*
Joseph M. McGiverin, *At-Large*
Nelson R. Roman, *Ward 2*
Michael J. Sullivan, *At-Large*
Peter R. Tallman, *At-Large*
Linda L. Vacon, *Ward 5*
Jossie M. Valentin, *Ward 4*

City Council

Sandra Smith

City Treasurer

Brenna Murphy McGee

City Clerk

Sec. 86-35. - Soliciting from vehicles on public ways.

The chief of police is hereby authorized to enforce Massachusetts General Laws Chapter 85, Section 17A, which states,

"Whoever, for the purpose of soliciting any alms, contribution or subscription or of selling any merchandise, except newspapers, or ticket of admission to any game, show, exhibition, fair, ball, entertainment or public gathering, signals a moving vehicle on any public way or causes the stopping of a vehicle thereon, or accosts any occupant of a vehicle stopped thereon at the direction of a police officer or signal man, or of a signal or device for regulating traffic, shall be punished by a fine of not more than fifty dollars. Whoever sells or offers for sale any item except newspapers within the limits of a state highway boundary without a permit issued by the department shall for the first offense be punished by a fine of fifty dollars and for each subsequent offense shall be punished by a fine of one hundred dollars. Notwithstanding the provisions of the first sentence of this section, on any city or town way which is not under jurisdiction of the department, the chief of police of a city or town may issue a permit to nonprofit organizations to solicit on said ways in conformity with the rules and regulations established by the police department of said city or town."

(Ord. of 11-21-17 [940th amd.], § 1)