

SUPERIOR COURT FOR THE STATE OF ALASKA  
THIRD JUDICIAL DISTRICT AT ANCHORAGE

**COPY**  
**Original Received**

JAN 31 2013

Clerk of the Trial Court

Teeka Ballas,  
UNITE HERE Local 878,  
Scott A. Kohlhaas,  
Ruth Sheridan,  
Alaskans for Peace and  
Justice,  
Alaska AFL-CIO,  
Susan Bright, and  
Nickolas Moe,

Plaintiffs;

v.

No. 3AN-13- 4891 CI

Municipality of Anchorage,

Defendant.

**Complaint**

**INTRODUCTION**

1. The right to freely express oneself is a fundamental part of being American. Enshrined in the First Amendment of the United States Constitution and the Fifth Section of the Alaska Declaration of Rights, this freedom of expression separates the United States from other countries, even democracies such as the United Kingdom.

2. The United States was born from and shaped by patriots protesting their government. In 1773, while a free and independent America was just an optimistic dream, brave colonists drowned tea in

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the Boston Harbor to object to British taxation without representation. In the middle of the twentieth century, ordinary individuals used the power of sit-ins to fight and defeat Jim Crow. A few decades ago, 200 years after the Boston Tea Party and the Revolutionary War, Americans exercised their centuries-old right to sit down and protest another war: Vietnam. And now, as recently as September 25, 2012, Anchorage Assemblyman Dick Traini noted that, “Sitting on a sidewalk is an American tradition of protest.”

3. Throughout our Nation’s history, our democracy is defined by citizens’ right and duty to criticize the government and ensure that its policies are of the people, by the people, and for the people. Plaintiffs Teeka Ballas, UNITE HERE Local 878, Scott A. Kohlhaas, Ruth Sheridan, Alaskans for Peace and Justice, Alaska AFL-CIO, Susan Bright, and Nickolas Moe, in the tradition of patriots before them, sue today to stop the Municipality of Anchorage from trying to erode that right.

4. These Plaintiffs are a diverse cross-section of Anchorage: together, their ages range from 95 to 26 and their political views span the spectrum from liberal to libertarian. Yet, they join together today and sue to protect the freedom of expression for themselves and for all of Anchorage: they challenge two sections of the Anchorage Municipal

Code: § 8.75.180, which unconstitutionally prohibits individuals from sitting or lying on downtown sidewalks, and § 8.75.170, which unconstitutionally muzzles requests for donations.

5. Anchorage enacted these laws in a cloud of confusion and misunderstanding. Assembly Ordinance No. 2011-112, a copy of which is attached as Exhibit A, created Anchorage Municipal Code § 8.75.180, which bars persons from sitting or lying on sidewalks within the “Downtown Improvement District,” the area between 1st and 9th Avenues and L and Gambell Streets. The Ordinance also amended Anchorage Municipal Code § 8.75.170 to further criminalize charitable requests by forbidding anyone from asking for money in the Downtown Improvement District 24 hours per day, 7 days per week and throughout the rest of the Municipality between sunset and sunrise. A copy of § 8.75.180, the sidewalk-sitting law, is attached as Exhibit B and a copy of § 8.75.170, the panhandling section, is attached as Exhibit C.

6. The Assembly considered Assembly Ordinance No. 2011-112 on November 22, 2011. At 3 hours 59 minutes and 30 seconds into the hearing, Assemblyman Traini asked Municipal Attorney Dennis Wheeler, “Dennis, since this will end up probably in the court system if

it's approved, if the ACLU takes it to court, is it defensible from your point of view?"

7. Wheeler responded, "Through the chair, Mr. Traini, this ordinance was run by the ACLU. . . . They did not have any problems with it."

8. This was incorrect. While the ACLU of Alaska is not the final arbiter of a law's constitutionality, in light of Assemblyman Traini's immediate attempts to rescind the Ordinance, one can reasonably surmise that this false imprimatur caused Assemblyman Traini to initially vote in favor of the legislation.

9. Seven days later, on November 29, 2011, Municipal Attorney Wheeler corrected his mistake. He emailed the Assembly and stated, "In any event, my office did not directly send a copy of the ordinance to the ACLU. My poor choice of words would certainly give the impression that my office had sent the ordinance directly to the ACLU. It is true the ACLU did not send us any comments, as they have in the past on other ordinances. It is also appears the ACLU did not speak to either version of the ordinance during the public hearings." (Ex. D, Email from Municipal Attorney Dennis A. Wheeler, Nov. 29, 2011.)

10. Assemblyman Traini, now with the corrected record, moved to rescind the Assembly's approval of the ordinance. By a vote of five to six, his motion failed on December 13, 2011.

11. After much thought and debate, and by a vote of seven to four, the Assembly repealed the sidewalk-sitting section on the evening of September 25, 2012. Less than 48 hours later, on the morning of September 27, 2012, Mayor Sullivan vetoed the repeal. The Assembly did not override Mayor Sullivan's veto and the 21 days in which it could have done so has now passed.

12. Now, because the legislative avenue has dead-ended, this lawsuit is the last resort of this coalition of Plaintiffs: they hope to use it as vehicle to protect themselves and their fellow Anchorage residents. They ask this Court to declare the sidewalk-sitting and panhandling sections unconstitutional and to prevent the Municipality from enforcing them.

13. By filing this suit, the Plaintiffs stand today in the shoes of America's earlier freedom fighters and hope that this Court will protect their first liberty and once again remind Anchorage that it may not mute an Alaskan's ability to peacefully express herself.

## JURISDICTION AND VENUE

14. This Court has original and general jurisdiction over all civil matters. Alaska Stat. § 22.10.020(a). It has jurisdiction to declare rights and legal relations, Alaska Stat. § 22.10.020(g), and to issue injunctions, Alaska Stat. §§ 09.40.230 and 22.10.020(c).

15. Venue in this Court is proper because the unconstitutional sections, Anchorage Municipal Code §§ 8.75.180 and 8.75.170, apply in Anchorage and because the Municipality may be personally served here. Alaska Stat. § 22.10.030; Alaska R. Civ. P. 3(c)(1), 3(c)(3), and 3(g); Alaska R. Crim. P. 18.

## PARTIES

16. Plaintiff Teeka Ballas has lived in Anchorage for the past six years. An award-winning journalist, she has hosted a radio show on Alaska Public Radio and she publishes *F Magazine*, a monthly exploration of Anchorage arts, music, and culture. Teeka is also an artist: she is a street musician who plays music and requests donations on Anchorage sidewalks, including outside the Anchorage Visitor's Center at West 4th Avenue and F Street. In addition to music, Teeka creates and participates in performance art: she has been part of a flash mob in which participants laid down on the Downtown

Improvement District's sidewalks for three hours and as part of another political performance piece during which she sat on those sidewalks for six hours to protest the war. She sues to protect her fundamental constitutional rights of speaking, performing, and protesting.

17. Plaintiff UNITE HERE Local 878 is a labor union that represents over 1,000 Alaskan workers. Its members work in hospitality industries throughout the state, such as hotels, restaurants, laundries, and food service outlets. As part of its mission to advocate for fair labor practices and the rights of workers, it leads boycotts and protests in front of properties throughout the Downtown Improvement District, including the Sheraton Anchorage at 401 East 6th Avenue and the Hilton Anchorage at 500 West 3rd Street. During these protests, it requests charitable donations to support striking workers and its members parade on the offending property's sidewalks, during which some sit or lay down. Plaintiff UNITE HERE Local 878 sues on its own behalf and on behalf of its members.

18. Plaintiff Scott A. Kohlhaas has been a member of the Libertarian Party and a political activist for 34 years. He has lived in Anchorage for 15 years and repeatedly translated his activism into seeking elective office: he ran for the United States Senate twice—once

against Senator Frank Murkowski and the second time against Senator Lisa Murkowski—and three times for the Alaska House of Representatives. Scott devotes 80 percent of his time to fundraising for the Libertarian Party and the remaining 20 percent running signature-gathering drives for petitions and ballot initiatives. When he collects these signatures, Scott typically employs about two dozen people to stand on public and private property; of those who collect signatures in the Downtown Improvement District, approximately three-fourths stand on public sidewalks. Scott wants to link his requests for signatures with requests for charitable donations—when a passerby is asked to sign Scott’s petition, she would also be asked to donate money—and to independently fundraise for the Libertarian Party on public sidewalks. Because of § 8.75.170, he cannot.

19. Plaintiff Ruth Sheridan is a peace activist. Ninety-five years old, she has lived in Anchorage for 43 years and is a member of Alaskans for Peace and Justice. Ruth participates in protests and vigils on sidewalks in the Downtown Improvement District, particularly outside the US Federal Building and Courthouse at 222 West 7th Avenue. She wishes to be able to sit or lay down during these protests.

20. Plaintiff Alaskans for Peace and Justice is an unincorporated association that, as its name suggests, advocates for peace and social

justice. It holds protests on sidewalks throughout Anchorage, including in the Downtown Improvement District, such as its reoccurring protests on the sidewalks in front of the US Federal Building and Courthouse. During these demonstrations, some participants sit and Alaskans for Peace and Justice both accepts and requests donations. Plaintiff Alaskans for Peace and Justice sues on its own behalf and on behalf of the individuals who participate in its activities.

21. Plaintiff Alaska AFL-CIO is Alaska's largest labor organization. It represents 60,000 union members who belong to over 50 affiliated unions throughout Alaska, including UNITE HERE Local 878, and it advocates on behalf of all workers, even those not represented by a labor union. In the course of representing its members, Alaska AFL-CIO participates in protests on sidewalks throughout Anchorage, including within the Downtown Improvement District, and during these protests, its members sit and lay on the sidewalks. Plaintiff Alaska AFL-CIO sues on its own behalf and on behalf of its members.

22. Plaintiff Susan Bright lives in Anchorage and has been a member of Alaskans for Peace and Justice for ten years. She attends its protests and rallies throughout Anchorage, including those held on the sidewalks in the Downtown Improvement District, and she seeks the

right to sit or lay down on those sidewalks in the course of her expressive conduct.

23. Plaintiff Nickolas Moe is a 26-year-old Anchorage activist. Growing up in Anchorage, he unsuccessfully ran for mayor at 19. Undeterred by his defeat, he has continued to be involved in political causes across the spectrum from conservative to moderate to liberal. He has sat on the sidewalks outside Anchorage City Hall and Town Square Park to raise awareness of Anchorage's homeless problem and to call attention to the role of money in politics and socioeconomic inequality. He sues to ensure that Anchorage does not extinguish his right to sit or lay on the downtown sidewalks as part of his expressive activity.

24. Defendant Municipality of Anchorage is a home rule municipality under Alaska Stat. § 29.04.010. It enacted Assembly Ordinance No. 2011-112 and is charged with enforcing the sidewalk, Anchorage Municipal Code § 8.75.180, and the panhandling, Anchorage Municipal Code § 8.75.170, sections.

## **FACTS**

### **Sidewalk Ordinance**

25. Anchorage enacted Assembly Ordinance No. 2011-112 on November 22, 2011 and it became effective on December 22, 2011.

26. This Ordinance added § 8.75.180 to the Anchorage Municipal Code. This Section, a copy of which is attached as Exhibit B, defined a “Downtown Improvement District . . . as the area bounded by 1st Avenue on the North, Gambell Street on the East, 9th Avenue on the South, and L Street on the West[.]” § 8.75.180(a).

27. Within this boundary, “[n]o person shall sit or lie down upon a public sidewalk, or upon a blanket, chair, stool, or any other object placed upon a public sidewalk . . . between (1) 6:00 a.m. and 11:59 p.m. on Monday, Tuesday, Wednesday or Thursday; or (2) 6:00 a.m. Friday through 2:30 a.m. Saturday; or (3) 6:00 a.m. Saturday through 2:30 a.m. Sunday.” § 8.75.180(a).

28. “The idea of a new law came up, said city attorney Dennis Wheeler, because the administration wanted to remove John Martin,” who was protesting the Administration’s treatment of homeless individuals. (Ex. E, Rosemary Shinohara, *Homeless Man’s Sit-Down Protest Irritates Mayor*, Anchorage Daily News, July 19, 2011, available online at <http://www.adn.com/2011/07/19/1975453/homeless-mans-protest-irritates.html> (last visited Jan. 30, 2013), p. 2).

29. Assembly Ordinance 2011-112, according to Mayor Sullivan, “may discourage the use of sidewalks and other public places for sleeping and panhandling that can be associated with homelessness,”

and it “protect[s] the aesthetics . . . of the downtown central business district[.]” (Ex. F, Assembly Memorandum No. 618-2011, p. 1.)

30. Yet, according to Mayor Sullivan, “[t]he times on these [the sidewalk section] are somewhat arbitrary,” (Ex. G, Jason Lamb, *Anchorage Lawmakers Approve New Ordinance Banning Sidewalk Sitting*, KTUU Channel 2 News, Nov. 22, 2011, available online at [http://articles.ktuu.com/2011-11-22/bar-sidewalk\\_30431487](http://articles.ktuu.com/2011-11-22/bar-sidewalk_30431487) (last visited Jan. 30, 2013), p. 2).

31. Anchorage prefers iPhones over “I Have a Dream”: one may sit or lay on the downtown sidewalks—no matter the time of day or density of pedestrian traffic—if she is “[w]aiting in line to purchase, receive or deliver an item or gain access to an adjacent property[.]” § 8.75.180(b)(6). Yet even if the sidewalks are clear and pedestrians are absent, one may not expressively sit or lay on the downtown sidewalks.

32. This law inverts the Constitution’s usual framework of granting broader protections for free speech over paid commercial activity. Anchorage permits commercial sitting on the public sidewalks, such as “waiting to purchase an item from a street vendor, or tickets at a ticket window, or waiting for an establishment to open to receive or deliver goods or services, so long as the person is as far from the traveled roadway as practicable.” § 8.75.180(b)(6). But, even if one sits on the

sidewalks “as far from the traveled roadway as practicable”—the same test for commercial sitting—one cannot exercise the quintessential American right of protesting important government policies or raising awareness of grave social ills.

### **Panhandling Ordinance**

33. Anchorage’s hostility to free speech is repeated in § 8.75.170, the panhandling section.

34. This Section defines as “panhandling” any “solicitation made in person upon any street, public place or park in the city, in which a person requests an immediate donation of money or other gratuity from another person[.]” § 8.75.170(a).

35. “Panhandling” specifically includes “seeking donations: (1) By vocal appeal or for music, singing, or other street performance; and (2) Where the person being solicited receives an item of little or no monetary value in exchange for a donation[.]” § 8.75.170(a). Under this Section, a homeless individual asking a brother to spare a dime, the Salvation Army seeking alms for the poor, a firefighter trying to Fill the Boot, a street musician asking listeners to throw coins in her guitar case, and a little kid with a lemonade stand are all equally panhandlers.

36. As amended by Assembly Ordinance No. 2011-112, it is unlawful to request donations at anytime in the Downtown Improvement District, § 8.75.170(b)(3), or “[a]fter sunset and before sunrise” throughout the rest of Anchorage, § 8.75.170(b)(1).

### **These Laws Smother Free Speech**

37. The sidewalk and panhandling sections chill and violate the Plaintiffs’ free speech rights: their very existence inhibits the Plaintiffs’ freedom to express themselves. While one may sit on the sidewalk to buy a reindeer dog, one may not sit and be a busker.

38. Anchorage offers no way for an individual to legally sit or lay on the Downtown Improvement District sidewalks for an expressive purpose.

39. Anchorage offers no way for an individual to legally and actively seek donations at any time upon any street, public place or park in the Downtown Improvement District or between sunset and sunrise on the public streets, places, or parks elsewhere in the Municipality.

40. The Plaintiffs’ right to express themselves is fundamental. They wish, as part of their expressive conduct, to be able to sit and lay on the downtown sidewalks and to seek donations free from the threat of Municipal sanction.

## CLAIMS

### **Claim 1: The Sidewalk Law Violates the Freedom of Expression.**

41. Each of the Plaintiffs “may freely speak, write, and publish on all subjects, being responsible for the abuse of that right.” Alaska Const. art. I, § 5.

42. Anchorage Municipal Code § 8.75.180 violates this constitutional guarantee.

43. As part of this Court’s duty to uphold the Alaska Constitution, it should declare § 8.75.180 unconstitutional.

### **Claim 2: The Sidewalk Law Infringes on the Plaintiffs’ Right to Peaceably Assemble and to Petition The Government.**

44. The fundamental “right of the [Plaintiffs] peaceably to assemble, and to petition the government shall never be abridged.” Alaska Const. art. I, § 6.

45. By barring the Plaintiffs from expressing themselves through peaceably sitting or laying on the Downtown Improvement District’s sidewalks, Anchorage deprives them of their constitutional right to peaceably assemble and to petition the government.

46. The Court should strike down § 8.75.180 as an unconstitutional abridgment of Alaska Const. art. I, § 6.

**Claim 3: The Panhandling Law Violates the Freedom of Expression.**

47. Alaska may not prohibit the Plaintiffs from “freely speak[ing], writ[ing], and publish[ing] on [any] subjects,” Alaska Const. art. I, § 5.

48. Anchorage Municipal Code § 8.75.170 squarely offends this constitutional freedom.

49. Accordingly, the Court should hold § 8.75.170 unconstitutional.

**Claim 4: Anchorage’s Absolute Bar against Sitting or Laying on the Downtown Sidewalks Violates Due Process.**

50. Anchorage may not “deprive[]” the Plaintiffs “of life, liberty, or property, without due process of law.” Alaska Const. art. I, § 7.

51. Anchorage’s flat prohibition on sitting or laying on the Downtown Improvement District’s sidewalks in the course of expressive activity violates the Due Process Clause of the Alaska Constitution.

52. The Court should therefore declare § 8.75.180 unconstitutional.

**Claim 5: Anchorage Violated the Due Process Clause by  
Enacting an Arbitrary Sidewalk Law.**

53. The restrictions of § 8.75.180, according to Mayor Sullivan, “are somewhat arbitrary.”

54. An arbitrary law that deprives the Plaintiffs of their fundamental rights offends the Alaska Due Process Clause. Alaska Const. art. I, § 7.

55. Because § 8.75.180 violates due process, the Court should strike it down.

**Claim 6: The Panhandling Prohibition Violates Due Process.**

56. “No person,” including the Plaintiffs, “shall be deprived of life, liberty, or property, without due process of law.” Alaska Const. art. I, § 7.

57. It violates the Alaska Due Process Clause for Anchorage to prohibit the Plaintiffs from actively seeking donations on public streets, places, and parks.

58. The Court should accordingly conclude § 8.75.170 is unconstitutional.

**Claim 7: The Sidewalk Law Deprives the Plaintiffs of Equal Protection of the Law.**

59. The Plaintiffs “are equal” to all other Alaskans and they are “entitled to equal rights, opportunities, and protection under the law[.]” Alaska Const. art. I, § 1.

60. The sidewalk section encompasses a wide range of behavior: any sitting or laying on the Downtown Improvement District’s sidewalks except as a result of medical emergency or physical disability is outlawed unless the sitting or laying is linked to commercial activity.

61. By treating the Plaintiffs—persons who wish to sit and lay on the sidewalks for expressive reasons—differently from those who sit and lay for commercial reasons, § 8.75.180 is both under- and over-inclusive and denies the Plaintiffs equal protection of the law.

62. Since § 8.75.180 violates the Plaintiffs’ right to equal protection, the Court should rule that it is unconstitutional.

**PRAYERS FOR RELIEF**

Plaintiffs Teeka Ballas, UNITE HERE Local 878, Scott A. Kohlhaas, Ruth Sheridan, Alaskans for Peace and Justice, Alaska AFL-CIO, Susan Bright, and Nickolas Moe respectfully pray that this Court will

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1. Declare that Anchorage Municipal Code § 8.75.180 violates Article I, Section 5 of the Alaska Constitution;

2. Declare that Anchorage Municipal Code § 8.75.180 violates Article I, Section 6 of the Alaska Constitution;

3. Declare that Anchorage Municipal Code § 8.75.170 violates Article I, Section 5 of the Alaska Constitution;

4. Declare that Anchorage Municipal Code § 8.75.180 violates Article I, Section 7 of the Alaska Constitution;

5. Declare that Anchorage Municipal Code § 8.75.170 violates Article I, Section 7 of the Alaska Constitution;

6. Declare that Anchorage Municipal Code § 8.75.180 violates Article I, Section 1 of the Alaska Constitution;

7. Enter a preliminary and permanent injunction that orders the Defendant Municipality of Anchorage, its officers, agents, servants, employees, and attorneys to not enforce Anchorage Municipal Code § 8.75.180;

8. Enter a preliminary and permanent injunction that orders the Defendant Municipality of Anchorage, its officers, agents, servants, employees, and attorneys to not enforce Anchorage Municipal Code § 8.75.170;

9. Declare that they are prevailing parties and are constitutional or public interest litigants under Alaska Stat. § 09.60.010(c) and Alaska R. Civ. P. 82;

10. Award them their full and reasonable costs and attorney's fees, as the law allows for public interest litigants who enforce constitutional rights;

11. Tax all other costs to the Defendant Municipality of Anchorage; and

12. Award them all other just and equitable relief.

Dated: January 31, 2013

Respectfully submitted,



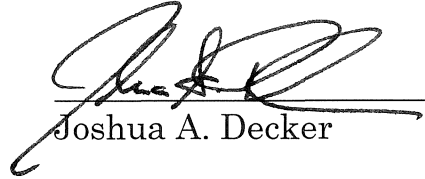
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## Certificate of Typeface

I certify that the text's font is 13-point Century Schoolbook and the footer's font is 10-point Century Schoolbook. Alaska R. Civ. P. 76(a)(3); Alaska R. App. P. 513.5(c).

  
Joshua A. Decker

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**COPY**  
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**JAN 31 2013**

**Clerk of the Trial Court**

**EXHIBIT A**

**Assembly Ordinance No. 2011-112**

CLERK'S OFFICE

**APPROVED**

**11-22-11**

Date: \_\_\_\_\_

Submitted by: Chair of the Assembly at the  
Request of the Mayor

Prepared by: Dept. of Law

For reading: November 8, 2011

**ANCHORAGE, ALASKA**

**AO No. 2011-112**

**AN ORDINANCE AMENDING ANCHORAGE MUNICIPAL CODE TITLE 8 TO ADD  
NEW OFFENSES FOR SITTING OR LYING DOWN ON SIDEWALKS IN THE  
DOWNTOWN IMPROVEMENT DISTRICT AND FOR PEDESTRIAN  
INTERFERENCE, AMENDING SECTION 8.75.170 REGARDING PROHIBITED  
PANHANDLING, AND AMENDING THE FINE SCHEDULE AT SECTION 14.60.030  
ACCORDINGLY.**

**THE ANCHORAGE ASSEMBLY ORDAINS:**

**Section 1.** Anchorage Municipal Code is amended by adding a new section  
8.75.180 to read as follows:

**8.75.180      Sitting or lying down on public sidewalks in downtown  
improvement district.**

A. *Prohibition.* No person shall sit or lie down upon a public sidewalk, or  
upon a blanket, chair, stool, or any other object placed upon a public  
sidewalk, in the Downtown Improvement District, defined as the area  
bounded by 1<sup>st</sup> Avenue on the North, Gambell Street on the East, 9<sup>th</sup>  
Avenue on the South, and L Street on the West, during the hours  
between

1. 6:00 a.m. and 11:59 p.m. on Monday, Tuesday, Wednesday or  
Thursday; or
2. 6:00 a.m. Friday through 2:30 a.m. Saturday; or
3. 6:00 a.m. Saturday through 2:30 a.m. Sunday.

B. *Exceptions.* The prohibition in subsection A shall not apply to any  
person:

1. Sitting or lying down on a public sidewalk due to a medical  
emergency;
2. Who, as the result of a disability, utilizes a wheelchair, walker, or  
similar device to move about;
3. Operating or patronizing a commercial establishment conducted  
on the public sidewalk pursuant to a sidewalk encroachment  
permit under section 24.30.020; or a person participating in or  
attending a parade, festival, performance, race, rally,  
demonstration, meeting, or similar event conducted on the  
public sidewalk pursuant to a right-of-way special activity permit  
under regulation section 9.14.004 or a parade permit under  
regulation chapter 9.36.;
4. Sitting on a chair or bench located on the public sidewalk which

is supplied by a public agency or by the abutting private property owner;

5. Sitting on a public sidewalk within a passenger loading zone while waiting for public or private transportation; or
6. Waiting in line to purchase, receive or deliver an item or gain access to an adjacent property, such as waiting to purchase an item from a street vendor, or tickets at a ticket window, or waiting for an establishment to open to receive or deliver goods or services, so long as the person is as far from the traveled roadway as practicable.

Nothing in any of these exceptions shall be construed to permit any conduct which is prohibited by section 8.30.125, pedestrian interference, or any conduct otherwise prohibited by this code.

- C. No person shall be charged under this section unless the person engages in conduct prohibited by this section after having been notified by a law enforcement officer that the conduct violates this section.
- D. Violation of this section shall be punished by a fine of not more than \$100.00.
- E. As an alternative to the remedies, procedures and penalties provided in this Title and Section 1.45.010, a violation of this section may be charged as a civil violation subject to and prosecuted in accordance with Title 14 and in such case shall be punishable by a civil penalty in accordance with Chapter 14.60.

**Section 2.** Anchorage Municipal Code is amended by adding a new section 8.30.125 to read as follows:

**8.30.125**      **Pedestrian interference.**

A. The following definitions apply in this section:

1. "Obstruct pedestrian or vehicular traffic" means to walk, stand, sit, lie, or place an object in such a manner as to block passage by another person or a vehicle which such other person or vehicle has a right to make, or to require another person or a driver of a vehicle to take evasive action to avoid physical contact. Acts authorized as an exercise of one's constitutional rights, and acts authorized pursuant to a sidewalk encroachment permit under section 24.30.020, a right-of-way special activity permit under regulation section 9.14.004, or a parade permit under regulation chapter 9.36. shall not constitute obstruction of pedestrian or vehicular traffic.
2. "Public place" means a place to which the public or a substantial

group of persons has access and includes, but is not limited to, streets, highways, sidewalks, alleys, transportation facilities, parking areas, convention centers, sports arenas, schools, plazas, parks, and playgrounds.

B. It is unlawful for any person to, in a public place, intentionally and substantially obstruct pedestrian or vehicular traffic.

C. Violation of this section shall, upon conviction, be punished by a fine of not more than \$2,000.00 or imprisonment for not more than 90 days, or both such fine and imprisonment.

**Section 3.** Anchorage Municipal Code section 8.75.170 is hereby amended to read as follows (*the remainder of the section is not affected and therefore not set out*):

**8.75.170 Prohibited panhandling.**

\*\*\*

B. It is [SHALL BE] unlawful to engage in an act of panhandling:

1. After sunset and before sunrise.

2. W[w]hen either the panhandler or the person being solicited is located at any of the following locations:

a. at a bus stop;

b. in any public transportation vehicle or public transportation facility;

c. in a vehicle which is parked or stopped on a public street or alley;

d. in a sidewalk café; or

e. within 20 feet in any direction from an automatic teller machine or entrance to a bank.

3. In the Downtown Improvement District, defined as the area bounded by 1<sup>st</sup> Avenue on the North, Gambell Street on the East, 9<sup>th</sup> Avenue on the South, and L Street on the West.

C. It shall be unlawful to engage in an act of panhandling in an aggressive manner as set forth in 1–6 of this subsection:

\*\*\*

D. *Penalty.* A fine of no more than \$300.00 shall be imposed for any act of panhandling prohibited by [THIS] subsection B. Violations of subsection C. shall, upon conviction, be punished by a fine of not more than \$2,000.00 or imprisonment for not more than 90 days, or both such fine and imprisonment. [FIRST OFFENSE UPON CONVICTION SHALL BE NO LESS THAN \$50.00 OR EIGHT HOURS OF COMMUNITY SERVICE; SECOND OFFENSE UPON CONVICTION SHALL BE NO LESS THAN \$100.00 OR 16 HOURS OF COMMUNITY SERVICE; AND THIRD OFFENSE UPON CONVICTION SHALL BE NO LESS THAN \$300.00 OR]

1. As an alternative to the remedies, procedures and penalties provided in this section and section 14.5.010, a violation of subsection B. may be charged as a civil violation subject to and prosecuted in accordance with Title 14 and in such case shall be punishable by a civil penalty in accordance with chapter 14.60. This alternative is not available for violations of subsection C.
2. A defendant may offset fines imposed for a violation of subsection B. by voluntary participation in an approved community service program, alcohol, drug or other appropriate rehabilitation program, or job training program, if any such programs are available.
3. A court imposing fines for a violation of subsection C. may order the defendant to complete an approved community service program; alcohol, drug or other appropriate rehabilitation program; or job training program, if any such programs are available.
4. For each hour of community service completed, the court or administrative hearing officer shall offset the fine by an amount equal to the current minimum wage required by the Alaska Wage and Hour Act, AS 23.10.
5. Upon presenting proof of completion of an alcohol, drug, or other appropriate rehabilitation program to the court or administrative hearing officer, [. A]any fees paid toward rehabilitation treatment shall [MAY] offset any fines imposed [PAID FOR FIRST OR SUBSEQUENT OFFENSES].

(AO No. 2004-109, § 1, 8-17-04)

**Section 4.** Anchorage Municipal Code section 14.60.030 is amended to read as follows *(the remainder of the section is not affected and therefore not set out)*:

**14.60.030                      Fine schedule.**

The fine schedule under this chapter is as follows:

TABLE INSET:


<u>Code Section</u>	<u>Offense</u>	<u>Penalty/Fine</u>
***	***	***
<u>8.75.170B.</u>	<u>Prohibited panhandling</u>	<u>up to 300.00</u>
<u>8.75.180</u>	<u>Sitting/lying down on sidewalks</u>	<u>up to 100.00</u>
	<u>in Downtown Improvement District</u>	
***	***	***

(AO No. 93-167(S-1), § 1, 4-13-94; AO No. 94-108, § 1, 10-5-94; AO No. 94-134, § 2, 9-8-94; AO No. 95-42, § 2, 3-23-95; AO No. 95-67(S), § 9, 7-1-95; AO No. 95-102, § 1, 4-26-95; AO No. 95-118, § 3, 9-1-95; AO No. 95-

163(S), § 21, 8-8-95; AO No. 95-195(S-1), 1-1-96; AO No. 96-51(S-1), § 2,  
8-1-96; AO No. 96-96(S-1), § 2, 2-1-97; AO No. 96-126(S), § 3, 10-1-96;  
AO No. 96-137(S), § 9, 1-2-97; AO No. 97-88, § 3, 6-3-97; AO No. 97-107,  
§ 3, 11-17-97; AO No. 97-133(S), § 1, 11-11-97; AO No. 98-27(S-1), § 2,  
11-11-97; AO No. 98-160, § 2, 12-8-98; AO No. 99-13(S), 2-9-99; AO No.  
99-91(S), § 4, 7-13-99; AO No. 2000-64, § 1, 4-18-00; AO No. 2000-  
116(S), § 4, 7-18-00; AO No. 2000-127(S), § 2, 10-14-00; AO No. 2000-  
129(S), § 26, 11-21-00; AO No. 2001-48, § 1, 3-13-01; AO No. 2001-74(S),  
§ 2, 4-17-01; AO No. 2001-4, § 2, 2-6-01; AO No. 2001-145(S-1), § 11, 12-  
11-01; AO No. 2003-68, § 1, 9-30-03; AO No. 2003-97, § 4, 9-30-03; AO  
No. 2003-117, § 2, 1-28-03; AO No. 2003-130, § 8, 10-7-03; AO No. 2003-  
152S, § 10, 1-1-04; AO No. 2004-1, § 2, 1-1-03; AO No. 2004-99, § 2, 6-  
22-04; AO No. 2004-100(S-1), § 6, 1-1-05; AO No. 2004-171, § 1, 1-11-05;  
AO No. 2005-160, § 9, 11-1-05; AO No. 2005-84(S), § 3, 1-1-06; AO No.  
2005-185(S), § 35, 2-28-06; AO No. 2005-124(S-1A), § 33, 4-18-06; AO  
No. 2006-39, § 6, 4-11-06; AO No. 2006-54, § 1, 5-2-06; AO No. 2006-80,  
§ 1, 6-6-06; AO No. 2007-50, § 4, 4-10-07; AO No. 2007-60, § 4, 11-1-07;  
AO No. 2007-70, § 3, 5-15-07; AO No. 2008-84(S), § 5, 7-15-08; AO No.  
2009-61, § 3, 7-7-09; AO No. 2009-82, § 5, 7-7-09; AO No. 2009-40(S), §  
3, 7-21-09; AO No. 2009-112, § 4, 10-13-09; AO No. 2009-122, § 2, 12-17-  
09; AO-2010-35(S), § 4, 5-11-10; AO No. 2010-39, § 2, 5-11-10; AO No.  
2010-87(S), § 3, 12-7-10; AO No. 2011-46, § 4, 4-12-11; AO No. 2011-59,  
§ 10, 5-24-11)

**Section 5.** This ordinance shall become effective thirty (30) days after passage  
and approval by the Anchorage Assembly.

PASSED AND APPROVED by the Anchorage Assembly this 22<sup>nd</sup> day of  
November, 2011.

  
Chair of the Assembly

ATTEST:

  
Municipal Clerk

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**Clerk of the Trial Court**

**EXHIBIT B**

**Anchorage Municipal Code § 8.75.180**

**8.75.180 - Sitting or lying down on public sidewalks in downtown improvement district.**

A. *Prohibition.* No person shall sit or lie down upon a public sidewalk, or upon a blanket, chair, stool, or any other object placed upon a public sidewalk, in the Downtown Improvement District, defined as the area bounded by 1<sup>st</sup> Avenue on the North, Gambell Street on the East, 9<sup>th</sup> Avenue on the South, and L Street on the West, during the hours between

1. 6:00 a.m. and 11:59 p.m. on Monday, Tuesday, Wednesday or Thursday; or
2. 6:00 a.m. Friday through 2:30 a.m. Saturday; or
3. 6:00 a.m. Saturday through 2:30 a.m. Sunday.

B. *Exceptions.* The prohibition in subsection A. shall not apply to any person:

1. Sitting or lying down on a public sidewalk due to a medical emergency;
2. Who, as the result of a disability, utilizes a wheelchair, walker, or similar device to move about;
3. Operating or patronizing a commercial establishment conducted on the public sidewalk pursuant to a sidewalk encroachment permit under section 24.30.020; or a person participating in or attending a parade, festival, performance, race, rally, demonstration, meeting, or similar event conducted on the public sidewalk pursuant to a right-of-way special activity permit under regulation section 9.14.004 or a parade permit under regulation chapter 9.36
4. Sitting on a chair or bench located on the public sidewalk which is supplied by a public agency or by the abutting private property owner;
5. Sitting on a public sidewalk within a passenger loading zone while waiting for public or private transportation; or
6. Waiting in line to purchase, receive or deliver an item or gain access to an adjacent property, such as waiting to purchase an item from a street vendor, or tickets at a ticket window, or waiting for an establishment to open to receive or deliver goods or services, so long as the person is as far from the traveled roadway as practicable.

Nothing in any of these exceptions shall be construed to permit any conduct which is prohibited by section 8.30.125, pedestrian interference, or any conduct otherwise prohibited by this Code.

C. No person shall be charged under this section unless the person engages in conduct prohibited by this section after having been notified by a law enforcement officer that the conduct violates this section.

D. Violation of this section shall be punished by a fine of not more than \$100.00.

E. As an alternative to the remedies, procedures and penalties provided in this title and section 1.45.010, a violation of this section may be charged as a civil violation subject to and prosecuted in accordance with Title 14 and in such case shall be punishable by a civil penalty in accordance with

chapter 14.60

(AO No. 2011-112, § 1, 11-22-11, eff. 12-22-11)

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**EXHIBIT C**

**Anchorage Municipal Code § 8.75.170**

### **8.75.170 - Prohibited panhandling.**

A. As used in this section, *panhandling* means any solicitation made in person upon any street, public place or park in the city, in which a person requests an immediate donation of money or other gratuity from another person, and includes but is not limited to seeking donations:

1. By vocal appeal or for music, singing, or other street performance; and
2. Where the person being solicited receives an item 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.

However, panhandling shall not include the act of passively standing or sitting nor performing music, singing or other street performance with a sign or other indication that a donation is being sought, without any vocal request other than in response to an inquiry by another person.

B. It is unlawful to engage in an act of panhandling:

1. After sunset and before sunrise.
2. When either the panhandler or the person being solicited is located at any of the following locations:
  - a. At a bus stop;
  - b. In any public transportation vehicle or public transportation facility;
  - c. In a vehicle which is parked or stopped on a public street or alley;
  - d. In a sidewalk café; or
  - e. Within 20 feet in any direction from an automatic teller machine or entrance to a bank.
3. In the Downtown Improvement District, defined as the area bounded by 1<sup>st</sup> Avenue on the North, Gambell Street on the East, 9<sup>th</sup> Avenue on the South, and L Street on the West.

C. It shall be unlawful to engage in an act of panhandling in an aggressive manner as set forth in 1. through 6. of this subsection:

1. Touching the solicited person without the solicited person's consent;
2. Panhandling a person while such person is standing in line and waiting to be admitted to a commercial or public establishment;
3. Blocking the path of a person being solicited, or the entrance to any building or vehicle;
4. Persisting in closely following or approaching a person, after the person solicited has 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;

5. Using profane or abusive language, either during the solicitation or following a refusal to make a donation, or making any statement, gesture, or other communication which would cause a reasonable person to be fearful or coerced to make a donation; or

6. Panhandling in a group of two or more persons.

D. Penalty. A fine of no more than \$300.00 shall be imposed for any act of panhandling prohibited by subsection B. Violations of subsection C. shall, upon conviction, be punished by a fine of not more than \$2,000.00 or imprisonment for not more than 90 days, or both such fine and imprisonment.

1. As an alternative to the remedies, procedures and penalties provided in this section and section 1.45.010, a violation of subsection B. may be charged as a civil violation subject to and prosecuted in accordance with Title 14 and in such case shall be punishable by a civil penalty in accordance with chapter 14.60. This alternative is not available for violations of subsection C.

2. A defendant may offset fines imposed for a violation of subsection B. by voluntary participation in an approved community service program, alcohol, drug or other appropriate rehabilitation program, or job training program, if any such programs are available.

3. A court imposing fines for a violation of subsection C. may order the defendant to complete an approved community service program; alcohol, drug or other appropriate rehabilitation program; or job training program, if any such programs are available.

4. For each hour of community service completed, the court or administrative hearing officer shall offset the fine by an amount equal to the current minimum wage required by the Alaska Wage and Hour Act, AS 23.10.

5. Upon presenting proof of completion of an alcohol, drug, or other appropriate rehabilitation program to the court or administrative hearing officer, any fees paid toward rehabilitation treatment shall offset any fines imposed.

(AO No. 2004-109, § 1, 8-17-04; AO No. 2011-112, § 3, 11-22-11, eff. 12-22-11)

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**EXHIBIT D**

**November 29, 2011 email from  
Municipal Attorney Dennis A. Wheeler**

**From:** Gruenstein, Barbara E.  
**Sent:** Tuesday, November 29, 2011 10:40 AM  
**To:** !MAS Assembly Members  
**Subject:** FW: Safe Sidewalk ordinance - contact with the ACLU  
**Importance:** High

---

**From:** Wheeler, Dennis A.  
**Sent:** Tuesday, November 29, 2011 10:39 AM  
**To:** Gruenstein, Barbara E.  
**Cc:** Sullivan, Dan; Erkmann, Sarah A.; Vakalis, George J.; Tucker, Julia  
**Subject:** Safe Sidewalk ordinance - contact with the ACLU

Barbara – please distribute to the Assembly. Thanks

Assembly members – at the last Assembly meeting, in an exchange with Assembly member Traini, I said the safe sidewalk ordinance had been “run by” the ACLU and the ACLU had no objections. This was a poor choice of words. I knew the ACLU had been reviewing the original ordinance since its introduction in July. I believed the ACLU was also aware of the revised version. I also thought at least one assembly member had told me they had shared the ordinance with the ACLU.

In any event, my office did not directly send a copy of the ordinance to the ACLU. My poor choice of words would certainly give the impression that my office had sent the ordinance directly to the ACLU.

It is true the ACLU did not send us any comments, as they have in the past on other ordinances. It is also appears the ACLU did not speak to either version of the ordinance during the public hearings.

I understand from recent news stories that the ACLU is concerned about the ordinance. It has been suggested the concern has to do with the hours specified in the ordinance, but I do not know the specifics.

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**EXHIBIT E**

***Homeless Man's Sit-Down Protest Irritates Mayor***  
**Rosemary Shinohara, Anchorage Daily News, July 19, 2011**

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Police identify woman found dead at Russian Jack park

## Homeless man's sit-down protest irritates mayor

Published: July 19, 2011



John Martin was camped out in front of City Hall July 15, 2011, but since then has moved across the street. Martin is protesting Mayor Dan Sullivan's policy of clearing homeless camps in Anchorage.

BOB HALLINEN / Anchorage Daily News [Buy Photo](#)

Protest against homeless policy exposes hole in city law.

By ROSEMARY SHINOHARA  
[rshinohara@adn.com](mailto:rshinohara@adn.com)

Mayor Dan Sullivan, prompted by a homeless man's sit-down protest downtown, wants a law that would make it illegal to sit or recline on city center sidewalks, with some exceptions.

**Exhibit E**  
**Page 1 of 3**

The proposal is up for public hearing before the Anchorage Assembly on Tuesday.

The idea of a new law came up, said city attorney Dennis Wheeler, because the administration wanted to remove John Martin. Martin hung out with his blanket on the City Hall sidewalk for days and nights in late June. He is now set up on the sidewalk kitty-corner from City Hall at Sixth Avenue and G Street.

Martin said Tuesday that he is protesting the mayor's treatment of homeless people -- particularly, the city's decision to take and destroy some homeless people's possessions during the course of clearing out illegal camps on public property around town.

"We got calls and complaints about this guy sitting and camping on the sidewalk," said Wheeler. "So we looked at our code and we didn't have anything that specifically addressed sleeping or sitting on the sidewalk," Wheeler said.

The city was able to get a judge to rule that Martin had violated a prior court order that he not camp on municipal property, and to order him off the City Hall block, said Wheeler.

But that didn't take care of the larger issue -- no law against sitting or lying on a sidewalk, said Wheeler.

"The main point of it is we don't want a situation where people are blocking the free flow of pedestrians on sidewalks," said Wheeler. "We don't want that in turn to lead to aggressive panhandling."

Under the proposed law, the ban on sitting or reclining would not apply in several circumstances, including if the person was having a medical emergency; attending a permitted parade, rally, demonstration or other event; or grown weary waiting for a bus in a passenger loading area.

Several Anchorage Assembly members say they have questions or concerns about the proposed law.

Patrick Flynn, who represents downtown, questioned whether the law was just about the one guy staging his protest near City Hall.

"Typically laws of general application aren't written for a single circumstance," Flynn said.

"I just want to know who's paying for it," said Assemblyman Dick Traini.

"Frankly we've gone all these years without needing that specific ordinance," said Assemblyman Paul Honeman. "Why now?"

Honeman has put the issue on the agenda of an Assembly Public Safety Committee meeting at noon Thursday at city offices on Elmore Road, and the Assembly has scheduled a work session on it at 12:30 p.m. Friday in City Hall.

Jeffrey Mittman, executive director of the ACLU of Alaska, said the ACLU is reviewing the proposal. The city has a responsibility to make sure streets and sidewalks are safe, but must also protect First Amendment rights of people to do things like protests and street performances, he said.

Chris Schutte, who directs the Anchorage Downtown Partnership, said the ordinance sounds like a good idea.

Downtown Partnership staffers get people up and moving downtown by talking with them, Schutte said. That works most of the time.

But the ordinance would be useful for police when people are unwilling to move, he said. The proposed ordinance carries a maximum fine of \$100 and would only be in effect from 6 a.m. to 10 p.m.

Schutte said he saw a visitor who was reading a map and walking on the sidewalk trip over Martin when Martin was lying on the sidewalk. "It's a potential risk to public safety to have blankets and things sitting on the sidewalk."

The no-sitting-on-the-sidewalk ordinance is one of several steps Sullivan has taken since he became mayor to manage the homeless population and crack down on panhandling.

In May, Sullivan relaunched an old campaign to urge people not to give money to panhandlers, particularly drivers handing money to panhandlers on roadways.

This summer, under a revised city law, the city has also been clearing out illegal homeless camps in woods around town.

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Reach Rosemary Shinohara at [rshinohara@adn.com](mailto:rshinohara@adn.com) or 257-4340.

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**EXHIBIT F**

**Assembly Memorandum No. 618-2011**

# MUNICIPALITY OF ANCHORAGE

## ASSEMBLY MEMORANDUM

No. AM 618-2011

Meeting Date: November 8, 2011

**From: MAYOR**

**Subject: AN ORDINANCE AMENDING ANCHORAGE MUNICIPAL CODE TITLE 8 TO ADD NEW OFFENSES FOR SITTING OR LYING DOWN ON SIDEWALKS IN THE DOWNTOWN IMPROVEMENT DISTRICT AND FOR PEDESTRIAN INTERFERENCE, AMENDING SECTION 8.75.170 REGARDING PROHIBITED PANHANDLING, AND AMENDING THE FINE SCHEDULE AT SECTION 14.60.030 ACCORDINGLY.**

This ordinance is part of a continuum of methods and tools needed to protect the public. While this ordinance may discourage the use of sidewalks and other public places for sleeping and panhandling that can be associated with homelessness, it was not created in a vacuum. This administration has spearheaded initiatives to address homelessness and expand the community's ability to serve our most vulnerable citizens with care and compassion in a practical and effective approach. In conjunction with this effort, the administration has also implemented measures to police and clean up parks, open spaces and other municipal properties to reduce crime and hazardous conditions associated with illegal camping. The administration seeks to protect the vulnerable from heinous crimes, but also protect the purposes of municipal property, and the safety of people using municipal property.

The ordinance complements the opening of Karluk Manor, Anchorage's first "Housing First" project enabled by AO 2010-3 allowing this type of conditional use, and the implementation of the Cold Weather Plan for Homeless Persons enacted by AO 2010-46. The administration has recognized a primary solution for the city's homeless population is a greater supply of truly affordable housing and shelter capacity. This ordinance is intended to enable law enforcement officers to discourage misuse of public spaces, especially when available alternatives exist. At the same time, the homeless population may discover the increasing services available to them whether they need employment, housing or addiction services. Groups such as RuralCap, NeighborWorks, the Salvation Army, Volunteers of America and others have received millions of dollars in grants the municipality directed to them and offer compassionate and safe alternatives to illegal camping in parks or on sidewalks, panhandling and other activities that are, to a certain degree, detrimental to the public health, safety and welfare.

This ordinance furthers the Municipality's significant government interests in providing free, safe passage and use for all citizens and visitors using our downtown sidewalks, city intersections, and other public spaces. It is important to protect the aesthetics and significant economic vitality of the downtown central business district, a hub of the state's valuable tourism industry. The ordinance does not unduly impede an individual's right to exercise First Amendment rights.

Section 1 adds a new offense prohibiting sitting or lying down on public sidewalks in the Downtown Improvement District during hours when downtown is typically active with vehicle and pedestrian traffic. It exempts reasonable justifications such as a medical condition, disability, or under permits for sidewalk encroachments or special events, or when waiting in a passenger loading zone, such as a bus stop. Before a person can be cited for a violation, they must continue their conduct after receiving a warning that they are violating this new section. This section is modeled on laws from other jurisdictions which have withstood legal challenges.

Section 2 of the ordinance adds a new offense, pedestrian interference, penalized as a misdemeanor. Pedestrian interference addresses situations where a person intentionally blocks or impedes the travel of others in a substantial way; the language is modeled after an ordinance in the Seattle Municipal Code which was upheld in court. Adoption of this offense provides another tool for protecting the public convenience and safety in our increasingly urban city, without unduly burdening those who seek to peaceably exercise their First Amendment rights.

Section 3 amends the existing panhandling ordinance to add prohibitions on panhandling at nighttime and at anytime within the Downtown Improvement District. It is also restructured to make it easier for peace officers to identify and cite the specific conduct prohibited, revises the penalties section so a civil fine can be imposed in lieu of a criminal citation, and is amenable to disposition by the administrative hearing officer. Aggressive panhandling, as a more serious offense involving victimization through fear and intimidation tactics, is reclassified to the misdemeanor level.

This ordinance does not require any increased expenditure, and any revenues are anticipated to be minimal, thus a summary of economic effects is not required.

**THE ADMINISTRATION RECOMMENDS APPROVAL OF AN ORDINANCE AMENDING ANCHORAGE MUNICIPAL CODE TITLE 8 TO ADD NEW OFFENSES FOR SITTING OR LYING DOWN ON SIDEWALKS IN THE DOWNTOWN IMPROVEMENT DISTRICT AND FOR PEDESTRIAN INTERFERENCE, AMENDING SECTION 8.75.170 REGARDING PROHIBITED PANHANDLING, AND AMENDING THE FINE SCHEDULE AT SECTION 14.60.030 ACCORDINGLY.**

Prepared by:	Dean T. Gates, Asst. Municipal Attorney
Approved by:	Dennis A. Wheeler, Municipal Attorney
Concur:	George J. Vakalis, Municipal Manager
Respectfully submitted:	Daniel A. Sullivan, Mayor

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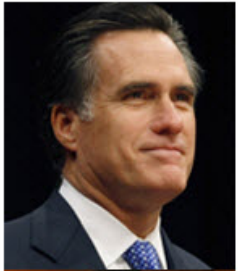
**EXHIBIT G**

***Anchorage Lawmakers Approve  
New Ordinance Banning Sidewalk Sitting,***  
**Jason Lamb, KTUU Channel 2 News, Nov. 22, 2011**



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## Anchorage Lawmakers Approve New Ordinance Banning Sidewalk Sitting

November 22, 2011 | By Jason Lamb | Channel 2 News

ANCHORAGE, Alaska — Sidewalk sitting on downtown Anchorage streets will now be against the law under the provisions of a new ordinance passed by the Anchorage Assembly Tuesday night.

Assembly members Dick Traini, Debbie Ossiander, Ernie Hall, Bill Starr, Adam Trombley, Jennifer Johnston and Chris Birch voted for the new ordinance. Paul Honeman, Elvi Gray-Jackson, Harriet Drummond and Patrick Flynn voted against it.

Anchorage Mayor Dan Sullivan had introduced an original version of the ordinance back in July, after homeless man John Martin began sitting on a sidewalk street corner next to city hall in protest to Sullivan's stance on dealing with the homeless population in Anchorage.

The Anchorage Assembly couldn't get enough votes to postpone the ordinance in the summer so it could be examined closer in committee, so most of the assembly members voted to do away with the proposal altogether.

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As with the original law, the new version does account for some exceptions to the sidewalk sitting ban, such as medical emergencies, watching a parade or waiting for a bus.

The new version of the law expands the hours that it's illegal to sit or lie down on downtown sidewalks.

While the old version outlawed the practice between 6 a.m. and 10 p.m. seven days a week, the new ordinance banned it from 6 a.m. through midnight Monday through Thursday, and 6 a.m. through 2:30 a.m. the next morning on Friday and Saturday.

Martin appeared at Tuesday's assembly meeting and spoke in front of the 11 city leaders.

"Apparently it's OK to protest, as long as you don't protest the mayor," Martin said.

The ACLU of Alaska questioned the revised times, calling the ordinance too broad.

"The ordinance as it's proposed would bar sidewalk sitting at 6 o'clock in the morning on a Saturday," said Tom Stenson of ACLU of Alaska. "Anchorage is just not busy at a lot of the times that are in there."

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Sullivan backs the revisions, pointing to case law that has been upheld in other cities like Seattle and Portland.

"We often times have events downtown," said Sullivan. "We have marathons and other events downtown, and people are setting up and getting organized very early in the morning sometimes. The times on these are somewhat arbitrary, but you have to set some time and that's when we started."

The law also sets stricter rules for panhandling in Anchorage, banning it completely downtown, and in the rest of the municipality anytime after sunset and before sunrise.

Assembly members discussed the ordinance before the vote.

"I believe that it does just what it asks me to do," said Chugiak/Eagle River assemblyman Starr. "I'm elected by the public to support the greater good."

Others disagreed with the law: "This law won't do a damn thing," said Honeman before voting against the law. Honeman represents East Anchorage on the assembly, and he is also a candidate for mayor in 2012.

The new ordinance becomes law on December 22, 30 days after the assembly approved it.

*Contact [Jason Lamb](#)*

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