

Browne v. Grand Junction

Regulation of speech related to panhandling is content based thus subject to strict scrutiny.

“Grand Junction has not shown—and the Court does not believe—that a solicitation for money or other thing of value is a threat to public safety.”

“At times, threatening behavior may accompany panhandling, but the correct solution is not to outlaw panhandling. The focus must be on the threatening behavior.”

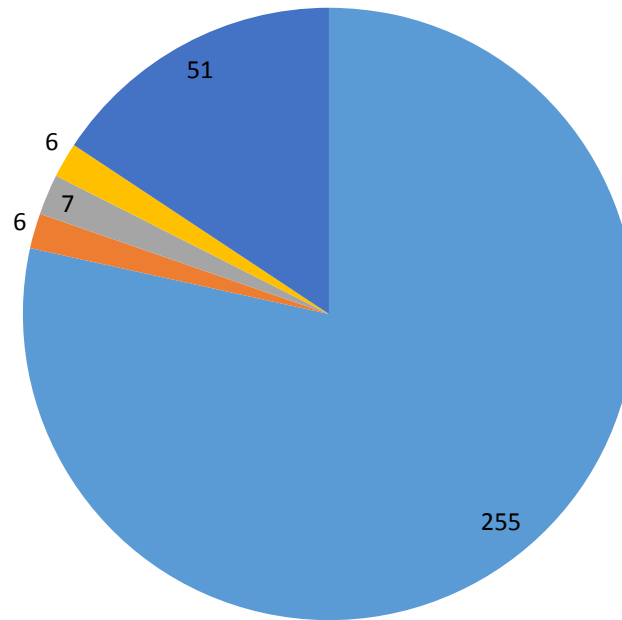
Regulation of Criminal Behavior

Can still enforce criminal behavior associated with panhandling

- Assault
- Obstructing passage
- Disturbing the peace
- Criminal Threat
- Trespass
- Prohibited crossing of roadway
- Soliciting from roadway
- Harassment

In 2014 there were 325 Citations for violations of DRMC 38-132

D.R.M.C. 38-132 Violations



■ Aggressive Panhandling ■ Private Property ■ Public Transportation ■ Entrance ■ After Dark

Proposed Amendments to 38-132

Defining Aggressive Panhandling

~~Continuing to solicit from a person after the person has given a negative response to such soliciting;~~

Intentionally touching or causing physical contact with another person without that person's consent in the course of soliciting;

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;

Using violent or threatening gestures toward a person solicited;

~~Persisting in closely following or approaching the person being solicited, with the intent of asking that person for money or other things of value, 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 anything of value to the solicitor;~~

Using profane or abusive language which is likely to provoke an immediate violent reaction from the person being solicited;

~~Soliciting money from anyone who is waiting in line for tickets, for entry to a building, or for another purpose.~~

Approaching or following a person for solicitation as part of a group of two (2) or more persons, in a manner and with conduct, words, or gestures intended or likely to cause a reasonable person to fear imminent bodily harm or damage to or loss of property or otherwise to be intimidated into giving money or other thing of value.

Proposed Amendments to 38-132- Prohibited Acts

No person shall engage in aggressive panhandling in any public place.

No person shall panhandle on private or residential property after having been asked to leave or refrain from panhandling by the owner or other person lawfully in possession of such property.

~~No person shall panhandle within twenty feet of public toilets.~~

~~No person shall panhandle within twenty (20) feet of any automated teller machine. Provided, however, that when an automated teller machine is located within an automated teller machine facility, such distance shall be measured from the entrance or exit of the facility.~~

No person shall solicit from any operator or occupant of a motor vehicle on a public street in exchange for blocking, occupying, or reserving a public parking space, or directing the operator or occupant to a public parking space.

~~No person shall panhandle in any public transportation vehicle, or within twenty (20) feet of any bus, train, or light rail station or stop, or within the bus transit lane on the 16th Street Mall, or in any public parking lot or structure.~~

~~No person shall panhandle within six (6) feet of an entrance to a building.~~

~~No person shall panhandle within twenty (20) feet of any pay telephone, provided that when a pay telephone is located within a telephone booth or other facility, such distance shall be measured from the entrance or exit of the telephone booth or facility.~~

~~No person shall solicit or panhandle after dark, which shall mean one half hour after sunset until one half hour before sunrise.~~

~~No person shall solicit or panhandle within twenty (20) feet of any outdoor patio where food or drink are served.~~

Continued Enforcement Post Amendment

The Prosecution and Code Enforcement staff examined all 325 citations issued in 2014 to see which subsections of D.R.M.C. 38-132 were implicated and the impact the proposed ordinance would have on future enforcement.

244 of the 325 cases would still be citable offenses under the proposed ordinance.

Of the remaining 81 cases, the majority (51) were for soliciting after dark.