

## Anti-Panhandling Laws – Important Case Law and Frequently Asked Questions

### I. Important Cases

#### **Opinion, *City of Lakewood v. Willis*, Case No. 91827-9 (Wash. S. Ct. 2016).**

Robert Willis was convicted of violating Lakewood, Washington’s anti-begging statute for standing at a freeway exit ramp near the intersection with a city street holding a sign asking for help. The Washington Supreme Court agreed with Willis that the restriction unconstitutionally violated his right to free speech and reversed his conviction. *Willis* explains that the First Amendment protects speech in traditionally public forums like streets, sidewalks, and parks, and laws banning certain speech (like panhandling) in these forums are content-based and therefore unconstitutional. The Lakewood ordinance restricted a single kind of speech, begging. And it restricted this speech in “a substantial number of locations” that are traditionally public forums, where speech has the most constitutional protection. *Willis* creates an argument for defeating local ordinances that unfairly criminalize panhandling.

### II. Frequently Asked Questions

**What is panhandling, and how do I know if it is the subject of a law?** Panhandling may be described as begging or soliciting, or some laws call it “aggressive panhandling.” An ordinance in the City of Lakewood defined it as the act of “asking for money or goods as charity, whether by words, bodily gestures, signs or other means.” If a law restricts asking for money in public, it is likely referring to panhandling. Laws may differ from city to city in terms of what specific kinds of speech is banned (for instance one city may ban all solicitations, while another may only prohibit “aggressive panhandling”). Cities may also differ in terms of *where* panhandling is banned, and some cities may be more restrictive than others.

**Does the First Amendment protect panhandling?** Yes. As the *Willis* Court explains, the U.S. Supreme Court has held that the First Amendment covers “charitable appeals for funds.” Because of this, panhandling, solicitation, or begging are protected speech under the First Amendment.

**How do I know if a forum is “traditionally public?”** Legal cases classify the types of forum where expressive activity is occurring as traditionally public, “limited” or “designated” public, or nonpublic. The type of government restrictions on speech that the law allows depends on whether the location of the activity and the place where regulations apply are classified as one of these types of forum.

A traditional public forum is a place accessible to the public and historically used by the members of the public to assemble and debate. Limited or designated public forums are places where the public has access only for specific purposes, and nonpublic forums are places where there is no general right of public access.

**What public property have Washington Courts found to be traditionally public forums?**

Washington courts have held that streets, sidewalks, parking strips, and parks are traditionally public forums. The *Willis* Court explained how the ordinance applicable to the panhandler in that case impacted speech in traditionally public forums.

**Can the government restrict protected speech in traditionally public forums?** Yes, but only in some ways, as speech is most heavily protected in traditionally public forums. The government may regulate speech in relation to time, manner, and place (for example, a noise ordinance regulates the “manner” of speech by regulating how loud speech can be). These restrictions are not allowed to address content, however.

**What is a “content-based” restriction?** Restrictions that are content-based allow some speech and not other types of speech at the same location, or they impose different rules for the same type of speech. They are not aimed at restricting the time, place, or manner. For example, if signs about certain topics are allowed at one location without a permit but signs informing people of the times and location of church services require a permit, the ordinance is improperly content-based. As one court explained, content-based laws “target speech based on its communicative content.” Another example is if speech telling people to have a nice day is allowed when some people say it, but punished if it is included on a panhandler’s sign. If a law specifies a type of speech as restricted, (for instance asking for money), it is regulating content and violating freedom of speech.

**Are bans on panhandling unconstitutional?** Most likely, yes. The Washington Supreme Court ruled in *City of Lakewood v. Willis* that a law specifically banning asking for money in traditionally public forums like sidewalks and parks, while allowing other forms of speech in those same locations, violates the Constitutional right to free speech, because the restriction is content based. Because these laws target and criminalize a specific kind of speech occurring in a traditionally public forum, rather than placing limits on the time, manner, and place of speech, they are a violation of the First Amendment.