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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

Amy Hughes; Denise Carr; and Gabriel Gilbert, *Plaintiffs;* v. City of Glendale, *Defendant.*	CASE NO. CV-25-02681-PHX-KML **MOTION FOR PRELIMINARY INJUNCTION AND SUPPORTING MEMORANDUM OF POINTS AND AUTHORITIES**

Plaintiffs Amy Hughes, Denise Carr, and Gabriel Gilbert move to preliminarily enjoin Defendant City of Glendale from enforcing Glendale City Code sections 24-161(b) and 26-74.

INTRODUCTION

In 2022, the City of Glendale ("Glendale" or "the City") enacted Ordinances O22-67 (the "Panhandling Ordinance") and O22-66 (the "Street and Median Ordinance") which prohibit the solicitation of money, goods, or services—a practice commonly known as

"panhandling"—in many places and in any manner deemed "aggressive," as well as pedestrian presence in crosswalks and medians for any expressive purpose. Plaintiffs have curbed their panhandling for fear of arrest and harassment by the police. Without the Court's intervention, Glendale will continue to infringe on its residents' constitutional rights. The case for a preliminary injunction is clear and in line with decisions across the country in which courts have routinely ruled that ordinances nearly identical to Glendale's are unconstitutional.

FACTUAL BACKGROUND

On September 13, 2022, the Glendale City Council gathered at a workshop to hear a proposal to amend Sections 26-74 and 24-161 of its City Code. *See generally* Complaint ¶¶ 19–21. On October 11, 2022, the Glendale City Council voted to enact the Street and Median Ordinance and the Panhandling Ordinance. Complaint ¶ 22; Ex. A, B.

The Panhandling Ordinance prohibits solicitation, which Glendale later defined in Ordinance 023-04 (the "Definitions Ordinance") to include both panhandling and charitable solicitation for an "immediate donation or transfer of money or other thing of value… regardless of the solicitor's purpose[.]" Complaint ¶¶ 26–27; Ex. C; Glendale City Code § 26-74 (all "§" references are to this Code unless otherwise indicated). Solicitation includes communication "by spoken, written, or printed word, or by other means[.]" *Id.* Thus, even passive and silent solicitors sitting next to a sign or a tin cup seeking spare change are covered by the Panhandling Ordinance's prohibitions. Similarly, a person passively soliciting funds for a school or charitable organization is covered by the law.

The Panhandling Ordinance establishes extensive no-solicitation buffer zones on public sidewalks and other public places throughout the entire City. Complaint ¶ 28; Ex. B; § 26-74(a)(2)–(6). Solicitation is prohibited in any public transportation vehicle or bus stop; within 50 feet of all banks, ATMs or other financial institutions; on private property if the person has been asked not to solicit there; within 25 feet of any business or "privately owned establishment"; and from any operator of a motor vehicle. *Id.* The Panhandling Ordinance also prohibits "aggressive" solicitation in any public place. Complaint ¶ 30; Ex. B; § 26-74(a)(1). The Definitions Ordinance defines "aggressive" to include a broad range of conduct, from "requiring the person [being solicited]… to take evasive action to avoid physical contact[,]" to "[a]pproaching the person being solicited in a manner that… "is reasonably likely to intimidate the person being solicited into responding affirmatively[.]" Complaint ¶ 30; Ex. C; § 26-74(c).

The Street and Median Ordinance prohibits any pedestrian from stopping in the road or on a median or traffic island "not designated for use by pedestrians except to wait to cross the roadway at the next pedestrian signal[.]" Complaint ¶ 33; Ex. A; § 24-161(b). Pedestrians—including panhandlers and demonstrators passively holding a sign—are forbidden from being in places they are otherwise permitted to be, including crosswalks and the medians or traffic islands that interrupt crosswalks, if their purpose is anything other than "wait[ing] to cross the roadway at the next pedestrian signal"—that is, if their purpose is expressive. *Id.*

Plaintiffs Amy Hughes ("Amy"), Denise Carr ("Denise"), and Gabriel Gilbert ("Gabriel") are poor and were recently homeless. Complaint ¶¶ 40–49. Declarations of

Amy Hughes ("Hughes Decl.") ¶¶ 4–6, Denise Carr ("Carr Decl.") ¶¶ 3–5, and Gabriel Gilbert ("Gilbert Decl.") ¶¶ 3–5. All three plaintiffs rely on contributions from passersby to obtain money for food, gas, bus fare, or shelter. Hughes Decl. ¶ 7, Carr Decl. ¶ 5, Gilbert Decl. ¶ 5. Amy has solicited on public sidewalks outside convenience stores and at highly-trafficked intersections. Hughes Decl. ¶ 8. When soliciting at intersections, she holds a sign and works with a friend who steps into the roadway to accept donations. *Id.* Denise, Gabriel, and their dog lived out of their car until recently. Carr Decl. ¶ 3, Gilbert Decl. ¶ 3. They had to keep the engine running to avoid overheating in the summer. Carr Decl. ¶ 5. Denise frequently stood on a public sidewalk outside a gas station, asking pedestrians for money to fill her gas tank. Carr Decl. ¶ 6. Gabriel has stood on a public sidewalk outside a grocery store asking pedestrians for money to buy food or dog food. ¶ 6. Plaintiffs' speech is chilled by the threat of arrest, fines and imprisonment. Hughes Decl. ¶ 10, Carr Decl. ¶ 9, Gilbert Decl. ¶ 9.

Before enacting the ordinances, the Glendale City Council was not presented with any statistics, testimony, or other evidence that demonstrated a need for either ordinance. Glendale City Council, *Sep. 13, 2022 City Council Workshop*, WWW.GLENDALEAZ.COM (Sep. 13, 2022), https://glendaleaz.new.swagit.com/videos/184283 at 0:47–38:39; Glendale City Council, *Oct. 11, 2022 City Council Regular*, WWW.GLENDALEAZ.COM (Oct. 11, 2022), https://glendaleaz.new.swagit.com/videos/186439 at 15:01–23:18; Glendale City Council, *Feb. 14, 2023 City Council Regular*, WWW.GLENDALEAZ.COM (Feb. 14, 2023), https://glendaleaz.new.swagit.com/videos/208367 at 26:24–27:58. Glendale's only explanations for passing the ordinances were either platitudes—such as

the roads being "not as safe as they could be for our pedestrians[,]" *Sep. 13, 2022 City Council Workshop*, 2:25–2:30—or anecdotes—such as the Mayor explaining how his wife felt "very uncomfortable, very unsafe" when asked for money in a grocery store parking lot, *Oct. 11, 2022 City Council Regular*, 21:50–21:52.

LEGAL STANDARD

"A plaintiff seeking a preliminary injunction must establish that he is likely to succeed on the merits, that he is likely to suffer irreparable harm in the absence of preliminary relief, that the balance of equities tips in his favor, and that an injunction is in the public interest." *Winter v. Natural Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008) (citations omitted). Alternatively, a preliminary injunction can issue if a plaintiff raises "serious questions going to the merits… and the balance of hardships tips sharply in the plaintiffs favor." *Alliance for the Wild Rockies v. Cottrell*, 632 F.3d 1127, 1134-35 (9th Cir. 2011). Plaintiffs meet the requirements for a preliminary injunction under either test.

ARGUMENT

This Court should follow the long line of cases enjoining anti-panhandling laws as unconstitutional under the First Amendment. *See, e.g.*, *Lopez v. Town of Cave Creek, AZ*, 559 F. Supp. 2d 1030 (D. Ariz. 2008). The merits tilt heavily in Plaintiffs' favor and all other requirements for a preliminary injunction are met.

I. PLAINTIFFS ARE LIKELY TO SUCCEED ON THE MERITS OF THEIR FIRST AND FOURTEENTH AMENDMENT CLAIMS.

A. Panhandling is speech protected by the First Amendment.

Solicitation, including panhandling, is a form of speech, and therefore protected under the First Amendment to the United States Constitution. *Lopez*, 559 F. Supp. 2d at

1031 ("It is beyond dispute that solicitation is a form of expression entitled to the same constitutional protections as traditional speech.") (cleaned up).

B. Regulation of speech that takes place in a traditional public forum is particularly disfavored.

The ordinances' restrictions apply to a wide range of solicitation that occurs in public places, including medians, sidewalks, streets, and parks. §§ 26-74, 25-161(b). These are all traditional public fora which have "been held in trust for the use of the public, and time out of mind, have been used for purposes of assembly… and discussing public questions." *Hague v. CIO*, 307 U.S. 496, 515 (1939).

C. The Panhandling Ordinance is content-based and fails strict scrutiny.

Any law that draws distinctions and restricts speech in a public forum based on the speech's message or subject matter is content based, subject to strict scrutiny, and presumptively invalid because it raises the specter of official disfavor and discouragement of certain messages and speakers. *R.A.V. v. City of St. Paul*, 505 U.S. 377, 394 (1992). The government bears the burden of justifying the content-based distinctions of the law under the exacting standard of strict scrutiny—namely, that these presumptively invalid distinctions are "actually necessary" to promote a compelling governmental interest, and that they are the least restrictive means of promoting that interest. *See United States v. Alvarez*, 567 U.S. 709, 725 (2012).

The Supreme Court's 2015 decision in *Reed v. Town of Gilbert* changed the way courts must define whether a speech restriction is content based or content neutral, holding that a sign ordinance was content based on its face because its restrictions

"depend entirely on the communicative content of the sign[.]" 576 U.S. 155, 164 (2015). *Reed*'s impact on the constitutionality of solicitation and panhandling ordinances has been transformative; the decision led several courts to overrule their prior caselaw upholding these ordinances. *See, e.g., Norton v. City of Springfield*, 806 F.3d 411, 412 (7th Cir. 2015) and *Thayer v. City of Worcester,* 144 F. Supp. 3d 218, 233 (D. Mass. 2015) (holding that prohibitions of "aggressive solicitations" and solicitations within buffer zones were content based—and that "a protracted discussion of [the] issue is not warranted as substantially all of the Courts which have addressed similar laws since *Reed* have found them to be content based and therefore, subject to strict scrutiny").

Glendale's Panhandling Ordinance is content based for the same reason found by other post-*Reed* courts: whether the Panhandling Ordinance's criminal prohibitions apply to a speaker depends on the content of the person's speech. A request for donations is treated differently than other types of messages, such as a solicitation for signatures for a ballot initiative or responses to a public opinion survey. To enforce the ordinance, the government must read the message on the sign or listen to the verbal communication. This is the hallmark of a content-based law. The Panhandling Ordinance is therefore subject to strict scrutiny.

1. The City has not offered a compelling state interest for the Panhandling Ordinance.

Strict scrutiny "is a demanding standard. 'It is rare that a regulation restricting speech because of its content will ever be permissible.'" *Brown v. Entm't Merchants Ass'n*, 564 U.S. 786, 799 (2011) (citation omitted). Indeed, numerous courts have struck

down nearly identical panhandling ordinances because they fail or—at the preliminary injunction stage, are likely to fail—strict scrutiny. *See, e.g., Messina v. City of Fort Lauderdale*, 546 F. Supp. 3d 1227, 1231, 1243–46, 1248–49 (S.D. Fla. 2021); *Rodgers v. Bryant*, 942 F.3d 451, 453–54 (8th Cir. 2019); *Scott v. City of Daytona Beach Fla.*, 740 F. Supp. 3d 1205, 1211–12, 1217 (M.D. Fla. 2024); *Thayer*, 144 F. Supp. 3d at 225, 229, 235–37; *Browne v. City of Grand Junction, Colo.*, 136 F. Supp. 3d 1276, 1280–81, 1291–94 (D. Colo. 2015); *McLaughlin v. City of Lowell*, 140 F. Supp. 3d 177, 182–83, 187–96 (D. Mass. 2015).

To start, Glendale has not offered any specific interest—compelling or not—for the Panhandling Ordinance. When introducing the proposed ordinances to the Glendale City Council, Deputy City Manager Rick St. John said that his presentation was "not a conversation about homelessness… this is really about traffic safety." *Sep. 13, 2022 City Council Workshop*, 1:53–2:00. Mr. St. John went on to say that, "In conversation with [Glendale Police] Chief Briggs and his staff, it's become clear that pedestrian fatalities, pedestrian-related accidents in our roadways continue to rise…. Our roadways are just not as safe as they could be for our pedestrians." *Id.* at 2:01–2:30.

Yet when asked by Councilmembers about how specific provisions—such as Section 26-74(1)(c) prohibiting solicitation near a bank, check cashing business, or ATM—relate to traffic safety, Mr. St. John could only speculate that, "I think the reason why we include [section] c is that protection for people that are using ATMs, walk-up ATMs in many cases. So I know ATMs exist in some convenience stores, for example, and we would want to prohibit people from soliciting from people that are using ATMs.

It's just a safety concern." *Id.* at 11:25–11:46.

By the time the Council voted on the Panhandling Ordinance, the City's actual interest in passing the ordinance became clear. Mayor Jerry Weirs explained that

> what we're trying to accomplish is many, many things. And one of them, my wife complained to me a few months ago when she was at a local grocery store shopping. As she exited the grocery store, making her way to the car, she had a guy that sort of was walking towards her, a little faster than she could walk, before she got to the car. And she felt very uncomfortable, very unsafe. He was aggressively trying to get money from her. This kind of stuff has to stop. *Oct. 11, 2022 City Council Regular*, 21:25–22:00.

Whether the City's interest was in traffic safety or public safety, the City failed to present any actual evidence showing that the ordinances it adopted would increase safety at all. This is insufficient to meet the City's burden. *See, e.g., Lopez*, 559 F. Supp. 2d at 1034 ("[m]erely invoking an interest in traffic safety . . . is insufficient" to justify ordinance banning day laborers from soliciting employment from vehicle occupants where town "provided no evidence that traffic safety is endangered" by such solicitation); *Indiana C.L. Union Found., Inc. v. Superintendent, Ind. State Police*, 470 F. Supp. 3d 888, 904 (S.D. Ind. 2020) ("simply stating that individuals may not want to be approached for a solicitation is not enough to show a compelling state interest"); *Messina*, 546 F. Supp. 3d at 1244 (invalidating panhandling ordinance for which the city offered no "evidence in support of [its] public-safety rationale") (emphasis omitted).

In the absence of a showing that the City considered a strong and particularized factual record before adopting the ordinances, the City cannot meet its burden under strict scrutiny. *See*, *e.g.*, *Lopez*, 559 F. Supp. 2d at 1035; *Blitch v. Slidell*, 260 F. Supp. 3d 656, 669 (E.D. La. 2017). Notably in *Blitch*, the city, unlike Glendale, actually considered

statistics concerning complaints, but the Court noted that "fifty-six incidents over two years . . . does not provide a strong justification for burdening speech." *Id.* at 670. Here, Glendale did not rely on *any* factual record to support a public safety or traffic safety justification for the Panhandling Ordinance and consequently cannot demonstrate a compelling interest in burdening speech.

2. The Panhandling Ordinance is not the least restrictive means to achieve any assumed compelling state interest.

Even if the City could prove that it was pursuing a "compelling state interest," the ordinance would still fail to meet strict scrutiny unless it was "the least restrictive means of achieving a compelling state interest." *McCullen v. Coakley*, 573 U.S. 464, 478 (2014).

a. The "aggressive" solicitation prohibition is not the least restrictive means to achieve any compelling state interest.

The Panhandling Ordinance prohibits "aggressive" solicitation in a virtually identical fashion to ordinances that have already been struck down by the post-*Reed* courts. § 26-74(a)(1). In *McLaughlin*, the aggressive panhandling provisions criminalized many of the same prohibited behaviors identified in the Panhandling Ordinance. These included solicitation "intended to or likely to cause a reasonable person to fear bodily harm"; "intentionally touching . . . without that person's consent"; using "threatening language or gestures likely to provoke an immediate violent reaction"; and continuing to panhandle from a person after that person has "given a negative response to such soliciting." 140 F. Supp. 3d at 182–83. The court ruled that these provisions did not meet the least restrictive alternative test because many of the behaviors criminalized by the solicitation law were already criminalized by content neutral laws that burdened less

speech. *Id*. at 193. *See also Thayer,* 144 F. Supp. 3d at 229.

The conclusions of these courts apply with equal force to Glendale's attempt to create a criminal law targeting only those who are engaging in solicitation speech, because Glendale already has available to it the same array of existing laws that would punish much of the conduct in the ordinance. *See* A.R.S § 13-2923 (stalking); A.R.S § 13-1203 (assault); A.R.S § 13-2906 (obstruction of a public thoroughfare); A.R.S § 13-2904 (disorderly conduct); A.R.S § 13-1202 (threatening and intimidating).

b. The no-solicitation "buffer zones" are not the least restrictive means to achieve any compelling state interest.

The Panhandling Ordinance also carves out no-solicitation zones that apply to the public sidewalks and streets throughout the entire city. § 26-74(a)(2)–(6). Speech requesting an immediate donation or other assistance at certain locations and inside no-solicitation zones is criminalized, irrespective of how passive and peaceful the solicitor, while all other types of speech—soliciting petition signatures, political and religious proselytizing—are free from the ordinance's restrictions and prohibitions.

In the post-*Reed* cases, the courts have repeatedly struck down buffer zones and location restrictions that were more narrowly tailored in terms of distance than Glendale's. *See, e.g., Browne*, 136 F. Supp. 3d at 1293–94; *McLaughlin*, 140 F. Supp. 3d at 183, 195, 196; *Thayer*, 144 F. Supp. 3d at 226, 228; *Homeless Helping Homeless v. City of Tampa*, 2016 WL 4162882 (M.D. Fla. 2016).

The Panhandling Ordinance also restricts solicitation from operators of a motor vehicle, whether that vehicle is in transit or stopped. § 26-74(a)(6). There are countless

places—sidewalks, cafes, parks—from which a panhandler holding a sign could solicit the driver of a motor vehicle. The City did not show that each of those settings poses a public safety or traffic safety risk that requires this blanket ban on speech. A general desire to keep panhandlers out of sight (and perhaps out of mind) of drivers is hardly a compelling government interest, and the City never even tried to elicit evidence to establish that these speech prohibitions were necessary to promote traffic safety.

D. The Street and Median Ordinance fails intermediate scrutiny.

Content neutral regulations that burden First Amendment activity must survive intermediate scrutiny and "be narrowly tailored to serve a significant governmental interest." *City of Austin v. Reagan Nat'l Advert. of Austin,* 596 U.S. 61, 76 (2022) (quotation omitted). In other words, the law "must not burden substantially more speech than is necessary to further the government's legitimate interests." *McCullen* 573 U.S. at 486 (quotation omitted). The government's goal must be substantial, the cost "carefully calculated[,]" and the restriction "reasonabl[y] fit" its purpose, all of which the state bears the burden of establishing. *Bd. of Trustees of State Univ. of N.Y. v. Fox,* 492 U.S. 469, 481 (1989).

1. The Street and Median Ordinance serves no concrete, non-speculative state interest.

For the Street and Median Ordinance to survive intermediate scrutiny, the City must articulate a concrete interest the ordinance serves—one that is more than a flimsy excuse to obscure its true aims. This means the government "must demonstrate that the recited harms are real, not merely conjectural, and that the regulation will in fact alleviate

these harms in a direct and material way." *Turner Broad. Sys., Inc. v. FCC*, 512 U.S. 622, 664 (1994) (internal quotation omitted).

Here, the ordinance addresses no concrete traffic or pedestrian safety interest. Mr. St. John's presentation to the City Council asserted only general concerns for pedestrian safety while noting that the number of pedestrian-related accidents had risen, but failed to provide any evidence, or even assert, that pedestrians sitting or standing on medians, or "stopping" in a crosswalk while cars are stopped at a red light, were particularly at risk or involved in any of these accidents. *See supra* at 8.

2. The Street and Median Ordinance is not narrowly tailored to respond to any assumed significant state interest.

Even if the City could prove that it was pursuing a significant state interest, the Street and Median Ordinance still fails to meet intermediate scrutiny because it is not narrowly tailored. An ordinance is not narrowly tailored when it "regulate[s] expression in such a manner that a substantial portion of the burden on speech does not serve to advance its goals." *McCullen*, 573 U.S. at 486 (quotation omitted).

When considering similar ordinances, courts have invalidated restrictions on speech on medians and roadsides in light of the significant amount of speech prohibited. In *Brewer v. City of Albuquerque*, the Tenth Circuit invalidated a ban—narrower than Glendale's—on the use of medians "not suitable for pedestrian[s]," defined as "less than six feet in width" on a road with a "speed limit of 30 miles per hour or faster or located within 25 feet of an intersection." 18 F.4th 1205, 1210–11 (10th Cir. 2021). The Court explained the "fit" to the public safety goal was "impermissibly poor" when "expansive

restrictions on speech . . . are juxtaposed against the paltry record evidence of real, non-speculative harms ameliorated by the Ordinance." *Id.* at 1226. Similarly, in *McCraw v. City of Oklahoma City,* the Tenth Circuit invalidated an ordinance that "outlawed pedestrian presence on medians in all streets with a speed limit of forty miles per hour or more." 973 F.3d 1057, 1063 (10th Cir. 2020). The court found that ordinance placed an impermissibly "severe burden on plaintiffs' speech" because it "entirely prohibits plaintiffs' presence on the more than four hundred affected medians." *Id.* at 1074.

For the same reasons, Glendale's Street and Median Ordinance burdens significantly more speech than necessary. As in *Brewer* and *McCraw*, panhandlers are barred from "the most effective place for their communication." *McCraw*, 973 F.3d at 1074. People in Glendale have long taken to medians and roadways as a safe, cost-effective way to reach a large audience. People use these areas to circulate petitions, demonstrate in support of the Second Amendment, preach, distribute religious materials, raise money for youth sports teams, protest for racial justice, and countless other expressive purposes. Glendale's paltry evidence cannot support banning all this speech.

Glendale also has more effective, less speech-restrictive alternatives at its disposal to address any traffic safety problems that may exist. Although under intermediate scrutiny a restriction on speech need not be the "least restrictive means" of protecting the government interest, *see Ward v. Rock Against Racism,* 491 U.S. 781, 798–99 (1989), a failure to consider alternatives is evidence that Glendale "did not meaningfully tailor the Ordinance to address the interests or harms identified." *Brewer*, 18 F.4th at 1226.

In *McCraw*, the Tenth Circuit found the city failed to meet its burden "[b]ecause

the City presents us with no evidence that it contemplated the relative efficacy or burden on speech of any alternatives" and "the only way for the City to evaluate alternatives is to consider them[.]" *McCraw*, 973 F.3d at 1075. *See also Reynolds v. Middleton*, 779 F.3d 222, 231–32 (4th Cir. 2015).

The same is true here. When the Glendale City Council was presented with the Street and Median Ordinance, it considered no other strategies to promote traffic safety. Rather than considering and implementing empirical solutions which would have no effect on speech, Glendale adopted arguably the most speech restrictive solution possible.

3. No adequate alternative channels of communication are available.

Finally, to survive intermediate scrutiny, a regulation of expression must "leave open ample alternative channels of communication." *Ward*, 491 U.S. at 802. *See also McCraw*, 973 F.3d at 1078. The Street and Median Ordinance does not provide adequate alternative channels for Plaintiffs and others. They cannot pick up and move to a new location because the ordinance applies to every location that meets their needs. *See McCraw*, 973 F.3d at 1079 (finding no adequate alternatives to medians because "neither roadsides nor sidewalks would provide safe and direct access."). Thus, the ordinance not only cuts off access to a public forum Plaintiffs and others regularly rely on, but it does so in such a sweeping manner that no adequate alternative forums remain.

E. Both ordinances are vague and substantially overbroad and should be invalidated on their face.

"It is established that a law fails to meet the requirements of the Due Process Clause if it is so vague and standardless that it leaves the public uncertain as to the

conduct it prohibits." *City of Chicago v. Morales*, 527 U.S. 41, 56 (1999). Both ordinances here fail that test.

First, they fail to adequately define the conduct that is prohibited. For example, the Panhandling Ordinance prohibits "continuing to solicit within five (5) feet of the person being solicited after the person has made a negative response, if continuing the solicitation … is intended to or reasonably likely to intimidate the person being solicited into responding affirmatively[,]" but defines "solicit" to include the use of signs, and does not define "intimidate" or explain whether an individual must stop displaying a sign once a passerby has "given a negative response." § 26-74(c). Similarly, the Street and Median Ordinance does not define "median" or "traffic island," but prohibits stopping "in any painted or raised traffic island or median not designated for use by pedestrians except to wait to cross the roadway at the next pedestrian signal[.]" § 24-161(b). The ordinance does not explain how anyone should know whether a traffic island that is raised and adjacent to, or surrounding, a crosswalk was "designated for use by pedestrians[.]" *Id.*

Second, the vagueness of these ordinances allows arbitrary police enforcement. Because it is unclear whether the continued display of a sign after receiving a "negative response," or standing on a traffic island next to a crosswalk, are violations of the ordinances, it is up to individual police officers to determine whether the ordinances have been violated. Glendale's use of vague and undefined terms in the challenged ordinances affords police virtually unbridled discretion to decide when the ordinances have been violated. *See, e.g., City of Houston v. Hill*,

482 U.S. 451, 467 (1987).

Finally, these concerns about discriminatory enforcement are not merely hypothetical. The City demonstrated its intent to enforce the ordinances selectively, while allowing some speakers to violate the ordinances without repercussions. *See, e.g., Sep. 13, 2022 City Council Workshop*, 27:18–29:10, 14:22–15:00.

II. PLAINTIFFS WILL SUFFER IRREPARABLE HARM IN THE ABSENCE OF A PRELIMINARY INJUNCTION.

"The loss of First Amendment freedoms, for even minimal periods of time, unquestionably constitutes irreparable injury" that supports a preliminary injunction. *Elrod v. Burns*, 427 U.S. 347, 373 (1976) (plurality opinion). This rule is particularly appropriate here because panhandlers are soliciting for everyday necessities such as food, gas, and shelter.

III. THE BALANCE OF EQUITIES IS IN THE PLAINTIFFS' FAVOR AND A PRELIMINARY INJUNCTION WILL SERVE THE PUBLIC INTEREST.

Upholding the First Amendment is always in the public interest. *See, e.g., Klein v. City of San Clemente*, 584 F.3d 1196, 1208 (9th Cir. 2009); *Melendres v. Arpaio*, 695 F.3d 990, 1002 (9th Cir. 2012). Especially here, panhandlers depend upon this activity to meet their basic human needs. It is imperative for this Court to act quickly to lift these invalid restrictions.

CONCLUSION

For the foregoing reasons, Plaintiffs respectfully request that this Court grant a preliminary injunction prohibiting the City from enforcing Glendale City Code sections 24-161(b) and 26-74.

Respectfully submitted this 30th day of July 2025,

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