

ORDINANCE _____
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An ordinance of the City of Gainesville, Florida, amending Chapter 19 of the Gainesville Code of Ordinances entitled "Peddlers, Solicitors and Canvassers"; amending Article II, Section 19-17 to prohibit solicitation, peddling and canvassing in streets and right-of-way; prohibiting the knowing obstruction of pedestrian or vehicular traffic; adding a new subsection (c) of Article II, Section 19-17 limiting the scope of right-of-way; clarifying limitations on soliciting, peddling and canvassing; amending Article III, Section 19-54 to prohibit the knowing obstruction or interference with vehicular or pedestrian traffic; adding new section (k) of Article III, Section 19-17 limiting the scope of right-of-way; amending Article IIIA, Section 19-80 by adding a new Section 4 making it unlawful to remain in a traffic lane when a traffic control signal allows traffic to flow in that lane; changing the title of Chapter 19, Article V; amending Article V, Section 19-112 clarifying permit requirement when fundraising activity on a street or right-of-way within the city is on behalf of a nonprofit agency and limiting the scope of right-of-way; amending Section 19-113 by providing alternative methods of complying with insurance requirement; providing for waiver of insurance under certain circumstances; providing directions to the codifier; providing a severability clause; providing a repealing clause and providing an immediate effective date.

30 **WHEREAS**, at least 10 days notice has been given once by publication in a
31 newspaper of general circulation notifying the public of this proposed ordinance and of a
32 Public Hearing in the City Commission Auditorium in City Hall, City of Gainesville; and

33 **WHEREAS**, a Public Hearing was held pursuant to the published notice
34 described at which hearing the parties in interest and all others had an opportunity to be
35 and were, in fact, heard;

1 **NOW THEREFORE**, BE IT ORDAINED BY THE CITY COMMISSION OF
2 THE CITY OF GAINESVILLE, FLORIDA;

3 **Section 1.** Section 19-17 of the Code of Ordinances of the City of Gainesville, is
4 amended to read as follows:

5 **Sec. 19-17. Restrictions and requirements.**

6 (a) Solicitors, peddlers and canvassers will terminate their activities in residential areas
7 by 7:00 p.m. each day and will not resume their activities in residential areas before 9:00
8 a.m. the next day.

9 (b) Solicitors, peddlers and canvassers are ~~restricted~~ prohibited from soliciting, peddling
10 or canvassing in the traffic lanes of any street or in any right-of-way and are prohibited
11 from soliciting, peddling or canvassing in areas where such activities would such a
12 manner as to materially knowingly obstruct, impede or interfere with the free flow of
13 pedestrian or vehicular traffic.

14 (c) For purposes of this section, right-of-way not shall include sidewalks, but shall
15 include bike lanes and medians.

16 (ed) Solicitors, peddlers and canvassers are ~~restricted~~ prohibited from soliciting,
17 peddling and canvassing on residential premises in residential areas where a notice
18 stating "No Solicitors" or "No Solicitation" is posted in plain view.

19 (de) No more than two solicitors, peddlers or canvassers shall contact any one member
20 of the public at any one time.

21 (ef) Solicitors, peddlers and canvassers will not persist in their activities after the request
22 has been declined, and they will immediately and peaceably depart from the premises
23 when requested to do so by the occupant.

1 (fg) Solicitors, peddlers and canvassers shall not harass persons by demanding,
2 threatening or intimidating conduct.

3 **Section 2.** Section 19-54 of the Code of Ordinances of the City of Gainesville, is
4 amended to read as follows:

5 **Sec. 19-54. Restrictions and requirements.**

6 (a) When engaged in soliciting, solicitors are required to identify themselves, and state
7 whom they represent.

8 (b) Solicitors will terminate their activities in residential areas by 7:00 p.m. each day and
9 will not resume their activities in residential areas before 9:00 a.m. the next day.

10 ~~(c) Solicitors are restricted from soliciting in areas where solicitation would materially~~
11 ~~obstruct, impede or interfere with the free flow of pedestrian or vehicular traffic.~~

12 ~~(d)~~ (d) Solicitors are ~~restricted~~ prohibited from soliciting on residential premises in
13 residential areas where a notice stating "No Solicitors" or "No Solicitation" is posted in
14 plain view.

15 ~~(e)~~ (e) No more than two solicitors shall contact and solicit any one member of the public
16 at any one time.

17 ~~(f)~~ (f) Solicitors will not persist in soliciting after the solicitation has been declined, and
18 they will immediately and peaceably depart from the premises when requested to do so
19 by the occupant.

20 ~~(g)~~ (g) Solicitors shall not harass persons by demanding, threatening or intimidating
21 conduct.

22 ~~(h)~~ (h) Solicitors may solicit donations or contributions for religious or charitable
23 paraphernalia from the general public to be used in the furtherance of their religion or

1 charity provided that if a minimum donation is required the person solicited must be so
2 informed.

3 (h) This article allows nonprofit institutions such as religious organizations, scouting,
4 schools and fraternal societies to sell or transfer goods such as cookies, flowers, etc., or
5 services such as carwashes, carnivals, etc., which may include the use of a building
6 and/or its premises for such sales or delivery or services, but not a vacant parcel of land.
7 Such fundraising activities must be clearly incidental to the primary function of such
8 institutions, and all proceeds must be returned to the nonprofit organization. If any
9 proceeds are shared by a non-tax exempt organization, an occupational license may be
10 required.

11 (i) Solicitors are prohibited from soliciting in such a manner as to knowingly obstruct,
12 impede or interfere with the free flow of pedestrian or vehicular traffic

13 (j) No solicitor shall raise funds, or seek financial assistance of any kind or nature, on
14 any street or right-of-way within the city without satisfying the requirements of article V
15 of this chapter.

16 (k) For purposes of this section, right-of-way shall not include sidewalks, but shall
17 include bike lanes and medians.

18 **Section 3.** Section 19-80 of the Code of Ordinances of the City of Gainesville, is
19 amended to read as follows:

20 **Sec. 19-80. Panhandling on public property, sidewalks and streets; certain**
21 **designated places prohibited.**

22 (a) *Purpose.* The city commission finds that any person who panhandles, solicits, or
23 demands money, gifts or donations under circumstances that warrant a justifiable and

1 reasonable alarm or immediate concern for the safety of persons or property in the
2 vicinity by unwanted touching, detaining, impeding or intimidation which causes fear or
3 apprehension in another person constitutes a threat to the public health, welfare and
4 safety of the citizenry. The city commission also finds that any person who intentionally
5 blocks the passage of another person or a vehicle, which requires another person to take
6 evasive action to avoid physical contact, constitutes a threat to the public health, welfare
7 and safety of the citizenry. The city commission further finds that any person who
8 panhandles, solicits, or demands money, gifts or donations under circumstances where
9 the person being solicited cannot readily escape from the undesired conduct constitutes a
10 threat to the public health, welfare and safety of the citizenry.

11 (b) *Definitions.* Except where the content otherwise requires, as used in this section:

12 (1) *Aggressively beg* means to beg, solicit, or demand money, gifts or donations from
13 any person by an unwanted touching, detaining, impeding or intimidation.

14 (2) *Beg* means to ask for money, gifts or donations, either by words, bodily gestures,
15 signs or other means from any person.

16 (3) *Obstruct pedestrian or vehicular traffic* means to walk, stand, sit, lie or place an
17 object in such a manner as to block passage of another person or a vehicle, or to
18 require another person or driver of a vehicle to take evasive action to avoid physical
19 contact. Acts authorized as an exercise of one's constitutional right to picket or to
20 legally protest, and acts authorized by permit issued pursuant to section 23-42 of this
21 Code are not included within the definition of this term.

22 (4) *Public place* means an area generally visible to public view and includes, but is not
23 limited to, alleys, bridges, buildings, driveways, parking lots, parks, plazas, sidewalks

1 and streets open to the general public, including those areas that serve food or drink
2 or provide entertainment or other services, outdoor cafes, public restrooms, and the
3 doorways and entrances to buildings or dwellings and the grounds enclosing them.

4 (c) *Unlawful action.* It shall be unlawful for any person in a public place to:

5 (1) Obstruct pedestrian or vehicular traffic and aggressively beg; or

6 (2) Aggressively beg; or

7 (3) Beg or aggressively beg:

8 a. At an outdoor cafe;

9 b. Within 12 feet of an outdoor cafe;

10 c. In a public restroom;

11 d. At a public event that is operating by permit issued by the city at city parks as
12 defined in section 18-18 of this Code;

13 e. At any other public event that is operating by permit issued by the city with
14 defined boundaries;

15 f. From any person standing in line to enter a building or event;

16 g. Within 12 feet of a line to enter a building or event;

17 h. From any person entering or exiting a building;

18 i. Within 12 feet of the entrance or exit of a building;

19 j. From any person using an automated teller machine, or any electronic information
20 processing device which accepts or dispenses cash in connection with a credit,
21 deposit or convenience account (ATM);

22 k. Within 12 feet of an ATM;

23 l. From any person using a pay phone;

1 m. Within 12 feet of a pay phone.

2 (4) Remain in a traffic lane when a traffic control signal allows traffic to flow in that
3 lane.

4 **Section 4.** Chapter 19, Article V of the Code of Ordinances of the City of Gainesville is
5 amended by changing the title to read as follows:

6 ARTICLE V. STREET SOLICITATION BY NONPROFIT ~~AGENCY~~
7 ORGANIZATION

8 **Section 5.** Section 19-112 of the Code of Ordinances of the City of Gainesville, is
9 amended to read as follows:

10 **Sec. 19-112. Restrictions.**

11 It shall be unlawful for any person to raise funds, or seek financial assistance of any kind
12 or nature; on behalf of a nonprofit organization, on any street or right-of-way within the
13 city without first acquiring a permit. For purposes of this section, right-of-way shall not
14 include sidewalks, but shall include bike lanes and medians.

15 **Section 6.** Section 19-113(a) of the Code of Ordinances of the City of
16 Gainesville, is amended to read as follows:

17 **Sec. 19-113. Requirements.**

18 (a) A permit for solicitation on city, county, or state rights-of-way within the boundaries
19 of the city may be obtained from the city manager or designee under the following
20 conditions:

21 (1) The applicant shall be an organization qualified under § 501(c)(3) of the Internal
22 Revenue Code and registered pursuant to F.S. Ch. 496, or persons or organizations
23 acting on behalf of and with the authority of such an organization.

1 (2) The applicant shall provide the specific location(s), date(s) and time(s) of the planned
2 solicitation.

3 (3) The applicant shall take measures to assure the safety of the solicitors as well as the
4 motorists. Such measures shall include, but not be limited to, providing a safety vest
5 to each solicitor.

6 (4) The applicant shall provide indemnification satisfactory to the city for defense and
7 liability for any judgments or costs arising out of the applicant's activities relative to
8 the solicitation. This indemnification shall be in the form of an insurance policy that
9 names the city as an additional insured and is endorsed to provide a separate
10 aggregate of \$1,000,000.00 for the event for which the person or organization is
11 making application.

12 A. Insurance Requirements. The insurance coverage requirement may be
13 satisfied either by the applicant obtaining insurance protecting the city against liability or
14 by paying the city's additional actual cost of obtaining coverage for its liability as a result
15 of the special event.

16 B. Waiver of Insurance Requirement. The insurance requirement will be waived
17 if neither the applicant nor the city is able to obtain coverage for the city's liability as a
18 result of the event, and the requirement will be waived if the applicant is unable to pay
19 either the cost of the least expensive coverage available for the applicant or the city. In
20 order to be relieved of the insurance requirement, the applicant must provide satisfactory
21 proof of financial inability to purchase such insurance.

22 **Section 7.** It is the intention of the City Commission that Sections 1 through 6 of
23 this ordinance shall become and be made a part of the Gainesville Code of Ordinance, of the

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1 City of Gainesville, Florida, and that the Sections and Paragraphs of this ordinance may be
2 renumbered or relettered in order to accomplish such intentions.

3 **Section 8.** If any section, sentence, clause or phrase of this ordinance is held to be
4 invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in
5 no way affect the validity of the remaining portions of this ordinance.

6 **Section 9.** All ordinances, or parts of ordinances, in conflict herewith are to the
7 extent of such conflict hereby repealed.

8 **Section 10.** This ordinance shall become effective immediately on adoption

9 **PASSED AND ADOPTED** this ____, day of _____, 2006.

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PEGEEN HANRAHAN
MAYOR

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ATTEST
LEGALITY

APPROVED AS TO FORM AND

KURT M. LANNON
CLERK OF THE COMMISSION

MARION J. RADSON
CITY ATTORNEY

22

23 This Ordinance passed on first reading this ____ day of _____, 2006.

24 This Ordinance passed on second reading this ____ day of _____, 2006.