



MEMORANDUM

Office of the City Attorney

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Phone: 334-5011/Fax 334-2229
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TO: Mayor and City Commissioners

DATE: June 10, 2002

CONSENT ITEM

FROM: Marion J. Radson, City Attorney

SUBJECT: **DISORDERLY CONDUCT WHICH THREATENS
PUBLIC SAFETY OR BREACH OF THE PEACE**

RECOMMENDATION: Authorize the City Attorney to draft and the Clerk of the Commission to advertise an ordinance amending the definition of disorderly conduct that interferes with pedestrian and vehicular traffic.

On May 20, 2002, Judge Aymer "Buck" Curtin issued an Order in a criminal case that declared section 17-4(a)(9), Gainesville Code of Ordinance to be unconstitutionally vague and overbroad. This ordinance addresses blocking or impairing pedestrian and vehicular traffic. The underlying basis for the court's finding was that the ordinance did not sufficiently define the illegal conduct.

The City Attorney recommends making technical amendments to the ordinance that will more specifically define the restrictive standard relating to the blocking of pedestrian and vehicular traffic. A draft copy of the ordinance is attached for your review.

Prepared by


Ronald D. Combs, Sr. Assistant City Attorney

Approved and
Submitted by


Marion J. Radson, City Attorney

RDC:MJR:bs

Attachment

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5/28/02

ORDINANCE _____
0-02-27

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An ordinance of the City of Gainesville, Florida, amending sections 17-4(a)(9) and 17-4(a)(10) of the Code of Ordinances by proscribing the conduct that threatens the public safety or breach of the peace; providing directions to the codifier; providing a severability clause; providing a repealing clause; and providing an immediate effective date.

14 **WHEREAS**, at least 10 days notice has been given once prior to adoption by publication
15 in a newspaper of general circulation notifying the public of this proposed ordinance and of a
16 Public Hearing in the City Commission Auditorium in City Hall, City of Gainesville; and

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

20 **NOW, THEREFORE**, BE IT ORDAINED BY THE CITY COMMISSION OF THE
21 CITY OF GAINESVILLE, FLORIDA:

22 **Section 1.** Subsections (9) and (10) of Section 17-4(a) of the Code of Ordinances of the
23 City of Gainesville are amended to read as follows:

24 **ARTICLE I. IN GENERAL**

25 **Sec. 17-4. Disorderly conduct.**

26 (a) Commission of the following acts shall constitute disorderly conduct:
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- 1 (1) Any person who shall act in a violent or tumultuous manner toward another so
2 as to place him/her or any other person in reasonable fear of safety of his/her
3 life, limb, or health;
- 4 (2) Any person who shall act in a violent or tumultuous manner toward another
5 with the result that his/her property, or that of any other person is placed in
6 danger of being destroyed or damaged;
- 7 (3) Any person who shall cause, provoke or engage in any fight, brawl or riotous
8 conduct so as to endanger the life, limb, health or property of another;
- 9 (4) Any person who shall assemble or congregate with another for the purpose or
10 with the intent to engage in conduct which is prohibited by the ordinances of
11 the city or by state or federal law;
- 12 (5) Any person who shall frequent any public place with intent to obtain money
13 from other persons by illegal or fraudulent schemes, tricks, artifices or
14 devices;
- 15 (6) Any person who shall accost or attempt to force his/her company upon any
16 other person;
- 17 (7) Any person who shall use fighting words directed towards any person who
18 becomes thereby outraged and thus creates a turmoil;
- 19 (8) Any person who shall by acts or threats of violence interfere with another's
20 pursuit of a lawful occupation;

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1 (9) Any person, who shall congregate with another or others in or on any public
2 way so as to halt or materially impair the flow of vehicular or pedestrian
3 traffic in a manner which threatens public safety or breach of the peace after
4 being ordered by a police officer to move;

5 (10) Any person who shall obstruct any public street or sidewalk provided for
6 public use by being or remaining in or on such street or sidewalk in such a
7 manner as to block or impair movement of vehicles or pedestrians in a manner
8 which threatens public safety or breach of the peace after being ordered by a
9 police officer to move.

10 (b) Any person deemed guilty of disorderly conduct as above defined, and, being
11 convicted thereof, shall be fined or imprisoned as provided in section 1-9.

12 **Section 2.** It is the intention of the City Commission that the provisions of Section 1 of
13 this Ordinance shall become and be made a part of the Code of Ordinances of the City of
14 Gainesville, Florida, and that the Sections and Paragraphs of this Ordinance may be renumbered
15 or relettered in order to accomplish such intentions.

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

19 **Section 4.** All ordinances, or parts of ordinances, in conflict herewith are to the extent of
20 such conflict hereby repealed.

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Section 5. This ordinance shall become effective immediately upon adoption.

PASSED AND ADOPTED this _____ day of _____ 2002.

THOMAS D. BUSSING
MAYOR

ATTEST

APPROVED AS TO FORM AND LEGALITY

KURT M. LANNON
CLERK OF THE COMMISSION

MARION J. RADSON
CITY ATTORNEY

This Ordinance passed on first reading this _____ day of _____, 2002.

This Ordinance passed on second reading this _____ day of _____, 2002.

