

#050741

Gainesville Police Department
Inter-Office Communication
Chief Norman B. Botsford

To: Chief Norman B. Botsford **Date:** 12/14/05
From: Captain Richard W. Hanna
Subject: Handbill Ordinance Assessment

An assessment of the Handbill ordinance will be discussed at the December 15th Public Safety meeting. This review was decided when enacted to determine the effectiveness of the ordinance on what was a citizen based concern brought to the attention of the Public Safety committee.

During the year 2005 the Gainesville Police Department handled eighteen (18) complaints. Virtually all complaints originated in the southwest area of the city inclusive of the area annexed in 2001 and heavily represented by those who originally brought the issue forward. The majority of complaints originated from apartment complex personnel, and were responded to by GPD personnel. A few were proactively handled by GPD staff who observed the violations. In ten (10) cases citations were issued and fines collected.

Approximately twenty (20) surveys were conducted by GPD of apartment complexes in District 3 that have properly posted for no handbills. All responses were positive and all felt the ordinance had made a positive impact on the problem. Managers have observed a vast reduction in the amount and frequency of handbills in their areas and have handled many incidents themselves by educating establishments on the ordinance. The deterrent factor was noted as well.

Due to the volume of complaints in a year time frame, it would appear the compliance rate is high and the ordinance has proven effective.

ORDINANCE NO. 030785
0-03-92

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4 An ordinance of the City of Gainesville, Florida, creating Article VI, of
5 Chapter 19 of the City of Gainesville Code of Ordinances, establishing
6 requirements related to the "Distribution of Handbills"; providing for
7 the intent and purpose of the regulations; providing for definitions;
8 providing for the scope of the program; prohibiting distribution where
9 an occupant has posted a "No Handbills" sign; providing exceptions for
10 consent, parcel carriers, postal carriers, and qualified newspapers;
11 providing for enforcement by civil citation and a penalty for violation of
12 this Ordinance; providing for enforcement by municipal ordinance
13 prosecution following two civil citation convictions; providing directions
14 to the codifier; providing a severability clause; providing a repealing
15 clause; and providing an effective date.
16

17 WHEREAS, the distribution of handbills and circulars creates litter problems

18 which are not adequately addressed by present laws; and

19 WHEREAS, the distribution and accumulation of handbills creates security and safety

20 concerns for businesses and residential dwellings within the City of Gainesville which are not

21 adequately addressed by present laws; and

22 WHEREAS, the distribution of handbills subjects unwilling property owners to

23 unsolicited literature and advertisements they do not wish to receive; and

24 WHEREAS, the City Commission of the City of Gainesville wishes to improve the

25 general cleanliness of the City, ensure the safety of its citizens and visitors, enhance the privacy

26 of its citizens, protect property owners from annoyance, including intrusion on their property, and

27 the prevention of crime; and

28 WHEREAS, at least 10 days notice has been given once by publication in a newspaper of

29 general circulation notifying the public of this proposed ordinance and of a Public Hearing in the

30 Auditorium of City Hall in the City of Gainesville; and

31 WHEREAS, a Public Hearing was held pursuant to the published notice described at

10/17

1 which hearing the parties in interest and all others had an opportunity to be and were, in fact,
2 heard.

3 **NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE**
4 **CITY OF GAINESVILLE, FLORIDA:**

5 **Section 1.** A new Section 19-125 of a new Article VI, entitled "Distribution of
6 Handbills", of Chapter 19 of the City of Gainesville Code of Ordinances, Gainesville, Florida, is
7 hereby created to read as follows:

8 Article VI. Distribution of Handbills.

9 Sec. 19-125. Intent and Purpose. It is the purpose and intent of this Article that, to
10 protect the people against the nuisance and annoyance of and incident to the distribution of
11 handbills and circulars, with the resulting detriment and danger to public health and safety, the
12 public interest, convenience and necessity require the regulation thereof. To that end the purposes
13 of this Article are specifically declared to be as follows:

14 a. To preserve the peaceful enjoyment of the private property of local residents by
15 protecting against trespassing by handbill distributors upon the private property of such residents
16 if they have given reasonable notice that they do not wish to be solicited by such persons or do
17 not desire to receive handbills;

18 b. To protect the people against the health and safety menace and the expense incident to the
19 littering of private property by uncontrolled distribution of handbills;

20 c. To enhance crime prevention by removing the incidence of robberies and burglaries; and

21 d. To preserve the people's constitutional right to receive and disseminate information.

22 **Section 2.** Section 19-126 of the City of Gainesville Code of Ordinances is hereby
23 created to read as follows

CODE: Words ~~stricken~~ are deletions; words underlined are additions.

1 Sec. 19-126. Definitions.

2 The following words, terms and phrases, when used in this Article, have the meanings
3 ascribed to them, except where the context clearly indicates a different meaning:

4 a. Handbill shall mean and include any commercial printed or written matter, any sample or
5 device, circular, leaflet, pamphlet, paper, booklet, or any other printed or otherwise reproduced
6 original or copies of any matter or literature:

7 (1) Which advertises for sale any merchandise, product, commodity, or thing;

8 (2) Which directs attention to any business or mercantile or commercial establishment, or any
9 other activity;

10 (3) Which directs attention to or advertises any theatrical performance, exhibition, or event of
11 any kind.

12 Handbill shall not include non-commercial matter, such as political or religious materials or
13 printed or written material which is distributed by a public agency for the sole purpose of alerting
14 persons of an immediate danger or risk to the public health, safety or welfare of a community or
15 to prevent danger or risk to the public health, safety or welfare of a community.

16 b. Newspaper shall mean and include any paper that is printed, published and distributed, at least
17 once a week, which is entered or qualified to be admitted and entered as periodicals matter at a
18 post office in Alachua County where published, which is for sale to the public generally, which is
19 available to the public generally for the publication of official or other notices and which
20 customarily contains information of a public character or of interest or of value to the residents or
21 owners of property in Alachua County or which contains information of interest or of value to the
22 general public.

1 c. Person shall mean and include individuals, associations, firms, corporations, partnerships,
2 bodies politic and corporate, and all other groups or combinations thereof.

3 d. Private property or premises shall mean and include any privately-owned dwelling, house,
4 building, or other structure, designed or used either wholly or in part for private residential
5 purposes, whether inhabited, uninhabited or vacant, and shall include any yard, grounds,
6 curtilage, parking area, driveway, walk, porch, steps, vestibule or mailbox belonging or
7 appurtenant to such dwelling, house, building, or other structure and may include any other
8 location, including any improvements on said location, within the City of Gainesville that is not
9 publicly owned.

10 e. Public premises shall mean and include any and all public parks, public parking garages,
11 public parking lots and public grounds and buildings.

12 **Section 3.** Section 19-127 of the City of Gainesville Code of Ordinances is hereby
created to read as follows

14 **Sec. 19-127. Throwing or distributing handbills prohibited.**

15 a. It shall be unlawful for any person to deposit, place, throw, scatter or cast any handbill in
16 or upon any private or public premises within the City where a notice stating "No Handbills" is
17 posted.

18 b. It shall be unlawful for any person to direct, encourage or allow another person, employee
19 or independent contractor to deposit, place, throw, scatter or cast any handbill in or upon any
20 private or public premises within the City where a notice stating "No Handbills" is posted.

21 **Section 4.** Section 19-128 of the City of Gainesville Code of Ordinances is hereby
22 created to read as follows:

23 **Sec. 19-128 Exceptions:**

a. The provisions of this Article shall not apply to the distribution of mail by the United States postal service or any commercial parcel service or carrier, such as Federal Express or United Parcel Service.

b. The provisions of this Article shall not apply to the distribution of newspapers.

c. The provisions of this Article shall not apply where the property owner or occupant has requested the handbill be distributed at his/her residence or where the property owner or occupant has consented to delivery of said handbill.

d. Except where a notice stating "No Handbills" is posted as provided in this Article, it shall not be unlawful for any person to distribute or hand deliver, without charge, any handbill to any person willing to accept said handbill.

e. A handbill shall not include printed or written material which is distributed by a public agency for the sole purpose of alerting persons of an immediate danger or risk to the public health, safety or welfare of a community or to prevent danger or risk to the public health, safety or welfare of a community.

Section 5. Section 19-129 of the City of Gainesville Code of Ordinances is hereby created to read as follows:

Sec. 19-129. Penalty.

The provisions of this article may be enforced by civil citation or by municipal ordinance prosecution. Following two convictions under section 2-339, civil citation, within a six-month period, for any one person as defined herein, subsequent violations shall be prosecuted as provided in section 1-9 of the Code. Each violation shall be considered a separate offense, which can be prosecuted separately.

Section 6. Section 2-339 of the City of Gainesville Code of Ordinances is amended to

and as follows:

Sec. 2-339. Applicable codes and ordinances.

The following ordinances are enforceable by the procedures described in this division:

Section	Description	Class	Penalty
2-67(b)	Declaration of water emergency imposing water use restrictions	I	\$ 50.00
Chapter 5 except as provided below	Animal control	I	\$ 50.00
5-2(c)	Animal molesting or biting pedestrian or bicyclist	IV	\$200.00
6-3	104.1.1 of adopted Standard Building Code, as amended Building, electrical, plumbing, gas, and/or mechanical work within a required permit	II	\$ 75.00
6-3(1)	False advertising	III	\$125.00
6-185	Acting as a contractor without a valid contractor certificate	IV	\$200.00
6-186(b)(2)	No journeyman or certified craftsman on the job site	II	\$ 75.00
Article IX of Chapter 6	Downtown minimum property standards	I	\$ 50.00
Chapter 10	All adopted fire prevention & protection codes, except NFPA 101 Chapters 5, 6, 7 and SFPC Chapters 6, 8, 31 and 42	II	\$ 75.00
Chapter 10	NFPA 101 Chapters 5, 6 7; SFPC Chapters 6, 8, 31 and 42	IV	\$200.00
11.5-1	Availability of potable water	I	\$ 50.00
Article III of Chapter 13	Commercial building code	II	\$ 75.00

CODE: Words ~~stricken~~ are deletions; words underlined are additions.

13-171	Insects, storage, trash and yard maintenance	I	\$125.00
13-181	Hazardous conditions on residential property	I	\$125.00
Article II of Chapter 14.5	Merchandising of tobacco products	II	\$ 75.00
Article III of Chapter 14.5	Towing from certain private property	II	\$125.00
14.5-1	Not having landlord permit	II	\$125.00
Chapter 15	Noise violations	I	\$125.00
16-19	Dangerous buildings/hazardous lands	I	\$125.00
17-2	Fliers on utility poles or other fixtures -	I	\$ 50.00
19-2	Violation of regulations for peddling in Downtown Plaza	I	\$ 50.00
19-34	Violation of permit requirements for commercial peddlers, solicitors, or canvassers	I	\$ 50.00
19-52	Unauthorized solicitation of alms or financial assistance	I	\$ 50.00
19-53	Unauthorized sale or transfer of goods and services; religious and charitable organizations soliciting for contributions without a permit	I	\$ 50.00
19-55	Violation of restrictions and requirements for permitted soliciting	I	\$ 50.00
19-96	Operation of mobile food cart in prohibited area	I	\$ 50.00
19-97	Violation of regulations on permitted mobile food cart	I	\$ 50.00
Chapter 5 except as provided below	Animal control	I	\$ 50.00
19-112	Unauthorized soliciting of funds	I	\$ 50.00

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19-127	<u>Violation of prohibition on throwing or distributing handbills upon property displaying a "No Handbills" sign</u>	I	<u>\$125.00</u>
21-53(b)(6)	Non-permitted, revoked or suspended alarm system	IV	\$200.00
21-58(a)	Failure to register alarm monitoring company	II	\$125.00
21-58(c)	Failure to maintain records	II	\$125.00
21-59	Failure to make alarm verified call	II	\$125.00
21-60(a)	Failure to register -- Alarm system contractors	II	\$125.00
21-60(b)	Maintenance, repair, alter or service of system for compensation by noncontractor	II	\$125.00
21-60(c)	Failure to issue ID	I	\$ 50.00
21-60(d)	Use of equipment or methods below minimum standards	II	\$125.00
21-60(e)	Activation/servicing non-permitted alarm	II	\$125.00
21-60(f)	Causing false alarm during servicing	II	\$125.00
21-60(g)	Failure to provide blank alarm permit application	I	\$ 50.00
21-61(a)	Operating automatic dialing device	U	\$125.00
21-61(b) 21-61(c)	Failure to remove non-permitted features	I	\$ 50.00
21-62	Operating alarm system without auxiliary power	II	\$125.00
Chapter 22	Secondhand Goods Secondhand Dealers	III	\$125.00
26-137	Abandoned vehicles	I	\$125.00
27-73	Solid waste violations except (4), (8) and (9)	I	\$125.00
27-76(b)(1)b	Improper use of cart	I	\$ 50.00
27-79(a) and (f)	Commercial franchise violations	IV	\$200.00
Chapter 28	Taxicab regulation	I	\$50.00

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30-45	Prohibited use in zoning district	I	\$125.00
30-51(c)	Permitted uses in single family districts	II	\$125.00
30-56(b) and (c)	Residential parking	I	\$125.00
30-59(c)	Permitted uses in office districts	I	\$ 50.00
30-61(c)	Permitted uses in general business district	I	\$ 50.00
30-62(c)	Permitted uses in automotive oriented business district	I	\$ 50.00
30-63(c)	Permitted uses in tourist-oriented business district	I	\$ 50.00
30-64(e)	Permitted uses in mixed use low intensity district	I	\$ 50.00
30-65(c)	Permitted uses in mixed use medium intensity district	I	\$ 50.00
30-66(c)	Permitted uses in central city district	I	\$ 50.00
30-67(g)	Illegal outdoor storage and sales	I	\$ 50.00
30-68(c)	Permitted uses in warehousing and wholesaling district	I	\$ 50.00
30-69(c)	Permitted uses in limited industrial district	I	\$ 50.00
30-70(c)	Permitted uses in general industrial district	I	\$ 50.00
30-86	Use, parking, storage and keeping of recreational vehicles	I	\$ 50.00
30-315 et seq.	Violation of sign regulations	I	\$ 50.00

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30-357	New business, expansion or change of use without zoning compliance permit	I	\$ 50.00
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nd violation of the same Class I or Class II offense shall be double the
nt on the penalty schedule.

d and subsequent violations of the same Class I or II offense shall
ire a mandatory court appearance.

ond and subsequent violations of the same Class III or Class IV offense
ill require a mandatory court appearance.

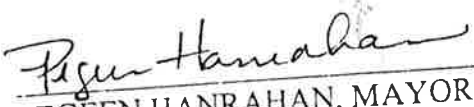
Section 7. It is the intention of the City Commission that the provisions of Sections 1,
2, 3, 4, 5 and 6 of this Ordinance shall become and be made a part of the City of Gainesville
Code of Ordinances and that the Sections and Paragraphs of this Ordinance may be renumbered
or relettered in order to accomplish such intentions.

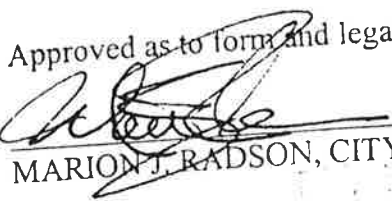
Section 8. If any section, sentence, clause or phrase of this ordinance is held to be
invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no
way affect the validity of the remaining portions of this ordinance.

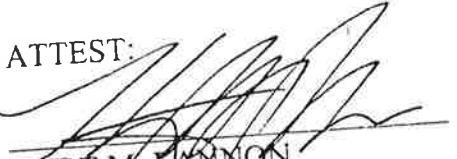
Section 9. All ordinances or parts of ordinances in conflict herewith are to the extent
of such conflict hereby repealed.

Section 10. This ordinance shall become effective January 1, 2005.

PASSED AND ADOPTED this 13th day of December, 2004.


PEGEEN HANRAHAN, MAYOR

Approved as to form and legality

MARION T. RADSON, CITY ATTORNEY

ATTEST:

KURT M. LANNON
CLERK OF THE COMMISSION

This Ordinance passed on first reading this 8th day of November, 2004.

This Ordinance passed on second reading this 13th day of December, 2004.