

# D R A F T

2/19/04

ORDINANCE No. \_\_\_\_\_  
0-04-25

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4       **An ordinance of the City of Gainesville relating to panhandling;**  
5       **creating and adding Section 19-79 to the Code of Ordinances by**  
6       **providing legislative findings; amending Section 19-80 of the**  
7       **Gainesville Code of Ordinances by prohibiting panhandling,**  
8       **begging or aggressive begging in certain public places; providing**  
9       **directions to the codifier, providing a severability clause; providing**  
10       **a repealing clause; and providing an immediate effective date.**

11  
12       **WHEREAS,** panhandling has become increasingly common in the city, and often  
13 involves aggressive behavior, including unwanted touching and verbal abuse, that creates an  
14 apprehension of imminent harm; and

15       **WHEREAS,** the City Commission finds that it is in the public interest to regulate the  
16 undesired conduct frequently associated with panhandling that extremely disturbs and disrupts  
17 residents and businesses and contributes to an enhanced sense of fear, intimidation and disorder,  
18 while preserving the individual's right to freedom of speech; and

19       **WHEREAS,** the Gainesville Police Department has provided evidence that shows that a  
20 greater majority of the panhandlers arrested in the previous calendar year had a narcotics or  
21 assault violation in their criminal history, and that a majority of the panhandlers were  
22 apprehended while panhandling in and around certain public places, such as Automated Teller  
23 Machines, parking lots, parking garages, restaurants, and business entrances; and

24       **WHEREAS,** the City Commission has decided that it is in the public interest to further  
25 regulate the undesired conduct frequently associated with panhandling, and to prohibit  
26 panhandling in certain public places where the person or persons being solicited cannot readily  
27 escape from the undesired conduct and whose rights are infringed under those circumstances;

28       **WHEREAS,** this ordinance is not intended to limit any persons from exercising their  
29 constitutional right to solicit funds, picket, protest or engage in other constitutionally protected

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1 activity, but rather to protect citizens from the fear and intimidation accompanying certain kinds  
2 of solicitation that have become an unwelcome and overwhelming presence in the city.

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

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

9 **NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE**  
10 **CITY OF GAINESVILLE, FLORIDA:**

11 **Section 1.** A new Section 19-79 is created and added to Article IIIA of the Code of  
12 Ordinances of the City of Gainesville, Florida to read:

13 **Sec. 19-79. Legislative findings.**

14 The City Commission recognizes a constitutional right to beg or solicit in a peaceful and non-  
15 threatening manner. The City Commission finds, however, that an increase in aggressive  
16 begging throughout the city has become extremely disturbing and disruptive to residents and  
17 businesses, and has contributed not only to the loss of access to and enjoyment of public places,  
18 but also to an enhanced sense of fear, intimidation and disorder. The experience of the City  
19 shows that a greater majority of the panhandlers arrested in the year 2003 had a narcotics or  
20 assault violation in their criminal history that causes the City Commission to regulate this  
21 activity to protect the citizenry in the interest of public safety.

22  
23 Aggressive panhandling usually includes approaching or following pedestrians, repetitive  
24 begging despite refusals, the use of abusive or profane language, unwanted physical contact, or  
25 the intentional blocking of pedestrian and vehicular traffic. The City Commission further finds  
26 that the presence of individuals who solicit money from persons at or near outdoor cafes,  
27 automated teller machines, the entrance and exits of buildings, certain public events as more  
28 particularly described in this Ordinance, and pay phones is especially troublesome because said  
29 persons cannot readily escape from the undesired conduct. Such activity often carries with it an  
30 implicit threat to both persons and property. The experience of the City shows that a majority of  
31 the panhandlers arrested in the year 2003 were apprehended in and around Automated Teller  
32 Machines, parking lots, parking garages, restaurants and business entrances. The City  
33 Commission also finds that people driving or parking on city streets frequently find themselves

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1 faced with panhandlers seeking money by offering to perform “services” such as opening car  
2 doors or locating parking spaces.

3  
4 This law is timely and appropriate because current city ordinances are insufficient to address the  
5 forementioned problems. The restrictions contained herein are neither overbroad nor vague and  
6 are narrowly tailored to serve a substantial governmental interest. Moreover, this Article only  
7 restricts begging in certain public places while preserving ample alternative areas for the valid  
8 exercise of First Amendment constitutional rights. Furthermore, in enacting this ordinance, the  
9 City Commission recognizes the availability of community service and other sentencing  
10 alternatives, which may be appropriate remedies for violations of this ordinance.

11  
12 The law is not intended to limit any persons from exercising their constitutional right to solicit  
13 funds, picket, protest or engage in other constitutionally protected activity. Its goal is instead to  
14 protect citizens from the fear and intimidation accompanying certain kinds of solicitation that  
15 have become an unwelcome and overwhelming presence in the city, and to prohibit aggressive  
16 begging and begging in certain public places.

17  
18 **Section 2.** 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 designated**  
21 **places prohibited.**

22  
23 (a) *Purpose.* The City Commission finds that any person who panhandles, solicits, or  
24 demands money, gifts or donations under circumstances that warrant a justifiable and reasonable  
25 alarm or immediate concern for the safety of persons or property in the vicinity by unwanted  
26 touching, detaining, impeding or intimidation which causes fear or apprehension in another  
27 person constitutes a threat to the public health, welfare and safety of the citizenry. The city  
28 commission ~~further~~ also finds that any person who intentionally blocks the passage of another  
29 person or a vehicle, which requires another person to take evasive action to avoid physical  
30 contact, constitutes a threat to the public health, welfare and safety of the citizenry. The City  
31 Commission further finds that any person who panhandles, solicits, or demands money, gifts or  
32 donations under circumstances where the person being solicited cannot readily escape from the  
33 undesired conduct constitutes a threat to the public health, welfare and safety of the citizenry.

34  
35 (b) *Definitions.* Except where the content otherwise requires, as used in this section:

36  
37 (1) *Aggressively beg* means to beg, solicit, or demand money, gifts or donations from any  
38 person by an unwanted touching, detaining, impeding or intimidation.

39  
40 (2) *Beg* means to ask for money, gifts or donations, either by words, bodily gestures, signs or  
41 other means from any person.

42  
43 (3) *Obstruct pedestrian or vehicular traffic* means to walk, stand, sit, lie or place an object in  
44 such a manner as to block passage of another person or a vehicle, or to require another person or

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1 driver of a vehicle to take evasive action to avoid physical contact. Acts authorized as an  
2 exercise of one's constitutional right to picket or to legally protest, and acts authorized by permit  
3 issued pursuant to section 23-42 of this Code are not included within the definition of this term.  
4

5 (4) *Public place* means an area generally visible to public view and includes, but is not  
6 limited to, alleys, bridges, buildings, driveways, parking lots, parks, plazas, sidewalks and streets  
7 open to the general public, including those areas that serve food or drink or provide  
8 entertainment or other services, outdoor cafes, public restrooms, and the doorways and entrances  
9 to buildings or dwellings and the grounds enclosing them.

10  
11 (c) *Unlawful action*. ~~A person is guilty of pedestrian interference if, in a public place, he/she~~  
12 ~~intentionally:~~

13  
14 It shall be unlawful for any person in a public place to:

15  
16 (1) Obstructs pedestrian or vehicular traffic and aggressively beg; or

17  
18 (2) Aggressively begs; or

19  
20 (3) Beg or aggressively beg:

21  
22 a. at an outdoor café;

23  
24 b. within 12 feet of an outdoor café;

25  
26 c. in a public restroom;

27  
28 d. at a public event that is operating by permit issued by the City at City parks as  
29 defined in § 18-18 of this Code;

30  
31 e. at any other public event that is operating by permit issued by the City with  
32 defined boundaries;

33  
34 f. from any person standing in line to enter a building or event;

35  
36 h. within 12 feet of a line to enter a building or event;

37  
38 i. from any person entering or exiting a building;

39  
40 j. within 12 feet of the entrance or exit of a building;

41  
42 k. from any person using an Automated Teller Machine, or any electronic  
43 information processing device which accepts or dispenses cash in connection with  
44 a credit, deposit or convenience account (ATM);

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46 l. within 12 feet of an ATM;

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m. from any person using a pay phone:

n. within 12 feet of a pay phone.

**Section 3.** It is the intention of the City Commission that the provisions of Sections 1 and 2 of this Ordinance shall become and be made a part of the Code of Ordinances of the City of Gainesville, Florida, and that the sections and paragraphs of this ordinance may be re-numbered or re-lettered in order to accomplish such intentions.

**Section 4.** 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 5.** All ordinances, or parts of ordinances, in conflict herewith are to the extent of such conflict hereby repealed.

**Section 6.** This ordinance shall become effective immediately upon adoption.

**PASSED AND ADOPTED** this \_\_\_\_\_ day of \_\_\_\_\_ 2004.

\_\_\_\_\_  
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 \_\_\_\_\_, 2004.

This Ordinance passed on second reading this \_\_\_\_ day of \_\_\_\_\_, 2004.