

Ordinance _____
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An ordinance of the City of Gainesville, Florida, amending Chapter 19 of the Code of Ordinances entitled Peddlers, Solicitors and Canvassers, consisting of Sections 19-15 thru 19-17, Section 19-20, Sections 19-79 thru 19-82, Section 19-96, and Sections 19-126 thru 19-127; repealing Sections 19-51 thru 19-55, Sections 19-110 thru 19-113, and Sections 19-122 thru 19-124 of the Code of Ordinances; providing for the purpose and intent to promote the public health, welfare and safety; providing definitions; providing restrictions and requirements; prohibiting peddlers from peddling from any operator or occupant of a vehicle that is on a portion of a public street that is in use by vehicular traffic; prohibiting operators or occupant of vehicles that are in traffic on a public street from buying goods, wares or merchandise from peddlers while vehicle is on portion of public street in use by vehicular traffic; prohibiting any person from standing on a traffic median, bicycle path or public street to peddle or canvass from an operator or occupant of any vehicle when in use by vehicular traffic; prohibiting beggars, panhandlers or solicitors from begging, panhandling or soliciting from any operator or occupant of a vehicle that is in traffic on a public street; prohibiting any operator or occupant of a vehicle that is in traffic on a public street from engaging in a transaction with a beggar, panhandler or solicitor while a vehicle is on a portion of a public street in use by vehicular traffic; prohibiting any person from standing on a traffic median, bicycle path or public street to beg, panhandle or solicit when in use by vehicular traffic; repealing Article III relating to fundraising by a nonprofit organization; amending restrictions and prohibitions on begging, panhandling or soliciting on private and public property; removing sign message requirements for vending booths and itinerant vendors; repealing Article V relating to street solicitation by a nonprofit organization; amending the definition of handbills; providing directions to the codifier; providing a severability clause; providing a repealing clause and providing an immediate effective date.

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

CODE: Words ~~stricken~~ are deleted; words underlined are added.

1 involves the process of a peddler offering for sale goods, merchandise or wares to an occupant or
2 operator of a vehicle which is in traffic, that vehicle occupant or operator must consider the offer,
3 and, if the vehicle occupant or operator decides to purchase the goods, merchandise or wares,
4 that person must reach for a wallet, search for money, or write a check, all while the peddler and
5 vehicle are located on a public street in use by vehicular traffic. Based on the foregoing, the city
6 commission finds that the activity of peddling from occupants or operators of vehicles located on
7 streets in use by vehicular traffic distracts drivers from their primary duty to watch traffic and
8 potential hazards in the road, observe all traffic signals or warnings and move through the city's
9 streets and intersections in a lawful and safe manner and creates a potential safety hazard and
10 poses a substantial risk to the public, and impedes the free flow of traffic on the streets within the
11 city resulting in the delay and obstruction of the public's free flow of travel on the city's streets.
12 The city commission further finds that the safety of peddlers, canvassers, pedestrians and
13 operators or occupants of vehicles is at significant risk when peddlers or canvassers engage in
14 their activities on or near public streets which are in use by vehicular traffic because the nature of
15 these activities often entails peddlers and canvassers standing on traffic medians, bicycle paths
16 and public streets in use by vehicular traffic, property only meant for the use and control of
17 vehicular traffic and not peddling or canvassing activities.

18 It is not the purpose and intent of this article to prohibit peddling and canvassing in public
19 areas when such activities will not interfere with vehicular traffic and cause traffic safety and
20 traffic flow concerns. For example, peddlers may conduct their activities on public sidewalks so
21 long as they are not conducting transactions with operators or occupants of vehicles in traffic and

1 are otherwise in compliance with this Code. In addition, canvassers may engage in their
2 activities on public sidewalks so long as they are otherwise in compliance with this Code.

3 **Sec. 19-16. Definitions.**

4 For the purposes of this ~~article~~ chapter, the following words shall have the meanings ascribed to
5 them as follows:

6 *Bicycle Path* shall mean any road, path, or way that is open to the public for bicycle
7 travel, which road, path, or way is physically separated from motorized vehicular traffic by an
8 open space or by a barrier and is located within a right-of-way.

9 *Canvasser* shall mean any person traveling either by foot, vehicle or other conveyance,
10 from place to place, in order to solicit opinions for a survey or solicit ~~political~~ support for a
11 political campaign or any other cause, belief or issue.

12 *Peddler* shall mean any person who during the course of selling travels by foot, vehicle
13 or any other type of conveyance from place to place, ~~carrying or transporting goods, wares or~~
14 ~~merchandise, offering goods, wares or merchandise and exposing the same for sale or making~~
15 ~~sales and delivering articles purchased. Any person who solicits orders and as a separate~~
16 ~~transaction, makes deliveries to purchasers as a part of a scheme or design to evade the~~
17 ~~provisions of this article, shall be deemed a peddler, and such activity shall be prohibited within~~
18 ~~the city.~~

19 *Peddling from any operator or occupant of a vehicle that is in traffic on a public street*
20 shall mean selling goods, wares or merchandise to any operator or occupant of a vehicle, coupled
21 with an actual exchange of money or some article of value for any goods, wares or merchandise

1 between the peddler and any operator or occupant of a vehicle while that vehicle is on the
2 portion of a public street currently in use by vehicular traffic.

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

5 Public Street shall mean the entire width between the boundary lines of every way or
6 place of whatever nature when any part thereof is open to the use of the public for purposes of
7 vehicular traffic.

8 Residential Areas, shall mean all single-family and multi-family neighborhoods that are
9 zoned with the residential zoning district categories of ~~RSF-1, RSF-2, RSF-3, RSF-4, RMF-5,~~
10 ~~RMF-6, RMF-7, RMF-8, RC, MH, RMV, RH-1 and RH-2, as shown on the zoning map atlas of~~
11 ~~the city~~ referenced in the land development code, sections 30-51 through 30-55, and all
12 residential planned developments.

13 Solicitor shall mean any person traveling either by foot, vehicle or other conveyance,
14 from place to place, taking or attempting to take orders for the sale of goods, wares and
15 merchandise or personal property of any nature whatsoever, for future delivery, or for services to
16 be furnished or performed in the future, whether or not the person has, carries or exposes for sale
17 a sample of the subject of the sale, or whether he/she is collecting advance payments on the sales
18 or not; and any person who, for himself/herself, or for another person, hires, leases, uses or
19 occupies any building, structure, car, room, shop or any other place within the city, for the sole
20 purpose of exhibiting samples and taking orders for future delivery.

21 Temporary shall mean a time of short duration or not permanent.

1 Traffic Median shall mean the dividing area, either paved or landscaped, between
2 opposing lanes of vehicular traffic.

3 Vehicles shall mean any mobile item which normally uses wheels, whether motorized or
4 not.

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

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

9 ~~(b) Solicitors, peddlers and canvassers are prohibited from soliciting, peddling or canvassing in~~
10 ~~the traffic lanes of any street or in any right of way and are prohibited from soliciting, peddling~~
11 ~~or canvassing in such a manner as to knowingly obstruct, impede or interfere with the free flow~~
12 ~~of pedestrian or vehicular traffic. Peddlers are prohibited from peddling from any operator or~~
13 ~~occupant of a vehicle that is in traffic on a public street, as those terms are defined in this article.~~

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

16 (c) Operators or occupants of vehicles that are in traffic on a public street are prohibited from
17 offering money or other articles of value or buying goods, wares or merchandise from peddlers
18 when doing so results in the actual exchange of money or some other article of value for goods,
19 wares or merchandise between the peddler and the operator or occupant of a vehicle while that
20 vehicle is on the portion of a public street currently in use by vehicular traffic.

21 (d) No person shall stand on a traffic median, bicycle path or public street to peddle or canvass
22 from an operator or occupant of any vehicle when in use by vehicular traffic.

1 ~~(ed) Solicitors, p~~Peddlers and canvassers are prohibited from ~~soliciting, peddling and canvassing~~
2 engaging in their activities on residential premises in residential areas where a notice stating "No
3 Solicitors" or "No Solicitation" is posted in plain view.

4 ~~(fe) No more than two solicitors, p~~eddlers or canvassers shall contact any one member of the
5 public at any one time.

6 ~~(gf) Solicitors, p~~Peddlers and canvassers will not persist in their activities after the request has
7 been declined, and they will immediately and peaceably depart from the premises when
8 requested to do so by the occupant.

9 ~~(hg) Solicitors, p~~Peddlers and canvassers shall not harass persons by demanding, threatening or
10 intimidating conduct.

11 **Sec. 19-20. Penalty.**

12 Any person convicted of violating any of the provisions of this article shall be punished as
13 provided in section 1-9 of this Code.

14 **Section 2.** Article III, Fundraising By Nonprofit Organization, Division 1, consisting of
15 Sections 19-51 thru 19-55 of the Code of Ordinances of the City of Gainesville, is repealed in its
16 entirety, reserving Sections 19-51 thru 19-70;

17 **ARTICLE III. ~~FUNDRAISING BY NONPROFIT ORGANIZATION~~**

18 **DIVISION 1. GENERALLY**

19 **Secs. 19-51--19-70. Reserved.**

20 **~~Sec. 19-51. Purpose and intent.~~**

21 ~~It is the purpose and intent of this article to preserve public safety, human life and convenience;~~
22 ~~to secure the comfort, health, welfare and prosperity of all city inhabitants; to ensure that the use~~

1 ~~of streets and sidewalks in the city does not become dangerous and that the free flow of traffic~~
2 ~~thereon is not impeded; to preserve to those in the home privacy and quiet; to protect city~~
3 ~~inhabitants against crime and undue annoyance; and to protect those on the streets and at home~~
4 ~~against abusive behavior by solicitors.~~

5 **~~Sec. 19-52. Unauthorized solicitation declared unlawful.~~**

6 ~~It shall be unlawful for any person to beg or solicit alms, or financial assistance of any kind or~~
7 ~~nature on developed private property without written permission of the owner, which permission~~
8 ~~must be carried upon his/her person. Vacant land cannot be so used with or without the consent~~
9 ~~of the owner. For the purposes of this article, properties occupied by religious or charitable~~
10 ~~organizations which are tax exempt shall not be considered as public places and shall be~~
11 ~~considered as private property subject to all of the applicable restrictions of the particular zoning~~
12 ~~district in which the nonprofit organization is situated. The provisions of this division shall not~~
13 ~~apply to qualified political candidates/organizations running on local ballots.~~

14 **~~Sec. 19-53. Religious and charitable solicitation permitted.~~**

15 ~~Religious and charitable organizations may solicit contributions for religious and charitable~~
16 ~~purposes in accordance with this article. The sale or transfer of goods and services shall be~~
17 ~~permitted under the provisions of this article, except as provided in article V of this chapter.~~

18 **~~Sec. 19-54. Restrictions and requirements.~~**

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

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

- 1 ~~(c) Solicitors are prohibited from soliciting on residential premises in residential areas where a~~
2 ~~notice stating "No Solicitors" or "No Solicitation" is posted in plain view.~~
- 3 ~~(d) No more than two solicitors shall contact and solicit any one member of the public at any~~
4 ~~one time.~~
- 5 ~~(e) Solicitors will not persist in soliciting after the solicitation has been declined, and they will~~
6 ~~immediately and peaceably depart from the premises when requested to do so by the occupant.~~
- 7 ~~(f) Solicitors shall not harass persons by demanding, threatening or intimidating conduct.~~
- 8 ~~(g) Solicitors may solicit donations or contributions for religious or charitable paraphernalia~~
9 ~~from the general public to be used in the furtherance of their religion or charity provided that if a~~
10 ~~minimum donation is required the person solicited must be so informed.~~
- 11 ~~(h) This article allows nonprofit institutions such as religious organizations, scouting, schools~~
12 ~~and fraternal societies to sell or transfer goods such as cookies, flowers, etc., or services such as~~
13 ~~earwashes, carnivals, etc., which may include the use of a building and/or its premises for such~~
14 ~~sales or delivery or services, but not a vacant parcel of land. Such fundraising activities must be~~
15 ~~clearly incidental to the primary function of such institutions, and all proceeds must be returned~~
16 ~~to the nonprofit organization. If any proceeds are shared by a non-tax exempt organization, an~~
17 ~~occupational license may be required.~~
- 18 ~~(i) Solicitors are prohibited from soliciting in such a manner as to knowingly obstruct, impede or~~
19 ~~interfere with the free flow of pedestrian or vehicular traffic.~~
- 20 ~~(j) No solicitor shall raise funds, or seek financial assistance of any kind or nature, on any street~~
21 ~~or right of way within the city without satisfying the requirements of article V of this chapter.~~

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

3 **Sec. 19-55. Penalty.**

4 ~~Any person convicted of violating any of the provisions of this article shall be punished as~~
5 ~~provided in section 1-9.~~

6 **Secs. 19-56--19-70. Reserved.**

7 **Section 3.** Article IIIA, entitled Begging, Panhandling and Soliciting, consisting of
8 Sections 19-79 thru 19-82 of the Code of Ordinances of the City of Gainesville, is renumbered as
9 Article III and is amended to read as follows:

10 **ARTICLE IIIA. BEGGING, PANHANDLING AND SOLICITING**

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

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

21 Aggressive begging, panhandling or soliciting usually includes approaching or following
22 pedestrians, repetitive begging, panhandling, or soliciting despite refusals, the use of abusive or

1 profane language, unwanted physical contact, or the intentional blocking of pedestrian and
2 vehicular traffic. The city commission further finds that the presence of ~~individuals~~ persons who
3 solicit money from other persons at or near outdoor cafes, automated teller machines, the
4 entrance and exits of buildings, certain public events as more particularly described in this
5 article, and payphones is especially troublesome because said persons cannot readily escape from
6 the undesired conduct. Such activity often carries with it an implicit threat to both persons and
7 property. The experience of the city shows that a majority of the beggars, panhandlers or
8 solicitors arrested in the year 2003 were apprehended in and around automated teller machines,
9 parking lots, parking garages, restaurants and business entrances. The city commission also finds
10 that people driving or parking on city streets frequently find themselves faced with beggars,
11 panhandlers or solicitors seeking money by offering to perform "services" such as opening car
12 doors or locating parking spaces.

13 The city commission further finds that the activity of begging, panhandling or soliciting
14 presents significant public health, welfare and safety concerns and crowd control problems when
15 such activities are conducted on or near public streets which are in use by vehicular traffic
16 because these activities involve the process of a person requesting a donation from an occupant
17 or operator of a vehicle which is in traffic, that vehicle occupant or operator must consider the
18 request, and, if the vehicle occupant or operator decides to fulfill the request, that person must
19 reach for a wallet, search for money, or write a check, all while that person and vehicle are
20 located on a public street in use by vehicular traffic. Based on the foregoing, the city
21 commission finds that the activity of begging, panhandling or soliciting from occupants or
22 operators of vehicles located on streets in use by vehicular traffic distracts drivers from their

1 primary duty to watch traffic and potential hazards in the road, observe all traffic signals or
2 warnings and move through the city's streets and intersections in a lawful and safe manner and
3 creates a potential safety hazard and poses a substantial risk to the public, and impedes the free
4 flow of traffic on the streets within the city resulting in the delay and obstruction of the public's
5 free flow of travel on the city's streets. The city commission further finds that the safety of
6 beggars, panhandlers, solicitors, pedestrians and operators and occupants of vehicles is at
7 significant risk when such activities occur because the nature of these activities often entails
8 beggars, panhandlers or solicitors standing on traffic medians, bicycle paths and public streets in
9 use by vehicular traffic, property only meant for the use and control of vehicular traffic and not
10 begging, panhandling or soliciting.

11 It is not the purpose and intent of this article to prohibit begging, panhandling or
12 soliciting in public areas when such activities will not interfere with vehicular traffic and cause
13 traffic safety and traffic flow concerns or when such activities will not otherwise cause any
14 public health, welfare and safety concerns. For example, beggars, panhandlers or solicitors may
15 conduct their activities on public sidewalks so long as they are not conducting transactions with
16 operators or occupants of vehicles in traffic and are otherwise in compliance with this Code.

17 This law is timely and appropriate because current city ordinances are insufficient to
18 address the aforementioned problems. The restrictions contained herein are neither overbroad nor
19 vague and are narrowly tailored to serve a substantial governmental interest. Moreover, this
20 article only restricts begging, panhandling and soliciting in certain public places while preserving
21 ample alternative areas for the valid exercise of First Amendment constitutional rights.
22 Furthermore, in enacting this article, the city commission recognizes the availability of

1 community service and other sentencing alternatives, which may be appropriate remedies for
2 violations of this article.

3 The law is not intended to limit any persons from exercising their constitutional right to
4 beg, panhandle or solicit funds, picket, protest or engage in other constitutionally protected
5 activity. Its goal is instead to protect citizens from the fear and intimidation accompanying
6 certain kinds of begging, panhandling or solicitation that have become an unwelcome and
7 overwhelming presence in the city, and to prohibit aggressive begging, panhandling and
8 solicitation and begging, panhandling and solicitation in certain public places based upon
9 significant governmental interests.

10 **Sec. 19-80. Begging, pPanhandling or soliciting on public property, sidewalks and streets;**
11 **certain designated places prohibited.**

12 (a) *Purpose.* The city commission finds that any person who begs, panhandles, or ~~solicits, or~~
13 ~~demands money, gifts or donations~~ under circumstances that warrant a justifiable and reasonable
14 alarm or immediate concern for the safety of persons or property in the vicinity by unwanted
15 touching, detaining, impeding or intimidation which causes fear or apprehension in another
16 person constitutes a threat to the public health, welfare and safety of the citizenry. The city
17 commission also finds that any person who intentionally blocks the passage of another person or
18 a vehicle, which requires another person to take evasive action to avoid physical contact,
19 constitutes a threat to the public health, welfare and safety of the citizenry. The city commission
20 further finds that any person who begs, panhandles, or ~~solicits, or demands money, gifts or~~
21 ~~donations~~ under circumstances where the person being solicited cannot readily escape from the
22 undesired conduct constitutes a threat to the public health, welfare and safety of the citizenry.

1 The city commission also finds that any person begging, panhandling or soliciting from
 2 occupants or operators of vehicles while such vehicles are on the portion of a public street
 3 currently in use by vehicular traffic and any person begging, panhandling or soliciting on traffic
 4 medians, bicycle paths or public streets when such property is in use by vehicular traffic poses a
 5 threat to public safety and prevents the free flow of traffic on public streets.

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

7 (1) *Aggressively beg, panhandle or solicit* means ~~to beg, solicit, or demand money, gifts or~~
 8 ~~donations~~ any request made in person for a donation of money or some other article of value
 9 from any another person by an unwanted touching, detaining, impeding or intimidation.

10 (2) *Beg, panhandle or solicit* means any request made in person for a donation of money or
 11 some other article of value ~~to ask for money, gifts or donations,~~ either by words, bodily
 12 gestures, signs or other means, from another person.

13 (3) *Beg, panhandle, or solicit from any operator or occupant of a vehicle that is in traffic on a*
 14 public street means any request made in person for a donation of money or some other article
 15 of value, either by words, bodily gestures, signs or other means, from any operator or
 16 occupant of a vehicle, coupled with an actual exchange of money or some other article of
 17 value between the person begging, panhandling or soliciting and any operator or occupant of
 18 a vehicle while that vehicle is on the portion of a public street currently in use by vehicular
 19 traffic.

20 (34) *Obstruct pedestrian or vehicular traffic* means to walk, stand, sit, lie or place an object in
 21 such a manner as to block passage of another person or a vehicle, or to require another person
 22 or driver of a vehicle to take evasive action to avoid physical contact. Acts authorized as an

1 exercise of one's constitutional right to picket or to legally protest, and acts authorized by
 2 permit issued pursuant to section 23-42 of this Code are not included within the definition of
 3 this term.

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

9 (6) Beggar, panhandler or solicitor means any person traveling either by foot, vehicle or other
 10 conveyance, from place to place, requesting in person a donation of money or some other
 11 article of value, either by words, bodily gestures, signs or any other means, from another
 12 person.

13 (c) ~~Unlawful action~~ Restrictions and Requirements. ~~It shall be unlawful for any person in a~~
 14 ~~public place to:~~

15 (1) Beggars, panhandlers or solicitors are prohibited from obstructing pedestrian or vehicular
 16 traffic and aggressively begging, panhandling or soliciting.~~;~~~~or~~

17 (2) Beggars, panhandlers or solicitors are prohibited from aggressively begging, panhandling
 18 or soliciting.~~;~~~~or~~

19 (3) Beggars, panhandlers or solicitors are prohibited from begging, panhandling or soliciting
 20 from any operator or occupant of a vehicle that is in traffic on a public street, as those terms
 21 are defined in this article.

1 (4) Any operator or occupant of a vehicle that is in traffic on a public street is prohibited from
2 offering money or some other article of value to a beggar, panhandler or solicitor resulting in
3 the actual exchange of money or some other article of value between the person begging,
4 panhandling or soliciting and the operator or occupant of a vehicle while that vehicle is on
5 the portion of a public street currently in use by vehicular traffic.

6 (5) No person shall stand on a traffic median, bicycle path or public street to beg, panhandle or
7 solicit when in use by vehicular traffic.

8 (36) Begging, panhandling, soliciting or aggressively begging, panhandling or soliciting are
9 prohibited at the following places:

- 10 a. At an outdoor cafe;
- 11 b. Within 12 feet of an outdoor cafe;
- 12 c. In a public restroom;
- 13 d. At a public event that is operating by permit issued by the city at city parks as defined in
14 section 18-18 of this Code;
- 15 e. At any other public event that is operating by permit issued by the city with defined
16 boundaries;
- 17 f. From any person standing in line to enter a building or event;
- 18 g. Within 12 feet of a line to enter a building or event;
- 19 h. From any person entering or exiting a building;
- 20 i. Within 12 feet of the entrance or exit of a building;

- 1 j. From any person using an automated teller machine, or any electronic information
2 processing device which accepts or dispenses cash in connection with a credit, deposit or
3 convenience account (ATM);
- 4 k. Within 12 feet of an ATM;
- 5 l. From any person using a pay phone;
- 6 m. Within 12 feet of a pay phone.

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

8 **Sec. 19-81. Begging, Panhandling or soliciting in private buildings and private developed**
9 **property; prohibited.**

10 (a) *Legislative intent, purpose.* The city commission finds that any person who begs,
11 panhandles, or solicits, or demands money, gifts or donations under circumstances that warrant a
12 justifiable and reasonable alarm or immediate concern for the safety of persons or property in
13 public rooms of private buildings and on private developed propertyies by unwanted touching,
14 detaining, impeding or intimidation which causes fear or apprehensive in another person ~~and~~
15 ~~which~~ constitutes a threat to the public health, welfare and safety of the citizenry. The city
16 commission further finds that any person who begs, panhandles or solicits under circumstances
17 where the person being solicited cannot readily escape from the undesired conduct constitutes a
18 threat to the public health, welfare and safety of the citizenry.

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

20 ~~(1) *Panhandle* means to ask for money, gifts or donations, either by words, bodily gestures,~~
21 ~~signs or other means from another person.~~

1 (12) *Private building* shall be deemed to include, but is not limited to, retail or service
2 establishments, such as restaurants, convenience food stores, laundromats, service stations,
3 hotels, offices, and similar privately owned establishments open to the public. This term does
4 not include any building owned, leased or operated by the federal or state government,
5 political subdivisions thereof, municipalities, special districts, any public administration
6 board or authority of the state.

7 ~~(23) *Private developed property* shall be deemed to include a parking lot, driveway, walkway~~
8 ~~and landscaped areas. *Private property or premises* shall mean and include any privately-~~
9 ~~owned dwelling, house, building, or other structure, designed or used either wholly or in part~~
10 ~~for private residential purposes, whether inhabited, uninhabited or vacant, and shall include~~
11 ~~any yard, grounds, curtilage, parking area, driveway, walk, porch, steps, vestibule or mailbox~~
12 ~~belonging or appurtenant to such dwelling, house, building, or other structure and may~~
13 ~~include any other location, including any improvements on said location, within the City of~~
14 ~~Gainesville that is not publicly owned.~~

15 (34) *Public room* shall be deemed to include a basement, building entrance or doorway, lobby,
16 hallway, stairway, mezzanine, elevator, foyer, public restroom or sitting room or any other
17 place used in common by the public, tenants, occupants or guests situated in any private
18 building.

19 (c) *Unlawful action*. It shall be unlawful for any person to:

20 (1) Beg, panhandle, or solicit or demand money, gifts or donations, as those terms are defined
21 in this chapter, in any public room in any private building ~~or on private developed property~~,
22 without the written permission or consent of the building's owner or managing and

1 authorizing agent. For the purpose of enforcement of this subsection, it is presumed that if
 2 the owner, lessee, managing agent or other person in charge of a building prominently
 3 displays a sign as provided in subsection (d), then the activities declared unlawful in this
 4 section are deemed to be without the permission or consent of the building's owner, lessee,
 5 managing agent or other person.

6 (2) Beg, panhandle or solicit, as those terms are defined in this chapter, on any private property
 7 where the owner, lessee, managing agent or other person in charge of such property displays
 8 a sign as provided in subsection (d).

9 (d) *Conspicuous notice.* To invoke the protections afforded under this section, ~~e~~Each owner,
 10 lessee, managing agent or person in charge of the operation of a private building or private
 11 property developed area shall prominently display a sign on the premises, such as the lobby or
 12 entrance of the private building or private-developed property, where it may be read by any
 13 person going in or out of the building or private developed property stating generally: "NO
 14 PANHANDLING PERMITTED SEC. 19-81, GAINESVILLE CODE OF ORDINANCES;"
 15 "NO SOLICITORS" or "NO SOLICITATION."

16 **Sec. 19-82. Begging, pPanhandling or soliciting in public buildings, public areas and public**
 17 **transportation areas; prohibited.**

18 (a) *Legislative intent, purpose.* The city commission finds that begging, panhandling, or
 19 soliciting or demanding money, gifts or donations may interfere with the safe ingress and egress
 20 of human and vehicular traffic into public buildings, ~~public areas~~ and public transportation areas
 21 thereby constituting a threat to the public health, welfare and safety of the citizenry. In order to
 22 allow for the safe ingress and egress of human and vehicular traffic into public buildings, ~~public~~

1 ~~areas~~ and public transportation areas, the city manager is authorized to prohibit begging,
2 panhandling, or ~~soliciting or the demanding of money, gifts or donations~~ within public buildings
3 or designated areas of that public building or public transportation areas upon the request of the
4 owners, lessees, managing or authorizing agents of the public building or areas in accordance
5 with the provisions of this section.

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

7 ~~(1) *Panhandle* means to ask for money, gifts or donations, either by words, bodily gestures,~~
8 ~~signs or other means from another person.~~

9 (12) *Public building* means any building or facility owned, leased or operated by or on behalf of
10 the federal or state government or any political subdivision thereof, any municipality, or
11 special district or any public administrative board or authority of the federal or state
12 government.

13 (23) *Public transportation area* means a building, facility or area designated for mass transit
14 transportation, such as, but not limited to, bus terminals, airport terminals, bus stops and taxi
15 stands.

16 (c) *Designation*. The city manager is authorized to designate a public building or area of a
17 public building or public transportation area based upon the following criteria:

- 18 (1) The purpose and characteristic of the building, facility or area;
19 (2) The level of human and vehicular traffic in and around the building, facility or area;
20 (3) The function of the building, facility or area;
21 (4) Proximity of the building, facility or area to other buildings, transportation facilities, parking
22 areas and sidewalks;

- 1 (5) The necessity to alleviate obstructions and hazards to pedestrians and/or vehicular traffic to
2 protect public health and safety; and,
- 3 (6) The desires and needs of the owners and occupants of the area and immediate surroundings.
- 4 (d) *Order*. Upon determining that a public building ~~public health~~ or area of ~~the~~ a public building
5 or public transportation area warrants the designation to prohibit begging, panhandling, or
6 ~~soliciting or the demanding of money, gifts or donations~~, the city manager shall issue an order
7 which specifically identifies the building or area or public transportation area. The order shall be
8 conspicuously posted at the designated building or area. If no appeal is filed, the order shall
9 become final within 20 days from the date of entry of the order.
- 10 (e) *Administrative appeal*.
- 11 (1) The city manager's order may be appealed by any aggrieved person before a hearing officer
12 within 20 days from the date of entry of the order.
- 13 (2) If an appeal is filed, the hearing shall be conducted by a hearing officer. In this proceeding,
14 the hearing officer shall find whether substantial competent evidence existed for the city
15 manager to prohibit begging, panhandling, or ~~soliciting or the demanding of money, gifts or~~
16 ~~donations~~ in a public building or area of a public building or public transportation area based
17 upon the criteria set forth in subsection (b). The hearing officer's decision may be appealed to
18 a court of competent jurisdiction by a petition for a writ of certiorari within 30 days after the
19 rendition of the hearing officer's decision regarding the designation.
- 20 (f) *Final order*. When the order becomes final, the city manager shall cause the designation to
21 be recorded upon an appropriate map and retained in the police department.

1 (g) *Conspicuous notice.* Each public building, area of the public building or public
 2 transportation area designated by the city manager in accordance with this section shall
 3 prominently display a sign on the premises, such as a lobby or entrance to a building or area,
 4 where it may be read by any person going in or out of the building or area stating generally: "NO
 5 PANHANDLING PERMITTED SEC. 19-82, GAINESVILLE CODE OF ORDINANCES;"
 6 "NO SOLICITORS" or "NO SOLICITATION."

7 (h) *Unlawful action.* When a public building or area of a public building or public
 8 transportation area has been designated and posted, it shall be unlawful for any person to beg,
 9 panhandle, or solicit or demand money, gifts or donations within the public building, or area of
 10 the public building or public transportation area. It shall also be unlawful for any person to
 11 obstruct, impede or harass pedestrians or vehicles for the purpose of begging, panhandling, or
 12 soliciting or demanding money within the designated and posted public building, or area of the
 13 public building or public transportation area.

14 **Section 4.** Article IV, Vending Booths and Itinerant Vendors, Section 19-96 of the Code
 15 of Ordinances of the City of Gainesville, is amended to read as follows:

16 **ARTICLE IV. VENDING BOOTHS AND ITINERANT VENDORS**

17 **Sec. 19-96. Signage.**

18 Signs using lettering painted on or applied to the canopy valance will be allowed. ~~The sign~~
 19 ~~message on the canopy valance shall be limited to a single generic description of the~~
 20 ~~merchandise, such as "food," "sandwiches," "ice cream," "newspapers."~~ Two additional signs
 21 will be allowed at six square feet each, to be mounted on the vending booth or itinerant food

1 vending conveyance. No other signs, pictures or advertisements of any kind, such as stickers,
2 flags, balloons, or lights other than as discussed below, shall be allowed.

3 **Section 5.** Article V, Street Solicitation By Nonprofit Organization, Division 1,
4 consisting of Sections 19-110 thru 19-113 of the Code of Ordinances of the City of Gainesville,
5 is repealed in its entirety, reserving Sections 19-110 thru 19-124;

6 **ARTICLE V. STREET SOLICITATION BY NONPROFIT ORGANIZATION**

7 **DIVISION 1. GENERALLY**

8 **Sec. ~~19-110-19-124.~~ Reserved. **Definition.****

9 ~~For the purposes of this article, the following words shall have the meaning ascribed to them as~~
10 ~~follows:~~

11 ~~*Nonprofit organization* shall mean an organization qualified under § 501(c)(3) of the~~
12 ~~Internal Revenue Code and registered pursuant to F.S. Ch. 496, or persons or organizations~~
13 ~~acting on behalf of and with the authority of such an organization.~~

14 **Sec. ~~19-111.~~ **Purpose and intent.****

15 ~~It is the purpose and intent of this article to preserve public safety, human life and convenience;~~
16 ~~to secure the comfort, health, welfare and prosperity of all city inhabitants; to ensure that the use~~
17 ~~of streets and sidewalks in the city does not become dangerous and that the free flow of traffic~~
18 ~~thereon is not impeded; to protect city inhabitants against crime and undue annoyance; and to~~
19 ~~protect those on the streets against abusive behavior by solicitors.~~

20 **Sec. ~~19-112.~~ **Restrictions.****

21 ~~It shall be unlawful for any person to raise funds, or seek financial assistance of any kind or~~
22 ~~nature, on behalf of a nonprofit organization, on any street or right-of-way within the city~~

1 without first acquiring a permit. For purposes of this section, right-of-way shall not include
2 sidewalks, but shall include bike lanes and medians.

3 **Sec. 19-113. Requirements.**

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

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

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

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

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

19 ~~A. Insurance Requirements. The insurance coverage requirement may be satisfied either by~~
20 ~~the applicant obtaining insurance protecting the city against liability or by paying the city's~~
21 ~~additional actual cost of obtaining coverage for its liability as a result of the solicitation.~~

- 1 ~~—B. Waiver of Insurance Requirement. The insurance requirement will be waived if neither~~
2 ~~the applicant nor the city is able to obtain coverage for the city's liability as a result of the~~
3 ~~solicitation activity, and the requirement will be waived if the applicant is unable to pay~~
4 ~~either the cost of the least expensive coverage available for the applicant or the city. In order~~
5 ~~to be relieved of the insurance requirement, the applicant must provide satisfactory proof of~~
6 ~~financial inability to purchase such insurance.~~
- 7 ~~(b) Upon receipt of an application, plan, and indemnification acceptable to the city, a permit will~~
8 ~~be issued with the following conditions:~~
- 9 ~~(1) No organization, or persons or organizations acting on its behalf, shall receive a permit or~~
10 ~~permits allowing solicitation for more than three days in any calendar year.~~
- 11 ~~(2) To avoid solicitation during the hours that experience the highest numbers of traffic~~
12 ~~accidents, no permit shall be given for solicitation outside the hours 9:00 a.m. to 4:00 p.m.~~
- 13 ~~(3) No more than four solicitors may solicit at any one intersection.~~
- 14 ~~(4) Soliciting will only be allowed at a limited number of intersections pre-approved for the safe~~
15 ~~conduct of such activities.~~
- 16 ~~(5) Each solicitor must carry a copy of the permit.~~
- 17 ~~(6) Solicitors must be 18 years of age or older.~~
- 18 ~~(7) If multiple applications are received for the same intersection at the same time, the first~~
19 ~~complete and otherwise acceptable application will be given the permit.~~
- 20 ~~(c) Solicitors are prohibited from remaining in a traffic lane when a traffic control signal (i.e.,~~
21 ~~green ball/green arrow indication) allows traffic to flow on that lane.~~
- 22 ~~Secs. 19-114-19-120. Reserved.~~

1 ~~(c) If a written request for a hearing is timely filed, the matter shall be considered at the nearest~~
 2 ~~regular or special meeting of the city commission occurring not less than ten days after the filing~~
 3 ~~of such request. The applicant or permittee or their representative, as well as the city manager,~~
 4 ~~shall be notified of the time and place of such hearing. No appeal fees or additional notices shall~~
 5 ~~be required.~~

6 **Sec. 19-124. Penalty.**

7 ~~Any person convicted of violating any of the provisions of this article shall be punished as~~
 8 ~~provided in section 1-9. Upon finding that a solicitor or the solicitor's organization does not have~~
 9 ~~a permit, or that the solicitation is occurring outside the location or hours shown on the permit,~~
 10 ~~that the information given on the permit location was materially fraudulent or misleading, or that~~
 11 ~~any of the conditions of the permit are not being met, a police officer or other designated official~~
 12 ~~shall issue a warning to cease the solicitation. Continuation of the prohibited solicitation will~~
 13 ~~subject the solicitor(s) to arrest.~~

14 **Section 7.** Article VI, Distribution of Handbills, consisting of Section 19-126 and
 15 Section 19-127 of the Code of Ordinances of the City of Gainesville, is amended to read as
 16 follows:

17 **ARTICLE VI. DISTRIBUTION OF HANDBILLS**

18 **Sec. 19-126. Definitions.**

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

1 *Handbill* shall mean and include any ~~commercial~~ printed or written matter, any sample or
2 device, circular, leaflet, pamphlet, paper, booklet, or any other printed or otherwise reproduced
3 original or copies of any matter or literature.;

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

5 ~~(2) Which directs attention to any business or mercantile or commercial establishment, or any~~
6 ~~other activity;~~

7 ~~(3) Which directs attention to or advertises any theatrical performance, exhibition, or event of~~
8 ~~any kind.~~

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

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

20 *Person* shall mean and include individuals, associations, firms, corporations,
21 partnerships, bodies politic and corporate, and all other groups or combinations thereof.

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

8 *Public premises* shall mean and include any and all public parks, public parking garages,
9 public parking lots and public grounds and buildings.

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

11 (a) It shall be unlawful for any person to deposit, place, throw, scatter or cast any handbill in or
12 upon any private or public premises within the city where a notice stating "No Handbills" is
13 posted on the premises.

14 (b) It shall be unlawful for any person to direct, encourage or allow another person, employee or
15 independent contractor to deposit, place, throw, scatter or cast any handbill in or upon any
16 private or public premises within the city where a notice stating "No Handbills" is posted on the
17 premises.

18 **Section 8.** It is the intention of the City Commission that Sections 1 thru 7 of this ordinance
19 shall become and be made a part of the Gainesville Code of Ordinances, of the City of Gainesville,
20 Florida, and that the Sections and Paragraphs of this ordinance may be renumbered or relettered in
21 order to accomplish such intentions.

1 **Section 9.** If any section, sentence, clause or phrase of this ordinance is held to be invalid or
2 unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the
3 validity of the remaining portions of this ordinance.

4 **Section 10.** All ordinances, or parts of ordinances, in conflict herewith are to the extent of
5 such conflict hereby repealed.

1 **Section 11.** This ordinance shall become effective immediately on adoption.

2 **PASSED AND ADOPTED** this ____ day of _____, 2007.

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7

PEGEEN HANRAHAN
MAYOR

8 ATTEST

APPROVED AS TO FORM AND LEGALITY

9

10

KURT M. LANNON
CLERK OF THE COMMISSION

MARION J. RADSON
CITY ATTORNEY

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This Ordinance passed on first reading this ____ day of _____, 2007.

18

This Ordinance passed on second reading this ____ day of _____, 2007.