

City of Gainesville

Inter-Office Communication

Office of the City Manager

Mail Station 6

334-5010

TO: Hon. Mayor and Members of the City Commission DATE: June 30, 2000

FROM: Wayne Bowers
City Manager

SUBJECT: Fliers on Utility Poles

In August 1996, the State Attorney notified the Gainesville Police Department that cases involving violations of Section 17-2 of the City of Gainesville Code of Ordinances (entitled "Advertising Matter; Affixing Signs, Etc., to Poles") would no longer be prosecuted. The State Attorney based this decision on "a certain historic toleration or a mere recognition of the difficulty of monitoring the posting of such materials to the City poles." In order to begin prosecuting violations of this section of the Code, the State Attorney suggested that the City implement a new policy that more fully and fairly advises potential violators of the City's intent to uniformly enforce the ordinance. After several months of no enforcement, the number of fliers on utility poles proliferated. The fliers were generally concentrated on University Avenue and West 13th Street near the University of Florida campus.

In July 1997, the General Manager for Utilities and I recommended a comprehensive program involving the clean up of previously placed fliers, a media campaign on proposed enforcement, certain amendments to Section 17-2 of the Code to clarify enforcement procedures, and the placement of kiosk structures to be known as pedestrian message boards for the posting of fliers at certain locations. This recommendation was referred by the Commission to the Public Works Committee. After several meetings, the Public Works Committee made a recommendation to the City Commission on September 8, 1997 to amend Section 17-2 to allow fliers on concrete utility poles located along portions of West University Avenue and West 13th Street. Fliers posted on these poles were to comply with an administrative policy implemented by the City Manager and approved by the City Commission. The Commission approved the Public Works Committee recommended amendments to Section 17-2 and the City Manager's administrative policy on November 10, 1997. A copy of Section 17-2 and the administrative policy are attached. A media campaign was initiated and enforcement of the new regulations began in January 1998.

Although initial efforts to keep the area free of those fliers that did not comply with the administrative policy were successful, over time the number of illegal fliers has increased significantly. When the new black mast arm traffic signal poles were installed along University Avenue, within a few weeks numerous fliers were affixed to these poles although the ordinance restricts the fliers to concrete poles. The number of illegal fliers currently presents a tremendous challenge to the Code Enforcement staff. I have attached a memorandum from the Community Development Director and Code Enforcement Manager concerning recent efforts at enforcing the flier ordinance and administrative policy.

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As the memorandum from Tom Saunders and Lisa Koehler concludes "it would be more effective to enforce an ordinance that either allowed fliers anywhere or prohibited them everywhere." In my opinion the posting of fliers on utility poles, traffic control boxes, garbage cans, and other structures located in the public right-of-way creates a poor visual image for the City of Gainesville on the streets near the University of Florida campus. I recommend that Section 17-2 be amended to once again completely prohibit the placing of fliers on utility poles and similar fixtures.

In order for the Code Enforcement Division to effectively enforce a ban on fliers, a comprehensive program similar to the one I proposed in 1997 is recommended. The first step in this program would be to intensify clean up efforts in the West University Avenue – 13th Street area where the fliers are the most prevalent. I propose to assign a five-inmate crew for an initial intensive clean up effort. The Public Works Department assisted by the Parks Division would coordinate this clean up effort with other volunteer groups. Keep Alachua County Beautiful has assisted in prior clean up efforts and would be asked to help again in this initial effort. Approximately \$1,000 for materials would be needed to facilitate this intensive clean up effort. Due to difficulties that have been experienced recently with obtaining inmates on a consistent basis, the Public Works Department staff may be forced to utilize a concrete crew made up of one supervisor and five maintenance workers to perform this work. If this reassignment is necessary the Commission should be aware that this temporary reassignment would have a negative impact on sidewalk, street, and other concrete projects. As a part of this clean up effort, I propose that the City would paint the mast arm poles that have been defaced. The estimated cost for contract painting of these poles is \$65 each plus the cost of paint. Based on 28 poles the labor cost would be \$1,820 with an additional \$700 for paint. After the initial intensive clean up effort the Public Works Department would remove the fliers from this area by assigning a two-person crew for ten hours per week. This clean up would be also performed by inmate labor when available or regular Public Works staff when necessary.

A second part of the flier removal program would be the installation of additional kiosk structures along West University Avenue and 13th Street. In 1997 the City Commission authorized funds to install two kiosks in the downtown area on a trial basis. These kiosks were installed in the City parking lot on S.W. First Street with one at the corner of University Avenue and the other at the corner of S.W. First Avenue. Both kiosks have performed their function well. Each has sustained little damage and both are currently covered with fliers. In my opinion the installation of the kiosks in the downtown area has had a positive impact on reducing the number of illegal fliers posted in the downtown area. I recommend that six additional kiosks be installed in areas that have been identified as high-flier concentrations. The tentative locations are:

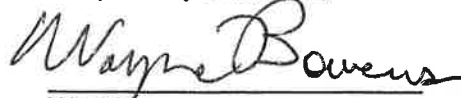
- 1) S.W. 5th Avenue at 13th Street
- 2) West University Avenue at 15th Street
- 3) 1600 block of N.W. First Avenue
- 4) West University Avenue at 18th Street
- 5) N.E. corner of University Avenue and 13th Street
- 6) S.E. corner of University Avenue and 13th Street.

The cost of materials for each kiosk is approximately \$1600, which includes the cost of constructing a concrete pad at each location. A copy of the kiosk design is attached. The kiosk proposed for the S.E. corner of University Avenue at 13th Street would require some reconstruction of the planter located on private property. The Public Works Department has contacted the property owner who is agreeable to providing an easement for an enlarged pedestrian staging area and kiosk. The estimated cost to provide a brick pedestrian staging area similar to the design on the N.E. corner of the intersection adjacent to the Holiday Inn is \$2000. Total cost for the kiosk program is therefore \$11,600.

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The City staff involved in the flier issue will be available to answer your questions during the July 10 Commission meeting.

Respectfully submitted,

A handwritten signature in black ink that reads "Wayne Bowers". The signature is written in a cursive style with a horizontal line underneath the name.

Wayne Bowers
City Manager

WB/jr
Attachments

ARTICLE I. IN GENERAL

Sec. 17-1. State misdemeanors.

It shall be unlawful for any person to commit, within the limits of the city, any act which is or shall be recognized by the laws of the state as a misdemeanor, and the commission of such acts is hereby forbidden.

(Code 1960, § 18-35)

Sec. 17-2. Advertising matter; affixing fliers to poles, waste containers, or other fixtures.

(a) *General prohibition.* Except as provided in subsection (b), it shall be unlawful for any person, firm or corporation to affix, or cause the affixing of, fliers or other advertising matter to and upon poles, waste containers, fixtures and ancillary utility equipment including but not limited to metering devices, transformers and traffic signal control devices, erected in the streets or rights-of-way of this city and used by any person, firm or corporation for CATV, telecommunications, traffic signalization and control, or electric light or power purposes.

(b) *Exemption.* Fliers may be affixed to concrete utility poles located along West University Avenue from the east side of North-South Drive to the east side of West 6th Street and along W. 13th Street (US 441) from the south side of N.W. 5th Avenue to Archer Road, as more particularly indicated on the map titled "Area Designated for Pedestrian Fliers," dated October, 1997, adopted by reference and on file with the Clerk of the Commission and the Department of Community Development, in accordance with administrative policy implemented by the city manager or designee and approved by the city commission.

(Code 1960, § 18-1; Ord. No. 970127, § 1, 11-10-97)

Cross reference—Advertisements and signs at Gainesville Regional Airport, § 3-56.

Sec. 17-3. Automatic dialing telephonic alarm systems.

(a) *Purpose of section.* For the better protection of life and property, in the interest of public safety, and for the more efficient and effective allocation of fire and police department personnel, this section is adopted.

(b) *Definitions.* For the purposes of this section the following words, terms and phrases shall have the meanings ascribed to them below:

Automatic dialing telephonic alarm system shall mean any alarm system which is activated by a signal or message transmitted by microwave, a telephone line or other mode of transmittal which uses a signal or message transmitted by microwave circuit, telephone line or other mode of transmittal as an alarm signal designed to activate a signal.

Burglar/robbery alarm shall mean an alarm system designed to be used for the detection of any unauthorized entry into a building, structure, or facility, or for reporting a robbery in progress.

Emergency service department shall mean the fire and/or police departments.

Fire/smoke alarm shall mean an alarm system designed to detect the presence of a fire or smoke.

Occupant shall mean any person having a possessory interest in any property and in actual possession of such property.

(c) *Prohibited.* It shall be unlawful for any person to install or maintain within the city a telephone alarm system using a recorded announcement which, when activated, causes a telephone connection to be made automatically with the 911 line or any emergency telephone line installed in the police department or fire control center of the city or any other telephone line maintained by the city.

(Code 1960, § 13A-1)

Cross references—Fire prevention and protection, Ch. 10; police, Ch. 21; burglar alarm systems, § 21-61 et seq.

Sec. 17-4. Disorderly conduct.

(a) Commission of the following acts shall constitute disorderly conduct:

- (1) Any person who shall act in a violent or tumultuous manner toward another so as to place him/her or any other person in reasonable fear of safety of his/her life, limb, or health;
- (2) Any person who shall act in a violent or tumultuous manner toward another with

**ADMINISTRATIVE POLICY
AFFIXING FLIERS TO CONCRETE UTILITY POLES**

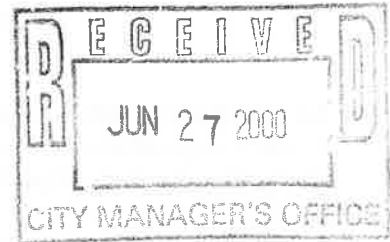
As provided by Section 17-2(b) of the Code of Ordinances of the City of Gainesville, Florida, the following regulations shall apply to the affixing of fliers to concrete utility poles in the "Area Designated for Pedestrian Fliers":

1. Each flier shall be no larger than 11" x 17".
2. Fliers shall be affixed with easily removable adhesives.
3. Messages shall be limited to one flier per event per concrete pole.
4. All fliers shall be dated.
5. Fliers may be posted no sooner than 10 days prior to an event and must be removed within 10 days after an event.
6. Obscene or hate mongering messages on fliers shall be prohibited.
7. Fliers shall not cover identifying labels on poles such as pole numbers.
8. The City reserves the right to remove fliers on a periodic basis.
9. Those individuals placing fliers on concrete utility poles are encouraged to remove old fliers.
10. Complaints regarding fliers shall be filed with the Gainesville Police Department.
11. The City Manager shall be responsible for enforcement of this Administrative Policy.

Approved by the City Commission November 10, 1997.



Inter-Office Communication
Department of Community Development
Station #11 • Extension 5022



Date: June 23, 2000

To: Wayne Bowers, City Manager

From: Tom Saunders, Community Development Director *TDS*
Lisa Koehler, Code Enforcement Manager *LK*

Subject: Illegal Flyers

Based upon the increased requests for action against illegal fliers, Code Enforcement has dedicated additional time since March of this year to enforcing the flier ordinance. To date, about 43 warnings and 8 citations have been issued. Enforcement of the myriad rules is difficult and time-consuming, with less effective results than the Code Enforcement Division has achieved with other violation types. Because the rules do allow flyering at some locations, even code enforcement does not send a clear, obvious, message, since some are allowed to stay up. In addition, the clubs often operate after hours, and the bands themselves are time-consuming to contact.

Code Enforcement staff has met with owners of bars and restaurants that often use fliers for advertising. The Code Enforcement Manger has explained the ordinance requirements and left them copies for their staffs.

Recently, two officers have spent an average of 12 hours each per week along University Avenue and 13th Street enforcing illegal fliers. It would be more effective to enforce an ordinance that either allowed fliers anywhere or prohibited them everywhere.

TDS/LK/blb

SECTION 702 KIOSK SPECIFICATIONS

SECTION 702.1 GENERAL

The work under this section consists of furnishing all labor, materials, equipment and incidentals required for fabricating and erecting in place the Kiosk as specified herein and shown on the plans.

The Kiosks shall be installed plumb and true at the locations shown on the plans as directed by the Engineer.

SECTION 702.2 SAMPLE

One complete unit of Kiosk shall be fabricated and installed on the site where specified by the Engineer. The Engineer shall inspect and approve the sample before the remaining work under this section may be completed. If the sample does not receive approval as constructed it shall be altered and reconstructed to meet the approval of the Engineer. The approved sample may remain in place and serve as a part of the work required by this contract.

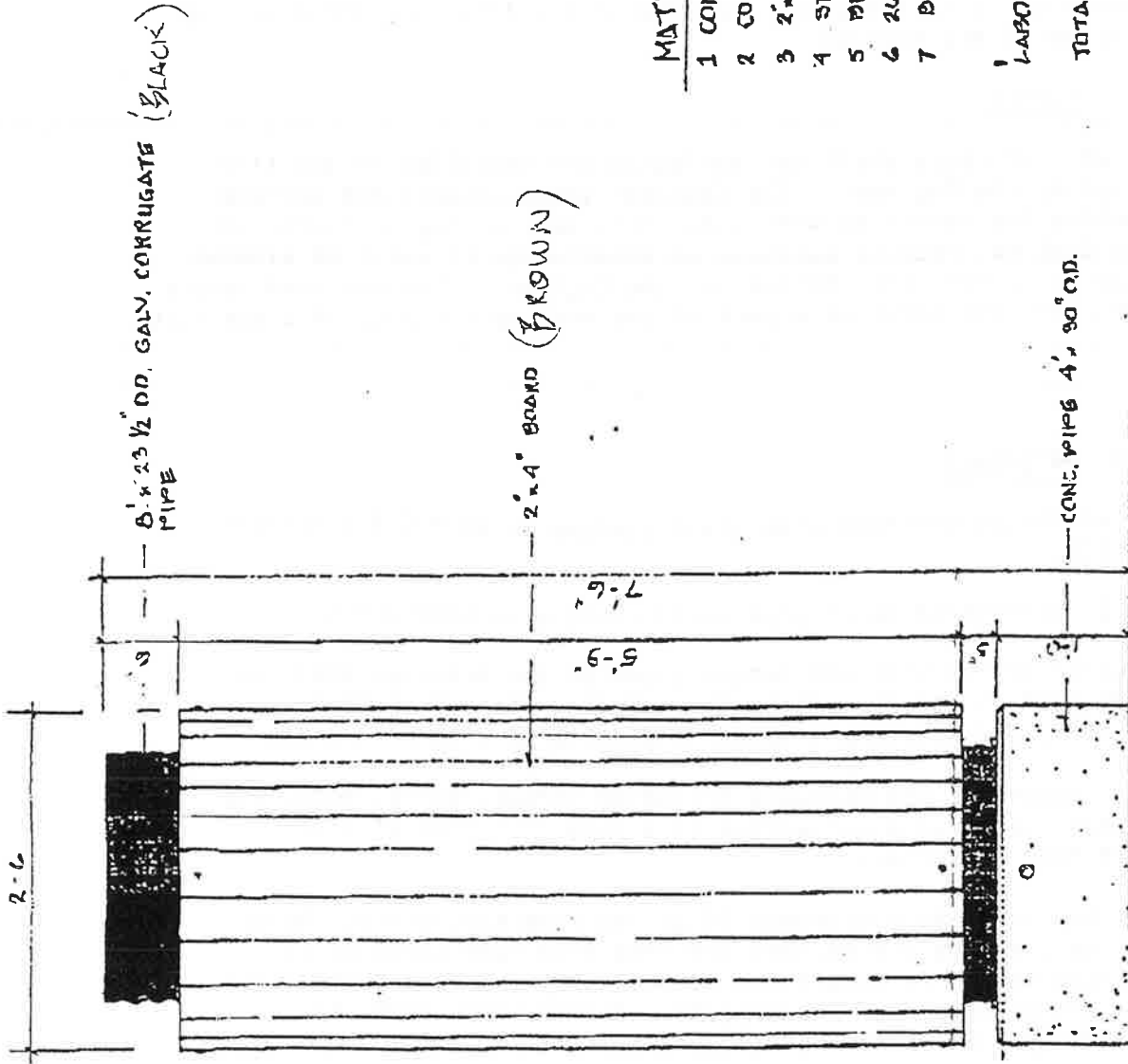
SECTION 702.3 MATERIALS

- a. The 24" reinforced concrete pipe shall conform to ASTM C76 and shall be Class III.
- b. The 23 1/2" corrugated metal pipe shall conform to AASHTO M36.
- c. Wood material of the size and length shown on the drawings shall be high grade (select structural) Southern Yellow Pine, free from heart centers, and pressure treated in accordance with APWA L-22.
- d. All metal components and hardware including screws, bolts, nuts, and washers shall be hot-dip galvanized at a rate of 1.5 oz of zinc per square foot of surface.
- e. The Kiosk top shall be a standard 55 gallon drum top, without holes. The drum top shall be pre-painted and free from rust spots or it shall be repainted. If repainting is necessary the drum cover shall be primed and painted with "Rustoleum" exterior black 577A, as manufactured by U.S. Paint and Lacquer Chemical Co., or approved equal.
- f. The fiberglass used to cover the top portion of the corrugated metal culvert shall be FILON sign panel fiberglass, Type 388, Tedlar bonded flat black and shall have a thickness of 0.060 inches.

SECTION 702.4 MEASUREMENT AND PAYMENT

The Kiosk shall be measured separately as units of each.

The Kiosk shall be paid for at the contract unit price bid which shall be full compensation for furnishing all materials, tools, and equipment, required to fabricate and install the Kiosk, including excavation, disposal of surplus material, select backfill and backfilling and incidentals necessary to complete the work as specified and shown on the plans.



MATERIAL COST

- 1 CONC PIPE @ \$11.25 L
- 2 CORRUGATE PIPE @ \$9.32
- 3 2' x 4' x 6' MR @ \$0.25 L
- 4 STAIN (BROWN) GALV @ \$1.60
- 5 BLACK KASTOLBUM PAINT
- 6 20' x 1/2" φ ROD 2 PIECES
- 7 BANDING SUPPLIES 1 SK

LABOR & INSTALLATION

TOTAL PRICE

TYPICAL KIOSK DESIGN