

Ordinance 061107
0-07-48

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4 An ordinance of the City of Gainesville, Florida, amending
5 Chapter 19 of the Code of Ordinances entitled Peddlers, Solicitors
6 and Canvassers, consisting of Sections 19-15 thru 19-17, Section
7 19-20, Sections 19-79 thru 19-82, Section 19-96, and Sections 19-
8 126 thru 19-127; repealing Sections 19-51 thru 19-55, Sections 19-
9 110 thru 19-113, and Sections 19-122 thru 19-124 of the Code of
10 Ordinances; providing for the purpose and intent to promote the
11 public health, welfare and safety; providing definitions; providing
12 restrictions and requirements; prohibiting peddlers from peddling
13 from any operator or occupant of a vehicle that is on a portion of a
14 public street that is in use by vehicular traffic; prohibiting
15 operators or occupant of vehicles that are in traffic on a public
16 street from buying goods, wares or merchandise from peddlers
17 while vehicle is on portion of public street in use by vehicular
18 traffic; prohibiting any person from standing on a traffic median,
19 bicycle path or public street to peddle or canvass from an operator
20 or occupant of any vehicle when in use by vehicular traffic;
21 prohibiting beggars, panhandlers or solicitors from begging,
22 panhandling or soliciting from any operator or occupant of a
23 vehicle that is in traffic on a public street; prohibiting any operator
24 or occupant of a vehicle that is in traffic on a public street from
25 engaging in a transaction with a beggar, panhandler or solicitor
26 while a vehicle is on a portion of a public street in use by vehicular
27 traffic; prohibiting any person from standing on a traffic median,
28 bicycle path or public street to beg, panhandle or solicit when in
29 use by vehicular traffic; repealing Article III relating to fundraising
30 by a nonprofit organization; amending restrictions and prohibitions
31 on begging, panhandling or soliciting on private and public
32 property; removing sign message requirements for vending booths
33 and itinerant vendors; repealing Article V relating to street
34 solicitation by a nonprofit organization; amending the definition of
35 handbills; providing directions to the codifier; providing a
36 severability clause; providing a repealing clause and providing an
37 immediate effective date.
38

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

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

4 **NOW THEREFORE**, BE IT ORDAINED BY THE CITY COMMISSION OF THE
5 CITY OF GAINESVILLE, FLORIDA;

6 **Section 1.** Article II, Commercial Peddlers, Solicitors and Canvassers, Division 1,
7 consisting of Sections 19-15 thru 19-17 and Section 19-20 of the Code of Ordinances of the City
8 of Gainesville, is amended to read as follows:

9 **ARTICLE II. ~~COMMERCIAL~~ PEDDLERS,**

10 **~~SOLICITORS AND CANVASSERS~~**

11 DIVISION 1. GENERALLY

12 **Sec. 19-15. Purpose, ~~and intent~~ and findings.**

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

19 It is also the purpose and intent of this article to address the significant public health,
20 welfare and safety concerns and crowd control problems caused by peddling and canvassing on
21 or near public streets which are in use by vehicular traffic. The city commission finds that such
22 public health, welfare and safety concerns and crowd control problems arise because peddling
23 involves the process of a peddler offering for sale goods, merchandise or wares to an occupant or

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

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

23 **Sec. 19-16. Definitions.**

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

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

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

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

16 *Peddling from any operator or occupant of a vehicle that is in traffic on a public street*
17 shall mean selling goods, wares or merchandise to any operator or occupant of a vehicle, coupled
18 with an actual exchange of money or some article of value for any goods, wares or merchandise
19 between the peddler and any operator or occupant of a vehicle while that vehicle is on the
20 portion of a public street currently in use by vehicular traffic.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

21 (f) ~~No more than two solicitors, peddlers or canvassers shall contact any one member of the~~
22 ~~public at any one time.~~

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

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

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

6 **Sec. 19-20. Penalty.**

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

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

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

13 **~~DIVISION 1. GENERALLY~~**

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

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

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

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

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

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

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

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

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

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

18 (c) ~~Solicitors are prohibited from soliciting on residential premises in residential areas where a~~
19 ~~notice stating "No Solicitors" or "No Solicitation" is posted in plain view.~~

20 (d) ~~No more than two solicitors shall contact and solicit any one member of the public at any~~
21 ~~one time.~~

22 (e) ~~Solicitors will not persist in soliciting after the solicitation has been declined, and they will~~
23 ~~immediately and peaceably depart from the premises when requested to do so by the occupant.~~

- 1 ~~(f) Solicitors shall not harass persons by demanding, threatening or intimidating conduct.~~
- 2 ~~(g) Solicitors may solicit donations or contributions for religious or charitable paraphernalia~~
3 ~~from the general public to be used in the furtherance of their religion or charity provided that if a~~
4 ~~minimum donation is required the person solicited must be so informed.~~
- 5 ~~(h) This article allows nonprofit institutions such as religious organizations, scouting, schools~~
6 ~~and fraternal societies to sell or transfer goods such as cookies, flowers, etc., or services such as~~
7 ~~earwashes, carnivals, etc., which may include the use of a building and/or its premises for such~~
8 ~~sales or delivery or services, but not a vacant parcel of land. Such fundraising activities must be~~
9 ~~clearly incidental to the primary function of such institutions, and all proceeds must be returned~~
10 ~~to the nonprofit organization. If any proceeds are shared by a non-tax exempt organization, an~~
11 ~~occupational license may be required.~~
- 12 ~~(i) Solicitors are prohibited from soliciting in such a manner as to knowingly obstruct, impede or~~
13 ~~interfere with the free flow of pedestrian or vehicular traffic.~~
- 14 ~~(j) No solicitor shall raise funds, or seek financial assistance of any kind or nature, on any street~~
15 ~~or right of way within the city without satisfying the requirements of article V of this chapter.~~
- 16 ~~(k) For purposes of this section, right of way shall not include sidewalks, but shall include bike~~
17 ~~lanes and medians.~~
- 18 **Sec. 19-55. Penalty.**
- 19 ~~Any person convicted of violating any of the provisions of this article shall be punished as~~
20 ~~provided in section 1-9.~~
- 21 **Sees. 19-56–19-70. Reserved.**

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

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

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

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

15 Aggressive begging, panhandling or soliciting usually includes approaching or following
16 pedestrians, repetitive begging, panhandling, or soliciting despite refusals, the use of abusive or
17 profane language, unwanted physical contact, or the intentional blocking of pedestrian and
18 vehicular traffic. The city commission further finds that the presence of ~~individuals~~ persons who
19 solicit money from other persons at or near outdoor cafes, automated teller machines, the
20 entrance and exits of buildings, certain public events as more particularly described in this
21 article; and payphones is especially troublesome because said persons cannot readily escape from
22 the undesired conduct. Such activity often carries with it an implicit threat to both persons and
23 property. The experience of the city shows that a majority of the beggars, panhandlers or

1 solicitors arrested in the year 2003 were apprehended in and around automated teller machines,
2 parking lots, parking garages, restaurants and business entrances. The city commission also finds
3 that people driving or parking on city streets frequently find themselves faced with beggars,
4 panhandlers or solicitors seeking money by offering to perform "services" such as opening car
5 doors or locating parking spaces.

6 The city commission further finds that the activity of begging, panhandling or soliciting
7 presents significant public health, welfare and safety concerns and crowd control problems when
8 such activities are conducted on or near public streets which are in use by vehicular traffic
9 because these activities involve the process of a person requesting a donation from an occupant
10 or operator of a vehicle which is in traffic, that vehicle occupant or operator must consider the
11 request, and, if the vehicle occupant or operator decides to fulfill the request, that person must
12 reach for a wallet, search for money, or write a check, all while that person and vehicle are
13 located on a public street in use by vehicular traffic. Based on the foregoing, the city
14 commission finds that the activity of begging, panhandling or soliciting from occupants or
15 operators of vehicles located on streets in use by vehicular traffic distracts drivers from their
16 primary duty to watch traffic and potential hazards in the road, observe all traffic signals or
17 warnings and move through the city's streets and intersections in a lawful and safe manner and
18 creates a potential safety hazard and poses a substantial risk to the public, and impedes the free
19 flow of traffic on the streets within the city resulting in the delay and obstruction of the public's
20 free flow of travel on the city's streets. The city commission further finds that the safety of
21 beggars, panhandlers, solicitors, pedestrians and operators and occupants of vehicles is at
22 significant risk when such activities occur because the nature of these activities often entails
23 beggars, panhandlers or solicitors standing on traffic medians, bicycle paths and public streets in

1 use by vehicular traffic, property only meant for the use and control of vehicular traffic and not
2 begging, panhandling or soliciting.

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

9 This law is timely and appropriate because current city ordinances are insufficient to
10 address the aforementioned problems. The restrictions contained herein are neither overbroad nor
11 vague and are narrowly tailored to serve a substantial governmental interest. Moreover, this
12 article only restricts begging, panhandling and soliciting in certain public places while preserving
13 ample alternative areas for the valid exercise of First Amendment constitutional rights.
14 Furthermore, in enacting this article, the city commission recognizes the availability of
15 community service and other sentencing alternatives, which may be appropriate remedies for
16 violations of this article.

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

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

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

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

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

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

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

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

11 (34) *Obstruct pedestrian or vehicular traffic* means to walk, stand, sit, lie or place an object in
12 such a manner as to block passage of another person or a vehicle, or to require another person
13 or driver of a vehicle to take evasive action to avoid physical contact. Acts authorized as an
14 exercise of one's constitutional right to picket or to legally protest, and acts authorized by
15 permit issued pursuant to section 23-42 of this Code are not included within the definition of
16 this term.

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

22 (6) *Beggar, panhandler or solicitor* means any person traveling either by foot, vehicle or other
23 conveyance, from place to place, requesting in person a donation of money or some other

1 article of value, either by words, bodily gestures, signs or any other means, from another
2 person.

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

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

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

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

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

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

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

- 21 a. At an outdoor cafe;
- 22 b. Within 12 feet of an outdoor cafe;
- 23 c. In a public restroom;

- 1 d. At a public event that is operating by permit issued by the city at city parks as defined in
- 2 section 18-18 of this Code;
- 3 e. At any other public event that is operating by permit issued by the city with defined
- 4 boundaries;
- 5 f. From any person standing in line to enter a building or event;
- 6 g. Within 12 feet of a line to enter a building or event;
- 7 h. From any person entering or exiting a building;
- 8 i. Within 12 feet of the entrance or exit of a building;
- 9 j. From any person using an automated teller machine, or any electronic information
- 10 processing device which accepts or dispenses cash in connection with a credit, deposit or
- 11 convenience account (ATM);
- 12 k. Within 12 feet of an ATM;
- 13 l. From any person using a pay phone;
- 14 m. Within 12 feet of a pay phone.

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

16 **Sec. 19-81. Begging, pPanhandling or soliciting in private buildings and private developed**
17 **property; prohibited.**

18 (a) *Legislative intent, purpose.* The city commission finds that any person who begs,
19 panhandles, or solicits, ~~or demands money, gifts or donations~~ under circumstances that warrant a
20 justifiable and reasonable alarm or immediate concern for the safety of persons or property in
21 public rooms of private buildings and on private ~~developed~~ propertyies by unwanted touching,
22 detaining, impeding or intimidation which causes fear or apprehensive in another person ~~and~~
23 ~~which~~ constitutes a threat to the public health, welfare and safety of the citizenry. The city

1 commission further finds that any person who begs, panhandles or solicits under circumstances
2 where the person being solicited cannot readily escape from the undesired conduct constitutes a
3 threat to the public health, welfare and safety of the citizenry.

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

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

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

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

21 ~~(34) *Public room* shall be deemed to include a basement, building entrance or doorway, lobby,~~
22 ~~hallway, stairway, mezzanine, elevator, foyer, public restroom or sitting room or any other~~

1 place used in common by the public, tenants, occupants or guests situated in any private
2 building.

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

4 (1) Beg, panhandle, or solicit or demand money, gifts or donations, as those terms are defined
5 in this chapter, in any public room in any private building ~~or on private developed property~~,
6 without the written permission or consent of the building's owner or managing and
7 authorizing agent. For the purpose of enforcement of this subsection, it is presumed that if
8 the owner, lessee, managing agent or other person in charge of a building prominently
9 displays a sign as provided in subsection (d), then the activities declared unlawful in this
10 section are deemed to be without the permission or consent of the building's owner, lessee,
11 managing agent or other person.

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

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

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

1 (a) *Legislative intent, purpose.* The city commission finds that begging, panhandling, or
2 ~~soliciting or demanding money, gifts or donations~~ may interfere with the safe ingress and egress
3 of human and vehicular traffic into public buildings, ~~public areas~~ and public transportation areas
4 thereby constituting a threat to the public health, welfare and safety of the citizenry. In order to
5 allow for the safe ingress and egress of human and vehicular traffic into public buildings, ~~public~~
6 ~~areas~~ and public transportation areas, the city manager is authorized to prohibit begging,
7 ~~panhandling, or soliciting or the demanding of money, gifts or donations~~ within public buildings
8 or designated areas of that public building or public transportation areas upon the request of the
9 owners, lessees, managing or authorizing agents of the public building or areas in accordance
10 with the provisions of this section.

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

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

14 ~~(12)~~ (12) *Public building* means any building or facility owned, leased or operated by or on behalf of
15 the federal or state government or any political subdivision thereof, any municipality, or
16 special district or any public administrative board or authority of the federal or state
17 government.

18 ~~(23)~~ (23) *Public transportation area* means a building, facility or area designated for mass transit
19 transportation, such as, but not limited to, bus terminals, airport terminals, bus stops and taxi
20 stands.

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

23 (1) The purpose and characteristic of the building, facility or area;

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

1 (f) *Final order.* When the order becomes final, the city manager shall cause the designation to
2 be recorded upon an appropriate map and retained in the police department.

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

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

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

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

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

20 Signs using lettering painted on or applied to the canopy valance will be allowed. ~~The sign~~
21 ~~message on the canopy valance shall be limited to a single generic description of the~~
22 ~~merchandise, such as "food," "sandwiches," "ice cream," "newspapers."~~ Two additional signs
23 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.

22 B. Waiver of Insurance Requirement. The insurance requirement will be waived if neither
23 the applicant nor the city is able to obtain coverage for the city's liability as a result of the

1 solicitation activity, and the requirement will be waived if the applicant is unable to pay
2 either the cost of the least expensive coverage available for the applicant or the city. In order
3 to be relieved of the insurance requirement, the applicant must provide satisfactory proof of
4 financial inability to purchase such insurance.

5 ~~(b) Upon receipt of an application, plan, and indemnification acceptable to the city, a permit will~~
6 ~~be issued with the following conditions:~~

7 ~~(1) No organization, or persons or organizations acting on its behalf, shall receive a permit or~~
8 ~~permits allowing solicitation for more than three days in any calendar year.~~

9 ~~(2) To avoid solicitation during the hours that experience the highest numbers of traffic~~
10 ~~accidents, no permit shall be given for solicitation outside the hours 9:00 a.m. to 4:00 p.m.~~

11 ~~(3) No more than four solicitors may solicit at any one intersection.~~

12 ~~(4) Soliciting will only be allowed at a limited number of intersections pre-approved for the safe~~
13 ~~conduct of such activities.~~

14 ~~(5) Each solicitor must carry a copy of the permit.~~

15 ~~(6) Solicitors must be 18 years of age or older.~~

16 ~~(7) If multiple applications are received for the same intersection at the same time, the first~~
17 ~~complete and otherwise acceptable application will be given the permit.~~

18 ~~(e) Solicitors are prohibited from remaining in a traffic lane when a traffic control signal (i.e.,~~
19 ~~green ball/green arrow indication) allows traffic to flow on that lane.~~

20 ~~Secs. 19-114-19-120. Reserved.~~

21 **Section 6.** Article V, Street Solicitation by Nonprofit Agency, Division 2, consisting of
22 Sections 19-122 thru 19-124 of the Code of Ordinances of the City of Gainesville, is repealed in
23 its entirety, reserving Sections 19-121 thru 19-124;

DIVISION 2. PERMIT

~~Sec. 19-121. Reserved.~~

~~Sec. 19-122. Review, approval of applications.~~

~~To qualify for permission to conduct fundraising activities, agencies shall secure a permit from the city manager or designee. Approval of such a permit shall be based upon a consideration of the location. The permit application may be examined and approved by the various departments of the city, particularly the police, fire and public works, to ensure the protection of the health, safety and general welfare. In granting their approval, such departments may suggest conditions of approval as would be in keeping with their individual responsibilities and the general spirit and intent of this article.~~

~~Sec. 19-123. Appeals.~~

~~(a) If the city manager fails to issue a permit upon application, makes a good faith determination that there is cause for revocation of a permit issued under this article, then the applicant or permittee, as the case may be, shall be so notified in writing. The notice shall state with reasonable particularity the grounds for such refusal to issue or revocation. In the case of revocation, such shall be effective 24 hours after the issuance of the notice.~~

~~(b) If the applicant or permittee wishes to contest such action, he/she must within ten days after the issuance of the notice, deliver to the clerk of the commission a written request for a hearing.~~

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

1 **Sec. 19-124. Penalty.**

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

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

12 **ARTICLE VI. DISTRIBUTION OF HANDBILLS**

13 **Sec. 19-126. Definitions.**

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

16 *Handbill* shall mean and include any ~~commercial~~ printed or written matter, any sample or
17 device, circular, leaflet, pamphlet, paper, booklet, or any other printed or otherwise reproduced
18 original or copies of any matter or literature.:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

2 **PASSED AND ADOPTED** this 23rd day of July, 2007.

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PEGEEN HANRAHAN
MAYOR

8 ATTEST

APPROVED AS TO FORM AND LEGALITY


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KURT M. LANNON
CLERK OF THE COMMISSION



MARJORIE RADSON
CITY ATTORNEY

JUL 24 2007

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17 This Ordinance passed on first reading this ^{9th}~~23rd~~ day of July, 2007.

18 This Ordinance passed on second reading this ^{23rd}~~9th~~ day of July, 2007.