



**CITY OF CHARLOTTESVILLE, VIRGINIA
CITY COUNCIL AGENDA**

Agenda Date: August 2, 2010
Action Required: Adoption of Ordinance
Presenter: James E. Tolbert, AICP, Director of NDS
Staff Contacts: James E. Tolbert, AICP, Director of NDS
Title: Amendment to City Code Chapter 28, § 31, Panhandling

Background: Over the last several months, we have received a large number of complaints from Downtown businesspeople and visitors to the Mall about an increase in unwanted solicitations. Two areas of particular concern that have been raised are near the Downtown Mall cross streets at 2nd Street and 4th Street and at vending tables and carts.

Discussion:

Ordinance

Chapter 28, §31 of the City Code is currently entitled “panhandling”, which does not accurately reflect its content. By its terms, the ordinance sets forth regulations concerning the solicitation of money or other things of value and the solicitation of the sale of goods or services. In order to encompass the scope of its application, it is proposed that the section be renamed “Solicitation”.

Mall crossings

The current code prohibits solicitation within 300 feet of four high traffic intersections located throughout the community. The pedestrian-oriented design of the Downtown Mall, on the other hand, lends itself to pedestrians being unaware or unmindful of vehicles crossing. Solicitation near the Downtown Mall intersections have caused several near accidents as witnessed by Police and others, as drivers being solicited are distracted and pedestrians are put in danger as they cross the street. The proposed

amendment restricts solicitations within 50 feet of the intersections of the Downtown Mall at 2nd Street and 4th Street. The purpose of this is to create a buffer zone where neither drivers nor pedestrians are distracted and to reduce the potential for vehicle and pedestrian accidents.

Vendor tables and carts

The current ordinance prohibits solicitation within fifteen (15) feet of any automated teller machine (“ATM”) or bank entrance, and prohibits soliciting from persons seated in outdoor cafés. These are fixed locations where cash is regularly handled and exchanged, and the ordinance is in place to provide a buffer between those handling their cash and those who wish to solicit them. At vendor tables and carts, patrons are at fixed locations openly exchanging cash, and thus are particularly vulnerable to unwanted solicitations. While simply saying “no” should be sufficient to invoke the protections of the current ordinance, in reality, many solicited persons express trepidation over responding face-to-face in a negative manner. As such, numerous complaints have been received attesting to the fear and apprehensiveness they have experienced in these locations. The proposed amendment is narrowly drawn to specifically prohibit soliciting any person while he or she is conducting business at a vendor table or cart.

Budgetary Impact: None

Recommendation: Staff recommends approval of the attached ordinance.

Attachment: Ordinance

**AN ORDINANCE
AMENDING AND REORDAINING SECTION 28-31 OF THE CODE
OF THE CITY OF CHARLOTTESVILLE, 1990, AS AMENDED,
RELATING TO SOLICITING.**

BE IT ORDAINED by the Council for the City of Charlottesville, Virginia, that Section 28-31 of Article I of Chapter 28 (Streets and Sidewalks) of the Charlottesville City Code, 1990, as amended, is hereby amended and reordained, as follows:

Sec. 28-31. PanhandlingSoliciting.

(a) It shall be unlawful for any person to solicit money or other things of value, or to solicit the sale of goods or services:

- (1) In an aggressive manner in any public area;
- (2) In any public transportation vehicle, or bus station or stop; provided, however, that this paragraph shall not apply to services rendered in connection with such transportation services;
- (3) Within fifteen (15) feet of any entrance or exit of any bank during the hours of operation of such bank;
- (4) Within fifteen (15) feet of any automated teller machine, during the hours of operation of such machine;
- (5) From or to any person seated within an outdoor café area, during the hours of operation of such outdoor café; ~~and~~
- (6) From or to any person who is conducting business at any vendor table or cart;
- ~~(67)~~ On private property, if the owner, tenant, or lawful occupant has asked the person not to solicit on the property, or has posted a sign clearly indicating that solicitations are not welcome on the property;
- ~~(78)~~ While walking on, standing on or going into any street or highway used for motor vehicle travel, or any area appurtenant thereto (including medians, shoulder areas, turning lanes, ramps and exit ramps) within three hundred (300) feet (in any direction) of any of the following intersections:
 - a. The intersection of Emmet Street and Barracks Road;
 - b. The intersection of Emmet Street and Hydraulic Road;
 - c. The intersection of Route 250 and River Road ("Free Bridge");
 - d. The intersection of Main Street and Ridge/McIntire Road.
- (9) On the Downtown Mall within fifty (50) feet (in any direction) of 2nd Street West and 4th Street East.

(b) For the purposes of this section the following words and phrases shall have the meanings ascribed to them below, unless a different meaning is plainly required by the context:

Aggressive manner means and includes:

- (1) Intentionally or recklessly making any physical contact with or touching another person in the course of the solicitation, without the person's consent;
- (2) Approaching or following the person being solicited, if that conduct is: (i) intended to or is likely to cause a reasonable person to fear imminent bodily harm or the commission of a criminal act upon property in the person's possession; or (ii) is intended to or is reasonably likely to intimidate the person being solicited into responding affirmatively to the solicitation;
- (3) Continuing to solicit the person being solicited after the person has made a negative response, if continuing the solicitation is: (i) intended to or is likely to cause a reasonable person to fear imminent bodily harm or the commission of a criminal act upon property in the person's possession; or (ii) is intended to or is reasonably likely to intimidate the person being solicited into responding affirmatively to the solicitation;
- (4) Intentionally or recklessly blocking the safe or free passage of the person being solicited or requiring the person to take evasive action to avoid physical contact with the person making the solicitation; and
- (5) Intentionally or recklessly using obscene or abusive language or gestures: (i) intended to or likely to cause a reasonable person to fear imminent bodily harm or the commission of a criminal act upon property in the person's possession; or (ii) words intended to or reasonably likely to intimidate the person into responding affirmatively to the solicitation.

Public area means an area to which the public or a substantial group of persons has access, including, but not limited to: alleys, bridges, buildings, driveways, parking lots, parks, playgrounds, sidewalks, streets open to the general public, and the doorways and entrances to buildings, together with the grounds enclosing them.

Solicit means to request an immediate donation of money or other thing of value from another person, regardless of the solicitor's purpose or intended use of the money or other thing of value. A solicitation may take the form of, without limitation, the spoken, written or printed word, or by other means of communication (for example: an outstretched hand, an extended cup or hat, etc.).

(c) Any person violating the provisions of this section shall be guilty of a class 3 misdemeanor.