

First Reading: _____
Second Reading: _____

ORDINANCE NO. _____

AN ORDINANCE TO AMEND CHATTANOOGA CITY CODE,
PART II, CHAPTER 25, ARTICLE I, SECTION 25-39,
PANHANDLING.

WHEREAS, it is the intent of the City Council in enacting this Ordinance to recognize free speech rights for all citizens while at the same time protecting the coexistent rights for all citizens to enjoy safe and convenient travel in public spaces free from intimidating conduct, threats, and harassment that stem from certain types of abusive solicitation, or that may give rise to interference with other's activities if they occur in particular settings and contexts; and

WHEREAS, the City Council finds that there are numerous forms of solicitation or passive panhandling that are not in and of themselves inherently threatening or aggressive, including vocal requests for a donation; carrying or displaying a sign requesting donations; shaking or jingling a cup of change; and ringing a bell in compliance with any applicable noise ordinance; and

WHEREAS, the City Council finds that there has been an increase in aggressive solicitors and passive panhandling in the City over the past three years, which threatens the security, privacy, and freedom of movement of both residents and visitors; based upon documentation of actual events and statistics of incident reports, dispatched calls, arrests and calls for assistance for community support involving panhandling. Records indicate that since January 1, 2015 through March 14, 2018 the Police Department has received 457 calls responding to incidents which involved panhandlers in most districts and zones of the City. Those incidents involved trespassing, drug violations, disorderly conduct, drunkenness, assaults, suicide attempts, and the great majority

were referenced as Miscellaneous (174) or Other (187) which resulted in contacts for social services; and

WHEREAS, the City Council also finds that the presence of solicitors or passive panhandlers in certain specific areas (such as near to or adjacent to automatic teller machines, adjacent to sidewalk cafes, at public bus stops, and in public garages in the nighttime) create reasonable safety concerns by citizens objectively worried about their privacy, freedom of movement, and personal security based upon the data which has been collected from incidents occurring in the City; and

WHEREAS, the City Council further finds that certain forms of solicitation or panhandling impede the orderly flow of pedestrian and vehicular traffic and leads to concerns regarding traffic and public safety, particularly in congested roadways and sidewalks (as defined below to include highly traveled areas, lines to enter buildings, historic districts with narrow sidewalks or on small traffic medians of high-speed or high-volume streets and highways) which is shown by data where exit ramps and traffic flow has been limited by solicitation or panhandling in the entire City; and

WHEREAS, this Ordinance is not intended impermissibly to limit an individual's right to exercise free speech associated with solicitation for donations; rather it aims to impose specific time, place, and manner restrictions on passive panhandling or solicitation and associated conduct in certain limited circumstances; namely, limiting aggressive panhandling, and solicitation for donations or passive panhandling at certain locations or times deemed particularly threatening and dangerous, and solicitation for donations or panhandling in places where people are attempting to enter a business or engage in the need for privacy in connection with personal activities and there is a wish to avoid or reduce a threat of inescapable confrontations; and

WHEREAS, in promulgating this Ordinance, the City Council seeks to impose regulations that are narrowly tailored to serve the aforementioned significant governmental interests in all areas of the City and to regulate certain behavior to preserve the public order, to protect the citizens and businesses of Chattanooga, and to ensure the safe and uninterrupted passage of both pedestrian and vehicular traffic, without unconstitutionally impinging upon the content of protected speech, expression or conduct.

SECTION 1. BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CHATTANOOGA, TENNESSEE, that Chattanooga City Code, Part II, Chapter 25, Article I, Section 25-39, Panhandling, by deleting said section in its entirety and substituting the following in lieu thereof:

Sec. 25-39. Panhandling.

I. Definitions.

- (a) “Aggressive begging, panhandling, or solicitation for donations” includes the following forms of conduct:
 - i. Confronting someone in a way that would cause a reasonable person to fear bodily harm;
 - ii. Accosting an individual by approaching or speaking to the individual or individuals in such a manner as would cause a reasonable person to fear imminent bodily harm or the commission of a criminal act upon his or her person, or upon property in his or her immediate possession;
 - iii. Touching someone without his or her consent;
 - iv. Using obscene or abusive language toward someone while attempting to panhandle or solicit him or her;
 - v. Forcing oneself upon the company of another by engaging in any of the following conduct:
 - (1) Continuing to solicit in close proximity to the individual addressed after the person to whom the solicitation is directed has made a negative response, either verbally, by physical sign, by attempting

to leave the presence of the person soliciting, or by other negative indication;

- (2) Blocking the passage of the individual solicited; or
- (3) Otherwise engaging in conduct that could reasonably be construed as intending to compel or force a person to accede to solicitation.

- vi. Acting with the intent to intimidate someone into giving money, or
- vii. Other conduct that a reasonable person being solicited would regard as threatening or intimidating in order to solicit a contribution or donation.

(b) “Areas with heightened personal security concerns” include the following locations:

- i. Areas within, or within 20 feet of, a public parking garage, between dusk and dawn, when a reasonable individual would have a justified, reasonable concern for his or her safety, security and welfare;
- ii. Areas within 20 feet of a public bus stop or public transit entrance where a reasonable individual would have a reasonable, justified concern for his or her personal security due to congestion and close proximity to others;
- iii. Areas within 20 feet of access to building entrances, public event venues, public accommodations or commercial businesses where a reasonable individual would have a reasonable, justified concern for his or her personal security due to congestion and close proximity to others;
- iv. Areas within a designated commercial or historic district in which a high volume of pedestrian traffic or narrow sidewalks and streets give a reasonable person a justified, reasonable concern about his or her personal security due to congestion and close proximity to others; or
- v. Other areas in which congestion could give a reasonable person a reasonable, justified concern for his or her own personal security due to congestion and close proximity to others.

(c) “Areas with heightened personal privacy concerns” include the following:

- i. Locations within 20 feet of an automated teller machine, or financial institution in which an automated teller machine is located, where “financial institution” means any bank, industrial bank, credit union, or savings and loan.
- ii. Locations within 20 feet of a sidewalk café during operating hours unless the solicitor’s presence is authorized by the proprietor;

- iii. Other locations in which a reasonable person would have a reasonable and justified concern about whether congestion and close proximity to others would compromise his or her interests in privacy.
- (d) “Areas with heightened public safety concerns” include the following:
 - i. Streets or highways;
 - ii. Traffic medians where such medians provide less than 8 square feet of flat space for standing; and
 - iii. Traffic medians of whatever size within designated high traffic or high-speed roadways or entry or exit ramps of such roadways referenced in subsection (f).
- (e) “Begging, and panhandling” includes the following activities; actions that are conducted in the furtherance of the purpose of immediately collecting contributions for the use of one’s self or others. As used in this ordinance, the word “solicit” and its forms, includes requests for funding arising from begging, or passive panhandling. “Begging, and panhandling” includes both “aggressive” and “passive” forms of begging and panhandling, but these forms are regulated separately under this ordinance.
- (f) All high traffic roadways and exit ramps from controlled access highways including the following: Interstate 24-entry and exit ramps, Interstate 75-entry and exit ramps, Highway 27 (Corridor J)-entry and exit ramps, Highway 153-entry and exit ramps, all highway bridges across the Tennessee River with high speed traffic postings of 35 MPH or greater; all through streets in the City which have posted speed limits at 35 MPH or greater with or without center traffic medians.
- (g) High speed roadways include the following: All controlled access highways and any City or State route where the speed limits are posted at 35 MPH or greater.
- (h) All posted regulated traffic medians and city streets which include areas that meet the following definitions:
 - i. Areas with “medians” situated between traffic lanes running in opposite directions where such medians have less than 8 square feet of flat area between traffic lanes; or
 - ii. Areas with “medians” that are otherwise designated as unsafe for activities by pedestrians, due to associated high-volume or high-speed traffic.
- (i) “Passive panhandling, or begging”, includes conduct that falls within the definition in part (e) of this section, but only such conduct that involves requests for contributions presented in writing without speaking, oral requests for contributions

that do not constitute “aggressive panhandling, or begging,” or other activities that do not fall within the definition of “aggressive panhandling, begging or solicitation” as defined in subsection (a) of this section.

II. Passive Begging, or Panhandling, When Regulated

Passive panhandling, begging, is permitted in all areas of the City except where expressly prohibited in parts V and VI of this Ordinance.

Passive panhandling, or begging, as defined in Section I (i) of this Ordinance should be treated as speech protected under the First Amendment unless other well-grounded governmental concerns are implicated. Accordingly, passive panhandling, or begging, is permitted throughout the jurisdiction and shall not be subject to citation for a municipal violation except as prohibited in parts V and VI of this Ordinance or otherwise as prohibited by State law.

III. Aggressive Panhandling, Begging, Charitable and Political Solicitation Prohibited

- (a) Aggressive panhandling, begging, charitable and political solicitation is prohibited in all locations within the City. No person shall engage in aggressive panhandling, begging, charitable or political solicitation as defined in this section of this ordinance at anytime, anywhere in this jurisdiction.

IV. Regulation of Panhandling, Begging, Charitable and Political Solicitation in Areas with Specific Personal Safety and Privacy Concerns

- (a) *Regulated locations.* Both “passive” and “aggressive” panhandling, begging, charitable and political solicitation activities are further regulated in the following areas that give rise to specific personal safety and privacy concerns as defined in Section I of this ordinance.
 - i. Areas with heightened personal security concerns as previously defined in subsection I (b); and
 - ii. Areas with heightened privacy considerations as previously defined in subsection I (c).
- (b) Prohibition. Neither “aggressive” nor “passive” panhandling, begging, charitable and political solicitation shall be conducted in areas defined as involving heightened personal security or heightened privacy considerations.

V. Panhandling, and Begging, Protection of Public Access and Vehicular Safety in Public Streets and Highways and on Traffic Medians and on High Volume and High Speed Highways.

- (a) Areas regulated:

- i. Areas regulated by this section include those defined as “areas with heightened public safety concerns” as defined in Section I (d) of this ordinance.

(b) Prohibitions

- i. Generally. Both passive and aggressive panhandling, begging, charitable and political solicitation shall be restricted in “areas with heightened public safety concerns” as defined in subsection I (d).

VI. Penalties

Any violations for municipal code violations should not exceed \$50.00 per day to be established by the City Court Judge. If there are continuing violations that constitute a public nuisance for panhandling, the City Attorney is authorized to file a complaint against any person for public nuisance in order to obtain specific injunctive relief available under Tennessee law in any court of competent jurisdiction.

VII. Severability

If any material provision of this Article is held by a governmental authority of competent jurisdiction to be invalid or unlawful as conflicting with applicable laws now or hereafter in effect, or is held by a court of competent jurisdiction or competent governmental authority to be modified in any way in order to conform to the requirements of any such applicable laws, such provision shall be considered a separate, distinct, and independent part of this Article and, to the extent possible, such holding shall not affect the validity and enforceability of all other provisions herein or therein.

SECTION 2. BE IT FURTHER ORDAINED, That this Ordinance shall take effect within two (2) weeks from and after its passage as provided by law.

Passed on second and final reading:_____

CHAIRPERSON

APPROVED:_____ DISAPPROVED:_____

MAYOR

WAH/PAN/kap/mem/3-20-18 PAN