

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF MANSFIELD, TEXAS; AMENDING CHAPTER 98 OF THE CODE OF ORDINANCES OF THE CITY OF MANSFIELD, TEXAS BY ADDING A SUBSECTION; RELATING TO AGGRESSIVE PANHANDLING WITHIN THE CITY OF MANSFIELD, TEXAS; PROVIDING FOR LIMITATION ON THE MANOR AND PLACE IN WHICH PANHANDLING MAY BE CONDUCTED WITHIN THE CITY; PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE OF ALL ORDINANCES; PROVIDING A PENALTY CLAUSE FOR VIOLATIONS; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR PUBLICATION AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Mansfield, Texas is a home rule city acting under its charter adopted by the electorate pursuant to Article XI, Section 5 of the Texas Constitution and Chapter 9 of the Local Government Code; and

WHEREAS, the City Council has found that aggressive panhandling is disturbing and disruptive to residents and businesses and contributes to the loss of access to and enjoyment of public places and to a sense of fear, intimidation and disorder; and

WHEREAS, the City Council has determined that prohibiting the act of aggressive panhandling is important for the safety, well-being, quality of life, and best interests of the citizens of Mansfield, Texas.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MANSFIELD, TEXAS:

SECTION 1.

That Chapter 98 of the Code of Mansfield, Texas, is hereby amended by adding subsection 98.04; Prohibition of Aggressive Panhandling.

SECTION 2.

That all ordinances of the City in conflict with the provisions of this Ordinance be and the same are hereby, repealed and all other ordinances of the City not in conflict with the provision of this Ordinance shall remain in full force and effect.

SECTION 3.

Should any paragraph, sentence, subdivision, clause, phrase or section of this Ordinance be adjudged or held to be unconstitutional, illegal or invalid, the same shall not affect the validity of this Ordinance as a whole or any part of provision thereof, other than the part so declared to be invalid, illegal or unconstitutional, and shall not affect the validity of the Code of Mansfield, Texas, as a whole.

SECTION 4.

Any person violating any of the provisions of this Ordinance of the Code of Mansfield, Texas, shall be deemed guilty of a misdemeanor and, upon conviction in the Municipal Court of the City of Mansfield, Texas, shall be punished by a fine not to exceed the sum of five hundred dollars (\$500.00) for each offense, and each and every day any such violation shall continue shall be deemed to constitute a separate offense.

SECTION 5.

The following words, terms, and phrases when used in this section shall have the meanings ascribed to them in this subsection, unless the context of their usage clearly indicates another meaning:

Aggressive panhandling includes approaching or following pedestrians, repetitive solicitation despite refusals, the use of abusive or profane language to cause fear and intimidation, unwanted physical contact, or the intentional blocking of pedestrian and vehicular traffic.

Automated teller machine or ATM means a machine, other than a telephone, that is capable of being operated by a patron to communicate to a financial institution:

- (1) A request to withdraw money from an account directly or under a line of credit previously authorized;
- (2) An instruction to deposit money in an account with the financial institution;
- (3) An instruction to transfer money between one or more accounts maintained with the financial institution;
- (4) An instruction to apply money against an indebtedness to the financial institution; or
- (5) A request for information concerning the balance of the account with the financial institution.

Financial transaction means the actual purchasing, paying, charging or negotiating for the procurement or sale of any goods or services.

Fuel dispensing device means a pump or other machine utilized for dispensing fuel to motor vehicles or containers.

Pay telephone means any coin-operated or credit or debit card reader operated telephone located on any public or private property that is accessible for public use.

Public place means a street, sidewalk, or other place that is open to the public.

Request means any imperative instruction, whether verbal or non-verbal, by a solicitee to a solicitor to desist the solicitation including but not limited to words or gestures such as "stop," "back off," "stay back," "get away," "leave me alone," or "withdraw."

Solicitation means the act of panhandling by seeking through a communication with another person, whether by gesture or verbally, funds or goods for food, personal favors (such as trips, transportation, clothing, or other), drink, lodging, vehicle fare, or any other purpose to directly benefit an individual or his family members.

Solicitee means any individual to whom a solicitor, as defined herein, directs a solicitation.

Solicitor means any person who engages in the act of solicitation as defined above.

SECTION 6

- (A) It shall be a violation for anyone to knowingly with respect to the nature of their conduct or to circumstances surrounding their conduct to violate any provision of this ordinance.
- (B) Immediately upon any request from a solicitee to a solicitor, a solicitor who is in a public place when the request is made shall discontinue the solicitation until there is a space of at least ten feet between the solicitor and the solicitee. For the purposes of subsection (B) of this section, distance shall be measured from any extension of the solicitor's body, including without limitation any sign or other object being used or carried by the solicitor, to any part of the solicitee's body.
- (C) No solicitor shall engage in solicitation within a distance of twenty feet from any ATM, pay telephone, fuel dispensing device, or outdoor dining or seating establishment, including, but not limited to, a sidewalk cafe. For the purposes of subsection (C) of this section, distance shall be measured from any extension of the solicitor's body, including without limitation any sign or other object being used or carried by the solicitor, to any part of the physical structure of the ATM, pay telephone, fuel dispensing device, or outdoor dining or seating establishment.

(D) No solicitor shall engage in solicitation of anyone who is engaged in a financial transaction.

(E) Aggressive panhandling as defined herein is prohibited.

SECTION 7.

This Ordinance shall be effective from and after its adoption and publication as required by law.

First reading approved on the ____ day of _____, 2012.

Second reading approved on the ____ day of _____, 2012.

DULY PASSED on the third and final reading by the City Council of the City of Mansfield, Texas, this ____ day of _____, 2012.

David Cook, Mayor

ATTEST:

Vicki Collins, City Secretary

APPROVED AS TO FORM AND LEGALITY:

E. Allen Taylor, City Attorney