

COMMISSIONERS' ORDINANCE NO. 0-34-19

AN ORDINANCE REPEALING AND REENACTING COVINGTON CODE OF ORDINANCES SECTION 132.09 ESTABLISHING AN UPDATED PANHANDLING, BEGGING AND SOLICITATION ORDINANCE AND AMENDING SECTION 132.99 REGARDING RELATED PENALTIES.

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WHEREAS, the City of Covington Board of Commissioners have identified a need for revising and amending the City's panhandling ordinance, particularly in response to a recent increase in complaints from members of the public about certain panhandling activities in the City; and

WHEREAS, upon identification of the need, City staff researched potential solutions to: i) comply with a recent Kentucky Supreme Court decision; ii) continue to recognize and protect all citizens' constitutional rights; iii) ensure public safety; and iv) ensure proper traffic flow; and

WHEREAS, the revised and amended panhandling ordinance will strengthen the City's compliance with Federal and State laws, and will establish a new policy concerning panhandling; and

WHEREAS, the revised and amended panhandling ordinance will further protect the compelling interests of the City and its citizens; and

WHEREAS, the City Manager recommends that the Board of Commissioners adopt the proposed revised and amended panhandling ordinance.

NOW THEREFORE,
BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF THE CITY
OF COVINGTON, KENTON COUNTY, KENTUCKY:

Section 1

Section 132.09 of the Covington Code of Ordinances is repealed in entirety and replaced as follows:

§132.09 PUBLIC PANHANDLING, BEGGING, CHARITABLE AND POLITICAL SOLICITATION REGULATED.

(A) Definitions.

As used in this Subchapter:

"Aggressive Panhandling, Begging, Charitable and Political Solicitation" shall include the following forms of conduct:

a. Confronting someone in a way that would cause a reasonable person to fear bodily harm;

b. Accosting an individual by approaching or speaking to the individual or individuals in such a manner as to cause a reasonable person to fear imminent bodily harm or the commission of a criminal act upon the individual's person or upon property in the immediate possession of the individual;

c. Touching someone without the individual's consent;

d. Using obscene or abusive language toward an individual while attempting to panhandle or solicit the individual;

e. Forcing oneself upon the company of another by continuing to solicit in close proximity to the individual addressed after the person to whom the solicitation is directed has made a negative response, by blocking the passage of the individual solicited or otherwise engaging in conduct that could reasonably be construed as intending to compel or force a person to accede to a solicitation;

f. Acting with the intent to intimidate someone into giving money;
or

g. Other conduct that a reasonable person being solicited would regard as threatening or intimidating in order to solicit a contribution or donation.

"Areas with Heightened Personal Security Concerns" shall including the following locations:

a. Areas within twenty (20) feet of a public parking garage when a reasonable individual would have a justified reasonable concern for safety, security and welfare;

b. Areas within twenty (20) feet of a public bus stop or public transit entrance where a reasonable individual would have a reasonable, justified concern for personal security due to congestion and close proximity to others;

c. Areas within twenty (20) feet of access to building entrances, public events venues, public accommodation or commercial businesses where a reasonable person would have a reasonable, justified concern for personal security due to congestion and close proximity to others; or

d. Other areas in which congestion could give a reasonable person a reasonable, justified concern for personal security due to congestion and close proximity to others.

“Areas with Heightened Personal Privacy Concerns” shall include the following locations:

a. Locations within twenty (20) feet of an automated teller machine or financial institution;

b. Locations within twenty (20) feet of a sidewalk café during operating hours unless the solicitor’s presence is authorized by the owner or operator of the café;

c. Locations within twenty (20) feet of any school building or school playground when school is in session or school related activities are taking place on the premises;

d. Locations within twenty (20) feet of an entrance to any public restroom; or,

e. On private or residential property after having been asked to refrain from panhandling or soliciting by the owner or other person lawfully in possession of such property.

“Areas with Heightened Public Safety Concerns” shall include the traffic or travel lane of any public streets or highways open to vehicular traffic within the City, with the definition of traffic or travel lane to include any entrances or exits from any street or highway or interstate, the shoulders, curbs, gutters, marked or unmarked crosswalks and the rights-of-way areas adjacent to and outside of the traffic or travel lanes, but not including sidewalks, and areas with heightened public safety concerns shall also include traffic medians of whatever size located within those public streets or highways.

“Automated Teller Machine” shall mean a device linked to a financial institution’s account record that is able to carry out transactions, including but not limited to account transfers, deposits, cash withdrawals, balance inquiries and mortgage and loan payments.

“Automated Teller Machine Facility” shall mean the area comprised of one or more automatic teller machines and any adjacent space that is made available to banking customers after regular banking hours.

“Financial Institution” shall mean any state bank, out-of-state bank, national bank, trust company or credit unions as those terms are defined in the Kentucky Revised Statutes (KRS).

“Public Place” shall mean any publicly owned place, including but not limited to any sidewalk, parking lot, plaza, transportation facility, place of amusement, park, playgrounds, fairgrounds and sporting facilities.

“Passive Panhandling, Begging, Charitable and Political Solicitation” shall include the definition of soliciting for charitable or political purposes, begging or panhandling set out below, but only such conduct that involves requests for contributions presented in writing without speaking and oral requests for contributions or other activities that do not constitute or fall within the definition of aggressive panhandling, begging, charitable and political solicitation as defined above.

“Soliciting (Solicit) for Charitable or Political Purposes, Begging (Beg) or Panhandling (Panhandle)” shall mean requesting 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 for the use of one’s self or others and may be without limitation, by spoken, written or printed word, or by other means of communications and includes the purchase of an item for an amount far exceeding its value where under the circumstances a reasonable person would understand that the purchase is in substance a donation and further this definition shall include charitable and political solicitation.

(B) Aggressive Solicitation Prohibited.

No person shall engage in aggressive panhandling, begging, charitable and political solicitation at any time or any location in the City of Covington.

(C) Passive Solicitation Regulated.

(1) The Board of Commissioners finds that passive panhandling, begging, charitable and political solicitation as defined in this Subchapter is speech protected under the First Amendment unless other well-grounded governmental concerns are implicated. Passive panhandling, begging, charitable and political solicitation in the traffic or travel lanes of public streets and highways or in traffic medians within those public streets or highways is inherently dangerous, is distracting to both pedestrians and drivers of motor vehicles, gives rise to an increased risk of injury to pedestrians and the motor vehicle occupants, interferes with the free flow of traffic and potentially threatens the safety and well-being of nearby third parties. The traffic or travel lanes of public streets and highways and the medians within those public streets and highways are not designed for and are not an appropriate location for anything other than travel. This Subchapter provides ample alternative sites for passive panhandling, begging, charitable and political solicitation in areas that do not give rise to enhanced public safety concerns, personal privacy concerns and personal security concerns. Accordingly, passive

panhandling, begging, charitable and political solicitation is permitted in the City except as otherwise prohibited below.

(2) Passive panhandling, begging, charitable and political solicitation is prohibited in areas defined as areas with heightened personal security concerns, areas with heightened personal privacy concerns and areas with heightened public safety concerns. For the purposes of this subsection, passive panhandling, begging, charitable and political solicitation specifically includes an attempt by a pedestrian to enter into an area with heightened public safety concerns in order to exchange or attempt to exchange any item with the occupant of a motor vehicle while the vehicle is located in areas with heightened public safety concerns as defined above and any solicitation is prohibited by both the solicitor and the occupant of the motor vehicle. Passive panhandling, begging, charitable and political solicitation is allowed on areas of sidewalks not otherwise prohibited by this Section, but no such solicitation may include any attempts to solicit in areas with heightened public safety concerns.

Section 2

Section 132.99 of the Covington Code of Ordinances is amended to read as follows:

§ 132.99 PENALTY.

(A) Any person convicted of violating the provisions of § 132.08 shall be deemed guilty of a misdemeanor and shall be subject to a fine of not more than \$250 or imprisonment for a period not to exceed 30 days, or both, for the first day's violation. Each day's continued violation shall constitute a separate offense.

(B) Failure to pay the charges imposed by § 132.10 shall constitute a violation of this chapter and any person who violates this chapter shall be found guilty of a violation and shall be fined not less than \$25 nor more than \$100.

(C) Any violation of § 132.111 or § 132.112 shall be deemed to be a misdemeanor, and upon conviction, shall be subject to a penalty of not more than \$250 and/or imprisonment in the county jail for not more than 90 days.

(D) Any person convicted of violating § 132.12 shall be deemed guilty of a misdemeanor and shall be subject to a fine of not more than \$500 or imprisonment for a period not to exceed six months, or both.

(E) (1) Violation by a minor of the provisions of § 132.13 shall constitute a criminal violation, and the minor shall be subject to a fine of not more than \$250.

(2) Any parent or guardian violating § 132.13 shall be deemed guilty of a misdemeanor and shall be subject to a fine of not more than \$500 or imprisonment for a period not to exceed six months, or both.

(F) Any person violating § 132.14 shall be deemed guilty of a misdemeanor and shall be subject to a fine of \$250 or imprisonment in the county jail for not more than 90 days.

(G) ~~[(1) A person convicted of violating § 132.09 shall be deemed guilty of a misdemeanor and shall be subject to a fine not to exceed \$100 or by imprisonment for a term not to exceed 30 days, or by both. If the person has been convicted of a violation of this subchapter within the previous period of one year, the person shall be fined not more than \$250 or imprisoned for not more than 90 days, or both.~~

~~— (2) In lieu of, or in addition to the penalty provided in this subchapter, a court may require a person found to be in violation of this ordinance to perform community service work.~~

~~— (3) Any arrest or conviction under this ordinance shall be disclosed to government social service agencies who request that the applicable public official be notified of such events.]~~ **Any person who violates § 132.09 shall be guilty of a violation and upon conviction shall be punished by a fine not to exceed two-hundred and fifty dollars (\$250). Each day of such violation shall constitute a separate offense and no additional notice other than notice of the original offense shall be required to convict a person for violations resulting from a continuation of such offense.**

Section 3

Any ordinances or parts thereof in conflict herewith are to the extent of such conflict, hereby repealed.

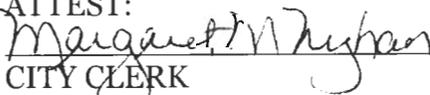
Section 4

If any part of this is held to be invalid, the remaining parts shall remain in force.

Section 5

That this ordinance shall take effect and be in full force when passed, published, and recorded according to law.


MAYOR

ATTEST:

CITY CLERK

Passed: 11-12-19 (Second Reading)

10-29-19 (First Reading)