

## **Ordinance**

**Amending Article II Unlawful Solicitation of the Corpus Christi Code of Ordinance to prohibit solicitation in the Central Business District, North Beach and on private property without permission; prohibiting solicitation within 25 feet of an ATM, bank, public transportation stop or outdoor dining area; Providing for severance, publication, penalty; and an effective date.**

**Whereas**, the City recognizes there are citizens in the community in need of food, shelter and social services;

**Whereas**, panhandling is not the best way for individuals to achieve lasting assistance, support or shelter;

**Whereas**, it is the community's desire to eliminate the need for panhandling by providing appropriate assistance to individuals in need;

**Whereas**, tourism is important to the economy for the Central Business District and North Beach area;

**Whereas**, the City Council finds and determines that solicitation (including panhandling) is detrimental to tourism and the significant revitalization efforts underway in the Central Business District and North Beach;

**Whereas**, the Homeless Issues Partnership and the members of the faith community have indicated they are willing to conduct outreach to those panhandling to identify and address their needs for social services;

**Whereas**, the members of the faith community are willing to empower those adversely impacted by panhandlers (i.e., business owners throughout the community) with the interpersonal skills to engage and the ability to help the people panhandling to navigate available resources to address their needs;

**Whereas**, the City is actively working to identify alternatives to panhandling, including food vouchers that Police Officers and interested citizens can give to panhandlers instead of money;

**Whereas**, the City Police Department is installing special parking meters for interested individuals to donate money to homeless shelters to help those previously panhandling;

**Whereas**, the City is dedicated to encouraging economic development opportunities to create jobs and meaningful work for those struggling to make ends meet;

**Whereas**, City Council finds it necessary to utilize the City's police power to protect the well-being and tranquility of a community within constitutional limitations;

**Whereas**, City Council finds that solicitation is commercial speech;

**Whereas**, City Council finds it necessary to regulate commercial activity to accomplish the following purposes: (1) the prevention of fraud, (2) the prevention of crime, and (3) the protection of resident's privacy;

**Whereas**, City Council finds it necessary to regulate solicitation of funds related solely to the economic interests of the speaker and its audience that do not involve persuasive speech seeking support for particular causes or for particular views on economic, political, or social issues;

**Whereas**, City Council finds soliciting that is conducted using the dissemination of information that is false, deceptive, or misleading is an act that is disreputable worthy of prohibition;

**Whereas**, City Council finds solicitation in certain areas creates a threat to public safety; and

**Whereas**, City Council finds it necessary to eliminate nuisance activity associated with the solicitation of funds.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CORPUS CHRISTI, TEXAS, THAT:

**SECTION 1.** Chapter 38, Article II Unlawful Solicitation, Section 40 Definitions, is amended as follows:

Sec. 38-40. - Definitions.

As used in this article, the following terms shall have the meanings ascribed to them in this section, unless the context of their usage clearly indicates another meaning:

- (1) Aggressive panhandling means any of the following acts:
  - a. Making any physical contact with or touching the solicitee in the course of the solicitation without the solicitee's consent.
  - b. Following a solicitee, if that conduct is:
    1. Likely to cause a reasonable person to fear imminent bodily harm or the commission of a criminal act upon property in the solicitee's possession; or
    2. Reasonably likely to intimidate the solicitee into responding affirmatively to the solicitation.

- c. Continuing to solicit after the solicitee has made a negative response to a solicitation, but does not include a request for reconsideration of the denial of a request for a commercial or consumer loan under normal business terms.
- d. Blocking the safe or free passage of a solicitee or requiring the solicitee, or the driver of a vehicle to take evasive action to avoid physical contact with the solicitor.
- e. Using obscene or abusive language or gestures toward the solicitee.
- f. Approaching the solicitee in a manner that:
  - 1. Is likely to cause a reasonable person to fear imminent bodily harm or the commission of a criminal act upon property in the solicitee's possession; or
  - 2. Is reasonably likely to intimidate the solicitee into responding affirmatively to the solicitation.

(2) Central Business District as defined in Chapter 4 of the Corpus Christi Code.

(3)-(2) Charitable purpose means any purpose, whether actual or purported, which an ordinary citizen reasonably could classify as charitable, benevolent, philanthropic, patriotic, religious, social service, welfare, educational, eleemosynary, cultural, artistic, or for a public service or association of public servants.

(4)-(3) Charitable organization means any person who engages in, or purports to engage in solicitation for a charitable purpose and includes a chapter, branch, area office, or similar affiliate or any person soliciting contributions within the city for a parent charitable organization, but does not include an organization whose primary purpose is supporting or opposing any candidate for elective office, or influencing the nomination for election or the election of any candidate for elective office.

(5) North Beach means the peninsula found north of the Corpus Christi Harbor Bridge within the City limits.

(6) (4) Person means any individual, organization, group, firm, association, partnership, corporation, company, trust or joint stock association, church, religious sect, religious denomination, society, or league, and includes any trustee, receiver, assignee, agent or other similar representative thereof.

(7)-(5) Professional fundraiser means any person who for financial compensation or profit performs for a charitable organization service in connection with which contributions are, or will be, solicited in this city by the compensated person or by any compensated person the person employs, procures, or engages to solicit; or any person who for compensation or profit plans, manages, advises, consults, or prepares material for, or with respect to, the solicitation in this city of contributions for a charitable organization. No investment adviser, investment adviser representative, broker-dealer, or lawyer, accountant, or banker who

advises a person to make a charitable contribution or who provides legal, accounting or financial advice in the ordinary course of a profession or business shall be deemed, as a result of the advice, to be a professional fundraiser. A bona fide salaried officer, employee, or uncompensated volunteer of a charitable organization is not a professional fundraiser.

~~(8) (6)~~ Public place means an area to which the public has access and includes, but is not limited to, a sidewalk, street, highway, park, parking lot, parking meter, alleyway, pedestrian way, or the common area of a school, hospital, apartment house, office building, bus, bus station, bus stop, bank, restaurant, or business establishment.

~~(9) (7)~~ Response means any reply or imperative instruction by a solicitee to a solicitor, the solicitee has been solicited or approached by the solicitor, whether verbal or non-verbal, to stop the solicitation, including, but not limited to, the use of gestures or words such as "no," "not today," "stop," "back off," "stay back," "get away," "leave me alone," or "withdraw."

~~(10) (8)~~ Solicit funds or solicitation of funds means to ask, beg, solicit, or plead, whether orally or in a written or printed manner, for the purpose of receiving money or items of value. any request for the donation of money, property, or anything of value, or the pledge of a future donation of money, property, or anything of value; or the selling or offering for sale of any property, real or personal, tangible or intangible, whether of value or not, including, but not limited to, goods, books, pamphlets, tickets, publications or subscriptions to publications, or brochures, upon the representation, express or implied, that the proceeds of such sale will be used for a charitable purpose as such term is herein defined. Expressly excluded from the meaning of "solicit funds" or "solicitation of funds" are any offer of membership in any organization and any solicitation of funds for any purpose either by a governmental agency or political subdivision.

~~(11) (9)~~ Solicitee means any individual to whom a solicitor directs a solicitation.

~~(12) (10)~~ Solicitor means any person who engages in the act of solicitation.

(Ord. No. 030237, § 6, 7-29-2014)

**SECTION 2.** Chapter 38, Section 43 Solicitation prohibited is created as follows:

38-43 Solicitation prohibited

(a) A person commits an offense if they solicit funds or receive funds in relation to a solicitation on a public roadway or sidewalk located within any of the following:

(1) Central Business District; or

(2) North Beach;

(b) A person commits an offense if they solicit funds on private property.

(1) It is an affirmative defense to prosecution under this subsection if the solicitation of funds was being conducted on property with permission of the owner, manager, or other person in control of the property.

(c) A person commits an offense if they solicit funds within 25 feet of:

(1) an automated teller machine;

(2) an entrance or exit of a bank, credit union, or other similar financial institution;

(3) a public transportation stop; or

(4) an outdoor dining area of a fixed food establishment.

(d) It is a defense to prosecution under this section that the person solicited or received funds for a non-commercial purpose while exercising First Amendment rights protected by the United States Constitution, such as the free exercise of religion, freedom of speech, or the right of assembly.

SECTION 3. If for any reason any section, paragraph, subdivision, clause, phrase, word or provision of this ordinance shall be held invalid or unconstitutional by final judgment of a court of competent jurisdiction, it shall not affect any other section, paragraph, subdivision, clause, phrase, word or provision of this ordinance. For it is the definite intent of this City Council that every section, paragraph, subdivision, clause, phrase, word or provision hereof be given full force and effect for its purpose.

SECTION 4. Publication shall be made one time in the official publication of the City of Corpus Christi as required by the City Charter of the City of Corpus Christi.

SECTION 5. Penalties are as provided in Section 1-6 of the Code of Ordinances.

SECTION 6. This ordinance takes effect after official publication.

That the foregoing ordinance was read for the first time and passed to its second reading on this the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, by the following vote:

Nelda Martinez	_____	Brian Rosas	_____
Rudy Garza	_____	Lucy Rubio	_____
Chad Magill	_____	Mark Scott	_____
Colleen McIntyre	_____	Carolyn Vaughn	_____
Lillian Riojas	_____		

That the foregoing ordinance was read for the second time and passed finally on this the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, by the following vote:

Nelda Martinez	_____	Brian Rosas	_____
Rudy Garza	_____	Lucy Rubio	_____
Chad Magill	_____	Mark Scott	_____
Colleen McIntyre	_____	Carolyn Vaughn	_____
Lillian Riojas	_____		

PASSED AND APPROVED, this the \_\_\_\_\_th day of \_\_\_\_\_, \_\_\_\_\_.

ATTEST:

\_\_\_\_\_  
Rebecca Huerta  
City Secretary

\_\_\_\_\_  
Nelda Martinez  
Mayor