

ORDINANCE NO. BG2018 - 3

ORDINANCE AMENDING CODE OF ORDINANCES

ORDINANCE AMENDING CHAPTERS 9
(GENERAL OFFENSES) AND 22 (TRAFFIC AND
MOTOR VEHICLES) OF THE CITY OF BOWLING
GREEN CODE OF ORDINANCES TO REGULATE
PANHANDLING, BEGGING, CHARITABLE AND
POLITICAL SOLICITATION, AND TO MAKE
OTHER ADMINISTRATIVE CHANGES

WHEREAS, the City of Bowling Green recognizes the free speech rights for all citizens while at the same time protecting the 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 the activities of others occurring in particular settings; and,

WHEREAS, the City also finds that there are numerous forms of solicitation that are not in and of themselves inherently threatening or aggressive including vocal requests for a donation, carrying a sign requesting donations, shaking a cup of change or ringing a bell; and,

WHEREAS, the City has received complaints regarding aggressive solicitation which threatens the security, privacy and freedom of movement of residents and visitors in the City; and,

WHEREAS, the City also finds that the presence of solicitors in certain specific areas create reasonable concerns by residents and visitors objectively worried about their privacy, freedom of movement and personal security; and,

WHEREAS, the City also finds that certain forms of solicitation impede the orderly flow of pedestrian and vehicular traffic and leads to concerns regarding traffic and public safety on City streets and medians; and,

WHEREAS, the purpose of this Ordinance is to impose regulations that are narrowly tailored to serve significant interests of the City while at the same time not impermissibly limiting an individual's

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right to exercise free speech associated with solicitation; and,

WHEREAS, to carry out these findings it is in the best interests of the City to amend existing language in the Code of Ordinances.

NOW, THEREFORE, BE IT ORDAINED by the City of Bowling Green, Kentucky as follows:

1. Chapter 9 (General Offenses) is hereby amended as follows:

9-1 MICELLANEOUS OFFENSES.

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~~[9-1.02 Aggressive Panhandling Prohibited.]~~

~~[a. Definitions as used in this Section:~~

~~“Aggressive Panhandling” shall mean engaging in any conduct with the intention of intimidating another person into giving away money or goods, including, but not limited to, intentionally approaching, speaking to or following a person in a manner that would cause a reasonable person to fear imminent physical injury or the imminent commission of a criminal act upon the person or upon the property in the person’s immediate possession; intentionally touching another person without consent; or intentionally blocking or interfering with the free passage of a person.~~

~~“Automated Teller Machine” shall mean a device linked to a financial institution’s account record which 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 which 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.~~

~~“Public Place” shall mean a place to which the public or a substantial group of persons has~~

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~~access, including but not limited to any street, sidewalk, highway, parking lot, plaza, transportation facility, school, place of amusement, park, playgrounds, fairgrounds and sporting facilities.~~

~~“Soliciting (Solicit) 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 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.]~~

~~[b. No person shall engage in aggressive panhandling.]~~

~~[e. No person shall engage in soliciting or panhandling in any of the following circumstances:~~

~~1. In a menacing manner in any public place as prescribed by KRS 508.050. No person shall engage in aggressive panhandling, as defined under this Section, at any time in any public place;~~

~~2. On private or residential property after having been asked to refrain from panhandling or aggressive panhandling by the owner or other person lawfully in possession of such property;~~

~~3. Within twenty (20) feet of an automated teller machine. Provided, however, that when an automated teller machine is located within an automated teller machine facility, such distance shall be measured from the entrance or exit of the facility;~~

~~4. When a person is an operator or occupant of a motor vehicle on a public street in exchange for blocking, occupying or reserving a public parking space, or directing the operator or occupant to a public parking space;~~

~~5. When a person is an operator or occupant of a motor vehicle on a public street in~~

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~~accordance with Subchapter 22-10 of this Code of Ordinances, regardless if the vehicle is in motion, parked or stopped;~~

~~6.— In any public transportation vehicle or facility, or within twenty (20) feet of any bus stop, or in any public parking lot or structure;~~

~~7.— Within twenty (20) feet of any outdoor dining area or outdoor merchandise area, if such areas are in active use at the time;~~

~~8.— 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;~~

~~9.— Within twenty (20) feet of an entrance to any public restroom;~~

~~10.— In a manner that impedes or blocks the flow of pedestrian traffic on a sidewalk or public right-of-way; or~~

~~11.— Within twenty (20) feet of entry or exits of a public entertainment venue.]~~

9-1.02[3] Discharge of Firearms Unlawful.

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9-1.03[4] Discharge of Slingshots, Bow and Arrow, Air Guns Unlawful.

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9-1.04[5] Defacing Sidewalks and Public Property Unlawful.

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9-1.05[6] Unlawful to Post Political Campaign Posters, Pictures or Signs.

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9-1.06[7] Possession and Consumption of Alcoholic Beverages Prohibited In or On Public Property.

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9-1.07[8] Reporting Requirements for Sale or Exchange of Certain Jewelry, Coins

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Precious Stones and Metals.

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9-1.08[9] Obstructive Congregation Prohibited.

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9-1.[1]09 Concealment of Identity Prohibited.

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9-4 PUBLIC PANHANDLING, BEGGING, CHARITABLE AND POLITICAL SOLICITATION REGULATED.

9-4.01 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

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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,

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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 which 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 which 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

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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.

9-4.02 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 Bowling Green.

9-4.03 Passive Solicitation Regulated.

a. 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

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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.

b. 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 Subchapter, but no such solicitation may include any attempts to solicit in areas with heightened public safety concerns.

9-4.04 Permit Required.

a. Any person engaging in passive panhandling, begging, charitable and political solicitation in a public place as defined above in which solicitation is allowed and for a period exceeding two (2) consecutive days or four (4) total days in a calendar year shall apply for and be in receipt of a permit issued by the City of Bowling Green Police Department. The Police Department shall issue the permit without fee to any eligible person who appears at the Police Department, states his true name, presents a photo identification or signs a declaration under oath that he has no such identification and provides a mailing address to which the Police Chief can mail correspondence related to the permit. The Police Department shall take a photo of all applicants.

b. No person shall be eligible for a permit who has had a previously issued permit revoked by the Police Department within the past two (2) years.

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c. All permits shall be valid for two (2) years and may be renewed based on eligibility.

d. The Police Chief may revoke a permit in writing based on findings that the applicant made false representations while applying for the permit or that the permit holder failed to comply with the terms of this Subchapter. An appeal of the revocation may be made in writing to the City Manager within seven (7) days of the revocation. The City Manager shall act upon the written appeal within thirty (30) days with such appeal based on the record before the Police Chief and the written appeal.

9-5[4] PENALTIES.

Any person who violates any provision of this Chapter shall be guilty of a violation and upon conviction shall be punished by a fine not to exceed two-hundred and fifty (\$250) dollars. 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.

2. Chapter 22 (Traffic and Motor Vehicles) is hereby amended as follows:

~~[22-10 SOLICITATION OF OCCUPANTS OF MOTOR VEHICLES PROHIBITED.]~~

~~[22-10.01 Definitions.]~~

~~["Person" shall mean any natural person, corporation, association, group, club, society or other organization.]~~

~~"Public Right of Way" shall mean any public road, street, avenue, alley or boulevard, bridge, viaduct or trestle and the approaches to them, including traffic medians, street shoulders and all other areas within the highway or street right of way within the limits of the City of Bowling Green.~~

~~"Solicit and Solicitation" shall mean engaging in or requesting, directly or indirectly, that an addressed person or limited audience or the public generally make a contribution or contributions.]~~

~~[22-10.02 Solicitation Prohibited.]~~

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~~[It shall be unlawful for any person, whether individually or as the agent or employee of another, or as a volunteer, to stop, stand, sit, walk upon or occupy any public right-of-way for the purpose of soliciting financial assistance or donations from occupants of motor vehicles for private use or benefit, commercial gain or for any charitable purpose.]~~

~~[22-10.03 — Penalties.]~~

~~[Any person who violates the provisions of this Subchapter shall upon conviction be guilty of a violation and shall be subject for each offense to a fine of not more than two hundred and fifty (\$250.00) dollars. Each day of any violation of this Subchapter shall constitute a separate offense.]~~

22-10[1] TEMPORARY DISPLAY OF MOTOR VEHICLES.

22-10[1].01 Definitions.

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22-10[1].02 Permit Required; No Fee.

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22-10[1].03 Requirements for Temporary Display.

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22-10[1].04 Temporary Display; Posting Permit.

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22-10[1].05 General Provisions.

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22-10[1].06 Penalty.

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22-11[2] OPERATION OF GOLF CARTS ON CITY STREETS.

22-11[2].01 Definitions.

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22-11[2].02 Authorized Public Streets.

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22-11[2].03 Operation of Golf Carts.

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22-11[2].04 Exemptions from Certain Regulations.

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3. The provisions of this Ordinance are hereby declared to be severable, and if any section, phrase or provision shall for any reason be declared invalid, such declaration of invalidity shall not affect the validity of the remainder of this Ordinance.

4. All prior Municipal Orders or Ordinances or parts of any Municipal Order or Ordinance in conflict herewith are hereby repealed.

5. This Ordinance is adopted pursuant to KRS 83A.060 in that it was introduced on January 2, 2018, and given final reading on January 16, 2018, and said Ordinance shall be in full force and effect upon signature, recordation and publication in summary pursuant to KRS Chapter 424.

ADOPTED: January 16, 2018

APPROVED: Bruce Wilkinson
Mayor, Chairman of Board of Commissioners

ATTEST: Katie Strohle Ward
City Clerk

SPONSORED BY: Kevin D. DeFebbo, City Manager, 12/28/2017, 10:40 a.m.