

Code Change

ORDINANCE NO. 2013-95

AN ORDINANCE OF THE CITY OF TAMPA, FLORIDA, MAKING REVISIONS TO CITY OF TAMPA CODE OF ORDINANCES, CHAPTER 14 (OFFENSES); **AMENDING SECTION 14-46, THREATENING, INTIMIDATING OR HARASSING BEHAVIOR FOR PURPOSES OF SOLICITATION**; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Tampa recognizes that solicitation is an activity that is protected by the First Amendment; and,

WHEREAS, the City of Tampa may enforce regulations of behavior that implicate First Amendment activity when the regulations affect the time, place, and manner of expression, are content-neutral, are narrowly tailored to serve a significant government interest, and leave open ample alternative channels of communication; and

WHEREAS, the City of Tampa has a significant interest in providing a safe and pleasant environment and eliminating nuisance activity, *Smith v. City of Fort Lauderdale, Fla.*, 177 F.3d 954, 956 (11th Cir. 1999); and,

WHEREAS, the area known as Ybor City in the City of Tampa is the City's only National Historic Landmark District and an area that attracts visitors and locals alike and is home to businesses, restaurants, bars, music venues, shops, Hillsborough Community College; and,

WHEREAS, the City of Tampa's downtown area includes the Central Business District and Channelside, and is home to the City's Convention Center, performing arts center, several museums, a professional hockey team venue used for numerous events, a train station, trolley tracks and stops, a road dedicated to city buses only, cruise ship terminals, the Riverwalk, Curtis Hixon Park, the Hillsborough County Bar Association, Stetson Law School, businesses, restaurants, bars, shops, and multiple hotels and is also an area that attracts visitors and locals alike; and,

WHEREAS, in and between Ybor City and the City's general downtown area there is the City's trolley system and Tampa Union Station, a local and nationally designated historic landmark and a working rail station, for passenger and commercial rail; and,

WHEREAS, the City of Tampa has determined that limited bans on solicitation based on the time, place, or manner of the solicitation are a content neutral and narrowly tailored way to promote public safety, and protect its citizens and visitors and promote

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1 the Ybor City and general downtown area as tourist destinations and economic engines
2 for the City; and,

3
4 **WHEREAS**, the City of Tampa has determined that limited bans on solicitation
5 based on the time, place, or manner of the solicitation is a content neutral and narrowly
6 tailored way to promote public safety, and protect its citizens and visitors in areas where
7 they may be or perceive themselves to be vulnerable and/or unable to leave; and,

8
9 **WHEREAS**, the City of Tampa has determined that limited bans on solicitation
10 in the Ybor City and general downtown area and listed other limited places where people
11 feel particularly vulnerable and/or unable to leave still provides ample alternative
12 avenues of communication and are drawn narrowly to address the City's substantial
13 interests; and,

14
15 **WHEREAS**, the City Council of the City of Tampa has determined that the
16 following amendments promotes and protects the general health, safety, and welfare of
17 the residents of the City of Tampa; and,

18
19 **WHEREAS**, a duly noticed public hearing as required by law was held by the
20 City Council of the City of Tampa, at which public hearings all residents and interested
21 persons were given an opportunity to be heard.

22
23 **NOW, THEREFORE,**

24
25 **BE IT ORDAINED BY THE CITY COUNCIL**
26 **OF THE CITY OF TAMPA, FLORIDA:**

27
28 **Section 1.** That "**Sec. 14-46. Threatening, intimidating or harassing**
29 **behavior for purposes of solicitation.**" is hereby renamed and amended by adding the
30 underlined language and deleting the stricken language as follows:

31
32 **~~"Sec. 14-46. Threatening, intimidating or harassing behavior for purposes of~~**
33 **~~solicitation.~~Solicitation regulation.**

- 34
35 (a) It is ~~is~~ shall be unlawful for any person in the City of Tampa to ~~demand, ask or beg~~
36 ~~for, or to~~ solicit, donations or payment, or to exhibit oneself for such purpose, by:
- 37 (1) Any act or language constituting an express or implied threat of injury to
38 any person or of damage to or loss of any property owned by or in lawful
39 possession of the solicited person;
 - 40 (2) Endeavoring to maintain contact with the solicited person and continuing
41 to verbally demand, ask or beg for, or to solicit, donations or payment
42 from any person after the solicited person has made a negative response to
43 an initial demand or solicitation; or
 - 44 (3) Any act intended to impede the passage or free movement of the solicited
45 person. Passage or free movement applies to persons on foot or bicycles,

1 in wheelchairs or operating motor vehicles or persons attempting to enter
2 or exit motor vehicles.

3
4 (b) It shall be unlawful in the City of Tampa for any person to solicit donations or
5 payment when either the solicitor or the person being solicited is located in, on, or
6 at any of the following locations or premises thereof:

7
8 (1) Downtown/Ybor Area Prohibited Zone;

9
10 (2) Bus, trolley stop, or transit stop;

11
12 (3) Sidewalk cafe; or

13
14 (4) Area within fifteen (15) feet (in any direction) of an automatic teller
15 machine or entrance to a financial institution.

16
17 This section does not apply to solicitation that only involves holding a sign.

18
19 ~~(b)~~(c) The following words and phrases, when used in this section, shall have the
20 following meanings:

21 (1) ~~Solicit shall be interpreted to include~~ means attempts in person to obtain
22 charitable contributions, or attempts to sell any good or service, for the
23 benefit of the solicitor or on behalf of an individual or organization.

24
25 (2) “Downtown/Ybor Area Prohibited Zone” means that land area bounded on
26 the north by West Palm Avenue (to the northern edge of pavement),
27 bounded on the west by North Boulevard (to the western edge of
28 pavement) until North Boulevard crosses the Hillsborough River, then by
29 the Hillsborough River (to the water’s edge), bounded on the south by
30 Garrison Channel (to the water’s edge), and bounded by the east by Ybor
31 Channel (to the water’s edge) as far north as E. Harbor Street (the northern
32 edge of pavement) then west until the eastern edge of pavement of N. 14th
33 Street, then north until the southern edge of pavement of Adamo Dr., then
34 east until the eastern edge of 26th Street bounded on the east by 26th Street
35 (to the eastern edge of pavement)[see graphic map attached as Exhibit
36 “A.”]

37
38 ~~(e)~~(d) ~~It shall not be a defense to any charge under this section that the person charged~~
39 ~~has previously applied for or obtained a permit to solicit in the right-of-way~~
40 ~~pursuant to section 25-173 of this Code. This section shall not apply to persons~~
41 ~~operating under franchises, concessions, or pursuant to temporary license~~
42 ~~agreements or concessions for special events, or business operations conducted~~
43 ~~entirely within an enclosed building or in a permanent structure for which a~~
44 ~~building permit is required, or operating on private property.~~

1 (d)(f) Violations of this section shall be punishable as provided in Tampa Code section
2 1-6."

3 **Section 2.** That should a court of competent jurisdiction declare any part of
4 this Ordinance invalid the remaining parts hereof shall not, in any way, be affected by
5 such determination as to the invalid part.

6 **Section 3.** That all ordinances or parts of ordinances in conflict herewith are
7 hereby repealed to the extent of any conflict.

8 **Section 4.** That this ordinance shall take effect immediately upon becoming a
9 law.

10 PASSED AND ORDAINED BY THE CITY COUNCIL OF THE CITY OF
11 TAMPA, FLORIDA, ON JUL 18 2013.

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13
14 ATTEST:

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17 
18 ~~CHAIRMAN/CHAIRMAN PRO TEM~~
19 CITY COUNCIL

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21 
22 ~~CITY CLERK/DEPUTY CITY CLERK~~

23
24
25 APPROVED BY ME ON JUL 22 2013

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28 
29 ~~BOB BUCKHORN, MAYOR~~

30
31
32 APPROVED AS TO LEGAL
33 SUFFICIENCY BY:

34
35
36
37 E/S
38 REBECCA M. KERT
39 ASSISTANT CITY ATTORNEY

