Technical Update of City of Asheville Non-Solicitation Ordinances

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City of Asheville Non-Solicitation Ordinances

Key Takeaways

- Restrictions and limitations against **Begging, Solicitation, and Panhandling** have been part of the City's Code for decades.
- Recent Court decisions (Notably City of Austin v. Reagan, and Reed v. Town of Gilbert) necessitate an update the City's existing ordinance language.
- The majority of the City Ordinances on this subject have not been updated in over two decades.
- These technical updates remove ambiguity without adding new regulation or penalties.

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Timeline

- **Technical Amendments**
    - Environment and Safety Review - July 25th
    - City Council first reading - Aug. 22nd
    - City Council Second reading - Sept. 12th

- **Substantive Amendments** (“High Traffic Zones”; Vehicular Donations)
    - Environment and Safety Review - Sept. 26th
    - City Council Oct. 10th

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Highlights of Proposed Technical Amendments

- Bring ordinances into compliance with latest court decisions.
- Remove current ambiguity in language.
- Increase specificity to clarify existing rules.
- Provides immediate response to solidify existing rules while additional substantive amendments are analyzed for future proposed changes.

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Legal Authority

- NCGS 160A-179 provides the City with authority to regulate solicitation.
- NCGS 20-175 provides specific authority to regulate roadside solicitation.
- Court decisions, including from the U.S. Supreme Court, further define how these regulations may be constructed and enforced.

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Proposed Technical Amendments - City Code Sec. 11-5

- Clarified the **Who, What, When** and **Where** of solicitation rules.
  - Removed word “Immediately”
  - Added family and acquaintances exception
  - Defined solicitation distance restrictions (8 ft.)
- Added language to clarify restriction on solicitation at outdoor dining areas. *Code Sec. 11-5 (b)(1)(c)*
- Updated wording restricting “*obscene or threatening*” language. *Code Sec. 11-5 (b)(1)(h))*
- Standardized terminology on solicitation requests (Now includes a request “of any type”). *Multiple Sections*

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Proposed Technical Amendments - City Code Sec. 11-14

- Language has been taken directly from NCGS 20-175.
- Broken up into separate provisions to clearly define what can and cannot be done regarding roadside solicitation.
  - CAN: Solicit from street, shoulder, or median **with a permit**.
  - CANNOT: Solicit from street, shoulder, or median without permit.
  - CAN: Solicit from sidewalks, if not violating other laws.

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Legal Analysis

- These *TECHNICAL* amendments are necessary to ensure the legal compliance and defensibility of existing City ordinances.
- Provide greater clarity for the public, as well as for City staff.
- Consistent with the statutory authority prescribed by the State.
- Do not expand any existing regulations, or increase penalties.

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Requested Council Action

- Motion to adopt the proposed amendments to the City's public solicitation ordinances, specifically Sections 11-5 and 11-14, in accordance with the changes represented in the accompanying staff report.

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Questions?

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