

CITY OF HOSCHTON  
COUNTY OF JACKSON  
STATE OF GEORGIA

ORDINANCE

AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE CITY OF HOSCHTON TO AMEND THE CODE OF ORDINANCES OF THE CITY OF HOSCHTON, GEORGIA; TO AMEND SECTION 31-113 OF THE CODE OF ORDINANCES; TO CREATE AND ESTABLISH RULES AND REGULATIONS REGARDING THE PRACTICE OF PANHANDLING WITHIN THE CITY OF HOSCHTON; TO PROVIDE FOR PENALTIES; TO REPEAL CONFLICTING ORDINANCES; TO PROVIDE FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

WHEREAS, the Constitution of the State of Georgia, approved by the voters of the State in November of 1982, and effective July 1, 1983, provides in Article IX, Section II, Paragraph I thereof, that the governing authority of the City may adopt clearly reasonable ordinances, resolutions and regulations; and

WHEREAS, the Mayor and Council desire to adopt an ordinance regulating the practice of Panhandling within the City of Hoschton; and

WHEREAS, appropriate notice and hearing on the amendments contained herein have been carried out according to general and local law.

NOW THEREFORE, be it ordained by the Mayor and Council of the City of Hoschton, as follows:

Section 31-113 shall no longer be reserved and shall read as follows:

**Section 31-113: Panhandling**

1. **Definitions.** As used in this Section:

(1) "Solicit" or "Panhandle" shall mean to request 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, including employment, business or contributions or to request the sale of goods or services. The solicitation may be, without limitation, by the spoken, written, or printed word, or by other means of communication.

(2) "Public area" shall mean an area to which the public or a substantial group of persons has access, including but not limited to alleys, bridges, buildings,

driveways, parking lots, parks, play grounds, plazas, sidewalks, and streets that are open to the general public.

## 2. Prohibitions.

(1) It shall be unlawful for any person, firm, organization, or corporation to aggressively panhandle or solicit funds for the sole benefit of the solicitor within any public area in the City of Hoschton or:

(a) In any public transportation vehicle, or public transportation station or stop;

(b) Within 15 feet of any entrance or exit of any bank or check cashing business or within 15 feet of any automated teller machine during the hours of operation of such bank, automated teller machine or check cashing business without the consent of the owner or other person legally in possession of such facilities. 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 automated teller machine facility;

(c) On private property if the owner, tenant, or lawful occupant has asked the person not to solicit on the property, or has posted a sign clearly indicating that solicitations are not welcome on the property; or

(d) From any operator of a motor vehicle that is in traffic on a public street, whether in exchange for services or for blocking, occupying, or reserving a public parking space; provided, however, that this paragraph shall not apply to services rendered in connection with emergency repairs requested by the operator or passengers of such vehicle.

## 3. "Aggressive Panhandling" shall mean and include:

(1) Intentionally or recklessly making any physical contact with or touching another person or his vehicle in the course of the solicitation without the person's consent;

(2) Following the person being solicited, if that conduct is intended to or is likely to cause a reasonable person to fear imminent bodily harm or the commission of a criminal act upon property in the person's possession, or is intended to, or is reasonably likely to intimidate the person being solicited into responding affirmatively to the solicitation;

(3) Continuing to solicit within five (5) feet of the person being solicited after the person has made a negative response, if continuing the solicitation is intended to

or is likely to cause a reasonable person to fear imminent bodily harm or the commission of a criminal act upon property in the person's possession, or is intended to, or is reasonably likely to intimidate the person being solicited into responding affirmatively to the solicitation;

(4) Intentionally or recklessly blocking the safe or free passage of the person being solicited or requiring the person, or the driver of a vehicle, to take evasive action to avoid physical contact with the person making the solicitation. Acts authorized as an exercise of one's constitutional right to picket or legally protest, and acts authorized by a permit issued pursuant to City Ordinance shall not constitute obstruction of pedestrian or vehicular traffic;

(5) Intentionally or recklessly using obscene or abusive language or gestures intended to or likely to cause a reasonable person to fear imminent bodily harm or the commission of a criminal act upon property in the person's possession, or words intended to, or reasonably likely to intimidate the person being solicited into responding affirmatively to the solicitation;

(6) Approaching the person being solicited in a manner that is intended to or is likely to cause a reasonable person to fear imminent bodily harm or the commission of a criminal act upon property in the person's possession, or is intended to, or is reasonably likely to intimidate the person being solicited into responding affirmatively to the solicitation.

#### 4. Penalties

**Unauthorized solicitation** shall constitute a misdemeanor punished by a fine not to exceed \$1,000 or imprisonment up to 6 months or both.

**Aggressive panhandling** shall constitute an aggravated misdemeanor punished by a fine not to exceed \$1,000 or imprisonment up to 6 months or both.

(a) Upon the first violation of any of the provisions of this Panhandling Ordinance, a warning citation shall be issued.

(b) Upon the second violation of any of the provisions of this Panhandling Ordinance, a citation shall be issued and the individual will go before the Hoschtion City Court.

(c) Upon conviction, punishment shall be as set forth by the City Court. Such punishment may include the imposition of a fine not to exceed \$1,000.00, imprisonment for a period of time not to exceed 60 days, or by both such fine and imprisonment, or up to the limits of any penalty provided by state law for the ordinance and as such state law may be amended from time to time.

(d) For sentencing purposes, the first citation before the City Court shall be deemed the "first offense"; however, consideration may be given by the Court to the previous warning citation.

(e) Nothing in this Panhandling Ordinance shall restrict the City from pursuing other means of enforcement as it deems necessary, including instituting appropriate action or proceedings at law or equity with a court of competent jurisdiction. Any court of competent jurisdiction may have the right to issue restraining orders, temporary or permanent injunctions, and other appropriate forms of remedy or relief.

(f) Every violation and each day of noncompliance is considered a separate offense, and shall be punishable as such.

Applicability. This section regulates the time, place, and manner of solicitations and shall not apply to any persons properly exercising their clearly established constitutional right to picket, protest or engage in other constitutionally protected activity. This section does not apply to solicitations by permitted charitable organizations as provided for below.

This Ordinance shall become effective ten days after final adoption by the City Council.

All ordinances and provisions of the Code, which conflict with any part of this Ordinance, are hereby repealed.

SO ORDAINED this \_\_\_\_ day of \_\_\_\_\_, 2008.

\_\_\_\_\_  
William Copenhaver  
Mayor

ATTEST:

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Kristen Smith, City Clerk