

Your Committee, to which this proposal was referred, has amended the proposal to read as follows and recommends its adoption as amended.

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CITY COUNTY COUNCIL

PROPOSAL NO. 143, 2013

CITY OF INDIANAPOLIS-MARION COUNTY, INDIANA

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INTRODUCED: 05/13/2013

REFERRED TO: Rules and Public Policy Committee

SPONSOR: Councillors Miller and Osili

DIGEST: amends the Code to adopt new provisions within Chapter 407 with respect to panhandling

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SOURCE:

Initiated by: Councillor Miller

Drafted by: Office of Corporation Counsel

LEGAL REQUIREMENTS FOR ADOPTION:

Published Notice of Public Hearing

Subject to approval or veto by Mayor

PROPOSED EFFECTIVE DATE:

Adoption and approvals

GENERAL COUNSEL APPROVAL: \_\_\_\_\_ Date: May 9, 2013

*GENERAL COUNSEL COMMENTS: If the Council adopts this proposal as is, the ordinance would almost certainly be challenged in court on first amendment grounds. If the city is sued and loses, the city would most likely have to pay both sides' attorney fees.*

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CITY-COUNTY GENERAL ORDINANCE NO. \_\_\_\_\_, 2013

PROPOSAL FOR A GENERAL ORDINANCE to amend the Revised Code to adopt new provisions within Chapter 407 with respect to panhandling.

BE IT ORDAINED BY THE CITY-COUNTY COUNCIL OF THE  
CITY OF INDIANAPOLIS AND OF MARION COUNTY, INDIANA:

SECTION 1. The "Revised Code of the Consolidated City and County," specifically Sec. 407-102 regarding panhandling, is to be and is hereby amended by inserting the underlined text and deleting the stricken-through text, to read as follows:

**Sec. 407-102. Panhandling and ~~No Passive Solicitation Zone in Downtown Regional Center.~~**

(a) As used in this section, *panhandling* means any solicitation made in person upon any street, sidewalk, public place or park in the city, in which a person requests an immediate donation of money or other gratuity from another person, and includes but is not limited to seeking donations:

- (1) By vocal appeal or for music, singing, or other street performance; and
- (2) Where the person being solicited receives an item of little or no monetary value in exchange for a donation, under circumstances where a reasonable person would understand that the transaction is in substance a donation.

However, panhandling shall not include the act of passive solicitation.

As used in this section, *passive solicitation* means the act of passively standing or sitting, performing music, singing or other street performance with a sign or any other indication that a donation is being sought, without any vocal request other than in response to an inquiry by another person for the purpose of receiving contributions, alms, charity, or gifts of items of value for oneself or another person.

~~(b) As used in this section, the *downtown regional center* means the area generally described as that portion of Central Indianapolis whose boundaries include North, South, East and West Streets otherwise known as the mile square. The downtown regional center shall also include: (1) that area generally known as "Lucas Oil Stadium," bounded on the west by West Street, on the north by South Street, on the east by Capitol Avenue and on the south by West McCarty Street; and (2) that area generally known as "Victory Field," bounded on the west and north by Washington Street, on the east by West Street, and on the south by the railroad tracks adjacent thereto.~~

~~— All public streets and sidewalks indicated within this boundary shall include the entire width of the public right-of-way unless otherwise specified.~~

~~(c)~~ It shall be unlawful to engage in an act of panhandling **or passive solicitation** on any day after **5:00 p.m. sunset**, or before **8:00 a.m. sunrise** anywhere in the City of Indianapolis.

~~(d) It shall be unlawful to engage in an act of panhandling or passive solicitation in any manner within the downtown regional center at any time.~~

~~(e)~~ It shall be unlawful to engage in an act of panhandling **or passive solicitation** at any time when either the panhandler or the person being solicited is located at any of the following locations: at a bus stop; in any public transportation vehicle or public transportation facility; in a vehicle which is parked or stopped on a public street or alley; in a **within twenty (20) feet of any sidewalk cafe; within twenty (20) feet of a public entrance to any building, within twenty (20) feet in any direction of any parking meter payment receptacle, within twenty (20) feet of a trail, underpass, bridge or interstate on-ramp or off-ramp, or within twenty (20) feet in any direction from an automatic teller machine or entrance to a bank, within fifty feet (50) of the following areas, which are areas where the public is considered vulnerable or where panhandling or passive solicitation would interfere with the flow of traffic:**

**(1) An automated teller machine;**

**(2) An automated teller facility;**

**(3) The entrance or exit of a bank;**

**(4) The entrance or exit of a check cashing business;**

**(5) A charitable contribution receptacle;**

**(6) A parking meter accepting payment or parking pay station on a street;**

**(7) A public parking garage or parking lot pay station;**

**(8) The entrance or exit of a restaurant or the service area of an outdoor eating establishment;**

**(9) In a bus, at a bus station or stop, or at a facility operated by a transportation authority for passengers;**

**(10) A marked crosswalk; or**

**(11) A trail or underpass.**

~~(f)~~ It shall be unlawful to engage in an act of panhandling in an aggressive manner, including any of the following actions:

- (1) Touching the solicited person without the solicited person's consent;
- (2) Panhandling a person while such person is standing in line and waiting to be admitted to a commercial establishment;
- (3) Blocking the path of a person being solicited, or the entrance to any building or vehicle;
- (4) Following behind, ahead or alongside a person who walks away from the panhandler after being solicited;
- (5) Using profane or abusive language, either during the solicitation or following a refusal to make a donation, or making any statement, gesture, or other communication which would cause a reasonable person to be fearful or feel compelled; or
- (6) Panhandling in a group of two (2) or more persons.

(g) Each act of panhandling or passive solicitation prohibited by this section, shall constitute a public nuisance and a separate violation of this Code. Each violation shall be punishable as provided in [section 103-3](#) of this Code, and the court shall enjoin any such violator from committing further violations of this section.

SECTION 2. Should any provision (section, paragraph, sentence, clause or any other portion) of this ordinance be declared by a court of competent jurisdiction to be invalid for any reason, the remaining provision or provisions shall not be affected, if and only if such remaining provisions can, without the invalid provision or provisions, be given the effect intended by the Council in adopting this ordinance. To this end the provisions of this ordinance are severable.

SECTION 3. This ordinance shall be in full force and effect upon adoption and compliance with IC 36-3-4-14.

The foregoing was passed by the City-County Council this \_\_\_\_\_ day of \_\_\_\_\_, 2013, at \_\_\_\_\_ p.m.

ATTEST:

\_\_\_\_\_  
Maggie A. Lewis  
President, City-County Council

\_\_\_\_\_  
NaTrina DeBow  
Clerk, City-County Council

Presented by me to the Mayor this \_\_\_\_\_ day of \_\_\_\_\_, 2013, at 10:00 a.m.

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NaTrina DeBow  
Clerk, City-County Council

Approved and signed by me this \_\_\_\_\_ day of \_\_\_\_\_, 2013.

\_\_\_\_\_  
Gregory A. Ballard, Mayor