

CERTAIN PUBLIC BEGGING AND SOLICITATION REGULATED

Purpose.

The Town of Rural Hall acknowledges that passive panhandling, begging, charitable and political solicitation may be treated as speech protected under the First Amendment. Therefore, the purposes of the restrictions imposed under this ordinance are to:

- (1) Address certain types of behavior in spaces with heightened concerns over **personal security, personal privacy and public safety**;
- (2). Restrict certain aggressive acts of solicitors without prohibiting constitutionally protected activity;
- (3) Maintain the peace and order of Rural Hall and preserve and protect the rights of all her citizens to be free from intimidation in their persons and property;
- (4) Reduce the detrimental effect that threatening and intimidating conduct has on a safe and peaceful environment; and
- (5) Promote the safe and unimpeded passage of both pedestrian and vehicular traffic in Rural Hall, without unconstitutionally impinging upon protected speech, expression, or conduct.

Therefore, in furtherance of the foregoing purposes, it shall be unlawful to beg or solicit alms in violation of this ordinance.

(A) Definitions.

For the purpose of this article the following definitions shall apply:

- (1) *Solicit, beg, or ask* means to request a 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. The solicitation, begging, or asking may be, without limitation, by the spoken, written, or printed word, or by other means of communication. As used in this ordinance, the word, "solicit," and its forms include requests for funding arising from begging, panhandling, and charitable or political fundraising initiatives.
- (2) *Aggressive manner* means and includes, without limitation, the following conduct:
 - a. Intentionally or recklessly making any physical contact with or touching another person in the course of the solicitation without the person's consent; or

- b. 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; or
 - c. Intentionally or recklessly blocking the safe or free passage of the person being solicited, or requiring the person to take evasive action to avoid physical contact with the person asking the solicitation; or
 - d. Continuing to solicit in close proximity to the individual addressed after the person to whom the solicitation is directed has made a negative response, either verbally, by physical sign, by attempting to leave the presence of the person soliciting, or by other negative indication; or
 - e. Soliciting while under the influence of alcohol or after having used any illegal substances defined in the North Carolina Controlled Substance Act; or
 - e. 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.
- (3) *Intimidate* means any conduct which would cause a reasonable person to fear imminent bodily harm or the commission of a criminal act upon property in the person's possession, and causes such person to do something he or she would not otherwise have done.
- (4) *Public area* means any area to which the general public has access, and includes, but is not limited to, public streets, rights-of-way, alleys, roads, highways, sidewalks, driveways, bridges, parking lots, parks, playgrounds, plazas, any property owned or operated by the Town, streets open to the general public, any buildings, premises or other structures open to the general public including the doorways and entrances to such buildings, premises or other structures and the grounds enclosing them.
- (5) *Person* means an individual, firm, partnership, association, corporation, organization, or any other group acting as a unit.
- (6) *Automated teller machine* means any device or machine, linked to a financial institution's account records, which is able to carry out transactions, including, but not limited to: account transfers, deposits, cash withdrawals, balance inquires, and mortgage and loan payments, and includes an automated banking device as defined by G. S. § 14-113.8(1a).

B. **Prohibited Acts:** It shall be unlawful for any person to solicit, beg, or ask:

- (1) In an aggressive or intimidating manner in a public area; or
- (2) Within fifty (50) feet of any automated teller machine (“ATM”) without the consent of the owner or other person legally in possession of such facilities; or
- (3) 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
- (4) By stepping into, standing, sitting or walking in any street, highway, or right-of-way, excluding sidewalks, while soliciting, or attempting to solicit, any employment, business, or contributions from the driver or occupants of any vehicle where soliciting poses the risk of injury to solicitors and drivers and may endanger vehicular safety.

C. **Restriction of Activity on Center Medians.** Intersections and high-traffic roadways having center medians often are designed to deal with specific traffic flow problems. Any delay or distraction may interfere with traffic planning. The Rural Hall Town Council finds that persons frequently stand in the medians near intersections and near traffic lights to contact drivers or passengers in vehicles that are passing or that are stopped temporarily due to traffic lights. The purpose of this article C is to prevent dangers to persons and property, to prevent delays in vehicular and pedestrian traffic, to avoid interference with such traffic flow and to promote public safety.

Prohibited Activity on Center Medians. Except as otherwise permitted herein, no person shall solicit in the center median of any open State highway or street where soliciting impedes the normal flow of traffic or poses the risk of injury to solicitors or drivers and may endanger public safety. Individuals distributing, offering to sell or selling First Amendment protected goods, including newspapers and magazines, are permitted to use the center median so long as the solicitor does not impede the normal movement of traffic on the street or highway. For purposes of this subsection, the term “Center Median” shall mean the non-traveled portion of any street or highway that is separating traffic lanes; is constructed in any street or highway, and is designed to separate traffic or provide a barrier to keep traffic on one side of the street from going to the other side of the street, on a street or highway open to motor vehicle traffic. A center median may be a concrete or grass strip, excluding sidewalks.

Nothing in this article C shall apply to the activities of licensees, employees, or contractors of the North Carolina Department of Transportation or of any municipality engaged in construction or maintenance or in making traffic or engineering surveys.

D. **Prior Ordinances Repealed.** All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed to the extent of such conflict.

- E. If any section, subsection, paragraph, sentence, clause, phrase, or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed severable, and such holding shall not affect the validity of the remaining portion thereof. The Rural Hall Town Council hereby declares that it would have passed this ordinance, and each section, subsection, paragraph, sentence, clause, phrase, or portion thereof irrespective of the fact that any section, subsection, paragraph, sentence, clause, phrase, or portion be declared invalid.
- F. **Penalty**. Any person who is found to have violated this ordinance shall be guilty of a Class 3 misdemeanor and fined not more than \$500.00 as set forth in North Carolina General Statute §14-4 unless the person produces proof of compliance as provided in N.C. Gen. Stat. §14-4(c).

This ordinance shall be effective upon adoption.