

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA  
No. 1:18-cv-686**

NATIONAL LAW CENTER ON  
HOMELESSNESS AND POVERTY,  
et al.,

Plaintiffs,

v.

THE CITY OF GREENSBORO, et al.,

Defendants.

**PLAINTIFFS' MOTION  
FOR TEMPORARY  
RESTRAINING ORDER**

**[ORAL ARGUMENT REQUESTED]**

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Plaintiffs respectfully move the Court for entry of a temporary restraining order under Federal Rules of Civil Procedure 7(b) and 65, and Local Rule 65.1. Plaintiffs submit the accompanying joint brief in support of both this motion and their forthcoming motion for preliminary injunction, and show the Court as follows:

1. Plaintiffs seek to enjoin Defendants from enforcing Chapter 20, Article I, Section 20-1 of the Greensboro Code of Ordinances, which prohibits “aggressive” solicitation within the city. *See* Compl. Ex. A, Dkt. 1-1.
2. Section 20-1 took effect on July 24, 2018 and remains in effect.
3. In support of this motion, Plaintiffs are contemporaneously filing a brief in support and associated evidentiary attachments.
4. Plaintiffs request oral argument on this motion, so long as any argument may be scheduled in time to receive temporary injunctive relief before the Greensboro

City Council's meeting on August 21, 2018, at which time the City Council will have an opportunity to voluntarily repeal the challenged ordinance.

5. Plaintiffs are serving City Attorney Tom Carruthers, counsel for Defendant, with copies of all of today's filings and request a temporary restraining order only after Defendants have been given an opportunity to be heard. However, due to the immediate and ongoing nature of the harm challenged in this lawsuit and the fact that Defendants and defense counsel have been aware of Plaintiffs' specific threat of litigation over Section 20-1 for more than a month before its enactment, Plaintiffs request that the Court permit Defendants to be heard during oral argument or submit a brief during oral argument rather than first requiring written response be made according to the usual deadlines for responses to motions.

6. As fully explained in the brief in support of their motions, Plaintiffs will show that they are likely to succeed on the merits of their claims, they are likely to suffer immediate, irreparable harm in the absence of preliminary relief, the balance of equities tips in their favor, and injunctive relief is in the public interest.

Therefore, Plaintiffs respectfully move this Court to temporarily enjoin the city from enforcing or giving any effect to Section 20-1 of the Greensboro City Code through August 21, when the City Council will have an opportunity to repeal Section 20-1 at its regularly scheduled meeting. If Section 20-1 remains in effect after the Council's August 21 meeting,<sup>1</sup> Plaintiffs ask this Court by separate motion to issue a preliminary injunction

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<sup>1</sup> Plaintiffs intend to file a status update on Section 20-1 with the Court at the conclusion of the City Council's August 21 meeting, regardless of whether the Council acts on the

effective August 21, preventing the city from enforcing or giving any effect to Section 20-1 for the duration of this action.

Respectfully submitted this 8th day of August, 2018.

/s/ Janet McAuley Blue

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section. If possible, Plaintiffs will seek to make that status update a joint report from Plaintiffs and Defendants.

**CERTIFICATE OF SERVICE**

I certify that I have electronically filed the foregoing with the Clerk of Court using the CM/ECF system, which has provided electronic notice to all counsel of record, and served the document by electronic mail and hand delivery to the following counsel, who has accepted service on behalf of Defendants:

Tom Carruthers  
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This 8th day of August, 2018.

/s/ Emily E. Seawell

Emily E. Seawell

*Attorney for Plaintiffs*

# **Exhibit A**

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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

SACRAMENTO REGIONAL  
COALITION TO END  
HOMELESSNESS; JAMES LEE  
CLARK; and SACRAMENTO  
HOMELESS ORGANIZING  
COMMITTEE,  
  
  Plaintiffs,  
  
  v.  
  
CITY OF SACRAMENTO,  
  
  Defendant.

No. 2:18-cv-00878-MCE-AC  
  
**MEMORANDUM AND ORDER**

Through the present lawsuit, Plaintiffs challenge the constitutionality of an anti-solicitation ordinance adopted by Defendant City of Sacramento. According to Plaintiffs, the ordinance, by prohibiting what it terms “aggressive and intrusive solicitation” throughout the City, amounts to a content-based restriction on speech that is presumptively invalid under the First Amendment unless it can pass muster under an onerous “strict scrutiny” analysis. Now before the Court is Plaintiffs’ Motion for Preliminary Injunction which asks that enforcement of the ordinance be enjoined for the duration of this matter on that basis. As set forth below, Plaintiffs’ Motion is GRANTED.

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**BACKGROUND**

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3 On November 14, 2017, Defendant enacted an anti-solicitation ordinance,  
4 No. 2017-0054 (hereinafter “Ordinance”) which defines solicitation as including any kind  
5 of request, including both panhandling and charitable solicitation, for “an immediate  
6 donation of money or other thing of value.” Sacramento City Code § 8.134.020 (2017).  
7 Solicitation activity is broadly defined as anything “using the spoken, written, or printed  
8 work, or bodily gestures, signs, or other means.” Id. The ordinance establishes  
9 extensive no-solicitation buffer zones on public sidewalks, streets and other public  
10 places throughout the City, including anywhere within 30 feet of all banks, ATMs or other  
11 financial institutions, within 30 feet of the driveway of a business establishment when  
12 soliciting from the operator or occupant of a motor vehicle, and prohibits solicitation from  
13 persons in any outdoor dining area or from anyone stopped at a gasoline station. Id. at  
14 § 8.134.030 (B)-(G). The City justifies these buffer zones by alluding to “the implicit  
15 threat to both person and property” and the need to avoid “unwarranted and unavoidable  
16 confrontations.” Id. at § 8.134.010.

17 The Ordinance further prohibits “aggressive” or “intrusive” solicitations in **any**  
18 public place, with those terms being defined as including conduct causing a reasonable  
19 person to fear bodily harm or loss of property, or in instances where the person has  
20 indicated they do not want to be solicited. Id. at § 8.134.030(A); § 8.134.020.

21 Violation of the Ordinance is an infraction, punishable by a fine, with three  
22 violations within a six-month period calling for greater sanctions, including up to six  
23 months in jail. Id. at § 8.134.040(B).

24 Plaintiffs bringing the present action include both an unemployed and homeless  
25 Sacramento resident, James Clark, and two organizations that work with the homeless  
26 and low-income community. Plaintiff Clark claims to rely mainly on solicitation from  
27 passerby individuals, at locations targeted by the Ordinance, in order to buy food and  
28 other life necessities. See Pls.’ First Am. Comp. (“FAC”), ¶ 12, Clark Decl., ¶¶ 3-4.

1 Plaintiff Sacramento Regional Coalition to End Homelessness (“SRCEH”), on the other  
2 hand, is a nonprofit, charitable organization with a mission to end and prevent  
3 homelessness in the Sacramento region through policy analysis, community education,  
4 civic engagement, collective organizing and advocacy. FAC, ¶ 18, Decl. of Bob  
5 Erlenbusch, ¶ 3. SRCEH furthers that mission by advocating on behalf of people who  
6 happen to be homeless, and SRCEH contends the Ordinance will frustrate its goals by  
7 criminalizing the solicitation of funds by the poor and homeless and deterring them from  
8 exercising their constitutional right to request immediate assistance from members of the  
9 public. Erlenbusch Decl., ¶¶ 5, 7. SRCEH contends that it has already been forced to  
10 divert resources to help the homeless in order to oppose the Ordinance. *Id.* at ¶ 8, FAC,  
11 ¶ 23. The third and final named Plaintiff in these proceedings, the Sacramento  
12 Homeless Organizing Committee (“SHOC”), seeks to address problems of the homeless  
13 through advocacy, education, and bridging the gap between the homeless community  
14 and others in our society. Decl. of Paula Lomazzi, ¶ 3, FAC, ¶ 24. SHOC publishes a  
15 bi-monthly paper, the Homeward Street Journal, that it claims is intended to educate the  
16 public on poverty, homelessness, and other important social issues. *Id.* at ¶ 4, ¶ 25.  
17 The paper is distributed by homeless or nearly homeless individuals who solicit funds, a  
18 significant portion of which the individuals keep, which benefits both the solicitors and  
19 the newspaper itself. Lomazzi Decl, ¶ 5. SHOC contends that as a result of the  
20 Ordinance’s enactment, its distributors are at risk of being ticketed, arrested, or harassed  
21 by the City. *Id.* at ¶ 6. SHOC contends that it too has already expended resources in  
22 opposing the Ordinance. Lomazzi Decl., ¶ 8.

23 Finally, Plaintiffs contend that prior to enactment of the Ordinance, the  
24 Sacramento City Council was not presented with any statistics, testimony or other  
25 evidence that demonstrated a need for the Ordinance, or explained how persons  
26 requesting immediate donations were endangering public safety or creating traffic  
27 hazards. Erlenbusch Decl., ¶ 18; Lomazzi Decl., ¶ 9.

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1 Initial oral argument on Plaintiffs' request for preliminary injunction was held on  
2 June 28, 2018. At that point, counsel for the City represented that the City would  
3 withdraw the Ordinance to the extent it was targeted at designated areas, while standing  
4 by those portions prohibiting "aggressive" or "intrusive" solicitation. Because that  
5 proposal had been proffered on literally the day of the hearing, the Court continued the  
6 hearing until July 5, 2018 so that the City could formally propose modification of the  
7 Ordinance. By Statement filed July 3, 2018 (ECF No. 25), however, the City withdrew  
8 its prior offer, stating that it needed to conduct further study as to the appropriate scope  
9 of any necessary amendment and could not do so before the continued July 5, 2018  
10 hearing date. Given the record currently before the Court, the undersigned granted  
11 Plaintiffs' request for preliminary injunction from the bench and indicated that this written  
12 Order would follow.

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14 **STANDARD**

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16 A preliminary injunction is an extraordinary and drastic remedy." Munaf v. Geren,  
17 553 U.S. 674, 690 (2008). "[T]he purpose of a preliminary injunction is to preserve the  
18 status quo between the parties pending a resolution of a case on the merits."  
19 McCormack v. Hiedeman, 694 F.3d 1004, 1019 (9th Cir. 2012). A plaintiff seeking a  
20 preliminary injunction must establish that he is (1) "likely to succeed on the merits;"  
21 (2) "likely to suffer irreparable harm in the absence of preliminary relief;" (3) "the balance  
22 of equities tips in his favor;" and (4) "an injunction is in the public interest." Winter v.  
23 Natural Res. Defense Council, 555 U.S. 7, 20 (2008) "If a plaintiff fails to meet its burden  
24 on any of the four requirements for injunctive relief, its request must be denied." Sierra  
25 Forest Legacy v. Rey, 691 F. Supp. 2d 1204, 1207 (E.D. Cal. 2010) (citing Winter,  
26 555 U.S. at 22). "In each case, courts 'must balance the competing claims of injury and  
27 must consider the effect on each party of the granting or withholding of the requested  
28 relief.'" Winter, 555 U.S. at 24 (quoting Amoco Prod. Co. v. Gambell, 480 U.S. 531, 542

1 (1987)). A district court should enter a preliminary injunction only “upon a clear showing  
2 that the plaintiff is entitled to such relief.” Winter, 555 U.S. at 22 (citing Mazurek v.  
3 Armstrong, 520 U.S. 968, 972 (1997)).

4 Alternatively, under the so-called sliding scale approach, as long as the plaintiff  
5 demonstrates the requisite likelihood of irreparable harm and shows that an injunction is  
6 in the public interest, a preliminary injunction can still issue so long as serious questions  
7 going to the merits are raised and the balance of hardships tips sharply in the plaintiffs’  
8 favor. Alliance for the Wild Rockies v. Cottrell, 632 F.3d 1127, 1134-35 (9th Cir. 2011)  
9 (concluding that the “serious questions” version of the sliding scale test for preliminary  
10 injunctions remains viable after Winter).

## 11 12 ANALYSIS

### 13 14 A. Probability of Success on the Merits

15 In analyzing the propriety of preliminary injunctive relief in this matter, the Court  
16 first turns to whether Plaintiffs have shown a likelihood that they will succeed on the  
17 merits of their claim. Solicitation, including panhandling, has long been considered a  
18 form of speech protected under both the First Amendment of the United States  
19 Constitution and Article I, Section 2 of the California Constitution. In Village of  
20 Schaumburg v. Citizens for a Better Environment, 444 U.S. 620, 632 (1980), the  
21 Supreme Court made it clear that charitable appeals for funds, on the street or door-to-  
22 door, involve a variety of speech interests entitled to First Amendment protections. The  
23 Ninth Circuit has further recognized that solicitation is a form of expression entitled to the  
24 same constitutional protections as traditional speech. ACLU of Nevada v. City of Las  
25 Vegas, 466 F.3d 784, 792 (9th Cir. 2006). Panhandling is as protected in that regard as  
26 other types of solicitation. See Loper v. New York City Police Dept., 999 F.2d 699, 704  
27 (2d Cir. 1993).

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1 While the Ordinance's own prefatory language purports to justify it on public  
2 safety grounds, the Supreme Court's recent decision in Reed v. Town of Gilbert,  
3 135 S. Ct. 2218 (2015) made it clear that if a law on its face regulates speech based on  
4 its content, then it is subject to strict scrutiny regardless of the City's allegedly benign  
5 motive or content-neutral justification. Id. at 2228. In Reed, the Court considered a  
6 town's outdoor sign ordinance that applied different restrictions for "political signs,"  
7 "ideological signs," and "temporary directional signs." Id. at 2224-25. The Court held  
8 that the ordinance was content-based on its face because its restrictions "depend  
9 entirely on the communicative content of the sign." Id. at 2227. And because the  
10 ordinance was content-based, there was no need to consider the government's  
11 justification or purpose in determining whether the ordinance was subject to strict  
12 scrutiny. Id. at 2227-28. Consequently, according to the Court, even if the claimed  
13 reasons for enacting the law had nothing to do with suppressing speech, those reasons  
14 could not transform a content-based law into a content-neutral law entitled to a reduced  
15 intermediate scrutiny standard. See id.

16 Here, of course, the Ordinance targets a particular form of expression:  
17 solicitation. In the wake of Reed then, and in considering solicitation ordinances similar  
18 to those enacted by the City of Sacramento, at least eight courts have ruled that those  
19 ordinances were content-based and were accordingly invalid on their face. In Thayer v.  
20 City of Worcester, 144 F. Supp. 3d 218 (D. Mass. 2015), for example, the court  
21 considered an ordinance similar to that confronted here in its definitions of "aggressive  
22 panhandling" and in its creation of buffer zones and other places where solicitation was  
23 prohibited. Although the lower courts had upheld the ordinance as content-neutral, the  
24 Supreme Court vacated and remanded in light of Reed, and the district court  
25 subsequently agreed that the ordinance's prohibitions were content-based thus violating  
26 the First Amendment because they singled out a request for the "immediate donation of  
27 money." Id. As Thayer recognized, "[p]ost Reed, municipalities must go back to the  
28 drafting board.... In doing so, they must define with particularity the threat to public

1 safety they seek to address, and then enact laws that precisely and  
2 narrowly restrict only that conduct which could constitute such a threat.” Id. at 237  
3 (emphasis omitted).

4 These stringent requirements are hardly surprising. Under strict scrutiny’s  
5 demanding standard, “it is rare that a regulation restricting speech because of its content  
6 will ever be permissible.” Brown v. Entertainment Merchants, 564 U.S. 786, 799 (2011).  
7 While the Ordinance purports to justify its content because of safety concerns, the mere  
8 expression of such concerns is insufficient to justify a content-based law. Instead, the  
9 entity enacting the Ordinance, here the City, has the burden of presenting facts showing  
10 that the problem exists because of solicitation and that it has a compelling interest in  
11 treating speech requesting an immediate donation differently than any other speech.  
12 See United States v. Alvarez, 567 U.S. 709, 725 (2012); Weinberg v. City of Chicago,  
13 310 F.3d 1029, 1038 (7th Cir. 2002) (“In the context of a First Amendment challenge  
14 under the narrowly tailored test, the government has the burden of showing that there is  
15 evidence supporting its proffered justification.”). A well-substantiated factual record is  
16 necessary in order for the City to meet that burden under strict scrutiny. See Blich v.  
17 Slidell, 260 F. Supp. 3d 656, 669 (E.D. La. 2017). No such showing has been presented  
18 here. An amorphous and factually unsubstantiated concern about public safety does not  
19 suffice.

20 Moreover, even the City had met its burden in establishing a compelling interest,  
21 which it has not done based on the current record, the Ordinance would still fail to meet  
22 strict scrutiny unless it constitutes the “least restrictive means of achieving the identified  
23 compelling interest.” McCullen v. Coakley, 134 S. Ct. 2518, 2530 (2014). The City has  
24 to show, for example, that existing laws are not sufficient to address the targeted  
25 behavior, and with regard to panhandling many other content-neutral laws like disorderly  
26 conduct, assault and battery, trespassing and the obstruction of sidewalks could apply.  
27 See Thayer, 144 F. Supp. 3d at 223. As Plaintiffs point out, Sacramento already has an  
28 arsenal of existing laws that could punish much of the conduct targeted by the

1 Ordinance, and the City has not shown that those existing laws are inadequate to  
2 address its concerns.

3 Tellingly, the City's opposition does not even address Reed and its ramifications,  
4 and it tries to argue that the Ordinance is a time, place and manner restriction that does  
5 not trigger strict scrutiny. In the wake of Reed, however, that contention is wholly  
6 unpersuasive. The Ordinance on its face targets a particular kind of speech (i.e.,  
7 solicitation) and under Reed that subjects it to strict scrutiny. Perhaps most significantly,  
8 the City also does not try to argue how the Ordinance can survive strict scrutiny and  
9 instead appears to attempt to shift the burden in that regard to Plaintiffs even though the  
10 law is clear the burden squarely rests with the City.

11 Additionally, while the City tries to argue that Plaintiffs lack standing, that  
12 contention is equally unavailing. First, with regard to Plaintiff Clark, while the City claims  
13 he has not shown that he has actually been prosecuted, in another case this Court has  
14 already found that it is sufficient for standing purposes that a plaintiff intends to engage  
15 in a course of conduct, and that there is a credible threat that the challenged provision  
16 will be invoked. Italian Colors Restaurant v. Harris, 99 F. Supp. 3d 1199, 1206 (E.D.  
17 Cal. 2015). Moreover, with regard to the two organizational Plaintiffs, such a plaintiff has  
18 standing when it can show "a drain on its resources from both a diversion of its  
19 resources and frustration of its mission." Fair Housing Council v. Roommate.com,  
20 666 F.3d 1216, 1219 (9th Cir. 2012). Here, both homeless organizations named as  
21 Plaintiffs satisfy that standard.

22 In sum, although being approached for money by so-called panhandlers on the  
23 street may be unwanted and unwelcomed by much of the populace, any personal  
24 aversion to such practices either on the part of the undersigned or by the community at  
25 large cannot trump the constitutional rights of those who choose to engage in such  
26 solicitation, and it is the job of this Court to protect rights so guaranteed. Consequently,  
27 under the circumstances of this case as presented at this time, the Court finds that

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1 Plaintiffs have established a likelihood of prevailing on the merits in their challenge to the  
2 City's Ordinance. This militates in favor of granting their requested injunction.

3 **B. Irreparable Injury**

4 Where serious First Amendment questions are raised, as is the case here, the  
5 potential for irreparable injury clearly exists. Community House, Inc. v. City of Boise,  
6 490 F.3d 1041, 1059 (9th Cir. 2007). As the Supreme Court has recognized, “[t]he loss  
7 of First Amendment freedoms, for even minimal periods of time, unquestionably  
8 constitutes irreparable injury” that supports a preliminary injunction. Elrod v. Burns,  
9 427 U.S. 347, 373 (1976). Consequently, the Court finds that Plaintiffs have  
10 demonstrated that without an order from this Court they may suffer immediate and  
11 irreparable harm from the enforcement, or threatened enforcement, of the Ordinance.  
12 Consequently, this factor also weighs in Plaintiffs' favor.

13 **C. Balance of the Equities and the Public Interest**

14 The law is clear that upholding the First Amendment is a matter falling squarely  
15 within the public interest. See, e.g., Klein v. City of San Clemente, 584 F.3d 1196, 1208  
16 (9th Cir. 2009); Melendres v. Arpaio, 695 F.3d 990, 1002 (9th Cir. 2012) (noting that “it is  
17 always in the public interest to prevent the violation of a party's constitutional rights”).  
18 Even more specifically, in Valley Del Sol, Inc. v. Whiting, 709 F.3d 808 (9th Cir. 2013),  
19 where, like the present matter, an anti-solicitation ordinance was at issue, the court  
20 found that an injunction against enforcement of the ordinance was in the public interest  
21 because the law would infringe upon “the First Amendment rights of many persons who  
22 are not parties to the lawsuit.” Id. at 829. Here, the Court finds that to the extent the  
23 Ordinance is intended to further a compelling governmental interest, the City has not  
24 demonstrated that less restrictive means can protect such interests. The Court therefore  
25 finds that the balance of equities tips in favor of granting a preliminary injunction, that  
26 doing so is in the public interest, and that the balance of harms tips sharply in Plaintiffs'  
27 favor under the facts currently before the Court.

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**CONCLUSION**

For the reasons set forth above, Plaintiffs' Motion for Preliminary Injunction (ECF No. 8) is GRANTED. Defendant, its officials, officers, agents, employees, contractors, and any other persons acting for it, with it, through or on its behalf are prohibited and enjoined during the pendency of this litigation from enforcing Sacramento Ordinance No. 2017-0054, codified in Sacramento City Code in Chapter 8.134.

No bond will be required since Plaintiffs are poor, or represent the poor and homeless, have alleged infringements of constitutional rights, and the relief they seek serves to protect the public interest. There is no realistic likelihood of monetary harm to the Defendant from the issuance of this preliminary injunction, which prevents the enforcement of what appears to be an unconstitutional law.

Should the City develop additional evidence that demonstrates that the Ordinance is in fact narrowly tailored to be the least restrictive means for addressing a compelling governmental interest, it can submit such evidence to the Court showing that continuing to enjoin enforcement of the Ordinance is improper.

IT IS SO ORDERED.

Dated: July 18, 2018

  
MORRISON C. ENGLAND, JR.  
UNITED STATES DISTRICT JUDGE

# **Exhibit B**



# NATIONAL LAW CENTER ON HOMELESSNESS & POVERTY

May 9, 2018

## Board of Directors

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Councilor Marikay Abuzuaiter  
Councilor Michelle Kennedy  
City Attorney Tom Carruthers  
Via Email

Dear Mayor, Mayor Pro-Tem, Councilors, and City Attorney,

Thank you for this opportunity to share our concerns about the recently-passed ordinance with respect to Chapter 20 of the city code, which effectively criminalizes those who are forced to ask for donations on the streets of Greensboro. The National Law Center on Homelessness & Poverty is the only national legal organization dedicated to ending and preventing homelessness, with more than 25 years of experience in outreach and education, policy advocacy, and impact litigation. Because of this experience, we know that your recently passed law is likely unconstitutional, fails to address the underlying causes of people needing to ask for donations, and will cost the city more in their enforcement than it would to simply provide the housing and services individuals need so they would not have to ask for contributions in the first place.

The ordinance criminalizes the act of soliciting funds in several defined “aggressive” manners and in a number of regulated locations. As the city recognizes in the preamble to the bill, the First Amendment’s protections of free speech apply to those who are asking for donations. *See, e.g. Buckley v. Valeo*, 424 U.S. 1 (1976); *Speet v. Schuette*, 726 F.3d 867, 878 (6th Cir. 2013) (“[B]egging, or the soliciting of alms, is a form of solicitation that the First Amendment protects.”). The Supreme Court clarified in *Reed v. Town of Gilbert, Ariz.* (135 S. Ct. 2218 (2015)) that it will examine a law as a content-based restriction if (1) the *text* of the law makes distinctions based on speech’s “subject matter . . . function or purpose” or (2) the *purpose* behind the law is driven by an objection to the content of a message. Subsequent cases have clarified that this applies to ordinances seeking to regulate panhandling (*see Norton v. City of Springfield, Ill.*, 806 F.3d 411 (7th Cir. 2015); *Thayer v. City of Worcester*, 755 F.3d 60 (1st Cir. 2014), *vacated*, 135 S. Ct. 2887 (2015), *declaring ordinance unconstitutional on remand*, 2015 WL 6872450, at \*15 (D. Mass. Nov. 9, 2015)).

The city already has on its books laws intended to address individuals safety concerns—such as assault and battery—and traffic safety concerns; making a distinction between

putting someone in fear of their safety while asking for donations versus without asking for donations, or blocking passage of someone in a car while protesting versus asking for donations from a person in a car, a content-based distinction. See *Reed v. Town of Gilbert, Ariz.*, 135 S. Ct. 2218, 2231 (2015) (“[A] speech regulation is content based if the law applies to particular speech *because of the topic discussed or the idea or message expressed.*”) (emphasis supplied); *Norton v. City of Springfield, Ill.*, 806 F.3d 411, 412–13 (7th Cir. 2015). In *McLaughlin v. City of Lowell*, a federal court struck down as unconstitutional in its entirety an almost-identically worded ordinance that restricted “aggressive” panhandling because the prohibitions on “aggressive” conduct were duplicative of existing criminal laws and the ordinance otherwise unnecessarily burdened protected speech. 140 F. Supp. 3d at 192–93; see also *Thayer v. City of Worcester*, 144 F. Supp. at 224, 233 (applying strict scrutiny to ordinance which regulated only aggressive panhandling and not peaceful or passive panhandling and saying “[a]s to Ordinance 9-16, a protracted discussion of this issue is not warranted as substantially all of the Courts which have addressed similar laws since *Reed* have found them to be content based and therefore, subject to strict scrutiny.”)

We understand the city received outside advice that this ordinance would pass constitutional muster. That may have been the case prior to 2015, but since the 2015 *Reed* decision, 100% of panhandling restrictions challenged in court have been ruled unconstitutional, including, as noted above, restrictions on so-called “aggressive” panhandling. See National Law Center on Homelessness and Poverty, HOUSING NOT HANDCUFFS: A LITIGATION MANUAL (2017), <https://www.nlchp.org/documents/Housing-Not-Handcuffs-Litigation-Manual>. In 2016, a federal judge in Florida expressed his clear distaste for panhandling in striking down another almost-identically worded ordinance, and stated “Without *Reed*... I would uphold the City’s ordinance...” “[n]onetheless, this order dutifully applies *Reed* and resolves the present dispute against the City...” *Homeless Helping Homeless v. City of Tampa*, No. 8:15-cv-1219-T-23AAS (M.D. Fl. Aug. 5, 2016). The strength of this precedent, even before a sympathetic judge, suggests Greensboro’s ordinance will likely meet a similar fate. It would be an unfortunate misuse of resources for Greensboro to invite losing litigation by failing to quickly repeal this ordinance.

Regardless of the constitutionality, this bill is poor public policy. Whether initially sentenced to a civil fine or imprisonment, most often homeless persons cannot pay fines, and because they miss notices to appear in court due to a lack of permanent address, it is a fine that is likely to turn into a bench warrant and a criminal arrest. As stated by the Department of Justice in the context of its argument regarding an anti-camping ordinance in *Bell v. Boise*, but equally applicable here:

Criminalizing public sleeping in cities with insufficient housing and support for homeless individuals does not improve public safety outcomes or reduce the factors that contribute to homelessness... Issuing citations for public sleeping forces individuals into the criminal justice system and creates additional obstacles to overcoming homelessness. Criminal records can create barriers to employment and participation in permanent, supportive housing programs. Convictions under these municipal ordinances can also lead to lengthy jail sentences based on the ordinance violation itself, or the inability to pay fines and fees associated with the ordinance violation... Finally, pursuing charges against individuals for sleeping in public imposes further burdens on scarce public defender, judicial, and carceral resources. Thus, criminalizing homelessness is both unconstitutional and misguided public policy, leading to worse outcomes for people who are homeless and for their communities.

*Bell v. Boise, et. al.*, 1:09-cv-540-REB, Statement of Interest of the United States (Aug. 6, 2015).

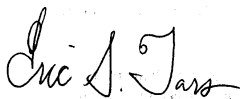
Numerous studies have shown that communities actually save money by providing housing and services to those in need, rather than cycling them through expensive hospital and jail systems. See National Law Center on Homelessness and Poverty, HOUSING NOT HANDCUFFS: THE CRIMINALIZATION OF HOMELESSNESS IN U.S. CITIES (2016), <https://www.nlchp.org/documents/Housing-Not-Handcuffs>. If Greensboro is truly concerned about the existence of panhandlers on its streets, the best way to address the problem is by removing the need for people to solicit donations in the first place, by providing adequate housing and services, rather than making it harder for people to exit homelessness due to civil and criminal penalties. Our reports document numerous case studies of constructive alternatives to criminalization; if the city would like, we would be happy to work with you to implement solutions that work for everyone.

Albuquerque, New Mexico has reduced complaints about panhandling from a half dozen per week to a few a month by adopting the “There’s A Better Way” program, funding a van to bring panhandlers to \$10/hour day labor positions and access service providers, which have led to hundreds being able to find permanent employment, and many accessing housing or services. See Rick Nathanson, *Better Way program gets upgrade*, Albuquerque Journal (Dec. 16, 2016) <https://www.abqjournal.com/911008/better-way-program-gets-upgrade.html>. Denver has also recently expanded a similar program after seeing dramatic success. See John Murray, *After Denver hired homeless people to shovel mulch and perform other day labor, more than 100 landed regular jobs*, Denver Post (Jan. 16, 2018), <https://www.denverpost.com/2018/01/16/denver-day-works-program-homeless-jobs/>.

Philadelphia, PA recently greatly reduced the number of homeless persons asking for change in a downtown subway station by donating an abandoned section of the station to a service provider for use as a day shelter. See Nina Feldman, *Expanded Hub of Hope homeless center opening under Suburban Station*, WHYY (Jan. 30, 2018) <https://whyy.org/articles/expanded-hub-hope-homeless-center-opening-suburban-station/>. In opening the Center, Philadelphia Mayor Jim Kenny emphasized “We are not going to arrest people for being homeless,” stressing that the new space “gives our homeless outreach workers and the police a place to actually bring people instead of just scooting them along.” These programs are how cities actually solve the problem of homelessness, rather than merely addressing its symptoms.

We can all agree that we would like to see a Greensboro where homeless people are not forced to beg on the streets. But whether examined from a legal, policy, fiscal, or moral standpoint, criminalizing any aspect of panhandling is not the best way to get to this goal. We suggest an immediate moratorium on enforcement and rapid repeal to avoid potential litigation, and working with us and local advocates to develop approaches that will lead to the best outcomes for the residents of Greensboro, housed and unhoused alike. Should you have further questions, please do not hesitate to contact me at [etars@nlchp.org](mailto:etars@nlchp.org) or 202-464-0034.

Sincerely,



Eric S. Tars  
Senior Attorney

# **Exhibit C**

May 11, 2018

Nancy Vaughan, Mayor  
Yvonne Johnson, Mayor Pro Tem  
Marikay Abuzuaiter, Council Member  
Sharon Hightower, Council Member  
Nancy Hoffmann, Council Member  
Michelle Kennedy, Council Member  
Justin Outling, Council Member  
Tammi Thurm, Council Member  
Goldie Wells, Council Member  
City of Greensboro  
300 W. Washington St.  
Greensboro, N.C. 27401



AMERICAN CIVIL LIBERTIES UNION  
FOUNDATION

North Carolina

cc: Tom Carruthers, City Attorney

*Via email*

**Re: Recent revisions to Section 20-1, Regulations of Solicitation in Public Places**

Dear Mayor Vaughan and council members:

On behalf of the American Civil Liberties Union of North Carolina Legal Foundation, I write to commend the council for repealing its previous solicitation ordinance and to express constitutional concerns about the revised ordinance the city has adopted in its place, Section 20-1, which creates a misdemeanor offense for “aggressive” solicitation.

The U.S. Supreme Court has repeatedly stated that solicitation is protected speech under the First Amendment to the U.S. Constitution.<sup>1</sup> In 2015, the Supreme Court issued a decision in *Reed v. Town of Gilbert* that further clarified the law on freedom of speech.<sup>2</sup> As a result of the Supreme Court’s decision in *Reed*, federal courts have begun categorically subjecting ordinances regulating solicitation to the highest level of scrutiny in court, called strict scrutiny. In order to survive strict

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<sup>1</sup> For example, the Supreme Court discussed solicitation as a protected First Amendment freedom in *Schaumburg v. Citizens for a Better Environment*, 444 U.S. 620, 632 (1980); and *United States v. Kokinda*, 497 U.S. 720, 725 (1990).

<sup>2</sup> 135 S. Ct. 2218. In *Reed*, the Supreme Court said that a restriction on speech is considered “content based” if it “cannot

<sup>2</sup> 135 S. Ct. 2218. In *Reed*, the Supreme Court said that a restriction on speech is considered “content based” if it “cannot be justified without reference to the content of the speech” or is “targeted at specific subject matter.” Lower courts have interpreted this language to mean that regulation of solicitation is content based, because it pertains only to people who are engaged in asking for donations. Because restrictions on solicitation are considered content based after *Reed*, they are subject to strict scrutiny in court.



scrutiny, a city ordinance restricting solicitation must be narrowly tailored to a compelling government interest, and there must be no less restrictive alternative option that would achieve the same goal.

Since the Supreme Court’s decision in *Reed*, federal courts have considered city ordinances restricting “aggressive” solicitation in Lowell and Worcester, Massachusetts, and Grand Junction, Colorado.<sup>3</sup> Those three ordinances looked remarkably like Greensboro’s revised ordinance. All three ordinances were struck down in federal court because they were not narrowly tailored to compelling government interests, and there were less restrictive alternatives available for meeting the city’s goals. For easy comparison, here’s how the prohibitions in those three unconstitutional ordinances stack up against the prohibitions in subsection (c) of Greensboro’s current revised ordinance:

Greensboro prohibitions	Worcester <sup>4</sup>	Lowell <sup>5</sup>	Grand Junction <sup>6</sup>
(1) Approaching in a way that causes a reasonable fear of imminent bodily harm or crime	X	X	
(2) Intentionally touching or causing physical contact without consent	X	X	
(3) Intentionally blocking or interfering with safe or free passage	X	X	X
(4) Using violent or threatening gestures	X	X	
(5) Soliciting from anyone waiting in line	X	X	X
(6) Continuing to solicit or following after a person says no, or blocking their passage	X	X	X
(7) Soliciting within 20 feet of an ATM	X	X	X

X = provision challenged and struck down by a federal district court<sup>7</sup>

<sup>3</sup> Those cases were *Thayer v. City of Worcester*, 144 F. Supp. 3d 218, 229 (D. Mass. 2015); *McLaughlin v. City of Lowell*, 140 F. Supp. 3d 177, 182 (D. Mass. 2015); and *Browne v. City of Grand Junction*, 136 F. Supp. 3d 1276, 1281 (D. Colo. 2015).

<sup>4</sup> See *Thayer*, 144 F. Supp. 3d at 229 (listing prohibitions contained in the ordinance).

<sup>5</sup> See *McLaughlin*, 140 F. Supp. 3d at 182 (listing prohibitions contained in the ordinance).

<sup>6</sup> See *Browne*, 136 F. Supp. 3d at 1281 (listing prohibitions contained in the ordinance).

<sup>7</sup> The Grand Junction ordinance also contained provisions similar to Greensboro’s provisions (1), (2), and (4), but the plaintiffs in the Grand Junction case didn’t challenge those provisions, so the court did not analyze them. Because those



If challenged in court, Greensboro's revised ordinance is likely to meet the same fate as the substantially similar ordinances in Worcester, Lowell, and Grand Junction. For that reason, we strongly encourage the city to repeal its ordinance at the first opportunity, and until then not to enforce it.

Looking at the bigger picture, municipal regulation of solicitation raises not just legal issues, but also underlying issues of morality and how to best allocate public resources for the greatest public benefit. As this council well knows, ordinances restricting residents' constitutional freedoms do not help cure poverty or provide a helping hand for individuals with substance abuse or mental health issues. With that in mind, instead of devoting city resources to imposing new criminal penalties or fines for those in need of help in public spaces, we encourage the city to work with motivated and knowledgeable groups like the Homeless Union and National Law Center on Homelessness & Poverty to address the underlying causes of poverty and homelessness. As the city considers next steps in tackling these larger issues, we also invite collaboration between the city and the ACLU of North Carolina in identifying approaches that will respect the rights of Greensboro's most vulnerable residents. I appreciate your consideration of our concerns and encourage you to reach out if I can be of further assistance.

Sincerely,

*/s/Emily E. Seawell*

Emily E. Seawell  
Staff Attorney  
ACLU-NC Legal Foundation  
P.O. Box 28004  
Raleigh, NC 27611  
Phone: 919-256-5891  
Email: [eseawell@acluofnc.org](mailto:eseawell@acluofnc.org)

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provisions weren't challenged in that case, they were neither upheld in court nor struck down.

# **Exhibit D**





# City of Greensboro

Melvin Municipal Building  
300 W. Washington Street  
Greensboro, NC 27401

## Meeting Minutes - Final City Council

Tuesday, May 15, 2018

5:30 PM

Council Chamber

### Call to Order

This City Council meeting of the City of Greensboro was called to order at 5:40 p.m. on the above date in the Council Chamber of the Melvin Municipal Office Building with the following members present:

Present: 9 - Mayor Nancy Vaughan, Mayor Pro-Tem Yvonne J. Johnson, Councilmember Marikay Abuzuaiter, Councilmember Sharon M. Hightower, Councilmember Nancy Hoffmann, Councilmember Michelle Kennedy, Councilmember Justin Outling, Councilmember Tammi Thurm and Councilmember Goldie F. Wells

Also present were Interim City Manager David Parrish, City Attorney Tom Carruthers, and Deputy City Clerk Angela R. Lord.

Mayor Vaughan confirmed Councilmember Kennedy was participating in the meeting via telephone.

### Moment of Silence

The meeting opened with a moment of silence.

### Pledge of Allegiance to the Flag

Mayor Vaughan recognized Sharon Hightower to lead the Pledge of Allegiance to the Flag.

### Recognition of Courier

Interim City Manager David Parrish recognized Kiran Purswani of the Information Technology Department who served as Courier for the meeting.

### Council Procedure for Conduct of the Meeting

Mayor Vaughan explained the Council procedure for conduct of the meeting.

Mayor Pro-Tem Johnson asked for an update on the Roy Carroll and February One parking decks; and requested staff provide an update on a recent fire.

City Attorney Carruthers provided a history of the settlement item; referenced a December resolution; reviewed the terms with N Club and Greater Greensboro, LLC; explained the condemnation process; reviewed the design phase; spoke to a project delay; private and public partnerships; clarified the timeline for the final design and pricing; and stated staff would update Council.

50. [ID 18-0283](#) Motion to Reconsider Ordinance to Amend Chapter 13 of the Greensboro Code of Ordinances With Respect to Licenses, Taxation, Business Permits and Miscellaneous Business Regulations and Chapter 20 of the Greensboro Code of Ordinances With Respect to Peddlers, Solicitors, Etc.

Taking the prerogative of the Chair, Mayor Vaughan moved item #50 up on the agenda; and stated Council had been requested to reconsider the item adopted on April 24th.

Councilmember Outling referenced previous requests to reconsider items; spoke to substantive decisions; to the original vote; problematic consequences; staff recommendations; and voiced he would not support a motion to reconsider the item.

Councilmember Hightower explained the reasons for the request; voiced concerns with Local Preference policies; spoke to rights of elected officials; and to discrimination of the homeless community.

Councilmember Hoffmann voiced concerns with the lack of a solicitation ordinance; spoke to safety issues; challenges faced by the Police Department; and stated she would vote no to reconsider the item.

Councilmember Kennedy spoke to constitutional rights; separate but equal policy; and voiced she would vote in favor of request.

Councilmember Hightower inquired about legal options if not allowed to reconsider.

Councilmember Abuzuaiter spoke to respect of colleagues; and to communications with both the homeless and business communities.

City Attorney Carruthers explained the ordinance would remain effective if Council did not vote to reconsider; options going forward; and clarified it would be appropriate to hear from the community since the item was on the agenda.

Mayor Pro-Tem Johnson called the question.

**Moved by Councilmember Kennedy, seconded by Councilmember Wells, to reconsider the panhandling ordinance adopted at the April 24th meeting of Council. The motion carried on the following roll call vote:**

**Ayes,** 7 - Nancy Vaughan, Yvonne J. Johnson, Marikay Abuzuaiter, Sharon M. Hightower, Michelle Kennedy, Tammi Thurm and Goldie F. Wells

**Nays,** 2 - Nancy Hoffmann and Justin Outling

Hester Petty, 3402 Canterbury Street voiced opposition to the ordinance; concerns with business permit requirements; and spoke to free speech.

Mayor Vaughan requested staff provide an update on street performers.

Melba Tatum Lipscomb, 407 East Washington Street representing the Homeless Union spoke to a repeal; to aggressive solicitation; referenced organizations that solicited; and spoke to looking beyond the homeless community.

Richard Vaught, 300 East Washington Street spoke to taking classes; a potential job offer; to unconstitutional laws; and to solutions for positive results.

Eddie Brewer, 407 East Washington Street spoke to working with the Interactive Resource Center; and invited Council to walk downtown with the homeless.

Kristen Brunelli, 211 South Mendenhall Street spoke to the work of the Catholic Workers organization; referenced poverty and mental illness; and voiced concerns with the ordinance.

Lindsay Ceasar, 2332 Hiawatha Drive requested a repeal of the ordinance; spoke to poverty; targeting panhandling; last years budget; the need for social services; for alternatives; and referenced a handout provided to Council.

Tyler Beall, 601 Friendway Road voiced concerns with the treatment of others; and spoke to the role of Council.

Susan Farr, 2918 Liberty Road voiced opposition to the ordinance; referenced vague laws; the constructive

alternatives provided to Council; and possible liability to the City.

Marcia Foutch, 416 A McAdoo Avenue voiced opposition to the ordinance; spoke to people being uncomfortable with persons that are homeless; to feeling safe; and to an unconstitutional law.

Joseph Lopez, 907 Englewood Street representing More Light Presbyterian spoke to work with the Lesbian, Gay, Bisexual, and Transgener (LGBTQ) community; and requested a poverty commission to be established.

Marcus Hyde, 211 South Mendenhall provided images of the Homeless Union of Greensboro; referenced the handout provided to Council; a letter from the American Civil Liberties Union (ACLU); spoke to unconstitutional laws; the solicitation of business owners to attend tonight's meeting; low wages; and to finding solutions.

Councilmember Hoffmann asked Mr. Hyde if he had formerly lived in Denver to which he responded in the affirmative.

Andy Zimmerman, 3412 Old Onslow Road spoke to being a part of the solution; voiced concerns with Downtown panhandling; spoke to the struggle of business owners; competition with Friendly Shopping Center; the need to educate the public; to aiding the homeless; and to the need for innovative programs.

Dawn Chaney, 2002 West Market Street commended the City on recent development; spoke to assisting those that were hungry and homeless; voiced concern with addictions and mental illness; and expressed the need for housing, education and jobs.

Nick Wilson, 4001 Walker Avenue voiced concerns with aggressive behaviors; and spoke to finding a balance.

Amy Murphy, 1220 Lakewood Drive stated she had advocated for the homeless for five years; voiced concerns with addictions; safety and health concerns; and read an email from Dan Kunitz.

Jody Murphis, 1 Magnolia Court commended Mr. Zimmerman on his comments; spoke to donations to non-profits; safety in Downtown; to the investment of his business; and stated the ordinance needed to stand.

Jake Nyo, 215 South Elm spoke to financial investments made by business owners; voiced concerns with panhandlers approaching customers; and the need for a safe environment.

Vaughan Ramsey, 201 North Elm spoke to Downtown experiences; aggressive panhandling and assault laws; the need to educate the homeless community on approachability when panhandling; and requested Council think about the homeowners as well.

Zack Matheny, Elm Street spoke to the tax base; referenced the Downtown Greensboro Inc. grant; voiced agreement with the establishment of a Poverty Council; and spoke to helping people.

Phillip Marsh voiced concern about representation of the East Greensboro community; with uneven laws; and spoke to the need for boundaries.

Robert Corriher, 1103 Lexington Avenue spoke to First Amendment rights; voiced concern with business owners; for poor people; and opposition to the ordinance.

Sidney Branch voiced agreement with concerns regarding aggressive panhandling; and referenced problems in Seattle and New York.

Councilmember Hightower made a motion to table the ordinance; commended Mr. Zimmerman for his suggested solutions; spoke to the need for additional dialogue; to discrimination; and voiced the need to have public meetings.

Discussion took place regarding clarification of the status of the ordinance; the requirements and timeframe of a second vote; addictions and mental illness; the need for innovation; public safety; policy and procedures; the

framework of the City; Counsel recommendations; a Poverty Think Tank; the need for affordable housing and jobs; finding a solution; Homeless Union meetings; other municipality ordinances; arrest statistics; the need for continued dialogue; and economic development in Downtown.

City Attorney Carruthers confirmed the ordinance adopted at the April 24th meeting of Council was no longer valid due to the motion to reconsider.

Police Chief Wayne Scott stated the department had responded to approximately 719 solicitation calls resulting in approximately 30 charges; voiced concern with a gap in the law; and spoke to regulating behaviors.

**Moved by Councilmember Hightower, seconded by Mayor Pro-Tem Johnson, to table the item. The motion failed on the following roll call vote:**

**Ayes,** 4 - Yvonne J. Johnson, Sharon M. Hightower, Michelle Kennedy and Goldie F. Wells

**Nays,** 5 - Nancy Vaughan, Marikay Abuzuaiter, Nancy Hoffmann, Justin Outling and Tammi Thurm

Discussion continued regarding open dialogue; requirements for a SECOND READING and Council action; the language of the ordinance; confirmation that the ordinance applied to everyone; and the need to address behaviors.

City Attorney Carruthers spoke to the retainment of outside Counsel; and to working with the ACLU.

**Moved by Councilmember Outling, seconded by Councilmember Abuzuaiter to adopt the ordinance for Agenda Item #50 as proposed by the Police Department and City Staff as contained within the agenda that was provided to the public in advance of the meeting. The ordinance was received on the FIRST READING with the following roll call vote:**

**Ayes,** 5 - Nancy Vaughan, Marikay Abuzuaiter, Nancy Hoffmann, Justin Outling and Tammi Thurm

**Nays,** 4 - Yvonne J. Johnson, Sharon M. Hightower, Michelle Kennedy and Goldie F. Wells

ORDINANCE TO AMEND CHAPTER 13 OF THE GREENSBORO CODE OF ORDINANCES WITH RESPECT TO LICENSES, TAXATION, BUSINESS PERMITS AND MISCELLANEOUS BUSINESS REGULATIONS AND CHAPTER 20 OF THE GREENSBORO CODE OF ORDINANCES WITH RESPECT TO PEDDLERS, SOLICITORS, ETC.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GREENSBORO:

Section 1. Chapter 13 is hereby amended as follows:

Chapter 13 - LICENSES, TAXATION, BUSINESS PERMITS AND MISCELLANEOUS BUSINESS REGULATIONS

ARTICLE V. - BUSINESS PERMIT

DIVISION 1. - GENERALLY

Sec. 13-181. - Application of article.

The business permit issued under this article shall apply to persons operating or carrying on the businesses of massage, commercial soliciting, panhandling, street performing, peddling, itinerant merchants, and mobile food vending which are physically located within the Greensboro city limits.

Sec. 13-202. – Commercial Solicitors.

Section 2. Chapter 20 is hereby repealed in its entirety and re-enacted as follows:

Chapter 20 - PEDDLERS, SOLICITORS, Panhandlers, Itinerant Merchants, ETC.

ARTICLE I. - IN GENERAL

Sec. 20-1. Regulations of Solicitation in Public Places

(a) Intent and Purpose.

It is the intent of Council in enacting this Ordinance to recognize free speech rights for all citizens while at the same time protecting the coexistent rights for all citizens to enjoy safe and convenient travel in public spaces free from intimidating conduct, threats, and harassment that stem from certain types of abusive solicitation, or that may give rise to interference with other's activities if they occur in particular settings and contexts.

The purpose is to regulate certain conduct to preserve the public order, to protect the citizens of the City of Greensboro and to ensure the safe and uninterrupted passage of both pedestrian and vehicular traffic, without unconstitutionally impinging upon protected speech, expression, or conduct.

(b) Definitions.

(1) For the purpose of this section, solicit means actions that are conducted in the public place in the furtherance of the purpose of collecting money or contributions for the use of one's self or others. As used in this ordinance, the word, "solicit" and its forms shall include the following acts:

(a) Panhandling, begging, charitable or political soliciting means actions that are conducted in the furtherance of the purpose of collecting contributions for the use of one's self or others;

(b) Peddling means transporting goods from place to place and selling or exposing the goods for sale, or without traveling from place to place, selling or offering for sale any goods from any vehicle or device; provided, that any separation of the acts of sale and delivery for the purpose of evading the provisions of this article, the acts shall be defined as peddling.

(c) Commercial Soliciting means traveling from place to place taking or offering to take orders for the sale of goods for future delivery or for personal services to be performed in the future, regardless of whether samples are displayed or money is collected in advance, and using or occupying any building or premises for the sole purpose of taking or offering to take orders for the sale of goods for future delivery or for personal services to be performed in the future, regardless of whether samples are displayed or money is collected in advance.

(d) Itinerant Merchancing means engaging in a temporary business of selling and delivering goods and using or occupying any premises; provided that no person shall be relieved from complying with the provisions of this article merely by conducting a transient business in association with any permanently established merchant.

(e) Street Performing means audible or visual entertainment including but not limited to reciting or singing, acting, dancing, miming, pantomiming, playing a musical instrument or performing a theatrical or literary work.

(f) Mobile Food Vending means preparing or serving food or beverages for sale to the general public from a mobile piece of equipment or vehicle.

(2) For purposes of this section, public place shall be defined as a place where a governmental entity has title, and/or to which the public or a substantial group of persons has access, including, but not limited to, any street, highway, parking lot, plaza, restaurant, theater, transportation facility, vendor location, school, place of amusement, park, or playground.

(c) It shall be unlawful to solicit aggressively in public places in any of the following manner:

- (1) Approaching or speaking to someone in such a manner or voice including but not limited to using profane or abusive language as would cause a reasonable person to fear imminent bodily harm or the commission of a criminal act upon his or her person, or upon property in his or her immediate possession, or otherwise be intimidated into giving money or other thing of value;
- (2) Intentionally touching or causing physical contact with another person without that person's consent in the course of soliciting;
- (3) Intentionally blocking or interfering with the safe or free passage of a pedestrian or vehicle by any means, including unreasonably causing a pedestrian or vehicle operator to take evasive action to avoid physical contact;
- (4) Using violent or threatening gestures toward a person solicited;
- (5) Soliciting from anyone who is waiting in line for entry to a building or for another purpose without the permission of the owner or landlord or their designee;
- (6) By forcing one-self upon the company of another by continuing to solicit in close proximity to the person addressed or following that person after the person to whom the request is directed has made a negative response; or blocking the passage of the person addressed; or otherwise engaging in conduct which could reasonably be construed as intended to compel or force a person to accede to demands;
- (7) By soliciting within twenty (20) feet of an automated teller machine which is defined as a device, linked to a financial institution's account records, which is able to carry out transactions, including but not limited to cash withdrawals, account transfers, deposits, balance inquires, and mortgage payments.

(d) Violations.

Any violation of this article shall be a misdemeanor and may be enforced by any one (1) or more of the remedies authorized by the provisions of G.S. § 14-4 or G.S. § 160A-175.

(e) Severability

If any portion of this section is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such holding shall not affect the validity of the remaining portions hereof.

State Law reference— Regulation of begging, G.S. § 160A-179.

Section 3. That all sections not amended herein shall remain in full force and effect.

Section 4. That this ordinance shall become effective upon adoption.

THIS WAS THE FIRST READING OF THE ABOVE ORDINANCE. THE ORDINANCE WILL NOT BECOME EFFECTIVE UNTIL THE SECOND READING TAKES PLACE AND THERE IS A SECOND VOTE OF COUNCIL.

Moved by Mayor Pro-Tem Johnson, seconded by Councilmember Hightower to go into closed session to preserve the attorney-client privilege, to consult with the City Attorney and the attorney retained by the City and to give instructions to legal counsel concerning pending litigation in the matter of David Wray vs. City of Greensboro, et al pursuant to N.C.G.S. 143-318.11 (a)(3). The motion carried by voice vote.

Moved by Councilmember Wells, seconded by Mayor Pro-Tem Johnson to excuse Councilmember Kennedy from the meeting. The motion carried by voice vote. Councilmember Kennedy left the meeting at 8:09 p.m.

Council recessed to closed session at 8:09 p.m.

# **Exhibit E**

ORDINANCE TO AMEND CHAPTER 16 WITH RESPECT TO MOTOR VEHICLES AND TRAFFIC AND CHAPTER 18 WITH RESPECT TO OFFENSES AND MISCELLANEOUS PROVISIONS  
BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GREENSBORO THAT:

**Section 1.** Chapter 16, Article 1, Sec.16-9., Soliciting business, etc., in streets is hereby repealed and reserved for future use.

~~Sec. 16-9. – Soliciting business, etc., in streets.~~

~~In the interest of public safety and in order to protect both pedestrians and motorists, no person shall stand or sit on any traveled portion of a street or on a median and distribute any item or solicit employment, business or contributions from the driver or occupant of any motor vehicle which is located in a traveling lane.~~

**Section 2.** Chapter 18, Article III, Sec. 18-44 is hereby amended to read as follows:

~~Sec. 18-44. – Loitering.~~

~~(a) It shall be unlawful for any person to occupy the streets or sidewalks of the city in such a way as to obstruct or interfere with the free passage into or out of any public business, sidewalk, or private property.~~

~~(b) It shall be unlawful for any person to occupy the streets or sidewalks of the city within fifty (50) feet of the entrance or exit of any establishment that serves alcohol.~~

~~(c)Penalty. A violation of subsection (b) by any person subjects the offender to a fine of up to two hundred dollars (\$200.00) and any other punishment authorized by law for a class 3 misdemeanor.~~

Sec. 18-44. - Blocking or Impeding Street and Sidewalk Access.

- (a) Purpose and Intent. The City has the general authority and control over all public streets, sidewalks, and other ways of public passage within its corporate limits, except those ways of public passage that are owned or maintained by the State of North Carolina. The City has the duty to keep such streets, sidewalks, and other ways of public passage open for travel and free from unnecessary obstructions. G.S. 160A-296. This ordinance prohibits actions that block or impede the safe passage of pedestrians and vehicles on public sidewalks and streets.
- (b) Definitions: The following words, terms, and phrases when used in this section shall have the meanings set forth in this subsection, unless the context of their usage clearly indicates another meaning:
  - (1) Block means to unreasonably obstruct passage on a sidewalk or entrance or exit to a building.
  - (2) Impede means to render the use of a street unreasonably difficult or dangerous, including the following actions:
    - i. Weaving or darting through, around, and in between multiple occupied vehicles, whether the vehicle is stopped or in travel, for a purpose other than passage to a sidewalk. This (i) subsection is meant to prohibit walking through a street parallel to the sidewalk but not meant to prohibit crossing lanes of a street to reach occupied vehicles when a stop light is red.
    - ii. Placing or throwing a tangible thing on or inside an occupied vehicle that is on the street, except if an occupant requests that the acting individual deliver the tangible thing to an occupant or consents to such exchange.
    - iii. Standing, sitting, or lying down on the portion of a traffic island that is less than 6 feet wide, except where using the traffic island to cross the street or during an emergency.
  - (3) Sidewalk means the part of a street improved for pedestrian traffic.
  - (4) Street means the entire width between property lines of every way or place of whatever nature, when any part thereof is open to the use of the public as a matter of right for the purpose of vehicular traffic. The terms “street” and “highway” are synonymous.



- (5) Traffic island. A raised portion of the street in between lanes of traffic intended to separate lines of traffic or guide traffic, not to hold people or provide pedestrian refuge. A traffic island may be commonly called a median. For the purpose of this ordinance, a traffic island is any raised part of the street meant to separate lanes of traffic that is less than 6 feet in width. Width is measured as the length of the traffic in the direction of pedestrian travel if the pedestrian is traveling perpendicular to the street.
- (6) Vehicle means every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, excepting devices moved by human power or used exclusively upon fixed rails or tracks; provided, that for the purposes, of this chapter bicycles shall be deemed vehicles.
- (c) It shall be unlawful for an individual to impede the use of a street or highway.
- (d) It shall be unlawful for an individual to block a sidewalk.
- (e) It shall be unlawful for an individual to block the entrance or exit to a building served by a sidewalk or street unless otherwise granted permission by the owner or tenant. Permission granted by the owner may be evidenced by verbal or written confirmation of permission from the owner or tenant.
- (f) Nothing in this subsection shall be interpreted to prohibit the exchanging of objects into and out of vehicles where the vehicle is stopped or parked according to traffic laws and no blocking or impeding of a street or sidewalk occurs. Where an individual is engaged in lawful activity on the sidewalk and such activity evokes a response by a third party that is in violation of this ordinance or any other ordinance or state law, the individual engaged in lawful activity shall not be in violation of this section.
- (g) This section shall not apply to actions taken by first responders; or to actions taken in response to an emergency or to prevent an accident.
- (h) This section shall not apply to persons or entities granted a permit by the City for purposes, including, but not limited to, under Chapter 26 and Chapter 18 Sec. 2 of this Code.
- (i) No action punishable under G.S. 20-174.1 shall be punishable under this section. This section shall only apply to public streets, sidewalks, and other ways of public passage within the City's corporate limits for which authority and control is not vested in the North Carolina Board of Transportation.
- (j) A violation of this section shall be a Class 3 misdemeanor punishable by a fine of up to \$50.

State Law reference— Standing, sitting or lying upon streets or highways, G.S. 20-174.1. Pursuant to state statute, standing, sitting, or laying down upon streets or highways is unlawful.

**Section 3.** Chapter 18, Article III, Sec. 18-46 is hereby repealed in its entirety and reenacted as sections 18-46.1 and 18-46.2 to read as follows:

**Sec. 18-46.** ~~Loitering for the purpose of engaging in drug-related activity.~~

- ~~(a) For the purposes of this section, "public place" means any area generally accessible to the public for common usage and access, including any street, sidewalk, bridge, alley or alleyway, plaza, park, playground, driveway, parking lot or transportation facility, the doorways and entranceways, stairway, hall, courtyard, passageway or common area to any building which fronts on any of those places, or a motor vehicle in or on any of those places, or any property owned by the City of Greensboro.~~
- ~~(b) It shall be unlawful for a person to remain or wander about in a public place in a manner and under circumstances manifesting the intent to engage in a violation of any subdivision of the North Carolina Controlled Substances Act, N.C. Gen. Stat. Chapter 90, Article 5. When done with the intent of violation of the aforementioned statutes, such circumstances shall include:~~
  - ~~(1) Repeatedly beckoning to, stopping, or attempting to stop passers by, or repeatedly attempting to engage passers by in conversation; or~~

- ~~(2) Repeatedly stopping or attempting to stop motor vehicles; or~~
- ~~(3) Repeatedly interfering with the free passage of other persons; or~~
- ~~(4) Such person behaves in such a manner as to raise a reasonable suspicion that he or she is about to engage in or is engaged in an unlawful drug-related activity; or~~
- ~~(5) Such person repeatedly passes to or receives from passers-by, whether on foot or in a vehicle, or by courier, money or objects; or~~
- ~~(6) Such person takes flight upon the approach or appearance of a law enforcement officer; or~~
- ~~(7) Such person is at a location frequented by persons who use, possess, or sell drugs.~~

Sec. 18-46.1 – Solicitation and Distribution of Items in Public Parking Garages and Public Parking Lots Prohibited.

- (a) Solicitation Permitted. Solicitation, where not otherwise prohibited herein or by State law, is allowed in the public spaces of Greensboro.
- (b) Purpose and Intent. It is the purpose of this section to provide for the health, safety and welfare of the residents of the city through the proper management of the city’s municipally owned parking garages and parking lots. The city is authorized to operate a parking enterprise to furnish parking services to the city and its citizens.
  - (1) The city council finds that municipal owned or operated parking garages and parking lots are not traditional public forums for First Amendment purposes and that the city may regulate conduct and use of the parking garages and parking lots through adequate and reasonable rules. The statutory authority is found in G.S. 160A-174 and 160A-312.
  - (2) The City finds it necessary to restrict certain activities, including solicitation and distribution within public parking garages and parking lots because of the increased potential for accidents in parking garages and parking lots, limited space for individuals walking to vehicles and engaging in transactions associated with solicitation and distribution, and due to the potential for individuals accessing their cars to feel a heightened level of intimidation when approached by a solicitor or distributor.
- (c) Definitions. The following words, terms, and phrases when used in this section shall have the meanings set forth in this subsection, unless the context of their usage clearly indicates another meaning:
  - (1) Public Parking Garage and Parking Lot means lots, garages, or portions of lots or garages, owned or operated by the City of Greensboro which have the sole purpose of providing vehicular parking. On-street parking, including diagonal on-street parking, is not considered a garages or lot. The word “deck” has the same meaning as the word “garage.”
  - (2) Enter or entryr. For the purpose of this section, entry into a Parking Garage or Parking Lot shall mean entry onto the paved parking portion where its the sole intended purpose is the parking of vehicles.
- (d) Offense. It shall be unlawful to:
  - (1) enter a Public Parking Garage or Parking Lot for the purpose of soliciting for or distributing within the Parking Garage or Parking Lot any of the following: money, contributions, signatures, leaflets, or pamphlets for any purpose or use; and
  - (2) engage in the intended solicitation or distribution.
- (e) Exemption for Sidewalks and Landscaped Areas Through and Adjacent to Parking Garages and Parking Lots. The prohibition under this subsection does not restrict solicitation or distributions on public sidewalks or landscaped areas that run through or immediately adjacent to a public parking garage or lot where such sidewalk or landscaped area is a path for movement other than for the purpose of getting to and from a vehicle in the parking garage. However, any solicitation along such sidewalk or landscaped area shall be

confined to the sidewalk or landscaped area, and no solicitor or distributor shall follow physically an individual off the sidewalk or landscaped area and through the publicly owned parking garage or parking lot where the individual has declined the solicitation or distribution.

- (1) This subsection is further clarified below, through example, as it applies to the Public Parking Lots located at Elm St. and McGee St. and Elm St. and Greene St. (referred to as the “Elm Street Lots”). This clarification applies in the same manner to all Parking Lots and Parking Garages with the same or similar features:
  - i. The Elm Street Lots are comprised of paved parking areas immediately adjacent to two commercial buildings, surrounded by sidewalks providing access to the street (the “Surrounding Sidewalks”), and with one large sidewalk running directly through the middle of the paved parking areas such that parking is allowed on either side of that middle sidewalk (the “Middle Sidewalk”). Many pedestrians, including those parking a vehicle, use the Middle Sidewalk. The prohibition in this subsection shall not apply to any individual using the Middle Sidewalk or the Surrounding Sidewalks, even where the individual is soliciting or distributing to a person who is standing on the paved portion of the Elm Street Lots. The prohibition in this subsection does apply if the individual soliciting or distributing leaves the Surrounding Sidewalk or Middle Sidewalk, enters into the paved parking area with the intent to continue soliciting or distributing, and either engages in the soliciting or distributing or continues to engage in the soliciting or distributing when the individual being engaged has declined the solicitation or distribution. This prohibition is intended to prevent persons who have declined the solicitation or distribution from being followed from the sidewalk to their vehicles or from being approached and engaged in the paved parking areas while accessing their vehicles.
- (f) Designation of Public Parking Garage and Parking Lots. Public Parking Garage and Parking Lots shall be designated by clearly posted signs. The City shall maintain and provide upon request a list of Public Parking Garages and Parking Lots, currently titled “Traffic Schedule 9, Public Off-Street Parking Lots.”
- (g) Other Solicitation Prohibited by State Law. This section shall not apply to any type of solicitation or distribution regulated, prohibited, or punishable under other applicable state law.
- (h) Exceptions. This section shall not apply to any Parking Garage or Parking Lot adjacent to or used as the designed parking for a polling place during the time when City owned property is used by the Guilford County Board of Election as a polling place. This section also shall not apply when an event is taking place within the Public Parking Garage or Parking Lot due to a permit granted by the City.
- (i) Penalty. A violation of this section shall be a Class 3 misdemeanor punishable by a fine of up to \$50.

**Section 4.** Chapter 18, Article III Section 18-46.2 is hereby enacted to read as follows:

Sec. 18-46.2. - Harassment in Public Spaces Prohibited.

- (a) Purpose and Intent.
  - (1) The city is enabled, pursuant to G.S. 160A-174, to protect the health, safety and welfare of its citizens and to ensure the peace and dignity of the city. It is the intent of council in enacting this ordinance to recognize the rights of all citizens while at the same time protecting the coexistent rights for all citizens to enjoy safe and convenient travel in public spaces free from harassment. In the course of public hearings and debates regarding solicitation and safety in public spaces in Greensboro, the city recognizes that the dangerous effects of harassment may occur in the commission of or completely separate from an act of solicitation, where such conduct occurs in

public spaces and includes following a person or cornering a person for the purpose of intimidating that person.

- (2) The current state laws on stalking and harassment do not protect individuals who are harassed in public spaces where such harassment is confined to a single occasion but is also dangerous or intimidating. Such harassment causes intimidation and fear and may result in an interaction with dangerous or violent consequences. Free and safe passage on city sidewalks and streets is necessary. Therefore, the following ordinance intends to address harassment on sidewalks and streets by penalizing the following conduct:

(b) Definitions. The following definitions apply in this section:

- (1) Public Space means streets, sidewalks, alleys, and other public property, as well as city-owned and city-controlled property.
- (2) Reasonable person means a reasonable person in the same or similar circumstances.

(c) Offense. A person is guilty of harassment in a public space if the person:

- (1) knowingly and intentionally performs either of the following with no legitimate purpose;
- i. Following an individual in or about a public space with the intent of threatening, intimidating, or causing fear for personal safety; or
  - ii. Surrounding an individual or intentionally and physically directing the individual's movement through or in a public space with the intent of threatening, intimidating, or causing fear for personal safety. This subsection includes crowding or cornering an individual with the intent of threatening, intimidating, or causing fear for personal safety and without that individual's consent as the individual is actively engaging or attempting to use an automated teller machine or parking meter and the individual must stand within the public space to access the automated teller machine or parking meter;
- (2) the conduct described in subsection (c)(1)(i) or (ii) is directed at an individual in the individual's presence; and
- (3) the person continues the conduct described in subsection (c)(1)(i) or (ii) after the individual to whom the conduct is directed has made a negative verbal response or taken action that a reasonable person would understand as a negative response.

(d) Penalty. A violation of this section shall be a Class 3 misdemeanor punishable by a fine of up to \$50.

**Section 5.** Severability. If any provision of this article is declared invalid or unconstitutional by any court of competent jurisdiction, the remaining provisions shall be severable and shall continue in full force and effect.

**Section 6.** This ordinance shall become effective as of 08/15/2018. Section 3., Sec. 18-46.1, shall become effective and enforceable at the later of: 8/15/2018, or the time at which the City has marked clearly the areas in which the prohibited activity may not occur as required under Section 18-46.1(e)(1)(iii).

# **Exhibit F**

## **DECLARATION OF Sima Fallahi**

I, Sima Fallahi, am over the age of 18 and fully competent to make this declaration. Under penalty of perjury, I state the following:

1. I am a resident of Greensboro. I have lived in Greensboro since 2014.
2. I am an artist. I am also currently employed as a production assistant for a designer. I make tote bags, yoga pillows, aprons, and other accessories at my job. My works hours are variable. I usually work about 10 to 14 hours per week and am paid \$8.25 per hour. My current job is the best one I have been able to find. I also enjoy it.
3. I currently have a roof over my head. I have been stably housed in my current apartment through Section 8 since September 2014. I am fortunate to have such housing. Prior to moving in to my apartment, I was homeless for several months. I lived in my car, which I regularly parked at the Harris Teeter parking lot in North Elm Village on Pisgah Church. I also lived at the shelter at Urban Ministry.
4. I do not panhandle. Rather, I sell my art on the street. I sell handmade gift cards, my smaller watercolors and pastels, handmade scarves, and other handcrafted work. I sell my work to both survive and bring beauty to the world through my artistic vision.
5. Selling my work on the street has enabled me to survive during unexpected emergencies and when unusual expenses have occurred, such as large utility bills and paying for my car registration. I could not pay for such expenses and provide for myself without the proceeds from selling my artwork and crafts. When I sell

my work, e.g., my gift cards, I can collect anywhere from \$12.00 to \$ 75.00, depending on the day.

6. When I'm selling my work on the street, I approach people that I hope may be interested in my art. I try my best to read people's affect and interest before I approach them, and only approach people that I think would be interested based on my past experiences. I generally approach people on the street during festivals or similar events, because I think people tend to be more sociable during such times. I enjoy it because I also see it as a way to make connections and new friends.
7. There have been times that I have not read people's faces correctly, and they seem put off when I approach them, but generally that's pretty rare.
8. I am afraid to sell my art on the street in Greensboro now because the city passed a new law that makes what I do a crime. I have sold my art near an ATM, and under the new law I could get charged with a crime for doing that, even if the ATM is inside a building and I'm standing outside. I know the new law makes other things a crime too, but I don't know what all of them are. The new law is confusing to me. Because I do not know if the law actually applies to me and how I conduct the selling of my artwork, I have stopped selling my work on the street. Without being able sell my work on the street, I am losing out on a valuable source of income that helps me pay for necessities in an emergency. If the law remains in effect, I fear that I risk falling back into homelessness or housing instability when such emergencies arise.

9. I will not take the risk of selling my art on the street if I can be charged for a crime, because that would mean I have to pay fines that I cannot afford, and having a criminal record would make it even harder for me to find a job, housing, or impact my citizenship.
10. I would like to tell the city council and the court that the way society treats the least of us demonstrates the character of that society. I believe that my art gives people joy and brings beauty to this world. Now, this joy and beauty has been tainted by the mark of criminality because of the way I sell my art. I must stop selling my art because of this ordinance. It harms both my artistic expression and my ability to survive.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

Executed this 3 day of August, 2018.

Sima Fallahi 8.3.2018

**Sima Fallahi**



# **Exhibit G**

## DECLARATION OF Zalonda Woods

I, Zalonda Woods, am over the age of 18 and fully competent to make this declaration. Under penalty of perjury, I state the following:

1. I am a resident of Greensboro. I have lived in Greensboro at least part-time since 2008.
2. I am currently unemployed. I suffer from a number of disabling medical conditions, and I am unable to work. I have legal custody of my four minor children.
3. I am not currently homeless, but I have been homeless in the past. I feel that I am at risk for becoming homeless again because I am dealing with some issues with my landlord. I was homeless at times as child, and I have been homeless at various times as an adult. The last time I was homeless was in 2010. I have panhandled at times both when I was homeless and when I was not. The last time I panhandled was in March 2018. I have not panhandled since then, but I may need to panhandle again in the future. Because of the way the new law is written, I am afraid to ask for donations while it is in effect.
4. I have asked for donations at various locations such the AmTrak Train station and bus depot and on Elm Street in downtown Greensboro. I ask for donations both inside and outside this the AmTrak Depot. There is an ATM inside the lobby where I asked for donations. I would approach people and explain my situation and politely ask them for donations. Sometimes I hug people. This is usually after they have given a donation, but not always.

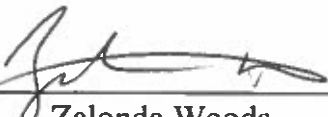
5. Asking for donations has enabled me to make ends meet. I could not pay my bills and provide for myself and my children without help from donations. When I asked for donations, I could collect anywhere from \$15 to \$30, depending on how long I was out soliciting, and the time and day of the week. Sometimes people would also give me food.
6. I speak to people politely when I'm asking for donations, but even so, some people react badly. Sometimes people seem afraid to talk to a stranger. Sometimes people get startled when I speak to them if they aren't paying attention as they walk by and didn't see me there. Sometimes people get embarrassed or angry because they don't know what to say to me when I ask for help. In the past, strangers have sometimes have been rude and cursed at me, called me names or told me to get a job, when I have asked them for money.
7. I am afraid to ask for donations in Greensboro now because the city passed a new law that makes what I do a crime. There is an ATM in the lobby of the Depot where I ask for donations. Sometimes I have been within 20 feet of the ATM when I have asked for donations. Under the new law, I could be charged with a crime for doing that. I have asked for money in places while people were standing in line, which happens a lot in Greensboro because it's a busy city, and that's a crime now, too. I often hugged people when I'm asking for donations. This is usually after they've given me something, but not always. Sometimes when someone says no to giving me a donation I have continued to ask and politely and

sincerely made a plea while continuing to explain my situation and why I needed money. That is now illegal.

8. I know the new law makes other things a crime, too, but I don't know what all of them are. The new law is confusing to me, and I don't know what is allowed. Because I don't understand everything about the law, and because the law is so strict, I have stopped asking for donations entirely. I am facing financial hardship now and without asking for donations, I won't be able to pay for the things that I need or support myself. Since the law went into effect, I have already been unable to pay for transportation and to provide food and other basic needs for my family. If the law remains in effect, I will be unable to pay all my bills.
9. I will not be able to make up the lost income from donations as long as the law is in effect because I am disabled and cannot work.
10. I also cannot risk asking for donations and getting charged with a crime, because that would mean I have to pay fines that I cannot afford, and having a criminal record would make it even harder for me to find or keep my housing. If the law remains in effect, I am afraid that I will be charged with a crime, or I will not be able to provide for myself and my children.
11. I would like to tell the city council and the court that panhandlers are not aggressive or violent. I am none of that. The fact that they are criminalizing panhandling affects my family negatively. It shouldn't be a crime to ask for donation.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

Executed this 2nd day of August, 2018.

  
\_\_\_\_\_  
Zalonda Woods

# **Exhibit H**

### **DECLARATION OF Terry Lindsay**

I, Terry Lindsay, am over the age of 18 and fully competent to make this declaration. Under penalty of perjury, I state the following:

1. I am a resident of Greensboro. I have lived in Greensboro at least part-time since I was born on July 27, 1961.
2. I am currently unemployed. I can occasionally find odd jobs, but I am unable to work at a job because I am legally blind.
3. I am not currently homeless, but I have experienced homelessness many times since the 1990s. About two-thirds of my income goes toward paying my rent
4. I have sometimes asked strangers for donations in Greensboro to help me pay for food and personal items. I have asked for donations at various times since I first experienced homelessness in the 1990s. I often ask for donations at the Great Stops convenience store on Gate City Boulevard in Greensboro. I stand in front of the store near the door and ask customers for donations as they are leaving the store. There is an ATM just inside the front door of the store. I am standing less than 20 feet from the ATM when I ask for donations. I have also asked for donations along Gate City Boulevard and in downtown Greensboro on Washington Street, and Elm Street.
5. Asking for donations has helped me make ends meet. I could not pay my bills and provide for myself without help from donations. Sometimes I run out of food stamps at the end of the month, and I could not eat if I did not ask for donations. When I ask for donations, I can collect anywhere from \$10.00 to \$30.00

depending on how long I am out soliciting, what time and day of the week it is, what the weather is like, and where I am in the city.

6. I speak to people politely when I'm asking for donations, but even so, some people react badly. Sometimes people seem afraid to talk to a stranger. Sometimes people get startled when I speak to them if they aren't paying attention as they walk by and didn't see me there. Sometimes people seem embarrassed because they don't know what to say to me when I ask for help. In the past, strangers have sometimes gotten angry and told me to get a job.
7. I have had interactions with the police while asking for donations. I sometimes pick up odd jobs by standing on a particular street corner and talking to motorists. When I am standing there, the police will come by and tell me to move even though I am doing nothing wrong. I don't want to get arrested, so I have done what the police have told me to do, even when I don't think I have done anything wrong. On one occasion, I was given a citation for panhandling on Elm Street in Greensboro. The charge was dismissed by the judge, but it made me afraid to panhandle because I am afraid of having to pay a fine that I cannot afford to pay.
8. I am afraid to ask for donations in Greensboro now because of the city's new law that makes what I do a crime. I have asked people for money near an ATM, and under the new law I could get charged with a crime for doing that, even if the ATM is inside a building and I'm standing outside. Sometimes I have cursed in public while I was out asking for donations, and now that's a crime. Sometimes when someone says no, I will ask them to reconsider. That's a crime now.



Sometimes I take a break and may sit on the curb or the sidewalk when I'm waiting to have a meal at the soup kitchen at Greensboro Urban Ministries.

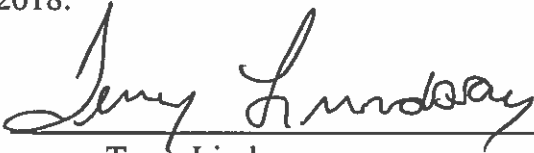
Sometimes people may have to step around me. That happens a lot because some people don't like to get too close to people who are poor and may appear to be homeless, and with the new law I could be charged with a crime if people decide to step around me.

9. I know the new law makes other things a crime, too, but I don't know what all of them are. The new law is confusing to me, and I don't know what is allowed. Because I don't understand everything about the law, and because the law is so strict, I have stopped asking for donations entirely. Without being able to ask for donations, I won't be able to pay for the things that I need or support myself. Since the law went into effect, I have already fallen behind on my rent. If the law remains in effect, I will fall further behind, and I fear that I may become homeless again.
10. I will not be able to make up the lost income from donations as long as the law is in effect because I cannot get work that I can do. I cannot do most work and most people won't hire me because I am legally blind and I have a criminal record.
11. I also cannot risk asking for donations and getting charged with a crime, because that would mean I have to pay fines that I cannot afford, and having a criminal record would make it even harder for me to find a job or housing.
12. I would like to tell the city council and the court that I ask for donations only because I need the money. This law will only make it more likely that I will

become homeless again. I need help keeping my housing and providing for myself, not more obstacles that will keep me from having a better life and being able to have clothes, food, and a place to live.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

Executed this 3<sup>rd</sup> day of August, 2018.

  
\_\_\_\_\_  
Terry Lindsay

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA  
CIVIL ACTION NO. 1:18-cv-686**

NATIONAL LAW CENTER ON  
HOMELESSNESS AND POVERTY,  
et al.,

Plaintiffs,

v.

THE CITY OF GREENSBORO, et al.,

Defendants.

**[PROPOSED] TEMPORARY  
RESTRAINING ORDER**

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This matter is before the Court on Plaintiffs' Motion for Temporary Restraining Order filed pursuant to Rule 65 of the Federal Rules of Civil Procedure. The Court understands that Plaintiffs have provided notice of their motion to counsel for Defendants.

Having reviewed the materials and arguments presented to the Court, the Court finds that Plaintiffs are likely to succeed on the merits of their claims that Chapter 20, Article I, Section 20-1 of the Greensboro Code of Ordinances violates Plaintiffs' free speech rights guaranteed by the First Amendment to the United States Constitution; that Plaintiffs, absent preliminary relief, are likely to suffer the irreparable harm of loss of their constitutional rights; that the balance of equities tips in Plaintiffs' favor; and that injunctive relief is in the public interest.

Accordingly, the Court GRANTS Plaintiffs' motion for temporary restraining order and ORDERS that Defendants and their agents, officers, and employees are

enjoined from enforcing or giving any effect to Section 20-1 of the Greensboro Code in its entirety. The Court requires that Plaintiffs give security in the amount of \$0 in connection with this Order.

This Order shall expire on August 22, 2018, which is within fourteen days of its issuance, unless otherwise ordered by the Court.

SO ORDERED, at \_\_\_\_\_ o'clock AM / PM this \_\_\_\_\_ day of August, 2018.

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United States District Court Judge