



CITY OF GRANDVIEW

REQUEST FOR BOARD

Ord. No. 7002
Bill No. 7253

Date: July 11, 2017

Agenda Section:

IX. ORDINANCES

Item:

K.

Title:

An ordinance amending Section 14-126 of the Code of Laws of the City of Grandview, Missouri, regarding solicitation from persons in vehicles.

INTRODUCED
FIRST READING7/11/17
LOSTSECOND
READING7/11/17
TABLEDTHIRD
READING7/11/17
PASSED
7/11/17

Originating Department: Department of Law

By: Joseph S. Gall, Special Counsel

Approved for Agenda By:

Cory L. Smith
City Administrator

- I. **REPORT IN BRIEF:** It is requested that the Board of Aldermen approve the attached ordinance to amend Section 14-126 of the Code of Laws regarding solicitation from persons in vehicles.
- II. **REPORT:** On April 22, 2008, the Board adopted Ordinance No. 6189 to regulate solicitation from persons in vehicles by persons standing on or in proximity to roadways. That ordinance enacted Code Section 14-126. Prior to passage of Ordinance No. 6189, solicitation from persons in vehicles was prohibited. On December 30, 2016, Roger Walker, represented by the ACLU of Missouri Foundation, sued the City in the U.S. District Court for the Western District of Missouri, alleging that Code Section 14-126 violates his First Amendment right of free speech. At a court-ordered mediation on May 22, 2017, counsel for the City and the ACLU negotiated revisions to Section 14-126 that the ACLU and Mr. Walker agreed would address his First Amendment concerns. The ACLU has agreed that upon adoption by the Board of the attached ordinance, Mr. Walker's federal lawsuit against the City will be dismissed.
- III. **RECOMMENDATION:** Special Counsel recommends approval of the attached ordinance to amend Code Section 14-126 regarding solicitation of persons in vehicles so as to allow dismissal of Mr. Walkers lawsuit against the City.

CITY OF GRANDVIEW

BILL NO. 7253

ORDINANCE NO. 7002

AN ORDINANCE AMENDING SECTION 14-126 OF THE CODE OF LAWS OF THE CITY OF GRANDVIEW, MISSOURI, REGARDING SOLICITATION FROM PERSONS IN VEHICLES.

WHEREAS, the Board of Aldermen ("Board") of the City of Grandview, Missouri ("City") believes that solicitation of persons in vehicles by persons standing on or in proximity to roadways can create a danger to both the solicitor and vehicle occupants; and

WHEREAS, the Board desires to require solicitation permits issued by the Police Department for any person or organization selling any article or service or soliciting contributions from any person in a vehicle which is on any roadway in the City; and

WHEREAS, the Board desires to prevent dangers to persons and property, prevent delays, avoid interference with traffic flow, prevent traffic accidents, and prevent injuries to persons in vehicles and provide safety requirements for persons permitted to solicit on City streets; and

WHEREAS, by passage of Ordinance No. 6189 on April 22, 2008, the Board adopted new solicitation regulations codified in the Code of Laws of the City ("Code") at Section 14-126; and

WHEREAS, Roger Walker, represented by ACLU of Missouri Foundation, challenged the constitutionality of Section 14-126 of the Code by filing a Complaint in the United States District Court for the Western District of Missouri, Case No. 4:16-CV-1316; and

WHEREAS, during a court-ordered mediation, Mr. Walker, the ACLU, and Special Counsel for the City agreed to recommend revisions to Code Section 14-126 to the Board that would address Mr. Walker's constitutional concerns if adopted; and

WHEREAS, the Board deems it to be in the best interest of the City to adopt revisions to Code Section 14-126.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF GRANDVIEW, MISSOURI, AS FOLLOWS:

Section 1. Section 14-126 of the Code of Laws Amended. That portion of Ordinance No. 6189 codified at Sec. 14-126 of the Code of Laws of the City of Grandview, Missouri is hereby amended to read as follows:

Sec. 14-126. Solicitation of persons in vehicles.

- (a) For purposes of this section, the terms “solicit” or “solicitation” shall mean and include the act of standing on or in the roadway of any street in the city, for the purpose of soliciting or conveying anything to or from persons in vehicles, including but not limited to contributions, signatures, literature, advertising, or items for sale.
- (b) For purposes of this section, the term “roadway” shall mean the portion of a paved street or highway ordinarily used for vehicular travel and extending from one lateral line to the other.
- (c) *Permit requirement*
 - 1. *Annual solicitation permit.*
 - a. Persons or organizations desiring to solicit from persons in vehicles on city streets must apply in person at city hall for a permit on a form to be developed by the chief of police.
 - b. The solicitation permit application shall include:
 - 1. The anticipated location(s) of the solicitation;
 - 2. The number of solicitors to be involved at each location of the solicitation; and
 - 3. Confirmation of satisfaction of the Qualifications herein if the applicant is an organization.
 - c. The chief of police or his designee shall issue a photo ID solicitation permit within three (3) business days after receiving an application.
 - d. Solicitation permits shall be valid for a period of one year from the date of issuance.
 - 2. *Qualifications for organizations.*
 - a. Any organization for which funds or other items of value are being collected must be a charitable organization providing services/benefits to local individuals.
 - b. The charitable organization receiving a benefit from the collection must be qualified by the IRS under IRS Code § 501(c)(3).

- c. The charitable organization must provide proof of insurance in the amount of at least two hundred thousand dollars (\$200,000.00) for any liability arising out of the fund raising activities and agree to indemnify the city for any damages the city may suffer arising out of the fund raising activities. The insurance shall also provide coverage against claims against the applicant and claims against the city, its elected and appointed officials and its employees.

(d) *Conduct.*

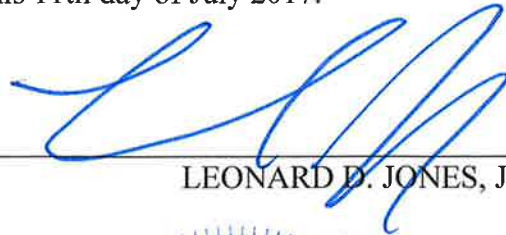
1. It is unlawful to solicit at intersections not controlled by 4-way stop signs or traffic signals.
2. It is unlawful for an individual who is less than seventeen (17) years of age to solicit as described herein.
3. It is unlawful for more than ten (10) persons to solicit at one (1) intersection at one (1) time.
4. It is unlawful to solicit the occupant of a vehicle, unless the vehicle has come to a complete stop.
5. It is unlawful to solicit unless the permittee is wearing at all times a photo ID issued by the police department in conjunction with the issuance of a solicitation permit. When the permittee is a charitable organization, the photo ID shall be issued to a designated representative of the organization who shall be present and wearing said ID at all times during solicitation activities. At the request of the applying organization, more than one (1) photo ID may be issued by the police department for the purpose of insuring that at least one (1) representative of the organization is present and wearing a photo ID at each location where solicitation occurs.
6. It is unlawful to solicit except during daylight hours between thirty (30) minutes after sunrise and thirty (30) minutes before sunset.
7. It is unlawful to enter the roadway in the process of soliciting.
8. It is unlawful to solicit money or other things of value or to solicit the sale of goods or services in violation of Section 17-49 of the Code of Laws (Aggressive Solicitation).

- (e) *Exception.* The foregoing notwithstanding, Section 14-126 shall not apply to any situation where the city has, through the use of barricades or other traffic control measures, taken affirmative action or actions to control traffic flow for maintenance, construction, natural disaster, emergency, or other reasons of public safety.
- (f) *Penalties*
1. It shall be unlawful for any person or organization to solicit on any public street within the city without first obtaining and displaying a valid photo ID solicitation permit.
 2. It shall be unlawful for any person or organization to solicit in a manner that fails to comply with any provision contained in Section 14-126(c).
 3. A violation of any provision of Section 14-126 shall be punished by a fine not exceeding five hundred dollars (\$500.00), imprisonment not exceeding ninety (90) days, or by both such fine and imprisonment. Each day there is any violation of this section shall constitute a separate offense.

Section 2. Effective Date. This Ordinance shall be effective on the date of its passage and approval.

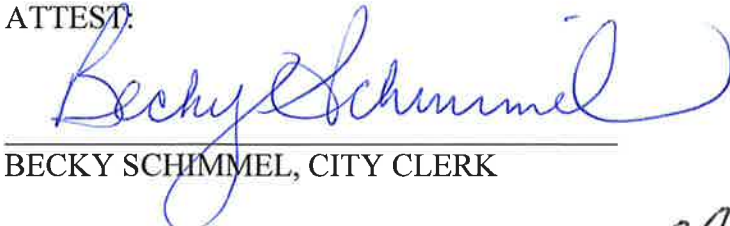
Passed this 11th day of July 2017.

Approved this 11th day of July 2017.

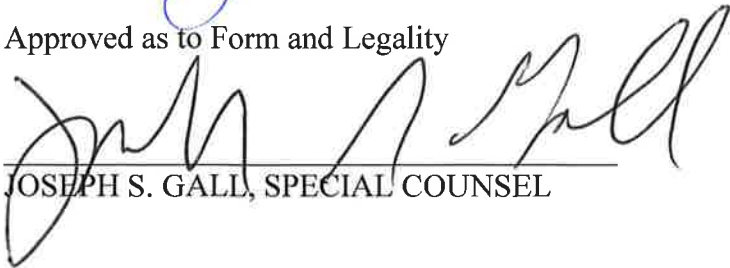


LEONARD D. JONES, JR., MAYOR

ATTEST:


BECKY SCHIMMEL, CITY CLERK

Approved as to Form and Legality


JOSEPH S. GALL, SPECIAL COUNSEL