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**CITY OF SANTA FE, NEW MEXICO**

**BILL NO. 2010-36**

**INTRODUCED BY:**

Councilor Trujillo

**AN ORDINANCE**

**AMENDING SECTION 23-4.2 SFCC 1987 REGARDING SOLICITATION ON PUBLIC  
PROPERTY; CREATING A NEW ARTICLE 20-2 SFCC 1987 REGULATING  
PANHANDLING ON PUBLIC PROPERTY; CREATING A NEW ARTICLE 20-3 SFCC  
1987 REGULATING PANHANDLING ON PRIVATE PROPERTY.**

**BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF SANTA FE:**

**Section 1. Section 23-4.2 SFCC 1987 (being Ord. #1981-39, § 2 as amended) is amended to read:**

**23-4.2 Solicitation on Public Property.** The practice by itinerant vendors or solicitors of going onto public property for the purpose of [~~soliciting money or for the sale of~~] selling goods, wares and merchandise or for the purpose of disposing of the same [~~shall be considered a nuisance and punishable under Section 1-3 SFCC 1987~~] is prohibited except as otherwise provided by law or authorized by the governing body. [~~Provided, however, solicitations on public property on behalf of an established religion, which means a particular system of faith and worship recognized and practiced by a particular church, sect or denomination is not prohibited~~]

1 ~~by this subsection.]~~ Each act of solicitation prohibited by this section shall constitute a public  
2 nuisance and a separate violation of this Code. Each violation shall be punishable as provided in  
3 Article 1-3 SFCC 1987.

4 **Editor's Note: For restrictions on panhandling see Articles 20-2 and 20-3 SFCC**  
5 **1987.**

6 **Section 2. A new Article 20-2 SFCC 1987 is ordained to read:**

7 **20-2 [NEW MATERIAL] PANHANDLING ON PUBLIC PROPERTY.**

8 **Section 3. A new Section 20-2.1 SFCC 1987 is ordained to read:**

9 **20-2.1 [NEW MATERIAL] Purpose.** The purpose of this Ordinance is to establish  
10 regulations for panhandling in order to promote the safety and convenience of the city's citizens; to  
11 protect the panhandler's right to free speech; and to promote harmony among panhandlers, local  
12 businesses, residents and visitors within the city.

13 **Section 4. A new Section 20-2.2 SFCC 1987 is ordained to read:**

14 **20-2.2 [NEW MATERIAL] Definitions.** As used in this article:

15 *Panhandler* means a person who engages in the act of panhandling.

16 *Panhandling* means any solicitation made in person upon public property in the city in  
17 which a person requests an immediate donation of money or other gratuity from another person  
18 and includes but is not limited to seeking donations:

19 A. By vocal appeal;

20 B. Where the person being solicited receives an item of little or no monetary value  
21 in exchange for a donation, under circumstances where a reasonable person would understand  
22 that the transaction is in substance a donation; or

23 C. The act of passively standing or sitting with a sign or other indication that a  
24 donation is being sought without any vocal request other than in response to an inquiry by another  
25 person.

1           **Section 5.     A new Section 20-2.3 SFCC 1987 is ordained to read:**

2           **20-2.3 [NEW MATERIAL] Regulations.** Panhandlers may engage in an act of  
3 panhandling on public property in the city provided that the panhandler complies with the  
4 following regulations.

5           A.     Panhandling is prohibited on any day after sunset or before sunrise.

6           B.     Panhandling is prohibited when either the panhandler or the person being  
7 solicited is located at any of the following locations:

8                   (1)     At a bus stop;

9                   (2)     In any public transportation vehicle or public transportation facility;

10                  (3)     In or on any private vehicle or conveyance;

11                  (4)     In a sidewalk cafe;

12                  (5)     Within twenty (20) feet in any direction from an automatic teller  
13 machine or entrance to a bank;

14                  (6)     Within the median of a street; or

15                  (7)     On school property.

16           C.     Panhandling in an aggressive manner is prohibited, including any of the  
17 following actions:

18                   (1)     Touching the solicited person without the solicited person's consent;

19                   (2)     Panhandling a person while such person is standing in line and waiting to  
20 be admitted to a commercial establishment;

21                   (3)     Blocking the path of a person being solicited or the entrance to any  
22 building or vehicle;

23                   (4)     Following behind, ahead or alongside a person who walks away from the  
24 panhandler after being solicited;

25                   (5)     Using profane or abusive language, either during the solicitation or

1 following a refusal to make a donation, or making any statement, gesture, or other  
2 communication which would cause a reasonable person to be fearful or feel compelled;  
3 or

4 (6) Panhandling in a group of two (2) or more persons.

5 D. Panhandling with a sign exceeding four square feet is prohibited.

6 E. Panhandlers shall not block, or cause the blocking of, any sidewalk, passageway,  
7 street, or entrance to a building.

8 F. Panhandling at one location longer than two (2) hours is prohibited and the  
9 panhandler shall not return to that same location for two (2) hours.

10 **Section 6. A new Section 20-2.4 SFCC 1987 is ordained to read:**

11 **20-2.4 [NEW MATERIAL] Other Compliance.** The conduct and behavior of all  
12 panhandlers shall be in compliance with the Santa Fe City Code 1987.

13 **Section 7. A new Section 20-2.5 SFCC 1987 is ordained to read:**

14 **20-2.5 [NEW MATERIAL] Penalties; Enforcement.**

15 A. Each act of panhandling prohibited by this section shall constitute a public  
16 nuisance and a separate violation of this Code. Each violation shall be punishable as provided in  
17 Article 1-3 SFCC 1987.

18 B. It shall be the duty of the police department to enforce the provisions of Article  
19 20-2 SFCC 1987.

20 C. Upon the first violation of the provisions of this article, the police may issue a  
21 written warning to the person violating this article.

22 D. Upon a second violation by the same person, the police may issue a citation.

23 E. Upon a third and subsequent violation the violator may be subject to arrest.

24 **Section 8. A new Section 20-2.6 SFCC 1987 is ordained to read:**

25 **20-2.6 [NEW MATERIAL] Review.** Article 20-2 SFCC 1987 shall be reviewed by

1 the governing body one year from the date of adoption.

2 **Section 9. A new Article 20-3 SFCC 1987 is ordained to read:**

3 **20-3 [NEW MATERIAL,] PANHANDLING ON PRIVATE PROPERTY.**

4 **Section 10. A new Section 20-3.1 SFCC 1987 is ordained to read:**

5 **20-3.1 [NEW MATERIAL] Panhandling Prohibited on Private Property.**

6 Panhandling on private property is prohibited unless formal written permission is granted from  
7 the property owner to the person panhandling. Any violation of this section is punishable as set  
8 forth in Article 1-3 SFCC 1987.

9 APPROVED AS TO FORM:

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12 GENO ZAMORA, CITY ATTORNEY

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25 Jp/ca/jpmb/2010 bill/panhandling/panhandling (substitute)