

ORDINANCE AMENDING CHAPTER 38 RELATING TO MISCELLANEOUS OFFENSES AND PROVISIONS

BE IT ORDAINED, by the Mayor and City Council of the City of Winston-Salem as follows:

Section 1: Sec. 38-18 (“Prohibited acts relating to use of public parks, recreation facilities and skate park”) is hereby amended as follows:

(a) *Being on premises after closing hours.* It shall be unlawful for any person to be on the premises of a public park or city-owned recreation facility after such park or recreation facility has been closed to the public, unless such person is an employee of the city acting within the scope of his duties, or unless such person has written permission from the city recreation department.

(b) *Parking at place not designated for parking; leaving vehicle parked on premises after closing hours.* It shall be unlawful for any person to park a motor vehicle on the premises of any public park or city-owned recreation facility at a place not designated for parking of vehicles, and it shall be unlawful for any person to park or allow a motor vehicle to remain parked upon the premises of any public park or city-owned recreation facility, whether occupied or unoccupied, after such park or recreation facility has been closed to the public, without written permission from the recreation department.

(c) *Closing hours defined.* ~~A park or recreation facility shall be deemed closed to the public within the meaning of this section when area lights have been turned out, or when attendants have closed such facilities and departed, or when all organized activity has ceased. In no case shall a park or recreation facility be considered open between the hours of 10:30 p.m. and 7:00 a.m., except to activity under the supervision of the recreation department.~~

(1) A public park or city-owned recreation facility shall be deemed closed to the public within the meaning of this section between sunset and sunrise. For purposes of enforcement, the terms “sunset” and “sunrise” shall be determined according to the official times for those events published daily by the U.S. Naval Observatory Astronomical Applications Department.

(2) Notwithstanding the foregoing, the city recreation department may designate specific areas within any public park or city-owned recreation facility for extended use before sunrise or beyond sunset, including, but not limited to, lighted courts, fields, or other illuminated areas. In such cases, only the designated and lighted court, field, or area shall be considered open; all other portions of the public park or city-owned recreation facility shall remain closed. The city recreation department may also authorize extended use of any public park or city-owned recreation facility, in whole or in part, for programs, activities, or events conducted under its supervision or with its prior written permission.

(3) The city recreation department may establish, on a regular or temporary basis, different hours that any public park or city-owned recreation facility, or a portion thereof, is open to the public.

(d) *Use of city skate park.* No person shall ride or use a skateboard, in-line skates or freestyle bicycle at any city-owned or operated skate park unless that person is wearing a helmet, elbow pads and knee pads. A person who fails to wear the required helmet, elbow pads and kneepads shall be subject to a citation for violating city code section 38-18(d).

(e) *Personal belongings.* It shall be unlawful for any person to bring, place, store, or maintain in any public park or city-owned recreation facility personal property in an amount or of a size that is unreasonable for ordinary, temporary personal use in that location. For purposes of this section, items reasonably carried in a handbag, purse, briefcase, satchel, or standard-size backpack shall not be considered unlawful. The prohibition in this section includes, but is not limited to, the bringing or storage of luggage, carts, wagons, storage containers, bulk containers, or multiple large bags of personal belongings, unless expressly authorized by the city. Any property placed or maintained in violation of this section may be deemed abandoned and subject to removal by the city.

(ef) A violation of section 38-18, or any part thereof, shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of not more than \$500.00.

Section 2: Sec. 38-19 (“Sleeping on public property or property of another”) is hereby amended as follows:

Sec. 38-19 - Sleeping or camping on public property or property of another.

It shall be unlawful for any person to sleep in the streets, sidewalks or alleys, or on public grounds or private premises without the consent of the person in control. It shall likewise be unlawful for any person to set up, use, or maintain tents, hammocks, shelters, or other camping equipment or gear, including, but not limited to, cots, sleeping bags, cooking equipment, or lanterns, regardless of whether the person is engaged in sleeping, unless expressly authorized by the city or, in the case of private property, by the person in control thereof. A violation of section 38-19, or any part thereof, shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of not more than \$500.00.

Section 3: Sec. 38-31 (“Begging or soliciting arms”) is hereby amended as follows:

(a) *Purpose.* The purposes of the restrictions on begging or soliciting alms imposed under this section are to:

(1) Reduce the detrimental effect that threatening and intimidating conduct has on a safe environment within the city;

(2) Restrict certain aggressive acts of solicitors without prohibiting constitutionally protected activity; and

(3) Maintain the peace and order of the city and preserve and protect the rights of all citizens to be free of intimidation.

(b) *Generally.* It shall be lawful to beg or solicit alms except when performed in the manner set forth in subsections (e), (f), and (g) of this section.

(c) *Panhandler license required.* Every individual who intends to engage, or does engage, in the acts of begging or soliciting of alms within the city limits shall apply for in advance and procure a panhandler license and an accompanying identification badge from the city revenue collector in accordance with City Code chapter 34. A person who has registered and has been issued a panhandler license and accompanying identification badge shall display the identification badge on his/her person such that it is clearly visible at all times while begging or soliciting alms, and shall keep the panhandler license on his or her person at all times while begging or soliciting alms, and shall display the license to any law enforcement officer or city tax collector immediately upon request.

(d) *Definitions.* The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning.

(1) For purposes of this section, “ask, beg or solicit” includes, without limitation, the spoken, written or printed words or such other acts conducted in furtherance of the purpose of obtaining alms or contributions.

(2) For purposes of this section, “accosting” means approaching or speaking to someone in such a manner as would cause a reasonable person to fear imminent bodily harm or the commission of a criminal act upon his person, or upon property in his immediate possession.

(3) For purposes of this section, “forcing oneself upon the company of another” means:

- a. Continuing to request, beg or solicit alms after the person to whom the request is directed has declined or ignored the request;
- b. Blocking the passage of the person addressed;
- c. Following or walking alongside the person being solicited; or
- d. Otherwise engaging in conduct which could reasonably be construed as intended to compel or force a person to accede to demands.

(e) *Prohibited conduct/criminal acts.* It shall be unlawful for any person to ask, beg or solicit, or exhibit oneself for the purpose of begging or soliciting, as defined in subsection (d)(1) above:

- (1) By accosting another, or by forcing oneself upon the company of another;
- (2) Within 100 feet of an entrance or exit of any bank or financial institution or other establishment whose primary function is dispensing cash or within 100 feet of any automatic teller machine or other machine which dispenses money to the public.
- (3) At any outdoor dining area or outdoor merchandising area, provided such areas are in active use at the time;
- (4) At any transit stop or taxi stand or in a public transit vehicle;
- (5) At the entrance to or exit of any toilet facility open to the public, including any temporary use site (port-a-toilet);
- (6) In a parking lot or garage including entryways, stairwells, exits or pay box or pay stations connected therewith;
- (7) In hospital quiet zones, as defined in section 46-4;
- (8) At any valid mobile food cart vendor location as defined in section 74-272;
- (9) Within any areas adjacent to or near any public, private, or parochial schools and/or community college, college, or university school zone;
- (10) While the person being solicited is standing in line waiting to be admitted to a commercial establishment;
- (11) By touching the person being solicited or the motor vehicle occupied by the person being solicited without that person's consent;
- (12) By or with the use of profane or abusive language during the solicitation or following an unsuccessful solicitation and/or by or with the use of any gesture intended to cause a reasonable person to be fearful of the solicitor;
- (13) After dark, which shall mean one-half hour after sunset until one-half hour before sunrise, For purposes of enforcement of this section, the terms "sunrise" and "sunset" shall be determined by and based on the times for those events published daily by the U.S. Naval Observatory Astronomical Applications Department;
- (14) While under the influence of alcohol or after having used any illegal substances defined in the North Carolina Controlled Substance Act;
- (15) By knowingly making any false or misleading representation in the course of soliciting. False or misleading representations include, but are not limited to, the following:

- a. Stating falsely that the solicitor is from out-of-town and stranded.
- b. Stating or suggesting falsely that the solicitor is either a present or former member of the armed services.
- c. Stating falsely that the solicitor is homeless.
- d. Stating falsely that the solicitor is seeking money for charitable purposes.

(16) On a center median as defined in Code section 38-32;

(17) On private property if the owner, tenant, or lawful occupant has asked the person not to solicit on the property, or has posted a sign clearly indicating that solicitations are not welcome on the property;

(18) Without having on their person at all times that they are engaged in the acts of begging or soliciting of alms the panhandler privilege license required in subsection (c) herein;

(19) By stepping into, standing, sitting or walking in any roadway;

(20) By delivering or receiving any tangible item to or from any occupant of any vehicle in a lane that is not contiguous with the curb or roadside on which the solicitor is present;

(21) By displaying a sign larger than two feet in any dimension;

(22) By stopping or attempting to stop a vehicle that is approaching a traffic signal unless the traffic signal requires the vehicle to come to a complete stop;

(23) By interfering with or impeding the normal movement and quick and safe passage across the roadway of pedestrians or of persons in or on wheelchairs or other devices designed or intended to assist the mobility-impaired or by interfering with or impeding the normal flow of vehicle traffic;~~or~~

(24) While violating any litter or traffic safety laws;or

(25) In any public park or city-owned recreation facility.

(f) *Penalty.* A violation of this section, or any part thereof, shall constitute a class 3 misdemeanor, as provided by G.S. 14-4, and shall subject the offender to a fine of not more than \$500.00.

(g) *Severability.* Severability is intended throughout and within the provisions of this section. If any section, subsection, sentence, clause, paragraph or portion thereof is held to be invalid or unconstitutional by a court of competent jurisdiction, then that decision shall not affect the validity of any of the remaining portions of this section.

Section 4: This ordinance shall become effective upon adoption.