

Bill No. 4449, an Ordinance Amending Sections 210.260, 610.030 and 610.120 of the Municipal Code of Ordinances of the City of Wentzville, Missouri, Regarding Solicitation and Panhandling

WHEREAS, Chapter 210 of the Municipal Code of Ordinances (the "Code") of the City of Wentzville, Missouri (the "City"), addresses offenses in the City, and Section 210.260 of the Code defines and outlines the offense of aggressive begging within the City; and

WHEREAS, Chapter 610 of the Code of the City addresses peddling, soliciting and canvassing activities within the City, and Sections 610.030 and 610.120 identify the application process for soliciting and peddling activities and the regulation of solicitation on public streets, respectively, within the City; and

WHEREAS, due to the recent federal court decision of Fernandez v. St. Louis County, and in order to ensure that Sections 210.260, 610.030 and 610.120 of the Code conforms to all constitutional requirements regarding what solicitation and canvassing within the City, the Board of Aldermen of the City of Wentzville, Missouri, deems it necessary to amend Sections 210.260, 610.030 and 610.120 of the Municipal Code regarding solicitation and canvassing.

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

Section 1: Section 210.260 of the Wentzville Municipal Code shall be repealed in its entirety and the following shall be adopted as Section 210.260 of the Wentzville Municipal Code regarding the prohibition of aggressive begging:

Sec. 210.260. - Aggressive begging prohibited.

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

Aggressive begging means begging in the following manner:

- (1) To approach or speak to a person in such a manner as would cause a reasonable person to believe that the person is being threatened with:
 - a. Imminent bodily injury; or
 - b. The commission of a criminal act upon the person or another person, or upon property in the person's immediate possession;
- (2) To touch a solicited person without the person's consent;
- (3) To render any service to a motor vehicle, including, but not limited to, any cleaning, washing, protecting, guarding or repairing of the vehicle or any portion

thereof, without the prior consent of the owner, operator or occupant of such vehicle, and thereafter asking, begging or soliciting payment for the performance of such service, regardless of whether such vehicle is stopped, standing or parked on a public street or upon other public or private property; or

- (4) To engage in conduct that would reasonably be construed as intended to intimidate, compel or force a solicited person to make a donation.

Begging means any vocal appeal for a solicitation in person by a person when the person making the request is not known to the persons who is the subject of the request.

(b) Prohibitions.

- (1) It is unlawful for any person to engage in aggressive begging.
- (2) It is unlawful for any person to engage in law of begging when either the beggar or the person being solicited is located in, on, or at any of the following locations:
- a. Within 25 feet of an automatic teller machine or entrance to a bank;
 - b. At any sidewalk cafe or outdoor dining area at a restaurant;
 - c. Within 50 feet of any public or private school;
 - d. At any bus stop, or cab stand;
 - e. Within 20 feet of any crosswalk;
 - f. Within any municipal or government owned building, park or playground.
- (3) It is unlawful for any person to engage in begging on private property or inside a business without written permission from the owner.

(c) Penalty. Penalties for violations of this section shall be as follows:

- (1) *First violation.* Upon a first violation, the person accused of violating this section shall be issued a warning ticket that shall not include a summons to appear before a court of proper jurisdiction.
- (2) *Second violation.*
- a. Upon a second violation, the person accused of violating this section shall be issued a written citation, including a summons to appear before a court of proper jurisdiction for disposition of the case.
 - b. Upon conviction, the violator may be sentenced to a monetary fine not less than \$50.00 but no more than the maximum fine as set forth in section 100.190.
- (3) *Third and subsequent violations.*
- a. Upon a third violation, and subsequent violations, the person accused of violating this section shall be issued a written citation, including a summons

to appear before a court of proper jurisdiction for disposition of the case.

- b. Upon conviction for a third offense, and subsequent offenses, the violator may be sentenced to a monetary fine not to exceed the maximum fine as set forth in section 100.190 or imprisonment not to exceed 30 days.
- c. Nothing in this section shall abrogate or abridge provisions of this Code concerning solicitations made by charitable organizations, or the laws of state and federal government, or any law regulating nonprofit, religious, educational, civic or benevolent organizations.

Section 2: Subsection (e) of Section 610.030 of the Wentzville Municipal Code shall be repealed in its entirety and subsection (f) of Section 610.030 of the Wentzville Municipal Code regarding the application for a solicitation license shall be renumbered as subsection (e) to read as follows:

Sec. 610.030. - Application for license; filing fee.

- (e) Businesses, firms, entities and corporations registered or licensed within the corporate limits of the city shall be exempt from the terms of this chapter except that all such persons, firms, corporations or other entities shall not engage in any of the unlawful practices set forth in section 610.050, nor engage in soliciting or peddling outside of the permitted hours of operation set forth in section 610.110 and shall comply with the requirements of section 610.120 regarding solicitation on public streets. Employees of businesses, firms, entities and corporations registered or licensed within the corporate limits of the city that engage in soliciting shall be subject to the penalties addressed in section 610.130 upon any finding that such person has violated the requirements of section 610.050, 610.110 or 610.120.

Section 3: Section 610.120 of the Wentzville Municipal Code shall be repealed in its entirety and the following shall be adopted as Section 610.120 of the Wentzville Municipal Code regarding the regulation of solicitation on public streets:

Sec. 610.120. - Regulation of solicitors on public streets.

- (a) The board of aldermen recognize the desire to solicit from vehicles traveling along public streets within the city, but believe it necessary to place certain reasonable restrictions on such activity in order to insure the public safety and general welfare pursuant to the provisions of RSMo 79.450.
- (b) No individuals, groups or organizations shall solicit funds along public streets without first obtaining a solicitor's license from the city clerk pursuant to the provisions of section 610.030 et seq. The completed application and supporting documents are to be submitted at least two weeks prior to the planned solicitation. There shall not be more than one permit issued per day.
- (c) The number of individuals soliciting shall not exceed four at any street intersection. No more than one such solicitation in the city's streets per year will be permitted by any

individual, group or affiliation thereof. Solicitors will be required to wear reflective safety vests whenever soliciting in the streets. The minimum age limit for solicitors shall be 14 and there must be adult supervision. The time period of such solicitation shall not be greater than four hours.

Section 4: It is hereby declared to be the intention of the Board of Aldermen that the sections, paragraphs, sentences, clauses, phrases and words of this ordinance are severable, and if any section, paragraph, sentence, clause, phrase or word(s) of his ordinance shall be declared unconstitutional or otherwise invalid, such unconstitutionality or invalidity shall not affect any of the remaining sections, paragraphs, sentences, clauses, phrases and words of this ordinance since the same would have been enacted by the Board of Aldermen without incorporation in the ordinance of any such unconstitutional or invalid portion of this ordinance.

Section 5: This Ordinance shall be in full force and effect from and after its passage by the Board of Aldermen and approval by the Mayor.

READ TWO TIMES AND PASSED BY THE BOARD OF ALDERMEN OF THE CITY OF WENTZVILLE, MISSOURI THIS 17 DAY OF November, 2021.


Mayor, Nickolas Guccione

Attest:


City Clerk, Kathryn Bowman

APPROVED BY THE MAYOR OF THE CITY OF WENTZVILLE, MISSOURI THIS 18 DAY OF November, 2021.


Mayor, Nickolas Guccione

Attest:


City Clerk, Kathryn Bowman

Approved as to Form:


Attorney

