

**ORDINANCE 2-18-14a**

**AMENDING CHAPTER 18 SECTION \_\_\_\_\_, CODE OF ORDINANCES, CITY OF JASPER, BY ADDING A NEW SECTION TO REGULATE AGGRESSIVE PANHANDLING IN A PUBLIC PLACES AND BY PROVIDING THAT A CULPABLE MENTAL STATE IS NOT REQUIRED; PROVIDING FOR PENALTIES; PROVIDING FOR SEVERANCE; AND PROVIDING FOR PUBLICATION.**

**WHEREAS**, the City of Jasper is a home rule city having authority to utilize police power to enact ordinances to protect the health, safety, and general welfare of its citizens;

**WHEREAS**, the City Council finds that establishing a policy to regulate aggressive panhandling will provide for a more safe, secure, and aesthetic environment for the citizens and the city;

**WHEREAS**, the City Council finds that aggressive solicitation is disturbing and disruptive to residents and businesses and contributes to the loss of access to and enjoyment of public places and to a sense of fear, intimidation and disorder; and

**WHEREAS**, the Texas Transportation Code Section 552.007 prohibits a person from standing in the roadway to solicit a ride, contribution, employment, or business from an occupant of a vehicle, except to solicit for a charitable contribution authorized by the local authority;

**WHEREAS**, the aggressive solicitation includes approaching or following pedestrians, repetitive soliciting despite refusals, the use of abuse or profane language to cause fear and intimidation, unwanted physical contact, or blocking pedestrian and vehicular traffic;

**WHEREAS**, the presence of individuals who solicit money from persons at or near banks, automated teller machines, public transportation facilities, and crosswalks may cause fear of crime in a place that is confined, difficult to avoid, or where a person might find it necessary to wait; and

**WHEREAS**, this section is intended to protect citizens from the fear and intimidation accompanying certain kinds of solicitation, and not to limit a constitutionally protected activity.

**NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF JASPER, TEXAS:**

**SECTION 1.** Section \_\_\_\_\_, Code of Ordinances, is amended by adding a new subsection, to read as follows:

**"Sec. \_\_\_\_\_ . Unlawful solicitation.**

\* \* \* \* \*

"(i) Aggressive Panhandling Prohibited.

"(1) Definitions. For the purposes of this subsection:

"a. Aggressive means any of the following acts:

"1. Making any physical contact with or touching the solicitee in the course of the solicitation without the solicitee's consent.

"2. Following a solicitee, if that conduct is:

"A. Likely to cause a reasonable person to fear imminent bodily harm or the commission of a criminal act upon property in the solicitee's possession or

"B. Reasonably likely to intimidate the solicitee into responding affirmatively to the solicitation.

"3. Continuing to solicit after the solicitee has made a negative response to a solicitation, but does not include a request for reconsideration of the denial of a request for a commercial or consumer loan under normal business terms.

"4. Blocking the safe or free passage of a solicitee or requiring the solicitee, or the driver of a vehicle to take evasive action to avoid physical contact with the solicitor.

"5. Using obscene or abusive language or gestures toward the solicitee.

"6. Approaching the solicitee in a manner that:

"A. Is likely to cause a reasonable person to fear imminent bodily harm or the commission of a criminal act upon property in the solicitee's possession or

"B. Is reasonably likely to intimidate the solicitee into responding affirmatively to the solicitation.

"b. Person means any individual, firm, company, corporation, organization, partnership, association, or other legal entity.

"c. Public place means an area to which the public has access and includes, but is not limited to, a sidewalk, street, highway, park, parking lot, parking meter, alleyway, pedestrian way, or the common area of a school, hospital, apartment house, office building, bank, restaurant, or business establishment.

"d. *Response* means any reply or imperative instruction by a solicitee to a solicitor, the solicitee has been solicited or approached by the solicitor, whether verbal or non-verbal, to stop the solicitation, including, but not limited to, the use of gestures or words such as "no," "not today," "stop," "back off," "stay back," "get away," "leave me alone," or "withdraw."

"e. *Solicitation* means the act of panhandling by seeking through a request, by the spoken, written, or printed word, or by another means of communication with another person, an immediate donation or transfer of funds, goods, food, personal favors (such as transportation), clothing, drink, lodging, vehicle fare, or any other item or service to directly benefit the solicitor or a family member of the solicitor, regardless of the solicitor's purpose or intended use of the money or other thing of value, and regardless of whether consideration is offered.

"f. *Solicitee* means any individual to whom a solicitor directs a solicitation.

"g. *Solicitor* means any person who engages in the act of solicitation.

"(2) Offense. A person may not make a solicitation in an aggressive manner in a public place.

"(3) Culpable mental state. A culpable mental state is not required, and need not be proved, for an offense under this subsection."

**SECTION** . A violation of this ordinance or requirements implemented under this ordinance constitutes an offense punishable by a class C misdemeanor.

**SECTION** . If for any reason any section, paragraph, subdivision, clause, phrase, word or provision of this ordinance shall be held invalid or unconstitutional by final judgment of a court of competent jurisdiction, it shall not affect any other section, paragraph, subdivision, clause, phrase, word, or provision of this ordinance, for it is the definite intent of this City Council that every section, paragraph, subdivision, clause, phrase, word or provision of this ordinance be given full force and effect for its purpose.

That the foregoing ordinance was read and passed on this 18 day of February, 2014,  
by the following vote:

Alton Scott FOR

Tommy Schofield FOR

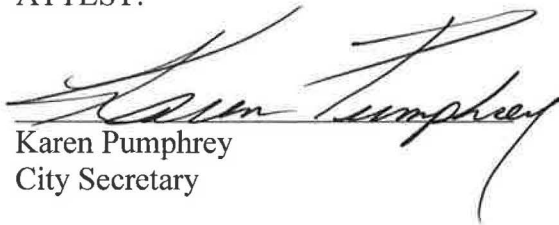
Hazel Johnson FOR

Raymond Hopson FOR

Mitch McMillan FOR

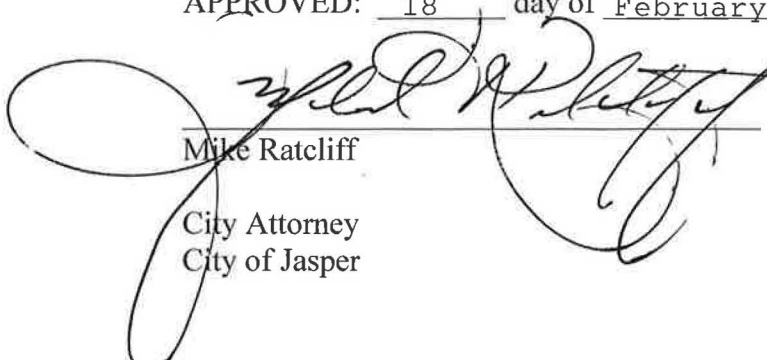
PASSED AND APPROVED, this the 18 day of February, 2014.

ATTEST:

  
Karen Pumphrey  
City Secretary

  
Mike Lout  
Mayor

APPROVED: 18 day of February, 2014:

  
Mike Ratcliff  
City Attorney  
City of Jasper