

AN ORDINANCE  
AMENDING CHAPTER 6.45 ENTITLED “PEDDLERS AND SOLICITORS”  
OF THE ELGIN MUNICIPAL CODE

WHEREAS, Chapter 6.45 of the Elgin Municipal Code, entitled “Peddlers and Solicitors,” sets forth certain regulations with respect to activities defined as peddling and soliciting within the City of Elgin; and

WHEREAS, Section 6.45.040 further sets forth regulations with respect to the solicitation of funds on public streets and sidewalks by requiring a permit for such solicitation and regulating such solicitation activities by placing significant limitations on such activities with respect to time, location, and manner; and

WHEREAS, in 2015 the United States Supreme Court decided the case of *Reed v. Town of Gilbert*, 135 S.Ct. 2218 (2015), which generally held that a regulation that depends on the communicative content of any speech activities in a public forum must be narrowly tailored to serve a compelling governmental interest; and

WHEREAS, the Supreme Court has long recognized that the regulation of speech in an area considered to be a non-public forum for purposes of First Amendment analysis is subject to a lesser standard of scrutiny whereby the regulation of speech must be reasonable in light of its purpose and viewpoint neutral; (*See Perry Ed. Assn. v. Perry Local Educators’ Assn.*, 460 U.S. 37 (1983); *Cornelius v. NAACP Legal Defense & Ed. Fund, Inc.*, 473 U.S. 788 (1985); *United States v. Kokinda*, 497 U.S. 720 (1990); *Int’l Society of Krishna Consciousness, Inc. v. Lee*, 505 U.S. 672 (1992); *Walker v. Texas Div., Sons of Confederate Veterans, Inc.*, 135 S.Ct. 2239 (2015) (decided the same day as *Reed v. Town of Gilbert, Arizona*, 135 S.Ct. 2218 (2015)); and

WHEREAS, the Supreme Court in *Int’l Soc’y of Krishna Consciousness, Inc. v. Lee*, 505 U.S. 672 (1992) upheld a solicitation ban in a non-public forum applying the reasonableness standard; and

WHEREAS, the Supreme Court in *Int’l Soc’y of Krishna Consciousness, Inc. v. Lee*, 505 U.S. 672 (1992) further recognized that in-person solicitation for the immediate receipt of funds creates a risk of fraud and duress that is different in kind from other forms of expression and conduct, that such in-person solicitation has been associated with coercive or fraudulent conduct, and that such solicitation is an appropriate subject of regulation (see *Int’l Soc’y of Krishna Consciousness, Inc. v. Lee*, 505 U.S. at 684; *Id.* at 705 (Kennedy, J., concurring)); and

WHEREAS, the city has determined that it is advisable in light of the decision in *Reed v. Town of Gilbert*, and its progeny to amend and clarify its existing regulations on solicitation including enacting certain reasonable restrictions on certain in-person solicitations for the immediate receipt of funds in areas that the city has determined to be non-public forums, consistent with the decision in *Reed v. Town Gilbert* and other the authorities referenced here; and

WHEREAS, section 11-80-2 of the Illinois Municipal Code (65 ILCS 5/11-80-2) provides that the “corporate authorities of each municipality may regulate the use of the streets and other municipal property;” and

WHEREAS, section 11-80-9 of the Illinois Municipal Code (65 ILCS 5/11-80-9) provides that the “corporate authorities of each municipality may prevent and regulate all amusements and activities having a tendency to annoy or endanger persons or property on the sidewalks, streets, and other municipal property;” and

WHEREAS, section 11-80-20 of the Illinois Municipal Code (65 ILCS 5/11-80-20) provides that “the corporate authorities of each municipality may regulate traffic and sales upon the streets, sidewalks, public places, and municipal property;” and

WHEREAS, section 1-179 of the Illinois Vehicle Code (625 ILCS 5/1-179) defines “roadway” as “[t]hat portion of a highway improved, designed or ordinarily used for vehicular travel, exclusive of the berm or shoulder;” and

WHEREAS, section 1-188 of the Illinois Vehicle Code (625 ILCS 5/1-188) defines “sidewalk” as “[t]hat portion of a street between the curb lines, or the lateral lines of a roadway, and the adjacent property lines, intended for use of pedestrians;” and

WHEREAS, section 11-1007 of the Illinois Vehicle Code (625 ILCS 5/11-1007), pursuant to Article X of the Illinois Rules of the Road entitled “Pedestrians’ Rights and Duties,” provides that “where a sidewalk is provided and its use is practicable, it shall be unlawful for any pedestrian to walk along and upon an adjacent roadway;” and

WHEREAS, Illinois courts have held that pedestrians are not the intended and permitted users of street medians, finding that “it would be unreasonable to allow pedestrians to use the dangerous area between lanes of traffic flowing in opposite directions;” *Roberson v. City of Chicago*, 260 Ill. App. 3d 994, 998 (1st Dist. 1994); *see also Krampert v. Village of Mt. Prospect*, 323 Ill. App. 3d 41, 44 (1st Dist. 2001); and

WHEREAS, since 2015 the number of reported accidents at those intersections where solicitation is limited under the Elgin Municipal Code has increased by more than sixty percent (60%), from 114 accidents in 2015 to 184 accidents in 2024; and

WHEREAS, the City of Elgin is a home rule unit authorized to exercise any power and perform any function pertaining to its government and affairs; and

WHEREAS, regulations relating to the use of city roadways and streets and the activities thereon bear directly upon public health, safety, and welfare, and pertain to the government and affairs of the city.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ELGIN, ILLINOIS:

Section 1. That Chapter 6.45 of the Elgin Municipal Code, entitled “Peddlers and Solicitors,” be and is hereby further amended by adding a new Section 6.45.005 entitled “Purpose and Intent:” to read as follows:

“6.45.005: PURPOSE AND INTENT:

This Chapter 6.45 is intended to be narrowly tailored to the City of Elgin’s legitimate interest in preventing fraud, the privacy of its residents, the prevention of crime, the protection of vehicular and pedestrian safety, and conserving the police department’s resources. This chapter is expressly not intended to interfere with the exercise of free speech and free exercise rights protected by the First Amendment within public forums including, but not limited to, religious proselytizing, political speech, and the distribution of handbills. This chapter is also not intended to regulate or restrict the content of any personal solicitation other than to prohibit false or misleading speech that is not protected under the First Amendment of U.S. Constitution, and to restrict the immediate receipt of funds in certain non-public forums. This chapter shall not be construed, applied, interpreted, or enforced in a way that is based upon the content of or the views expressed in any personal solicitation.”

Section 2. That Section 6.45.010 of the Elgin Municipal Code, entitled “Definitions,” be and is hereby further amended by adding to the listing of definitions therein the additional definitions for “Median,” “Public Forum,” and “Roadway,” to read as follows:

“MEDIAN: Any area in the middle of a roadway separating two or more lanes of travel and designed to provide a barrier or separation to keep traffic on one side of a roadway from going to the other side of the roadway.

PUBLIC FORUM: Public property that has traditionally been open to the public for speech, assembly, and debate including public streets, sidewalks, and parks, but not including roadways as defined herein.

ROADWAY: That portion of a public right-of-way, improved, designed, or ordinarily used for vehicular travel, inclusive of any medians, crosswalks, or pedestrian areas within the boundaries of such roadways that are improved, designed, or ordinarily used to facilitate the crossing of such roadways by pedestrians. A public roadway shall not be considered a public forum for any purposes.”

Section 3. That Section 6.45.020 of the Elgin Municipal Code, 1976, as amended, entitled “Permit Requirements and Exceptions,” be and is hereby further amended by amending subsection F thereof to read as follows:

“F. Any solicitation made upon any public street or sidewalk requesting the contribution of funds or anything of value; provided further however, it shall be unlawful for any person to engage in such activities within a public roadway pursuant to section 6.45.040 of this chapter.”

Section 4. That Section 6.45.040 of the Elgin Municipal Code, entitled “Permit for Solicitation of Funds on Public Streets or Sidewalks,” be and is hereby further amended to read as follows:

“6.45.040: PEDESTRIAN ACTIVITIES WITHIN PUBLIC ROADWAYS PROHIBITED:

- A. No person or entity shall be permitted to stop or stand within any public roadway, including but not limited to on any, median, crosswalk, or other pedestrian area located within the roadway, for the purpose of remaining upon or engaging in any activities within such roadway.
- B. No person or entity shall engage in any activity from within any public roadway, or from any sidewalk or other area adjoining a public roadway, in any manner that interferes with or obstructs vehicular or pedestrian traffic, and shall comply with all applicable traffic regulations.”

Section 5. That Section 6.45.050 of the Elgin Municipal Code, entitled “Permit Application:” be and is hereby further amended by amending subsection B thereof to read as follows:

“B. Every person subject to the provisions of section 6.45.030 shall file with the city's chief financial officer an application in writing on a form to be furnished by the chief financial officer, which shall provide the following information:”

Section 6. That Section 6.45.070 of the Elgin Municipal Code, entitled “Denial of Permit:” be and is hereby further amended by amending subsection A.6 thereof to read as follows:

“6. The applicant or a person the applicant proposes to sponsor as a peddler or solicitor pursuant to section 6.45.030 has been denied a permit under this chapter within the immediate past year, unless the applicant can and does show to the satisfaction of the chief financial officer that the reasons for such earlier denial no longer exist”

Section 7. That all ordinances or parts of ordinances in conflict with the provisions of this ordinance be and are hereby repealed to the extent of any such conflict.

Section 8. That this ordinance shall be in full force and effect ten (10) days after its passage and publication in the manner provided by law.

s/ David J. Kaptain

David J. Kaptain, Mayor

Presented: February 12, 2025

Passed: February 12, 2025

Omnibus Vote: Yeas: 9 Nays: 0

Recorded: February 12, 2025

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Attest:

s/ Kimberly Dewis

Kimberly Dewis, City Clerk