

1 CITY OF SANTA FE, NEW MEXICO

2 ORDINANCE NO. 2010-31

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4
5 AN ORDINANCE

6 AMENDING SECTION 23-4.2 SFCC 1987 REGARDING SOLICITATION ON PUBLIC
7 PROPERTY; CREATING A NEW ARTICLE 20-2 SFCC 1987 REGULATING
8 PANHANDLING ON PUBLIC PROPERTY; CREATING A NEW ARTICLE 20-3 SFCC
9 1987 REGULATING PANHANDLING ON PRIVATE PROPERTY.

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

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

14 23-4.2 Solicitation on Public Property. The practice by itinerant vendors or solicitors
15 of going onto public property for the purpose of selling goods, wares and merchandise or for the
16 purpose of disposing of the same is prohibited except as otherwise provided by law or authorized
17 by the governing body. Each act of solicitation prohibited by this section shall constitute a public
18 nuisance and a separate violation of this Code. Each violation shall be punishable as provided in
19 Article 1-3 SFCC 1987.

20 Editor's Note: For restrictions on panhandling see Articles 20-2 and 20-3 SFCC
21 1987.

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

23 20-2 [NEW MATERIAL] PANHANDLING ON PUBLIC PROPERTY.

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

25 20-2.1 [NEW MATERIAL] Purpose. The purpose of this Ordinance is to establish

1 regulations for panhandling in order to promote the safety and convenience of the city's citizens; to
2 protect the panhandler's right to free speech; and to promote harmony among panhandlers, local
3 businesses, residents and visitors within the city.

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

5 **20-2.2 [NEW MATERIAL] Definitions.** As used in this article:

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

7 *Panhandling* means:

8 A. Any solicitation made in person upon public property in the city in which
9 a person requests an immediate donation of money or other gratuity from another person
10 and includes, without limitation, seeking donations by vocal appeal; or

11 B. In exchange for a donation, the person being solicited receives an item of
12 little or no monetary value under circumstances where a reasonable person would
13 understand that the transaction is in substance a donation.

14 C. Panhandling shall not include:

15 (1) The act of passively standing or sitting, with a sign or other
16 indication that a donation is being sought without any vocal request, other than in
17 response to an inquiry by another person; or

18 (2) A street performance, as regulated in Article 23-8 SFCC 1987.

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

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

23 A. Panhandling is prohibited on any day after sunset or before sunrise within the
24 Business-Capitol District, as shown on the official zoning map of the city of Santa Fe.

25 B. Panhandling is prohibited involving any operator or occupant of a motor vehicle

1 that is in traffic on or entering any street, street intersection, alley or other public passageway in
2 any manner that obstructs the operation of any vehicle by any motorist.

3 C. Panhandling is prohibited when either the panhandler or the person being
4 solicited is located at any of the following locations:

- 5 (1) At a bus stop;
- 6 (2) In any public transportation vehicle or public transportation facility;
- 7 (3) In or on any private vehicle or conveyance;
- 8 (4) In a sidewalk cafe;
- 9 (5) Within twenty (20) feet in any direction from an automatic teller
10 machine or entrance to a bank;
- 11 (6) Within the median of a street; or
- 12 (7) On school property.

13 D. Panhandling in an aggressive manner is prohibited, including any of the
14 following actions:

- 15 (1) Touching the solicited person without the solicited person's consent;
- 16 (2) Panhandling a person while such person is standing in line and waiting to
17 be admitted to a commercial establishment;
- 18 (3) Blocking the path of a person being solicited or the entrance to any
19 building or vehicle;
- 20 (4) Following behind, ahead or alongside a person who walks away from the
21 panhandler after being solicited;
- 22 (5) Using profane or abusive language, either during the solicitation or
23 following a refusal to make a donation, or making any statement, gesture, or other
24 communication which would cause a reasonable person to be fearful or feel compelled;
25 or

- 1 (6) Panhandling in a group of two (2) or more persons.
- 2 E. Panhandling with a sign exceeding four square feet is prohibited.
- 3 F. Panhandlers shall not block, or cause the blocking of, any sidewalk, passageway,
4 street, or entrance to a building.
- 5 G. Panhandling at one location longer than two (2) hours is prohibited and the
6 panhandler shall not return to that same location for two (2) hours.

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

8 **20-2.4 [NEW MATERIAL] Other Compliance.** The conduct and behavior of all
9 panhandlers shall be in compliance with the Santa Fe City Code 1987.

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

11 **20-2.5 [NEW MATERIAL] Penalties; Enforcement.**

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

15 B. It shall be the duty of the police department to enforce the provisions of Article
16 20-2 SFCC 1987.

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

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

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

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

22 **20-2.6 [NEW MATERIAL] Review.** Article 20-2 SFCC 1987 shall be reviewed by
23 the governing body one year from the date of adoption.

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

25 **20-3 [NEW MATERIAL.] PANHANDLING ON PRIVATE PROPERTY.**

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

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

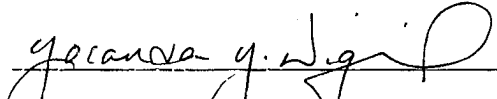
Panhandling on private property is prohibited unless formal written permission is granted from the property owner to the person panhandling. Any violation of this section is punishable as set forth in Article 1-3 SFCC 1987.

PASSED, APPROVED and ADOPTED this 8th day of December, 2010.




DAVID COSS, MAYOR

ATTEST:


YOLANDA Y. VIGIL, CITY CLERK

APPROVED AS TO FORM:


GENO ZAMORA, CITY ATTORNEY