

September 12, 2013

Mr. Thomas Bonfield, City Manager  
City of Durham  
101 City Hall Plaza  
Durham, NC 27701

Dear Mr. Bonfield:

Earlier this year, in response to community concerns, the Homeless Services Advisory Committee (HSAC) convened a subcommittee to review the City of Durham Roadside Solicitation Ordinance #14375. The subcommittee provided proposed revisions to Ordinance #14375 and other recommendations to the full HSAC at its June 26, 2013 meeting. At its August 21, 2013 meeting, the HSAC adopted a formal resolution recommending the proposed revisions to Ordinance #14375 and other recommendations to the City Council, in partial fulfillment of its role as an advisory committee to the City Council on matters impacting people who are homeless in Durham.

On behalf of the HSAC, I am requesting the attached resolution, proposed revisions to ordinance #14375, and other recommendations be added to the City Council agenda for consideration at the October 21, 2013 City Council meeting.

Thank you for considering this request.

Sincerely,



Minnie Forte-Brown, Chair  
Homeless Services Advisory Committee  
919-452-2177  
[Minnie.forte-brown@dpsnc.net](mailto:Minnie.forte-brown@dpsnc.net)

RESOLUTION  
HOMELESS SERVICES ADVISORY COMMITTEE

Whereas the Homeless Services Advisory Committee (HSAC) was appointed by the City and County to serve as the advisory committee to the Governing Bodies on all plans, goals, objectives, policies, standards, programs, proposals and priorities for all homeless services for the City and County; and

Whereas, the HSAC, in collaboration with City Department of Community Development, is engaged in a multi-year, year-round strategic planning and implementation process that addresses the needs of homeless individuals and households, the availability and accessibility of existing housing and services, and the opportunities for linkages with mainstream housing and services resources; and

Whereas, the HSAC received community comments about the City of Durham Ordinance No. 14375, Section 4, adopted December 17, 2012, entitled, "Requirement for transactions with motor vehicles on roadway" (hereinafter referred to as the "Solicitation Ordinance"); and

Whereas, the Chair of the HSAC tasked Committee Member Bowman with convening and chairing a Subcommittee to review the Solicitation Ordinance and receive input concerning same; and

Whereas, the Solicitation Subcommittee offered its proposed revisions to the current Solicitation Ordinance, and attendant recommendations, to the HSAC at its meeting of June 26, 2013; and, per the request of Committee Member Bonfield, the HSAC deferred action until the Subcommittee Chair received input and comment from the City Attorney's Office concerning the Subcommittee's proposed revisions to the Solicitation Ordinance; and

Whereas, the Solicitation Subcommittee has incorporated changes from the City Attorney's Office into its proposed revisions to the Solicitation Ordinance; and

Whereas, the Subcommittee has submitted to the HSAC, at its meeting of August 21, 2013, the Subcommittee's proposed revisions to the Solicitation Ordinance, along with the recommendations of the Subcommittee submitted with the Subcommittee's Report to the HSAC on June 26, 2013.

NOW THEREFORE, it is the recommendation of the Homeless Services Advisory Committee:

1. That the City Council adopt the proposed revisions to the Solicitation Ordinance as submitted to the HSAC at its meeting of August 21, 2013; and
2. That the City Council adopt the recommendations set forth in the Subcommittee's Report of June 26, 2013.

Submitted this the 12 day of September, 2013.

Homeless Services Advisory Committee



By: \_\_\_\_\_  
Minnie Forte-Brown, Chair

Homeless Services Advisory Committee  
 Roadside Solicitation Ordinance: Suggested Revision Notes

Page/Section	Current Ordinance	Proposed Change	Rationale
Page 10 Section 54-86 (a)(1)	Stopping or attempting to stop, For the purpose of soliciting employment, business, or contributions, approaching a motor vehicle that is on a one-way street, but only when (i) the motor vehicle is in the traffic lane closest to the edge of the roadway if the roadway contains more than one traffic lane, and (ii) the individual is on a paved sidewalk;	Upon invitation, approaching a motor vehicle on a street for the purpose of soliciting employment, business, or contributions so long as no individual walks in front of a motor vehicle during the solicitation and the vehicle is stopped pursuant to a stop sign or traffic signal requiring a complete stop.	- provide for motorist invite; - expand to st., not just 1 way st.; - provide for safety – not in front of vehicle
Page 10 Section 54-86 (a)(2)	Delivering or offering to deliver a tangible thing to an occupant passenger (not the driver) of a motor vehicle that is on a roadway, but only when (i) the motor vehicle is on a one-way street; (ii) the motor vehicle is in the traffic lane closest to the edge of the roadway if the roadway contains more than one traffic lane; (iii) the driver of the motor vehicle is, while the delivery or offer to deliver is occurring, complying with either (x) a traffic signal that requires the vehicle to come to a complete stop and the traffic signal has not changed to allow the vehicle to proceed, or (y) a stop sign; and (iv) the passenger is on the right-hand side of the motor vehicle;	Delivering or offering to deliver, upon invitation, a tangible thing to an occupant of a motor vehicle on a street, so long as no individual walks in front of a motor vehicle during the solicitation and the vehicle is stopped pursuant to a stop sign or traffic signal requiring a complete stop	- provide for motorist invite; - provide for safety – not in front of vehicle; - simplify
Page 11 Section 54-86 (a)(3)	Receiving a tangible thing from an occupant passenger (not the driver) of a motor vehicle that is on a roadway, but only when (i) the motor vehicle is on a one-way street; (ii) the motor vehicle is in the traffic lane closest to the edge of the roadway if the roadway contains more than one traffic lane; (iii) the driver of the motor vehicle is, while the individual is receiving the tangible thing from the passenger, complying	Receiving a tangible thing from an occupant of a motor vehicle while on a street, so long as no individual walks in front of a motor vehicle during the solicitation and the vehicle is stopped pursuant to a stop sign or traffic signal requiring a complete stop	- simplify; - provide for safety – not in front of vehicle

Homeless Services Advisory Committee  
 Roadside Solicitation Ordinance: Suggested Revision Notes

<p>Page 12 Section 54-86 (b)(4)</p>	<p>with either (x) a traffic signal that requires the vehicle to come to a complete stop and the traffic signal has not changed to allow the vehicle to proceed, or (y) a stop sign; and (iv) the passenger is on the right-hand side of the motor vehicle.</p> <p>Animals. Be accompanied by an animal, provided that an individual with a disability may be accompanied by a service animal trained to assist the individual with the individual's specific disability, upon a showing of a tag, issued by the N.C. Department of Health and Human Services, under G.S. 168-4.3, stamped "NORTH CAROLINA SERVICE ANIMAL PERMANENT REGISTRATION" and stamped with a registration number, or upon a showing that the animal is being trained or has been trained as a service animal. An animal in training to become a service animal may accompany the individual for the purpose of training only when the animal is accompanied by a person who is training the service animal and the animal wears a collar and leash, harness, or cape that identifies the animal as a service animal in training.</p>	<p>REMOVE</p>	<p>- other ordinances deal with animal safety; - these folks don't have "service-trained" animals</p>
<p>Page 14 Section 54-86 (b)(10)</p>	<p>Stopping vehicles at stop signals and signs. Stop or attempt to stop a motor vehicle that is approaching a traffic signal unless while the individual does either of those actions the traffic signal requires the vehicle to come to a complete stop. For example, the individual does not violate this subsection if the vehicle that the individual stops or attempts to stop is approaching a stop sign or a steady, flashing, or strobe beam light emitting red light, and the individual is in violation of this subsection if the vehicle that the individual stops or attempts</p>	<p><i>change to (b)(9)</i> Aggressive Panhandling. No individual, without invitation or signal by an occupant of a motor vehicle stopped pursuant to a stop sign or traffic signal requiring a complete stop, shall approach a motor vehicle, touch or cause something to touch a motor vehicle for purposes of solicitation.</p>	<p>- address aggressive panhandling; - former (b)(10) already covered elsewhere</p>

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	<p>to stop is approaching a yield sign, or a steady, flashing, or strobe beam light emitting yellow or green light.</p>		
<p>Page 14          Section 54-86          (b)(11)</p>	<p>Safe passage of pedestrians. Interfere with the quick and safe passage across the roadway of pedestrians</p>	<p>Change to (b)(10)          Safe passage of pedestrians. Interfere with the quick and safe passage across the roadway of pedestrians. , or impede the normal movement of pedestrians.</p>	<p>- clarify;          - renumbered</p>

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Page 14 Section 54-86 (b)(12)	Normal movement of pedestrians. Impede the normal movement of pedestrians.	REMOVE	- renumbered
Page 15 Section 54-86 (b)(13)	Littering and traffic laws. Violate any litter or traffic safety laws, including G.S. 20-174.1 and G.S. 20-175.	Change to (b)(11) Add G.S. 14-399	- renumbered; - clarify
Page 15 Section 54-86 (b)(14)	Removal of goods, etc. Fail to remove all goods for sale, and all structures, devices, things, and materials of any kind used to transport, protect, display, advertise, or sell any goods, from the solicitation-restricted right-of-way when the individual is more than 50 feet away from any such item.	Change to (b)(12) Removal of goods, etc. Fail to remove all goods and litter	- renumbered; - clarify

## MEMORANDUM

**TO:** Homeless Services Advisory Committee  
**FROM:** Solicitation Ordinance Subcommittee  
**DATE:** June 26, 2013

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The Solicitation Ordinance Subcommittee was charged by the Homeless Services Advisory Committee ("HSAC") to review the City of Durham's Ordinance adopted in December 2012, and to report to the HSAC with any suggested revisions or modifications. The Subcommittee has been meeting bi-weekly since April 8, 2013.

The Subcommittee members include:

Patrick Baker, City Attorney  
John A. Bowman, Attorney (HSAC)  
Ryan Fehrman, Genesis Home  
Stan Harris, Durham County Sheriff's Dept. (HSAC)  
Scott Holmes, Attorney  
Michael Kelly, Housing For New Hope  
Shamielka Rhinehart, Durham County Assistant District Attorney  
Carolyn Schmoldt, Open Table Ministry  
Mike Shiflett, Businessman  
Chris Tuttle, Westminster Presbyterian Church (HSAC)  
Jonathan Wilson Hargrove, Rutba House  
Bo Glenn (ex officio, HSAC Chair)  
Staff: Matt Schnars  
Lloyd Schmeidler

This serves to outline the recommendations of the Solicitation Ordinance Subcommittee to the HSAC, as follows:

1. That the City ordinance be modified as reflected on the attached copy of the revised ordinance.
2. That the Mental Health First Aid training, currently offered through Alliance Behavioral Healthcare on July 1st and 2nd, be available to Durham City Police Officers, especially those patrolling in areas where panhandling/solicitation routinely occurs (flyer attached).
3. That funding for the Crisis Intervention Team ("CIT") be continued, with more training available to officers.
4. That Durham adopt an "Outreach Court", similar to what is in Chapel Hill, by way of expanding Durham's current Community Life Court to include the handling and

disposition of citations issued for violation of Durham's solicitation ordinance. More specifically, Durham's Community Life Court, once a month, would address citations for violation of the ordinance; and, in attendance would be representatives of various providers including, by way of illustration, the Department of Social Services, Legal Aid, Duke Healthcare, Lincoln Community Health Center, Urban Ministries of Durham, Housing For New Hope, Partnership For Drug-Free North Carolina, etc. Attendees in Community Life Court would have the opportunity to have their cases continued by working with representatives of the above agencies to address their individual needs; and, after a six to nine month probationary period of successful work with providers, the charges would be dismissed. Scott Holmes and John Bowman will work with Chief District Court Judge Marcia Morey on this effort.

5. Officers interacting with panhandlers should provide individuals with a list of services (copy attached) as well as, on the back side, text of the newly revised solicitation ordinance.
6. That the council consider adopting a Citizens Partnership Group of community partners, some of which may be religious institutions, such that any police officer might have a number to call to assist with an individual in crisis, whether violating the panhandling statute or not.
7. The Committee is aware that the Durham County Ordinance simply prohibits solicitation (see copy attached). Our Committee thinks this is wrong; and, that the City and County should adopt our revised ordinance.

Respectfully submitted,

John A. Bowman  
Chair, Solicitation Ordinance Subcommittee

JAB/tbw

Sec. 54-25. - Purpose.

This article is adopted to promote the health, safety, and welfare of the citizens, to decrease the distractions and obstructions on sidewalks and other public facilities, and to promote business activity.

(Code 1982, § 17-50; Ord. No. 12730, § 1, 12-9-2002; Ord. No. 14355, § 3, 11-5-2012)

Sec. 54-26. - Definitions.

The following definitions apply for purposes of this article, unless the context requires otherwise.

Chief of police means the chief of police of the City of Durham or any sworn police officer designated by the chief of police.

Control, with respect to real estate that is city-controlled or controlled by the city, is used as follows: The city controls real estate when it has a possessory interest therein on account of or pursuant to a written or oral lease or other instrument evidencing a possessory interest in real property or pursuant to any form of tenancy implied by law.

Controlled-access highway means a section of state highway especially designed for through traffic and over, from, or to which highway owners or occupants of abutting property or others have only a controlled right or easement of access.

Core downtown park means any of the following three areas: (1) the park bounded by Parrish Street, Mangum Street, Main Street, and a privately-owned property; (2) the triangle-shaped land at Five Points, bounded on the northeast by West Main Street, on the south by West Chapel Hill Street, and on the west by privately-owned property; and (3) CCB Plaza, which is bounded by Chapel Hill Street, Corcoran Street, Parrish Street, and Market Street; provided, however, "core downtown park" is limited to the portion of each of those three areas that is owned by the city of Durham and open to the general public, and to the times that it is open to the general public.

Durham Civic Center Plaza means the area bounded by the Durham Civic Center on the south, the Carolina Theater Building on the west, Morgan Street on the north, and Foster Street on the east.

Eating establishment means an establishment engaged in the business of regularly and customarily selling food, primarily to be eaten on the premises. Eating establishments shall include businesses that are referred to as restaurants, cafeterias, or cafes, but that do not qualify as a restaurant as that term is defined within this section. Eating establishments shall also include lunchstands, grills, snack bars, fast-food businesses, and other establishments, such as drug stores, which have a lunch counter or other section where food is sold to be eaten on the premises.

Eating establishment operator means the person, firm, or corporation operating an eating establishment and associated outdoor seating area. As used in this section, this definition includes each and every owner, and each and every manager if different from the owner(s), of the eating establishment and associated outdoor seating area.

First Amendment protected sales are sales of **goods including** newspapers and other material where the sales are protected by the First Amendment to the U.S. Constitution through the application of the 14th Amendment to the U.S. Constitution.

Food means any raw, cooked, or processed edible substance including meat, meat food products, poultry, poultry products, ice, beverage, or ingredient used or intended for use or for sale in whole or in part for human consumption.

Frontage road means a street that is auxiliary to and located on the side of another street for service to abutting property and adjacent areas and for the control of access to such other street.

Goods means personal property.

Law means law, statute, ordinance, rule, regulation, or decree or order of any governmental entity, including a county health department and the State Department of Agriculture.

Litter means any garbage, rubbish, trash, refuse, can, bottle, box, container, wrapper, paper, paper product, **devices, structures**, or discarded material in any form resulting from commercial operations.

Median means the portion of street right-of-way that separates traffic lanes, including any curbs, regardless of whether the area separating traffic lanes is at the level of the roadway.

Mobility vehicle means a device that is designed for and intended to be used as a means of transportation for a person with a mobility impairment, or who uses the device for mobility enhancement, is suitable for use both inside and outside a building, including on sidewalks, and is limited by design to 15 miles per hour when the device is being operated by a person with a mobility impairment, or who uses the device for mobility enhancement.

Motor vehicle means every vehicle that is self-propelled and every vehicle designed to run upon the streets that is pulled by a self-propelled vehicle. The term excludes mobility vehicles. The term also excludes a vehicle that has two or three wheels, no external shifting device, and a motor that does not exceed 50 cubic centimeters piston displacement and cannot propel the vehicle at a speed greater than 30 miles per hour on a level surface.

Occupant, with respect to a motor vehicle, means the driver and all passengers.

On-street parking space means a space designated by the city or the state for parking a motor vehicle on a street right-of-way. For purposes of this article, a space is not an on-street parking space when (i) the street of which the space is a part and from which a motor vehicle immediately enters the space is closed or blocked by an order issued pursuant to section 66-430, or (ii) it is unlawful for the public to park a motor vehicle in the space.

Outdoor seating area means an area on a public sidewalk, public alley or pedestrian way whereon tables, chairs, benches, and other furnishings are placed for drinking and/or dining purposes.

Passenger means an occupant of a motor vehicle, excluding the driver.

Pedestrian way means an improved walk or passageway on public property or right-of-way intended for use by pedestrians, but not adjacent to any city street.

Permit means, unless the context otherwise requires, a permit issued pursuant to this article.

Private club means an establishment that is organized and operated solely for a social, recreational, patriotic, or fraternal purpose and that is not open to the general public, but is open only to the members of the organization and their bona fide guests. This provision does not, however, prohibit such an establishment from being open to the general public for raffles and bingo games as required by G.S. 14-309.11(a) and G.S. 14-309.13.

Private club operator means the person, firm, or corporation operating a private club and associated outdoor seating area. As used in this section, this definition includes each and every owner, and each and every manager if different from the owner(s), of the private club and associated outdoor seating area.

Public alley means a strip of land, typically no more than 20 feet in width, on public property or right-of-way, that is set aside primarily for vehicular service access to the rear or side of properties otherwise abutting on a street.

Restaurant means an establishment substantially engaged in the business of preparing and serving meals. To qualify as a restaurant, an establishment's gross receipts from food and nonalcoholic beverages shall not be less than 30 percent of the total gross receipts from food, nonalcoholic beverages, and alcoholic beverages. A restaurant shall also have a kitchen and an inside dining area with seating for at least 36 people.

Restaurant operator means the person, firm, or corporation operating a restaurant and associated outdoor seating area. As used in this section, this definition includes each and every owner, and each and every manager if different from the owner(s), of the restaurant and associated outdoor seating area.

Right-of-way sales activities means selling goods (i) using a sales vehicle on any street right-of-way or on any core downtown park, or (ii) by placing, directly or indirectly, goods offered for sale or samples of goods offered for sale on any street right-of-way or on any core downtown park. Selling to a customer not located on street right-of-way or on any core downtown park is excluded from this definition. For example, the following is excluded: A customer not located on the street-right-of-way places an order to a seller who may be located in or outside the street right-of-way, in response to which order the seller delivers the goods from a vehicle in the street right-of-way to a location not on the street right-of-way.

Roadway is the portion of the street right-of-way that is improved for motor vehicle traffic or ordinarily used for motor vehicle traffic. Roadway excludes any area on which parking motor vehicles is lawful.

Sale is an offer, transfer, or agreement described in the definition to "sell."

Sales gear means a sales vehicle and all items that are brought by or at the direction of the seller or salesperson for use by the seller, salesperson, or customers, including seats, power cords, trash containers, and goods to be sold.

Sales vehicle means a vehicle, cart, stand, table, or other device or thing, whether or not wheeled, 12 inches or more in height, that rests in whole or in part, directly or indirectly, on any street right-of-way or core downtown park, while selling is occurring with the use of, from, or in connection with the vehicle, stand, cart, table, or other device or thing. Without limiting the preceding sentence of this definition, "sales vehicle" includes "mobile food unit" and "pushcart," as those expressions are defined in Subchapter 18A of Title 15A of the N.C. Administrative Code. A "sales vehicle" is not necessarily a "vehicle" as "vehicle" is defined in this section.

Salesperson means the individual who engages in the transaction of selling goods, and is not necessarily the owner of the goods being sold.

Sell means to transfer, or to offer to transfer, title or possession of goods for valuable consideration or to agree to transfer, or to offer to agree to transfer, title or possession of goods for valuable consideration.

Seller means the owner of goods being sold or operator of a business or other entity from which goods are sold.

Sidewalk is the portion of the street right-of-way intended for the use of pedestrians that is between the curb and the adjacent property line. If there is no curb or right-of-way parking area, it is the portion of the street right-of-way intended for the use of pedestrians that is between the roadway and the adjacent property line. If there is no curb but there is a right-of-way parking area, it is the portion of the street right-of-way intended for the use of pedestrians that is between the right-of-way parking area and the adjacent property line.

Solicitation-restricted right-of-way means street right-of-way on which any of the following types of streets is located: Interstate Highway System; National System of Interstate and Defense Highways; controlled-access highway; frontage road; U.S. Highway; U.S. Route; street or highway that is part of the State highway system or that is a state highway; street with a speed limit of 35 miles per hour or greater; street with more than two designated vehicle travel lanes; street on which there is a median; and one-way street regardless of the number of designated vehicle travel lanes.

Special event means an event or activity for which a permit is issued pursuant to section 66-430, or an event or activity taking place in a city-owned or city-controlled park, plaza, or other property for which written permission is granted by the city.

Special-event permit means a permit issued pursuant to section 66-430, or the written permission granted by the city for an event or activity taking place in a city-owned or city-controlled park, plaza, or other property.

Street means the street right-of-way but excludes sidewalk and areas farther from the roadway than sidewalk.

Street right-of-way means the entire area in which the public, the city, or the state owns a property interest, when a portion is open to the use of the public as a matter of right for any motor vehicular traffic. The street right-of-way includes

roadway, and may include right-of-way parking area, sidewalk, median, and unpaved areas, including grassed area.

Tangible thing includes money.

Vehicle means every device in, upon, or by which any person or property is or may be transported or drawn upon a roadway. This term does not include a self-balancing nontandem two-wheeled device, designed to transport one person, with a propulsion system that limits the maximum speed of the device to 15 miles per hour or less.

Sec. 54-84. - Interacting with or impeding traffic on roadways.

Except to the extent provided by section 54-86:

(1)

No individual in a solicitation-restricted right-of-way shall stop or attempt to stop any motor vehicle that is on the roadway located within that right-of-way for the purpose of soliciting employment, business, or contributions from any occupant of the motor vehicle, or for the purpose of providing any service to the motor vehicle or any of its occupants;

(2)

No individual in a solicitation-restricted right-of-way shall deliver, or, by means of a sign or other device of any kind, or by means of speech, sounds, signals, or motions offer to deliver, any tangible thing to any occupant, of a motor vehicle that is on the roadway located within that right-of-way;

(3)

No individual in a solicitation-restricted right-of-way shall, by means of a sign or other device of any kind, or by means of speech, sounds, signals, or motions, request any occupant of a motor vehicle that is on the roadway located within that right-of-way to deliver any tangible thing to the individual, unless the individual specifies by a sign that can be read from a distance of 30 feet that the tangible thing is to be delivered to the individual or another person only when the motor vehicle is off the street right-of-way; and

(4)

Unless he or she is on a paved sidewalk, no individual in a solicitation-restricted right-of-way shall, by means of a sign or other device of any kind, or by means of signals or motions, attempt to alert any occupant of a motor vehicle that is on the roadway located within that right-of-way to any commercial activity.

(Code 1982, § 17-54; Ord. No. 12890, § 1, 11-17-2003; Ord. No. 14375, § 4, 12-17-2012)

Sec. 54-85. - Reserved.

Editor's note—

Ord. No. 14375, § 4, adopted December 17, 2012, repealed the former section 54-85 in its entirety, which pertained to median permits, and derived from the Code of 1982, § 17-55, and Ord. No. 12890, § 1, adopted November 17, 2003.

Sec. 54-86. - Requirements for transactions with motor vehicle on roadway.

(a)

Section 54-84 does not prohibit an individual aged 16 or more years from doing the following:

(1)

~~Stopping or attempting to stop, For the purpose of soliciting employment, business, or contributions, approaching a motor vehicle that is on a one-way street, but only when (i) the motor vehicle is in the traffic lane closest to the edge of the roadway if the roadway contains more than one traffic lane, and (ii) the individual is on a paved sidewalk;~~

Upon invitation, approaching a motor vehicle on a street for the purpose of soliciting employment, business, or contributions so long as no individual walks in front of a motor vehicle during the solicitation and the vehicle is stopped pursuant to a stop sign or traffic signal requiring a complete stop.

(2)

Delivering or offering to deliver, **upon invitation**, a tangible thing to an occupant ~~passenger (not the driver)~~ of a motor vehicle **on a street, so long as no individual walks in front of a motor vehicle during the solicitation and the vehicle is stopped pursuant to a stop sign or traffic signal requiring a complete stop.** ~~that is on a roadway, but only when (i) the motor vehicle is on a one-way street; (ii) the motor vehicle is in the traffic lane closest to the edge of the roadway if the roadway contains more than one traffic lane; (iii) the driver of the motor vehicle is, while the delivery or offer to deliver is occurring, complying with either (x) a traffic signal that requires the vehicle to come to a complete stop and the traffic signal has not changed to allow the vehicle to proceed, or (y) a stop sign; and (iv) the passenger is on the right hand side of the motor vehicle;~~

(3)

Receiving a tangible thing from an occupant ~~passenger (not the driver)~~ of a motor vehicle **while on a street, so long as no individual walks in front of a motor vehicle during the solicitation and the vehicle is stopped pursuant to a stop sign or traffic signal requiring a complete stop** ~~that is on a roadway, but only when (i) the motor vehicle is on a one-way street; (ii) the motor vehicle is in the traffic lane closest to the edge of the roadway if the roadway contains more than one traffic lane; (iii) the driver of the motor vehicle is, while the individual is receiving the tangible thing from the passenger, complying with either (x) a traffic signal that requires the vehicle to come to a complete stop and the traffic signal has not changed to allow the vehicle to proceed, or (y) a stop sign; and (iv) the passenger is on the right-hand side of the motor vehicle.~~

(b)

An individual acting pursuant to subsection (a) shall not:

(1)

First Amendment protected goods. Sell any goods besides First Amendment protected goods. First Amendment protected goods include newspapers and magazines.

(2)

Roadway. Stand, sit, or walk on a roadway, provided that this subsection (2) does not prohibit an individual from standing and walking on the roadway during the time needed (i) to travel to or from a motor vehicle whose occupant has signaled the individual to approach, and (ii) to engage in transactions allowed by subsections (a)(2) and (a)(3).

(3)

Median. Violate City Code section 66-12 (standing, sitting, and walking on median generally prohibited).

(4)

~~Animals. Be accompanied by an animal, provided that an individual with a disability may be accompanied by a service animal trained to assist the individual with the individual's specific disability, upon a showing of a tag, issued by the N.C. Department of Health and Human Services, under G.S. 168-4.3, stamped "NORTH CAROLINA SERVICE ANIMAL PERMANENT REGISTRATION" and stamped with a registration number, or upon a showing that the animal is being trained or has been trained as a service animal. An animal in training to become a service animal may accompany the individual for the purpose of training only when the animal is accompanied by a person who is training the service animal and the animal wears a collar and leash, harness, or cape that identifies the animal as a service animal in training.~~

(5)

Daylight. Be in the solicitation-restricted right-of-way between 20 minutes before sunset and 20 minutes after sunrise. For purposes of this subsection, there is a rebuttable presumption that the United States Naval Observatory's times, as provided by the Astronomical Applications Department or its successor division or department within the Naval Observatory, for sunset and sunrise are correct.

~~(6)~~

~~Reserved.~~

~~(7)~~ (6)

Reflective outerwear. Fail to wear Class II or Class III ANSI 107-2004 outerwear. (i) that is reasonably clean and in good repair, and (ii) on which the total area covered by all things (except for clear plastic that does not affect the reflectiveness of the outwear) resting on or attached to it is less than a total of four square inches.

~~(8)~~ (7)

Signs in general. Display a sign larger than two feet in any dimension, or display anything with illuminated, animated, blinking, chasing, flashing, or moving effects that can be seen by a person with 20-20 vision from a distance of four feet.

~~(9)~~ (8)

Signs in violation of UDO. Display a sign or other device in the solicitation-restricted right-of-way that is in violation of the UDO.

~~(10)~~ (9)

**Aggressive Panhandling. No individual, without invitation or signal by an occupant of a motor vehicle stopped pursuant to a stop sign or traffic signal requiring a complete stop, shall approach a motor vehicle, touch or cause something to touch a motor vehicle for purposes of solicitation.**

~~Stopping vehicles at stop signals and signs. Stop or attempt to stop a motor vehicle that is approaching a traffic signal unless while the individual does either of those actions the traffic signal requires the vehicle to come to a complete stop. For example, the individual does not violate this subsection if the vehicle that the individual stops or attempts to stop is approaching a stop sign or a steady, flashing, or strobe beam light emitting red light, and the individual is in violation of this subsection if the vehicle that the individual stops or attempts to stop is approaching a yield sign, or a steady, flashing, or strobe beam light emitting yellow or green light.~~

~~(11)~~ (10)

Safe passage of pedestrians. Interfere with the quick and safe passage across the roadway of pedestrians, ~~or~~ **impede the normal movement of pedestrians.**

~~(12)~~

~~Normal movement of pedestrians. Impede the normal movement of pedestrians.~~

~~(13)~~(11)

Littering and traffic laws. Violate any litter or traffic safety laws, including G.S. 14-399, 20-174.1 and G.S. 20-175.

~~(14)~~(12)

Removal of goods, etc. Fail to remove all goods **and litter** ~~for sale, and all structures, devices, things, and materials of any kind used to transport, protect, display, advertise, or sell any goods, from the solicitation-restricted right-of-way when the individual is more than 50 feet away from any such item.~~

~~(15)~~(13)

Work zones. Be in a work zone or stop or attempt to stop a motor vehicle that is in a work zone. A "work zone" is the area between the first sign that informs motorists or drivers of the existence of a work zone, construction zone, maintenance zone, utility work zone, or similar warning on a street and the last sign that informs motorists or drivers of the end of the zone, regardless of whether a sign states the penalty for speeding in the zone. Work zones are designated as such if the Secretary of the N.C. Department of Transportation or the city manager determines, after engineering review, that the posting is necessary to ensure the safety of the traveling public due to a hazardous condition; or if the posting is done at the direction of or with the consent of a governmental body or official having jurisdiction. The direction or consent may be given by any appropriate manner, including incorporation into specifications of a contract. There shall be a rebuttable presumption that any posting of a work zone has been done with the consent of a governmental body or official having jurisdiction.

~~(16)~~

~~Access ramps. Be on an access ramp.~~

~~(17)~~(14)

Bridges. Be on a motor vehicle bridge, ~~or on the portion of a street leading to or from a bridge that is within 100 feet of the bridge.~~

~~(c)~~ (15)

Litter. Any goods, structures, devices, things, and materials not removed in accordance with subsection ~~(a)(14)~~ (b)(12) of this section shall be considered litter pursuant to section 26-123. Nothing in this section is intended to limit the effect of chapter 26

(Code 1982, § 17-56; Ord. No. 12890, § 1, 11-17-2003; Ord. No. 14375, § 4, 12-17-2012)

Editor's note—

Ord. No. 14375, § 4, adopted December 17, 2012, changed the title of section 54-86 from "Requirements for permittees" to "Requirements for transactions with motor vehicle on roadway." The historical notation has been preserved for reference purposes.