

ORDINANCE NO. 215

AN ORDINANCE OF THE TOWN OF CINCO BAYOU, FLORIDA, AMENDING CHAPTER 30 OF THE TOWN OF CINCO BAYOU CODE OF ORDINANCES TO BE ENTITLED "THREATENING, INTIMIDATING, AND HARASSING BEHAVIOR FOR SOLICITATION PROHIBITED"; PROVIDING AUTHORITY; PROVIDING LEGISLATIVE FINDINGS AND INTENT; PROVIDING DEFINITIONS; ESTABLISHING PENALTIES; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF CINCO BAYOU, FLORIDA ("TOWN") AS FOLLOWS:

SECTION 1: AUTHORITY.

The authority for enactment of this Ordinance is Section 166.021, Florida Statutes and Sections 496.401- 496.424, Florida Statutes and other applicable Florida law.

SECTION 2: LEGISLATIVE FINDINGS AND INTENT.

WHEREAS, the Town of Cinco Bayou desires to protect the well-being of its citizens and visitors and continue to attract business to, and retain current businesses within, the Town of Cinco Bayou, and;

WHEREAS, the Town of Cinco Bayou finds and determines that soliciting and solicitation activities are a protected form of speech and useful activities for profit and non-profit groups to raise money, and;

WHEREAS, the Town of Cinco Bayou finds and determines that aggressive solicitation or "panhandling" has a negative impact on the quality of life within the Cinco Bayou Town limits, and;

WHEREAS, the Town of Cinco Bayou finds and determines that panhandling discourages businesses from moving to or remaining in the Town, and;

WHEREAS, the Town of Cinco Bayou finds and determines that panhandling causes our citizens a sense of fear and intimidation, particularly at night, on roadways or in confined areas, and;

WHEREAS, the Town of Cinco Bayou finds and determines that panhandling contributes to the negative perception of those areas where it occurs which discourages shoppers and visitors and contributes to the lack of enjoyment of public places within those areas, and;

WHEREAS, the Town of Cinco Bayou recognizes that it has a legitimate interest in promoting the safety and convenience of its citizens on public streets, providing a safe, pleasant environment and eliminating nuisance activities in the Town, and in making the public areas of the Town safe and inviting for visitors, residents, and businesses.

SECTION 3: AMENDMENT TO CHAPTER 30, CREATING SECTION 30-3 ENTITLED THREATENING, INTIMIDATING, HARASSING BEHAVIOR FOR SOLICITATION PROHIBITED.

The Code of Ordinances, Chapter 30, Town of Cinco Bayou, Florida is hereby amended to create a new section, 30-3, to be entitled "Threatening, Intimidating, Harassing Behavior for Solicitation Prohibited" which new Section is adopted as set forth below:

Section 30-3. Threatening, Intimidating, Harassing Behavior for Solicitation Prohibited.

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

"Solicit" and "solicitation" shall be construed to include attempts to obtain charitable contributions, or attempt(s) to sell any goods or services, for the benefit of the solicitor or on behalf of an individual or organization.

(2) *Solicitors/Permits Required.* For the purpose of this section, "solicit" and "solicitation" shall be construed as any attempt to obtain charitable contributions, or attempt(s) to sell any goods or services, for the benefit of the solicitor or on behalf of an individual or organization.

The provisions of this section do not apply to bona fide religious institutions, educational institutions, and state agencies or other government entities or persons or organizations who solicit or act as professional fund-raising consultants solely on behalf of bona fide religious institutions, education institutions, and state agencies or other government entities or persons.

No person shall solicit or conduct solicitation activities within the town limits of the Town of Cinco Bayou without applying for and receiving a permit and paying the applicable business tax, if necessary, for such activity. When soliciting in residential areas, solicitors shall use only the front door to the dwelling house and shall not solicit at any side or back door. Door-to-door solicitors are authorized to solicit their goods and/or wares in the Town only between 10:00 a.m. and 4:00 p.m. on weekdays. Soliciting on Saturday, Sunday, New Year's Day, Washington's Birthday, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans' Day, Thanksgiving Day or Christmas Day is prohibited. No person shall solicit, with or without a permit, at any residence, dwelling, or any commercial establishment that displays a "no-soliciting" sign.

(3) *Prohibited Conduct.* It shall be unlawful for any person to solicit or conduct solicitation activities in the following manner or under these stated conditions:

- a. By any act or language constituting an express or implied threat of injury to any person or of damage to or loss of any property owned by or in lawful possession of the solicited person;
- b. By endeavoring to maintain contact with the solicited person and continuing to verbally demand, ask or beg for, or to solicit donations or payment from any person after the solicited person has made a negative response to an initial demand or solicitation;
- c. By any act intended to impede the passage or free movement of the solicited person who is on foot, bicycle, in a wheelchair, operating a motor vehicle or attempting to enter or exit a motor vehicle;
- d. When either the solicitor or the person being solicited is at a bus stop or sidewalk café, in a public transportation vehicle or facility, in a vehicle parked or stopped on a public street or alley, within 20 feet from any ATM machine or entrance to a bank, or within 20 feet of a public toilet facility;
- e. In an aggressive manner, to include:
 1. touching the solicited person without the solicited person's consent;
 2. soliciting a person while such person is standing in line and waiting to be admitted to a commercial establishment;
 3. blocking the path of a person being solicited, or the entrance to any building or vehicle;
 4. following behind, ahead, or alongside a person who walks away from the panhandler after being solicited;
 5. using profane or abusive language, either during the solicitation or following a refusal to make a donation, or making any statement, gesture, or other communication which would cause a reasonable person to be fearful or feel compelled;
 6. by a group of more than two (2) solicitors approaching one individual.
- f. By failing for a second time to produce a business tax receipt, as required by section 46-65 of this Code, upon request by a law enforcement officer.

4. *Penalty.* Any alleged violation of this article shall be prosecuted in the same manner as a misdemeanor in the second degree, and upon conviction shall be punished by a fine not to exceed five hundred dollars (\$500.00) or imprisonment, not to

exceed sixty (60) days or by both
such fine and imprisonment.

SECTION 4: INCORPORATION INTO CODE OF ORDINANCES.

This ordinance shall be incorporated into the Town of Cinco Bayou's Code of Ordinances and any section or paragraph number or letter and any heading may be changed or modified as necessary to effectuate the foregoing.

SECTION 5: SEVERABILITY.

It is declared the intent of the Council of the Town of Cinco Bayou that if any subsection, clause, sentence, provision or phrase of this Ordinance is held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not be so construed as to render invalid or unconstitutional remaining provisions of this Ordinance.

SECTION 6: EFFECTIVE DATE.


This Ordinance shall take effect immediately upon its final passage and adoption by the Town Council and signature of the Mayor.

**PASSED AND ADOPTED BY THE TOWN COUNCIL OF CINCO BAYOU,
FLORIDA ON THIS 13th DAY OF SEPTEMBER 2007.**


**ATTEST:
FLORIDA**

THE TOWN OF CINCO BAYOU,

BY:


Nell Webb,
Town Manager/Clerk

BY:


Michael Iovieno, Mayor

[SEAL]

The form and legal sufficiency of the
foregoing has been reviewed and
approved by the Town Attorney.


C. Jeffrey McInnis,
Town Attorney

