

**CITY OF DISTRICT HEIGHTS, MARYLAND
ORDINANCE NO. DH 07-02**

AN ORDINANCE of the Mayor and Commissioners of the City of District Heights, Maryland, updating and defining aggressive solicitation, loitering and unlawful assembly and make them illegal and provide criminal penalties for such.

SECTION I: WHEREAS, the Mayor and Commissioners of the City of District Heights, Maryland, have the authority to enact reasonable regulations regarding nuisances pursuant to Section 402, Subsection (4) of the City of District Heights' Charter;

WHEREAS, the Mayor and Commissioners of the City of District Heights, Maryland believe it is the public interest to prohibit aggressive soliciting, unlawful assembly and, illegal loitering in order to protect the citizens of the City.

SECTION II: BE IT ORDAINED by the Mayor and Commissioners of the City of District Heights, Maryland that Article VI Peace and Order, and Article XIV, Licenses, Permits and Fine Schedule of the Code of Ordinance, City of District Heights is hereby amended by adding the following sections:

610 Aggressive Solicitation

A. Definitions: For purposes of this Chapter:

(1) *SOLICIT* means to request an immediate donation of money or other thing of value. The solicitation may be, without limitation, by the spoken, written, or printed word, or by other means of communication.

(2) *AGGRESSIVE MANNER* means and includes:

(A) Intentionally or recklessly making any physical contact with or touching another person in the course of the solicitation without the person's consent;

(B) Following the person being solicited, if that conduct is: (i) intended to or is likely to cause a reasonable person to fear imminent bodily harm or the commission of a criminal act upon property in the person's possession; or (ii) is intended to or is reasonably likely to intimidate the person being solicited into responding affirmatively to the solicitation;

(C) Continuing to solicit within five (5) feet of the person being solicited after the person has made a negative response, if continuing the solicitation is: (i) intended to or is likely to cause a reasonable person to fear imminent bodily harm or

the commission of a criminal act upon property in the person's possession; or (ii) is intended to or is reasonably likely to intimidate the person being solicited into responding affirmatively to the solicitation;

(D) Intentionally or recklessly blocking the safe or free passage of the person, or the driver of a vehicle, to take evasive action to avoid physical contact with the person making the solicitation;

(E) Intentionally or recklessly using obscene or abusive language or gestures: (i) intended to or likely to cause a reasonable person to fear imminent bodily harm or the commission of a criminal act upon property in the person's possession; or (ii) words intended to or reasonably likely to intimidate the person into responding affirmatively to the solicitation; or

(F) Approaching the person being solicited in a manner that: (i) is intended to or is likely to cause a reasonable person to fear imminent bodily harm or the commission of a criminal act upon property in the person's possession; or (ii) is intended to or is reasonably likely to intimidate the person being solicited into responding affirmatively to the solicitation.

(3) *Public area* means an area to which the public or a substantial group of persons has access, and includes, but is not limited to, alleys, bridges, buildings, driveways, parking lots, parks, playgrounds, plazas, sidewalks, and streets open to the general public, and the doorways and entrances to buildings and dwellings, and the grounds enclosing them.

B. Prohibited Acts

It shall be unlawful for any person to solicit money or other things of value, or to solicit the sale of goods or services:

(1) In an aggressive manner in a public area:

(2) In any public transportation vehicle, or bus or subway station or stop;

(3) Within fifteen (15) feet of any entrance or exit of any bank or check cashing business or within fifteen (15) feet of any automated teller machine during the hours of operation of such bank, automated teller machine or check cashing business without the consent of the owner or other person legally in possession of such facilities. Provided, however, that when an automated teller machine is located within an automated teller machine facility, such distance shall be measured from the entrance or exit of the automated teller machine facility;

(4) On private property if the owner, tenant, or lawful occupant has asked the person not to solicit on the property, or has posted a sign clearly indicating that solicitations are not welcome on the property; or

(5) From any operator of a motor vehicle that is in traffic on a public street, whether in exchange for cleaning the vehicle's windows, or for blocking, occupying, or reserving a public parking space, or directing the occupant to a public parking space; provided, however, that this paragraph shall not apply to services rendered in connection with emergency repairs requested by the operator or passengers of such vehicle.

C. Penalties

(1) A violation of any provision of this subsection shall be a misdemeanor punishable by a fine, a term of imprisonment, or both, as established by the Mayor and Commissioners and specified in Article XIV of this Code.

(2) The law is not intended to limit any persons from exercising their constitutional right to solicit funds, picket, protest or engage in other constitutionally protected activity. Rather, its goal is to protect citizens from the fear and intimidation accompanying certain kinds of solicitation that are unwelcome.

Section 611 – Loitering

(A) Definitions. As used in this chapter, the following terms shall have the meanings indicated:

(1) *ASSIGNATION* — The making of any appointment or engagement for prostitution or lewd conduct or any act in furtherance of such appointment or engagement.

(2) *COMMERCIAL PREMISES* — Any business premises operating for profit or any place of amusement or entertainment to which the general public is invited or permitted, including parking lots adjacent to or connected with such premises.

(3) *LAWFUL BUSINESS* – The act of conducting, going to or returning from any social, educational, recreational, religious, business or any other activity not prohibited by law.

(4) *LEWDNESS* – Any unnatural sexual practice.

(5) *LOITER* — To idle, stand, remain, tarry or collect, gather or be a member of a group or crowd of people who are gathered together

on any commercial or public premises (a) without conducting any lawful business or communication with the owner or operator thereof or (b) having completed such business or commencement, to remain on such premises an unreasonable length of time where prohibited by signs or after having been directed to leave by such owner, operator or authorized agent or a police officer.

(6) *PLACE OPEN TO THE PUBLIC* — Any privately owned place to which the public is invited and in, on or around any privately owned place of business, private parking lot or private institution, including places of worship, cemeteries or any place of amusement and entertainment, whether or not a charge of admission or entry thereto is made. It includes the elevator, lobby, halls, corridors and areas open to the public of any store, office or apartment building.

(7) *PROSTITUTION* — The offering or receiving of the body for sexual intercourse or sexual act for hire.

(8) *PUBLIC PLACE* — Any street, sidewalk, bridge or alley or alleyway, plaza, park, driveway, parking lot or transportation facility or a motor vehicle in or on any such place.

(B) Unlawful Conduct. The following conduct shall be unlawful, unless otherwise provided herein:

(1) It shall be unlawful for any person to disobey the direction or order of a police officer to desist in loitering, on or near a public place or place open to the public when such loitering is impeding or hindering or may impede or hinder the free passage of pedestrian or vehicular traffic to, from or within such places.

(2) It shall be unlawful for any person to disobey the direction or order of a police officer to desist in loitering at, on or near a public place or a place open to the public when such loitering constitutes a clear and present danger to the public peace.

(3) It shall be unlawful for any person to loiter, without the consent of the owner or owner's agent, on or about any place open to the public after said premises have been closed for business purposes and after said person has been directed or ordered to leave by the owner, owner's agent or by a police officer acting upon the request of the owner or owner's agent.

(4) It shall be unlawful for any person to loiter on or about any public place or place open to the public for purposes of prostitution, assignation or lewd conduct.

- (5) It shall be unlawful for any person to loiter, without the consent of the owner, operator or authorized agent, within 250 feet of the exterior entrance of any commercial premises, including but not limited to a bar, tavern, restaurant, package goods store, game room or arcade, after such premises has been closed for business purposes after such person has been requested to leave by a police officer.
- (6) It shall be unlawful for any person to loiter, idle, wander, stroll or play in or upon the public parks, grounds, buildings or other facilities owned by the City of District Heights and located within the City limits between the hours of 10:00 p.m. and 7:00 a.m. of the following day, unless said activity is done pursuant to a City sponsored event.
- (7) It shall be unlawful for any person to loiter, idle, wander, stroll or play in or upon any place, public or private, where said activity has been prohibited by the owner or owner's agent and signs that state the prohibition have been clearly posted by the owner or owner's agent.

(C) Duration of Order: The order or direction of a owner, owner's agent, or a police officer specified in Subsection (B) hereof shall unless otherwise specified, remain effective for a period of 48 hours; thus, if such person resumes loitering within the same general area in the forty-eight-hour period of time, or the time specified he or she shall be deemed to have disobeyed the direction or order of the owner, owner's agent or police officer and thus be in violation of this chapter.

(D) Penalty. Violation of this section is hereby declared to be a misdemeanor punishable by a fine, a term or imprisonment, or both, as established by the Mayor and Commissioners and specified in Article XIV of this Code.

Section 612 – Unlawful assembly.

- (A) It shall be unlawful for any person or persons to congregate or assemble at the corner or corners of any of the streets, lanes or alleys or on any of the sidewalks or approaches thereto in said town, so as to obstruct the same, or at the entrance of any public or private building within the limits of said town, and to be engaged in loud and boisterous laughing or talking or making any rude, obscene or insulting comments, remarks or observations on persons passing by the same or in their hearing or to so crowd, or obstruct the sidewalks or approaches thereto so as to prevent the free and uninterrupted passage thereto, therefrom or through the same.
- (B) It shall be unlawful for any person or persons to congregate themselves or vehicles owned, operated or controlled by them at or on any public or private thoroughfare or parking area so as to obstruct the same or the free use thereof or in any disorderly manner as would tend to cause obstruction, loud or boisterous noise or rude, obscene or insulting comments or that might tend in any way to cause to

promote violence, and said assembly shall immediately disperse upon the order of the owner of any such property or the person in control thereof or upon the order of any police officer.

- (C) It is unlawful for any person to idle, stand, remain, tarry or wander about in a public place in such a manner as to beckon to, repeatedly stop or repeatedly attempt to engage passersby in conversation, or repeatedly stop or attempt to stop motor vehicles or repeatedly interfere with the free passage of other persons, for the purpose of either engaging in or promoting prostitution, lewdness or assignation, after having been requested to leave by a police officer.
- (D) Penalty. Violation of this section is hereby declared to be a misdemeanor punishable by a fine, a term or imprisonment, or both, as established by the Mayor and Commissioners and specified in Article XIV of this Code.

ARTICLE XIV

Licenses, Permits and Fine Schedule

Section 1402. Penalties

(a) The following schedule shall prescribe fines and/or terms of imprisonment for misdemeanor violations of the provisions of this Code:

<u>Violation</u>	<u>Reference</u>	<u>Fine and/or Imprisonment</u>
*	*	*
(11A) Aggressive Soliciting	Section 610	\$250.00/15 Days
(11B) Loitering	Section 611	Max. \$1,000/30 Days
(11C) Unlawful Assembly	Section 610	\$250.00/15 Days

SECTION III: BE IT FURTHER ORDAINED by the Mayor and Commissioners of the City of District Heights, Maryland, that this amendment will become a part of the Codes of Ordinances.

SECTION IV: BE IT FURTHER ORDAINED by the Mayor and Commissioners of the City of District Heights, Maryland, that this Ordinance shall be introduced this 25th day of September and posted in the City Clerk’s Office for at least six (6) days but no more than sixty (60) after its introduction. If adopted, the Ordinance shall be effective

twenty (20) days after adoption. A notice of the passed Ordinance will be posted and a summary of the Ordinance will be published once in a publication of general circulation in the City of District Heights.

SECTION V: BE IT FURTHER ORDAINED by the Mayor and Commissioners of the City of District Heights, Maryland, that if any provision of this Ordinance or the application thereof to any person or circumstance is held invalid for any reason, such invalidity shall not affect the other provisions or any other applications of the Ordinance which can be given effect without the invalid provision or applications, and to this end, all the provisions of this Ordinance are hereby declared to be severable.

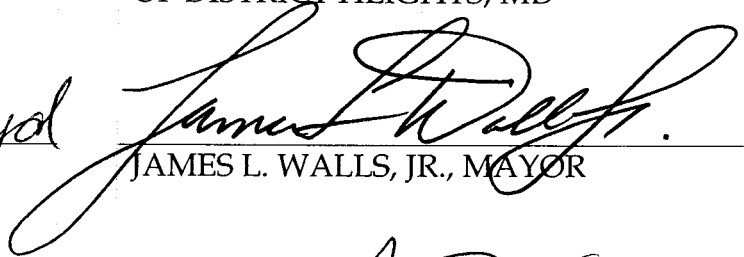
INTRODUCED: September 25, 2007.

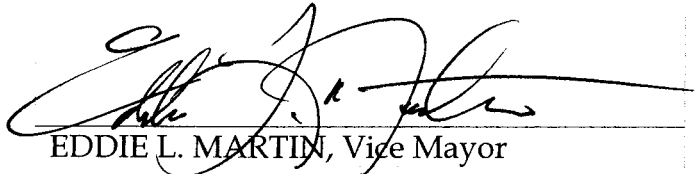
ADOPTED: November 1, 2007

ATTEST:

MAYOR AND CITY COMMISSION
OF DISTRICT HEIGHTS, MD

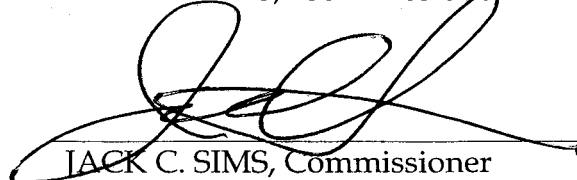

TAMIL PERRY-LLOYD
CITY CLERK


JAMES L. WALLS, JR., MAYOR


EDDIE L. MARTIN, Vice Mayor


WILLIE E. CALHOUN, Commissioner


LEE COLLINS, Commissioner


JACK C. SIMS, Commissioner