



To: Drew Ward

From: Miriam S. Ramos, Deputy City Attorney for the City of Coral Gables

Approved: Craig E. Leen, City Attorney for the City of Coral Gables 

RE: Legal Opinion Regarding Charitable Solicitations

Date: July 1, 2015

Pursuant to Sec. 46-41 of the City of Coral Gables Code, which you quote, organizations that are “religious, charitable, scientific, educational, or veterans’ institutions or organizations holding a sales tax exemption certificate under F.S. § 212.08(7)(a)...” are not required to obtain a permit in order to solicit. The exception only applies to those organizations listed in F.S. § 212.08(7)(a) and does not extend to others in subsection (7).

Please note that Sec. 46-41 in no way alters the obligation of a solicitor to leave the premises when asked to do so under F.S. § 810.09, “Burglary and Trespass.” Further, it is important that the individuals conducting the canvassing and donation solicitation do not violate Sec. 38-7 of the City Code, “Begging and soliciting alms,” which I am including in its entirety for your review.

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

Accosting means approaching or speaking to someone in such a manner as would cause a reasonable person to fear imminent bodily harm or the commission of a criminal act upon his person, or upon property in his immediate possession.

Aggressively beg means to beg with the intent to intimidate another person into giving money or goods.

Ask, beg or solicit means and includes, without limitation, the spoken, written or printed word or such other acts or bodily gestures as are conducted in furtherance of the purpose of obtaining alms.

Beg means to ask or solicit for money or goods as a charity, whether by word, bodily gestures, signs, or other means.

***Forcing oneself upon the company of another* means continuing to request, beg or solicit alms from a person after that person has made a negative response, blocking the passage of the individual addressed or otherwise engaging in conduct which could reasonably be construed as intended to compel or force a person to accede to demands.**

***Intimidate* means to engage in conduct that would make a reasonable person fearful or feel compelled. Among the circumstances that may be considered in determining whether the actor intends to intimidate another person into giving money or goods are that the actor:**

- (1) Touches the person solicited;
- (2) **Follows the person solicited and persists in begging after the person solicited has given a negative response;**
- (3) Directs profane or abusive language toward the person solicited; or
- (4) Uses violent or threatening gestures toward the person solicited.

***Obstruct pedestrian or vehicular traffic* means to walk, stand, sit, lie, or place an object in such a manner as to block passage by another person or a vehicle, or to require another person or a driver of a vehicle to take unreasonable evasive action to avoid physical contact.**

***Public place* means an area generally visible to public view and includes alleys, bridges, buildings, driveways, parking lots, parks, plazas, sidewalks and streets open to the general public, including those that serve food or drink or provide entertainment, and the doorways and entrances to buildings or dwellings and the grounds enclosing them.**

***Unreasonable evasive action* means causing a vehicle to depart from the lane of traffic in which it is traveling, to change lanes, to straddle lanes, or to enter onto a swale to obtain passage; it also means causing a pedestrian to leave the sidewalk on which he is traveling or to make contact with a wall or fence bordering the sidewalk.**

(b) *Prohibited acts.*

- (1) A person is guilty of pedestrian interference if, in a public place, he intentionally:
 - a. Obstructs pedestrian or vehicular traffic; or
 - b. Aggressively begs.
- (2) It shall be unlawful for any person to solicit money or other things of value:
 - a. 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;
 - b. Within 15 feet of the entrance to or exit from any public toilet facility;

- c. Within 15 feet of an automatic teller machine, provided 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;
 - d. Within 15 feet of any pay telephone, provided that when a pay telephone is located within a telephone booth or other facility, such distance shall be measured from the entrance or exit of the telephone booth or facility;
 - e. In any public transportation vehicle, or in any bus or subway station, or within 15 feet of any bus stop or taxi stand;
 - f. From any operator of a motor vehicle that is in traffic on a public street; provided, however, that this subsection shall not apply to services rendered in connection with emergency repairs requested by the owner or passengers of such vehicle;
 - g. From any person who is waiting in line for entry to any building, public or private, including, but not limited to, any residence, business, or athletic facility; or
 - h. Within 15 feet of the entrance or exit from a building, public or private, including, but not limited to, any residence, business, or athletic facility.
- (3) It shall be unlawful for any person to solicit money or other things of value by:
- a. Accosting another; or
 - b. Forcing oneself upon the company of another.

(c) *Permitted activities.* Acts authorized as an exercise of one's constitutional right to picket or to legally protest, and acts authorized by a permit duly issued by a lawful authority shall not constitute obstruction of pedestrian or vehicular traffic.

(d) *Penalties.* Violations of this provision shall be punishable as established by the city commission.

(e) *Alternative programs.* Nothing herein shall limit the discretion of the police, court personnel, and judges from referring individuals suspected, charged, or convicted of a violation of this provision to treatment programs or facilities as an alternative to prosecution or incarceration, provided that the individual freely consents. For homeless individuals, such alternative programs shall include but not be limited to the county homeless assistance project.

This opinion is issued pursuant to Sec. 2-201(e)(1) and (8) of the Code, giving the City Attorney's Office the authority to issue opinions and interpretations of the Code on behalf of the City.

Herbello, Stephanie

From: Leen, Craig
Sent: Friday, July 17, 2015 6:20 PM
To: Herbello, Stephanie
Cc: Ramos, Miriam; Chen, Brigitte
Subject: FW: Charitable Solicitations

Please publish.

Craig E. Leen, City Attorney
*Board Certified by the Florida Bar in
City, County and Local Government Law*
City of Coral Gables
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Phone: (305) 460-5218
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CORAL GABLES
FLORIDA 33134

Celebrating 90 years of a dream realized.

From: Ramos, Miriam
Sent: Wednesday, July 01, 2015 12:53 PM
To: DWard@cckc-law.com
Cc: Figueroa, Yaneris; Chen, Brigitte; Leen, Craig; Swanson-Rivenbark, Cathy
Subject: RE: Charitable Solicitations

Dear Mr. Ward,

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g. From any person who is waiting in line for entry to any building, public or private, including, but not limited to, any residence, business, or athletic facility; or

h. Within 15 feet of the entrance or exit from a building, public or private, including, but not limited to, any residence, business, or athletic facility.

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This opinion is issued pursuant to Sec. 2-201(e)(1) and (8) of the Code, giving the City Attorney's Office the authority to issue opinions and interpretations of the Code on behalf of the City.

If you have any questions or wish to discuss further, please do not hesitate to contact me directly.

Sincerely,

Miriam S. Ramos, Esq.

Deputy City Attorney
City of Coral Gables
405 Biltmore Way, 3rd Floor
Coral Gables, FL 33134
(305) 460-5218
(305) 460-5084 direct dial



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From: Leen, Craig
Sent: Tuesday, June 30, 2015 5:43 PM
To: Swanson-Rivenbark, Cathy
Cc: DWard@cckc-law.com; Ramos, Miriam; Figueroa, Yaneris; Chen, Brigette
Subject: RE: Charitable Solicitations

Thank you. I am asking my office to review and respond on Wednesday.

Best regards,

Craig E. Leen, City Attorney
*Board Certified by the Florida Bar in
City, County and Local Government Law*
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Celebrating 90 years of a dream realized.

From: Swanson-Rivenbark, Cathy
Sent: Monday, June 29, 2015 4:18 PM
To: Leen, Craig
Cc: DWard@cckc-law.com
Subject: FW: Charitable Solicitations

I am forwarding your email to our City Attorney's Office for review and response. thanks

From: Drew Ward [<mailto:DWard@cckc-law.com>]
Sent: Monday, June 29, 2015 3:30 PM
To: Swanson-Rivenbark, Cathy
Subject: Charitable Solicitations

Good Afternoon Ms. Swanson:

My name is Drew Ward and I represent a law firm in Kansas City, Missouri. I am doing some research for a client and was hoping for some clarification. Specifically I am trying to determine if a charitable organization wants to have face to face

canvassing, and donation solicitation done on its behalf, must it do any type of registration or licensing within Coral Gables?

Section 46-41 of the Coral Gables Code of Ordinances reads, "Solicitors or vendors making calls or soliciting orders on behalf of religious, charitable, scientific, educational, or veterans' institutions or organizations holding a sales tax exemption certificate under F.S. § 212.08(7)(a) are excluded from the operation of this section."

Additionally, I am trying to find out if the exemption referenced in § 46-41 is exclusively for F.S. 212.08 (7)(a) and not 212.08(7) in its entirety? 212.08(7)(a) reads:

"(a) *Artificial commemorative flowers.* — Exempt from the tax imposed by this chapter is the sale of artificial commemorative flowers by bona fide nationally chartered veterans' organizations."

I apologize for the length of this email, but if you could provide any guidance on the questions I am researching that would be fantastic. Thank you for your time.

Drew M. Ward

Law Clerk

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