



# City of Harrisonburg, Virginia

## Office of the City Manager

409 South Main Street  
Post Office Box 20031  
Harrisonburg, VA 22802  
(540) 432-7701 / FAX (540) 432-7778

G. Chris Brown  
City Attorney

TO: Kurt Hodgen, City Manager  
FROM: G. Chris Brown, City Attorney  
DATE: March 3, 2016  
RE: Section 16-6-59 Harrisonburg City Code

**Summary:** Harrisonburg currently has a City Ordinance, Section 16-6-59, regarding the prohibition of pedestrians soliciting rides, contributions, etc. This code section generally prohibits a person from standing in or close to the street to solicit rides, contributions or business from occupants of any vehicle. This was enacted in 2003. Early last year, the Fourth Circuit Court of Appeals struck down a similar ordinance in Henrico County. That ordinance was found to be an unconstitutional burden on the First Amendment Freedom of Speech. The City of Harrisonburg's ordinance is broader, prohibiting the solicitation of money and other things.

The City of Waynesboro also has a very similar ordinance prohibiting solicitations of funds and things of value from automobiles. Recently, Waynesboro's ordinance was challenged on grounds that it violates the First Amendment of the Constitution. I have been monitoring the Waynesboro case. This week, Waynesboro elected to not contest the matter, and to repeal its ordinance.

The uncertainty around ordinances prohibiting soliciting funds or other things of value from automobiles leads me to advise council to repeal our current Section 16-6-59. I have been in contact with attorneys for other localities and we are trying to coordinate our efforts to come up with solicitation/panhandling ordinances which we are confident will survive constitutional scrutiny. In the meantime, I will work with the Harrisonburg Police Department on ways to prevent interference with traffic safety without affecting First Amendment rights.

Please note that this does not affect the aggressive panhandling ordinance that council enacted in April of 2014. I will be reviewing that ordinance also, but believe it is constitutionally defensible at this time.

**Background:** N/A

**Key Issues:** N/A



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**Environmental Impact:** N/A

**Fiscal Impact:** N/A

**Prior Actions:** N/A

**Alternatives:** (a) repeal the ordinance  
(b); or  
(c) Do not repeal the ordinance at this time

**Community Engagement:** N/A

**Recommendation:**

The City Attorney recommends at this time that Section 16-6-59 be repealed.

**Attachments:**

Current Ordinance to be repealed

**Review:**

*The initiating Department Director will place in Legistar, in sequence of transmittal, the names of each department that must initial their review in order for this item to be placed on the City Council agenda. The completion of review only addresses the readiness of the issue for Council consideration. This does not address the recommendation for approval or denial of the issue.*

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