



Albemarle County

Legislation Details (With Text)

File #: 22-155 **Version:** 1 **Name:**
Type: Ordinance **Status:** Consent Agenda
File created: 1/21/2022 **In control:** Board of Supervisors
On agenda: 2/2/2022 **Final action:**
Title: Authorization to Schedule a Public Hearing to Consider A Proposed Ordinance to Repeal Panhandling Regulations.
Sponsors:
Indexes:
Code sections:
Attachments: 1. Att.A - Proposed Ordinance

Date	Ver.	Action By	Action	Result
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AGENDA DATE: 2/2/2022

TITLE:
Proposed Ordinance to Repeal Panhandling Regulations

SUBJECT/PROPOSAL/REQUEST: Schedule a public hearing for a proposed ordinance to repeal panhandling regulations

ITEM TYPE: Consent Action Item

STAFF CONTACT(S): Richardson, Walker, Kamptner, Lantz, Reeves

PRESENTER (S): N/A

LEGAL REVIEW: Yes

REVIEWED BY: Jeffrey B. Richardson

BACKGROUND: County Code § 10-123 prohibits persons from distributing written materials to the occupants of motor vehicles, soliciting contributions from the occupants of motor vehicles, and selling merchandise or services to occupants of motor vehicles. For purposes of this executive summary, these three activities are collectively referred to as “panhandling.”

STRATEGIC PLAN: Mission - To enhance the well-being and quality of life for all community members through the provision of the of the highest level of public service consistent with the prudent use of public funds.

DISCUSSION: County Code § 10-123 is virtually identical to the Henrico County panhandling regulations that were determined by the United States Court of Appeals for the Fourth Circuit in 2015 to be unconstitutional because they violated the First Amendment’s right of free speech. Since that decision, Albemarle County has not enforced County Code § 10-123.

To satisfy the Constitution, a panhandling ordinance must be based on evidence demonstrating, for example, that a person standing in the median at a specific intersection to panhandle creates a safety hazard at that specific intersection, and that other laws that do not raise constitutional concerns (e.g., the prohibition on pedestrians obstructing traffic) have been enforced but are inadequate. County Code § 10-123 does not pass constitutional review because it applies to all County public roadways and medians and was based on the assumption that people panhandling on public roadways and in medians created a safety hazard. For multiple years after the Henrico County case was decided, the Albemarle County Police Department monitored those intersections in the County where panhandling is common and did not identify any safety hazards. Staff will provide updated information from the Police Department when the ordinance returns to the Board for a public hearing. However, County Code § 10-123 would not be in-line with case law even if that information has changed for a specific intersection.

BUDGET IMPACT: The cost of repealing County Code § 10-123 is not anticipated to have a budget impact.

RECOMMENDATION:

Staff recommends that the Board schedule a public hearing to consider the adoption of the attached proposed ordinance.

ATTACHMENTS:

A - Proposed Ordinance