



April 1, 2025

Sandy Springs City Council  
1 Galambos Way  
Sandy Springs, Georgia 30328

VIA E-MAIL

Re: Proposed “Buffer Zone” and “Overnight Solicitation and Canvassing”  
Ordinances

Dear Sandy Springs City Councilmembers,

The ACLU of Georgia writes to you in response to the proposed Buffer Zone and Overnight Solicitation and Canvassing Ordinances (“the Ordinances”) that were discussed during the January 7, 2025 and March 18, 2025 Sandy Springs City Council’s (“the Council”) work sessions. The Buffer Zone Ordinance was then amended on March 31, 2025. We share your dismay at the distribution of antisemitic propaganda across the City of Sandy Springs and Metro Atlanta more broadly. We write to express our deep concerns that, despite their good intentions, the Ordinances would violate speakers’ right to free speech.

The First Amendment is a cornerstone of our nation’s laws and thus has robust protections. The right to free speech “includes the right to attempt to



persuade others to change their views[.]” *Hill v. Colorado*, 530 U.S. 703, 716 (2000). Of particular relevance here, the United States Supreme Court has determined that “handing out leaflets in the advocacy of a politically controversial viewpoint is the essence of First Amendment expression; no form of speech is entitled to greater constitutional protection.” *McCullen v. Coakley*, 573 U.S. 464, 488-89 (2014) (internal citations omitted). Even speech we vehemently disagree with nevertheless is protected by the guarantees of the United States and Georgia Constitutions. *See, e.g., Snyder v. Phelps*, 562 U.S. 443, 461 (2011) (“As a Nation we have chosen...to protect even hurtful speech on public issues to ensure that we do not stifle public debate.”); *Freeman v. State*, 302 Ga. 181, 184 (2017) (“[I]f there is a bedrock principle underlying the First Amendment, it is that the Government may not prohibit the expression of an idea simply because society finds the idea itself offensive or disagreeable.”).

In accordance with these principles, the government may only regulate speech when imposing time, place, or manner restrictions that 1) apply to all messages, irrespective of the particular content; 2) “are narrowly tailored to serve a significant governmental interest,” and 3) “leave open ample alternative channels for communication of the information.” *McCullen*, 573 U.S. at 477; *see also Hirsh v. City of Atlanta*, 261 Ga. 22 (1991). To be narrowly tailored, the regulation “must not burden substantially more speech than is necessary to further the government’s



legitimate interests.” *McCullen*, 573 U.S. at 486 (internal citations omitted). The Buffer Zone Ordinance’s expansive prohibitions fail to meet that test.

The government’s legitimate interest in preventing antisemitism and other forms of discrimination and protecting the public’s peace and safety may support certain restrictions, but the Buffer Zone Ordinance’s broad prohibitions on passing leaflets, displaying signs, or engaging in protest “burden substantially more speech” than is necessary to further that interest. Government infringement upon the free flow of information in public forums is deemed legitimate only in limited contexts, like when a passerby has a competing privacy interest at stake, such as when accessing healthcare, *Hill*, 530 U.S. 703 (2000), or attending a funeral, *Phelps-Roper v. Strickland*, 539 F.3d 356 (6th Cir. 2008). *See also Phelps-Roper v. City of Manchester, Mo.*, 697 F.3d 678 (8th Cir. 2012). The Buffer Zone Ordinance, on the other hand, applies to seemingly any and all exercises of the constitutionally protected right to engage in direct, face-to-face communication, and applies to all locations across the City. The Buffer Zone Ordinance burdens substantially more speech than necessary to achieve the City’s interests and it cannot pass constitutional muster. *See McCullen*, 573 U.S. at 486.

The Buffer Zone Ordinance’s broad restrictions on speech also fail to leave open ample alternative communication channels. In a situation where a speaker wants to reach the general public, the Buffer Zone Ordinance actively forecloses



almost every kind of speech that would be available to such a speaker. Courts have routinely held that face-to-face communication can be the most effective form of protected speech, noting that “[d]oor-to-door distributions or mass mailing or telephone campaigns are not effective alternative avenues of communication.” *Hill*, 530 U.S. at 780 (2000); see also *McCullen*, 573 U.S. at 488-89. Preventing “the ability to interact in person, however momentarily...strips petitioners of using speech in the time, place, and manner most vital to the protected expression.” *Hill*, 530 U.S. at 780. Because they are not narrowly tailored and foreclose adequate alternative communication channels, the Buffer Zone Ordinance’s prohibitions are not a valid exercise of time, place, and manner restrictions and therefore violate free speech rights.


The Overnight Canvassing and Solicitation Ordinance suffers from some of the same constitutional deficiencies. As described above, time, place, or manner restrictions on speech must be content-neutral, narrowly tailored, and leave open ample alternative methods of communications. Hour restrictions on canvassing and solicitation must meet that test, and courts have found restrictions in other locales to be unconstitutional. See, e.g., *Ohio Citizen Action v. City of Englewood*, 671 F.3d 564 (6th Cir. 2012); *Watseka v. Illinois Public Action Council*, 796 F.2d 1547 (7th Cir. 1986), aff’d, 479 U.S. 1048 (1987); *New Jersey Citizen Action v. Edison Township*, 797 F.2d 1250 (3d Cir. 1986). Additionally, the Overnight Canvassing




and Solicitation Ordinance seemingly extends to newspaper distribution. The ability to gather and disseminate information is a core principle of speech and press freedoms under the United States and Georgia Constitutions. *See Curtis Pub. Co. v. Butts*, 388 U.S. 130 (1967); *Statesboro Pub. Co., Inc. v. City of Sylvania*, 271 Ga. 92 (1999). The Overnight Solicitation and Canvassing Ordinance threatens the speech and press rights of news organizations in Sandy Springs by prohibiting the nighttime distribution of news materials and is not adequately narrowly tailored to achieve the City's stated interests.

Freedom of speech is one of the most critical freedoms found in this state and nation. The Ordinances, while having noble intentions, would violate speakers' rights as guaranteed by both the United States and Georgia Constitutions. For these reasons, the ACLU of Georgia urges the Council not to adopt the Ordinances.

Sincerely,

  
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