

PROPOSED
ORDINANCE NO. 09-17

ORDINANCE NO. _____

AN ORDINANCE CREATING SECTION 8-1-28 OF THE CODE OF THE CITY OF PENSACOLA FLORIDA; DEFINING THE DOWNTOWN VISITORS' DISTRICT AND REGULATING THE CONDUCT OF INDIVIDUALS ON SIDEWALKS AND PUBLIC RIGHTS-OF-WAY THEREIN; PROVIDING DEFINITIONS; PROHIBITING SOLICITATION OF DONATIONS; PROVIDING PENALTIES THEREFOR; PROVIDING FOR SEVERABILITY; REPEALING CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY OF PENSACOLA, FLORIDA:

SECTION 1. Section 8-1-28 of the Code of the City of Pensacola, Florida, is hereby created to read:

Sec. 8-1-28. Regulation of Conduct In The Downtown Visitors' District.

- (1) Legislative Findings. The City Council of the City of Pensacola hereby makes the following legislative findings and declares them to be true and accurate:
- a. The City of Pensacola has substantial governmental interests in promoting and protecting tourism, encouraging the expansion of the City's economic base by attracting and maintaining new investments, creating an attractive infrastructure that encourages quality development and protecting the City's economy.
 - b. The Downtown Visitors' District (defined herein) is located within a geographical area of unique historic and business districts in the City of Pensacola which are nationally and internationally recognized as premier tourist designations.
 - c. Tourism is one of Florida's most important economic industries and the City of Pensacola is one of the preeminent tourist destinations in the Florida Panhandle.
 - d. Over the last 20 years, public and private investment in the Downtown Visitors' District has resulted in the redevelopment and revitalization of the core downtown business district comprised of a multitude of dining and entertainment venues that include restaurants, sidewalk cafes and nightclubs, theaters, museums, cultural centers, City parks and retail establishments where residents, visitors and tourists visit, shop, dine, and attend area events.
 - e. The City of Pensacola has a significant governmental interest in providing its residents, visitors, and tourists with a pleasant, enjoyable, and safe environment free of nuisance activity.
 - f. Panhandling activities impede public use of the sidewalks and public rights-of-way, and adversely impact tourism in the revitalized Downtown Visitor's District. As well,

these activities threaten the economic vitality as well as the existence of a pleasant, enjoyable, and safe environment in the Downtown Visitors' District.

- g. Panhandlers often disrupt the daily activities that occur at outdoor cafes, restaurants, nightclubs, entertainment venues and other downtown commercial establishments by disrupting business and physically approaching, harassing, or intimidating residents, visitors, and tourists in places where it is difficult or not possible to exercise the right to decline to listen to them or avoid their requests.
- h. Panhandlers also obstruct the sidewalks and rights-of-way located within the Downtown Visitors' District causing pedestrians to step into moving traffic or to come in contact with other pedestrians, thus endangering their safety and the safety of others.
- i. The City of Pensacola and owners of retail establishments as well as residents, visitors and tourist have complained about panhandlers soliciting donations on sidewalks and rights-of-way in the Downtown Visitors' District.
- j. The City of Pensacola recognizes and acknowledges that panhandling is entitled to First Amendment protection and its regulation must be content neutral and narrowly tailored to serve a significant government interest while leaving open alternative channels of communication.
- k. The City of Pensacola has a significant governmental interest in adopting this regulation is to engage in a reasonable, limited, time, place and manner regulation in a manner approved by the courts.
- l. The City of Pensacola finds that there are ample alternative public venues for such expressive activities outside of the Downtown Visitors' District.
- m. The City of Pensacola further finds that without the regulations being adopted in this section of the City Code, the investment in redeveloping the Downtown Visitors' District from a deteriorated partially vacant commercial area into its current vibrant and popular resident, visitor and tourist venue will be jeopardized.
- n. The City of Pensacola finds that this regulation is a content-neutral, narrowly tailored regulation intended to address and curb the problems unique to the subject area and do not unreasonably interfere with constitutionally protected rights.
- o. The regulations set forth in this ordinance are further the City's afore-stated interests and are not intended to prohibit the exercise of a person's protected constitutional rights under the First Amendment.
- p. The City of Pensacola finds that this ordinance furthers the significant governmental interest of the City of Pensacola in providing its residents, visitors, and tourists with a pleasant, enjoyable, and safe environment free of nuisance activity and will preserve

and enhance the various economic and tourism interests of the City and is in the best interest of the public.

(2) Definitions.

- a. *The Downtown Visitors' District* is hereby defined as the streets, adjacent sidewalks and pedestrian city rights-of-way within the following area:

The geographic area defined by the boundaries of the following named streets, including both sides of each named street, public areas including sidewalks and rights of way adjacent to both sides of each named street and each corner of intersecting named streets: Beginning at the intersection of Wright Street and Spring Street (being the point of beginning); then continuing east to the intersection of Wright Street and Tarragona Street; then continuing south on Tarragona Street to the intersection of Tarragona Street and Main Street; then continuing west on Main Street to Commendencia Street; then continuing south on Commendencia Street until the terminus of Commendencia Street; then continuing directly west from the terminus of Commendencia Street across the parking lot to the intersection of Jefferson Street; then continuing south on Jefferson Street to the beginning of Palafox Street including the loop of Palafox Street around Plaza de Luna; then continue north on Palafox Street to the intersection of Palafox Street and Main Street; then continue west on Main Street to the intersection of Main Street and Spring Street; then continue north on Spring Street to the point of beginning.

- b. *Solicitation of donations* means any request made in person on a street, sidewalk or public right-of-way within the Downtown Visitors' District, for an immediate donation of money or other thing of value, including the purchase of an item or service for an amount far exceeding its value, under circumstances where a reasonable person would understand that the purchase is a donation, whether such solicitation is accomplished verbally, passively or through any manner of signage. ~~Solicitation of donations made in connection with fundraising events held by or on behalf of charitable organizations for which a special event permit has been obtained shall not be unlawful under this provision.~~

(3) Prohibited Conduct. The following conduct is prohibited upon the sidewalks and public rights-of-way within the Downtown Visitors' District:

- a. Solicitation of donations.

(4) Penalties. This sec. 8-1-28 of the Code of the City of Pensacola, Florida, shall be enforced in the following manner:

- a. A law enforcement officer may issue a citation to a person when, based upon personal investigation, the officer has reasonable cause to believe that the person has committed a violation of section 8-1-28.

- b. A citation issued by a law enforcement officer shall be in a form prescribed by the mayor and shall contain:
 1. The date and time of issuance.
 2. The name and address of the person to whom the citation is issued.
 3. The date and time the violation of section 8-1-28 was committed.
 4. The facts constituting reasonable cause.
 5. The name and badge number of the law enforcement officer.
 6. The procedure for the person to follow in order to pay the civil penalty or to contest the citation.
 7. The applicable civil penalty if the person elects to contest the citation.
 8. A conspicuous statement that if the person fails to pay the civil penalty within the time allowed, or fails to appear in court to contest the citation, such person shall be deemed to have waived the right to contest the citation and that, in such case, judgment may be entered for an amount up to the maximum civil penalty.
- c. The following civil penalty citation schedules will apply if the person cited elects not to contest a citation and the civil penalties which will apply if such person elects to contest a citation:
 1. For those persons not contesting a citation:
 - (a) First citation, fifty dollars (\$50.00).
 - (b) Second citation, one hundred dollars (\$100.00).
 - (c) Third citation, two hundred dollars (\$200.00).
 - (d) Fourth and all additional citations, four hundred dollars (\$400.00).
 2. For those persons contesting a citation, the county court may impose a fine within the court's discretion up to a maximum of five hundred dollars (\$500.00).
- d. After issuing a citation to an alleged violator, a law enforcement officer shall deposit the original citation and one copy of the citation with the county court.
- e. An officer issuing a citation under this section may elect to contact community outreach services, such as United Way's "2-1-1" service, in order to determine whether a referral can be made or services offered to assist the individual cited. In the event the officer is unable to contact community outreach services at the time of the officer's contact with the person accused of violating this article, the officer may supply the person with information sufficient for the person to make such contact at a later time.

SECTION 2. If any word, phrase, clause, paragraph, section or provision of this ordinance or the application thereof to any person or circumstance is held invalid or unconstitutional, such finding shall not affect the other provision or applications of the ordinance which can be given effect without the invalid or unconstitutional provisions or application, and to this end the provisions of this ordinance are severable.

SECTION 3. All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

SECTION 4. This ordinance shall become effective on the fifth business day after adoption, unless otherwise provided pursuant to Section 4.03(d) of the City Charter of the City of Pensacola.

Adopted: _____

Approved: _____
President of the City Council

Attest:

City Clerk