

## CHAPTER 8-1. GENERAL PROVISIONS

### Sec. 8-1-1. - Assessment by courts for criminal justice education and law enforcement training.

- (a) *Assessments.* All courts created by Article V of the Constitution of the State of Florida situate in the city shall levy and the clerks of all those courts shall collect and remit to the ~~treasurer of the~~ city an assessment of two dollars (\$2.00) against every person convicted for violation of a state penal or criminal statute or convicted for violation of a municipal or county ordinance (except statutes or ordinances relating to the parking of vehicles) and two dollars (\$2.00) from every bond estreature or forfeited bail bond related to such statutes or ordinances. This section shall apply only to the state penal and criminal law violations and the county ordinances as arise within the jurisdiction of the city.
- (b) *Criminal justice education and training fund.* All funds remitted to the ~~treasurer of the~~ city pursuant to subsection (a) herein shall be deposited in a separate fund and be expended solely for criminal justice education degree programs and training expenditure for city law enforcement and correctional officers, part-time law enforcement officers, auxiliary officers and support personnel in conformance with the requirements of applicable law, pursuant to the provisions of F.S. section 918.15.

(Code 1968, § 2-10)

### Sec. 8-1-2. - Misdemeanors under state law.

It shall be unlawful for any person to commit, within the corporate limits of the city, any act which is recognized by the laws of the state as a misdemeanor, and the commission of such acts is hereby forbidden.

(Code 1968, § 122-1)

**Case Law annotation—** A municipality may enact an ordinance which creates an offense against municipal law for the same act that constitutes an offense against state law. *Jaramillo v. City of Homestead*, 322 So. 2d 496 (Fla. 1975).

Similarly, a municipality by ordinance may adopt state misdemeanor statutes by specific reference or by the general reference contained in the ordinance. *Id.*

Such an adoption by general reference as contained in the ordinance permits subsequent amendments, revisions and repeals of the laws by the state legislature to apply to the municipal ordinances. *Id.*

**State Law reference—** Arrests, F.S. Ch. 901; notice in lieu of arrest, F.S. § 901.27 et seq.

### Sec. 8-1-3. - Nuisances at common law, state law, city ordinances.

All nuisances at common law or under the laws of Florida, or defined by city ordinances, are hereby prohibited within the city, and it shall be unlawful for any person to create, cause, permit or suffer any such nuisance on any lot or premises owned, occupied or controlled by him, or on any street or public place, or to do any act or create, cause or permit the existence of anything calculated to endanger the safety of the city or the lives, health or comfort of the citizens.

(Code 1968, § 122-34)

Sec. 8-1-4. - Abatement of nuisances.

Whenever any nuisance as defined in section 8-1-3 shall be found to exist on any premises, and it shall be found necessary to have the same removed or abated, the ~~city chief of police~~ shall immediately notify the owner or occupant of the premises, or the person who causes, permits or suffers the nuisance to exist, to remove or abate same within a reasonable time to be specified in the notice as the nature of the case and as the public good may require, and any person who shall fail to remove or abate the nuisance within the time specified in the notice shall be punished as provided for in section 1-1-8.

(Code 1968, § 122-35)

**Cross reference**— Code enforcement, Title XIII.

Sec. 8-1-5. - Destroying or injuring city property.

It shall be unlawful for any person willfully or maliciously to destroy or injure any property belonging to or in the custody or control of the city.

(Code 1968, § 122-10)

Sec. 8-1-6. - Injuring trees or shrubs in public places.

It shall be unlawful to injure in any manner any tree or shrub growing in any public park or other public place.

(Code 1968, § 146-30)

**Cross reference**— Parks and recreation, Ch. 6-3.

Sec. 8-1-7. - Fences, enclosures or other obstructions on city property.

It shall be unlawful for any person to have, maintain, occupy or use, or cause to be maintained, occupied or used, any fence, enclosure, building, house, shed, tent or any structure or any obstruction whatsoever, on any street, park or other property, or any part or portion thereof, of the city, without the written permission of the mayor, ~~authorized by resolution of the city council, first had and obtained.~~

(Code 1968, § 146-28; Ord. No. 16-10, § 122, 9-9-10)

**Cross reference**— Streets, sidewalks and other public places, Ch. 11-4.

Sec. 8-1-8. - Barbed wire fences unlawful without planks.

It shall be unlawful for any person to erect or maintain in the city any fence of barbed wire, or fence of which barbed wire forms any part, upon the exterior lines of any lot or enclosure, without a plank at the top of the posts and two (2) other planks between the top one and the ground.

(Code 1968, § 122-3)

**Cross reference**— Buildings and building regulations, Ch. 7-13.

Secs. 8-1-9, 8-1-10. - Reserved.

**Editor's note**— Ord. No. 41-90, § 1, adopted Sept. 13, 1990, repealed §§ 8-1-9 and 8-1-10. Prior to repeal, said sections pertained to registration of firearms and transfer or sale of firearms, and were derived from Code 1968, §§ 122-21, 122-22.

Sec. 8-1-11. - Reserved.

**Editor's note**— Ord. No. 27-11, § 3, adopted September 22, 2011, repealed § 8-1-11, which pertained to discharge of firearms, explosives and derived from § 122-23, of the 1968 Code; Ord. No. 16-10, § 123, 9-9-10.

Sec. 8-1-12. - Use of slingshots.

It shall be unlawful for any person to use within the limits of the city any slingshot.

(Code 1968, § 122-53; Ord. No. 27-11, § 4, 9-22-11)

Sec. 8-1-13. - Parades and processions—Permit required; exceptions.

No procession or parade ~~excepting the forces of the United States Army or Navy, the military forces of this state and the forces of the police and fire departments~~ or designated funeral procession, shall occupy, march or proceed along any street except in accordance with a permit issued by the mayor and other regulations as are set forth herein which may apply.

(Code 1968, § 122-37; Ord. No. 16-10, § 124, 9-9-10; Ord. No. 16-10, § 125, 9-9-10; Ord. No. 16-10, § 124, 9-9-10)

**Cross reference**— Special events, Ch. 11-4, Art. VI.

Sec. 8-1-14. - Same—Interference.

It shall be unlawful for any person to willfully hinder, impede the progress of or interfere in any manner with the holding of any lawfully authorized parade held within the city.

(Code 1968, § 122-38)

Sec. 8-1-15. - False police and fire alarms.

(1) *Excessive false alarms* ~~prohibited~~*unlawful*: It shall be ~~a violation unlawful~~*of this code* for any person, firm, corporation, partnership or entity who owns, controls, or has custody of any police or fire alarm, as defined herein, to suffer or permit the existence of excessive false alarms by such devices, as defined herein.

(2) *Definitions*:

(a) *Alarm* or *alarm system* means any mechanical or electrical device that is arranged, designed, or used to signal the occurrence in the City of Pensacola of a burglary, robbery, or other criminal offense, fire emergency or other emergency requiring urgent attention, and to which ~~public safety police or fire~~*pp* personnel are expected to respond. Alarm systems include those through which public safety personnel are notified directly of such signals through automatic recording

devices or are notified indirectly by way of third persons who monitor the alarm systems and who report such signals to the ~~city fire or police department~~. Alarm systems also include those designed to register a signal which is so audible, visible or in other ways perceptible outside a protected building, structure or facility as to notify persons in the neighborhood or vicinity beyond the signal location who in turn may notify the appropriate city personnel ~~police or fire department~~ of the signal. Alarm systems do not include those affixed to automobiles. Alarms in separate structures are to be counted as separate systems even though owned or controlled by the same person or entity.

- (b) *False alarm* means an alarm signal eliciting a response by ~~the public safety personnel~~ ~~police or fire department~~ when a situation requiring a response by public safety ~~the police or fire department~~ does not in fact exist. False alarm does not include an alarm signal caused by violent conditions of nature or other extraordinary circumstances not reasonably subject to control by the alarm operator or alarm user. Alarms resulting from the following conditions are not considered false alarms:

1. Criminal activity or unauthorized entry.
2. Earthquake or other natural occurrence causing structural damage to the protected premises.
3. High winds sufficient to activate motion detection systems or causing physical damage to the protected premises.
4. Flooding of the protected premises due to overflow of natural drainage.
5. Lightning bolt causing physical damage to the protected premises.
6. Telephone line malfunction verified in writing by a telephone company supervisor.
7. Electrical service interruption verified by the Gulf Power Company.
8. Communication to city public safety personnel ~~the police or fire department~~ before a unit is dispatched to investigate clearly indicating that the alarm resulted from authorized entry, authorized system test, or other noncriminal cause.
9. An alarm caused on the reasonable but mistaken belief that a burglary, robbery, or other criminal offense, fire emergency, or other emergency is in progress.
10. The generation of a false alarm which is beyond the reasonable control of the system user.

- (c) *Excessive false alarms* occur when any alarm system produces more than three (3) false alarms in any calendar year; however, persons installing a new alarm system or making substantial modifications to an existing system shall be entitled to a grace period during which alarms generated by such system shall be deemed nonfalse alarms, provided further that this grace period shall cease thirty (30) days after installation of or modification to an alarm system; provided further that the chief of the police or fire departments shall have the authority to grant an extended grace period for good cause shown upon request.

(3) *Response to alarms:*

- (a) Whenever an alarm is activated in the City of Pensacola limits thereby requiring an emergency response to the location ~~by the police or fire department and the police or fire department does respond~~, the ~~responding police or fire department~~ personnel on the scene of the activated alarm system shall inspect the area protected by the system and shall determine whether the emergency response was in fact required as indicated by the alarm system or whether the alarm signal was a false alarm.
- (b) If the ~~police or fire department~~ personnel at the scene of the activated alarm system determines the alarm to be false, ~~they said officers~~ shall make a report of the false alarm, a notification of which shall be mailed or delivered to the alarm user at the address of said alarm system installation location, advising the alarm user of the false alarm.

- (c) The ~~mayor chief of the police or fire department or his designee~~ shall have the right to inspect any alarm system on the premises to which a response has been made, and ~~he~~ may cause an inspection of such system to be made at any reasonable time thereafter.
- (4) *Penalty fee assessment:*
- (a) If any alarm system produces three (3) false alarms in any calendar year, the ~~city chief of the affected department~~ shall provide written notice of the fact, which shall be given by certified mail or delivery to the alarm user asking the alarm user to take corrective action in regard to false alarms and informing the alarm user of the false alarm fee schedule provided herein.
- (b) Upon any alarm system producing a fourth or additional false ~~police~~ alarm in a calendar year, a fee of fifty dollars (\$50.00) per false alarm shall be charged to the user or owner.
- ~~(c) Upon any alarm system producing a fourth or additional false fire alarm in a calendar year, a fee of fifty dollars (\$50.00) per false alarm shall be charged to the user or owner.~~
- ~~(d)~~ False alarms occurring no later than six (6) months after installation of an alarm system shall not be counted in the penalty fee assessment procedure.
- (5) *Appeal of false alarm:*
- (a) Any owner or user who has been notified of a false alarm or assessed a false alarm fee may appeal to the mayor by giving written notice within three (3) days of the notification of a false alarm or assessment. Upon receipt of the appeal notice, a time certain, not to exceed thirty (30) days of receipt of the appeal, shall be established for a hearing.
- (b) The appellant shall be given reasonable notice of such hearing date.
- (c) The mayor ~~or his designee~~ shall serve as hearing officer, and the burden of proof shall be upon the appellant to show by a preponderance of the evidence that the alarm signal in question was not a false alarm as defined herein.
- (d) After receipt of all relevant evidence, the hearing officer shall, within three (3) days, render a ~~his~~ decision. The decision of the hearing officer shall be final.

(Ord. No. 14-87, § 1, 4-9-87; Ord. No. 45-89, §§ 1, 2, 9-21-89; Ord. No. 16-10, § 125, 9-9-10)

Sec. 8-1-16. - Regulation of noise.

- (a) It shall be unlawful for any person to willfully make, continue or cause to be made or continued any loud and raucous noise which term shall mean any sound which, because of its volume level, duration, and character, annoys, disturbs, injures or endangers the comfort, repose, health, peace or safety of reasonable persons of ordinary sensibilities within the limits of the city.
- (b) The following acts, among others, are declared to be loud and raucous noises in violation of this section 8-1-16, which enumeration shall not be deemed to be exclusive:
- (1) *Horns and signaling devices.* The sounding of any horn or signaling device on any automobile, motorcycle or other vehicle on any street or public place of the city, except as a danger warning; the creation by means of any such signaling device of any unreasonably loud or harsh sound; the sounding of any such device for an unnecessary and unreasonable period of time; the use of any signaling device except one operated by hand or electricity; the use of any horn, whistle or other device operated by engine exhaust; and the use of any such signaling device when traffic is for any reason held up. The use of sirens, except by authorized emergency vehicles, is prohibited.
- (2) *Radios, phonographs and similar devices.* The using, operating or permitting to be played, used or operated, of any radio receiving set, television set, musical instrument, phonograph or other machine or device for the producing or reproducing of sound in such a manner as to disturb the peace, quiet and comfort of the neighboring inhabitants or at any time with louder volume than

is necessary for convenient hearing for the person or persons who are in the room, vehicle or chamber in which the machine or device is operated and who are voluntary listeners thereto. The operation of any such set, instrument, phonograph, machine or device between the hours of 11:00 p.m. and 7:00 a.m. in such a manner as to be plainly audible at a distance of fifty (50) feet from the building, structure or vehicle in which it is located shall be prima facie evidence of a violation of this paragraph.

- (3) *Local vocal noises.* Vocal noises made in a loud and raucous manner between the hours of 11:00 p.m. and 7:00 a.m., so as to annoy or disturb the quiet, comfort, or repose of persons in any office or other place of business, or in any dwelling, hotel or other type of residence.
- (4) *Animals and birds.* The keeping of any animal or bird which, by causing frequent or long continued noise, shall disturb the comfort or repose of persons in the vicinity.
- (5) *Exhaust.* The discharge into the open air of the exhaust of any steam engine, stationary internal combustion engine, motor boat, or motor vehicle except through a muffler or other device which will effectively prevent loud or explosive noises therefrom.
- (6) *Defect in vehicle or load.* The use of any automobile, motorcycle or vehicle so out of repair, so loaded or in such manner as to create loud and unnecessary grating, grinding, rattling or other noise.
- (7) *Construction or repairing of buildings.*
  - (i) The erection, including excavation, demolition, alteration or repair of any building other than between the hours of 6:00 a.m. and 7:00 p.m. on Monday through Saturday, except in case of urgent necessity in the interest of public health and safety, and then only with a permit from the director of inspections, which permit may be granted for a period not to exceed three (3) days while the emergency continues and which permit may be renewed for periods of three (3) days or less while the emergency continues. If the director of inspections should determine that the public health and safety will not be impaired by the erection, demolition, alteration or repair of any building or the excavation of streets and highways within the hours of 7:00 p.m. and 6:00 a.m., and if he shall further determine that loss or inconvenience would result to any party in interest, he may grant permission for such work to be done within the hours of 7:00 p.m. and 6:00 a.m., including Sundays, upon application being made at the time the permit for work is awarded or during the progress of the work.
  - (ii) *Reserved.* At the request of the city this section has been removed.
- (8) *Schools, courts, churches, hospitals, and other medical facilities.* No person, while on public or private grounds adjacent to any building in which a school, court, church, hospital, or other medical facility is in session or in use, shall willfully make or assist in the making of any noise which disturbs the peace or good order of such activity occurring within the building. The term "medical facility," as used in this paragraph, includes physicians' offices, walk-in medical centers, medical diagnostic testing centers, surgical centers and facilities which provide reproductive health services including the termination of pregnancy and/or counseling or referral services relating to the human reproductive system.
- (9) *Construction equipment.*
  - ~~(i) The operation between the hours of 6:00 p.m. and 7:00 a.m. and at any time on Sundays of any pile driver, steam or power shovel, pneumatic hammer, derrick, steam or electric hoist or other appliance, the use of which is attended by loud or unusual noise.~~
  - ~~(ii) The provisions of subsection (i), above, insofar as they pertain to the hours between 7:00 a.m. and 6:00 p.m. on Sundays are suspended and shall not be operative through December 31, 2006, in order to facilitate residential repair from damage caused by Hurricane Ivan.~~
- (10) *Electronic sound amplification.* The use of electronic sound amplification equipment in such a manner as to produce a sound which is capable of being heard at a point in excess of fifty (50) feet between the hours of 11:00 p.m. and 7:00 a.m. is prohibited in the following zones: R-

1AAAAA, R-1AAAA, R-1AAA, R-1AA, R-1A, R-ZL, R-2A, R-2, R-NC, HR-1, HR-2, HC-1, PR-1AAA, PR-2, ATZ-1 and ATZ-2.

- (c) The provisions of section 8-1-16 are intended to be construed to secure for the people freedom from unwanted loud and raucous noise as described herein without violating any of the rights secured by the constitution to the people, and are not intended, nor shall they be construed, to regulate the usual and customary noise incidental to urban life.
- (d) *Penalty.* Any person violating any of the provisions of this section shall be deemed guilty of a misdemeanor and subject to the penalty provided by section 1-1-8 of the Code.
- (e) *Additional remedy, injunction.* As an additional remedy, the operation or maintenance of any device, instrument, vehicle or machinery in violation of any provision hereof and which causes discomfort or annoyance to reasonable persons of normal sensitiveness or which endangers the comfort, repose, health or peace of residents in an area shall be deemed, and is declared to be, a public nuisance and may be subject to abatement summarily by a restraining order or injunction issued by a court of competent jurisdiction.

(Ord. No. 52-87, § 1, 12-10-87; Ord. No. 7-93, § 1, 4-8-93; Ord. No. 33-94, § 2, 9-18-94; Ord. No. 37-94, § 1, 10-13-94; Ord. No. 4-95, § 1, 1-26-95; Ord. No. 07-05, §§ 1, 2, 6-23-05)

Sec. 8-1-17. - Throwing certain objects at parades prohibited.

It shall be unlawful for any person, while participating in a parade or while on a parade route or in a parade staging area or in a parade disbanding area to throw, toss, distribute, possess, or have in his custody or control any fireworks not expressly permitted by Florida law; any life-threatening objects; any noxious substance or any liquid intended to be poured, tossed, handed out or otherwise distributed; or any throw containing sharp points, including but not limited to plastic spears or plastic, paper or silk flowers with wire stems, intended to be tossed; or to throw, toss or otherwise distribute, any other object having a weight in excess of two (2) ounces; or to throw, toss or otherwise distribute any object in such a manner as to encourage spectators to enter the street or to closely approach vehicles, floats, horses or other conveyances.

(Ord. No. 19-90, § 1, 3-22-90)

Sec. 8-1-18. - Prohibition of residential picketing.

It shall be unlawful for any person to engage in picketing before or about the residence or dwelling of any individual in the city. This prohibition shall be applied only when picketing occurs, with or without the carrying of signs or other forms of speech, and is directed toward or takes place solely in front of a particular residence, utilizing a public street, sidewalk, right-of-way, or other public area, when such activity occurs in the following zoning districts: R-1AAAAA, R-1AAAA, R-1AAA, R-1AA, R-1A, R-ZL, R-2A, R-2, R-NC, HR-1, HR-2, PR-1AAA, ~~OEHR-2~~ ~~WEHR-2~~, ATZ-1, and PR-2. The provisions of section 1-1-8 of the Code of the City of Pensacola, Florida, shall provide the penalty for violation of this section.

Commented [JM1]: Zoning category previously deleted.

(Ord. No. 29-94, § 2, 9-8-94)

Sec. 8-1-19. - Designated law enforcement areas.

- (a) No person shall enter upon or obstruct or create any obstruction within a designated law enforcement area adjacent to an abortion clinic other than a law enforcement official. It shall not be a violation of this subsection for the owner, tenant, staff member, employee or invitee of an abortion clinic or other business served by a paved driveway to enter upon that portion of a designated law enforcement area which is a paved driveway solely as necessary for ingress and egress.

(b) *Definitions as used in this section:*

- (1) *Designated law enforcement area* means an area eight (8) feet in width within a public right-of-way, immediately adjacent to the property line of land on which an abortion clinic is located. Such designated law enforcement area does not include paved sidewalks intended for pedestrian use.
  - (2) *Law enforcement official* means a sworn officer or authorized employee of the City of Pensacola ~~Pensacola Police Department~~, Escambia County Sheriff's Department, Florida Department of Law Enforcement, State Attorney's Office, or other state or federal law enforcement agency, whether in uniform or not.
  - (3) *Abortion clinic* means any facility in which the termination of pregnancies occurs, which facility is regulated by an agency or department of the State of Florida.
- (c) *Penalties.* Any person violating subsection (a) shall be subject to the penalties provided in section 1-1-8 of the city code.

(Ord. No. 3-95, § 2, 1-26-95)

**Editor's note**— Ord. No. 3-95, § 2, adopted Jan. 26, 1995 created a new § 8-1-18. At the discretion of the editor said section has been redesignated as § 8-1-19 to prevent duplication of section numbering.

Sec. 8-1-20. - Public nudity.

- (1) *Title.* This section shall be known as the "City of Pensacola Public Nudity Ordinance".
- (2) *Intent.*
  - (a) It is the intent of this section to protect and preserve the good order, health, safety, welfare, and morals of the citizens of the city by prohibiting a person from intentionally or recklessly appearing or being nude, or causing another person to appear or be nude, in a public place or engaging in, simulating or permitting another person to engage in or to simulate certain sexual conduct in or at a public place within the city except as provided for in subsection (7).
  - (b) It is the further intention of this section to accomplish those intents and purposes expressed in the recitals ("whereas" clauses) of Ordinance No. 56-98, each of which are incorporated by reference in this subsection (2).
- (3) *Definitions.*
  - (a) *Breast.* A portion of the human female mammary gland (commonly referred to as the female breast) including the nipple and areola (the darker colored area of the breast surrounding the nipple) and an outside area of such gland wherein such outside area is (i) reasonably compact and contiguous to the areola, and (ii) contains at least the nipple and the areola and one-quarter (¼) of the outside surface area of such gland.
  - (b) *Entity.* Any proprietorship, partnership, corporation, association, business trust, joint venture, joint-stock company or other for-profit and/or not-for-profit organization.
  - (c) *Nude.* Any person insufficiently clothed in any manner or that any of the following body parts are not entirely covered with a fully opaque covering:
    - (1) The male or female genitals;
    - (2) The pubic area;
    - (3) The vulva;
    - (4) The penis;



- (5) The female breast (each female person may determine which one-quarter(¼) of her breast surface area (see definition of breast) contiguous to and containing the nipple and the areola is to be covered);
- (6) The anus;
- (7) The anal cleft; or
- (8) The anal cleavage.
- (9) For the purposes of this subsection, bodypaint, tattoos, liquid latex, whether wet or dried, string and dental floss and similar substances shall not be considered an opaque covering.
- (d) *Person*. Any live human being aged ten (10) years of age or older.
- (e) *Places approved or set apart for nudity*. Enclosed single sex public restrooms, enclosed single sex functional shower, single sex locker and/or dressing room facilities, enclosed motel rooms and hotel rooms designed and intended for sleeping accommodations, doctor's offices, portions of hospitals, the yard areas of private residences, and similar places in which nudity or exposure is necessarily and customarily expected outside of the home and the sphere of privacy constitutionally protected therein. This term shall not be deemed to include places where a person's conduct of being nude is used for his or her profit or where being nude is used for the promotion of business or is otherwise for commercial gain.
- (f) *Public place*. Any location frequented by the public, or where the public is present or likely to be present, or where a person may reasonably be expected to be observed by members of the public. Public places include, but are not limited to, streets, sidewalks, parks, beaches, business and commercial establishments (whether for-profit or not-for-profit and whether open to the public at large or where entrance is limited by an admission or a cover charge or membership requirement or membership fee), bottle clubs, bars, pubs, hotels, motels, restaurants, night clubs, country clubs, cabarets, and meeting facilities utilized by any religious, social, fraternal or similar organization. Premises, or portions thereof, such as motel or hotel rooms, used solely as a private residence, whether permanent or temporary in nature, shall not be deemed to be a public place.
- (4) *Findings*. In addition and supplemental to the findings and determinations contained in the recitals ("Whereas" clauses) of Ordinance No. 56-98 which are incorporated by reference into this subsection (4), it is the intent of the city to regulate the conduct of appearing nude in public places for the purpose of regulating nudity and other conduct, that considering what has happened in other communities, the acts prohibited in subsections (5) and (6) below, encourage or create the potential for the conduct of adverse secondary effects such as, but not limited to, neighborhood blight, lower property values, undesirable numbers of transients and the crimes of prostitution, rape, attempted rape, possession and sale of controlled substances and assault; that actual and simulated nudity and sexual conduct in public places, begets and has the potential for begetting undesirable and unlawful behavior; and that sexual, lewd, lascivious, and salacious conduct results in violation of law and creates dangers to the health, safety, morals, and welfare of the public and those who engage in such conduct.
- (5) *Public sexual conduct prohibited*. No person in or at a public place shall engage in and no person or entity maintaining, owning or operating a public place shall encourage, allow or permit in or at such public place any sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation, lap dancing, straddle dancing, any sexual act which is prohibited by law, touching, caressing, or fondling of the breasts, anus or genitals or the simulation thereof.
- (6) *Nudity prohibited in public places*. It shall be unlawful for any person to knowingly, intentionally, or recklessly appear, or cause another person to appear nude, as defined in subsection (3)(c), except as provided in subsection (7), below. It shall also be unlawful for any person or entity maintaining, owning, or operating any public place to encourage, suffer or allow any person to appear nude in such public place, except as provided in subsection (7), below.

- (7) *Existing nonconforming uses.* The provisions of this section shall be applied prospectively. Any adult entertainment establishment which permits as of the first reading of this section public nudity as defined herein and which would otherwise be in violation of this section may continue in existence as a nonconforming use; provided, however, that no establishment shall alter its method of business to permit any further form of public nudity than was in existence on October 29, 1998, and further provided that no such establishment may be enlarged or increased in size or be discontinued in use for a period of more than one hundred eighty (180) days.
- (8) *Exemptions.* The prohibitions of subsections (5) and (6) of this section shall not apply:
- (a) When a person appears nude in a place approved or set apart for nudity, as defined by this section, provided: (i) such person is nude for the sole purpose of performing the legal function(s) that is/are customarily intended to be performed within such place provided or set apart for nudity, and (ii) such person is not nude for the purpose of obtaining money or other financial gain for such person or for another person or entity.
  - (b) When the conduct of being nude cannot legally be prohibited by this section because: (i) it constitutes a part of a bona fide live communication, demonstration or performance by a person wherein such nudity is expressive conduct incidental to and necessary for the conveyance or communication of a genuine message or public expression and is not a mere guise or pretense utilized to exploit the conduct of being nude for profit or commercial gain, and as such is protected by the United States Constitution or Florida Constitution, or (ii) it is otherwise protected by the United States Constitution or Florida Constitution.
  - (c) A mother's breastfeeding of her baby does not under any circumstance violate the provisions of this section.
- (9) *Enforcement and penalties.* Any person or entity violating any of the provisions of this section shall be prosecuted in the same manner as misdemeanors are prosecuted. Such violations shall be prosecuted in the name of the state in a court having jurisdiction of misdemeanors by the prosecuting attorney thereof and, upon conviction, shall be punished by a fine not exceeding five hundred dollars (\$500.00) or imprisonment for a term not exceeding sixty (60) days or by both such fine and imprisonment. Each day any violation of any provision of this section shall continue shall constitute a separate offense.
- (10) *Injunctive relief.* In addition to the procedures provided herein, persons and entities that are not in conformity with these requirements shall be subject to appropriate civil action in the court of appropriate jurisdiction for abatement.

(Ord. No. 56-98, §§ 1—10, 12-17-98)

Sec. 8-1-21. - Trespass in cemeteries.

A person who, without being authorized, licensed, or invited, willfully enters upon or remains in any cemetery in the City of Pensacola, Florida, between the hours of sunset and sunrise of the following day commits the offense of trespass in a cemetery and shall be punished as provided for in section 1-1-8.

(Ord. No. 16-04, § 1, 8-19-04)

Sec. 8-1-22. - Camping prohibited; exceptions.

- (1) For purposes of this section, "camping" is defined as:
- (a) Cooking over an open flame or fire out-of-doors; or
  - (b) Bathing in public for purposes of personal hygiene; or
  - (c) Sleeping out-of-doors under one of the following circumstances:

- (i) Adjacent to or inside a tent, or
  - (ii) Inside some form of temporary shelter.
- (2) Camping is prohibited on all public property, except as may be specifically authorized by the appropriate governmental authority.
  - (3) Camping is prohibited on all property in the city used for residential purposes; provided, however, that camping is permitted on such property with the permission and consent of the property owner.
  - (4) An individual in violation of this section who has no private shelter, shall be advised by a law enforcement officer charged with the enforcement of this ordinance of available shelter in the City of Pensacola or Escambia County, in addition to any penalties of law.

(Ord. No. 17-13, § 1, 5-23-13; Ord. No. 09-14, § 1, 2-27-14)

Secs. 8-1-23, 8-1-24. - Reserved.

**Editor's note**— Ord. No. 08-15, § 1, adopted April 9, 2015, repealed §§ 8-1-23, 8-1-24, which pertained to city restrooms—prohibited activities; public elimination prohibited. See Code Comparative Table for complete derivation.

Sec. 8-1-25. - Panhandling.

- (1) *Legislative findings*: The City Council of the City of Pensacola, Florida, hereby makes the following findings:
  - (a) Aggressive soliciting, begging or panhandling warrants justifiable alarm or immediate concern for the safety of persons or property and can cause apprehension and fear in the intended target of the soliciting, begging or panhandling.
  - (b) Soliciting, begging or panhandling on the public roadways or rights-of-way creates a safety hazard for both pedestrians and those travelling upon the roadways and rights-of-way, and poses a disruption to the free flow of traffic.
  - (c) The City of Pensacola has a significant interest in protecting the health, safety and welfare of those peacefully moving about within the city.
- (2) *Definitions*.
  - (a) *Arterial roadway* means a roadway providing service which is relatively continuous and of relatively high traffic volume, long trip length, and high operating speed. In addition, every United States numbered highway is an arterial road.
  - (b) *Begging* means, for purposes of this section only, the same as soliciting, below.
  - (c) *Community outreach services* means a public or private services provider that offers residential, rehabilitative, medical or social services assistance, including, but not limited to, mental health treatment, drug or alcohol rehabilitation or homeless assistance services for individuals in need thereof. ~~One example of an entity that can help individuals access such services is First Call For Help.~~
  - (d) *Community redevelopment areas* means those areas of the city the city council has found to be areas of slum and blight as set forth in F.S. §§ 163.330—163.463. ~~The city's community redevelopment area for the purposes of this act is the Urban Core Community Redevelopment Area described in Ordinance No. 13-84, bounded by the west by "A" Street; on the north by Cervantes Street; on the east by 17th Avenue, the L&N Railroad trestle and the mouth of Bayou Texar; and on the south by Pensacola Bay.~~ The city council may establish additional community redevelopment areas pursuant to F.S. §§ 163.330—163.463.

**Commented [JM2]:** The United Way has changed its program from "First Call for Help" to "2-1-1."

**Commented [JM3]:** Outdated definition.

- (e) *Panhandling* means, for purposes of this section only, the same as soliciting, below.
- (f) *Soliciting* means, for purposes of this section only, any request made in person on a street, sidewalk or public place, asking 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. Soliciting shall not include passively standing or sitting with a sign or other indication that one is seeking donations without addressing the request to any specific person.
- (3) *Soliciting prohibited in certain areas or under certain circumstances.* It shall be unlawful for any person to solicit, beg or panhandle in the city limits of the City of Pensacola in the following areas or under the following circumstances:
- (a) On any day after sunset, or before sunrise; or
- (b) When either the panhandler or the person being solicited is located at any of the following locations:
1. At a bus stop.
  2. In any public transportation vehicle.
  3. In any public transportation facility.
  4. In a vehicle which is parked or stopped on a public street or alley.
  5. In a sidewalk cafe.
  6. Within twenty (20) feet from any ATM machine or entrance to a financial institution.
  7. Within twenty (20) feet of a public toilet facility.
  8. From any operator of a motor vehicle that is in traffic on a public street; provided, however, that this prohibition shall not apply to services rendered in connection with emergency repairs requested by the owner or passengers of such vehicle; or
- (c) In an aggressive manner, to include any of the following:
1. Touching the solicited person without the solicited person's consent.
  2. Panhandling a person while such person is standing in line and/or waiting to be admitted to a commercial establishment.
  3. Blocking, either individually or as part of a group of persons, the path of a person being solicited, or the entrance to any building or vehicle.
  4. Following behind, ahead or alongside a person who walks away from the panhandler after being solicited.
  5. Using profane or abusive language, either during the solicitation or following a refusal to make a donation, or making any statement, gesture, or other communication which would cause a reasonable person to be fearful or feel compelled.
  6. Panhandling in a group of two (2) or more persons ~~or~~
- (d) Within five hundred (500) feet of the intersection of two (2) arterial roads in the Urban Core Community Redevelopment Area (CRA):
- Main Street and Palafox Street
- Bayfront Parkway and 9th Avenue
- Garden Street and North Palafox Street
- Chase and North Palafox Street

Cervantes and North Palafox Street

East Cervantes Street and 9th Avenue

East Gregory Street and 9th Avenue

East Gregory Street and Bayfront Parkway

East Chase Street and 9th Avenue

East Chase Street and Bayfront Parkway

North Alcaniz Street and East Chase Street

North Alcaniz Street and East Cervantes Street

North Davis Highway and East Cervantes Street

- (4) *Penalties.* Violation of this section shall be enforced by application of the penalties set forth in section 1-1-8 of the Code of the City of Pensacola, Florida.

In addition, the officer issuing a citation under this article may elect to contact community outreach services, ~~such as United Way's First Call For Help~~, 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 section, the officer may supply the person with information sufficient for the person to make such contact at a later time.

(Ord. No. 20-13, § 1, 6-13-13)

Sec. 8-1-26. - Excessive generation of code complaints.

- (1) *Repeated and excessive generation of code violations unlawful.* It shall be unlawful for any person, firm, corporation, partnership or entity who owns, controls, has custody of or responsibility for private property in the city limits of the City of Pensacola to allow the condition of the property to violate the provisions of the Code of Ordinances on more than four (4) occasions per calendar year, causing the investigation of such conditions and the preparation of notices of violations, regardless of whether the property is subsequently brought into compliance by the owner, the city, or any other entity.
- (2) *Penalty for violation.* If the owner or person or entity in control of or having responsibility for the maintenance of real property allows the property located in the city limits of the City of Pensacola to become in violation of the code so as to generate the issuance of more than four (4) notices of violation in a calendar year, the code enforcement authority shall charge and impose an additional fee in the amount of one hundred fifty dollars (\$150.00) per violation for each subsequent notice of violation, independent of and notwithstanding any other fines, penalties or assessments.
- (3) *Appeal of fines for repeated and excessive generation of code violations.* Any property owner or other entity who has received a fine pursuant to this section may appeal the imposition of the fine to the Special Magistrate. Such appeal must be made in writing to the code enforcement authority within fourteen (14) calendar days of actual receipt or acknowledged receipt of a mailed notice of the fine, and a hearing will be scheduled before the Special Magistrate within thirty (30) days thereafter. The burden of proof shall be upon the appellant to show by a preponderance of the evidence that the fine is not warranted. The decision of the Special Magistrate shall be final.

(Ord. No. 01-12, § 1, 2-9-12)

**Note**— Formerly § 8-1-24.

Sec. 8-1-27. - Regulation of vegetation barriers.

It shall be unlawful for any person who shall own, control or occupy any lot, parcel of land or premises in the city, to allow a barrier consisting of vegetation to cause damage to physical structures on adjacent property or to be kept in a manner which harbors rats or other similar creatures constituting a hazard to public health. This section may be enforced through the provisions of section 1-1-8 or section 13-2-2, herein.

(Ord. No. 05-14, § 1, 2-13-14)

**Editor's note**— Ord. No. 05-14, § 1, adopted February 13, 2014, set out provisions intended for use as § 8-1-26. For purposes of clarity, and at the editor's discretion, these provisions have been included as § 8-1-27.

Sec. 8-1-28. - Reserved.

**Editor's note**— Ord. No. 24-17, § 1, adopted September 14, 2017, repealed § 8-1-28, which pertained to regulation of conduct in the Downtown Visitors' District and derived from Ord. No. 09-17, § 1, 5-11-17.

REPEAL CHAPTER 8-2.

CHAPTER 8-2. REGISTRATION OF CRIMINALS<sup>[2]</sup>

Footnotes:

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**State Law reference**— Registration of convicted felons by the sheriff, F.S. § 775.13.

REPEAL SECTION 8-2-1.

Sec. 8-2-1. Purpose.

~~It is hereby declared by the council that by reason of the fact that many of the crimes herein enumerated are of great danger to this community and have been and are being committed by habitual and dangerous criminals traveling from place to place throughout the United States and the state, and because there is no means whereby the peace officers of the city may be apprised of the arrival into the city or of the presence in the city of such criminals until after a crime shall have been committed by them, and because the undisclosed presence of the criminals within the city will constitute a serious menace to the safety and welfare of the citizens of the city, it is the intention of this council, through the police powers of the city, to preserve by this chapter the public peace, welfare and safety of its citizens, and it is hereby declared that this chapter is an emergency measure passed for the purpose of suppressing and preventing crime.~~

~~(Code 1968, § 78-8)~~

REPEAL SECTION 8-2-2.

**Commented [JM4]:** Recommend repeal. F.S. section 775.13 requires felons to register with the sheriffs of the state and F.S. section 775.21 regulates the activities of sexual predators.

~~Sec. 8-2-2.—Applicability of chapter.~~

~~This chapter shall apply to every person who has been convicted of a felony in any federal court or the court of any state prior to his arrival in the city.~~

~~(Code 1968, § 78-1)~~

REPEAL SECTION 8-2-3.

~~Sec. 8-2-3.—Time allowed for registration; information to be given.~~

~~Any person convicted of a felony in any federal or state court, residing in or who comes into the city from any point outside of the city, whether in transit through the city or otherwise, shall report to the chief of police of the city within forty-eight (48) hours after his arrival within the boundaries of the city, and shall furnish to the chief of police, in a written statement signed by himself, the following information: his true name and each other name or alias by which he is or has been known; a full and complete description of himself; the name of the felony of which he shall have been convicted, together with the name of the place where each crime was committed, the name under which he was convicted, and the date of the conviction therefor; the name, if any, and the location, of each correctional institution in which he shall have been confined; the location or address of his residence, stopping place or living quarters in the city, or the address or location of his intended residence, stopping place or living quarters in the city; the length of time he expects or intends to reside within the city; the occupation or employment in which the person is now engaged, the name of the employer, the business engaged in by the employer and the nature and character thereof.~~

~~(Code 1968, § 78-2)~~

REPEAL SECTION 8-2-4.

~~Sec. 8-2-4.—Photographs, fingerprints.~~

~~At the time of furnishing such information as required by section 8-2-3, such person shall be photographed and fingerprinted by the chief of police, and the photograph and fingerprints shall be made a part of the permanent records of the police department of the city.~~

~~(Code 1968, § 78-3)~~

REPEAL SECTION 8-2-5.

~~Sec. 8-2-5.—Change of address.~~

~~If any person specified in this chapter as being required to register shall change his place of residence, stopping place or living quarters to any new or different place within the city, other than the place last reported to the chief of police in the report as provided for in section 8-2-3, the person shall, within twenty-four (24) hours after removing himself from the place of abode first given, notify the chief of police in a written and signed statement of the change of address and shall furnish in the written statement to the chief of police his new address and each one thereafter.~~

~~(Code 1968, § 78-4)~~

REPEAL SECTION 8-2-6.

~~Sec. 8-2-6.—Giving false address or misleading information.~~

~~It shall be unlawful for any person required by any provision of this chapter to furnish a report; to furnish in any report any false or fictitious address or any address other than a true address or intended address, or to furnish in making the report any false, untrue or misleading information or statement relating to any information required by the provisions of this chapter to be made or furnished.~~

~~(Code 1968, § 78-5)~~

REPEAL SECTION 8-2-7.

~~Sec. 8-2-7.—Failure to comply.~~

~~It shall be unlawful for any person required by any provision of this chapter to furnish any report or information, to fail, neglect or refuse to make the report or to furnish any information, or to fail, neglect or refuse to render or furnish the same within the time prescribed in this chapter.~~

~~(Code 1968, § 78-6)~~

REPEAL SECTION 8-2-8.

~~Sec. 8-2-8.—Exclusions.~~

~~Nothing in this chapter shall be deemed or construed to apply to any person who has received a pardon for each crime he was convicted of under the laws of any state where he was convicted or incarcerated.~~

~~(Code 1968, § 78-7)~~

CHAPTER 8-3. OFFENSES UPON WATERS<sup>[3]</sup>

Footnotes:

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**Editor's note**— Ord. No. 37-90, § 1, adopted Aug. 9, 1990, repealed Ord. No. 18-90, § 1, adopted March 22, 1990, from which former Ch. 8-3 was derived, and enacted a new Ch. 8-3 to read as herein set forth. Said former Ch. 8-3, §§ 8-3-1—8-3-3, pertained to similar subject matter.

**Cross reference**— Harbors and waterways, Ch. 10-3.

Sec. 8-3-1. - No-wake zones.

It shall be unlawful for any person to operate any vessel in or upon the waters of the city at a speed any greater than the minimum speed necessary to maintain steerageway in any no-wake zone designated by a sign reading "No Wake Zone" or "Idle Speed—No Wake" or similar or like warning.

(Ord. No. 37-90, § 1, 8-9-90)

Sec. 8-3-2. - Penalties.



- (a) Any person cited for a violation of section 8-3-1 shall be deemed to be charged with a noncriminal infraction, shall be cited to appear before the county court. The civil penalty for any such infraction is thirty-five dollars (\$35.00), except as otherwise provided in this section.
- (b) Any person cited for an infraction under this section may:
  - (1) Post a bond, which shall be equal in amount to the applicable civil penalty; or
  - (2) Sign and accept a citation indicating a promise to appear.

The officer may indicate on the citation the time and location of the scheduled hearing and shall indicate the applicable civil penalty.

- (c) Any person who willfully refuses to post a bond or accept and sign a summons is guilty of a misdemeanor of the second degree, punishable as provided in section 1-1-8 of this Code.
- (d) Any person charged with a noncriminal infraction under this section may:
  - (1) Pay the civil penalty, either by mail or in person within ten (10) days of the date of receiving the citation; or,
  - (2) If he has posted bond, forfeit bond by not appearing at the designated time and location.

If the person cited follows either of the above procedures, he shall be deemed to have admitted the infraction and to have waived his right to a hearing on the issue of commission of the infraction. Such admission shall not be used as evidence in any other proceeding.

- (e) Any person electing to appear before the county court or who is required so to appear shall be deemed to have waived the limitations on the civil penalty specified in subsection (a). The court, after a hearing, shall make a determination as to whether an infraction has been committed. If the commission of an infraction has been proved, the court may impose a civil penalty not to exceed five hundred dollars (\$500.00).
- (f) At a hearing under this chapter, the commission of a charged infraction must be proved beyond a reasonable doubt.
- (g) If a person is found by the hearing official to have committed an infraction, he may appeal that finding to the circuit court.

(Ord. No. 37-90, § 1, 8-9-90)

**Sec. 8-3-3. - No-wake zone—Bayou Texar.**

That portion of the waters of Bayou Texar south of the Cervantes Street Bridge and north of Day Marker No. 4 is hereby designated as a no-wake zone and shall be posted in accordance with applicable regulations of the State of Florida Department of Natural Resources relating to uniform waterway markers.

(Ord. No. 37-90, § 1, 8-9-90)

**Sec. 8-3-4. - No-wake zone—Portion of waters located in Pensacola Bay.**

That portion of the waters north of the Harbor Channel adjacent to the red buoy marker known as "PMT2" located in Pensacola Bay to the entrance of Palafox Pier basin and from the west end of the Port of Pensacola to the west end of the Harbor Channel; including Seville Harbor, Commendencia Slip, Palafox Marina/Baylen Slip, Spring Street Slip and Bruce Beach Cove are hereby designated as a no wake zone and shall be posted in accordance with applicable regulations of the State of Florida Department of Natural Resources relating to uniform waterway markers.

(Ord. No. 12-17, § 1, 5-11-17)