

ORDINANCE NO. C-22-

AN ORDINANCE OF THE CITY OF FORT LAUDERDALE, FLORIDA, REPEALING CITY OF FORT LAUDERDALE ORDINANCE NO. C-12-10, WHICH ORDINANCE AMENDED CHAPTER 16, ARTICLE IV OF THE CITY OF FORT LAUDERDALE, FLORIDA CODE OF ORDINANCES, AND DELETING AND REPLACING SECTION 16-82, ENTITLED "PANHANDLING, BEGGING OR SOLICITATION" WITH SECTION 16-82 ENTITLED "OBSTRUCTING PUBLIC STREETS AND RIGHTS-OF-WAY"; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS AND REPEAL; PROVIDING FOR CORRECTION OF SCRIVENER'S ERRORS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City Commission of the City of Fort Lauderdale, Florida adopted Ordinance No. C-12-10 on May 1, 2012, which amended Chapter 16, Article IV, entitled "Offenses Involving Public Peace and Order" of the City of Fort Lauderdale Code of Ordinances (the "Code") by creating Section 16-18, redesignated and codified as Section 16-82, entitled "Panhandling, begging or solicitation"; and

WHEREAS, the City Commission desires to repeal Ordinance No. C-12-10 in order to delete Section 16-82 entitled "Panhandling, begging or solicitation" of the Code in response to recent case law; and

WHEREAS, the City has a legitimate interest in promoting the safety and convenience of its citizens on public sidewalks and streets. *Madsen v. Women's Health Center*, 512 U.S. 753, 768 (1994); *Heffron v. Int'l Soc'y Krishna Consciousness, Inc.*, 452 U.S. 640, 650 (1981); *Cox v. New Hampshire*, 312 U.S. 569,574 (1941); and

WHEREAS, the City Commission intends this Ordinance to improve pedestrian and vehicular safety within the City's rights-of-way;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF FORT LAUDERDALE, FLORIDA:

SECTION 1. That City of Fort Lauderdale, Florida Ordinance No. C-12-10 adopted on May 1, 2012, is hereby repealed in its entirety effect immediately upon final adoption of this ordinance.

SECTION 2. That Article IV, Section 16-82 entitled "Panhandling, begging or solicitation" of the Code is hereby deleted as follows:

CODING: Words, symbols, and letters ~~stricken~~ are deletions; words, symbols, and letters underlined are additions.

~~Sec. 16-82. Panhandling, begging or solicitation.~~

~~(a) *Definitions.* The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section.~~

~~*Aggressive panhandling, begging or solicitation means:*~~

- ~~(1) Approaching or speaking to a person in such a manner as would cause a reasonable person to believe that the person is being threatened with either imminent bodily injury or the commission of a criminal act upon the person or another person, or upon property in the person's immediate possession;~~
- ~~(2) Requesting money or something else of value after the person solicited has given a negative response to the initial request;~~
- ~~(3) Blocking, either individually or as part of a group of persons, the passage of a solicited person;~~
- ~~(4) Touching a solicited person without explicit permission; or~~
- ~~(5) Engaging in conduct that would reasonably be construed as intended to intimidate, compel or force a solicited person to accede to demands.~~

~~*Panhandling means:*~~

- ~~(1) Any solicitation made in person requesting an immediate donation of money or other thing of value for oneself or another person or entity; and~~
- ~~(2) Seeking donations where the person solicited receives an item of little or no monetary value in exchange for a donation, under circumstances where a reasonable person would understand that the transaction is in substance a donation.~~

~~Panhandling does not mean the act of passively standing or sitting, performing music, or singing with a sign or other indication that a donation is being sought, but without any vocal request other than a response to an inquiry by another person.~~

CODING: Words, symbols, and letters ~~stricken~~ are deletions; words, symbols, and letters underlined are additions.

~~(b) *Prohibited areas of panhandling, begging or solicitation.* It shall be unlawful to engage in the act or acts of panhandling, begging or solicitation when either the solicitation or the person being solicited is located in, on, or at any of the following locations:~~

- ~~(1) Bus stop or any public transportation facility;~~
- ~~(2) Public transportation vehicle;~~
- ~~(3) Area within fifteen (15) feet, in any direction, of a sidewalk café~~
- ~~(4) Parking lot, parking garage, or parking pay station owned or operated by the city;~~
- ~~(5) Park owned or operated by the city;~~
- ~~(6) Area within fifteen (15) feet, in any direction, of an automatic teller machine;~~
- ~~(7) Area within fifteen (15) feet, in any direction, of the entrance or exit of a commercial or governmental building; or~~
- ~~(8) Private property, unless the person panhandling has permission from the owner of such property.~~

~~(c) It shall be unlawful to engage in the act of aggressive panhandling in any location in the city.~~

~~(d) *Penalty.* Any person found guilty of violating this section shall, upon conviction, be penalized as provided in section 1-6 of this Code.~~

SECTION 3. That Article IV, Section 16-82 entitled "Obstructing public streets and rights-of-way" of the Code is hereby created as follows:

(a) Definitions:

- (1) Street means the area of the public right-of-way which is intended for vehicular traffic including paved, concrete, brick or unpaved roadways but not including service entrances or driveways leading from the roadways onto adjoining property.

CODING: Words, symbols, and letters ~~stricken~~ are deletions; words, symbols, and letters underlined are additions.

- (2) Rights-of-Way means the strip of land owned or controlled by the City or another governmental agency over which the public has a right of passage, including the streets, sidewalks, driveways constructed thereon, and swale areas.
- (3) Swale area means the area between road pavement and sidewalk or property line where no sidewalk exists and is designed for providing street drainage.

(b) It shall be unlawful for any person to:

- (1) For any period of time, sit or stand, in or on:
- a. any unpaved median, or any median of less than three feet, or
 - b. any median less than five feet where the adjacent roadway has three or more vehicular travel lanes in any one direction at the point of intersection (including turning lanes), except that pedestrians may use median strips only in the course of lawfully crossing from one side of the street to the other.
- (2) Occupy a paved travel lane or other portion of a roadway while the traffic is flowing.
- (3) Alter or impede the flow of traffic by any means.
- (4) Remain in the portion of the paved road or highway designated for vehicular use, upon the commencement of traffic flow from a stopped position.
- (5) Jaywalk. The following shall constitute jaywalking and shall be deemed a violation of this section:
- a. Crossing a roadway at a point within 200 feet of a marked crosswalk;
 - b. Crossing at a controlled intersection contrary to the signal lights or the direction of a traffic officer;
 - c. Crossing a roadway intersection diagonally, unless authorized by official traffic control devices or a traffic officer;
 - d. Crossing a roadway with four or more total travel lanes (counting both directions), except in a marked crosswalk, or any other place than by a route at right angles to the curb or by the shortest route to the opposite curb; or

CODING: Words, symbols, and letters ~~stricken~~ are deletions; words, symbols, and letters underlined are additions.

e. Crossing a roadway intersection in any manner prohibited by official traffic control devices pertaining to such crossing movements.

(6) Where sidewalks are provided on a roadway with four or more total travel lanes (counting both directions), walk along and upon the portion of a roadway paved for vehicular traffic.

(7) Between adjacent intersections at which traffic control signals are in operation, cross at any place except in a marked crosswalk.

(8) Intentionally block the path of travel of a vehicle or cause a vehicle to take unreasonable evasive action to avoid contact or collision with said person;

a. "Unreasonable evasive action" shall mean causing a vehicle to alter its path of travel to avoid the vehicle from making contact with a person or object.

(9) Physically touch a person or any portion of an occupied vehicle without the consent of the person or vehicle occupant or throw any object at or into any vehicle unless specifically requested by an occupant.

(c) Exemptions. The following shall be exempt from the provisions of this subsection:

(1) Persons who are involved in vehicular accidents or whose vehicle becomes disabled;

(2) Law enforcement personnel, firefighters, paramedics or any other persons who are rendering aid to people or animals or removing obstructions from the roadways;

(3) Code Enforcement personnel, municipal Public Works and Utilities personnel as well as other authorized persons from other governmental entities performing tasks in the course and scope of their official duties.

(d) Penalties. Any person found guilty of violating this section shall, upon conviction, be penalized as provided in section 1-6 of this Code.

SECTION 4. CODIFICATION AND SCRIVENER'S ERRORS. The City intends that this Ordinance will be made part of the Code of Ordinance; that sections of this Ordinance can be re-numbered or re-lettered to accomplish codification and, regardless of whether this Ordinance is ever codified, the Ordinance can be re-numbered or re-lettered, and typographical errors that

CODING: Words, symbols, and letters ~~stricken~~ are deletions; words, symbols, and letters underlined are additions.

do not affect the intent can be corrected with the authorization of the City Manager, or his designee, without the need for a public hearing.

SECTION 5. That if any clause, section, or other part of this Ordinance shall be held invalid or unconstitutional by any court of competent jurisdiction, the remainder of this Ordinance shall not be affected thereby, but shall remain in full force and effect.

SECTION 6. That all ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

SECTION 7. That this Ordinance shall be in full force and effect upon final passage.

PASSED FIRST READING this ___ day of _____, 2022.

PASSED SECOND READING this ___ day of _____, 2022.

Mayor
DEAN J. TRANTALIS

ATTEST:

City Clerk
DAVID R. SOLOMAN