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ORDINANCE NO. 2019-12

AN ORDINANCE OF THE CITY OF FLAGLER BEACH, FLORIDA, AMENDING CHAPTER 14, "OFFENSES AND MISCELLANEOUS PROVISIONS," OF THE CODE OF ORDINANCES, TO CREATE ARTICLE VI, "AGGRESSIVE PANHANDLING," TO PROHIBIT AGGRESSIVE PANHANDLIN; PROVIDING LEGISLATIVE FINDINGS, PROVIDING PENALTIES FOR VIOLATIONS; PROVIDING FOR SEVERABILITY, CONFLICTS, CODIFICATION AND EFFECTIVE DATE.

WHEREAS, the City Commission of the City of Flagler Beach finds that aggressive panhandling has become a growing concern with the City; and

WHEREAS, the City Commission appreciates existing jurisprudence that recognizes a constitutional right to panhandle; and

WHEREAS, the City Commission also understands that the right to panhandle does not include the right to aggressively do so; and

WHEREAS, the City Commission finds that aggressive panhandling has negative impacts on the City, including but not limited to creating threats or perceived threats to the safety of residents, guests, and those who engage in panhandling; and

WHEREAS, the City Commission finds that aggressive panhandling can have a negative impact on business and tourism within the City; and

WHEREAS, the City Commission intends, through this Ordinance, to prohibit the act of aggressive panhandling through narrowly tailored time, place, and manner restrictions while preserving the ability for individuals to exercise their constitutional right to panhandle; and

WHEREAS, words with underlined text shall constitute additions to the original text and ~~strike through~~ shall constitute deletions to the original text, and asterisks (\* \* \*) indicate that text shall remain unchanged from the language existing prior to adoption of this Ordinance.

NOW, THEREFORE, BE IT ENACTED by the City Commission of the City of Flagler Beach, Florida:

SECTION 1. Chapter 14, "Offenses and Miscellaneous Provisions," Article VI, "Aggressive Panhandling," is hereby created as follows:

ARTICLE VI. – AGGRESSIVE PANHANDLING.

Sec. 14-95. - Panhandling, begging and solicitation.

(a) Intent. The purpose and intent of this article is to recognize the constitutional right of persons to panhandle, including but not limited to solicit and beg, in a peaceful and non-

47 threatening manner; however, an increase in aggressive panhandling and begging throughout  
48 the city has become extremely disturbing and disruptive to residents and businesses, and has  
49 contributed not only to the loss of access to and enjoyment of public places but also to an  
50 enhanced sense of fear, intimidation, and disorder as well as actual danger to the health,  
51 safety and welfare of citizens and tourists alike. Aggressive panhandling and begging  
52 usually includes approaching or following pedestrians, repetitive requests for donations of  
53 money despite refusals, the use of abusive or profane language, unwanted physical contact,  
54 and the intentional, or as incident to the aggressive panhandling and begging, blocking of  
55 pedestrian and vehicular traffic. This article is not intended to limit any persons from  
56 exercising their constitutional right to panhandle, including but not limited to beg, or solicit  
57 funds, or engage in any other constitutionally protected activity, when conducted in a legal  
58 manner. The goal of this article is instead to ensure the foregoing constitutional rights while  
59 through regulation acting to protect citizens from the fear and intimidation accompanying  
60 aggressive panhandling by prohibiting aggressive panhandling and begging throughout the  
61 city. The restrictions contained in this article are narrowly tailored to serve a compelling and  
62 substantial governmental interest, and preserve ample alternative areas for the valid exercise  
63 of constitutional rights.  
64

65 (b) *Definitions.* For purposes of this article, the following words and phrases shall have the  
66 meanings ascribed to them as follows:  
67

68 *Aggressive panhandling* means:  
69

70 (1) To approach or speak to a person and demand, request or beg for money or a  
71 donation of valuable property in such a manner as would cause a reasonable person to  
72 believe that the person is being threatened with imminent bodily injury or the  
73 commission of a criminal act upon the person approached or another person in the  
74 solicited person's company, or upon property in the person's immediate possession (for  
75 example, placing oneself within two feet of a solicited person and/or using abusive or  
76 profane language in a loud voice while demanding or requesting money); or  
77

78 (2) To maintain contact with a solicited person and continue demanding, requesting  
79 or begging for money or a donation of valuable property after the solicited person has  
80 made a negative response to an initial demand or request for money or a donation (for  
81 example, walking in front of, next to, or behind a solicited person while continuing to  
82 demand, request or beg for money from that person after that person has refused to  
83 donate or give money); or  
84

85 (3) To obstruct, block or impede, either individually or as part of a group of persons,  
86 the passage or free movement of a solicited person or a person in the company of a  
87 solicited person, including persons on foot, on bicycles, in wheelchairs or operating  
88 motor vehicles or persons attempting to enter or exit motor vehicles (for example,

89 walking, standing, sitting, lying, or placing an object in such a manner as to block  
90 passage of another person or vehicle, or to require another person or driver of a vehicle  
91 to take evasive action to avoid physical contact); or  
92

93 (4) To touch or cause physical contact to a solicited person or a person in the  
94 company of a solicited person, or to touch any vehicle occupied by a solicited person or  
95 by a person in the company of the solicited person, without the person's express  
96 consent.  
97

98 *Panhandle* means to beg or make any demand or request made in person for an immediate  
99 donation of money or some other article of value from another person for the use of one's self or  
100 others, including but not limited to for a charitable or sponsor purpose or that will benefit a  
101 charitable organization or sponsor. As used in this article, the word "solicit" and its forms are  
102 included in this definition. Panhandling is considered as having taken place regardless of whether  
103 the person making the solicitation received any contribution. Any purchase of an item for an  
104 amount far exceeding its value, under circumstances where a reasonable person would  
105 understand that the purchase is in substance a donation, constitutes a donation as contemplated in  
106 this definition. Begging is included in this definition of panhandling. Soliciting is including in  
107 this definition of panhandling.  
108

109 (c) *Prohibited conduct, proximity and location restrictions.*  
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111 (1) It shall be unlawful for any person to engage in aggressive panhandling on any  
112 sidewalk, highway, street, roadway, right-of-way, parking lot, park, or other public or  
113 semi-public area or in any public building lobby, entranceway, plaza or common area,  
114 public forum or limited public forum within the city limits.  
115

116 (2) It shall be unlawful for any person to engage in aggressive panhandling on private  
117 property if the owner, tenant or lawful occupant has asked the person not to solicit on  
118 the property, or has posted a sign clearly indicating that solicitations are not welcome on  
119 the property.  
120

121 (d) *Penalty.* Any person found guilty of violating the provisions of this section shall be  
122 subject to a civil citation as provided by Chapter 162, Florida Statutes, in addition to any other  
123 legal remedy available.  
124

125 **SECTION 2.** This Ordinance shall be incorporated into the Flagler Beach City Code  
126 of Ordinances. Any section, paragraph number, letter and/or any heading may be changed or  
127 modified as necessary to effectuate the foregoing. Grammatical, typographical and similar or  
128 like errors may be corrected, and additions, alterations, and omissions not affecting the  
129 construction or meaning of this ordinance or the City Code may be freely made.  
130

131 **SECTION 3.** If any Section or portion of a Section of this Ordinance proves to be  
132 invalid, unlawful, or unconstitutional, it shall not be held to invalidate or impair the validity,  
133 force, or effect of any other Section or part of this Ordinance.  
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