

ORDINANCE NO. 2021 - 26

AN ORDINANCE OF THE CITY COMMISSION OF DELAND, FLORIDA, AMENDING THE CODE OF ORDINANCES OF THE CITY OF DELAND RELATING TO PANHANDLING AND SUBSTANTIALLY AMENDING THE PROVISIONS OF SECTION 21-29 THEREOF; PROVIDING FOR FINDINGS, PURPOSE, AND INTENT; PROVIDING FOR A SAVINGS PROVISION, CONFLICTS, SEVERABILITY, CODIFICATION AND THE CORRECTION OF SCRIVENER'S ERRORS, AND AN EFFECTIVE DATE.

WHEREAS, the City of DeLand recognizes that panhandling and begging are activities that are protected by the First Amendment to the United States Constitution and that the regulation of such activities must be tailored and reasonable; and

WHEREAS, the City of DeLand may adopt and enforce regulations of behavior that implicate First Amendment activity when the regulations affect the time, place, and manner of expression, are content-neutral, are narrowly tailored to serve a significant governmental interest, and leave open ample alternative channels of communication; and

WHEREAS, the courts have determined that cities have a significant interest in providing a safe and pleasant environment and in eliminating nuisance activity – see, *Smith v. City of Fort Lauderdale, Florida*, 177 F. 3d 954, 956 (11th Cir. 1999); and

WHEREAS, the City of DeLand has made great efforts toward, and has a significant interest in, providing a safe and pleasant environment; and

WHEREAS, the City of DeLand has a significant interest in preserving the health, safety and welfare of the citizens of the City of DeLand; and

WHEREAS, the City of DeLand has a significant interest in preserving the safety of traffic flow and preventing traffic congestion wherever possible in the City of DeLand; and

WHEREAS, the City of DeLand has a significant interest in the safety of pedestrians and individuals traveling in vehicles throughout the City of DeLand; and

WHEREAS, the City of DeLand has a significant interest in promoting tourism and economic activity within and the aesthetics of the City's historic downtown areas and other areas that are subject to adverse public impacts; and

WHEREAS, the City of DeLand has a significant interest in promoting the safety and convenience of its citizens on public streets – see, *Madsen v. Women's Health Center*, 512 U.S. 753, 768, 114 S. Ct. 2516, 129 L. Ed. 2d 593 (1994); and

WHEREAS, the City of DeLand has a significant interest in ensuring the public safety and order and in promoting the free flow of traffic on public streets and sidewalks; and

WHEREAS, the City Commission of the City of DeLand has reviewed various published reports and analysis relating to the issue of panhandling and has carefully considered the comments of the City's Police Chief relating to matters of concern within the City including, but not limited to, motor vehicle crash data pertaining to intersections located within the City; and

WHEREAS, the City of DeLand has a significant interest in the safety and convenience of citizens using public fora such as streets and sidewalks - see *Heffron v. International Society for Krishna Consciousness*, 452 U.S. 640, 650, 101 S. Ct. 2559, 69 L.Ed. 2d 298 (1981); and

WHEREAS, the City of DeLand has a significant interest in recognizing the safety and convenience on public roads - see *Cox v. New Hampshire*, 312 U.S. 569, 574, 61 S. Ct. 762, 85 L.Ed. 1049 (1941); and

WHEREAS, panhandling, as defined in this Ordinance, can result in persons unlawfully driving a motor vehicle at such a slow speed as to impede or block the normal and reasonable movement of traffic in violation of Section 316.183(5), *Florida Statutes*, and in an unsafe manner detrimental to the public safety; and

WHEREAS, the City's Police Chief has found an excessive incidence of motor vehicle accidents involving pedestrians on high risk intersections for pedestrians, as defined in this Ordinance; and

WHEREAS, the City of DeLand has a significant interest in controlling traffic and pedestrian congestion - see *Ayres v. City of Chicago*, 125 F. 3d 1010, 1015 (7th Cir. 1997); and

WHEREAS, the City of DeLand has a significant interest in preventing crime, protecting the City's retail trade, maintaining property values, and generally protecting and preserving the quality of the City's neighborhoods, commercial districts and the quality of urban life – see *Young v. American Mini Theaters*, 427 U.S. 50, 96 S. Ct. 440, 49 L.Ed. 2d 310 (1976); and

WHEREAS, the City of DeLand has a significant interest in traffic safety, appearance of the City and aesthetics - see *Metromedia Inc. v. City of San Diego*, 453 U.S. 490, 101 S. Ct. 2883 (1981); and

WHEREAS, the City Commission of the City of DeLand finds that panhandlers and beggars sometimes use profane language when requesting money from people; that panhandlers and beggars sometimes physically touch or threaten to touch the people they solicit for money; that panhandlers and beggars sometimes block the path of people they solicit for money, or follow the people they solicit for money in an apparent effort to intimidate people into making a donation or as retribution for refusing to make a donation; and that panhandlers and beggars sometimes walk onto roadways and obstruct traffic and thereby endanger themselves and others while soliciting and accepting donations from occupants of motor vehicles in the roadway; and

WHEREAS, the City Commission of the City of DeLand finds that the foregoing activities constitute “aggressive panhandling or begging,” and that the increase in aggressive panhandling or begging throughout the City of DeLand has become extremely disturbing and disruptive to

residents, visitors, and businesses, and has contributed to an enhanced sense of fear, intimidation and disorder resulting in the loss of access to and enjoyment of public places throughout the City; and

WHEREAS, the City Commission of the City of DeLand finds that limited bans on panhandling and begging based on the time, place, or manner of the panhandling or begging is a content neutral and narrowly tailored way to promote public safety, and protect residents and visitors in areas where they may be or perceive themselves to be vulnerable and/or unable to leave; and

WHEREAS, the City Commission of the City of DeLand finds that limited bans on panhandling and begging in limited public places where people feel particularly vulnerable and/or unable to leave still provides ample alternative avenues of communication and are narrowly drawn to address the City's substantial interests; and

WHEREAS, the location bans on panhandling set forth in this Ordinance work such that the City continues to offer meaningful alternative opportunities and locations for panhandlers and are focused on areas of historic significance and commerce or foot traffic and protect very specific public areas where pedestrians are vulnerable or traffic is particularly dangerous or precarious; and

WHEREAS, it is not the intent of this Ordinance to regulate speech based upon its content, to adversely impact the homeless who are engaging in lawful conduct or to be punitive based upon the economic status of a person; and

WHEREAS, the United States 10th Circuit Court of Appeals has held that keeping persons off of thin slices of pavement and unpaved traffic dividers where persons could be injured by passing traffic promotes public safety – see *Evans v. Sandy City*, 944 F. 3d 847, 856 (10th Cir. 2019); and

WHEREAS, the United States 10th Circuit Court of Appeals has held that an ordinance prohibiting persons from sitting and standing on thin and unpaved medians was content neutral, narrowly tailored to serve a significant government interest, and left open ample alternative channels for communication of information; and thus withstood a First Amendment challenge – see *Evans v. Sandy City*, 944 F. 3d 847 (10th Cir. 2019); and

WHEREAS, the City Commission of the City of DeLand may act in accordance with the provisions of Article VIII, Section 2(b) of the *Constitution of the State of Florida*, which provides, in pertinent part, that “[m]unicipalities shall have governmental, corporate and proprietary powers to enable them to conduct municipal government, perform municipal functions and render municipal services, and may exercise any power for municipal purposes except as otherwise provided by law”; and

WHEREAS, the City Commission of the City of DeLand may act in accordance with the provisions of Section 166.021(1), *Florida Statutes*, which provides, in pertinent part, that “[a]s provided in S. 2(b), Art. VIII of the State Constitution, municipalities shall have the governmental, corporate, and proprietary powers to enable them to conduct municipal government, perform

municipal functions, and render municipal services, and may exercise any power for municipal purposes, except when expressly prohibited by law”; and

WHEREAS, the City Commission of the City of DeLand may act in accordance with the provisions of Section 166.021(3), *Florida Statutes*, which provides, in pertinent part, that “[t]he Legislature recognizes that pursuant to the grant of power set forth in S. 2(b), Art. VIII of the State Constitution, the legislative body of each municipality has the power to enact legislation concerning any subject matter upon which the state legislature may act” except for certain very limited matters; and

WHEREAS, this Ordinance is enacted under the general home rule and police powers of the City of DeLand; and

WHEREAS, the City has complied with all requirements and procedures of Florida law in processing and advertising this Ordinance; and

WHEREAS, for purposes of this Ordinance, underlined type shall constitute additions to the original text, *** shall constitute ellipses to the original text and ~~striketrough~~ shall constitute deletions to the original text.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF DELAND, FLORIDA:

Section 1. Legislative Findings and Intent.

(a) The City Commission of the City of DeLand hereby adopts and incorporates into this Ordinance the recitals (whereas clauses) to this Ordinance and the City staff report relating to this Ordinance.

(b) Further, the City Commission of the City of DeLand, in addition to the findings referenced with regard to the recitals of this Ordinance hereby finds that:

(1) Any person who panhandles or otherwise demands money, gifts or donations under circumstances that warrant a justifiable and reasonable alarm or immediate concern for the safety of persons or property in the vicinity by unwanted touching, detaining, impeding or intimidation which causes fear or apprehension in another person constitutes a threat to the public health, welfare and safety of the citizenry.

(2) Any person who intentionally blocks the passage of another person or a vehicle which requires another person to take evasive action to avoid physical contact constitutes a threat to the public health, welfare and safety of the citizenry.

(3) Any person who panhandles under circumstances that warrant a justifiable and reasonable alarm or immediate concern for the safety of persons or property in public rooms or private buildings and on private developed properties by unwanted

touching, detaining, impeding or intimidation which causes fear or apprehension in another person engages in acts which constitutes a threat to the public health, welfare and safety of the citizenry.

(4) Panhandling or demanding money, gifts or donations may interfere with the safe ingress and egress of human and vehicular traffic into public buildings, public areas and public transportation areas thereby constituting a threat to the public health, welfare and safety of the citizenry. In order to allow for the safe ingress and egress of human and vehicular traffic into public buildings, public areas and public transportation areas, it is reasonable to prohibit panhandling, or the demand of money, gifts or donations within public buildings or designated areas of that public building or public transportation areas upon finding that the unique conditions or activities of the area necessitate such a prohibition.

(5) Aggressive panhandling is disturbing and disruptive to residents and businesses and contributes to the loss of access to and enjoyment of public places and to a sense of fear, intimidation and disorder.

(6) The presence of individuals who solicit money from persons in places that are confined, difficult to avoid, or where a person might find it necessary to wait, is especially troublesome because of the enhanced fear of crime.

(7) This Ordinance is intended to protect citizens from the disruption, fear and intimidation accompanying certain kinds of solicitation, and not to limit constitutionally protected activity.

(8) This Ordinance shall be applied in harmony with the provisions of Chapter 22 of the *City Code* relating to peddlers, canvassers and transient merchants and Article II of Chapter 26 of the City Code relating to the obstructions in streets and sidewalks.

(9) This Ordinance does not have the effect of targeting persons based upon their economic status or as a result of homelessness nor does this Ordinance regulate the content of communications except with regard to the time, place and manner of communications in a reasonable manner while ensuring that alternative means and locations of communications are available to persons desiring to engage in protected communicative activity.

Section 2. Revisions to Panhandling Provisions in *City Code*. The provisions of Section 21-29 of the *Code of Ordinances of the City of DeLand* are hereby substantially revised to read as follows:

Sec. 21-29 - Panhandling.

Definitions.

Except where the content otherwise specifically requires, as used in this Ordinance, the following definitions shall apply:

(a) *Aggressive* means and includes, but is not limited to, approaching or following pedestrians, repetitive soliciting of a person despite refusals by the person, the use of abusive or profane language to cause fear and intimidation to a person, unwanted physical contact to a person, the intentional blocking of pedestrian or vehicular traffic, the touching or causing physical contact with a solicited person without that person's consent or threatening to make such contact, the intentional blocking of the entrance to any building or vehicle, the following behind, ahead or alongside a person who walks away from a solicitor after being solicited with the intent to intimidate or continue solicitation, the approaching of a solicited person in a manner that is intended to or is likely to cause a reasonable person to fear imminent bodily harm or the commission of a criminal act upon property in the person's possession or is intended to or is likely to intimidate a reasonable person into responding affirmatively to the solicitation; or the soliciting of a person while the solicitor is under the influence of alcohol or drugs in a manner which disrupts the peace. Aggressive also includes, but is not limited to, solicitation of a person while the solicitor is acting in a manner while committing an assault, by committing a battery, or in a manner which violates the provisions of this Ordinance.

(b) *Obstruct pedestrian or vehicular traffic* means to walk, stand, sit, lie, or place an object in such a manner as to block passage of another person or a vehicle, or to require another person or driver of a vehicle to take evasive action to avoid physical contact. Acts authorized as an exercise of one's constitutional right to picket or to legally protest, and acts authorized by a lawfully issued permit pursuant to this Code are not included within this definition.

(c) *Panhandle* means to ask for, demand or solicit money, gifts or donations, either by words, bodily gestures, signs or other means. The terms panhandle, solicit and beg are synonymous in meaning. Panhandling is any solicitation made in person, requesting an immediate donation of money or other thing of value. Purchase of an item for an amount far exceeding its normal market value, under circumstances where a reasonable person would understand that the purchase is, in substance, a donation, is a donation for the purpose of this Ordinance. Panhandling does not include passively standing or sitting with a sign or other indication that one is seeking donations at a location not prohibited by this Ordinance and not in a manner prohibited by this Ordinance.

(d) *Private building* shall be deemed to include, but is not limited to, retail or service establishments, such as restaurants, convenience food stores, laundromats, service stations, hotels, offices and similar establishments open to the public. This term does not include any building owned, leased or operated by the Federal or State government, political subdivisions thereof, municipalities, special districts, any public administration board or authority of the state.

(e) Private developed property shall include, but not be limited to, a parking lot, driveway, walkway and landscaped areas.

(f) Public building means any building or facility owned, leased or operated by or on behalf of the Federal or State government or any political subdivision thereof, the City, or special district or any public administrative board or authority of the Federal or State government.

(g) Public entertainment venue means a place that is open to the public (whether or not upon payment of a fee for admission and whether or not the management reserves the right to exclude individual members of the public) for entertainment. The term includes, but is not limited to, cinemas, parks, theatres, concert halls, electronic games centers, indoor sports centers, art galleries, museums, and premises upon which any display or exhibition promoted as such is conducted.

(h) Public place means an area generally visible to public view and includes alleys, bridges, buildings, driveways, parking lots, parks, plazas, sidewalks and streets open to the general public, including, but not limited to, public entertainment venues, those that serve food or drink or provide entertainment, and the doorways and entrances to buildings or dwellings and the grounds enclosing them.

(i) Public room shall include, but is not be limited to, a basement, building entrance or doorway, lobby, hallway, stairway, mezzanine, elevator, foyer, public restroom or sitting room or any other place used in common by the public, tenants, occupants or guests situated in any private building.

(j) Public transportation area means a building, facility or area designated for mass transit transportation, such as, but not limited to, bus terminals, bus stops and taxi stands.

(k) Solicit means any plea made in person where:

(i) A person by vocal appeal requests an immediate donation of money or other item from another person; or

(ii) A person verbally offers or actively provides an item or service of little or no value to another in exchange for a donation, under circumstances where a reasonable person would understand that the transaction is in substance a donation.

(l) Median means the area dividing a public road that separates lanes of traffic traveling in opposite directions or to control and direct vehicular movement, such as turning movements, to include traffic islands. This area may be paved, unpaved, curbed, or painted.

(m) *High risk intersection for pedestrians* means the following intersections, as identified and applied from the City of DeLand Police Department Pedestrian Traffic Safety Study, for the period from January 1, 2017 to March 8, 2021:

(i). Woodland Boulevard/United States Highway 17 and Violetwood Road.

(ii). Woodland Boulevard/United States Highway 17 and Old Daytona Street.

(iii). Woodland Boulevard/United States Highway 17 and United States Highway 92.

(iv). United States Highway 92 and Amelia Avenue.

(vi). Woodland Boulevard/United States Highway 17 and Plymouth Avenue.

(vii). Woodland Boulevard/United States Highway 17 and Beresford Avenue.

(viii). Woodland Boulevard/United States Highway 17 and Orange Camp Road.

(ix). New York Avenue and State Road 15A.

(n) *Traveled portion of a high risk intersection for pedestrians* means any portion of a high risk pedestrian intersection that is normally used by moving motor vehicles, or that is not a lawful parking area, and includes shoulders and bike lanes.

Prohibited and unlawful acts.

(a) It is prohibited and unlawful for a person to interfere with vehicular traffic if he or she obstructs vehicular traffic or aggressively panhandles on a road as defined in Section 334.03(22), *Florida Statutes*, or its successor provisions, which term includes, but is not limited to, sidewalks. It shall not be a violation of this ordinance if a person is not impeding, hindering, stifling, retarding or restraining the free, convenient, and normal use of the road while engaging in lawful conduct adjacent to a road, so long as any incursion into the paved travel way is during stopped traffic pursuant to a control device and does not impede the free, convenient, and normal use of the road and if the person engaged in the solicitation has left the paved travel way by the time traffic is permitted to move and does not impede the free, convenient, and normal use of the road.

(b) It is prohibited and unlawful for a person to panhandle in any public room in any private building or on private developed property, without the written permission or consent of the building's owner or managing and authorizing agent. For the purpose of enforcement of this provision, it is rebuttably presumed presented that if the owner, lessee, managing agent or other person in charge of a building prominently displays a sign as provided in this Ordinance, then the

activities declared unlawful in this subsection are deemed to be without the permission or consent of the building's owner, lessee, managing agent or other authorized person.

(c) When a public building or area of a public building or public transportation area has been designated and posted in accordance with this Ordinance, it is prohibited and unlawful for any person to panhandle within the public building, or area of the public building or public transportation area.

(d) It is prohibited and unlawful for any person to obstruct, impede or interfere with the movement of a pedestrian or vehicle for the purpose of panhandling within a public building, the parcel of land on which a public building is located, or a public transportation area.

(e) It is prohibited and unlawful for any person to panhandle, when the person solicited is located on private property, unless the panhandler has permission from the owner or occupant of the private property.

(f) It is prohibited and unlawful for any person to panhandle in any public place within the City which public places include, by way of example only and not by way of limitation, the following places:

(1) At any bus or train stop;

(2) In any public transportation vehicle or facility, including, but not limited to, airports;

(3) In any vehicle on a street unless a permit has been issued to do so;

(4) In a public park, fairground, or sporting facility including, but not limited to, entryways or exits thereto;

(5) Within a circumference of 25 feet of the site of any automated teller machine (ATM), a vending machine or any other machine dispensing cash or within a painted "privacy zone" painted on the ground around an ATM, whichever distance is less all of which shall be subject to the permitting requirements of the City if such painted zone encompasses area within a road or right-of-way;

(6) In a parking lot or garage owned or operated by a governmental entity including, but not limited to, entryways or exits and pay stations connected therewith if any should exist;

(7) Within 1,000 feet of a school bus stop when children are present.

(g) It is prohibited and unlawful for any person to panhandle in any of the following manners each of which shall rebuttably be deemed to be aggressive:

(1) By blocking the path of the person solicited;

(2) By using obscene, profane or abusive language, either during the solicitation or following a refusal;

(3) By panhandling in a group of 2 or more persons which would encircle the person being solicited and deter their free movement; or

(4) By making any statement, gesture, or other communication which a reasonable person in the situation of the person solicited would perceive to be a threat.

(h) It is prohibited and unlawful for any person to sit or stand, in or on, or otherwise occupy, the traveled portion of a high risk road for pedestrians, including a median area, unless the person is in the process of lawfully crossing the road at a crosswalk in accordance with applicable traffic and safety laws, regulations, and ordinances.

Conspicuous notice.

Each owner, lessee, managing agent or person in charge of the operation of a private building or private developed area may prominently display a sign on the premises, such as the lobby or entrance of the private building or private developed property, where it may be read by any person going in or out of the building or private developed property stating generally: "NO PANHANDLING OF ANY TYPE PERMITTED—SUCH CONDUCT IS PROHIBITED BY DELAND CITY CODE." The display of such signage shall be conclusive proof that the said person in charge has not granted permission to panhandle on the posted property.

Designation of building or transportation area.

(a) The City Manager is authorized to designate a public building or area of a public building or public transportation area based upon the following criteria:

(1) The purpose and characteristic of the building, facility or area;

(2) The level of human and vehicular traffic in and around the building, facility or area;

(3) The function of the building, facility or area;

(4) Proximity of the building, facility or area to other buildings, transportation facilities, parking areas and sidewalks;

(5) The necessity to alleviate obstructions and hazards to pedestrians or vehicular traffic to protect public health and safety;

(6) The reasonable desires and needs of the owners and occupants of the area and immediate surroundings considering the normal and anticipated use of the building, facility or area; and

(7) The adverse economic interests to the area based upon the unique characteristics of the area and balancing the rights of others to use the area for lawful purposes that are constitutionally protected.

(b) Upon determining that a public building or area of the public building or public transportation area warrants the designation to prohibit panhandling, the City Manager shall issue an order which specifically identifies the building or area or public transportation area. The order shall be conspicuously posted at the designated building or area. If no appeal is filed, the order shall become final 20 days after the date of entry of the order.

(c) The City Manager's order may be appealed by any aggrieved person to the City's special magistrate within 20 days from the date of entry of the order.

(d) If an appeal is filed, the hearing shall be conducted to determine whether substantial competent evidence existed for the City Manager to prohibit panhandling in a public building or area of a public building or public transportation area based upon the criteria set forth in this Ordinance. The decision of the City's special magistrate may be appealed to a court of competent jurisdiction by a petition for a writ of certiorari within 30 days after the rendition of the decision regarding the designation.

(e) When the order becomes final, the City Manager shall cause the designation to be recorded upon an appropriate map and retained in the City's Police Department.

(f) With regard to each public building, area of the public building or public transportation area designated by the City Manager in accordance with this Ordinance, the City shall prominently display a sign on the premises, such as a lobby or entrance to a building or area, where it may be read by any person going in or out of the building or area stating generally: "NO PANHANDLING OF ANY TYPE PERMITTED -- PROHIBITED BY DELAND CITY CODE."

(g) Notwithstanding the foregoing, panhandling is prohibited and unlawful on the parcels and road right-of-way included within the following geographic areas:

Within 50 feet (this distance to be measured from the stop bar at each lane of travel to create a square around the intersection) of the following intersections:

(i). Woodland Boulevard/United States Highway 17 and Violetwood Road.

(ii). Woodland Boulevard/United States Highway 17 and Old Daytona Street.

(iii). Woodland Boulevard/United States Highway 17 and United States Highway 92.

(iv). United States Highway 92 and Amelia Avenue.

(vi). Woodland Boulevard/United States Highway 17 and Plymouth Avenue.

(vii). Woodland Boulevard/United States Highway 17 and Beresford Avenue.

(viii). Woodland Boulevard/United States Highway 17 and Orange Camp Road.

(ix). New York Avenue and State Road 15A.

(a) — Definitions.

(1) — ~~Panhandling is any solicitation made in person, requesting an immediate donation of money or thing of value. Attempting to sell an item for an amount far exceeding its value, or an item which is already offered free of charge to the public and under circumstances where a reasonable person would understand that the purchase is, in substance, a donation. Except as specifically provided in this section, panhandling does not include passively standing or sitting with a sign or other indication that one is seeking donations, without addressing any solicitation to any specific person other than in response to an inquiry by that person.~~

(2) — Aggressive panhandling means:

a. — ~~To approach or speak to a person while panhandling in such a manner as would cause a reasonable person to believe that the person is being threatened with:~~

1. — ~~Imminent bodily injury; or~~

2. — ~~The commission of a criminal act upon the person or another person, or upon property in the person's immediate possession.~~

b. — ~~To persist in panhandling after the person solicited has given a negative response;~~

c. — ~~To block, either individually or as part of a group of persons, the passage of a solicited person;~~

d. — ~~To touch a solicited person; or~~

e. — ~~To engage in conduct that would reasonably be construed as intended to intimidate, compel, or force a solicited person to accede to demands.~~

(3) — ~~City means the City of DeLand.~~

(4) — ~~Roadway means that portion of a street or highway improved, designated, or ordinarily used for vehicular travel. Roadway includes the area used for vehicular parking within the paved area of travel.~~

(b) — ~~Time of panhandling. It shall be unlawful for any person to panhandle between the hours of 7:00 p.m. and 6:00 a.m. at any location within the corporate limits of the City of DeLand.~~

(c) — ~~Place of panhandling. It shall be unlawful for any person to panhandle when the person solicited is in any of the following places within the City Limits of DeLand, Florida:~~

(1) — ~~On public property in the area more particularly described as the parcels included with the geographic area encompassed by Ohio Avenue on the north, Alabama Avenue on the east, Voorhis Avenue on the south and Florida Avenue on the west, except for the historic courthouse, county administration building, or any other government owned and operated building which is open to the public. However, it shall be lawful to engage in panhandling in this geographic area between~~

~~the hours of 6:00 a.m. and 7:00 p.m. during any special event which is permitted by the City of DeLand.~~

~~(2) In any public transportation vehicle or facility, including loading and unloading areas;~~

~~(3) Inside or within 20 feet of any public restroom;~~

~~(4) Within 20 feet of the site of any automated teller machine (ATM), unless the area within 20 feet of any such ATM is located completely on private property and the panhandler has the permission of the property owner of the property on which the ATM is located;~~

~~(5) On private property, unless the panhandler has permission from the owner or occupant; or~~

~~(6) On any of the following Roadways: Woodland Boulevard, International Speedway Boulevard, New York Avenue, Plymouth Avenue, Amelia Avenue, Spring Garden Avenue, and Taylor Road.~~

~~(d) Manner of panhandling.~~

~~(1) It shall be unlawful for any person to engage in aggressive panhandling.~~

~~(2) It shall be unlawful for any person to panhandle in any of the following manners:~~

~~a. By using profane or abusive language, either during the solicitation or following a refusal;~~

~~b. By panhandling in a group of two or more persons;~~

~~c. By making a false or misleading solicitation. False or misleading representations include, but not limited to, the following:~~

~~1. Stating that the donation is needed to meet a specific need, when the solicitor already has sufficient funds to meet the need and does not disclose that fact;~~

~~2. Stating that the donation is needed to meet a need which does not exist;~~

~~3. Stating that the solicitor is from out of town and stranded when that is not true;~~

~~4. Wearing a military uniform or other indication of military service, when the solicitor is neither a present nor former member of the service indicated;~~

~~5. Wearing or displaying an indication of physical disability, when the solicitor does not suffer the disability indicated.~~

~~6. Use of any makeup or device to simulate any deformity;~~

~~7. Stating that the solicitor is homeless, when he is not;~~

~~8. Stating that the donation is for food, but in reality is not needed for food; or~~

~~9. Using and exposing minors to hazardous conditions to include but not limited to cold, heat, animals, adverse weather, and strangers to solicit funds.~~

~~(e)~~

Penalty. Any violation of this section shall ~~be constitute a misdemeanor~~ punishable as provided in section 1-6 of the *Code of Ordinances of the City of DeLand*.

Section 3. Implementing Administrative Actions.

(a). The City Manager, or designee, is hereby authorized and directed to implement the provisions of this Ordinance and to take any and all necessary administrative actions including, but not limited to, the adoption of administrative rules which rules shall include, as set forth in this Ordinance, the designation of certain areas.

(b). The City Manager and Chief of Police shall collaborate from time-to-time, with the advice and counsel of the City Attorney, to evaluate whether statistical evidence would support

the imposition of certain areas of the City wherein panhandling should be considered to be totally proscribed or whether current proscriptions should be eliminated.

(c). On an annual basis, on or before December 31 of each year, the City Manager, in conjunction with the Chief of Police and the City Attorney, shall evaluate the effectiveness of the provisions set forth in this Ordinance and recommend to the City Commission of the City of DeLand such additional actions, if any, as may be deemed appropriate based upon the experiences of the City.

Section 4. Savings. The prior actions of the City of DeLand relating to the regulation of panhandling within the City, as well as any and all related matters, are hereby ratified and affirmed.

Section 5. Conflicts. All Ordinances or parts of Ordinances and other actions of the City Commission of the City of DeLand in conflict with this Ordinance are hereby repealed.

Section 6. Severability. If any section, sentence, phrase, word or portion of this Ordinance is determined to be invalid, unlawful or unconstitutional, said determination shall not be held to invalidate or impair the validity, force or effect of any other section, sentence, phrase, word or portion of this Ordinance not otherwise determined to be invalid, unlawful or unconstitutional.

Section 7. Codification; Direction to Code Codifier and City Staff; Correction of Scrivener's Errors.

(a). The provisions of Section 1, Section 2 and Section 3 of this Ordinance shall become and be made a part of the *Code of Ordinances of the City of DeLand* and the Sections of this Ordinance may be renumbered or re-lettered to accomplish such intention and the word "Ordinance", or similar words, may be changed to "Section," "Article", or other appropriate word; provided, however, that the text of Sections 4 through 8 shall not be codified.

(b). The Code codifier is granted liberal authority to codify the provisions of this Ordinance in such manner and in such places as deemed advisable.

(c). In accordance with the City's ongoing codification program; the City Clerk-Auditor in conjunction with the City Attorney, may make corrections to the provisions of this Ordinance relative to Scrivener's errors of whatever type or nature.

Section 8. Effective Date. This Ordinance shall become effective immediately upon adoption.

PASSED AND DULY ADOPTED this 8th day of September, 2021.



Julie A. Hennessy
Julie A. Hennessy, MMC
City Clerk-Auditor

Robert F. Apgar
Robert F. Apgar
Mayor - Commissioner

Passed on first reading: August 16, 2021.
Adopted on second reading: September 08, 2021.

APPROVED AS TO FORM AND LEGALITY:

[Signature]
Darren J. Elkind, City Attorney