

## **ORDINANCE NO. 3011**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF WAXAHACHIE, TEXAS, ADDING ARTICLE XIV, "PANHANDLING," TO CHAPTER 21, "OFFENSES AND MISCELLANEOUS PROVISIONS," OF THE WAXAHACHIE CITY CODE; PROVIDING A REPEALING CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR A PENALTY OF A FINE NOT TO EXCEED THE SUM OF FIVE HUNDRED DOLLARS (\$500) FOR EACH OFFENSE; AND PROVIDING FOR AN EFFECTIVE DATE.**

WHEREAS, the City Council of the City of Waxahachie ("City Council") has determined that the adoption of this ordinance best serves the general welfare of the City of Waxahachie, Texas ("City"), and its residents by enacting reasonable restrictions on certain activities that the City Council has determined are detrimental to the City, and which restrictions will promote and preserve the public health, safety, and welfare.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WAXAHACHIE, TEXAS:**

**SECTION 1.** The above and foregoing premises are true and correct and are incorporated herein and made a part hereof for all purposes.

**SECTION 2.** That Article XIV, "Panhandling," is hereby added to Chapter 21, "Offenses and Miscellaneous Provisions," of the Waxahachie City Code, to read as follows:

### **"ARTICLE XIV.**

### **PANHANDLING**

#### **Sec. 21-225. PANHANDLING.**

- (a) **Definitions.** "Panhandling," for the purpose of this section, is any solicitation made in person requesting an immediate donation of money. Purchase of an item for an amount far exceeding its 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 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
- (b) **Time of Panhandling.** Any person who panhandles between the hours of one-half (½) hour before sunset and 9:00 a.m. the following morning, or at any time on a Sunday, is guilty of a misdemeanor under this section.
- (c) **Place of Panhandling.** Any person who panhandles when the person solicited is in any of the following places is guilty of a misdemeanor under this section:

- (1) At any bus stop or train stop;
  - (2) In any public transportation vehicle or facility;
  - (3) In any vehicle on the street; or
  - (4) On private property, unless the panhandler has permission from the owner or occupant.
- (d) Manner of Panhandling. Any person who panhandles in any of the following manners is guilty of a misdemeanor under this section:
- (1) By coming within three feet of the person solicited, until that person has indicated that he does wish to make a donation;
  - (2) By blocking the path of the person solicited along a sidewalk or street;
  - (3) By following a person who walks away from the panhandler;
  - (4) By using profane or abusive language, either during the solicitation or following a refusal;
  - (5) By panhandling in a group of two or more persons; or
  - (6) By any statement, gesture, or other communication which a reasonable person in the situation of the person solicited would perceive to be a threat.
- (e) False or Misleading Solicitation. Any person who knowingly makes any false or misleading representation in the course of soliciting a donation is guilty of a misdemeanor under this section.

False or misleading representations include, but are 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 that 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; or
- (7) Stating that the solicitor is homeless, when he is not homeless.

(f) Permit Requirement.

(1) No person shall be allowed to panhandle without a permit issued by the police department. A person who has been issued a permit shall keep it on his person at all times while panhandling and show it to any peace officer upon request. No person whose permit has been revoked shall panhandle for a period of two years following the revocation. Any person who violates this subdivision is guilty of a misdemeanor under this section.

(2) The police department shall issue the permit, without fee, to any eligible person who presents himself at the central police station, states his true name, presents a photo identification or signs a declaration under penalty of perjury that he has no such identification, and permits himself to be photographed and fingerprinted.

(3) A person is ineligible for a permit if within the past five years he

(i) has been convicted of two or more violations of this section,

(ii) has had a permit revoked pursuant to subdivisions (e) or (f) of this section,  
or

(iii) has been convicted of two or more offenses under the law of any jurisdiction which involve aggressive or intimidating behavior while panhandling or false or misleading representations while panhandling.

(4) If the police department is unable to determine eligibility within 24 hours of the application, the department shall issue a permit good for 30 days and determine eligibility for a regular permit before the temporary permit expires. The regular permit shall expire three years from the date of issuance. Along with the permit, the police department shall give the applicant a copy of this section.

(5) Any person who makes any false or misleading representation while applying for a permit under this section is guilty of a misdemeanor. Upon conviction of violation of this section, the police department shall revoke any permit issued to the defendant under this section.

(6) If a permit is issued to a person under this section and that person subsequently commits and is convicted of a violation of any provision of this section, the police department shall revoke the permit.”

**SECTION 3.** Should any word, sentence, paragraph, subdivision, clause, phrase or section of this ordinance or of the Waxahachie City Code, as amended hereby, be adjudged or held to be void or unconstitutional, the same shall not affect the validity of the remaining portions of said ordinance or the Waxahachie City Code, as amended hereby, which shall remain in full force and effect.

**SECTION 4.** An offense committed before the effective date of this ordinance is governed by prior law and the provisions of the Waxahachie City Code, as amended, in effect when the offense was committed and the former law is continued in effect for this purpose.

**SECTION 5.** A person who violates a provision of this ordinance is guilty of a separate offense for each day or part of a day during which the violation is committed, continued, or permitted. Each offense, upon conviction, is punishable by a fine not to exceed \$500.

**SECTION 6.** This ordinance shall take effect immediately from and after its passage and publication of the caption as required by law.

**DULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF WAXAHACHIE, TEXAS** this 16<sup>th</sup> day of April, 2018.



  
MAYOR

ATTEST:

  
City Secretary