

ORDINANCE NO. 1311

AN ORDINANCE OF THE CITY OF PANAMA CITY BEACH, FLORIDA, AMENDING AND RESTATING THE PEDDLING AND SOLICITATION ORDINANCE OF THE CITY; MAKING FINDINGS; DEFINING TERMS; REQUIRING A PERMIT ONLY FOR PEDDLING AND SOLICITATION FROM DOOR TO DOOR IN RESIDENTIAL SETTINGS AND PROVIDING LIMITED EXEMPTIONS FROM SUCH A PERMIT; PROVIDING FOR PERMIT REVOCATION AND APPEAL FROM DENIAL OR REVOCATION; PROHIBITING ALL PEDDLING AND SOLICITATION IN ENUMERATED PUBLIC PARKS AND PLACES; DEFINING AND PROHIBITING AGGRESSIVE PEDDLING ANYWHERE IN THE CITY; PROHIBITING PEDDLING AND SOLICITATION ON PRIVATE PROPERTY AFTER DARK AND PROVIDING LIMITED EXCEPTIONS; PROHIBITING CERTAIN ACTIONS RELATED TO PEDDLING AND SOLICITATION AND PROHIBITING PEDDLING AND SOLICITATION IN ENUMERATED CIRCUMSTANCES OR LOCATIONS; PROVIDING SEVERABILITY; REPEALING ALL ORDINANCES IN CONFLICT TO THE EXTENT OF SUCH CONFLICT; PROVIDING FOR CODIFICATION; AND PROVIDING AN IMMEDIATELY EFFECTIVE DATE.

WITNESSETH:

WHEREAS, the City recognizes each individual's first amendment right of free speech and that elements of solicitation, panhandling and peddling are protected speech in a free society; and

WHEREAS, the City also recognizes that solicitation, panhandling and peddling involve conduct and secondary effects which can be detrimental to the public health, safety and welfare; and

WHEREAS, the City recognizes and embraces the significant governmental interests in vehicular safety and the free flow of pedestrian and vehicular traffic; and

WHEREAS, solicitation and peddling in streets, sidewalks and parking lots and garages are inherently dangerous activities which compromise both vehicular and pedestrian safety and

create dangers such as driver distraction, and the solicitor or peddler causing an accident or being the victim of an accident; and

WHEREAS, the time necessary to complete a transaction involving solicitation or peddling to the occupant of a vehicle may cause the driver of a motor vehicle to delay proceeding in accordance with traffic signals or cause a solicitor or peddler in or at the edge of a vehicular right-of-way while traffic is stopped temporarily to remain there as a danger to himself and a distraction to drivers after traffic resumes movement; and

WHEREAS, the occupants of a motor vehicle are unable to see all the actions of persons close to the vehicle, and if the vehicle driver perceives a solicitor or peddler to be a potential threat he or she has the ability to rapidly accelerate or turn the vehicle risking injury to the solicitor or others; and

WHEREAS, the City finds that an increase in aggressive solicitation or peddling throughout the City has become extremely disturbing and disruptive to residents and visitors and has contributed to the loss of access to and enjoyment of public places and enhances a sense of fear, intimidation and disorder; and

WHEREAS, aggressive solicitation or peddling includes approaching or following pedestrians, the use of abusive language, uninvited physical contact, intentional or negligent blocking of pedestrian or vehicular traffic and similar actions; and

WHEREAS, the presence of persons who peddle or solicit for money from persons at or near banks or automated teller machines or check cashing businesses creates anxiety to persons having, or may be perceived to have, cash with them at those locations and poses a risk of confrontation and a danger to all concerned; and

WHEREAS, the presence of persons who solicit or peddle to persons in places or circumstances where it is difficult or impossible for the person approached to exercise his or her own right to decline simply by leaving to avoid the solicitor or peddler, is especially threatening to the persons approached, and dangerous; and

WHEREAS, tourism is the overwhelmingly predominate industry in the City and the City recognizes that modern information technologies and transportation systems have geometrically expanded the destination choices of tourists, undermined the loyalty of individual tourists to a particular destination and made the industry as a whole extremely competitive and sensitive to adverse conditions, and

WHEREAS, the City has determined that peddling and solicitation of tourists in congested places or in circumstances where the tourist's freedom of movement is restricted, and aggressive peddling and solicitation anywhere, are perceived by tourists as significantly adverse conditions, and therefore are contrary to the economic health of the entire community and lessen the resources and ability of the community to police itself and to provide for those in need who are less fortunate than others; and

WHEREAS, the City finds that its current peddling and solicitation laws are not working to curb the unnecessary, adverse effects of solicitation and peddling in certain places, at certain times and in certain manners everywhere; and

WHEREAS, the peddling of goods or services in the places, times and manners prohibited by this ordinance will produce substantially the same harm as solicitation there and then; and

WHEREAS, the City finds that if peddling and solicitation are not limited to reasonable times, places and manners required to minimize or eliminate the adverse effects of such activities,

those adverse effects will worsen to the detriment of the quality of life of residents and tourists alike and to the economic health of the community; and

WHEREAS, although peddling and solicitation on both private, commercial property and private, residential property can be controlled by the owners and occupiers of those properties posting signs prohibiting unwanted activity with the City enforcing the owner's desires, the City nonetheless finds that peddling and solicitation in residential or transient lodging accommodations presents dangers and the risks of harm to persons and property not present in commercial properties because the latter are typically prepared to deal with a variety of invitees as part of their businesses but the former are not, and therefore the City has determined that it is necessary and prudent to require those persons wishing to peddle or solicit in residential or transient lodging facilities to register in advance with the City and to not have been recently convicted of a felonious disregard of the law or of a civil unfair trade practice; and

WHEREAS, the regulation of peddling and solicitation set forth below is narrowly tailored to apply only to designated locations where solicitation and peddling cause the greatest risks due to generally higher pedestrian or vehicular traffic volume, or circumstances where the person addressed is not able, or is reasonably not willing, to leave in order to avoid the peddling or solicitation, or where the activity is so aggressive as to constitute a public nuisance; and

WHEREAS, all speech and expression regulated by this ordinance is commercial speech, the substance or content of that speech is not regulated by this ordinance, the City has no interest in supporting, opposing or influencing any point of view connected with such speech and expression, and the sole purpose of this ordinance is to protect the community and the persons involved in peddling and solicitation from the risks, fears, dangers and other adverse, secondary effects of the

activities regulated; and

WHEREAS, individuals have ample, alternative locations, methods and times to communicate (in a non-aggressive manner) the intent of their peddling or solicitation activities and still comply with this ordinance.

NOW THEREFORE, BE IT HEREBY ORDAINED BY THE PEOPLE OF THE CITY OF PANAMA CITY BEACH, FLORIDA:

SECTION 1. From and after the effective date of this ordinance, Article I, Chapter 19, of the Panama City Beach Code of Ordinances is amended to read as follows (deleted text ~~stricken~~, new text underlined):

**Chapter 19 STREETS, SIDEWALKS AND OTHER PUBLIC PLACES**  
**ARTICLE I. PEDDLING AND SOLICITATION**

**Sec. 19-1. Short title.**

This ~~Article~~Ordinance shall be known and referred to as the "City of Panama City Beach Peddling and Solicitation ~~Ordinance~~Code."

**Sec. 19-2. ~~"Peddling" and "Solicitation" Defined.~~Definitions.**

As used in this Article, the following definitions apply:

"After Dark" means from one-half hour after sunset until one-half hour before sunrise as established by the times listed in any local publication or governmental website.

~~(a) — The term "Peddling" means as used in this Ordinance means to personally and directly sell or purchase or offer for sale to another person, orally or in writing, or purchase goods, wares, merchandise, advertising or services of more than nominal value for present or future delivery. The word "peddle" and its forms does not include Solicitation, by either of the following methods:~~

~~(1) — Person to Person contact on the public ways, sidewalks, parks, beaches or other public places within the City;~~

~~(2) — Door-to-door contact at private residences, apartments, rooms, hotels, motels or lodging places within the City.~~

~~(b) — The term~~

"Solicitation" means as used in this Ordinance means to personally and directly request of another, orally or in writing, directly or indirectly, money, clothing, gifts, donations or similar things of monetary value to be used in whole or in part to benefit a charitable or non-profit purpose or entity,

or the solicitor. The word "solicit" and its forms includes begging and panhandling, and the seeking of a donation where the person solicited receives an item of nominal 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. Solicitation does not mean the act of passively standing still, or sitting, with a sign or alms cup indicating that a donation is being sought, and without any vocal request other than a response to an inquiry by another person; provided that pedestrians may freely pass without obstruction or having to take evasive action, by either of the following methods:

~~(1) — Person-to-Person contact on the public ways, sidewalks, parks, beaches or other public places within the City;~~

~~(2) — Door-to-door contact at private residences, apartments, rooms, hotels, motels or lodging places within the City.~~

"Aggressive Manner" means:

a. Approaching or speaking to a particular person or persons, or physically following a particular person or persons before, during or after Peddling or Soliciting, if that conduct is intended or likely to cause a reasonable person to:

1. Fear bodily contact or harm to oneself or to another, or damage to or loss of property; or

2. Otherwise perceive a threat or intimidation to give money or other thing of value;

or

b. Intentionally touching or causing physical contact with another person or a vehicle operated by another person, without that person's consent, in the course of Peddling or Soliciting; or

c. In the course of Peddling or Soliciting, intentionally blocking or interfering with the safe or free passage of any pedestrian or vehicle by any means, including causing any pedestrian or vehicle operator to take evasive action to avoid the Peddling or Solicitation; or

d. Force oneself upon the company of another by continuing to Peddle or Solicit the person addressed after that person has made a negative response, by oral utterance, by physical sign, by attempt to leave or avoid the presence of the person Peddling or Soliciting or by other negative indication.

e. Peddling or Soliciting on any public sidewalk or pedestrian area of a public right-of-way in a group of two or more persons appearing to a reasonable person to be engaged in Peddling or Soliciting and to be associating with each other for that purpose.

### **Sec. 19-3. Permit Required.**

It shall be unlawful for any person to engage in ~~the following~~ Peddling or Solicitation within the City through door-to-door contact at one or more private residences, apartments, transient accommodations, or other private lodgings without first securing a permit therefor from the Chief of Police as provided in this ~~Ordinance~~Article.

### **Sec. 19-4. Permit Exemptions.**

The following persons are excluded from the requirement of a permit under ~~operation of~~ this ~~Ordinance~~Article:

- (a) A minor, defined as someone who has not attained the age of eighteen (18) years, engaged in Peddling or Solicitation under the supervision of an adult, defined as someone eighteen (18) years or older, who holds a valid permit as provided in this ~~Ordinance~~Article, provided that the number of

minors so supervised by such adult does not exceed twenty (20). A minor excluded under this section must, however, carry written personal identification which includes his or her full name, age, date of birth, permanent residence address, organization if applicable, and the name and permit number of his or her adult supervisor.

- (b) A person who has been expressly invited, orally or in writing, to Peddle or Solicit.
- ~~(c) A person peddling at the usual place of business of a customer regarding goods or services for use in connection with the customer's business.~~
- ~~(cd)~~ A person expressly exempted by Florida or Federal law from being regulated as provided by this OrdinanceArticle.
- (d) A person exercising a right or privilege guaranteed by the constitution of the State of Florida or the United States which right or privilege supersedes the regulations enacted by this Article.

#### **Sec. 19-5. Permit Application.**

Applicants for a permit under this OrdinanceArticle shall file with the Chief of Police a sworn, written application on a form furnished by the City Manager, which shall give the following information:

- (a) Date of application;
- (b) The applicant's name, permanent residence address (if any), and local address (if any);
- (c) The places of residence, nature of employment and employers of the applicant during the preceding twelve (12) months;
- (d) A brief description of the business or commercial nature of the Peddling or the purpose of the Solicitation for which the application is made;
- (e) If the Peddling or Soliciting on behalf of an employer, ~~employed~~, the name and address of the applicant's employer and written evidence of current employment;
- (f) The length of time for which a Peddling or Solicitation permit is desired;
- (g) The place where the goods or property proposed to be sold or orders are taken for the sale thereof, are manufactured or produced, where such goods or products are located at the time the application is filed and the proposed method of delivery;
- (h) Two color photographs of the applicant showing the head and shoulders of the applicant in a clear and distinguishing manner (the Police Department shall take the photographs if requested);
- (i) A statement as to whether the applicant has been convicted of any crime, including a misdemeanor or the violation of any municipal ordinance, the nature of the offense and the punishment or penalty assessed therefor;
- (j) Proof that the applicant holds or has complied with any necessary state or county registration, notice, license, permit, or other requirement for the activity contemplated, or is exempt therefrom, including by way of example and not limitation, Section 500.12 Florida Statutes (1995) (food permit), Chapter 496 Florida Statutes (1995) (the Florida Solicitation of Contributions Act), Section 501.021 et seq1, Florida Statutes (1995) (home solicitation sales), and similar or superseding laws.
- (k) If the permit sought is to Peddle advertising or participation in any magazine, newspaper, booklet, directory, periodical, coupon book or flier, or other publication, the applicant shall also furnish the following information:
  - (1) Number of copies of publication to be distributed;

- (2) Number of copies distributed per average issue for previous year, if any;
  - (3) Frequency of issues during current year;
  - (4) Frequency of issues during past year, if any;
  - (5) Manner of distribution, including whether free or estimated price.
- (l) If the permit sought is for Solicitation, a statement as to whether the applicant has been or intends to be compensated, directly or indirectly for such Solicitation, and if so, the amount or method of such compensation.
- (m) If applicable, the full name, ~~age~~~~date of birth~~, and permanent residence address of each minor to be supervised by the Applicant.

#### **Sec. 19-6. Permit Application Fee.**

The application required by this ~~Ordinance~~Article shall be accompanied by a fee of Twenty Five Dollars (\$25.00) per person plus fifty cents (\$.50) per minor supervised by such person, if applicable, to defray the expense to the City for furnishing the application, making investigation and otherwise administering the provisions of this ~~Ordinance~~Article.

#### **Sec. 19-7. Permit Investigation and Issuance ~~Permit.~~**

- (a) Upon receipt of an application for a permit required by this ~~Ordinance~~Article, the Chief of Police shall investigate the applicant's background for convictions of felonies or civil unfair trade practices, and shall complete this investigation within ten (10) days of receipt of the completed application and application fee.
- (b) No permit shall be issued to any person who has been convicted of a felony or civil unfair trade practice under the laws of Florida or any other state or federal laws of the United States, within ten (10) years of the date of application; nor to any person who has been convicted of a violation of any of the provisions of this ~~ordinance~~Article, nor to any person whose certificate of registration issued hereunder has previously been revoked.
- (c) The Chief of Police shall endorse on the application the specific reasons for the denial and inform the applicant of the denial, the specific reasons for the denial and the applicant's right to appeal. Otherwise, the permit shall be issued for the duration requested, not to exceed twelve (12) months.

#### **Sec. 19-8. Denial or Revocation.**

Any permit required by this Article shall be denied or revoked by the City Manager for material misrepresentation or omission in the application or violation by or on behalf of the permittee of any applicable provision of this Article, this Code, or state or local law regulating any aspect of the activity permitted. The City Manager shall advise the permittee of such revocation in writing, specifying the reasons therefore and the applicant's right to appeal.

#### **Sec. 19-9. Appeals.**

The denial or revocation of a permit under this Article may be appealed to the City Council by serving a notice of appeal upon the City Manager within twenty (20) days after such denial or revocation.



Such appeal shall be heard and resolved by the City Council in such a manner as to afford due process within thirty (30) days after the filing of the notice. The City Manager, or his designee, shall bear the burden of establishing the grounds for denial or revocation of the permit by the greater weight of the evidence presented. The parties may appear through counsel, present testimony under oath and relevant documentary evidence, and cross-examine witnesses. Evidence of the sort relied upon by prudent men in the management of their affairs shall be admissible and the formal rules of evidence shall not apply. The City Council's decision shall be reduced to writing and include findings of fact.

## **Sec. 19-108. Actions Prohibited.**

It is unlawful for any person:

- (a) ~~It shall be unlawful for any person To~~ Peddling or Solicit~~ing~~ within the City ~~to enter~~ upon any private residential, commercial or unimproved premises when such premises are posted with a sign stating "No Peddlers Allowed" or "No Solicitations Allowed" or similar words conveying the same meaning.
- (b) In the course of Peddling or Soliciting to approach the back or rear door, or the side or rear, of a residential or transient lodging premises of any type.
- (c) ~~It shall be unlawful for any person~~ Peddling within the City to make any false, fraudulent or materially misleading statement concerning the quality, nature or quantity of the goods, wares, merchandise or services Peddled ~~for the purpose of inducing another to purchase the same.~~
- (d) ~~It shall be unlawful for any person~~ Soliciting within the City to make any false, fraudulent or materially misleading statement or omission concerning the purpose and use of funds or other things of value solicited ~~for the purpose of inducing another to contribute.~~
- (e) ~~It shall be unlawful for any person t~~To Peddle or Solicit on private property within the City After Dark~~between the hours of 7:00 o'clock p.m. and 8:00 o'clock a.m.,~~ except by specific appointment with or invitation from the prospect.
- (f) ~~It shall be unlawful for any person t~~To give any false or misleading information in connection with an~~this~~ application for a permit required by this ~~Ordinance~~Article.
- (g) ~~It shall be unlawful for any person Peddling or Soliciting within the City t~~To fail or refuse to immediately produce and display at~~the~~ permit required by this Article issued hereunder if requested to do so by ~~upon the request of~~ any person.
- (h) ~~It shall be unlawful for any person t~~To Peddle or Solicit within the vehicular access area~~right-of-way~~ of any publicly owned or maintained highway, street, ~~or~~ intersection, parking garage or parking lot within the City.
- (i) To Peddle or Solicit within the vehicular access area of any private or quasi-public highway, street, intersection, parking garage or parking lot within the City without having in his or her possession, and producing upon request of any person, the written permission of the owner or person in control of that area.
- (j) To Peddle or Solicit in an Aggressive Manner.
- (k) To approach the driver or occupant of a motor vehicle for the purpose of Peddling or Soliciting or to Peddle or Solicit within four (4) feet of any occupied passenger vehicle, excepting staff of a drive-in or drive-through establishment where the occupants of the vehicle have initiated the transaction by driving onto the premises.

- (l) To Peddle or Solicit any person while the person or persons being solicited are standing in line waiting in line to be admitted to any building, enclosure or activity, excepting transactions which relate to the admission for which the line is formed;
- (m) To Peddle or Solicit at any of the following locations within the City:
- (1) Within fifteen (15) feet of a bus or other public transportation stop;
  - (2) Within a public restroom or within fifteen (15) feet of any entrance to a public restroom;
  - (3) In a public transportation vehicle or facility;
  - (4) In, or within fifteen (15) feet of, a lawfully permitted outdoor dining area or lawfully permitted outdoor merchandise area when such area is in active use for that purpose;
  - (5) Within fifteen (15) feet of any ATM or any bank entrance;
  - (6) Within fifteen (15) feet of any entrance to a gasoline station, or any gasoline pump available to the public;
  - (7) Within fifteen (15) feet of any entrance to a liquor store;
  - (8) Within fifteen (15) feet of any entrance to a grocery store or convenience store;
  - (9) Within thirty (30) feet of the point formed by the intersection of the edges of the vehicular right-of-way of any two streets, either of which has there a sidewalk.
  - (10) Within thirty (30) feet of any entrance to, and within the boundaries of:
    - a. Frank Brown Park
    - b. Aaron Bessant Park
    - c. The Russell-Fields Pier, its boardwalk and improved pedestrian ways.
    - d. The County Pier and its improved pedestrian ways.
    - e. Any Gulf Beach Access marked and numbered by Bay County.
    - f. The City Library.
    - g. Any stormwater facility at which consumption of alcoholic beverages is prohibited.

The forgoing prohibitions shall not apply to activities expressly exempted by Florida or Federal law from being regulated as provided by this Article, or be construed to prevent a person from exercising only those rights and privileges guaranteed by the constitution of the State of Florida or the United States.

#### **~~19-9. Revocation.~~**

~~Any permit issued under this Ordinance shall be revoked by the City Manager for material misrepresentation or omission in the application or violation of any applicable provision of this Ordinance, this Code, or state or local law or regulation, by or on behalf of the permittee. The City Manager shall advise the permittee of such revocation in writing, specifying the reasons therefore and the applicant's right to appeal.~~

#### **~~Sec. 19-10. Appeals.~~**

~~The denial or revocation of a permit under this Ordinance may be appealed to the City Council by serving a notice of appeal upon the City Manager within twenty (20) days after such denial or revocation.~~

~~Such appeal shall be heard and resolved by the City Council in such a manner as to afford due process within thirty (30) days after the filing of the notice. The City Manager, or his designee, shall bear the burden of establishing the grounds for denial or revocation of the permit by the greater weight of the evidence presented. The parties may appear through counsel, present testimony under oath and relevant documentary evidence, and cross-examine witnesses. Evidence of the sort relied upon by prudent men in the management of their affairs shall be admissible and the formal rules of evidence shall not apply. The City Council's decision shall be reduced to writing and include findings of fact.~~

**Sec. 19-11. Penalty for Violation.**

Violation of this ~~Ordinance~~ [Article](#) shall be punishable as provided in Section 1-12 of this Code. In addition, continued violation shall be enjoined by the Circuit Court, Fourteenth Judicial Circuit, in and for Bay County, Florida, upon petition of the City.

SECTION 2. Severance of invalid provisions: if any section, subsection, sentence, clause, phrase, word or provision of this ordinance is held to be invalid or unconstitutional by a court of competent jurisdiction, that holding shall not be so construed to render invalid the remaining provisions of this ordinance, the City intending that all such provisions be severable.

SECTION 3. All ordinances or parts of ordinances in conflict herewith are repealed to the extent of such conflict.

SECTION 4 The appropriate officers and agents of the City are authorized and directed to codify, include and publish in electronic format the provisions of this Ordinance within the Panama City Beach Code, and unless a contrary ordinance is adopted within ninety (90) days following such publication, the codification of this Ordinance shall become the final and official record of the matters herein ordained. Section numbers may be assigned and changed whenever necessary or convenient.

SECTION 5. This Ordinance shall take effect immediately upon passage.

PASSED, APPROVED AND ADOPTED at the regular meeting of the City Council of the

City of Panama City Beach, Florida, this 28<sup>th</sup> day of August, 2014.

CITY OF PANAMA CITY BEACH

By   
GAYLE F. OBERST, MAYOR

ATTEST:



HOLLY J. WHITE, CITY CLERK

EXAMINED AND APPROVED by me this 28<sup>th</sup> day of August, 2014.

  
MAYOR

POSTED AT:

www.pcbgov.com

Dated: August 29, 2014