

PROPOSED
ORDINANCE NO. _____

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AN ORDINANCE CREATING SECTION 8-1-28 OF THE CODE OF THE CITY OF PENSACOLA, FLORIDA; DEFINING THE PALAFOX-SEVILLE-MARITIME PARK COMMERCIAL CORRIDOR AND REGULATING THE CONDUCT OF CITIZENS ON SIDEWALKS AND PUBLIC RIGHTS-OF-WAY THEREIN; PROVIDING DEFINITIONS; PROHIBITING OBSTRUCTIONS TO PEDESTRIAN USE OF PUBLIC RIGHTS-OF-WAY; PROHIBITING SOLICITATION OF DONATIONS AND UNPERMITTED COMMERCIAL ACTIVITY; PROHIBITING STORAGE OF PERSONAL PROPERTY ON PUBLIC SIDEWALKS AND PUBLIC RIGHTS-OF-WAY; PROVIDING PENALTIES THEREFOR; PROVIDING FOR SEVERABILITY; REPLEAING CLAUSE AND PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY OF PENSACOLA, FLORIDA:

SECTION 1. Section 8-1-28 of the Code of the City of Pensacola, Florida, is hereby created to read:

Sec. 8-1-28. Regulation of Conduct In The Palafox-Seville-Maritime Park Commercial Corridor.

- (1) Legislative Findings. The City Council of the City of Pensacola hereby makes the following legislative findings and declares them to be true and accurate:
- a. Over the last 20 years, the City of Pensacola municipal government has taken many steps and incurred substantial costs in reinvigorating its core downtown business districts for the purpose of providing its citizens and visitors with a safe, attractive and entertaining venue for individuals and families to shop, dine and attend area events. Many efforts have been expended to have these municipal activities attract private investments to the area in order to jointly foster a center of commerce and entertainment suitable for individuals and families of all ages and interests.
 - b. The Palafox Commercial Corridor from Wright Street to Pensacola Bay, including the streets which intersect it, have been the subject of renovation and enhancement, both by the City of Pensacola and by the Downtown Improvement Board, a special district voluntarily created for the purpose of

taxing businesses located within its jurisdiction to fund enhancements to the downtown commercial district. This has resulted in the creation of the South Palafox Waterfront District, De Luna Park, substantial private investment-backed renovations to numerous structures, and the establishment of numerous retail businesses concentrated in the area.

- c. The City of Pensacola, itself and through related entities, has undertaken substantial long-term debt and has fostered the creation of the Maritime Park and its environs, a new venue for baseball, football, concerts and numerous other civic activities routinely drawing several thousand people to the downtown Pensacola area. This facility has contributed significantly to the ongoing renovation of the larger area in which it is located.
- d. The Seville Square area of the City has long been the core of the historic district of the City and has served as a principal tourist destination and site of numerous large gatherings of citizens for decades.
- e. The current success which the City has experienced as a result of many years of expenditures and public program offerings as well as private commercial investments has created a condition where numerous individuals have begun to utilize the streets, sidewalks and rights-of-way for the purpose of soliciting funds from passers-by (panhandling or begging), sitting or lying on the sidewalks causing congestion along passageways which are not designed to accommodate such activity, placing their personal property on the sidewalks and rights-of-way in a manner that prohibits public passage or use of the sidewalk, and lying on public benches which are intended for several individuals to sit upright upon. The collective impact of the activities of these individuals has been to impede the public's use of the public thoroughfares and to adversely impact tourism and the public's use and enjoyment of the City's successful efforts at renovation of the downtown commercial district.
- f. The City of Pensacola acknowledges that some of the activities that are being regulated by this provision are protected expressive activities under the First Amendment and the City's interest in adopting this regulation is to engage in a reasonable, limited time, place and manner regulation in a manner approved by the courts. The City finds that there are ample alternative public venues for such expressive activities outside of the Palafox-Seville-Maritime Park Commercial Corridor, as defined herein. The City further finds that without the regulations being adopted in this section of the City Code, a substantial portion of the success which the City has experienced in transforming a deteriorated, partially vacant commercial area virtually unused by the public at night into its current vibrant, heavily used area, will be jeopardized. Merchants

who have voluntarily taxed themselves to maintain and enhance the area, as well as numerous visitors and members of the public have complained about the widespread activity of numerous individuals sitting and lying on the public sidewalks, the solicitation for funds and numerous individuals seeking to appropriate to themselves large portions of the public spaces to the exclusion of others who are passing by to enjoy the area. The City of Pensacola finds that the adoption of these regulations strikes an appropriate balance between every individual's right to use the public streets, sidewalks, and seating facilities for the purposes for which they were constructed, and the right to engage in expressive activity in the City of Pensacola.

(2) Definitions.

- a. *The Palafox-Seville-Maritime Park Commercial Corridor* is hereby defined as the streets, adjacent sidewalks and pedestrian city rights-of-way within the following areas:
 1. Along Palafox Street/Palafox Place from the intersection of Palafox and Wright Street south to Pensacola Bay.
 2. Along Garden, Romana and Intendencia Streets between Baylen and Tarragona Streets.
 3. Along Government Street between Spring and Alcaniz Street, and all areas south to Pensacola Bay.
 4. Along Bayfront Parkway/Main Street between the intersection of Bayfront and Chase Street to the intersection of Main Street and Reus Street.
 5. Adjacent to and throughout the Maritime Park, De Luna Park, Seville Square, Plaza Ferdinand and the Palafox Street median between Wright and Garden Streets.
- b. *Solicitation of donations* means any request made in person on a street, sidewalk or public right-of-way within the Palafox-Seville-Maritime Park Commercial Corridor, for an immediate donation of money or other thing of value, including the purchase of an item or service for an amount far exceeding its value, under circumstances where a reasonable person would understand that the purchase is a donation, whether such solicitation is accomplished verbally, passively or through any manner of signage.
- c. *Unpermitted commercial activity* means any use of the street, sidewalk or public right-of-way for commercial purposes including the sale of goods or services or the advertising of the availability of goods or services for sale for which a permit, license

to use or contractual right has not been obtained from the City of Pensacola for such activity.

(3) Prohibited Conduct. The following conduct is prohibited upon the streets, sidewalks and public rights-of-way within the Palafox-Seville-Maritime Park Commercial Corridor:

- a. Solicitation of donations.
- b. Unpermitted commercial activity.
- c. Sitting or lying on the curb or paved surface of any portion of the street intended for parking or the passageway of vehicles.
- d. Sitting or lying on the paved surface of any portion of the sidewalk or public right-of-way intended for pedestrian usage.
- e. Lying upon a public seat or bench in a manner that occupies more than the space intended for one individual to utilize on the seat or bench.
- f. Use of the public street, sidewalk or right-of-way for the storage of personal property without having obtained a permit, license to use or contractual right for such activity from the City of Pensacola.
- g. Any use of any area within the public right-of-way which is occupied by foliage or vegetation other than grass, unless such use is related to the installation or maintenance of such foliage or vegetation.

(4) Penalties. This sec. 8-1-28 of the Code of the City of Pensacola, Florida, shall be enforced in the manner provided in sec. 7-4-14, pertaining to violations of sec. 7-4-13 of the Code.

SECTION 2. If any word, phrase, clause, paragraph, section or provision of this ordinance or the application thereof to any person or circumstance is held invalid or unconstitutional, such finding shall not affect the other provision or applications of the ordinance which can be given effect without the invalid or unconstitutional provisions or application, and to this end the provisions of this ordinance are severable.

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

SECTION 4. This ordinance shall become effective on the fifth business day after adoption, unless otherwise provided pursuant to Section 4.03(d) of the City Charter of the City of Pensacola.

Adopted: _____

Approved: _____
President of the City Council

Attest:

City Clerk