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ORDINANCE NO. 2011-__

AN ORDINANCE OF ESCAMBIA COUNTY, FLORIDA AMENDING CHAPTER 86, ARTICLE VIII, SECTIONS 86-250 THROUGH 86-253 OF THE ESCAMBIA COUNTY CODE OF ORDINANCES; PROVIDING FOR A SHORT TITLE AND AMENDED LEGISLATIVE FINDINGS; PROVIDING FOR AMENDMENTS RELATING TO SOLICITING, BEGGING OR PANHANDLING IN CERTAIN AREAS OR UNDER CERTAIN CIRCUMSTANCES; AMENDING PENALTIES; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Escambia County does not intend to limit any persons from exercising their constitutional right to solicit funds, picket, protest or engage in other constitutionally protected activity; and,

WHEREAS, Escambia County desires to protect First Amendment rights and encourages the exercise of those rights; and,

WHEREAS, Escambia County likewise desires to protect residents, visitors and businesses from the fear and intimidation that accompany certain kinds of solicitation that have become an unwelcome and overwhelming presence in the County; and,

WHEREAS, Escambia County has authority pursuant to ch. 125, Fla. Stat., and its inherent police powers to proscribe aggressive solicitation and other behaviors deemed threatening to the health, safety and welfare of residents, visitors and businesses; and,

WHEREAS, state and federal court decisions support Escambia County’s authority to legislate certain behavior; and,

28 WHEREAS, prohibiting certain solicitation behaviors is necessary to
29 protect the safety and sense of well-being of residents, visitors and businesses;
30 and,

31 WHEREAS, section 316.130, Fla. Stat. prohibits use of the roadbed for
32 certain solicitation activities; and,

33 WHEREAS, the court in Sun-Sentinel v. City of Hollywood, 274 F. Supp.
34 2d 1323 (S.D. Fla. 2003) upheld the constitutionality of section 316.130, Fla.
35 Stat.; and,

36 WHEREAS, amending the County’s solicitation ordinance will provide for
37 continued protection of persons’ First Amendment rights while ensuring
38 residents, visitors and businesses are protected from behaviors that are or may
39 be perceived as threatening, unsafe or intimidating.

40 NOW THEREFORE BE IT ORDAINED BY THE BOARD OF COUNTY
41 COMMISSIONERS OF ESCAMBIA COUNTY, FLORIDA:

42 **Section 1.** Chapter 86, Article VIII, Sections 86-250 through 86-253 are hereby
43 amended to read as follows:

44 **ARTICLE VIII, CHAPTER 86 SOLICITING, BEGGING OR PANHANDLING**

45

46 **Section 86-250 LEGISLATIVE FINDINGS.**

47

48 **A. Short Title. This ordinance shall be known as “The Solicitation**

49 **Ordinance.”**

50 **B.** The Board of County Commissioners hereby make the following legislative

51 findings:

52 1. Solicitation throughout the County is extremely disruptive under
53 certain circumstances and potentially dangerous to residents,
54 visitors and businesses and contributes to the loss of access to and
55 enjoyment of public places as well as an enhanced sense of fear,
56 intimidation, and disorder; and,

57 ~~1. Studies have shown that soliciting, begging or panhandling has a~~
58 ~~negative impact on the attraction of businesses to the area as well~~
59 ~~as the ability to retain existing businesses; and,~~

60 2. Certain behaviors by their nature are likely to intimidate or threaten
61 residents, visitors and businesses as they convey an implicit or
62 explicit threat to persons or property; and,

63 ~~2. Studies have shown that soliciting, begging or panhandling causes~~
64 ~~a sense of fear and intimidation, particularly at night, on roadways~~
65 ~~or in confined areas; and,~~

66 3. This law is not intended to limit any persons from exercising their
67 constitutional right to solicit funds, picket, protest or engage in other
68 constitutionally protected activity.

69 ~~3. Studies have shown that soliciting, begging or panhandling~~
70 ~~contributes to the negative perception of those areas where it~~
71 ~~occurs, which discourages shoppers and visitors and contributes to~~
72 ~~the lack of enjoyment of public places within those areas.~~

73 **Section 86-251** **DEFINITIONS.**

74 A. ~~Arterial roadway~~ means a roadway providing service which is
75 relatively continuous and of relatively high traffic volume, long trip
76 length, and high operating speed. In addition, every United States
77 numbered highway is an arterial road.

78 BA. ~~Begging~~ means for purposes of this section only, the same as
79 soliciting, below.

80 C. ~~Community outreach services~~ means a public or private services
81 provider that offers residential, rehabilitative, medical or social
82 services assistance, including but not limited to mental health
83 treatment, drug or alcohol rehabilitation or homeless assistance
84 services for individuals in need thereof. One example of an entity
85 that can help individuals access such services.

86 D. ~~Community Redevelopment Areas~~ means those areas of the
87 County the Board of County Commissioners has found to be areas
88 of slum and blight as set forth in §§ 163.330 — 163.463, Fla. Stat.
89 Escambia County's Community Redevelopment Areas include the
90 Barrancas Redevelopment Area, Brownsville Redevelopment Area,
91 Englewood Redevelopment Area, Palafox Redevelopment Area
92 and Warrington Redevelopment Area and these areas are set forth
93 in the map made a part of this ordinance. The Board of County
94 Commissioners may establish additional Community
95 Redevelopment Areas pursuant to sections 163.330 — 163.463,
96 Florida Statutes.

97 ~~EB.~~ Panhandling means for purposes of this section only, the same as
 98 soliciting, below.

99 ~~FC.~~ Soliciting means for purposes of this section only, any request
 100 made in person on a street, ~~sidewalk, or public place~~ public place
 101 or park, asking for an immediate donation of money or other ~~thing~~
 102 ~~of value~~ gratuity, including the purchase of an item or service for an
 103 amount far exceeding its value, under circumstances where a
 104 reasonable person would understand that the purchase is a
 105 donation. Soliciting shall not include passively standing or sitting
 106 ~~nor performing music, singing or other street performance~~ with a
 107 sign or other indication that ~~one is seeking donations without~~
 108 ~~addressing the request to any specific person~~ a donation is being
 109 sought, without any vocal request other than in response to an
 110 inquiry by another person.

111 **Section 86-252 SOLICITING, BEGGING OR PANHANDLING PROHIBITED**
 112 **IN CERTAIN AREAS OR UNDER CERTAIN**
 113 **CIRCUMSTANCES.**
 114

115 It shall be unlawful for any person to solicit, beg or panhandle in the
 116 unincorporated areas of Escambia County, in the following areas or under the
 117 following circumstances:

- 118 A. On any day after sunset, or before sunrise; or
- 119 B. When either the panhandler or the person being solicited is located
 120 at any of the following locations:
- 121 1. At a bus stop.

- 122 2. In any public transportation vehicle.
- 123 3. In any public transportation facility.
- 124 4. In a vehicle which is parked or stopped on a public street or
- 125 alley.
- 126 5. In a sidewalk café.
- 127 6. Within 20 feet from any ATM machine or entrance to a bank.
- 128 7. Within 20 feet of a public toilet facility.
- 129 8. ~~From any operator of a motor vehicle that is in traffic on a~~
- 130 ~~public street~~ No person shall stand in the portion of a public
- 131 roadway paved for vehicular traffic for the purpose of
- 132 soliciting a ride, employment or business from the occupant
- 133 of any vehicle; provided, however, that this prohibition shall
- 134 not apply to services rendered in connection with emergency
- 135 repairs requested by the owner or passengers of such
- 136 vehicle; or
- 137 C. In an aggressive manner, to include any of the following:
- 138 1. Touching the solicited person without the solicited person's
- 139 consent.
- 140 2. Panhandling a person while such person is standing in line
- 141 and waiting to be admitted to a commercial establishment.
- 142 3. Blocking the path of a person being solicited, or the entrance
- 143 to any building or vehicle.

- 144 4. Following behind, ahead or alongside a person who walks
145 away from the panhandler after being solicited.
146 5. Using profane or abusive language, either during the
147 solicitation or following a refusal to make a donation, or
148 making any statement, gesture, or other communication
149 which would cause a reasonable person to be fearful or feel
150 compelled; or
151 6. Panhandling in a group of two (2) or more persons; ~~or.~~

152 ~~D. Within 500 feet of the intersection of two arterial roads in any~~
153 ~~Community Redevelopment Area (CRA). The intersections of two~~
154 ~~arterial roads that fall within a Community Redevelopment Area in~~
155 ~~the unincorporated areas of Escambia County are:~~

156 *Arterial/Arterial Intersections Located in*
157 *Community Redevelopment Areas*

158
159 Warrington Redevelopment Area

160
161 ~~US98 (SR 30) and Navy Blvd (SR 295)~~
162 ~~New Warrington Rd. (SR 295) and Navy Blvd. (SR 30)~~
163 ~~New Warrington Rd. (SR 295) and Chief's Way (SR 294)~~
164 ~~Navy Blvd. (SR 295) and Chief's Way (SR 294)~~
165 ~~Gulf Beach Hwy. (SR 292) and Navy Blvd. (SR 295)~~
166 ~~Gulf Beach Hwy. (SR 292) and Fairfield Dr. (SR 727)~~

167
168 Palafox Redevelopment Area

169
170 ~~Fairfield Dr. (SR 295) and Pace Blvd. (SR 292)~~
171 ~~Palafox St. (SR 95) and Brent Lane (SR 296)~~
172 ~~"W" St. (CR 453) and Beverly Pkwy. (SR 296)~~
173 ~~Pace Blvd. (SR 292) and Palafox St. (SR 95)~~
174 ~~Fairfield Dr. (SR 295) and Palafox St. (SR 95)~~
175 ~~Fairfield Dr. (SR 295) and "W" St. (CR 453)~~

176
177 Englewood Redevelopment Area

178
179 ~~Fairfield Dr. (SR 295) and "W" St. (CR 453)~~
180 ~~Fairfield Dr. (SR 295) and Pace Blvd. (SR 292)~~

181
182 ~~Barrancas Redevelopment Area~~

183
184 ~~None~~

185
186 ~~Brownsville Redevelopment Area~~

187
188 ~~New Warrington Rd. (SR 295) and Mobile Hwy. (SR 10A)~~
189 ~~Mobile Hwy. (SR 10A) and "W" St. (CR 453)~~
190 ~~Fairfield Dr. (SR 727) and New Warrington Rd. (SR 295)~~
191 ~~New Warrington Rd. (SR 295) and Mobile Hwy. (SR 10A) Interchange Overpass~~
192 ~~Lillian Hwy. (SR 298) and New Warrington Rd. (SR 295)~~
193 ~~Lillian Hwy. (SR 298) and New Warrington Rd. (SR 295) Interchange Overpass~~

194 ~~**Note:** Some intersections are listed in two CRA's since some of their boundaries~~
195 ~~are adjacent.~~

196
197 **Section 86-253 PENALTIES.**

198 Any person convicted of violating this section shall be prosecuted in the
199 same manner as a misdemeanor in the second degree, and upon conviction
200 shall be punished by a fine not to exceed five hundred dollars (\$500.00) or
201 imprisonment in the county jail, not to exceed sixty (60) days or by both such fine
202 and imprisonment.

203 ~~In addition, the officer issuing a citation under this section may elect to~~
204 ~~contact community outreach services, such as United Way's First Call for Help, in~~
205 ~~order to determine whether a referral can be made or services offered to assist~~
206 ~~the individual cited. In the event the officer is unable to contact community~~
207 ~~outreach services at the time of the officer's contact with the person accused of~~
208 ~~violating this section, the officer may supply the person with information sufficient~~
209 ~~for the person to make such contact at a later time.~~

210 **Section 2. SEVERABILITY.**

211 It is declared the intent of the Board of County Commissioners that if any
212 subsection, clause, sentence, provision or phrase of this Ordinance is held to be
213 invalid or unconstitutional by a Court of competent jurisdiction, such invalidity or
214 unconstitutionality shall not be so construed as to render invalid or
215 unconstitutional the remaining provisions of this Ordinance.

216 **Section 3. INCLUSION IN THE CODE.**

217 It is the intention of the Board of County Commissioners that the
218 provisions of this Ordinance shall become and be made a part of the Escambia
219 County Code; and that the sections of this Ordinance may be renumbered or
220 relettered and the word "ordinance" may be changed to "section," "article," or
221 such other appropriate word or phrase in order to accomplish such intentions.

222 **Section 4. EFFECTIVE DATE.**

223 This Ordinance shall become effective upon its filing with the Department
224 of State.

225 DONE AND ENACTED this _____ day of _____, 2011.

226 BOARD OF COUNTY COMMISSIONERS
227 ESCAMBIA COUNTY, FLORIDA

228
229
230 By: _____
231 Kevin W. White, Chairman

232 ATTEST: ERNIE LEE MAGAHA
233 Clerk of the Circuit Court

234
235 By: _____
236 Deputy Clerk

237
238 (SEAL)
239 ENACTED:
240 FILED WITH DEPARTMENT OF STATE:
241 EFFECTIVE: