

ORDINANCE NO. 03-2016

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF LAKE PARK, FLORIDA, CREATING ARTICLE IV OF CHAPTER 22 ENTITLED "PANHANDLING"; PROVIDING FOR AN INTENT; PROVIDING FOR DEFINITIONS; PROVIDING FOR THE REGULATION OF CERTAIN CONDUCT; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Commission finds that there has been an increase in panhandling, begging and the solicitation of residents and visitors in the Town of Lake Park (Town) by individuals in the public rights-of-way, at the intersections of public right-of-ways, and in other public parks or places of the Town; and

WHEREAS, the Commission finds that the panhandling, begging and solicitation of residents and visitors traversing the public right-of-ways is distracting to, and is of concern to motorists because of the potential for motorists and/or the pedestrians who are involved in the panhandling, begging, and solicitation to become involved in accidents; and

WHEREAS, the Commission finds that panhandling, begging, and solicitation from motorists in public rights-of-way and at the intersections of public right-of-ways in the Town is disturbing, distracting and disruptive and results in residents and visitors feeling unsafe; and

WHEREAS, the Commission finds that panhandling, begging, and solicitation in the Town's public parks and other public areas of the Town is disturbing, distracting, and disruptive and results in residents, visitors and business owners and employees in the Town feeling unsafe; and

WHEREAS, the Commission finds panhandling, begging, and the solicitation of residents and visitors in the Town contributes to a loss of access to, and the avoidance of certain public right-of-ways, parks and places in the Town; and

WHEREAS, the Commission finds that panhandling, begging, and solicitation disrupts the access of residents and visitors to public right-of-ways, parks and places, and to the businesses in the Town and is sometimes intimidating, creates concerns regarding an individual's safety and undermines the Commission's efforts to promote and attract residents, visitors and businesses to the Town;

WHEREAS, it is the intent of the Commission to regulate panhandling, begging, and solicitation in the Town is necessary to preserve the quality of life within the Town; and

WHEREAS, the Town Commission intends to regulate panhandling, begging and solicitation in the Town without being more intrusive to the exercise of Constitutionally protected activities, such as the freedom of speech and expression than is necessary to protect its residents, visitors and businesses; and

WHEREAS, the Town Commission finds that adoption of this Ordinance is the least restrictive means to provide a content neutral restriction on panhandling, begging, and solicitation, serves a significant government interest, and leaves open ample alternative channels of communication in the Town.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COMMISSION OF THE
TOWN OF LAKE PARK:

Section 1. The foregoing recitals are the legislative findings of the Commission and are incorporated herein.

Section 2. The Town Commission hereby creates Article IV of Chapter 22 to read as follows:

Article IV. Panhandling.

Sec. 22-114. Intent.

The intent of this Section is to protect persons from threatening, intimidating or harassing behavior, to keep public places safe and attractive for use of all members of the community, to provide for the free flow of traffic and the safety of motorists and pedestrians and to preserve public places where persons can interact in a peaceful manner. This is not intended to prohibit constitutionally protected speech or conduct.

Sec. 2-114. Definitions

Whenever the following words and phrases are used in this Section, they shall have the following meanings:

Aggressive manner shall mean:

1. Intentionally or recklessly making any physical contact with or touching another person in the course of the solicitation; or
2. Following the person being solicited, if that conduct is:
 - a. 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
 - b. Intended to or is reasonably likely to intimidate the person being solicited into responding affirmatively to the solicitation; or
3. Continuing to solicit within five (5) feet of the person being solicited after the person has made a negative response, if continuing the solicitation is:

- a. 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
 - b. Intended to or is reasonably likely to intimidate the person being solicited into responding affirmatively to the solicitation; or
4. Intentionally or recklessly blocking the safe or free passage of the person being solicited or requiring the person, or the driver of a vehicle, to take evasive action to avoid physical contact with the person making the solicitations, or
5. Intentionally or recklessly using words:
- a. 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
 - b. Intended to or is reasonably likely to intimidate the person being solicited into responding affirmatively to the solicitation; or

Automated teller machine means a device, linked to a financial institution's account records, which is able to carry out transactions, including but not limited to, account transfers, deposits, cash withdrawals, balance inquiries, and mortgage and loan payments.

Banking facility means all banks, trust companies, private bankers, savings banks, safe deposit companies, savings and loan associations, credit unions and investment companies.

Panhandle means to beg or solicit through the spoken, written or printed word or through others acts or body gestures for the purpose of requesting money or any other thing of value where the person solicited receives little or no monetary value in exchange and where a reasonable person would understand that the transaction is essentially a donation. Panhandling shall not include: (a) the solicitation of contributions on behalf of a charitable entity or other organization exempt from taxation pursuant to Section 501(c)(3) of the United States Internal Revenue Code; or (b) passively performing music with a sign indicating that a donation is sought.

Sec. 2-116. Prohibited conduct.

- 1. No person shall panhandle in an aggressive manner within the Corporate Limits of the Town.
- 2. No person shall panhandle within twenty (20) feet of any automated teller machine, an entrance or exit to a banking facility, or an entrance or exit to a business establishment open to the public or a governmental building.

3. No person shall panhandle when either the person soliciting or the person being solicited is at a bus stop or within a public transportation vehicle.
4. No person shall panhandle in any parking lot or parking garage.
5. No person alongside or within the median of any roadway shall panhandle from any occupant of a motor vehicle that is on a roadway nor shall any person stand alongside a roadway or within the median for the purpose of panhandling.
6. No person shall panhandle on private property without the permission of the owner.

Sec. 2-117. Penalties

Anyone found by a court to have violated this Ordinance is guilty of a misdemeanor of the 2nd degree and shall be punished by a fine of \$250, or imprisonment for 6 months.

Section 3. The Provisions of this Ordinance shall become and be made a part of the Code of the Town of Lake Park.

Section 4. If any section, paragraph, sentence, clause, phrase or word of this Ordinance is for any reason held by a court of competent jurisdiction to be unconstitutional, inoperative or void, such holding shall not affect the remainder of this Ordinance.

Section 5. All Ordinances or parts of Ordinances and Resolutions or parts of Resolutions in conflict herewith are hereby repealed to the extent of such conflict.

Section 6. This Ordinance shall take effect immediately upon adoption.

Upon First Reading this 3 day of February, 2016, the foregoing Ordinance was offered by Commissioner O'Rourke, who moved its approval. The motion was seconded by Vice-Mayor Glas-Castro and being put to a vote, the result was as follows:

	AYE	NAY
MAYOR JAMES DUBOIS	<u>/</u>	_____
VICE-MAYOR KIMBERLY GLAS-CASTRO	<u>/</u>	_____
COMMISSIONER ERIN FLAHERTY	<u>/</u>	_____
COMMISSIONER MICHAEL O'ROURKE	<u>/</u>	_____
COMMISSIONER KATHLEEN RAPOZA	<u>/</u>	_____

PUBLISHED IN THE PALM BEACH POST THIS 7 DAY OF February 2016

Upon Second Reading this 17 day of February, 2016, the foregoing Ordinance, was offered by Commissioner O'Rourke, who moved its adoption. The motion was seconded by Vice Mayor Glas-Castro and being put to a vote, the result was as follows:

	AYE	NAY
MAYOR JAMES DUBOIS	<u>/</u>	_____
VICE-MAYOR KIMBERLY GLAS-CASTRO	<u>/</u>	_____
COMMISSIONER ERIN FLAHERTY	<u>/</u>	_____
COMMISSIONER MICHAEL O'ROURKE	<u>/</u>	_____
COMMISSIONER KATHLEEN RAPOZA	<u>/</u>	_____

The Mayor thereupon declared **Ordinance No.** 03-2016 duly passed and adopted this 17 day of February, 2016.

TOWN OF LAKE PARK, FLORIDA

BY: James DuBois
Mayor, James DuBois

ATTEST:

Vivian Mendez
Town Clerk, Vivian Mendez
(Town Seal)

Approved as to form and legal sufficiency:

Thomas J. Baird
Town Attorney, Thomas J. Baird

FLORIDA

**LEGAL NOTICE OF
PROPOSED ORDINANCE
TOWN OF LAKE PARK**

Please take notice that on Wednesday, February 17, 2016, 2016 at 6:30 p.m. or soon thereafter the Town Commission, of the Town of Lake Park, Florida in a regular session to be held in the Commission Chambers, Town Hall, 535 Park Avenue, Lake Park, Florida will consider the following Ordinances on second reading and proposed adoption thereof:

ORDINANCE 02-2016

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF LAKE PARK, FLORIDA CREATING CHAPTER 71 OF THE TOWN CODE ENTITLED "MURALS"; PROVIDING FOR THE AUTHORIZATION OF BUILDING OWNERS WITHIN THE TOWN OF LAKE PARK'S PARK AVENUE DOWNTOWN DISTRICT TO DISPLAY MURALS ON THEIR BUILDINGS; PROVIDING FOR THE CRITERIA TO BE APPLIED FOR THE DISPLAY OF MURALS ON BUILDINGS; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE REPEAL OF LAWS IN CONFLICT; PROVIDING FOR CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE.

ORDINANCE NO. 03-2016

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF LAKE PARK, FLORIDA, CREATING ARTICLE IV OF CHAPTER 22 ENTITLED "PANHANDLING"; PROVIDING FOR AN INTENT; PROVIDING FOR DEFINITIONS; PROVIDING FOR THE REGULATION OF CERTAIN CONDUCT; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.

If a person decides to appeal any decision made by the Town Commission with respect to any hearing, they will need a record of the proceedings and for such purpose may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based. For additional information, please contact Vivian Mendez, Town Clerk at 561-881-3311.

Vivian Mendez, CMC, Town Clerk
Town of Lake Park, Florida
PUB: The Palm Beach Post
2-7/2016 #554827
