LAKE WALES

OFFICIAL CODE OF ORDINANCES

CHAPTER 15. MISCELLANEOUS OFFENSES

LAKE WALES

CHAPTER 15. MISCELLANEOUS OFFENSES

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LAKE WALES

CHAPTER 15. MISCELLANEOUS OFFENSES

§ 15-1. State misdemeanors within the city.

It shall be unlawful to commit within the corporate limits of the city any act which is or shall be recognized by the laws of the state as a misdemeanor. Any person convicted of violating the provisions of this section shall be subject to the penalties provided by section 1-15, City of Lake Wales Code of Ordinances, but in no event shall the punishment exceed the penalty provided by the laws of the state.

(Ord. No. 2007-27, § 1, 8-7-07)

§ 15-2. Airguns, BB guns, bows and arrows, fireworks, sling shots and slung shots prohibited; exceptions; penalties.

It shall be unlawful for any person to discharge an airgun, BB gun, bow and arrow, fireworks, sling shot or slung shot within the city, except as follows:

(a) During a bona fide training or safety course or class offered in the use of bows and arrows;

(b) By law enforcement officers, military personnel or security officers in the course and scope of their duties;

(c) By wildlife trappers lawfully taking fish, game or nongame animals.

The discharge of fireworks within the city is prohibited unless a permit is obtained from the fire department. Issuance of a permit to discharge fireworks at a public event will require prior approval of the city commission.

A law enforcement officer may seize any airgun, BB gun, bow and arrow, fireworks, sling shot or slung shot used in violation of this section.

A code or law enforcement officer is authorized to issue a citation to a person when, based upon personal investigation, the officer has reasonable cause to believe that the person has committed a civil infraction in violation of this section. The person shall pay within thirty (30) days from the date a citation was issued a civil penalty of fifty dollars ($50.00) to the police department in full satisfaction of the violation. If the person chooses to contest the citation, he or she must contact the clerk of the county court within the thirty (30) days and request a hearing.

(Ord. No. 2007-27, § 1, 8-7-07; Ord. No. 2011-20, § 4, 9-20-11)

§ 15-3. Removing water from public lakes prohibited; exceptions; penalties.

It shall be unlawful for any person to pump or otherwise directly remove water from any lake, other than a privately owned lake, located within the city, except as follows:

(a) By government employees in the course and scope of their duties. A code or law enforcement officer is authorized to issue a citation to a person when, based upon personal investigation, the officer has reasonable cause to believe that the person has committed a civil infraction in violation of this section. The person shall pay within thirty (30) days from the date a citation was issued a civil penalty of fifty dollars ($50.00) to the police department in full satisfaction of the violation. If the person chooses to contest the citation, he or she must contact the clerk of the county court within the thirty (30) days and request a court hearing.

(Ord. No. 2007-27, § 1, 8-7-07)

§ 15-4. Airboats prohibited; exceptions; penalties.

It shall be unlawful for any person to operate a motor-propelled airboat on any lake located within the city limits, except as follows:

(a) By government employees in the course and scope of their duties;

(b) By wildlife trappers lawfully taking fish, game or nongame animals.

A code or law enforcement officer is authorized to issue a citation to a person when, based upon personal investigation, the officer has reasonable cause to believe that the person has committed a civil infraction in violation of this section. The person shall pay within thirty (30) days from the date a citation was issued a civil penalty of fifty dollars ($50.00) to the police department in full satisfaction of the violation. If the person chooses to contest the citation, he or she must contact the clerk of the county court within the thirty (30) days and request a court hearing.

(Ord. No. 2007-27, § 1, 8-7-07)

§ 15-5. Beekeeping equipment, honeybee hives and honeybees prohibited; penalties.

It shall be unlawful for any person to maintain beekeeping equipment, honeybee hives or honeybees within one hundred (100) feet of an occupied premises within the city.

A code or law enforcement officer is authorized to issue a citation to a person when, based upon personal investigation, the officer has reasonable cause to believe that the person has committed a civil infraction in violation of this section. The person shall pay within thirty (30) days from the date a citation was issued a civil penalty of fifty dollars ($50.00) to the police department in full satisfaction of the violation. If the person chooses to contest the citation, he or she must contact the clerk of the county court within the thirty (30) days and request a court hearing.

(Ord. No. 2007-27, § 1, 8-7-07)

§ 15-6. Convenience store security standards; penalties.

As used in this section, the term convenience store means a business that is engaged primarily in the retail sale of groceries or motor fuels or special fuels and may offer food services to the public. Businesses providing motor fuel or special fuel to the public which also offer groceries or food service are included in the definition of a convenience store.

Every convenience store shall maintain the following security standards:

(a) A cash management policy to limit the cash on hand at all times;

(b) A conspicuous notice at the entrance which states that the cash register contains fifty dollars ($50.00) or less;

(c) A convenience store shall not have window tinting that reduces the exterior or interior view in a normal line of sight;

(d) A drop safe or cash management device for restricted access to cash receipts;

(e) A lighted parking lot illuminated at an intensity of at least two (2) foot-candles per square foot at eighteen (18) inches above the surface;

(f) A security camera system capable of recording and retrieving an image to assist in offender identification and apprehension;

(g) Height markers at the entrance of the convenience store which display height measures;

(h) Window signage that allows a clear and unobstructed view from outside the building and in a normal line of sight of the cash register and sales transaction area.

A code or law enforcement officer is authorized to issue a citation to an owner or operator of a convenience store when, based upon personal investigation, the officer has reasonable cause to believe that the owner or operator has committed a civil infraction in violation of this section. The person shall pay within thirty (30) days from the date a citation was issued a civil penalty of two hundred fifty dollars ($250.00) to the police department in full satisfaction of the violation. If the person chooses to contest the citation, he or she must contact the clerk of the county court within the thirty (30) days and request a court hearing.

(Ord. No. 2007-27, § 1, 8-7-07)

§ 15-7. Prepayment required for motor fuels.

As used in this section, prepayment means to make or tender by cash, credit card or by debit card payment to a retail service station prior to distributing motor fuel into a container or vehicle.

As used in this section, the term retail service station means a business that is engaged in the sale of motor fuels or special fuels to the public.

It shall be unlawful for an agent, attendant, employee, owner, operator or sales associate of a retail service station to allow or authorize the distribution of motor fuel without receipt of prepayment.

Every retail service station shall comply with the requirements of F.S. § 526.141, in regards to rendering assistance to physically disabled customers.

Every retail service station shall display at each self-service motor fuel pump the following notice written in English and Spanish:

> IN ACCORDANCE WITH SECTION 15-7, CITY OF LAKE WALES CODE OF ORDINANCES, PREPAYMENT IS REQUIRED FOR THE PURCHASE OF MOTOR FUELS

Reports of motor fuel thefts by an agent, attendant, employee, owner, operator or sales associate of a retail service station shall be made to the police department. In addition, the person making the report shall sign a statement that the owner or operator of the retail service station will prosecute the offender for theft.

A code or law enforcement officer is authorized to issue a citation to agent, attendant, employee, owner, operator or sales associate of a retail service station when, based upon personal investigation, the officer has reasonable cause to believe that the owner or operator has committed a civil infraction in violation of this section. The to agent, attendant, employee, owner, operator or sales associate shall pay within thirty (30) days from the date a citation was issued a civil penalty of two hundred fifty dollars ($250.00) to the police department in full satisfaction of the violation. If the to agent, attendant, employee, owner, operator or sales associate chooses to contest the citation, he or she must contact the clerk of the county court within the thirty (30) days and request a court hearing.

(Ord. No. 2007-27, § 1, 8-7-07)

§ 15-8. Fraud and retail theft prevention training required; penalties.

As used in this section, the term retail sales establishment means a business that is engaged primarily in the retail sale of consumer goods or services. Convenience stores and retail service stations are included in the definition of a retail sales establishment.

The owner or operator of a retail sales establishment shall provide proper fraud and retail theft prevention training to their agents, attendants, employees or sales associates annually.

Fraud and retail theft prevention curriculum shall be submitted in writing to the police department. The police department shall review and approve or disapprove the curriculum within thirty (30) days after receipt. Approval shall be given to a curriculum which trains and familiarizes agents, attendants, employees or sales associates with:

(1) Procedures for conducting non-cash transactions;

(2) Procedures for identifying retail theft;

(3) Procedures for identifying forged checks, drafts or money orders;

(4) Procedures for reporting crime to the Lake Wales Police Department.

Any curriculum approved by the police department shall be subject to reapproval two (2) years from the anniversary of initial approval and biennially thereafter.

Written documentation that agents, attendants, employees or sales associates of the retail sales establishment have attended and successfully completed the training shall be provided to the police department annually.

A code or law enforcement officer is authorized to issue a citation to an owner or operator of a retail sales establishment when, based upon personal investigation, the officer has reasonable cause to believe that the owner or operator has committed a civil infraction in violation of this section. The person shall pay within thirty (30) days from the date a citation was issued a civil penalty of two hundred fifty dollars ($250.00) to the police department in full satisfaction of the violation. If the person chooses to contest the citation, he or she must contact the clerk of the county court within the thirty (30) days and request a court hearing.

(Ord. No. 2009-19, § 1, 7-21-09)

§ 15-9. Restrictions upon minors; exceptions; penalties.

This section shall be known and may be cited as the Lake Wales Youth Protection Ordinance.

The City Commission of the City of Lake Wales does hereby find that it is the best interest of the public health, safety and general welfare of the citizens of Lake Wales to impose reasonable time and place restrictions upon minors in an effort to reduce juvenile crime and victimization without unduly limiting the freedoms and rights secured by the United States and Florida Constitutions.

Whenever in this section the following terms are used, they shall have the meanings ascribed as follows:

(a) *Business operator:* Any association, corporation, partnership or person conducting, managing or operating any business. The term includes, but is not limited to, the members of an association, the partners in a partnership and the officers of a corporation.

(b) *Direct route:* The shortest reasonable path of travel to reach a final destination without delay or detour along the way.

(c) *Emergency:* An unforeseen combination of circumstances which results in a situation that requires immediate attention to care for or prevent death, great bodily harm or significant property loss. The term includes, but is not limited to, fire, natural disaster or vehicle crashes.

(d) *Establishment:* A privately owned place of business to which the public is invited, including, but not limited to, a place of amusement or a place of entertainment.

(e) *Guardian:* An agency or person appointed by a court to act in the role of a parent.

(f) *Law enforcement officer:* A certified law enforcement officer of the city, county, or state or a federal law enforcement officer.

(g) *Minor:* Any person seventeen (17) years of age or under whose disabilities of non-age have not been removed by marriage or a court of competent jurisdiction.

(h) *Parent:* The natural or adoptive parent of a minor.

(i) *Public space:* Any property owned by or controlled by the city, the county, the state or any other governmental entity, to which the general public has access and a right to resort for amusement, business, entertainment, recreation or other lawful purpose, including streets and highways.

(j) *Remain:* To fail to leave a premises when requested to do so by a law enforcement officer or the owner or operator of a business.

(k) *Semi-public place:* Any privately owned or privately operated real property, including any structure thereon, to which the general public is invited or has a legal right of access and right to resort for amusement, business, entertainment, recreation or other lawful purpose, including, but not limited to, any alley, bowling alley, parking lot, pool hall, restaurant, road, shop, shopping center, store, tavern or theater. Semipublic place shall also mean any vacant lot or any vacant or abandoned building.

It shall be unlawful for any minor to congregate, linger, loiter, move about, remain, stay, stroll or wander in any public or semi-public place in the city, either on foot or in or upon any vehicle, between the hours of 12:00 a.m. and 6:00 a.m.

It shall be unlawful for any minor who has been suspended or expelled from school to congregate, linger, loiter, move about, remain, stay, stroll or wander in any public or semi-public place in the city, either on foot or in or upon any vehicle, between 8:00 a.m. and 3:00 p.m. on school days.

This section does not apply to a minor who is:

(a) Accompanied by a guardian, parent or other person at least twenty-one (21) years of age having care and control of the minor;

(b) Attending or traveling directly to or from a school sponsored function, a religious function or a function sponsored by a civic organization;

(c) Attending or traveling directly to or from an activity involving the exercise of First Amendment rights protected by the United States Constitution such as the freedom of religion, the freedom of speech and the right of assembly;

(d) Attending or traveling directly to or from an activity or special event when the city commission authorizes minors to be in a public place or establishment during restricted hours;

(e) Emancipated by a court of competent jurisdiction, married or has been married;

(f) Engaged in interstate or intrastate travel with the consent of a guardian or parent;

(g) Involved in an emergency or performing an emergency errand with the consent of a guardian or parent;

(h) Congregating, lingering, loitering, moving about, remaining, staying, strolling or wandering at their permanent or temporary residence;

(i) Traveling directly to or from a location of employment or in an establishment or public place in the course and scope of their employment.

It shall be unlawful for a guardian, parent or other person at least twenty-one (21) years of age having the care and control of a minor to permit or by insufficient control to allow such minor to congregate, linger, loiter, move about, remain, stay, stroll or wander in any public or semi-public place during restricted hours, unless specifically allowed by this section. It shall constitute a defense:

(a) If the parent, guardian or other person did not know the minor was in a public or semi-public place during restricted hours;

(b) If the parent, guardian or other person notified a law enforcement agency the minor was missing or remained away from their residence during restricted hours.

It shall be unlawful for the owner or operator of any establishment to knowingly permit a minor to congregate, linger, loiter, move about, remain, stay, stroll or wander upon the establishment during restricted hours, unless specifically allowed by this section. It shall constitute a defense:

(a) If the owner or operator notified a law enforcement agency that the minor was present at the business during restricted hours and the minor refused to leave the business after being requested to do so.

Every establishment shall display at each point of entry the following notice written in English and Spanish:

IN ACCORDANCE WITH SECTION 15-9, CITY OF LAKE WALES CODE OF ORDINANCES, IT IS UNLAWFUL FOR ANY PERSON UNDER 18 YEARS OF AGE TO REMAIN ON THESE PREMISES BETWEEN THE HOURS OF 12:00 A.M. AND 6:00 A.M., UNLESS SPECIFICALLY ALLOWED BY LAW

Upon finding a suspected minor in violation of this section, a law enforcement officer shall, if practical:

(a) Obtain the name, age and address of the person;

(b) Make a reasonable effort to verify the name, age and address of the person by contacting a guardian, parent or otherwise;

(c) If the person is a minor, ascertain the reason for being in the public or semipublic place during restricted hours.

A law enforcement officer is authorized to issue a citation to a minor when, based upon personal investigation, the officer has reasonable cause to believe that the minor has committed a civil infraction in violation of this section. The minor shall pay within thirty (30) days from the date a citation was issued a civil penalty of fifty dollars ($50.00) to the police department in full satisfaction of the violation. If the minor chooses to contest the citation, he or she must contact the clerk of the county court within the thirty (30) days and request a court hearing.

A minor who violates this section may be taken into protective custody and transported to the police department where he or she will be released to a guardian, parent or other person at least twenty-one (21) years of age having the care and control of a minor. If a guardian, parent or other person can not be located, the minor will transported to the Juvenile Assessment Center.

A law enforcement officer is authorized to issue a citation to a guardian, parent or other person at least twenty-one (21) years of age having the care and control of a minor when, based upon personal investigation, the officer has reasonable cause to believe that the guardian, parent or other person has committed a civil infraction in violation of this section. The guardian, parent or other person shall pay within thirty (30) days from the date a citation was issued a civil penalty of fifty dollars ($50.00) to the police department in full satisfaction of the violation. If the guardian, parent or other person chooses to contest the citation, he or she must contact the clerk of the county court within the thirty (30) days and request a court hearing.

A law enforcement officer is authorized to issue a citation to an owner or operator of an establishment when, based upon personal investigation, the officer has reasonable cause to believe that owner or operator has committed a civil infraction in violation of this section. The owner or operator shall pay within thirty (30) days from the date a citation was issued a civil penalty of fifty dollars ($50.00) to the police department in full satisfaction of the violation. If the owner or operator chooses to contest the citation, he or she must contact the clerk of the county court within the thirty (30) days and request a court hearing.

The provisions of F.S. §§ 877.20—877.24, are incorporated into this section by this reference. The provisions of F.S. §§ 877.20—877.24, do not preclude enforcement of provisions in this section which are more stringent or less stringent than those provided.

(Ord. No. 2007-27, § 1, 8-7-07)

§ 15-10. Drug and prostitution-related nuisance abatement. [Repealed]

Effective: Tuesday, February 07, 2017

This section shall be known as and may be cited as the Lake Wales Drug and Prostitution-Related Nuisance Abatement Ordinance.

The City Commission of the City of Lake Wales does hereby find that the illegal cultivation, delivery, manufacture and sale of a controlled substance or the possession of a controlled substance where the possession constitutes a felony or a violation of F.S. § 796.07, is a threat to the health, safety, and welfare of the citizens of Lake Wales.

A pattern of illegal conduct often arises and is associated with certain places or premises within the city where the illegal cultivation, delivery, manufacture and sale of a controlled substance or the possession of a controlled substance where the possession constitutes a felony or a violation of F.S. § 796.07, occurs.

A pattern of drug and prostitution-related activity associated with a place or premises within the city serves to encourage future illegal drug and prostitution-related activity on or about these particular places or premises. Such drug and prostitution-related illegal activity is injurious to the health, safety and welfare of the citizens of Lake Wales and corrupts the public morals.

It is necessary in order to provide an expeditious and effective method of removing illegal drug and prostitution-related activity that a drug and prostitution-related nuisance abatement board be created pursuant to F.S. § 893.138.

Whenever in this section the following terms are used, they shall have the meanings ascribed as follows:

(a) *Board:* The drug and prostitution-related nuisance abatement board as created herein.

(b) *City commission* or *commission:* The Lake Wales City Commission.

(c) *City:* The City of Lake Wales.

(d) *Controlled substance:* Any substance named or described in schedules "I" through "V" of F.S. § 893.03.

(e) *Owner:* Any natural person, partnership corporation or other entity.

(f) *Prostitution:* As defined in F.S. § 796.07, the giving or receiving of the body for sexual activity for hire but excludes sexual activity between spouses.

(g) *Sexual activity:* As defined in F.S. § 796.07, oral, anal or vaginal penetration by, or union with, the sexual organ of another; anal or vaginal penetration of another by any object; or the handling or fondling of the sexual organ of another for the purpose of masturbation; however, the term does not include acts does for bona fide medical purposes.

There is hereby created a board of this city which shall be known as the Lake Wales Drug and Prostitution-Related Nuisance Abatement Board. The board shall have the power to:

(a) Adopt rules for the conduct of its hearings and establish procedure;

(b) Issue orders having the force of law consistent with authority contained herein;

(c) Take testimony under oath.

The city commission shall appoint seven (7) residents of the city to serve on this board as follows:

(a) Two (2) members shall be initially appointed for a term of one year;

(b) Three (3) members shall be initially appointed for a term of two (2) years;

(c) Two (2) members shall be initially appointed for a term of three (3) years;

Each appointment thereafter shall be made for a term of three (3) years.

The members of the drug and prostitution-related nuisance abatement board shall meet annually and elect a chair, who shall be a voting member, from among the members of the board. The presence of four (4) or more members shall constitute a quorum.

Members shall serve without compensation, but may be reimbursed for such travel mileage and per diem expenses as may be authorized by the city commission or as otherwise provided by law.

The city attorney shall serve as legal counsel for the board and shall assist the board in establishing facts and eliciting evidence.

The city manager shall designate an employee of the city to be secretary to the board and provide necessary staff services for the board.

The drug and prostitution-related nuisance abatement board shall hear complaints and may declare any place or premises a public nuisance where the illegal cultivation, delivery, manufacture or sale of a controlled substance, or the possession of a controlled substance where the possession constitutes a felony or a violation of F.S. § 796.07, has occurred on more than two (2) occasions within a six-month period.

The drug and prostitution-related nuisance abatement board shall hear complaints and may declare any place or premises a public nuisance that tends to annoy the community or is a threat to the health, safety, and welfare of the citizens of Lake Wales.

Any code enforcement officer, employee, law enforcement officer or resident of the City of Lake Wales may bring a complaint before the board. Such complaint shall be in writing and filed with the secretary to the board. Upon receipt of said complaint, the secretary shall notify the chair, who shall call a hearing of the board within twenty-one (21) days following the receipt of the complaint.

Notice of said complaint shall be furnished to the owner of the place or premises at his or her last known address in writing or by personal service not less than seven (7) days prior to a scheduled hearing before the board. Said notice shall contain the owner's name, the address and legal description of the property, the date, time and place of the hearing and shall have the complaint attached.

The board shall conduct a public hearing on the complaint receiving any evidence, including evidence of the general reputation of the place or premises, pertaining to alleged illegal activity. The owner of the place or premises shall have an opportunity to present evidence in his or her defense.

All testimony shall be under oath and recorded. Formal rules of evidence shall not apply, but due process shall be observed and govern the proceedings.

After receiving evidence, the board shall adopt an order establishing findings of fact and conclusions of law and may declare that the place or premises constitutes a public nuisance.

If the board finds the existence of a public nuisance, the board may enter an order immediately prohibiting:

(a) The conduct, maintenance or operation of any business or activity on the premises which is conducive to such nuisance, or;

(b) The maintaining of the nuisance, or;

(c) The operating or maintaining of the place or premises.

Any such board order shall expire after one (1) year or at such earlier time as stated in the order.

The board may bring a complaint, under F.S. § 60.05, seeking a temporary or permanent injunction against any nuisance. The city attorney, or his or her designee, shall prosecute such action on behalf of the board.

(Ord. No. 2007-27, § 1, 8-7-07; Ord. No. 2017-02, § 11, 02-07-2017)

§ 15-11. Sexual offenders.

Effective: Tuesday, January 19, 2021

This section shall be known as and may be cited as the Lake Wales Sexual Offenders Ordinance.

The City Commission of the City of Lake Wales does hereby find that repeat sexual offenders, sexual offenders who use physical violence, and sexual offenders who prey on children are sexual predators who present an extreme threat to the public safety. Sexual offenders are extremely likely to use physical violence and to repeat their offenses and most sexual offenders commit many offenses, have many more victims that are never reported and are prosecuted for only a fraction of their crimes. The cost of sexual offender victimization to society at large is clearly exorbitant.

The City of Lake Wales intends for this section to serve the city's compelling interest to promote, protect, and improve the health, safety, and welfare of the children and citizens of the City of Lake Wales by creating areas around locations where children regularly congregate in concentrated numbers wherein sexual offenders are prohibited from establishing temporary or permanent residence.

Whenever in this section the following terms are used, they shall have the meanings ascribed as follows:

(a) *Permanent residence:* A place where a person abides, lodges, or resides for fourteen (14) or more consecutive days, or for more than sixty (60) days within any one (1) year interval, whether or not consecutive.

(b) *Sexual offender:* Any person who has been convicted of or entered a plea of guilty to a violation of F.S. § 794.011, § 800.04, § 827.071, or § 847.0145, whether or not adjudication of guilt was withheld, and shall also include any person who has been convicted of or entered a plea of guilty to a violation of any statute in any other state or territory of the United States of America, which proscribes substantially the same behavior as those Florida Statutes referenced above, whether or not adjudication of guilt was withheld.

(c) *Temporary residence:* A place where the person abides, lodges or resides for a period of fourteen (14) or more days in the aggregate during any calendar year and which is not the person's permanent residence, or the place where the person routinely abides, lodges, or resides for a period of four (4) or more consecutive or non-consecutive days in any month and which is not the person's permanent residence.

It is unlawful for any sexual offender to establish a permanent residence or a temporary residence in the City of Lake Wales within two thousand five hundred (2,500) feet of any church, daycare center, public library, public park or public playground, public school bus stop, or school located outside the municipal limits of the City of Lake Wales but within two thousand five hundred (2,500) feet of a residence located within those municipal limits. It shall also be unlawful for any owner of a residential real property knowingly to lease or rent to a sexual offender who intends to establish a permanent or temporary residence within two thousand five hundred (2,500) feet of church, daycare center, public library, public park or public playground, public school bus stop, or school, or knowingly to permit any sexual offender to establish a temporary or permanent residence within two thousand five hundred (2,500) feet of any church, daycare center, public library, public park or public playground, public school bus stop, or school, as a member of the household of the owner's named tenant(s).

For purposes of determining the minimum distance separation, the requirement shall be measured by following a straight line from the outer property line of the permanent residence or temporary residence to the nearest outer property line of a church, daycare center, public library, public park or public playground, public school bus stop, or school.

The city may pursue any civil and criminal enforcement action or legal remedy available under controlling state law, including but not limited to injunctive relief. If injunctive relief or other civil judicial relief is sought, the city shall be entitled to recover its reasonable attorneys' fees from the defendant. A person who violates this section shall be punished by a fine not exceeding five hundred dollars ($500.00) or by imprisonment for a term not exceeding sixty (60) days, or by both; for a second or subsequent conviction of a violation of this section, said person shall be punished by a fine not to exceed one thousand dollars ($1,000.00) or imprisonment for a term not exceeding one (1) year, or by both. In the alternative, the city may seek enforcement by way of its municipal code enforcement process. This remedy shall be supplemental to and not in derogation of any other remedies.

A person having a permanent residence within two thousand five hundred (2,500) feet of church, daycare center, public library, public park or public playground, public school bus stop, or school does not commit a violation of this section if any of the following apply:

(a) The church, daycare center, public library, public park or public playground, public school bus stop or school within two thousand five hundred (2,500) feet of the person's permanent residence was established after the person established permanent residence;

(b) The person established the permanent residence prior to the commission of the initial offense that causes the person to fall within the definition of a sexual offender under this section, whichever is later;

(c) The person is a minor;

(d) The person was a minor when he or she committed the offense and was not sentenced as an adult.

(Ord. No. 2007-27, § 1, 8-7-07; Ord. No. 2021-05, § 1, 1-19-20)

§ 15-12. Boating, swimming and skiing near the Lake Wailes Pier prohibited.

It shall be unlawful for any person to operate a boat or other water craft, swim, or water ski within two hundred (200) feet of the Lake Wailes Pier.

A code or law enforcement officer is authorized to issue a citation to a person when, based upon personal investigation, the officer has reasonable cause to believe that the person has committed a civil infraction in violation of this section. The person shall pay within thirty (30) days from the date a citation was issued a civil penalty of fifty dollars ($50.00) to the police department in full satisfaction of the violation. If the person chooses to contest the citation, he or she must contact the clerk of the county court within the thirty (30) days and request a court hearing.

(Ord. No. 2007-27, § 1, 8-7-07)

§ 15-13. Diving or jumping from the Lake Wales [Wailes] Pier prohibited.

It shall be unlawful for any person to dive or jump from the Lake Wales [Wailes] Pier.

A code or law enforcement officer is authorized to issue a citation to a person when, based upon personal investigation, the officer has reasonable cause to believe that the person has committed a civil infraction in violation of this section. The person shall pay within thirty (30) days from the date a citation was issued a civil penalty of fifty dollars ($50.00) to the police department in full satisfaction of the violation. If the person chooses to contest the citation, he or she must contact the clerk of the county court within the thirty (30) days and request a court hearing.

(Ord. No. 2007-27, § 1, 8-7-07)

§ 15-14. Panhandling.

Effective: Tuesday, January 05, 2021

SECTION 15-14(1). Legislative findings/intent.

(a) The City Commission hereby finds that any person who panhandles or otherwise demands money, gifts or donations under circumstances that warrant a reasonable concern for the safety of persons or property in the vicinity by utilizing or employing tactics including, but not limited to, non-consensual touching, detaining, impeding or intimidation which causes fear or apprehension in another person constitutes a threat to the public health, welfare and safety of the citizenry. The City Commission further finds that any person who intentionally blocks the passage of another person or a vehicle which requires another person to take evasive action to avoid physical contact constitutes a threat to the public health, welfare and safety of the citizenry.

(b) The City Commission finds that any person who panhandles under circumstances that warrant a reasonable concern for the safety of persons or property in public rooms or private buildings and on private developed properties by utilizing or employing tactics including, but not limited to, non-consensual touching, detaining, impeding or intimidation, which causes fear or apprehension in another person, engages in acts which constitute a threat to the public health, welfare and safety of the citizenry.

(c) The City Commission finds that panhandling or demanding money, gifts or donations may interfere with the safe ingress and egress of human and vehicular traffic into public buildings, public areas and public transportation areas thereby constituting a threat to the public health, welfare and safety of the citizenry.

(d) Aggressive panhandling is disturbing and disruptive to residents and businesses and contributes to the loss of access to and enjoyment of public places and to a sense of fear,

intimidation and disorder.

(e) The presence of individuals who solicit money from persons in places that are confined, difficult to avoid, or where a person might find it necessary to wait, is especially hazardous because of the enhanced fear of crime.

(f) This Chapter is intended to protect all persons from the hazards, disruption, fear, and intimidation that accompany certain kinds of solicitation, and not to limit constitutionally protected activity.

SECTION 15-14(2). - Definitions.

Except where the content otherwise specifically requires, as used in this Chapter, the following definitions apply:

Aggressive means and includes, but is not limited to, approaching or following pedestrians, repetitive soliciting despite refusals, the use of abusive or profane language to cause fear and intimidation, unwanted physical contact, the intentional blocking of pedestrian and vehicular traffic, the touching or causing physical contact with a solicited person without that person's consent or threatening to make such contact, the intentional blocking of the entrance to any building or vehicle, the following behind, ahead or alongside a person who walks away from a solicitor after being solicited with the intent to intimidate or continue solicitation, the approaching of a solicited person in a manner that is 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 is intended to or is likely to intimidate a reasonable person into responding affirmatively to the solicitation, or the soliciting of a person while the solicitor is under the influence of alcohol or drugs in a manner which disrupts the peace. Aggressive includes, but is not limited to, by acting in a manner committing an assault, by committing a battery, or in a manner which violates the provisions of this Section.

Obstruct pedestrian or vehicular traffic means to walk, stand, sit, lie, or place an object in such a manner as to block passage of another person or a vehicle, or to require another person or driver of a vehicle to take evasive action to avoid physical contact. Acts authorized as an exercise of one's constitutional right to picket or to legally protest, and acts authorized by a lawfully issued permit pursuant to this Code are not included within this definition.

Panhandle means to ask for, demand or solicit money, gifts or donations, either by words, bodily gestures, signs or other means. The terms panhandle, solicit and beg are synonymous in meaning. Panhandling is any solicitation made in person, requesting an immediate donation of money or other thing of value.

Purchase of an item for an amount far exceeding its normal market 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 at a location not prohibited by this Section and not in a manner prohibited by this Section.

Private building includes, but is not limited to, retail or service establishments, such as

restaurants, convenience food stores, laundromats, service stations, hotels, offices and similar establishments open to the public. This term does not include any building owned, leased or operated by the federal or state government, or their political subdivisions, municipalities, special districts, any public administration board or authority of the state.

Private developed property includes, but is not limited to, a parking lot, driveway, walkway and landscaped areas.

Public building means any building or facility owned, leased or operated by or on behalf of the federal or state government or any of their political subdivisions, any municipality, or special district or any public administrative board or authority of the federal or state government.

Public entertainment venue means a place that is open to the public (whether or not upon payment of a fee for admission and whether or not the management reserves the right to exclude individual members of the public) for entertainment. The term includes, but is not limited to, cinemas, parks, theaters, concert halls, electronic games centers, indoor sports centers, art galleries, museums, and premises upon which any display or exhibition promoted as such is conducted.

Public place means an area generally visible to public view and includes alleys, bridges, buildings, driveways, parking lots, parks, plazas, sidewalks and streets open to the general public, including, but not limited to, public entertainment venues, those that serve food or drink or provide entertainment, and the doorways and entrances to buildings or dwellings and the grounds enclosing them.

Public room includes a basement, building entrance or doorway, lobby, hallway, stairway, mezzanine, elevator, foyer, public restroom or sitting room or any other place used in common by the public, tenants, occupants or guests situated in any private building.

Public transportation area means a building, facility or area designated for mass transit transportation, such as, but not limited to, bus terminals, bus stops and taxi stands.

Solicit means any plea made in person where:

(a) A person by vocal appeal requests an immediate donation of money or other item from another person; or

(b) A person verbally offers or actively provides an item or service of little or no value to another in exchange for a donation, under circumstances where a reasonable person would understand that the transaction is in substance a donation.

SECTION 15-14(3) - Prohibited and unlawful acts.

(a) It is prohibited and unlawful for a person to interfere with pedestrians or motor vehicles if he or she obstructs pedestrian or vehicular traffic or aggressively panhandles on a right-of-way, road or street as defined in Section 334.03, Florida Statutes (2016), as this statute may be amended from time to time, which terms include, but are not limited to, associated sidewalks and crosswalks.

(b) It is prohibited and unlawful for a person to panhandle in any public room in any

private building or on private developed property, without the permission or consent of the building's owner or managing and authorizing agent. For the purpose of enforcement of this Subsection, it is rebuttably presumed that if the owner, lessee, managing agent or other person in charge of a building prominently displays a sign as provided in Section 15-14(4) of this Code, then the activities declared unlawful in this Subsection are deemed to be without the permission or consent of the building's owner, lessee, managing agent or other authorized person.

(c) It is prohibited and unlawful for any person to obstruct, impede or interfere with the movement of pedestrians or vehicles for the purpose of panhandling within a public building, the parcel of land on which a public building is located, or a public transportation area.

(d) It is prohibited and unlawful for any person to panhandle when the person solicited is located on private property, unless the panhandler has permission from the owner or occupant of the private property.

(e) It is prohibited and unlawful for any person to aggressively panhandle in any public place within the City which public places include, by way of example only and not by way of limitation, the following places:

(1) At any bus stop;

(2) In any public transportation vehicle or facility, including, but not limited to, airports, roads, streets and right-of-way;

(3) In any vehicle on a street unless a permit has been issued to do so;

(4) In a public park, fairground, or sporting facility, including, but not limited to, entryways or exits thereto;

(5) Within a circumference of 25 feet of the site of any automated teller machine (ATM), a vending machine or any other machine dispensing cash or within a painted "privacy zone" painted on the ground around an ATM, whichever distance is less, all of which are subject to the permitting requirements of the City if such painted zone encompasses area within a road or right-of-way;

(6) Within 1,000 feet of a school bus stop when children are present.

(f) It is prohibited and unlawful for any person to panhandle in any of the following manners each of which will rebuttably be deemed to be aggressive:

(1) By blocking the path of the person solicited;

(2) By using obscene, profane or abusive language, either during the solicitation or following a refusal;

(3) By panhandling in a group of two or more persons which would encircle the person begin solicited and deter their free movement; or

(4) By any statement, gesture, or other communication which a reasonable person in the situation of the person solicited would perceive to be a threat.

SECTION 15-14(4) - Conspicuous notice.

Each owner, lessee, managing agent or person in charge of the operation of a private building or private developed area may prominently display a sign on the premises, such as the lobby or entrance of the private building or private developed property, where it may be read by any person going in or out of the building or private developed property stating generally: "NO PANHANDLING OF ANY TYPE PERMITTED - SUCH CONDUCT IS PROHIBITED BY LAKE WALES CITY CODE". The display of such signage constitutes conclusive proof that the person in charge has not granted permission to panhandle on the posted property.

SECTION 15-14(5) - Areas of enforcement.

The City Commission is acting under this Section as the governing body for the City of Lake Wales, Florida, and this Section will be effective within the corporate boundaries of the said City.

SECTION 15-14(6) - Penalties and remedies.

(a) Pursuant to Section 1-15, General penalty; continuing violations., of the Lake Wale Code of Ordinances, any person violating the provisions of this Section may be punished either by a fine not to exceed five hundred dollars ($500.00) or by imprisonment for a term not to exceed sixty (60) days, or by both.

(b) In addition to the penalties provided by Subsection (a) of this Section, any violation of this Section is subject to appropriate civil action in a court of appropriate jurisdiction.

(Ord. No. 2009-19, § 1, 7-21-09, Repealed by Ord. No. 2019-02, § 1, 2-19-19; Repealed & Reenacted by Ord. No. 2020-31, § 1, 1-5-21)

§ 15-15. Trespass warnings.

An employee or official having control over a city owned building, complex, facility or park is authorized to issue a trespass warning to any person who violates a state law, city ordinance, lawful command, regulation or rule while on or within a city owned building, complex, facility or park. The trespass warning will be limited to the city owned building, complex, facility or park where the violation occurred and shall not include the public right-of-way.

When an employee or official having control over a city owned building, complex, facility or park is not present, a law enforcement officer is authorized to issue a trespass warning to any person who violates a state law, city ordinance, lawful command, regulation or rule while on or within a city owned building, complex, facility or park. The trespass warning will be limited to the city owned building, complex, facility or park where the violation occurred and shall not include the public right-of-way.

Trespass warnings shall be issued as follows:

(1) For the first violation, the person may be issued a trespass warning for a period not to exceed one (1) year.

(2) For a second or subsequent violation, the person may be issued a trespass warning for a period not to exceed two (2) years.

A copy of the trespass warning shall be provided to the employee or official having control over the city owned building, complex, facility or park.

Any person found on or within a city owned building, complex, facility or park in violation of a trespass warning may be arrested for trespass after warning, except as otherwise provided in this section.

The city manager or designee may authorize a person who has received a trespass warning to enter the city owned building, complex, facility or park to exercise their First Amendment rights or to conduct necessary city business. Such authorization shall be in writing specifying the duration of the authorization and any conditions thereof. Such authorization shall not be unreasonably denied.

This section shall not be construed to limit the authority of any employee, official or law enforcement officer to issue a trespass warning to any person who violates a state law, city ordinance, lawful command, regulation or rule while on or within a city owned building, complex, facility or park, including a right-of-way, when closed to pedestrian and vehicle use.

(Ord. No. 2009-19, § 1, 7-21-09)