

ARTICLE I. IN GENERAL

Sec. 50-1. State misdemeanors.

(a) It shall be unlawful for any person 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, and the commission of such acts is forbidden.

(b) Whosoever shall violate this section, upon conviction, shall be punished by the same penalties as is provided by the laws of the state, but in no case shall such penalty exceed a fine of \$500.00 or imprisonment for more than 60 days, or both such fine and imprisonment.
(Code 1988, § 14-1)

State law reference—See Fla. Stats. general index under heading "Crimes" for listing of state law misdemeanors.

Case law references—Adoption of state law relating to misdemeanors by city upheld, see *McFarland v. Roberts*, 74 So. 2d 88 (Fla. 1954); also *Orr v. Quigg*, 135 Fla. 653, 185 So. 726 and *Wright v. Worth*, 83 Fla. 204, 91 So. 87; adoption of state law misdemeanors by reference includes laws both in existence at the time and those later adopted by the state legislature, see *State v. Smith*, 189 So. 2d 846 (Fla. 4th D.C.A. 1966). Follows rule in *Hecht v. Shaw*, 112 Fla. 762, 151 So. 333 (1933) " . . . when the adopting statute makes no reference to any particular statute or part of statute by its title or otherwise, but refers to the law generally which governs a particular subject, the reference in such a case includes not only the law in force at the date of the adopting act, but also all subsequent laws on the particular subject referred to . . . "

- (1) A municipality may enact an ordinance which creates an offense against municipal law for the same act that constitutes an offense against state law. *Jaramillo v. City of Homestead*, 322 So. 2d 496 (Fla. 1975).
- (2) A municipality by ordinance may adopt state misdemeanor statutes by specific reference or by general reference, such as that contained in an ordinance making it unlawful to commit, within city limits, any act which is or shall be recognized by the laws of the state as a misdemeanor. *Id.*
- (3) An adoption by general reference of a misdemeanor statute permits subsequent amendments, revisions and repeals of the laws by the state legislature to apply to the municipal ordinances. *Id.*

Secs. 50-2—50-30. Reserved.

ARTICLE II. PICKETING*

Sec. 50-31. Prohibited for unlawful purposes.

It shall be unlawful for any person to watch, beset or picket the premises of another where any

***Cross reference**—Businesses, ch. 22.

person is employed or any approach thereto or any place or approach thereto where such employee lodges or resides for the purpose of inducing any such employee by compulsion, threats, coercion, intimidation or by any act of violence or by putting such employee in fear to quit his employment or to refrain from seeking or freely entering into employment.

(Code 1988, § 14-4)

Sec. 50-32. Preventing others from entering premises.

It shall be unlawful for any person to watch, beset or picket the premises of another or any approach thereto for the purpose of inducing others to refrain from entering such premises or from patronizing, transacting business with or negotiating with the owner or occupant of such premises.

(Code 1988, § 14-5)

Sec. 50-33. Maintaining picket line near premises.

It shall be unlawful for any person to establish or maintain a picket, watch or other assemblage within 400 feet of the premises of any person during the period in which any employees of such person shall be on strike.

(Code 1988, § 14-6)

Secs. 50-34—50-60. Reserved.

ARTICLE III. FIREWORKS†

Sec. 50-61. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Fireworks means and includes any combustible or explosive composition or any substance or combination of substances or any article prepared for the purpose of producing a visible or an audible effect by combustion, explosion, smoke,

†**Cross reference**—Fire prevention and protection, ch. 46.

State law reference—Fireworks, F.S. ch. 791.

deflagration or detonation and includes but is not limited to blank cartridges and toy cannons in which explosives are used, the type of balloons which require fire underneath to propel the balloons, firecrackers, sparklers, torpedoes, skyrockets, Roman candles, dago bombs, and any fireworks containing any explosives or flammable compound or any tablets or other device containing any explosive substance.

(Code 1988, § 14-7)

Cross reference—Definitions generally, § 1-2.

Sec. 50-62. Sale or use; permit for public display.

(a) Except as provided in subsection (b) of this section, it shall be unlawful for any person to offer for sale, expose for sale, sell at retail, or use or explode any fireworks.

(b) The city commission shall have power to adopt reasonable rules and regulations for the granting of permits for supervised public display of fireworks by fair associations, amusement parks, and other organizations or groups of individuals when such public display is to take place inside the city. Every such display shall be handled by a competent operator to be approved by the chiefs of the police and fire departments and shall be of such a character and so located, discharged or fired as in the opinion of the chief of the fire department, after proper inspection, shall not be hazardous to property or endanger any person. An application for a permit shall be made in writing at least 15 days in advance of the date of the display. After such privilege shall have been granted, sales, possession, use and distribution of fireworks for such display shall be lawful for that purpose only. No permit granted under this subsection shall be transferable.

(Code 1988, § 14-8)

Sec. 50-63. Bond of permittee.

The city commission shall require a bond deemed adequate by the city commission from the person issued a permit according to section 50-62 in a sum not less than \$1,000,000.00. The bond shall be conditioned for the payment of all damages which may be caused either to a person or to

property because of the permittee's display, and arising from any acts of the permittee, his agents, employees or subcontractors.

(Code 1988, § 14-9)

Secs. 50-64—50-90. Reserved.

ARTICLE IV. PANHANDLING

Sec. 50-91. Definition.

"Panhandling" is hereby defined as a solicitation made in person, requesting an immediate donation of money or other thing of value. Purchase of an item of an amount far exceeding its value, under circumstances where a reasonable person would understand that the purchase is, in substance, a donation for the purpose of the article. Except as specifically provided in this article, panhandling does not include passively standing or sitting with a sign or other indication that one is seeking donations, without addressing any solicitation to any specific persons other than in response to an inquiry by that person.

(Ord. No. 99-25, § I, 2-25-99)

Sec. 50-92. Prohibited activities.

(a) It shall be unlawful for any person to panhandle, and no registration issued under this section shall be deemed to allow panhandling, including passively standing or sitting with a sign or other indication that one is seeking donations, when the person solicited is in any of the following places within the city limits:

- (1) Any bus stop or train stop;
- (2) In any public transportation vehicle or facility excluding airports;
- (3) In any vehicle on the street;
- (4) In a public park, fairground, or sporting facility, including entry ways or exits thereto;
- (5) At the site of any automated teller machine (ATM). For the purposes of this subsection, "site of any automated teller machine" includes an area within 100 feet of any automated teller machine;

- (6) On private property, unless the panhandler has permission from the owner or person in possession of the property;
- (7) In a parking lot or garage owned or operated by the city, including entry ways or exits and pay stations connected therewith; or
- (8) Within 100 feet of any liquor store, defined as a store whose predominate business is the sale of alcoholic beverages.

(b) It shall be unlawful for any person to panhandle in any of the following manners:

- (1) By coming within three feet of the person solicited, unless that person has indicated that he or she does wish to make the donation;
- (2) By blocking the path of the person solicited;
- (3) By following a person who walks away or otherwise indicates he or she does not wish to make a donation to the panhandler;
- (4) By using profane or abusive language, either during the solicitation or following a refusal of a solicitation;
- (5) By panhandling in a group of two or more persons; or
- (6) By any statement, gesture, or other communication which a reasonable person in the situation of the person solicited would perceive to be a threat.

(c) It shall be unlawful for any persons to knowingly make any false or misleading representation in the course of soliciting a donation. False or misleading representations include, but are not limited to, the following:

- (1) Stating that the donation is needed to meet a specific need, when the solicitor already has sufficient funds to meet that need and does not disclose that fact;
- (2) Stating that the donation is needed to meet a need which does not exist;
- (3) Stating that the solicitor is from out of town and stranded, when such is not true;

- (4) Wearing a military uniform or other indication of military service when then solicitor is neither a present nor former member of the service indicated;
- (5) Wearing or displaying any indication of physical or mental disability, when the solicitor does not suffer the disability indicated;
- (6) The use of makeup, or any other artifice to simulate any deformity or injury; or
- (7) Stating that the solicitor is homeless, when in fact he or she is not.

(d) It shall be unlawful for any person to solicit and receive a donation by indicating that the funds requested are needed for a specific purpose, and then spend the funds received for a different purpose.

(e) Any violation of this section shall be punishable as set forth in section 1-15 of this Code. (Ord. No. 99-25, § I, 2-25-99)

Sec. 50-93. Registration requirement.

(a) No person shall panhandle without a registration issued by the city police department. A person who has been registered shall keep a copy of the registration on his person at all times while panhandling and show it to any police officer upon request. No person whose registration has been revoked shall panhandle for a period of two years following the revocation. A violation of this section shall be punishable as set forth in section 1-15 of this Code.

(b) The police department shall issue the registration, without fee, to any eligible person who presents himself or herself at the city police headquarters, states his or her true name, presents a photo identification or signs a declaration under penalty of perjury that he or she has no such identification, and permits himself or herself to be photographed and fingerprinted.

(c) A person is ineligible to register if, and only if, within the last five years he or she:

- (1) Has been convicted whether or not adjudication was withheld of two or more violations of this section;

- (2) Has had a registration revoked pursuant to subsections (e) or (f) below; or
- (3) Has been convicted, whether or not adjudication was withheld, of two or more offenses under the law of any jurisdiction which involves aggressive or intimidating behavior while panhandling or false or misleading representations while panhandling.

(d) If the police department is unable to determine eligibility within two working days, excluding weekends and holidays, of the application, the department shall issue a registration good for 30 days and determine eligibility for regular registration before the temporary registration expires. The regular registration shall expire three years from the date of issuance. Along with the registration, the police department shall give the applicant a copy of this article.

(e) Any person who makes any false or misleading representations while applying for a registration under this section shall be punished under section 1-15 of this Code. Upon conviction for violation of this section, the city police department shall revoke any registration issued to the convicted person under this section.

(f) If a registration is issued to a person under this section and that person is later convicted of a violation of any provision under this section, the police department shall revoke the registration.

(g) Upon arrest for any violation of this section the panhandler shall release his registration to the arresting officer. A panhandler may apply at the police department for consecutive 30-day temporary registrations pending the outcome of the arrest in a court of law.

(Ord. No. 99-25, § I, 2-25-99)

Secs. 50-94—50-120. Reserved.

ARTICLE V. DISORDERLY CONDUCT

Sec. 50-121. Acts constituting disorderly conduct.

Commission of the following acts shall constitute disorderly conduct:

- (1) Any person who shall act in a violent or tumultuous manner towards another so

as to place him or her, or any other person in reasonable fear of safety for his or her life, limb, or health;

- (2) Any person who shall act in a violent or tumultuous manner towards another with the result that his property, or that of any other person is placed in danger of being destroyed or damaged;
- (3) Any person who shall cause, provoke or engage in any fight, brawl or riotous conduct;
- (4) Any person who shall assemble or congregate with another or others with the intent to engage in conduct which is prohibited by the ordinances of the city, by the laws of the state, or by federal law;
- (5) Any person who shall frequent any public place with intent to obtain money from another by illegal or fraudulent schemes, tricks, artifices or devices;
- (6) Any person who shall accost or attempt to force his company upon any other person;
- (7) Any person who shall use "fighting words" directed towards any person who thereby becomes outraged;
- (8) Any person who shall by acts or threats of violence interfere with another's pursuit of a lawful occupation;
- (9) Any person who shall, after being ordered by a law enforcement officer to disburse, congregates with another or others in or on any public right-of-way so as to halt or materially impair the flow of vehicular or pedestrian traffic;
- (10) Any person who, after being ordered to move by law enforcement officers, remains in or on any public street or sidewalk in such a manner as to block or impair movement of vehicles or pedestrians.

(Ord. No. 99-25, § II, 2-25-99)

Sec. 50-122. Penalty for violation.

Any person who engages in any of the activities enumerated in section 50-121 shall be fined or imprisoned as provided in section 1-15 of this Code.

(Ord. No. 99-25, § II, 2-25-99)

Secs. 50-123—50-150. Reserved.

ARTICLE VI. MISCELLANEOUS PROVISIONS AND OFFENSES

Sec. 50-151. Prohibited activities in public rights-of-way owned, controlled and/or operated by the city.

Except for activities of a governmental agency within the scope of its governmental authority, or unless specifically permitted to do so by a permit issued pursuant to this Code, it shall be unlawful for any person to do any one or more of the following in or on a public right-of-way owned or controlled by the city:

- (1) Lie or otherwise be in a horizontal position on a bench placed at its location for use by the general public;
- (2) Construct any hut, shanty, or other shelter;
- (3) Cook foodstuffs;
- (4) Set or stoke a fire;
- (5) Discharge or deposit human wastes, except in toilet facilities provided by the city;
- (6) Dig holes or otherwise disturb the natural surface of the ground;
- (7) Pick flowers or damage or remove plants, trees, shrubs, or any part of the grounds;
- (8) Erect signs or affix signs to any tree, post, or facility or grounds, except signs posted by the city or a representative or agent thereof;
- (9) Kill, injure, harm, capture, chase, poison, or remove any wildlife, animal, bird, or touch, break, remove, or relocate any bird egg locate above, upon, or under a public right-of-way owned or controlled by the city;
- (10) Write on, draw on, or otherwise deface, damage, remove or destroy any improvement on a public right-of-way owned or controlled by the city;

(11) Sleep or otherwise remain in the bushes, shrubs, or other foliage;

(12) Use public restrooms to shave, shower, or bathe, except where facilities are provided specifically for use by the public for those purposes;

(13) Sit in or on any trash receptacles provided for public use; or

(14) Bathe or otherwise cleanse one's self in a water fountain and/or reservoir.

(Ord. No. 99-25, § III, 2-25-99; Ord. No. 12-23, § 2, 5-24-12)

Sec. 50-152. Drinking fountains.

It shall be unlawful to use the water of any public drinking fountain or watering place for purposes other than consumption.

(Ord. No. 99-25, § III, 2-25-99)

Sec. 50-153. Discharge of human wastes.

It shall be unlawful to discharge or deposit human wastes within the city except in or at a facility specifically designed for that purpose.

(Ord. No. 99-25, § III, 2-25-99)

Sec. 50-154. Motorized scooters.

(a) *Definitions.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them as set forth below, except where the context clearly indicates a different meaning:

"*Helmet*" means a bicycle helmet that is properly fitted and is securely fastened upon the rider's head by a strap. Said helmet must meet or exceed the standards of the American National Standards Institute (ANSI Z 90.4 Bicycle Helmet Standards), the standards of the Snell Memorial Foundation (1984 Standards for Protective Headgear for Use in Bicycling), or any other nationally recognized standards for bicycle helmets adopted by the United States Department of Transportation.

"*Motorized scooter*" means any motorized or motor propelled vehicle, with or without a seat, designed to travel on not more than three wheels, and not capable of propelling the vehi-

cle at speeds greater than 30 miles per hour on level ground. Vehicles used by disabled persons are excluded.

(b) *Regulations.* Parents or guardians of children under 18 years of age who operate motorized scooters shall not knowingly permit any such child to violate any provision of this section nor shall any person operate a motorized scooter except in conformance with the regulations set forth as follows:

- (1) Motorized scooters shall only be operated on public streets and roadways within the City of Winter Garden by persons who possess a valid driver's license;
- (2) Motorized scooters shall not be operated on public sidewalks within the City of Winter Garden;
- (3) Motorized scooters shall not be operated in public parks within the City of Winter Garden unless such use is specifically allowed by signage posted in that particular park;
- (4) Motorized scooters shall be operated and used by one person only; passengers are not allowed on motorized scooters, and motorized scooters may not tow any other person, object or vehicle of any kind;
- (5) Motorized scooters shall only be operated during daylight hours within the City of Winter Garden;
- (6) Motorized scooters shall be operated as close as practicable to the right hand curb or edge of the roadway, except when preparing to make a left-turn at an intersection or into a private road or driveway, at which time the motorized scooter operator shall obey all authorized traffic control devices, markings, and signs;
- (7) Motorized scooters shall be operated only in a single file formation;
- (8) Motorized scooters shall not be operated abreast of each other;
- (9) Motorized scooters shall be operated at all times with both of the operator's hands on the scooter's handlebars;

(10) Motorized scooters shall not be operated unless the operator, at all times, is wearing a helmet; and

(11) Motorized scooters shall be operated at all times in accordance with all authorized traffic control devices.

(c) *Violations.* Violations of this section shall be classified as a class 1 violation under division 3, article II, chapter 2 of this Code.
(Ord. No. 05-23, § 2, 4-14-05)

Secs. 50-155—50-190. Reserved.

ARTICLE VII. SEXUAL OFFENDERS AND SEXUAL PREDATORS

Sec. 50-191. Findings and intent.

(a) The findings set forth in the recitals (whereas clauses) to this article are hereby adopted as additional legislative findings.

(b) The City Commission of the City of Winter Garden hereby adopts the provisions of F.S. § 775.21(3)(a), which state as follows:

"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 than are ever reported, and are prosecuted for only a fraction of their crimes. This makes the cost of sexual offender victimization to society at large, while incalculable, clearly exorbitant."

(c) The City Commission of the City of Winter Garden hereby adopts the provisions of F.S. § 947.1405(8), which provides, in pertinent part, that:

"It is the finding of the Legislature that the population of offenders released from state prison into the community who meet the conditional release criteria poses the greatest threat to the public safety of the groups of offenders under community supervision. Therefore, the Department of Corrections is to provide inten-

sive supervision by experienced correctional probation officers to conditional release offenders."

(d) It is the intent of this article to serve the city's compelling interest to promote, protect and improve the health, safety and welfare of the citizens of the City of Winter Garden by creating areas around locations where children regularly congregate in concentrated numbers wherein certain sexual offenders and sexual predators are prohibited from establishing temporary or permanent residence.

(e) The City Commission of the City of Winter Garden hereby finds and determines that the provisions of this article advance a legitimate public purpose and promotes and protects the public health, safety, morals and welfare of the public.
(Ord. No. 05-38, § 2, 8-11-05)

Sec. 50-192. Application of ordinance/existing contracts.

The provisions of this article shall not be applied to persons residing at a prohibited location on the effective date of this article such that it is not the intent of this article to impair valid, existing and bona fide contract rights; provided, however, that the provisions of this article shall apply upon expiration or termination of any leasehold arising from a landlord-tenant relationship or the expiration of a lease. When a person who is a subject of this article changes residences or commences a new or renewed lease term, this article shall fully apply to such persons.
(Ord. No. 05-38, § 2, 8-11-05)

Sec. 50-193. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Permanent residence means a place where the person abides, lodges, or resides for five or more consecutive days.

Temporary residence means a place where the person abides, lodges, or resides for a period of five or more days in the aggregate during any

calendar year and which is not the person's permanent address, or for a person whose permanent residence is not in this state, a place where the person is employed, practices a vocation, or is enrolled as a student for any period of time in this state.

(Ord. No. 05-38, § 2, 8-11-05; Ord. No. 09-18, § I, 3-26-09)

Sec. 50-194. Sexual offender and sexual predator residence prohibition; measurement; penalties.

(a) [*Residence prohibition.*] It is unlawful for any person who has been convicted of a violation of F.S. §§ 794.011, 800.04, 827.071, or 847.0145, or a similar offense pursuant to the laws of any federal or military tribunal, including courts-martial conducted by the Armed Forces of the United States, or of any state or territory of the United States or other jurisdiction, regardless of whether adjudication has been withheld, in which the victim of the offense for which the conviction resulted was less than 18 years of age at the time the offense was committed, to establish a permanent or temporary residence within 2,500 feet of any school, designated school bus stop, day care center, park, or playground.

(b) *Measurement.* For purposes of determining the minimum distance separation, the 2,500 feet 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 school, designated school bus stop, day care center, park, or playground.

(c) *Penalties.* A person who violates this section shall be punished by a fine not exceeding \$500.00 or by imprisonment for a term not exceeding 60 days, or by both such fine and imprisonment; for a second or subsequent conviction of a violation of this section, said person shall be punished by a fine not to exceed \$1,000.00 or imprisonment for a term not exceeding one year, or by both such fine and imprisonment.

(d) *Exceptions.* A person residing within 2,500 feet of any school, designated school bus stop, day care center, park, or playground does not commit a violation of this section if any of the following

apply: (1) the person established the permanent residence or temporary residence and reported and registered the residence pursuant to F.S. §§ 775.21, 943.0435, or 944.607, prior to the effective date of this article; (2) the person was a minor when he/she committed the offense and was not convicted as an adult; (3) the person is a minor; (4) the school, designated school bus stop, day care center, park, or playground within 2,500 feet of the person's permanent residence was opened after the person established the permanent residence and reported and registered the residence pursuant to F.S. §§ 775.21, 943.0435, or 944.607.

(Ord. No. 05-38, § 2, 8-11-05; Ord. No. 09-18, § II, 3-26-09)

Sec. 50-195. Property owners prohibited from renting real property to certain sexual offenders and sexual predators; penalties.

(a) It is unlawful to let or rent any place, structure, or part thereof, trailer or other conveyance, with the knowledge that it will be used as a permanent residence or temporary residence by any person prohibited from establishing such permanent residence or temporary residence pursuant to section 50-194 of this Code, if such place, structure, or part thereof, trailer or other conveyance, is located within 2,500 feet of any school, designated school bus stop, day care center, park, or playground.

(b) A property owner's failure to comply with the provisions of this section shall constitute a violation of this section and shall subject the property owner to the code enforcement provisions and procedures as provided in this Code, including action before the code enforcement board and the issuance of citation by a police officer as a class IV violation. In the alternative, the city may pursue any other 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 and costs from the defendant. The foregoing shall be supplemental to and not in derogation of any other remedy.

(Ord. No. 05-38, § 2, 8-11-05; Ord. No. 09-18, § III, 3-26-09)