

INTRODUCED BY:

COUNCILOR LIVINGSTON



ORDINANCE NO. 2024-02

A BILL TO BE ENTITLED

AN ORDINANCE OF THE CITY OF NEPTUNE BEACH, FLORIDA, CREATING CHAPTER 14, SECTIONS 14-12, PARK HOURS, AND 14-13, LOITERING, SOLICITING, BEGGING, ETC., IN PUBLIC OFFICES OR BUILDINGS OPEN TO THE PUBLIC; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, The City Council of the City of Neptune Beach desires to protect its citizens by diligently updating the Code of Ordinances of the City of Neptune Beach;

WHEREAS, the City's parks and public areas have recently experienced an increase in vandalism, abuse, loitering, solicitation, and other similar activities that pose a danger to the public and result in strains on City resources;

WHEREAS, the City Council has determined that restricting the hours and activities permitted in public areas will help safeguard the health, safety, and welfare of the community;

WHEREAS, the City Council for the City of Neptune Beach, Florida finds and declares that this ordinance is in the best interest of the public health, safety and welfare of the citizens and residents of the City, that it advances a significant and important governmental interest, and that it furthers the City's performance of municipal functions and rendering of municipal service.

NOW, THEREFORE, BE IT ENACTED BY THE CITY COUNCIL OF THE CITY OF NEPTUNE BEACH, FLORIDA, THAT:

Section 1. Creating Chapter 14, Sections 14-12, Park Hours, and 14-13, Loitering, Soliciting, Begging, Etc., In Public Offices or Buildings Open to The Public. Sections 14-12 and 14-13 of the Code of Ordinances of the City of Neptune Beach, Florida, are hereby created as follows:

Sec. 14-12. Park Hours.

- (a) The parks and other recreational facilities shall normally be open daily to the public from 5:00 a.m. to 10:00 p.m. unless otherwise posted; provided however, the city manager may extend or limit the times herein specified. It shall be unlawful for any person, other than authorized personnel, to go upon or remain in any park or other recreational facility at any time the same is closed to the public.

- (b) The city manager may at his or her discretion, for special events requiring the use of certain parks, allow or require the sponsors of, promoters of, or participants in special events to erect, construct or otherwise prepare and dismantle and remove the facilities for and clean up the area in and around such events during specific times including hours between 10:00 p.m. and 5:00 a.m., so as not to disrupt traffic in the streets surrounding the location of the special event.
- (c) Penalty. Any person violating any provision of this section shall be guilty of an offense punishable by a fine of fifty dollars (\$50.00) per violation, payable within ten (10) days to the Records Clerk, Public Safety Department, Neptune Beach, Florida. A late fee of ten dollars (\$10.00) shall be attached to any fine not paid by the due date.

Sec. 14-13. - Loitering, Soliciting, Begging, Etc., In Public Offices or Buildings Open to The Public.

The Council finds that any person who loiters or prowls in a place, at a time or in a manner not usual for law-abiding individuals, under circumstances that warrant a justifiable and reasonable alarm or immediate concern for the safety of persons or property in the vicinity constitutes a threat to the public safety or breach of peace. The Council further finds that a person commits the offense of loitering when that person knowingly loiters in any place with one or more persons knowing that a narcotic or dangerous drug, as detailed in F.S. Ch. 893 is being unlawfully used or possessed.

- (a) It shall be unlawful for a person to linger, loiter, sit or stand in any public room in any hotel, office or building in the City or to use any public room for business or social purposes in violation of the expressed wish of the owner, lessee, managing agent or person in charge of the building in which the public room, as defined herein, is situated. For the purpose of enforcement of this Section, it is presumed that if the owner, lessee, managing agent or other person in charge of a building prominently displays a copy of this Section as provided in subsection (e) of this Section, or prominently displays a sign on the premises stating, generally, NO LOITERING, PURSUANT TO NEPTUNE BEACH CODE OF ORDINANCES, that he considers the activities declared unlawful in this Section to be in violation of his expressed wish.
- (b) It shall be unlawful for a person to solicit customers or patronage for himself or on behalf of any other person or distribute advertising or advertising matter upon the premises in any hotel, office or building in the City or to solicit, seek or beg for donations or charity for himself or on behalf of any person upon the premises of or in a hotel, office or building without first having secured the written consent so to do from the owner, lessee, managing agent or person in charge of the operation of the hotel, office or building.
- (c) For the purpose of this Section, the words public rooms shall be deemed to include a basement, building entrance or doorway, lobby, hallway, stairway, mezzanine, elevator, foyer, independent parking lots or others adjacent to or used in connection with the premises, public rest- or sitting rooms or any other

place used in common by the public, tenants, occupants or guests and situated in a hotel, office or building in the City. Furthermore, for the purpose of this Section, the word building shall be deemed to include, but not limited to, retail or service establishments such as restaurants, convenience stores, laundromats, service stations and other similar establishments open to the public.

- (d) the provisions of this Section shall not apply to anyone while in the employ of the United States, State or City during the time the person is in a public room in a hotel, office or building in the City; provided, that the person is engaged in the performance of his designated and official duties.
- (e) Each owner, lessee, managing agent or person in charge of the operation of a hotel, office or building desiring to avail himself of the provisions of this Section shall keep a printed or typewritten copy of this Section in some place in the lobby or entrance to the building where it may be read by persons going in or out of the building and the owner, lessee, managing agent or person in charge of the operation of a building may also make such rules and regulations, not inconsistent with the provisions of this Section, as he may so desire.
- (f) **Penalty.** Any person or persons, corporate entity, or any agent thereof who violates any of the provisions of this section may, upon conviction, be guilty of a noncriminal violation punishable as provided for under F.S. Ch. 162, or by appearance before a county judge if a citation is issued by a police officer, code enforcement officer, animal control officer or others acting at the direction of the city manager. The department of public safety and all officers under its supervision may issue a citation for a civil penalty. A surcharge equal to all administrative costs, including any filing fees required by the clerk of court for the filing of civil citations by the City of Neptune Beach shall be assessed and collected from the defendant upon each civil penalty imposed for violation of this section. For violations of this section, the civil penalty shall be assessed and paid in the following amounts:
 - a. First offense, per day:\$250.00
 - b. Second offense, per day:\$500.00
 - c. Third offense, per day:\$1,000.00

A defendant may pay the civil penalty as specified above, in lieu of appearing in county court. A defendant may exercise this option by paying the specified fine at the public safety building within ten (10) days of notice of violation and penalty. If the civil penalty is not paid by such time, the city shall proceed to enforce such violation as otherwise provided by law.

Section 2. Conflict. All ordinances, resolutions, official determinations or parts thereof previously adopted or entered by the City or any of its officials and in conflict with this ordinance are repealed to the extent inconsistent herewith.

Section 3. Severability. If any section, sentence, clause, phrase, or word of this Ordinance is, for any reason, held or declared to be unconstitutional, inoperative or void, such holding or invalidity shall not affect the remaining portions of

this Ordinance, and it shall be construed to be the legislative intent to pass this Ordinance without such unconstitutional, invalid or inoperative part therein.

Section 3. Effective Date. This Ordinance shall become effective immediately upon passage by the City Council.

VOTE RESULTS OF FIRST READING:

Mayor Elaine Brown	YES
Vice Mayor Kerry Chin	YES
Councilor Nia Livingston	YES
Councilor Josh Messinger	YES
Councilor Lauren Key	YES

Passed on First Reading this 20th day of February, 2024.

VOTE RESULTS OF SECOND AND FINAL READING:

Mayor Elaine Brown	YES
Vice Mayor Kerry Chin	YES
Councilor Nia Livingston	YES
Councilor Josh Messinger	YES
Councilor Lauren Key	YES

Passed on Second and Final Reading this 4th day of March, 2024.


Elaine Brown, Mayor

ATTEST:


Catherine Ponson, CMC, City Clerk



Approved as to form and
correctness:


Zachary Roth, City Attorney