



CITY OF
FORT LAUDERDALE

Memorandum

Memorandum No: 14-008

Date: January 22, 2014

To: Honorable Mayor and Commissioners

From: Lee R. Feldman, ICMA-CM, City Manager

Re: Ordinances Pertaining to Public Safety in the City of Fort Lauderdale

At the City Commission Workshop on January 29, 2014 concerning the homeless population in the City of Fort Lauderdale, I would like to discuss three (3) proposals for ordinances concerning (1) the public feeding of the transient population; (2) public behavior; and, (3) solicitation on the sidewalks and public roadways. This memorandum transmits draft ordinances and associated materials in advance of the Workshop in order to give the Commission additional time to consider.

As the City Commission is aware, the City of Fort Lauderdale, along with our partners at Broward County, the Fort Lauderdale Housing Authority and the United Way of Broward County, are embarking on a "Housing First" model. The concept here is to respond by rapidly housing the homeless population and providing treatment of underlying conditions concurrently, rather than prior to the provision of housing. This type of program has been successful throughout the country.

It is important to consider that while the ultimate goal is to provide a long-term permanent housing solution for the City's homeless population, it is also important to protect and balance this issue with the quality of life of our neighbors and visitors throughout the City. Studies have shown that activities associated with the homeless population often provide our neighbors with a diminished sense of safety and threaten the viability of businesses.¹ These activities include panhandling, public intoxication, solicitation in the roadways, sleeping on sidewalks and other

¹**Threats to business viability...**Many chronically homeless behaviors, such as sleeping on the streets, panhandling, public excretion or urination, and public intoxication, are threatening or undesirable. In some urban settings, police rate transients and their behaviors as a bigger problem than drugs, car burglaries, public fighting, cruising, or noise. Entertainment districts are particularly vulnerable to transient behavior because of the availability of people with disposable income, park benches, unattended public restrooms, and lax enforcement of laws governing street behavior. The presence of transients creates an environment of lawlessness. During the day, transients sitting in front of businesses can scare away customers.

Illegitimate use of public space. Regular citizens may not use public parks and other facilities because they fear the spaces are controlled by transients. Often the homeless are victimized at night, prompting them to sleep only during daylight hours in parks and other public places. Thus, the park may be laden with individuals sleeping on benches or in picnic shelters during the park's busiest hours. This condition only exacerbates the conflict with legitimate park users. Further, due to the homeless taking over and sometimes vandalizing park barbecues, sinks, and faucets designed for regular park visitors to use, officials may remove these amenities thereby penalizing everyone.

[Chamard, Sharon. Problem-Oriented Guides for Police Problem-Specific Guide Series No. 56: Homeless Encampments. Center for Problem-Oriented Policing, Office of Community Oriented Policing Services, United States Department of Justice. January 2010. pages 9-10.]

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public spaces (including spaces that can be viewed from streets and sidewalks), urinating and defecating in public.

In January 2010 the US Department of Justice published a Problem-Oriented Guide focusing on homeless encampments. In that guide they suggest 26 different principles and strategies that can be deployed in addressing homelessness and homeless encampments. Those principles and strategies are attached to this memorandum. It is interesting to note that the City of Fort Lauderdale is mentioned specifically in regard to two of these strategies. First, on strategy #21, "Creating a specialized unit", the Fort Lauderdale Police Department is recognized for the successful effort of the Homeless Outreach Team. Second, on strategy #25, "Creating safe zones", it was recognized that the court-ordered placement of four tents was not effective.

Again, recognizing that we are moving towards a Housing First model, it is important to recognize that there will be a significant homeless population present until housing is provided. During this transition, and with that in mind, I am proposing the adoption of two ordinances to restrict access to goods and services that promote homelessness and discourages a Housing First program in the City of Fort Lauderdale and one ordinance which creates public behavior standards in the City.

Food Service Establishment Ordinance. The intent of this ordinance is to recognize that the homeless community is at high risk for food borne illnesses and those entities that feed the homeless, which are not licensed or regulated by the State or the County, should be regulated by the City with regard to food sanitation practices and the manner and place where food is delivered. Provisions of this ordinance include:

- Require any entity (or person) serving food, which does not have a State or County permit to do so, to receive a license from the City. These are not business tax receipts (occupational licenses), but rather regulatory licenses which would require specific sanitation standards to be met.
 - Restrooms would need to be provided for those serving, preparing or consuming the food.
 - Waste and wastewater would need to be properly disposed of.
 - Hand washing equipment and procedures would need to be in place.
 - Food would need to be served within four (4) hours of preparation.
 - Food would need to be stored at proper temperatures.
 - Food would need to be transported in clean conveyances.
 - An individual who has received the State of Florida Food Service Manager Certification would need to be present when food is being prepared and served.
- The written consent of the property owner where food is being served would be required.
- A license could not be issued for the same location, regardless of the entity applying, more than once a calendar quarter.
- The program would be administered by the Code Compliance Division of the Department of Sustainable Development. *This would require some upfront training dollars.*

This ordinance was modeled after the ordinance of the City of Dallas, Texas.

Use of Public Right-of-Way Ordinance. The intent of this ordinance to eliminate the hazards associated with the solicitation of donations or the storage, sale or exhibition of merchandise and materials in the public right-of-ways. These hazards are not limited to motorists, but also to

pedestrians and the solicitors themselves. An analysis of the impacts of street solicitation on public safety and traffic operations in the City of Fort Lauderdale was completed by Transportation Planner Alia Awwad, PE of the Transportation and Mobility Department and is included as an attachment to this memorandum.

This ordinance would prohibit the use of the public right-of-way (street, median, alley, or sidewalk) for the purpose of:

- Storing or exhibiting of any goods, merchandise or other materials.
- Selling or attempting to sell any goods, merchandise or other materials or other services.
- Soliciting or accepting a donation of money or any other item from the occupant of any vehicle. [Note: This includes charitable activities including the annual Fort Lauderdale Fire-Rescue Department Boot Drop for Muscular Dystrophy.]
- Attempting to alert the driver or any occupant of a motor vehicle that is on a street to any commercial activity.

This ordinance was modeled after the ordinance of the City of Brentwood, Tennessee which was recently upheld by the US District Court of Appeals. The study completed by staff is consistent with the nature of the study prepared by the City of Brentwood.

Public Behavior Ordinance. The intent of this ordinance is to regulate activities in the public realm which will eliminate threats to business viability and restore the legitimate use of public space. This ordinance would prohibit:

- Camping on public property including rights-of-way (sidewalks)
- Sleeping on sidewalks
- Public urination and/or defecation
- Storage of personal property on public property

These are activities that are not specifically prohibited by existing City ordinances.

This ordinance was modeled after the ordinance adopted recently by the City of Tampa, Florida.

Please let me know if you have any questions on any of these proposals or on the material attached.

- Attachments:
- 1) "Responses to the Problem of Homeless Encampments". Chamard, Sharon. Problem-Oriented Guides for Police Problem-Specific Guide Series No. 56: Homeless Encampments. Center for Problem-Oriented Policing, Office of Community Oriented Policing Services, United States Department of Justice. January 2010. pages 21-37.
 - 2) Proposed Food Service Establishment Ordinance
 - 3) Proposed Use of Right-of-Way Ordinance
 - 4) Memorandum dated January 9, 2014 on the Impacts of Street Solicitation on Public Safety and Traffic Operations.
 - 5) The Contributor; et. al. v. City of Brentwood, Tennessee – Opinion from the United States Court of Appeals (6th District) dated August 14, 2013.
 - 6) Proposed Public Behavior Ordinance

C: Stanley D. Hawthorne, Assistant City Manager
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