



## THE CITY OF KEY WEST

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### EXECUTIVE SUMMARY

To: The City Commission for the City of Key West  
From: Ronald Ramsingh, Assistant City Attorney  
Date: January 30, 2012  
RE: Panhandling ordinance revision

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Mr. Mayor and Commissioners:

Background:

I was asked to draft a proposed ordinance revision by Mayor Cates to revise the current ordinance concerning non-aggressive panhandling. There are 2 types of panhandling addressed in the courts and in our ordinances. Aggressive panhandling is prohibited in Sec. 42-3 and is described as: Touching the person solicited, following the person solicited, and persists in begging after the person solicited has given a negative response, directs profane or abusive language toward the person solicited, or acts in a violent or threatening manner toward the person solicited. Regulations concerning aggressive panhandling are usually upheld by courts as it is not considered a constitutionally protected form of speech. Passive panhandling, however is considered a constitutionally form of protected speech and as such, any regulations regulating passive panhandling must be content neutral and narrowly tailored to meet a compelling governmental interest while leaving open ample attractive alternative locations to valid time, place and manner restrictions. Currently, the City of Key West has a prohibition on passive panhandling contained in Sec. 42-11 and merely prohibits passive panhandling in limited areas: "Panhandling and solicitation are prohibited in Clinton Square, Mallory Square, and at

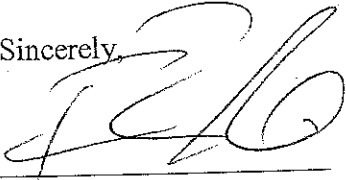
the Southernmost Point. Panhandling and solicitation are prohibited on Simonton Street, Duval Street and Whitehead Street between and including Front Street and Angela Street. The city manager shall post signs in each area advising the public of this prohibition.” The model presented to you is one fashioned after the City of Orlando. Mayor Cates, Chief Lee and the Mayor’s Task Force on the Homeless have spent many hours debating the variety of possibilities. This revision bans all passive panhandling in the Core Commercial Tourist Area between Simonton and Whitehead Streets including all crossing streets therein, the Key West Bight and Higgs and Smathers Beaches except for designated areas at Mallory Square and the old Plantains property. These 2 areas are considered suitable attractive alternative locations within the mandates of the law. Further restrictions on passive panhandling are on people who are under the influence of alcohol or a controlled substance, within the cemetery, the White St. Pier, within 20 feet of any bank, ATM, parking meter or pay station, outdoor dining area, taxi or bus stops or designated historic monument or attraction. The penalty for a violation of this ordinance will continue to be as prescribed under Sec. 1-15 which makes it punishable by up to a \$500.00 fine and/or 60 days in the county jail as a second degree misdemeanor. The permissible area within these sites will be marked by signs and are depicted in the exhibits. The permissible passive panhandling areas can be modified as needed by Resolution.

Options:

1. To pass the proposed ordinance revision, thereby instituting a ban on all passive panhandling within the Core Commercial Tourist Area between Simonton and Whitehead Streets, the Key West Bight, and Higgs and Smathers Beaches except for designated areas at Mallory Square and Simonton Beach. The permissible areas can be modified as needed by Resolution.
2. To defeat the proposed revision and the existing ordinances will continue to be enforced.

Please do not hesitate to contact me with any questions or concerns.

Sincerely,

A handwritten signature in black ink, appearing to read 'RR', written over a horizontal line.

Ron Ramsingh  
Assistant City Attorney  
809-3775