

Ordinance No. 2023-__
Village of Salado
County of Bell
_____, 2023

ORDINANCE NO. 2023-17

AN ORDINANCE OF THE VILLAGE OF SALADO, TEXAS, PROHIBITING AGGRESSIVE PANHANDLING OR SOLICITATION WITHIN THE CORPORATE LIMITS OF THE VILLAGE OF SALADO, AND PROVIDING FOR THE FOLLOWING: PURPOSE, FINDINGS OF FACT, SEVERABILITY, REPEALER, EFFECTIVE DATE, AND PROPER NOTICE AND MEETING.

WHEREAS, pursuant to Texas Local Government Code § 51.032, the Board of Aldermen (the “Board”) of the Village of Salado, Texas (the “Village”) is authorized by law to adopt an ordinance, not inconsistent with state law, that it considers proper for the government of the Village; and

WHEREAS, aggressive begging, panhandling or soliciting within the Village disturbs and disrupts residents and businesses, and contributes not only to the loss of access to and enjoyment of public places, but also to an enhanced sense of fear, intimidation and disorder; and

WHEREAS, the solicitation of people in places and situations where it is impossible or difficult for them to exercise their own right to decline to listen or to avoid solicitation from panhandlers, such as motor vehicles, indoor and outdoor dining areas, crowded sidewalks, parking lots and structures, and in the vicinity of an entrance to a residence or a commercial or public facility is abusive, intimidating and potentially dangerous; and

WHEREAS, restricting panhandling in such places and situations will provide a balance between the rights of panhandlers and the rights of persons who wish to decline or avoid the panhandling and will help avoid or diminish the threat of violence in such unwarranted and unavoidable confrontations and provide for the safety and security of the commuting public, tourists, and those citizens wishing to use public places and commercial facilities; and

WHEREAS, this ordinance is timely and appropriate because current laws and Village regulations are insufficient to address the aforementioned problems, and the proposed restrictions contained herein are neither over broad nor vague and are narrowly tailored to serve a substantial government interest; and

WHEREAS, the goal of this ordinance is to protect citizens from fear, harassment, and intimidation accompanying panhandling, which is an unwelcome and dangerous presence in certain parts of the Village; and

WHEREAS, it is the intent of the Board to impose reasonable time, place, and manner restrictions on panhandling and solicitation while respecting the constitutional rights of all citizens

to beg, panhandle, or solicit funds, picket, protest or engage in other constitutionally protected activity in a peaceful and non-threatening manner;

WHEREEAS, it is deemed in the best interest of the Village for the health, safety and welfare of its citizens that an ordinance be established to prohibit aggressive panhandling or solicitation within the Village; and

WHEREAS, the Village finds that the regulations adopted in this ordinance are for the good government, peace, and order of the Village.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE VILLAGE OF SALADO, TEXAS:

SECTION I. ENACTMENT PROVISIONS

- A. Findings of Fact:** All of the above premises are hereby found to be true and correct legislative and factual findings of the Village of Salado and are hereby approved and incorporated into the body of this ordinance as if copied in their entirety.
- B. Popular Name:** This Ordinance shall be commonly referred to as “The Panhandling and Solicitation Ordinance.”
- C. Scope:** This Ordinance, and the rules and regulations adopted herein, shall apply within the Village limits. This Ordinance applies to conduct on public streets, public street rights-of-way, public sidewalks, public alleyways, public parkways, public boulevards, and private property within the Village.
- D. Effective Date:** This Ordinance shall take effect immediately upon passage and publication.

SECTION II. ADOPTION

Ordinance No. 2023-__ is hereby adopted as follows:

A. Definitions

In this section, the following definitions apply:

“*Aggressive manner*,” “*aggressive behavior*” or “*aggressively*” as related to soliciting, begging, and panhandling means:

- (1) Using violent or threatening gestures toward a person solicited, or making a statement, gesture, or other communication which a reasonable person in the situation of the person solicited would perceive as a threat;
- (2) Using profane or abusive language, either during the solicitation or following a refusal;

- (2) Continuing to solicit from a person, or following a person, after the person has given a negative response to such soliciting;
- (3) Intentionally touching or causing physical contact with another person without that person's consent in the course of soliciting;
- (4) Intentionally blocking or interfering with the safe or free passage of a pedestrian or vehicle by any means, including causing a pedestrian or vehicle operator to take evasive action to avoid physical contact;
- (5) Soliciting money from anyone who is waiting in line for tickets, for entry to a building, or for any other purpose;
- (6) Approaching or following a person for solicitation individually or as part of a group of two (2) or more persons, in a manner and with conduct, words, or gestures intended or likely to cause a reasonable person to fear imminent bodily harm or damage to or loss of property or otherwise to be harassed or intimidated into giving money or other thing of value; or
- (7) Soliciting, begging, or panhandling of minors less than 16 years of age.

Automated Teller Machine shall mean a device, linked to a bank or financial institution's account records, which is able to carry out transactions, including, but not limited to: account transfers, deposits, cash withdrawals, balance inquiries, and mortgage and loan payments which are made available to banking customers.

Bank includes a bank, savings bank, savings and loan association, credit union, trust company, or similar financial institution.

Check Cashing Business means an entity in the business of cashing checks, drafts, or money orders for consideration.

Parking Meter or *Parking Pay Station* means a location on a street, parking lot or parking garage where persons pay for parking by either cash or credit, to a person or at a machine or other device designed to accept payment for parking.

Private Building shall be deemed to include, but is not limited to, retail or service establishments, such as restaurants, convenience food stores, laundromats, service stations, hotels, offices, and similar privately owned establishments open to the public. This term does not include any building owned, leased, or operated by the federal or state government, political subdivisions thereof, municipalities, special districts, any public administration board or authority of the state.

Public Place shall mean a place to which a governmental entity has title and to which the public has access, including, but not limited to: Any street, highway, sidewalk, walkway, parking lot, plaza, transportation facility, school, place of amusement, park, or playground.

Public Area means an area to which the public has access and includes, but is not limited to, the common area of a hospital, apartment house, office building, transport facility, shop, 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.

Solicit, Ask, Beg, or Panhandle means to request, by the spoken, written, or printed word, or by other means of communication, an immediate donation or transfer of money or another thing of value from another person, regardless of the solicitor's purpose or intended use of the money or other thing of value, and regardless of whether consideration is offered.

B. A person commits an offense if the person solicits, asks, begs, or panhandles:

- (1) In an aggressive manner in a Public Area or Public Place; or
- (2) In a manner that impedes the operation of a public roadway or sidewalk; or
- (3) Between the hours of one-half (1/2) hour before sunset and 8:00 a.m. the following morning; or
- (2) Within twenty (20) feet of the following areas where the public is considered vulnerable or where solicitation would interfere with the flow of pedestrian or motor vehicle traffic:
 - a. An Automated Teller Machine;
 - b. The entrance or exit of a Bank;
 - d. The entrance or exit of a Check Cashing Business;
 - e. An authorized charitable contribution activity;
 - f. A Parking Meter or Parking Pay Station on a street;
 - g. A public parking garage or parking lot pay station;
 - h. The entrance or exit of a restaurant or the service area of an outdoor eating establishment;
 - i. In a bus, at a bus station or stop, or at a facility operated by a transportation authority for passengers including but not limited to any school bus stop;
 - j. A marked crosswalk; or
 - k. An entrance of a commercial or government building; or
- (4) Within fifty (50) feet from any land owned by a public or private school and used in whole or in part for providing education services to elementary age children; or
- (5) Within 10 feet of a gas station, liquor store, or convenience store property; or
- (6) In a public restroom; or
- (7) At a public event that is operating by permit issued by the Village at Village parks.

C. Private Property.

No person may solicit, ask, beg or panhandle on private property or residential property without permission from the owner or occupant of that property.

D. Distances.

For purposes of subsection (b) in this Section, measurement shall be made in a straight line, without regard to intervening structures or objects, from the nearest point at which an unlawful act is conducted to the nearest portion to the items listed in subsection (b).

E. Enforcement.

The Village shall have the power to administer and enforce the provisions of this Ordinance as may be required by governing law. Any person violating any provision of this Ordinance is subject to a suit for injunctive relief as well as potential prosecution for criminal violations. Any person who engages in any activity specified in subsection (b), may be subject to prosecution for a Class C misdemeanor and a fine not to exceed \$500.

SECTION III. RESERVATION OF RIGHTS

All rights and remedies of the Village of Salado, Texas are expressly saved as to any and all violations of the provisions of any other ordinance affecting the streets and roadways of the Village which existed at the time of the effective date of this Ordinance; and as to such accrued violations and all pending litigation, both civil and criminal, whether pending in court or not, under such ordinances, the same shall not be affected by this Ordinance but may be prosecuted until final disposition by the courts.

SECTION IV. SAVINGS CLAUSE

The repeal of any ordinance or part of ordinances effectuated by the enactment of this ordinance shall not be construed as abandoning any action now pending under or by virtue of such ordinance or as discontinuing, abating, modifying or altering any penalty accruing or to accrue, or as affecting any rights of the Village under any section or provisions of any ordinances at the time of passage of this ordinance.

SECTION V. SEVERABILITY CLAUSE

If any provision, section, sentence, clause or phrase of this Ordinance, or the application of the same to any person or set of circumstances is for any reason held to be unconstitutional, void, invalid, or unenforceable, the validity of the remaining portions of this Ordinance or its application to other persons or sets of circumstances shall not be affected thereby, it being the intent of the Board of Alderman of the Village of Salado in adopting, and of the Mayor in approving this Ordinance, that no portion thereof or provision or regulation contained herein shall be come inoperative or fail by reason of any unconstitutionality or invalidity of any portion, provision or regulation.

SECTION VI. REPEALER CLAUSE

The provisions of this ordinance shall be cumulative of all other ordinances or parts of ordinances governing or regulating the same subject matter as that covered herein, provided, however, that all prior ordinances or parts of ordinances inconsistent or in conflict with any of the

provisions of this ordinance are hereby expressly repealed to the extent that such inconsistency is apparent. This Ordinance shall not be construed to require or allow any act which is prohibited by any other Ordinance.

SECTION VII. EFFECTIVE DATE

This Ordinance shall take effect immediately from and after its passage and publication as may be required by governing law.

SECTION VIII. NOTICE AND MEETING CLAUSE


It is hereby officially found and determined that the meeting at which this Ordinance was passed was open to the public and that public notice of the time, place, and purpose of said meeting was given as required by the Texas Open Meetings Act, Chapter 551 of the Texas Government Code.

SECTION IX. PUBLICATION

This Ordinance shall become effective immediately upon the date of its publication as required by § 52.011 of the Texas Local Government Code. The Village Secretary is hereby directed to cause the caption of this Ordinance to be published in the manner required by law.

PASSED AND APPROVED on FIRST READING this, the __ day of ____, 2023, by a vote of __ (ayes) to __ (nays) and __ abstentions vote of the Board of Aldermen of the Village of Salado, Texas.

PASSED AND APPROVED on SECOND AND FINAL READING this, the __ day of ____, 2023, by a vote of __ (ayes) to __ (nays) and __ abstentions vote of the Board of Aldermen of the Village of Salado, Texas.



Michael Coggin, Mayor

ATTEST:



Debbie Bean, Village Secretary (Acting)
DOW FERGUSON

Approved to Form:



Josh Katz, Village Attorney