

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, REPEALING IN ITS ENTIRETY ARTICLE X OF CHAPTER 54 (LOITERING WITH THE INTENT TO COMMIT PROSTITUTION) WHICH MAKES CERTAIN OFFENSES INVOLVING LOITERING WITH THE INTENT TO COMMIT PROSTITUTION UNLAWFUL; DECLARING ANY SPECIFIC PROVISION OF ANY CITY OF WEST PALM BEACH ORDINANCE, RESOLUTION, RULE OR POLICY IN CONFLICT WITH THE THIS ORDINANCE NULL, VOID, AND REPEALED TO THE EXTENT OF SUCH CONFLICT; PROVIDING A CONFLICTS CLAUSE AND A SEVERABILITY CLAUSE; PROVIDING A CODIFICATION CLAUSE; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

* * * * *

WHEREAS, in March 2011, the Palm Beach County Court, Criminal Division granted a motion to dismiss a municipal ordinance violation citing defendant for violation of 54-332 of the City of West Palm Beach Code of Ordinance making it unlawful to loiter with the intent to commit prostitution and issued a certificate stating that its order is one of great public importance; and

WHEREAS, the City originally codified the ordinance in the 1979 Code of Ordinances at section 20-175 et seq.; and

WHEREAS, following the dismissal, the City of West Palm Beach Police Department stopped enforcing this section of the City of West Palm Beach Code of Ordinances; and

WHEREAS, the Fourth District Court of Appeal in *City of West Palm Beach v Chatman*, 112 So. 3d 723 (Fla. 4TH DCA 2013), declared Section 54-332 (Prohibited Acts) of Article X (Loitering with the Intent to Commit Prostitution), unconstitutional as overbroad and vague; and

WHEREAS, it is deemed prudent to repeal City ordinances which are no longer enforced and have been found unconstitutional; and

WHEREAS, the City desires to repeal sections of the City of West Palm Beach Code of Ordinances relating to the regulation of loitering with the intent to commit prostitution consistent with the written opinion issued by the Fourth District Court of Appeal in the case of *City of West Palm Beach v Chatman*, 112 So. 3d 723 (Fla. 4TH DCA 2013).

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, that:

SECTION 1: Chapter 54 (Offenses), Article X (Loitering with the Intent to Commit Prostitution), Section 54-331 (Definitions), Section 54-332 (Prohibited Acts), Section 54-333 (Penalties) and Sections 54-334 -54-359 (Reserved) of the Code of Ordinances of the City of West Palm Beach, Florida, are hereby repealed or modified in their entirety as follows:

(Additions to text are indicated by underline; deletions by ~~strikeout~~.)

Asterisks ***** indicate language not amended which has been omitted to save space.

ORDINANCE NO. 4891-20

SECTION 2: Chapter 54 (Offenses), Article X (Loitering with the Intent to Commit Prostitution) Sections 54-331, 54-332, and 54-333 are hereby repealed as follows:

* * *

ARTICLE X. ~~LOITERING WITH THE INTENT TO COMMIT PROSTITUTION~~

Sec. 54 331. ~~Definitions.~~

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

~~*Known area of prostitution* means a public place where within two years previous to the date of arrest for violation of this article, and within the knowledge of the arresting officer, a person has been convicted of, or arrested for, violating any ordinance of the city or law of the state defining and punishing acts of soliciting, committing, or offering or agreeing to commit an act of prostitution.-~~

~~*Known prostitute* means a person who within two years previous to the date of arrest for violation of this article has, within the knowledge of the arresting officer, been convicted in a court of competent jurisdiction of an offense involving prostitution, or who within two years previous to the date of arrest for violation of this article has, within the knowledge of the arresting officer, been arrested for an offense involving prostitution, or who has made admissions or statements to the arresting officer that such person does engage in acts of prostitution.-~~

~~*Public place* means an area generally visible to public view and includes streets, sidewalks, bridges, alleys, plazas, parks, driveways, parking lots, automobiles (whether moving or not), and buildings open to the general public, including those which serve food or drink, or provide entertainment, and the doorways and entrances in buildings or dwellings and the grounds enclosing them.-~~

Sec. 54 332. ~~Prohibited acts.~~

~~No person shall loiter in or near any thoroughfare or place open to the public in a manner and under circumstances manifesting the purpose of inducing, enticing, soliciting or procuring another to commit an act of prostitution. Among the circumstances which may be considered in determining whether such purpose is manifested are the following: that such person is a known prostitute; that such person frequents, either on foot or in a motor vehicle, a known area of prostitution; and that such person repeatedly beckons to, stops, or attempts to stop, or engages passersby in conversation, or repeatedly stops or attempts to stop motor vehicle operators by hailing, waving of arms, or any other bodily gesture for the purpose of inducing, enticing, soliciting, or procuring another to commit an act of prostitution. The violator's conduct must be such as to constitute activity which~~

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~~demonstrates a specific intent to induce, entice, solicit or procure another to commit an act of prostitution. No arrest shall be made for a violation of this section unless the arresting officer first affords such persons an opportunity to explain such conduct, and no one shall be convicted of violating this section if it appears at trial that the explanation given was true and disclosed a lawful purpose.~~

~~Sec. 54-333. Penalties.~~

~~A violation of this article shall be subject to the penalties provision of section 1-13 of this Code.~~

~~Secs. 54-334-54-3459. Reserved.~~

~~Secs. 54-331-54-359. Reserved.~~

SECTION 3: Any specific provision of any City ordinance, resolution, rule or policy in conflict with this Ordinance, which is not specifically repealed by this Ordinance is hereby declared null, void, and repealed to the extent of such conflict.

SECTION 4: The provisions of this Ordinance shall be deemed to be severable. If any part of this Ordinance is deemed unconstitutional, it shall not affect the constitutionality of other portions of this Ordinance.

SECTION 5: Specific authority is hereby granted to codify this Ordinance.

SECTION 6: This Ordinance shall take effect immediately after adoption on second reading.

[SIGNATURES ON FOLLOWING PAGE]

(Additions to text are indicated by underline; deletions by ~~strikeout~~.)

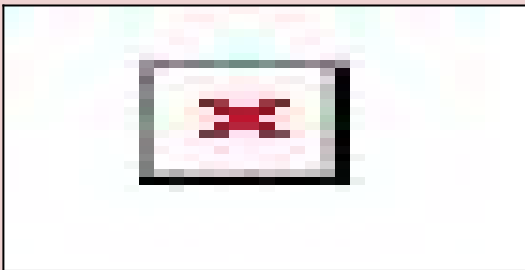
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FIRST READING THIS 30TH DAY OF NOVEMBER, 2020.

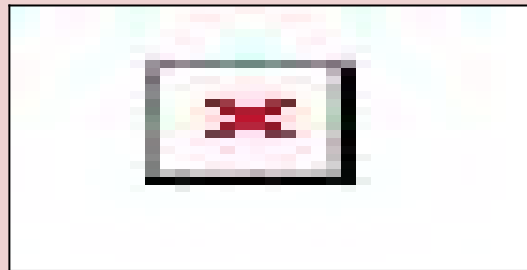
SECOND READING AND PASSAGE THIS 14TH DAY OF DECEMBER, 2020.



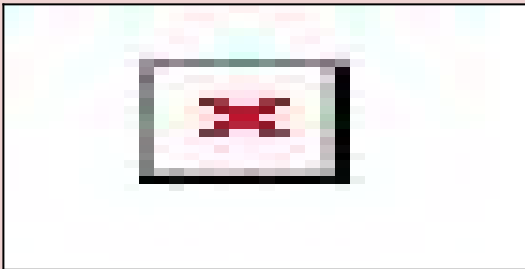
ATTEST:



**CITY OF WEST PALM BEACH BY
ITS CITY COMMISSION:**



**APPROVED AS TO FORM AND
LEGALITY:**



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