

**MEMORANDUM**

**DATE:** May 1, 2024  
**TO:** Mercy Rushing, City Manager  
**FROM:** Charles Bittner, Chief of Police  
**SUBJECT:** Loitering Prohibition Policy

**This policy is being presented for approval to establish guidelines and regulations for prohibiting loitering in public places within the City of Mineola.**

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE OF THE CITY OF MINEOLA, TEXAS, PROHIBITING LOITERING IN A PUBLIC PLACE; PROVIDING DEFINITIONS; PROVIDING DEFENSES; PROVIDING FOR SEVERABILITY; PROVIDING FOR A PENALTY; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the City Council of the City of Mineola, Texas, finds it to be in the best interest of the health, safety and welfare of all of its citizens to enact this Ordinance; and

**WHEREAS**, in enacting this Ordinance, the City Council intends to protect public property and ensure the safety and well-being of its citizen.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MINEOLA, TEXAS, AS FOLLOWS:

I. DEFINITIONS

A. **“Loitering”** shall mean remaining idle in essentially one location and shall include the concept of spending time idly; to be dilatory; to linger; to stay; to saunter; to delay; to stand around and shall also include the colloquial expression, “hanging around.”

B. **“Public Place”** shall mean any place to which the general public has access and a right to resort in business, entertainment or other lawful purpose, but does not necessarily mean a place devoted solely to the uses of the public. It shall also include the front or immediate area of any store, shop, restaurant or other place of business and also public grounds, areas or parks. It shall also include streets, sidewalks, highways and the common areas at schools, hospitals, apartment houses, office buildings, transport facilities and shops.

II. PROHIBITED ACTIVITY

It shall be unlawful for any person to commit the following acts in the city limits of the City of Mineola:

a) Knowingly loiter in or near a public place in a manner and under circumstances which may obstruct any public street, public highway, public sidewalk, or any other public place or building as defined herein by hindering or impeding or intending to hinder or impede the free and uninterrupted passage of vehicle or pedestrian traffic;

b) Commit in or upon any public street, public highway, public sidewalk, or any other public place as defined herein any act or thing which is an obstruction or interference to the free and uninterrupted use of property or with any business lawfully conducted by anyone in such public place, all of which prevents the free and uninterrupted ingress, egress and regress therein, thereon, and thereto.

### III. PUBLIC ORDER TO DISPERSE

If any person causes or commits any of the conditions enumerated in this Ordinance, a peace officer or any law enforcement office shall order that person to stop committing such conduct and/or conditions and to move on or disperse. Any person that fails or refuses to obey such orders shall be guilty of a violation of this Ordinance.

### IV. DEFENSES

It shall be an Affirmative Defense to an alleged violation of this Ordinance if an alleged violator and/or defendant has a lawful reason for being at the location in question. Such lawful purposes would include, but are not limited to, the following:

- i. The individual is engaged in lawful employment at the time; or
- ii. The individual is exercising First Amendment rights protected by the United States Constitution, such as free exercise of religion, freedom of speech and the right of assembly.

### V. PENALTY

Any person who violates any provision of this Ordinance shall be subject to a citation which is a Class C Misdemeanor and shall, upon a finding of guilt, be subjected to a fine not to exceed \$500.00.

### VI. REPEALER

By passage of this Ordinance, any and all Ordinances, Resolutions and/or other Mandates of the City of Mineola which may be in conflict with any of the terms or conditions of this Ordinance are hereby repealed to the extent of any such conflict.

### VII. SEVERABILITY

If any provision, section, sentence, clause or phrase of this Ordinance, or the application of same, to any person or set of circumstances is for any reason held to be unconstitutional, void, or invalid, the validity of the remaining portions of this Ordinance shall not be affected thereby, it being the intention of the City Council of the City of Mineola that no portion hereof or provision or regulation contained herein shall become inoperative or failed by any reason of unconstitutionality or invalidity of any other portion, provision or regulation.

### VIII. EFFECTIVE DATE

This Ordinance shall become effective immediately upon its passage and publication as required by law.

Duly PASSED and APPROVED by the City Council of the City of Mineola, Texas, on this  
\_\_\_\_\_ day of \_\_\_\_\_, 2024.

APPROVED:

\_\_\_\_\_  
Jayne Lankford, Mayor

ATTEST:

\_\_\_\_\_  
Cindy Karch, City Secretary