

ORDINANCE NO. 1768

AN ORDINANCE TO REGULATE LOITERING
FOR THE PURPOSE OF ILLEGAL DRUG ACTIVITY

SPONSOR: LAFITTE

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PRICHARD,
ALABAMA, AS FOLLOWS:

SECTION 1. DEFINITIONS. As used in this section unless a different meaning clearly appears from the context:

- a. *Illegal drug activity* means the sale, purchase or possession or attempted sale, purchase or possession of any illegal narcotic or drug or controlled substance as defined by any ordinance of the City of Prichard or any statute of the State of Alabama or of the United States of America.
- b. *Known drug activity location* means any area within the city or its police jurisdiction which is within the City or its police jurisdiction which is within a one-half mile radius of the general location of at least five (5) drug seizures or arrests leading to convictions for illegal drug activity as defined in this section within the past year.
- c. *Known drug dealer or user* means a person who, within five (5) years previous to the date of arrest for a violation of any of the provisions of this Ordinance, has, within the knowledge of the arresting officer, been convicted of violating any ordinance of the city or statute of the state or of the United States of America prohibiting and punishing any of the following or any similar act or acts; any illegal act relating to the sale, use or possession of any illegal narcotic or drug or controlled substance as defined by any ordinance of the city or statute of the state or of the United States of America.
- d. *Loitering*, for the purposes of this section, means remaining idle in essentially one (1) place and shall include the concepts of spending time idly, loafing or walking about aimlessly.
- e. *Public place* means a place to which the public or a substantial portion of the public has access, and includes but is not limited to highways, transportation facilities, schools, places of amusement, parks, playgrounds and hallways, lobbies and other portions of apartment houses not constituting rooms or apartments

designed for actual residence, provided that no private dwelling and no place engaged for a private gathering is included within the meaning of public place with respect to any person specifically invited therein.

- f. *Transportation facility* means any conveyance, premises or place used for or in connection with public passenger transportation, whether by air, railroad cars, buses, and air, boat, railroad and bus terminals and stations and all appurtenances thereto.

Use of any term denoting male gender in this ordinance shall include the female gender.

SECTION 2. PROHIBITED ACTIVITIES. It shall be unlawful and an offense against the City of Prichard:

- (1) For any person to loiter or remain in a public place for the purpose of engaging in illegal drug activity. Among the circumstances which may be considered in determining whether such purpose is manifested are that such person is in a known drug activity location plus any of the following circumstances are present:
 - i. that such person is a known drug dealer or user;
 - ii. that such person repeatedly beckons to, stops or attempts to stop, or engages motorist in a conversation;
 - iii. that such person repeatedly stops or attempts to stop motor vehicle operators or passengers by hailing, waving of arms or any other bodily gesture or any other means;
 - iv. that such person exchanges money with motorist or pedestrians;
 - v. that such person warns other persons in the area of the presence of law enforcement officers; or
 - vi. or such person exchanges money or other items in return for packages or other items with motorist, passengers or pedestrians.
- (2) For any person to engage in or attempt to engage in any illegal drug activity as defined in this Ordinance.
- (3) For any person to solicit, induce, entice or procure another to engage in or attempt to engage in any illegal activity as defined in this Ordinance.

SECTION 3. Temporary detention.

- (1) Whenever any law enforcement officer encounters any person under any circumstance which reasonably indicate ~~that such person has committed, is committing, or is about to commit a violation of this Ordinance,~~ the officer may temporarily detain such person for the purpose of ascertaining the identity of the person temporarily detained, and the circumstances surrounding his or her presence which led the officer to believe that the person detained had committed, was committing, or was about to commit a violation of this Ordinance.
- (2) No person shall be temporarily detained under the provision of Section 3 longer than is reasonably necessary to effect the purpose of paragraph (1) of Section 3.
- (3) If at any time after the onset of the temporary detention authorized by Section 3(1), grounds for arrest of that person shall appear, the person may be arrested.
- (4) Among the elements which may be considered by a police officer in determining that a person has committed, is committing, or is about to commit a violation of this ordinance are any of the elements listed in Section 2 hereof.

SECTION 4. PRIOR CONVICTIONS. For the purposes of this Ordinance, a certified copy of the judgment of conviction shall be deemed prima facie evidence of each prior conviction; however, other types of proof of prior convictions may be produced by the arresting officer.

SECTION 5. This ordinance shall be read in pari materia with other Ordinances relating to loitering.

SECTION 6. Any person found guilty of violating the provision of this Ordinance shall be punished by fined not to exceed \$500.00 or by imprisonment for a period not to exceed 6 months, or by such fine and imprisonment.

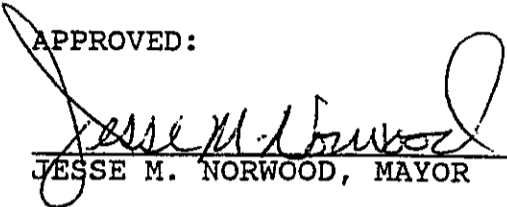
SECTION 7. SEVERABILITY. If any article, section, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by declaration of any court of competent jurisdiction, such declaration shall not affect the validity of remaining portions of this Ordinance. The City Council hereby declares that it would have adopted this Ordinance and each article, section, sentence, clause, or phrase thereof irrespective of the fact that one or more articles, sections, sentences, clauses, or phrases be declared invalid or

unconstitutional.

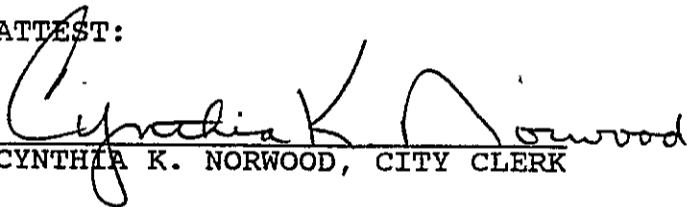
SECTION 8. EFFECT OF ORDINANCE. This Ordinance shall be in full force and effect for m and after its adoption and ~~publication as required by law.~~ This Ordinance applies to property within the city limits and police jurisdiction of the City of Prichard and shall be in full force and effect therein.

ADOPTED THIS 25th day of February, 1993.

APPROVED:


JESSE M. NORWOOD, MAYOR

ATTEST:


CYNTHIA K. NORWOOD, CITY CLERK