

FILED FOR RECORD
R. B. SHORE

2008 NOV -3 AM 10: 51

ORDINANCE 08-79

AN ORDINANCE OF MANATEE COUNTY, FLORIDA, REPEALING SECTION 2-21-101 OF THE MANATEE COUNTY CODE; MAKING RELATED FINDINGS; PROVIDING FOR CODIFICATION INSTRUCTION AND SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

Whereas, in reaction to the growing drug epidemic and related street crime of the 1980s, many local governments in Florida, including Manatee County, adopted ordinances to prohibit loitering for the purpose of using, selling or purchasing drugs, and;

Whereas, the Manatee County ordinance on this subject was Ordinance 89-44, which became codified as § 2-21-101 of the Manatee County Code, and;

Whereas, subsequent to the adoption of these ordinances, criminal defense attorneys began challenging their constitutionality in the courts, and;

Whereas, on March 25, 1993, the Florida Supreme Court, by a vote of four to three, held in the case of *Holliday v. City of Tampa*, 619 So.2d 244 (Fla. 1993), that such ordinances were unconstitutional because they were vague, overbroad, and violated substantive due process, and;

Whereas, though many such ordinances remain on the books, after the Court's opinion, law enforcement officials and State Attorneys declined to further enforce such ordinances as to do so would be a knowing violation of the Constitution, and;

Whereas, the Manatee County Sheriff has requested the County Commission to repeal its drug loitering ordinance to ensure a more accurate statement of prevailing law and so Deputies do not erroneously enforce it under the conclusion it is still valid.

NOW THEREFORE BE IT ORDAINED by the Board of County Commissioners of Manatee County:

Section 1. Manatee County Code § 2-21-101, which is the codification of Manatee County Ordinance 89-44, is hereby repealed.

Section 2. If any section, subsection, sentence, clause, provision or word of this Ordinance is held invalid, same shall be severable and the remainder of this Ordinance shall not be affected by such invalidity. The Manatee County Board of County Commissioners expressly indicates that it desires the remainder of the Ordinance to withstand any severed provision, as it would have adopted the Ordinance and its regulatory scheme even absent the invalid part.

2008 OCT 27 AM 11: 33
DEPARTMENT OF STATE
TALLAHASSEE, FLORIDA

FILED

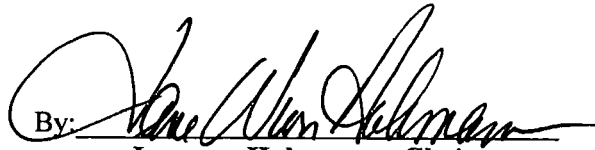
Section 3. The Codifier shall codify this Ordinance by repealing Manatee County Code § 2-21-101 and showing same as reserved for future use.

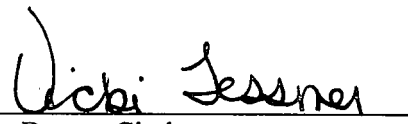
Section 4. This Ordinance shall take effect immediately upon filing with the Department of State.

PASSED AND DULY ADOPTED in open session, with a quorum present and voting, this 21st day of October, 2008.

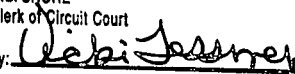
BOARD OF COUNTY COMMISSIONERS
OF MANATEE COUNTY, FLORIDA

ATTEST: **R.B. SHORE**
Clerk of the Circuit Court

By: 
Jane von Hahmann—Chairman

By: 
Deputy Clerk



STATE OF FLORIDA, COUNTY OF MANATEE
This is to certify that the foregoing is a true and correct copy of the documents on file in my office.
Witness my hand and official seal this 21st day of October, 2008
R.B. SHORE
Clerk of Circuit Court
By:  b.c.



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FLORIDA DEPARTMENT of STATE

CHARLIE CRIST
Governor

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CLERK OF THE CIRCUIT COURT
MANATEE CO. FLORIDA
KURT S. BROWNING
Secretary of State

October 28, 2008

Honorable R. B. "Chips" Shore
Clerk of Circuit Court
Manatee County
Post Office Box 25400
Bradenton, Florida 34206

Attention: Ms. Vicki Tessmer, D.C.

Dear Mr. Shore:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your letter dated October 22, 2008 and certified copied of Manatee County Ordinance Nos. 08-79, and PDR-06-72, which were filed in this office on October 27, 2008.

As requested, one date stamped copy is being returned for your records.

Sincerely,

A handwritten signature in cursive script that reads "Liz Cloud".

Liz Cloud
Program Administrator

LC/srd
Enclosure

DIRECTOR'S OFFICE

R.A. Gray Building • 500 South Bronough Street • Tallahassee, Florida 32399-0250
850.245.6600 • FAX: 850.245.6735 • TDD: 850.922.4085 • <http://dlis.dos.state.fl.us>

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