

ORDINANCE NO. C-22-31

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF FORT LAUDERDALE, FLORIDA, AMENDING ARTICLE XI ENTITLED "SOLICITATION AND DISPLAY ON PUBLIC RIGHTS-OF-WAY", SECTION 25-267 ENTITLED "RIGHT-OF-WAY SOLICITORS AND CANVASSERS" OF THE CODE OF ORDINANCES OF THE CITY OF FORT LAUDERDALE, FLORIDA, TO AMEND REGULATIONS PERTAINING TO PERSONS SOLICITING IN RIGHTS-OF-WAY; PROVIDING FOR SEVERABILITY; REPEAL OF CONFLICTING ORDINANCE PROVISIONS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City Commission of the City of Fort Lauderdale desires to amend Article XI entitled "Solicitation and Display on Public Rights-of-Way", Section 25-267 entitled "Right-of-Way Solicitors and Canvassers", of the City of Fort Lauderdale Code of Ordinances; and

WHEREAS, the City Commission of the City of Fort Lauderdale has a significant interest in protecting the health, safety and welfare of the pedestrians and motorists in the City; and

~~WHEREAS, the City Commission finds that use of the public right of way for solicitation of donations or for the storage, sale or exhibition of merchandise and materials can pose significant hazards to the solicitors, other pedestrians and motorists; and~~

WHEREAS, the City Commission finds that pedestrians who hand or seek to transmit by hand tangible materials to persons operating or occupying motor vehicles engaged in travel on the streets and roadways in the city can pose significant hazards to themselves, other pedestrians and motorists; and

WHEREAS, such hazards can be created by the actions of either solicitors or occupants of vehicles who want to interact with solicitors; and

WHEREAS, solicitors create a safety hazard for themselves and the motorists when entering upon public streets, distributing items to vehicle occupants, or receiving money or other items from vehicle occupants; and

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WHEREAS, distraction of motorists occasioned by solicitations or by the storage or exhibition of goods and materials in the right-of-way impedes the safe and orderly flow of traffic, causes vehicles to stop unexpectedly, causes vehicles to linger at traffic control devices, and causes motorists to fail to attend to driving; and

WHEREAS, distracted drivers pose a significant risk of physical injury to other motorists and pedestrians; and

WHEREAS, roads are primarily designed for vehicular traffic and are not suited to safely accommodate right-of-way canvassers and solicitors; and

WHEREAS, according to the Florida Department of Highway Safety and Motor Vehicles data a total of 35,296 crashes occurred within the municipal boundaries of the City of Fort Lauderdale between January 1, 2019 and July 31, 2022; and

WHEREAS, according to Fort Lauderdale Police Department response records approximately 810 pedestrians were involved in traffic accidents between January 1, 2019 and July 31, 2022 in the City of Fort Lauderdale; and

WHEREAS, a density-based cluster analysis identified twenty intersections with a high rate of crashes for the time period between January 1, 2019 and July 31, 2022; and

WHEREAS, public health, safety and welfare requires the imposition of reasonable manner and place restrictions on solicitation and the storage and exhibition of goods and other materials in the public right-of-way, while respecting the constitutional right of free speech for all citizens; and

WHEREAS, such regulations are necessary to prevent dangers to persons and property, and to prevent delays and interference with vehicular traffic flow; and

WHEREAS, in an effort to narrowly tailor the regulation to further the City's interests in improving traffic safety for pedestrians and the occupants of motor vehicles as well as to improve and/or prevent the further degradation of traffic congestion, the regulation has been limited to streets and roadways with a functional classification of arterial on the Broward County Highway Functional Classifications Map that have an unacceptable Broward County roadway capacity and peak level of service designation level of D, E or F for vehicular traffic and areas with a high number of traffic crashes; and

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WHEREAS, it is necessary and appropriate to create Chapter 25, Article XI of the Code of Ordinances to address the concerns identified herein;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF FORT LAUDERDALE, FLORIDA:

SECTION 1. That Article XI entitled "Solicitation and Display on Public Rights-of-Way" of the Code of Ordinances of the City of Fort Lauderdale, is hereby amended as follows:

Sec. 25-267. Right-of-way solicitors and canvassers.

- (a) Purpose. The purpose of this section is to provide regulation to improve traffic safety for motorists and pedestrians and more efficiently move traffic along already over capacity roadways.
- (ab) Definition. The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Right-of-way canvasser or solicitor shall mean any person ~~who sells or offers for sale anything or service of any kind, or advertises for sale anything or service of any kind, or who seeks any donation of any kind, or who personally hands to or seeks to transmit by hand or receive by hand anything or service of any kind, whether or not payment in exchange is required or requested, to any person who operates or occupies a motor vehicle of any kind, which vehicle is engaged in travel on or within any portion of any of the streets or roadways in the city, whether or not such vehicle is temporarily stopped in the travel lanes of the road.~~

Right-of-way shall have the same definition as provided in section 25-97 of the Code of Ordinances.

- (bc) Prohibition of right-of-way canvassers and solicitors. It shall be unlawful for any person to act as a right-of-way canvasser or solicitor on any portion of a public right-of-way with a functional classification of arterial on the Broward County Highway Functional Classifications Map and a Broward County Metropolitan Planning Organization Roadway 2012 Peak Level of Service (LOS) designation of D, E or F as identified in most recently

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published data. (See Exhibit "A" following § 25-267) or within 200 hundred feet of the following intersections as measured from the edge of the curb of the intersecting streets:

1. Northwest 62nd Street and Northwest 31st Avenue
2. Northwest 62nd Street and Powerline Road
3. West Commercial Boulevard and Powerline Road
4. East Commercial Boulevard and North Federal Highway
5. North Federal Highway and East Oakland Park Boulevard
6. Northeast 26th Street and North Federal Highway
7. East Sunrise Boulevard and Bayview Drive
8. East Sunrise Boulevard and Northeast 15th Avenue
9. East Sunrise Boulevard and North Federal Highway
10. East Sunrise Boulevard and Northeast 7th Avenue
11. West Sunrise Boulevard and Northeast 9th Avenue
12. West Sunrise Boulevard and Northwest 15th Avenue
13. State Road 9 and West Sunrise Boulevard
14. Northwest 31st Avenue and Northwest 19th Street
15. West Broward Boulevard and Northwest/Southwest 31st Avenue
16. West Broward Boulevard and Northwest/Southwest 27th Avenue
17. West Broward Boulevard and Northwest/Southwest 9th Avenue
18. West Broward Boulevard and Northwest/Southwest 7th Avenue
19. East Broward Boulevard and North/South Federal Highway
20. State Road 9 and Davie Boulevard
21. South Federal Highway and Southeast 17th Street

(ed) ~~Prohibition of storage of goods, and merchandise ~~and other materials~~.~~ It shall be unlawful for any person to store or exhibit any goods, or merchandise ~~or other materials~~ on any portion of the public street, including the median, or bicycle lane.

~~(d) It is a violation of this section for any right-of-way canvasser or solicitor to hold, carry, possess or use any sign or other device of any kind, within any portion of the public right-of-way contrary to any of the terms and provisions of section 47-22, of the Unified Land Development Regulations.~~

(e) Nothing in this section shall be construed to apply to:

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- (1) Licensees, lessees, franchisees, permittees, employees or contractors of the city, county or state authorized to engage in inspection, construction, repair or maintenance or in making traffic or engineering surveys.
- (2) Any of the following persons while engaged in the performance of their respective occupations: firefighting and rescue personnel, law enforcement personnel, emergency medical services personnel, health care workers or providers, military personnel, civil preparedness personnel, emergency management personnel, solid waste or recycling personnel; public works personnel or public utilities personnel.
- (3) Use of public streets, alleys, sidewalks or other portions of the public right-of-way in areas which have been closed to vehicular traffic for festivals or other events or activities permitted by the city.

(f) Violations of this section shall be punishable as provided in section 1-6 of this Code.

SECTION 2. That if any clause, section or other part of this Ordinance shall be held invalid or unconstitutional by any court of competent jurisdiction, the remainder of this Ordinance shall not be affected thereby, but shall remain in full force and effect.

SECTION 3. That all ordinances or parts of ordinances in conflict herewith, be and the same are hereby repealed.

SECTION 4. That nothing in this ordinance shall be construed so as to affect any past or pending actions, notice of violation, or order of the code enforcement board or special magistrate, or any past, pending, or existing liens, fines, costs, or other obligations arising from code enforcement, or otherwise, all of which shall continue in full force and effect as if this ordinance has not been adopted.

SECTION 5. That this Ordinance shall be in full force and effect immediately upon its passage and adoption.

PASSED FIRST READING this 16th day of August, 2022
PASSED SECOND READING this ___ day of _____, 2022.

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Mayor
DEAN J. TRANTALIS

ATTEST:

City Clerk
DAVID R. SOLOMAN

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