

CITY OF TAMARAC, FLORIDA

ORDINANCE NO. O-2015- 11

AN ORDINANCE OF THE CITY OF TAMARAC, FLORIDA, AMENDING CHAPTER 14 OF THE CITY'S CODE OF ORDINANCES ENTITLED "MOTOR VEHICLES AND TRAFFIC" BY AMENDING ARTICLE I, SECTION 14-3 ENTITLED "ACTIVITY RESTRICTED ON CERTAIN STREETS"; PROHIBITING SOLICITATIONS IN AND UPON CERTAIN ROADWAYS AND RIGHTS-OF-WAY WITHIN THE CITY; PROVIDING FOR DEFINITIONS; PROVIDING FOR FINDINGS AND INTENT; PROVIDING FOR PENALTIES; PROVIDING FOR CODIFICATION; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City Commission of the City of Tamarac has a significant interest in protecting the health, safety and welfare of the pedestrians and drivers in the City, and ensuring the free flow of traffic within the City; and

WHEREAS, the City Commission finds that a dangerous condition exists when person(s) approach vehicles and vehicular travel lanes to solicit employment, business, or charitable contributions from drivers traveling on major streets and roadways; and

WHEREAS, the City's professional staff and the Broward Sheriff's Office ("BSO") has analyzed each of the major roadways within the City and has determined that certain roads, as specified herein, pose the greatest threat to public safety and the free flow of traffic in connection with the activities of right-of-way solicitors and canvassers; and

WHEREAS, BSO, acting as the City's Police Department, has specifically

CODING: Words in ~~strike-through~~ type are deletions from existing law;
Words in underlined type are additions.

analyzed the number traffic accidents at certain intersections within the City from 2010 through 2013 and prepared an analysis of their findings; and

WHEREAS, the distribution of handbills upon public and private property, including vehicles and roadways, can also create safety and nuisance concerns for the residents and guests of the City; and

WHEREAS, according to the Department of Florida Highway Safety and Motor Vehicles (the "Department"), the number of citations issues for aggressive and careless driving increased from 3,815 in 2003 to 23,180 in 2010; and

WHEREAS, according to the Department, Broward County is second only to Miami-Dade County for the number of Uniform Traffic Citations issued in 2010; and

WHEREAS, the City Commission of the City of Tamarac deems it to be in the best interests of the citizens and residents of the City to prohibit right-of-way solicitors and canvassers on certain major streets located within the City.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF TAMARAC, FLORIDA, THAT:

Section 1: That the foregoing "WHEREAS" clauses are ratified and confirmed as being true and correct and are made a specific part of this Ordinance. All exhibits attached hereto are expressly incorporated herein by reference and made a part hereof.

Section 2: Chapter 14 of the Code of Ordinances of the City of Tamarac, entitled "Motor Vehicles and Traffic", is hereby amended by specifically amending Article

CODING: Words in ~~strike-through~~ type are deletions from existing law;
Words in underlined type are additions.

I, Section 14-3, entitled "Activity Restricted on Certain Streets", as follows:

Sec. 14-3. - Right-of-way solicitation restricted on certain streets.

(A) *Definitions.* For the purposes of this section, "right-of-way canvasser or solicitor" shall mean any person who sells or offers for sale any thing 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 any thing 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. The term shall not apply to any person who merely holds or displays a sign lawfully permitted to be displayed by a person as long as there is no entry by such person or sign into any portion of the roadway or its median. Further, this term shall not apply to official citations or notices provided pursuant to governmental authority.

(B) Prohibition of right-of-way canvassers and solicitors

(l) *Findings; purpose; intent.*

(a) The City Commission of the City of Tamarac desires to adopt an ordinance restricting right-of-way canvassers and solicitors to certain streets and roadways located in the City because such canvassers and solicitors pose a danger to themselves and the public at large by interfering with the safe movement of normal vehicular traffic; and

(b) According to the Florida Department of Highway Safety and Motor Vehicles 2007 Florida Traffic Crash Statistics Report, 530 pedestrians were killed on Florida roadways in 2007; 65 of those pedestrians were killed on roadways in Broward County; and

(c) Based upon statistics collected by the Surface Transportation Policy Project, the Miami-Fort Lauderdale area is one of the most dangerous areas in the United States for pedestrians; and

(d) According to the Florida Department of Highway Safety and Motor Vehicles in 2012 Broward County ranked first in Florida with 58 pedestrian fatalities.

(e) For 2011 Broward County had 29 pedestrian fatalities ranking it fourth in the state, and 2010 saw 52 pedestrian fatalities in the county,
CODING: Words in ~~strike-through~~ type are deletions from existing law;

Words in underlined type are additions.

placing Broward second in the state. Total crashes for the years 2010-2012 ranked Broward County second in the State of Florida

(f) Numerous types of right-of-way canvassers and solicitors may seek to operate within the City of Tamarac, including, but not limited to, children, adolescents and adults who seek to collect money for school and community activities; vendors who sell flowers, newspapers and other products; and people who seek donations or distribute written information; and

(g) Right-of-way canvassers and solicitors approach motorists and passengers in motor vehicles engaged in travel on roads, and are particularly susceptible and vulnerable to serious injury, or death due to the speed and number of motorists who operate vehicles on busy roads within the city; and

(h) Roads are primarily designed for vehicular traffic and are not suited to safely accommodate right-of way canvassers and solicitors; and

(i) The presence of right-of-way canvassers and solicitors interferes with the safe movement of normal vehicular traffic; and

(j) The road network in the City is substantially burdened by a high volume of traffic, and road design frequently includes complex vehicle turn movements that demand a driver's strict attention; and

(k) It is the intention of the City Commission to use the least restrictive means to advance the significant governmental interests of traffic safety and public safety and, consequently, the City staff analyzed each of the major roads within the City and determined that the roads listed in subsection (C), below, present an increased and significant danger for use by distracted drivers, pedestrians and right-of-way canvassers and solicitors and pose the greatest threat to traffic and public safety in reference to activities and use by right-of-way canvassers and solicitors, and therefore the City Commission has determined that such activities and use by right-of way vendors and solicitors shall be prohibited on the roads listed in subsection (C); and

(l) It is the finding of the City Commission that many other alternative channels of communication (other than right-of-way canvassing and solicitation on the prohibited roadways) exist for persons

CODING: Words in ~~strike through~~ type are deletions from existing law;

Words in underlined type are additions.

who seek to exercise their First Amendment freedoms, such as, but by no means limited to, solicitation of funds or distribution of literature through the mail or at alternate locations (such as houses of worship, shopping areas and special events); the sale and/or distribution of newspapers through home or office delivery, vending machines and retail stores; and the sale of goods and services at retail stores, through the internet and from vending machines; and

(m) The City Commission desires to preserve and protect the personal safety and quality of life of its residents and of those who use streets within the City, both pedestrians and motorists alike; and

(n) The City Commission has reviewed the proposed regulations provided by this section and finds that such regulations accomplish the purposes intended while utilizing the least restrictive means; and

(o) The City Commission finds that it is in the best interests of the residents of the City to adopt this section.

(C) *Prohibited roadways.* It shall be unlawful for any person to act as a right-of-way canvasser or solicitor at or within 200 feet from the lateral curb or boundary line of any intersection located on the following roadways: Commercial Boulevard, Nob Hill Road, McNab Road, Pine Island Road, and University Drive.

(D) *Chapter 316, Florida Statutes.* The enforcement of this section shall not, in any way, preclude the enforcement of Section 316.130(5), Florida Statutes, as applicable.

(E) *Enforcement and Penalties.*

(1) It shall be the duty of any police officer of the city to require any person seen soliciting or canvassing and who is not known by the officer to be duly permitted, to produce his solicitor's or canvasser's permit, and to enforce the provisions of this chapter against any person found in violation thereof.

(2) Any person who violates any terms or provisions of this article shall be prosecuted in accordance with the procedures set forth in Ch. 162, F.S., or before a court of competent jurisdiction and, upon conviction of such violation before the judge of the county court, shall be subject to the

CODING: Words in ~~strike-through~~ type are deletions from existing law;
Words in underlined type are additions.

penalties prescribed by the county judge. Each day of violation of any term or provision of this article shall constitute a separate and distinct violation.

Section 3: If any part, sentence, paragraph, Section or clause is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of the Ordinance shall not be affected thereby. In the event of a subsequent change in applicable law, so the provision which had been held invalid is no longer invalid, the provision shall thereupon return to full force and effect without further action by the City and shall thereafter be binding under this Ordinance.

Section 4: That any ordinances or parts thereof In conflict with the provisions of this Ordinance are hereby repealed to the extent of such conflict.

Section 5: That it is the intention of the City Commission, and It is hereby ordained, that the provisions of this Ordinance shall become and made a part of the Code of the City of Tamarac; that the sections of this Ordinance may be renumbered or re-lettered to accomplish such intentions; and that the word "Ordinance" shall be changed to "Section" or other appropriate word.

Section 6: That this Ordinance shall take effect immediately upon adoption.

CODING: Words in ~~strike-through~~ type are deletions from existing law;
Words in underlined type are additions.

PASSED, FIRST READING this 24 day of June, 2015.

PASSED, SECOND READING this 8 day of July, 2015.

BY: [Signature]
MAYOR HARRY DRESSLER

ATTEST:

[Signature]
PATRICIA TEUFEL, CMC
CITY CLERK

RECORD OF COMMISSION VOTE: 1ST Reading

MAYOR DRESSLER	<u>yes</u>
DIST 1: V/M BUSHNELL	<u>yes</u>
DIST 2: COMM GOMEZ	<u>yes</u>
DIST 3: COMM. GLASSER	<u>yes</u>
DIST 4: COMM. PLACKO	<u>yes</u>

I HEREBY CERTIFY that
I have approved this
ORDINANCE as to form:

RECORD OF COMMISSION VOTE: 2ND Reading

[Signature] 6/22/15
SAMUEL S. GOREN
CITY ATTORNEY

MAYOR DRESSLER	<u>yes</u>
DIST 1: V/M BUSHNELL	<u>yes</u>
DIST 2: COMM GOMEZ	<u>yes</u>
DIST 3: COMM. GLASSER	<u>yes</u>
DIST 4: COMM. PLACKO	<u>yes</u>

CODING: Words in ~~strike-through~~ type are deletions from existing law;
Words in underlined type are additions.