

ORDINANCE NO. O 2021-011

AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, AMENDING CHAPTER 17, PEDDLERS, SOLICITORS AND SEASONAL SALES, OF THE TOWN OF DAVIE CODE OF ORDINANCES; PROVIDING FOR CONFLICT, PROVIDING FOR SEVERABILITY, AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, pursuant to Article VIII, Section 2 of the Florida Constitution and Chapter 166, Florida Statutes, the Town of Davie is authorized to protect the public health, safety and welfare of its residents and has the power and authority to enact regulations for valid governmental purposes that are not inconsistent with general or special law; and

WHEREAS, Senate Bill 1193, adopted as Chapter 2020-160, Laws of Florida, became effective on July 1, 2020; and

WHEREAS, Chapter 2020-160, Laws of Florida, specifically Section 509.102, preempts local government authority to require a local license for “mobile food vendors”; and

WHEREAS, the Town Council finds that this Ordinance is necessary for the preservation of the public health, safety and welfare of the Town’s residents; and

WHEREAS, the Town Council has held two advertised public hearings in accordance with Florida Statutes; and

WHEREAS, the Town Council deems it to be in the best interest of the citizens and residents of the Town of Davie to adopt the proposed amendments to the Land Development Code.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF DAVIE, FLORIDA:

SECTION 1. The foregoing “WHEREAS” clauses are hereby ratified and confirmed as being true and correct and are hereby made a part of this Ordinance.

SECTION 2. The Town of Davie Code of Ordinances, Chapter 17, Peddlers, Solicitors and Seasonal Sales, is hereby amended as set forth in Exhibit “A” (new language is underlined, deleted language is struck through).

SECTION 3. All ordinances or parts of ordinances in conflict herewith are to the extent of such conflict hereby repealed.

SECTION 4. If any section, subsection, sentence, clause, phrase, or portion of this ordinance is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portion of this ordinance.

SECTION 5. This ordinance shall take effect immediately upon its passage and adoption.

PASSED ON FIRST READING THIS 5<sup>TH</sup> DAY OF MAY, 2021.

PASSED ON SECOND READING THIS 19<sup>TH</sup> DAY OF MAY, 2021.

  
\_\_\_\_\_  
MAYOR/COUNCILMEMBER

ATTEST:

  
\_\_\_\_\_  
Asst. TOWN CLERK

APPROVED THIS 19<sup>TH</sup> MAY OF MAY, 2021.

Approved as to Form and Legality:

  
\_\_\_\_\_  
TOWN ATTORNEY

## Chapter 17 - PEDDLERS, SOLICITORS AND SEASONAL SALES

### Sec. 17-1. - Definitions.

The following terms when used in this chapter shall have the meaning ascribed herein unless the context clearly indicates otherwise.

*Peddler or solicitor* means a vendor, itinerant merchant or transient vendor of merchandise or services who solicits or attempts to solicit orders for the sale of goods, wares, merchandise or services, whether the sale is consummated in the town or to be consummated when approved by some other person elsewhere, or who bargains to sell any goods, wares, merchandise or services from house to house, for cash or otherwise, by sample or in any other manner for present or future delivery, including any vendor of foods and other perishables sold to the general public from a motor vehicle subject to health and sanitary inspection by the state or county health departments, and any other person engaged in the solicitation of funds.

*Individual* means only a natural person.

*Seasonal sales* means temporary, outdoor sales activity conducted in advance of Easter, Mother's Day, Fourth of July, Halloween, Thanksgiving or Christmas, as approved pursuant to a temporary use permit.

*Solicit funds or solicitation of funds* means any request for the donation of money, property or anything of value or the pledge of a future donation of money, property or anything of value or the selling or offering for sale of any property, real or personal, tangible or intangible, whether of value or not, including, but not limited to, flowers, goods, books, pamphlets, tickets, publications or subscriptions to publications or brochures upon the representation, express or implied, that the proceeds of such sale will be used for a charitable purpose as such term is herein defined. Expressly excluded from the meaning of solicit funds or solicitation of funds is any offer of membership in any organization. A solicitation of funds is complete when the solicitation is communicated to any individual when located within the corporate limits of the town.

*Stationary location* as used herein shall include the stopping at any location, for the purpose of conducting business, for a period longer than ten (10) minutes in any twenty-four-hour period.

### Sec. 17-1.1. - ~~Charitable organizations exemption~~Exemptions.

- (a) Organizations qualified under Section 501(c)(3) of the Internal Revenue Code and registered pursuant to F.S. chapter 496, or persons or organizations acting on their behalf are exempted from the permit requirements of section 17-1.2 for activities on streets or roads not maintained by the state.
- (b) Mobile food dispensing vehicles and mobile food establishments governed by Sec. 12-33(MM) of the Town Code are exempt from the permit requirements of section 17-1.2.

### Sec. 17-10. - Activities limited to certain areas.

Peddler sales activities within commercially and industrially zoned districts shall only be permitted within those zoning districts that permit sales outside of a completely enclosed building. This section is not intended to prohibit or prevent seasonal sales activities in accordance with section 17-7, or peddlers from operating on construction sites while construction is in progress, or when or to prohibit or prevent peddlers or solicitors from operating within the confines of a properly permitted and licensed carnival or festival.

## Chapter 17 - PEDDLERS, SOLICITORS AND SEASONAL SALES

### Sec. 17-1. - Definitions.

The following terms when used in this chapter shall have the meaning ascribed herein unless the context clearly indicates otherwise.

*Peddler or solicitor* means a vendor, itinerant merchant or transient vendor of merchandise or services who solicits or attempts to solicit orders for the sale of goods, wares, merchandise or services, whether the sale is consummated in the town or to be consummated when approved by some other person elsewhere, or who bargains to sell any goods, wares, merchandise or services from house to house, for cash or otherwise, by sample or in any other manner for present or future delivery, including any vendor of foods and other perishables sold to the general public from a motor vehicle subject to health and sanitary inspection by the state or county health departments, and any other person engaged in the solicitation of funds.

*Individual* means only a natural person.

*Seasonal sales* means temporary, outdoor sales activity conducted in advance of Easter, Mother's Day, Fourth of July, Halloween, Thanksgiving or Christmas, as approved pursuant to a temporary use permit.

*Solicit funds or solicitation of funds* means any request for the donation of money, property or anything of value or the pledge of a future donation of money, property or anything of value or the selling or offering for sale of any property, real or personal, tangible or intangible, whether of value or not, including, but not limited to, flowers, goods, books, pamphlets, tickets, publications or subscriptions to publications or brochures upon the representation, express or implied, that the proceeds of such sale will be used for a charitable purpose as such term is herein defined. Expressly excluded from the meaning of solicit funds or solicitation of funds is any offer of membership in any organization. A solicitation of funds is complete when the solicitation is communicated to any individual when located within the corporate limits of the town.

*Stationary location* as used herein shall include the stopping at any location, for the purpose of conducting business, for a period longer than ten (10) minutes in any twenty-four-hour period.

### Sec. 17-1.1. - ~~Charitable organizations exemption~~Exemptions.

- (a) Organizations qualified under Section 501(c)(3) of the Internal Revenue Code and registered pursuant to F.S. chapter 496, or persons or organizations acting on their behalf are exempted from the permit requirements of section 17-1.2 for activities on streets or roads not maintained by the state.
- (b) Mobile food dispensing vehicles and mobile food establishments governed by Sec. 12-33(MM) of the Town Code are exempt from the permit requirements of section 17-1.2.

### Sec. 17-10. - Activities limited to certain areas.

Peddler sales activities within commercially and industrially zoned districts shall only be permitted within those zoning districts that permit sales outside of a completely enclosed building. This section is not intended to prohibit or prevent seasonal sales activities in accordance with section 17-7, or peddlers from operating on construction sites while construction is in progress, or when or to prohibit or prevent peddlers or solicitors from operating within the confines of a properly permitted and licensed carnival or festival.