

ORDINANCE NO. 2016-40

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF COCONUT CREEK, FLORIDA, AMENDING CHAPTER 16, "OUTDOOR SALES AND ACTIVITIES," ARTICLE I, "IN GENERAL," SECTION 16-1, "PURPOSE AND INTENT," TO PROVIDE FOR AN UPDATED PURPOSE AND INTENT; AMENDING SECTION 16-2, "DEFINITIONS," TO PROVIDE FOR UPDATED TERMINOLOGY; AMENDING ARTICLE IV, "SOLICITOR REGULATIONS," SECTION 16-5, "SOLICITOR REGULATIONS," TO PROVIDE FOR UPDATED REGULATIONS; AND ENACTING A NEW SECTION 16-6, "PROHIBITED ACTS REGARDING SOLICITATION AND PEDDLING" IN ORDER TO PROVIDE FOR SAME; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, solicitors are not immune from regulations under the City's police powers in accordance with Federal law; and

WHEREAS, the City Commission has a significant government interest in protecting residents' privacy and preventing fraud by requiring that solicitors obtain an identification badge and permit to engage in soliciting activities within the City of Coconut Creek; and

WHEREAS, the City Commission has a significant interest in protecting residents from undue annoyance by requiring that solicitors observe "hours of operation" limiting solicitation to the hours of 8:00 a.m. to 8:00 p.m. Monday through Friday and 9:00 a.m. to 8:00 p.m. Saturday and Sunday, which helps protect residents' rights to peaceful enjoyment of their homes; and

WHEREAS, the regulations set forth herein are narrowly tailored to the City's interest in protecting residents from crime and fraud while still leaving open ample alternative channels of communication.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF COCONUT CREEK, FLORIDA:

Section 1: That the foregoing "WHEREAS" clauses are hereby ratified and confirmed as being true and correct and are hereby made a specific part of this Ordinance.

Section 2: That the City's Code of Ordinances shall be amended by amending Chapter 16, "Outdoor Sales and Activities," Article I, "In General," Sections 16-1, "Purpose and Intent," and 16-2, "Definitions;" and Article IV, "Solicitor Regulations," Section 16-5, "Solicitor regulations;" and by enacting a new Section 16-6, "Prohibited Acts Regarding Soliciting and Peddling" to read as follows:

Chapter 16 - OUTDOOR SALES AND ACTIVITIES

ARTICLE I. - IN GENERAL

Sec. 16-1. - Purpose and intent.

(a) *Purpose.* This chapter shall be known as the Outdoor Sales and Activities Ordinance. The purpose of the chapter shall be to protect the privacy rights of the residents of the City, and promote the health, safety and welfare of the residents of the city by regulating and licensing peddlers, vendors, canvassers, solicitors, temporary outdoor sales, temporary accessory outdoor uses, benefits, fairs, and carnivals while still providing a forum for and protecting constitutional rights.

(b) *Intent.* It is found and declared that:

- (1) The purpose of the public street and sidewalk is for use by vehicles and pedestrian traffic.
- (2) The prohibition of street and sidewalk vending is necessary to protect the public health, safety and welfare of the traveling public.
- (3) The regulations contained in this section do not restrict the pure speech right of organizations, but merely regulate the activities of organizations which are commercial in nature or which may present safety hazards to the general public.

- (4) The use of private property for certain temporary stationary accessory outdoor uses may be regulated to protect the public health, safety and welfare. Such use shall be incidental and accessory to, and in support of, the ongoing business of the principal or main use. The use shall serve to enhance or supplement the principal or main business use and shall not include storage, office or administrative uses.
- (5) The regulation for an identification badge and permit for solicitors is to protect the residents of the City from possible fraud and crime.

Sec. 16-2. - Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning.

~~Canvasser means any person going door-to-door seeking political support, contributions, taking opinion polls or making surveys on any issue. A person who attempts to make personal contact with another person without prior specific invitation or appointment from the person, for the primary purpose of (1) attempting to enlist support for or against a particular religion, philosophy, ideology, political party, issue, or candidate, even if incidental to such purpose the canvasser accepts the donation of money for or against such cause, or (2) distributing a handbill or flyer advertising a non-commercial event or service.~~

~~Carnival means an event consisting of rides, games, and food vendors for a temporary time period.~~

~~Charitable or social organization means any organization that is noted by resolution of the City of Coconut Creek that approves that the organization serves the citizens or businesses of Coconut Creek. a person or organization who is or holds himself/herself and/or itself out to be established for any benevolent, educational, philanthropic, humane, scientific, artistic, patriotic, social welfare or advocacy, public health, environmental conservation, civic or other eleemosynary purpose, or a person or organization who in any manner employs a charitable appeal as the basis for any solicitation or an appeal that suggests that there is a charitable purpose to any solicitation. The term includes a chapter, branch, area office, or similar affiliate that requests contributions within the state for a charitable organization that has its principal place of business inside or outside of the state.~~

~~Charitable solicitor means any person who solicits door-to-door subscriptions, memberships, gifts, donations or contributions or who offers goods, wares or merchandise in total or partial consideration for gifts, donations or contributions for charitable, educational or religious purposes~~

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Craft fair means sale of hand-made or hand-tooled items sold outside of an established business location.

Food means solid food or beverages permitted to be sold in accordance with this chapter.

Non-profit corporation shall mean an organization not engaged or maintained for the purpose of making a profit; as defined in Chapter 617, Corporations Not for Profit, Florida Statutes.

Ongoing construction site means a site or sites where construction materials are actively being placed in a permanent manner or where substantial demolition, excavation or removal of existing material is being carried out and a valid building permit has been issued by the eCity.

Mobile peddler/vendor means any person, corporation, company or business engaged in the selling, or offering for sale of food, beverages, services, goods ware, foodstuff or merchandise from a mobile peddler, vending vehicle or from his person and not from an enclosed structure. The term "mobile vendor" for the purposes of this section shall include itinerant merchants and/or peddlers.

Mobile peddler/vendor vehicle means any vehicle or device or cart, bicycle, wagon, or similar apparatus used for the display, storage or transportation of articles offered for sale by a peddler or vendor, whether or not the vehicle is required to be licensed and registered by the state department of motor vehicles.

Person means any natural individual, firm, trust, partnership, association or corporation, in his/her or its own capacity or as administrator, executor, trustee, receiver or other representative appointed by a court. Whenever the word "person" is used in any section of this chapter prescribing a penalty or fine as applied to corporations, partnerships or associations, the word shall include the partners (both general and limited) or members thereof and the word, as applied to corporations, shall include the officers, agents, or employees thereof who are responsible for any violation or who are responsible for permitting any violations of the section.

Promotional activity means an event or activity whose intent is to promote a business, occasion, or development for a temporary time period.

Public street or public sidewalk means any street, right-of-way, swale, paved surface or sidewalk owned by, dedicated to or an easement granted to the public.

Seasonal/occasional vendor means a peddler/vendor engaged in the selling of merchandise for a definite time period not to exceed forty-five (45) days.

Sidewalk sale means the sale of merchandise outside of an established business location.

Soliciting: means and includes any one (1) or more of the following activities:

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- (1) Seeking to obtain orders for the purchase of goods, wares, merchandise, foodstuffs, services, of any kind, character or description whatever, for any kind of consideration whatever;
- (2) Seeking to obtain prospective customers for application or purchase of any type of product, service, insurance;
- (3) Seeking to obtain subscriptions to books, magazines, periodicals, newspapers and every other type or kind of publication;
- (4) Peddling, selling or attempting to sell merchandise or services or both while carrying such merchandise or the materials necessary to provide services.

Solicitor means any person (other than a peddler, hawker or vendor) whether a resident of the City or not, who attempts to make personal contact with another person without prior specific invitation or appointment from the person, for the primary purpose ~~who~~ to solicit or attempts to solicit orders door-to-door for the sale of subscriptions, memberships, goods, wares, services or merchandise ~~for~~ to be furnished, provided or performed, for present or future delivery, traveling by foot, automobile, or other motor vehicle, but excludes any person(s) who enters a residence or business at the request or invitation of such resident or business owner.

Solicitor, charitable means any person, whether a resident of the City or not, who solicits door-to-door subscriptions, memberships, gifts, donations or contributions or who offers goods, wares or merchandise in total or partial consideration for gifts, donations or contributions for charitable, educational or religious purposes.

Swale means the area between road pavement and sidewalk or property line where no sidewalk exists, and is designed for providing street drainage.

Temporary stationary accessory outdoor use or accessory outdoor use means any use involving the conduct of business on private property from a vehicle based in a temporary outdoor location which is accessory to the main use and meets the criteria of section 13-371(5), City of Coconut Creek Code of Ordinances.

Temporary stationary peddler/vendor means any person, corporation, company or business engaged in the selling, or offering for sale of food, beverages, services, goods, wares, foodstuff, or merchandise from a vehicle based in an outdoor temporary location.

Vending means the act of selling, offering for sale, transferring or offering to transfer goods to another for pecuniary or monetary gain.

Zoning lot means a single tract of land located within a single block which, at the time of filing for a building permit, is designated by its owner or developer as a tract to be used, developed or built upon as a unit, under single ownership or control. A zoning lot, therefore, may not necessarily coincide with a lot of record, but may be part of a lot of record or may include one (1) or more lots of record, provided all are under the same ownership and are subject to a unified title.

ARTICLE IV. - SOLICITOR REGULATIONS

Sec. 16-5. - Solicitor regulations.

The instructions and regulations contained in this section shall regulate solicitors within the City of Coconut Creek.

(a) *Identification card required.* All persons engaging in business as a ~~canvasser~~, charitable solicitor or solicitor shall first be required to obtain an identification card from the ~~public safety department~~ City. The identification card shall be attached to the clothing at all times while engaging in the business within the ~~e~~City. There is a five dollar (\$5.00) non-waivable fee for each identification card issued by the ~~public safety department~~ City. Persons not engaged in face to face solicitation and who are distributing flyers, announcements or notices are subject to the requirements of this chapter. Please note restrictions for all solicitors as specified in subsection (e).

(1) A photograph of each applicant proposing to engage in solicitation must be taken within sixty (60) days immediately prior to the date of filing of the application. It shall be the applicant(s) responsibility to make all necessary arrangements with the City of Coconut Creek Police Department to have a photograph taken and an identification card issued;

(2) Identification cards issued by the City must be worn at all times during approved solicitation period.

(b) *Application fee.* Every person seeking to conduct a business as a ~~canvasser~~, charitable solicitor or solicitor shall file an application for an identification card from the ~~public safety department~~ City and submit an application to the ~~development services department~~ Sustainable Development Department. Any person or group issued a solicitor's ~~license~~ permit under the provisions of this ~~s~~Section shall pay a fifty dollar (\$50.00) fee. All solicitor's ~~permits and licenses~~ identification cards are valid for one (1) year starting at the beginning of the fiscal year. Any person or group issued a solicitor's ~~permit license~~ and identification card after April 30th shall pay a fee of twenty-five dollars (\$25.00). All registered charitable, religious, civic, and fraternal or youth organizations shall be required to obtain a solicitor's permit license and identification card. All ~~license~~ fees (including security deposits) shall be waived if said organization shows proof of non-profit status. The five dollar (\$5.00)

solicitor's identification card fee cannot be waived. The application shall state or contain the following:

- (1) The name of the applicant;
 - (2) The local and permanent address of the applicant;
 - (3) The corporate name, corporate address, resident agent name and resident agent address of those applicants representing corporations;
 - (4) The type of business, charity or organization for which the applicant is doing business;
 - (5) A sworn statement that the person or organization has not been convicted of a crime involving moral turpitude or fraud within the two (2) years prior to the filing of the application;
 - (6) A statement to the effect that if a permit is granted it will not be used or represented in any way as an endorsement by the City or by any department, officer or employee thereof.
- (c) *Hours of operation.* A person or group issued a eCity solicitor's license permit may solicit from the public only from 8:00 a.m. to 8:00 p.m., Monday through Friday, and from 9:00 a.m. to 8:00 p.m., Saturday and Sunday. Violation of this requirement will result in immediate revocation of the solicitor's permit and issuance of a citation.
- ~~(d) *Location.* It shall be unlawful for any canvasser, charitable solicitor or solicitor to do business, except for city sponsored functions, within three hundred (300) feet of any property used, owned or operated for public or private school purposes, religious centers or government buildings. This restriction shall include streets, sidewalks and other public property and rights-of-way in the prohibited area.~~
- ~~(e) *Entrance to premises restricted.* It shall be unlawful for any canvasser, charitable solicitor or solicitor to enter upon any private property when the same is posted with a sign stating "no peddlers allowed" or "no solicitors," or other words to that effect.~~
- ~~(g)~~(d) *Revocation.* Any permit issued under the provisions of the section may be revoked by the Director of Sustainable Development for the violation of any applicable provision of the City's Code or the Florida Statutes. Upon the revocation, the identification card shall immediately be surrendered to the ~~director of development services~~ Director of Sustainable Development or his/her designee.
- ~~(f) *Nonconforming use.* No canvasser, charitable solicitor or solicitor shall operate such business from any private property in the city where the operation shall constitute a nonconforming use for that property according to the provisions of the Land Development Code.~~
- (e) *Denial.* A solicitation permit may be denied if a solicitation permit has been revoked or the applicant has been denied a solicitor permit under this Section within the

immediate past year unless the applicant can and does show to the satisfaction of the City that the reasons for such earlier denial no longer exist.

(f) Appeal. If the permit is denied, the applicant shall be provided with a statement of the reasons therefor, which reasons shall be entered in writing on the application. The applicant shall be entitled to an informal hearing with the City Manager or his/her designee, if so requested by the applicant, within five (5) days of his/her receipt of the written denial from the Director of Sustainable Development or his/her designee.

Sec. 16-6. Prohibited Acts Regarding Soliciting and Peddling.

(a) It shall be unlawful for any person to solicit or peddle money or other things of value, or to solicit the sale of goods or services:

(1) On any private property, if the owner, tenant, or lawful occupant has asked the person not to solicit on the property, or has a posted sign clearly indicating that solicitation is not welcome on the property;

(2) While operating a motor vehicle or while occupying a motor vehicle while such vehicle is located on any street, for the purpose of performing or offering to perform a service in connection with such vehicle or otherwise soliciting the sale of goods or services. However, this paragraph shall not apply to services rendered in connection with emergency repairs requested by the operator or passenger of such vehicle;

(3) While under the influence of alcohol or a controlled substance; and

(4) By stating that funds are needed to meet a specific need, when the solicitor has the funds to meet that need, does not intend to use funds to meet that need, or does not have that need.

Secs. 16-67—16-19. - Reserved.

Section 3: Conflicts. That all ordinances or parts of ordinances, all City Code sections or parts of City Code sections, and all resolutions or parts of resolutions in conflict with this Ordinance are hereby repealed to the extent of such conflict.

Section 4: Severability. That should any section or provision of this Ordinance or any portion thereof, any paragraph, sentence, clause or word be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remainder hereof as a whole or part hereof other than the part declared invalid.

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Section 5: Codification. That the provisions of this Ordinance shall be codified within the Code of Ordinances of the City of Coconut Creek, Florida, and any paragraph or section may be renumbered to conform with the Code of Ordinances.

Section 6: Effective Date. That this Ordinance shall become effective upon its passage on second and final reading.

PASSED FIRST READING THIS ____ DAY OF _____, 2016.

PASSED SECOND READING THIS ____ DAY OF _____, 2016.

Mikkie Belvedere, Mayor

Attest:

Leslie Wallace May, City Clerk

	<u>1st</u>	<u>2nd</u>
Belvedere	_____	_____
Rydell	_____	_____
Sarbone	_____	_____
Tooley	_____	_____
Welch	_____	_____

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