

ORDINANCE NO. 2017-053

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; ENACTING A NEW SECTION 16-6, "PROHIBITED ACTS" IN ORDER TO PROVIDE FOR SAME; ENACTING A NEW SECTION 16-7, "RIGHT-OF-WAY CANVASSERS AND SOLICITORS" IN ORDER TO PROVIDE FOR REGULATIONS REGARDING CANVASSING AND SOLICITING IN THE TEN MOST DANGEROUS INTERSECTIONS IN THE CITY; ENACTING A NEW SECTION 16-8, ENFORCEMENT AND PENALTIES; 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 State 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 prior to engaging in soliciting activities within the City of Coconut Creek; 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; and

**WHEREAS**, numerous types of Right-of-way Canvassers and Solicitors may seek

to operate within the City of Coconut Creek within high traffic volume intersections within the City, including, but not limited to, children, adolescents, and adults who are collecting money for school and community activities; vendors who sell newspapers and other products, and people who seek charitable contributions or donations; and

**WHEREAS**, Right-of-way Canvassers and Solicitors approach motorists and passengers in motor vehicles engaged in travel on roadways or temporarily stopped at high traffic volume intersections, and are particularly susceptible and vulnerable to serious injury or death due to the high volume of traffic at such intersections and the speed at which vehicles are traveling. Vehicle travel lanes at the intersections are not appropriate areas to safely conduct the activities of Right-of-way Canvassers and Solicitors; and

**WHEREAS**, Atkins North America, Inc. (Atkins) studied multiple intersections within the City of Coconut Creek and prepared a Traffic Study Report for the City on June 8, 2017 (the “Study”); and

**WHEREAS**, Atkins determined that there are ten (10) dangerous intersections within the City wherein there have been over two hundred fifty (250) crashes collectively in the last five (5) years; and

**WHEREAS**, the Study, attached hereto and incorporated herein as Exhibit “A,” reflects the crash information referenced above; and

**WHEREAS**, in light of the Study’s findings, the City Commission desires to limit the amount of pedestrians at the ten (10) most dangerous intersections in the City by prohibiting Right-of-way Canvassers and Solicitors at those intersections.

**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,” 16-2, “Definitions;” and Article IV, “Solicitor Regulations,” Section 16-5, “Solicitor regulations;” and by enacting new Sections 16-6, “Prohibited Acts Regarding Soliciting and Peddling;” 16-7, “Right-of-way Canvassers and Solicitors,” and Section 16-8, “Enforcement and Penalties” 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 requirement of 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.~~ means 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 charitable 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.

~~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~~

*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, and goods-ware,

~~foodstuff or merchandise~~ from a mobile peddler, vending vehicle or from his person and not from an enclosed permanent 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.

*Right-of-way Canvasser or Solicitor* means any person acting on his or her own behalf or on behalf of a charitable, commercial, or other organization, who sells or offers for sale, any thing or service of any kind or seeks employment, or who seeks any contribution or 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 of Coconut Creek, whether or not such vehicle is temporarily stopped in the travel lanes of the road. This term shall not apply to persons accepting or transmitting, by hand, official citations or notices provided pursuant to governmental authority, such as traffic citations.

*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:

(1) Seeking to obtain orders for the purchase of food, beverages, services, and goods, of any kind, character or description whatever, for any kind of consideration;

(2) Seeking to obtain prospective customers for application, purchase or subscription of any type of product, service, or insurance;

(3) Peddling, selling or attempting to sell food, beverages, services, or goods while carrying such items 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.

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 ~~s~~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.

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## **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) Photo Identification card badge required. All persons engaging in business as a ~~canvasser, charitable solicitor or solicitor~~ shall first be required to obtain an photo identification card badge from the ~~public safety department~~ City. The photo identification card badge shall be attached to the clothing and be visible at all times while engaging in ~~the business~~ soliciting within the ~~e~~City. There is a five dollar (\$5.00) non-waivable fee for each photo identification card badge 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.
  - (2) Photo Identification badges issued by the City must be worn and visible at all times while engaged in soliciting during the 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 photo identification card badge from the ~~public safety department~~ and submit an solicitors permit application to the ~~development services department~~ Sustainable Development Department. Any person or group issued a solicitor's ~~license~~ permit under the provisions of this ~~Section~~ shall pay a fifty dollar (\$50.00) fee. All solicitor's ~~permits and licenses~~ photo identification badges 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 photo identification badge after April 30<sup>th</sup> 1<sup>st</sup> 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 photo identification badge prior to engaging in soliciting in the City. 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~~ photo identification card badge fee cannot be waived.
- (c) *Contents of Application for Solicitors Permit.* 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; and
  - (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, official or employee thereof.
- (d)(e) *Hours of operation.* A person or group issued a ~~City~~ solicitor's license permit may solicit from the public only from 8:00 a.m. to ~~8~~9:00 p.m., Monday through Friday, and from 9:00 a.m. to ~~8~~9:00 p.m., Saturday and Sunday. Violation of this requirement will result in immediate revocation of the solicitor's permit and photo identification badge 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.~~
- ~~(e) (g) *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 Chapter 16 of the City's Code or prior convictions for crimes involving moral turpitude the Florida Statutes. Upon the revocation, the photo identification card badge 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.~~
- ~~(f)(e) *Denial.* A solicitation permit may be denied if a solicitation permit has been previously 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 exists.~~
- ~~(g)(f) *Appeal.* If the solicitation 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 in writing, within five (5) business 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 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.~~

#### **Sec. 16-7. Right-of-Way Canvassers and Solicitors.**

- ~~(a) *Prohibition of Right-of-way Canvassers and Solicitors:*~~

- ~~(1) *Purpose and Intent.* The City Commission desires to restrict activities of Right-of-way Canvassers and Solicitors at ten (10) high traffic volume intersections located in the City because such canvassers and solicitors pose a danger to themselves and the public at large by interfering with the safe, efficient, and orderly movement of vehicular traffic at such intersections.~~



- a. According to Florida Integrated Report Exchange System, the Florida Department of Highway Safety and Motor Vehicles (DHSMV) reported that on a statewide basis, four hundred ninety-eight (498) pedestrians were killed in motor vehicle accidents in 2011; four hundred seventy-six (476) were killed in 2012; four hundred ninety-nine (499) were killed in 2013; and six hundred two (602) were killed in 2014, bringing the total to two thousand seventy-five (2,075) pedestrians killed in motor vehicle accidents in the past four years. During the same period, one hundred ninety-seven (197) pedestrians were killed in motor vehicle accidents in Broward County.
- b. 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. Therefore, the City hired Atkins to perform a City-wide traffic safety study report to identify any intersections that presented a high risk to pedestrians. Atkins analyzed each of the major intersections within the City and determined that the ten (10) intersections listed in Section 16-7(a)(2) below presented an increased and significant danger for use by drivers and pedestrians and pose the greatest threat to traffic and public safety in reference to activities and use by Right-of-way Canvassers and Solicitors. Therefore, the City Commission has determined that such activities and use by Right-of-way Canvassers and Solicitors shall be prohibited in the intersections listed in Section 16-7(a)(2) below.
- c. The ten (10) signalized intersections referenced below in Section 16-7(a)(2) have high crash rates, high volume of traffic, and high speed at which vehicles are traveling. The right-of-way of such intersections is not the appropriate area to safely conduct the activities of Right-of-way Canvassers or Solicitors and Right-of-way Canvassers or Solicitors interfere with safe, efficient and orderly movements of all modes of transportation including vehicular and pedestrian traffic. Therefore, it is recommended that Right-of-way Canvassers or Solicitors' activities be prohibited within the intersection and for a distance of two hundred fifty (250) linear feet downstream from the intersection stop bar at each of the prohibited intersections listed in Section 16-7(a)(2) below.
- d. It is the finding of the City Commission that many other alternative channels of communication (other than Right-of-way Canvassing and Soliciting in the prohibited intersection(s)) exist for persons 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 places of assembly, shopping areas, and special events; the sale and/or distribution of publications, products or wares through home or office delivery,

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vending machines, retail stores, and through the internet; and the sale of services at retail stores and through the internet.

(2) Prohibited Intersections: It shall be unlawful for any person to act as a Right-of-way Canvasser or Solicitor within any portion of a roadway right-of-way, including travel lanes, sidewalks, swales, and medians at any of the following intersections:

- a. Atlantic Blvd. and Lyons Road;
- b. Coconut Creek Parkway and Lyons Road;
- c. Sample Road and Lyons Road;
- d. Wiles Road and Lyons Road;
- e. Winston Park Blvd. and Lyons Road;
- f. Sample Road and NW 54<sup>th</sup> Avenue;
- g. Wiles Road and State Road 7;
- h. Lox Road and State Road 7;
- i. Hillsboro Blvd. (State Road 810) and Lyons Road; and
- j. Copans Road and Lyons Road

**Sec. 16-8. Enforcement and Penalties.**

A. Any person who violates this Section shall be subject to the code enforcement penalties set forth in Section 1-8. Each day of violation of any term or provision of this article shall constitute a separate and distinct violation.

B. The enforcement of this section shall not, in any way, preclude the enforcement of Section 316.130(5), Florida Statutes, as applicable on any roadway for persons standing in the roadway.

1. It shall be the duty of any police officer of the City 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 Statute shall be prosecuted before a court of competent jurisdiction and, upon conviction of such violation before the judge of the county court, shall be subject to the penalties prescribed by the county judge.

**Secs. 16-69—16-19. - Reserved.**

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**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.

**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 14<sup>TH</sup> DAY OF DECEMBER, 2017.**

**PASSED SECOND READING THIS 25<sup>TH</sup> DAY OF JANUARY, 2018.**

\_\_\_\_\_  
Rebecca A. Tooley, Mayor

Attest:

\_\_\_\_\_  
Leslie Wallace May, City Clerk

	<u>1st</u>	<u>2nd</u>
Tooley	<u>Aye</u>	<u>Aye</u>
Rydell	<u>Aye</u>	<u>Nay</u>
Sarbone	<u>Nay</u>	<u>Absent</u>
Belvedere	<u>Aye</u>	<u>Aye</u>
Welch	<u>Aye</u>	<u>Aye</u>

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