

**ORDINANCE NO. 7992-08**

AN ORDINANCE OF THE CITY OF CLEARWATER, FLORIDA, RELATING TO SOLICITING ON STREETS; AMENDING SECTION 28.041, CLEARWATER CODE OF ORDINANCES, TO CREATE AN EXEMPTION TO THE PROHIBITION AGAINST STREET SOLICITATIONS UNDER SPECIFIED CONDITIONS; ADDING A SEVERANCE PROVISION; PROVIDING AN EFFECTIVE DATE.

WHEREAS, the orderly flow of motorized traffic is a major concern in congested urban areas, particularly because an obstruction or delay in traffic at one point along a traffic artery results in delays and backups far down the roadway; and

WHEREAS, a public safety hazard has been identified with persons approaching motor vehicles to solicit charitable contributions, business, or employment from the occupants of motor vehicles being operated on public streets in Clearwater; and

WHEREAS, unlike the oral advocacy of ideas, or even the distribution of free literature, successful solicitation from drivers distracts them from their primary duty to watch the traffic and potential hazards in the road, observe all traffic control signals or warnings, and prepare to move through the intersection because the individual is required to respond to the solicitor by, for example, searching for currency, passing it along to the solicitor, securing any change returned, replacing a wallet or closing a purse, and then returning proper attention to the full responsibilities of operating a motor vehicle; and

WHEREAS, there are numerous and diverse methods of soliciting available in the city that provide ample alternatives for solicitation, including soliciting pedestrians on the sidewalk, canvassing door-to-door, telephoning individuals, or direct mailing; and

WHEREAS, the Ordinance is narrowly aimed at the disruptive nature of soliciting the occupants of motor vehicles being operated on public streets and is not intended to restrict the communication of ideas, including the distribution of free literature to occupants of motor vehicles or even the solicitation of the occupants of motor vehicles that are lawfully parked; and

WHEREAS, failure to restrict solicitations of the occupants of motor vehicles being operated on public streets will endanger the health, safety, and general welfare of the public by permitting unsafe pedestrian movement within travel lanes, sudden stoppage or slowdown of traffic, rapid lane changing, turns, and other dangerous traffic movement, increased vehicular accidents, and motorist injuries and fatalities; and

WHEREAS, although the City Council has a substantial governmental interest in enhancing traffic safety and ensuring the free flow of traffic, the Council also seeks not to sweep too broadly in its prohibitions so as not to burden more speech than is necessary to promote its governmental interest; and

WHEREAS, the City Council has determined that a balance can be reached between its governmental interest in enhancing traffic safety and ensuring the free flow of traffic and a solicitor's First Amendment right to solicit by authorizing street solicitations when the solicitors comply with the conditions set forth below; now therefore,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CLEARWATER, FLORIDA:

Section 1. Section 28.041, Clearwater Code of Ordinances, is amended to read as follows:

**Section 28.041 Soliciting, collecting, etc., upon streets.**

\* \* \* \* \*

(3) An organization or person acting on behalf of the organization shall be exempt from subsection (1) under the following conditions:

(a) The organization or person acting on behalf of the organization must provide the following to the chief of police:

1. No fewer than 14 calendar days prior to the proposed solicitation, the name and address of the person or organization that will perform the solicitation and the name and address of the organization that will receive funds from the solicitation.
2. A plan for the safety of all persons participating in the solicitation, as well as the motoring public, at the locations where the solicitation will take place.
3. Specific details of the location or locations of the proposed solicitation and the hours during which the solicitation activities will occur.
4. Proof of commercial general liability insurance against claims for bodily injury and property damage occurring on streets, roads, or rights-of-way or arising from the solicitor's activities or use of the streets, roads, or rights-of-way by the solicitor or the solicitor's agents, contractors, or employees. The insurance shall have a limit of not less than \$1 million per occurrence for the general aggregate. The certificate of insurance shall name the City of Clearwater as an additional insured and shall be filed with the Office of the Chief of Police no later than 72 hours before the date of the solicitation.

(b) Organizations or persons meeting the requirements of subparagraphs (a)1.-4. may solicit for a period not to exceed 10 cumulative days within 1 calendar year.

(c) All solicitations shall occur during daylight hours only.

(d) Solicitation activities shall not interfere with the safe and efficient movement of traffic and shall not cause danger to the participants or the public.

(e) No person engaging in solicitation activities shall persist after solicitation has been denied, act in a demanding or harassing manner, or use any sound or voice-amplifying apparatus or device.

(f) All persons participating in the solicitation shall be at least 18 years of age and shall possess picture identification.

(g) Signage providing notice of the solicitation shall be posted at least 500 feet before the site of the solicitation.

(4) If any provision of this section is declared invalid for any reason, such invalidity shall not affect any of the remaining provisions of this section.

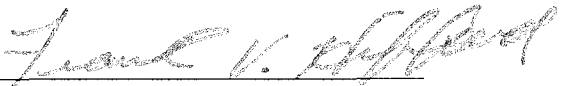
Section 2. This ordinance shall take effect immediately upon adoption.

PASSED ON FIRST READING

July 17, 2008

PASSED ON SECOND AND FINAL  
READING AND ADOPTED

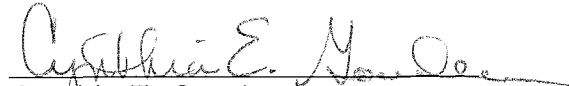
August 7, 2008

  
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Frank V. Hibbard  
Mayor

Approved as to form:

  
\_\_\_\_\_  
Robert J. Surette  
Assistant City Attorney

Attest:

  
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Cynthia E. Goudeau  
City Clerk

