

ST. TAMMANY PARISH COUNCIL

ORDINANCE

ORDINANCE CALENDAR NO: 5588

ORDINANCE COUNCIL SERIES NO: _____

COUNCIL SPONSOR: MR. DEAN

PROVIDED BY: COUNCIL ATTORNEY

INTRODUCED BY: _____

SECONDED BY: _____

ON THE 5 DAY OF MAY , 2016

AN ORDINANCE TO AMEND AND REENACT THE ST. TAMMANY PARISH CODE OF ORDINANCES, CHAPTER 17 PEDDLERS, TO ADD A NEW ARTICLE III, SOLICITORS ON PUBLIC HIGHWAYS, AND PROVIDING FOR OTHER MATTERS IN CONNECTION THEREWITH.

WHEREAS, the Parish of St. Tammany, State of Louisiana, has a significant government interest in vehicular and pedestrian traffic safety; and

WHEREAS, this ordinance is intended to regulate conduct for the purpose of promoting pedestrian and vehicular safety; and

WHEREAS, the Parish Council finds that pedestrians entering public highways and highway intersections or interacting with vehicles on public highways and intersections, which vehicles are moving or temporarily stopped at traffic control devices and signs, endanger the health, safety, and general welfare of the public and impede the normal, orderly, and safe flow of traffic by causing distractions to motorists, unsafe pedestrian movements within travel lanes, sudden stoppage or slowdown of traffic, rapid lane changing and other dangerous traffic movements, and increase the possibility of traffic accidents that could result in injuries or fatalities; and

WHEREAS, the Parish seeks to provide for the safety of its citizens by prohibiting transactions in which money or other item(s) are transferred between pedestrians on public highways and intersections and occupants of motor vehicles on public highways and intersections which are moving or temporarily stopped (not lawfully parked) within the unincorporated Parish; and

WHEREAS, the time period necessary to complete such a transaction may cause the driver of a motor vehicle to delay proceeding in accordance with traffic signals (e.g., a driver may not proceed through a traffic light when it turns green in order to complete the transfer of money or other item) or cause a pedestrian who enters a public highway or intersection while traffic is temporarily stopped to remain after traffic resumes moving; and

WHEREAS, individuals entering upon public highways and intersections, or going alongside public highways and intersections, to interact with vehicles on the traveled portion of the public highway and intersection, which are moving or temporarily stopped, causes distractions to drivers, unsafe pedestrian movement or standing within travel lanes, the potential for unexpected or sudden stoppage or slowdown of traffic, rapid lane changing and other dangerous traffic movement, increasing the risk of accident and injuries to the motoring public as well as pedestrians soliciting the interaction; and

WHEREAS, individuals entering upon a public highway and highway intersection to display advertisements of any kind which are directed at occupants of motor vehicles create distractions to drivers, promote unsafe pedestrian movement across the traveled portion of public highways and intersections to reach shoulders or medians, and promote standing within travel lanes, all of which increase the potential for unexpected or sudden slowdown of traffic, rapid lane changing and other dangerous traffic movement increasing the risk of accident and injuries to the motoring public as well as pedestrians engaged in such activity; and

WHEREAS, the solicitation on public highways provisions within this ordinance, by regulating only conduct which is targeted toward motor vehicles on the traveled portion of a public highway and highway intersection, and not regulating conduct directed toward pedestrians on the sidewalks or other area of the unincorporated Parish, is narrowly tailored to achieve the Parish's goal of promoting traffic safety; and

WHEREAS, to the extent this ordinance, which only regulates conduct, may affect constitutionally protected speech, its effect has only permissible content-neutral time, place, and manner restrictions to meet a necessary government interest which applies evenhandedly to all persons who engage in the activities proscribed herein, regardless of the content of their message; and

WHEREAS, this ordinance allows for ample alternative locations for pedestrians to engage in constitutionally protected solicitation or distribution; and

WHEREAS, the Parish Council finds the amendments to the Parish Code of Ordinances, as more particularly set forth herein, in the public interest and necessary to protect the health, welfare, safety, tranquility, and quality of life of the citizens of St. Tammany Parish.

THE PARISH OF ST. TAMMANY HEREBY ORDAINS: that it amends and reenacts the St. Tammany Parish Code of Ordinances, Chapter 17 Peddlers, to add a new Article III, Solicitors on Public Highways, and to provide for other matters in connection therewith, as follows, to wit:

Chapter 17 Peddlers and Solicitors.

Article III Solicitors on Public Highways.

Section 17-040.00 - Solicitation and distribution on public highways.

(a) General findings. Pedestrians distributing materials to or soliciting from occupants of motor vehicles located on the traveled portion of public highways, involving an interaction between the pedestrian distributing or soliciting and an occupant of a motor vehicle, is hazardous to public safety both for occupants of motor vehicles and for pedestrians engaging in such distribution or solicitation. The prohibitions set forth in this section are narrowly-tailored to serve the significant interest of promoting and protecting the public health, safety, and welfare and that said prohibitions leave open ample alternative channels of communication throughout the unincorporated parish.

(b) Intent. It is the intent of this section to protect the health, safety and general welfare of the citizens of the parish; to assure the free, orderly, uninterrupted movement of motor vehicles on public highways within the unincorporated parish limits; and to provide for safety in the interest of pedestrians and occupants of motor vehicles located on public highways in the parish. This section is intended to apply evenhandedly to all persons who engage in the activities proscribed herein, regardless of their message.

(c) Definitions. For purposes of this Article, the following definitions apply:

Soliciting means to seek or to plead, to entreat and ask, to lure or tempt a person.

Public Highway includes the entire width between the boundary lines of every roadway maintained by the State of Louisiana as a state highway or part of the National System of Interstate and Defense Highways, and open to the use of the public for the purpose of vehicular travel, including bridges, causeways, shoulders, roadbeds, and medians of state maintained highways, interstate highways, interstate connector roads, and highway intersections within unincorporated St. Tammany Parish.

Highway Intersections include:

(1) the entire area embraced within the connection of widths between boundary lines of two public highways or a highway and any other public street which join one another at, or approximately at, right angles, or the area within which vehicles traveling upon public highways or a public street meeting a public highway join at any other angle and come in conflict.

(2) Where a public highway includes two roadbeds (typically divided by a median), then every crossing of each roadbed of such divided highway by an intersecting highway or public street shall be regarded as a separate intersection. In the event such intersecting highway or public street also includes two roadbeds, then every crossing of two roadbeds of such highways or public streets shall be regarded as a separate intersection.

Public Street means the entire width between the boundary lines of every way or place of whatever nature publicly maintained and open to the use of the public for the purpose of vehicular travel, other than a public highway as herein defined.

Legally parked means a vehicle that is standing, stopped or parked in an area designated or legally authorized for parking.

Traveled portion includes travel lanes, turn lanes, and other portions of the roadbed that are generally used for motor vehicle travel and is not an area designated or legally authorized for parking.

(d) Prohibitions. No pedestrian shall go upon any public highway for the purpose of:

(1) Soliciting or attempting to solicit donations, contributions, employment, business, or sales or exchanges of any kind, or in any manner, from an occupant of a motor vehicle when the motor vehicle is on the travelled portion of a public highway and when the solicitation or attempted solicitation results in or is intended to result in a transfer of money or any other item between the solicitor and an occupant of the motor vehicle;

(2) Distributing or attempting to distribute any product or material to an occupant of a motor vehicle when the motor vehicle is on the travelled portion of a public highway and when the distribution or attempted distribution results in or is intended to result in a transfer of product or material between the distributor and an occupant of the motor vehicle;

(e) Exceptions. The prohibitions in subsection (d) above shall not apply to:

(1) Solicitation or attempted solicitation of donations, contributions, employment, business, sales or exchanges of any kind directed toward pedestrians on sidewalks.

(2) Distribution or attempted distribution of any product or material to pedestrians on sidewalks.

(f) Penalty. Whoever commits the crime of solicitation or distribution on a public highway shall be fined not more than Two Hundred Dollars (\$ 200.00), or imprisoned for not more than six (6) months, or both.

(State Law Reference: RS 14:96, 14:97, 14:97.1, 14:100.1, 32:218)

BE IT FURTHER ORDAINED that the provisions of this Article may be enforced by the St. Tammany Parish Sheriff s Office, the Louisiana State Police, and federal and state highway enforcement officials.

REPEAL: All ordinances or parts of Ordinances in conflict herewith are hereby repealed.

SEVERABILITY: If any provision of this Ordinance shall be held to be invalid, such invalidity shall not affect other provisions herein which can be given effect without the invalid provision and to this end the provisions of this Ordinance are hereby declared to be severable.

EFFECTIVE DATE: This Ordinance shall become effective fifteen (15) days after adoption.

MOVED FOR ADOPTION BY: _____ SECONDED BY: _____

WHEREUPON THIS ORDINANCE WAS SUBMITTED TO A VOTE AND RESULTED IN THE FOLLOWING:

YEAS: _____

NAYS: _____

ABSTAIN: _____

ABSENT: _____

THIS ORDINANCE WAS DECLARED DULY ADOPTED AT A REGULAR MEETING OF THE PARISH COUNCIL ON THE 2 DAY OF JUNE, 2016; AND BECOMES ORDINANCE COUNCIL SERIES NO _____.

MARTY DEAN, COUNCIL CHAIRMAN

ATTEST:

THERESA L. FORD, COUNCIL CLERK

PATRICIA P. BRISTER, PARISH PRESIDENT

Published Introduction: APRIL 28, 2016

Published Adoption: _____, 2016

Delivered to Parish President: _____, 2016 at _____

Returned to Council Clerk: _____, 2016 at _____