

ORDINANCE #2007- 01

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DORAL, FLORIDA, CREATING REGULATIONS FOR RIGHT-OF-WAY VENDORS AND SOLICITORS ON CERTAIN ROADS IN THE CITY; PROVIDING FOR REPEAL OF CONFLICTING PROVISIONS; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, based upon statistics collected by the Surface Transportation Project, on average, 565 pedestrians are killed every year on Florida roads, of which 119 are killed in Miami-Dade County; and

WHEREAS, numerous types of right-of-way vendors and solicitors operate within the City of Doral (the "City"), including, but not limited to, children adolescents and adults who seek to collect money for school and community activities; vendors who sell flowers, newspapers and other products and people who seek donations or to distribute information; and

WHEREAS, right-of-way vendors and solicitors approach motorists and passengers in motor vehicles engaged in travel on roads and are particularly susceptible and vulnerable to serious injury or death due to the speed and number of motorists who operate vehicles on busy roads in the City; and

WHEREAS, roads are primarily designed for vehicular traffic and are not suited to safely accommodate right-of-way vendors and solicitors; and

WHEREAS, the presence of right-of-way vendors and solicitors interferes with the safe movement of normal vehicular traffic; and

WHEREAS, it is the intention of the City Council to use the least restrictive means to advance the significant governmental interests of traffic safety and public safety and, consequently, City staff has analyzed each of the

major roads within the City and has determined that the intersections of NW 79th Avenue/NW 36th Street, NW 87th Avenue/NW 12th Street, NW 107th Avenue/NW 12th Street, NW 79th Avenue/NW 25th Street and NW 107th Avenue/NW 41st Street (Doral Boulevard) pose the greatest threat to traffic and public safety and, therefore, the City Council has determined that the prohibition on right-of-way vendors and solicitors shall be limited to those roads; and

WHEREAS, it is the belief of the City Council that many other alternative channels of communication, other than right-of-way vending and solicitation, 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 churches, shopping areas and special events; the sale and/or distribution of newspapers through home delivery, vending machines and retail stores; and the sale of items of all kinds at retail stores, through the internet and from vending machines; and

WHEREAS, the City Council desires to preserve and protect the personal safety and quality of life of its residents and of those who use City streets, both pedestrians and motorists alike; and

WHEREAS, the City Council has reviewed the proposed regulations provided by this Ordinance and finds that such regulations accomplish the purposes intended in the least restrictive method possible; and

WHEREAS, the City Council finds that it is in the best interests of the residents of the City to adopt the following amendments to the City Code; now, therefore

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

Section 1. The foregoing "WHEREAS" clauses are hereby ratified and confirmed as being true and correct and are hereby made a specific part of this Ordinance upon adoption hereof.

Section 2. That a new Chapter of the Code of Ordinances of the City of Doral, entitled Right-of-Way Vendors and Solicitors," shall be created to read as follows:

Right-of-Way Vendors and Solicitors.

(a) Purpose and Intent.

The City Council of the City of Doral desires to adopt an ordinance prohibiting right-of-way vendors and solicitors on certain streets located in the City because such vendors and solicitors pose a danger to themselves and the public at large by interfering with the safe movement of normal vehicular traffic.

(b) Definitions. As used in this Section, the following term(s) have the meaning set forth herein, except as otherwise indicated by the context.

Right-of-Way Vendor shall mean any person who sells or offers for sale any thing or service of any kind, or who seeks any 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 roads designated in subsection (c), whether or not such vehicle is temporarily stopped in the travel lanes of the road. The term shall not apply to any person who merely holds or displays a sign lawfully permitted to be displayed by a person, as long as there is no entry by such person or sign into any portion of the roadway or its median. Further, this term shall not apply to official citations or notices provided pursuant to governmental authority.

(c) Prohibition on Right -of-Way Vendors or Solicitors on Certain Roads.

It is a violation of this Section for any person to act as a right-of-way vendor or solicitor in, at or upon:

1. Intersection of NW 79th Avenue and NW 36th Street; ~~Doral Boulevard and NW 87th Avenue~~;
2. Intersection of NW 87th Avenue and NW 12th Street;
3. Intersection of NW 12th Street and NW 107th Avenue;
4. Intersection of NW 79th Avenue and NW 25th Street; and
5. ~~2.~~ Intersection of 41st Street (Doral Boulevard) and NW 107th Avenue; ~~and~~

including the swales and medians abutting such roads.

(d) Right-of-Way Vendor's Permit.

A person must obtain a permit from the City Manager or his designee in order to serve as a right-of-way vendor within the City. Such permit shall only be issued for vending not prohibited by this Chapter, must state the locations where the person may vend and may be subject to conditions. The following criteria shall be applied in the issuance of such a permit:

1. Availability of rights-of-way;
2. Public health and safety;
3. Obstruction of traffic; and
4. Other right-of-way vendors within the same area.

(e) Enforcement.

A violation of this Ordinance or any resolution adopted pursuant to this Ordinance may be enforced pursuant to this Chapter of the City Code and by issuance of a uniform civil violation notice, citation, summons, notice to appear in County Court, or by filing an action in Civil Court for injunctive relief. This Ordinance is supplemental and nothing contained herein shall prohibit the City from enforcing this Ordinance by any other lawful means.

Section 3. Severability. If any section, sentence, clause, or phrase of this Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this Ordinance.

Section 4. Inclusion in Code. It is the intention of the City Council of the City of Doral, Florida, that the provisions of this Ordinance shall become and be made a part of the City of Doral Code of Ordinances; and that the sections of this ordinance may be renumbered or relettered and the word "ordinance" may be changed to "section," "article," or such other appropriate word or phrase in order to accomplish such intentions.

Section 5. Effective Date. This Ordinance shall become effective upon adoption by the City Council.

The foregoing Ordinance was offered by Councilwoman Ruiz who moved its adoption. The motion was seconded by Vice Mayor Cabrera and upon being put to a vote, the vote was as follows:

Mayor Juan Carlos Bermudez	Yes
Vice Mayor Peter Cabrera	Yes
Councilman Michael DiPietro	Absent
Councilwoman Sandra Ruiz	Yes
Councilman Robert Van Name	Yes

PASSED AND APPROVED on first reading this 10th day of January, 2007.
PASSED AND ADOPTED on second reading this 14th day of March, 2007.



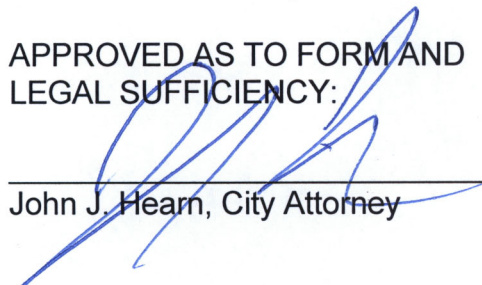
Juan Carlos Bermudez, Mayor

ATTEST:



Barbara Herrera, City Clerk

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY:



John J. Hearn, City Attorney