

1 The Transportation, Energy and Utilities Committee offers the  
2 following Substitute to File No. 2022-574:

3  
4 Introduced by Council Member Carrico and Co-Sponsored by Council  
5 Members Ferraro and Bowman:

6  
7  
8 **ORDINANCE 2022-574**

9 AN ORDINANCE AMENDING CHAPTER 804 (JACKSONVILLE  
10 TRAFFIC CODE), *ORDINANCE CODE*, TO AMEND SECTION  
11 804.806 (PEDESTRIANS WALKING WHERE SIDEWALKS NOT  
12 PROVIDED; NOT TO SOLICIT RIDES; CERTAIN  
13 CHARITABLE SOLICITATIONS ALLOWED) TO DELETE  
14 CERTAIN REDUNDANT PROVISIONS AND TO INCLUDE  
15 RIDERS OF ANIMALS; TO AMEND SECTION 804.807  
16 (CHARITABLE SOLICITATIONS BY PERMIT) TO MODIFY  
17 THE PERMITTING PROCESS AND TO AUTHORIZE PERSONAL  
18 CHARITABLE SOLICITATION PERMITS; CREATING A NEW  
19 PART 17 (PEDESTRIAN AND VEHICLE SAFETY), CHAPTER  
20 804 (JACKSONVILLE TRAFFIC CODE), *ORDINANCE CODE*;  
21 PROVIDING A STATEMENT OF LEGISLATIVE INTENT;  
22 PROVIDING PROCEDURES FOR ENFORCEMENT; PROVIDING  
23 FOR PENALTIES; REPEALING SECTION 250.118  
24 (NEWSPAPER STREET SALES ALLOWED), *ORDINANCE*  
25 *CODE*; PROVIDING AN EFFECTIVE DATE.

26  
27 **WHEREAS**, in a report issued on July 12, 2022, Jacksonville was  
28 identified as the sixth worst municipality in the country for  
29 pedestrian deaths as a result of being struck by vehicles on  
30 Jacksonville streets; and

31 **WHEREAS**, in data from the Florida Department of Transportation,

1 from the time period of January 1, 2018 through December 31, 2018,  
2 Duval County experienced a total of 471 vehicle/pedestrian crashes,  
3 from which there were 34 fatalities; and

4 **WHEREAS**, in the most recent data from the Florida Department of  
5 Transportation, from the time period of January 1, 2021 through  
6 December 31, 2021, Duval County experienced a total of 492  
7 vehicle/pedestrian crashes, from which there were 48 fatalities; and

8 **WHEREAS**, the North Florida Transportation Planning Organization  
9 has conducted studies and made recommendations regarding Duval  
10 County's pedestrian/vehicle safety issues and remedies in 2018 and  
11 2019; and

12 **WHEREAS**, the City has implemented a number of the  
13 recommendations through its Context Sensitive Streets Standards  
14 Committee and the Bicycle and Pedestrian Advisory Committee; and

15 **WHEREAS**, the Jacksonville Sheriff's Office has conducted a  
16 detailed intersection analysis to identify site conditions that might  
17 contribute to vehicle/pedestrian safety concerns; and

18 **WHEREAS**, in a study dated September 2021, the Florida Department  
19 of Transportation evaluated Florida pedestrian and bicycle safety  
20 strategies to combat the comparatively high percentage (Florida is  
21 the second highest ranked state in the country for vehicle/pedestrian  
22 deaths) and recommended enhanced "legislation, regulations, policies  
23 and programs to support the overall goal of eliminating fatal and  
24 serious injury crashes involving people walking and biking"; and

25 **WHEREAS**, pursuant to Section 337.406 (1), Florida Statutes, it  
26 is unlawful to use any state road right-of-way in any manner that  
27 interferes with the safe and efficient movement of traffic, and the  
28 failure to prohibit activities that violate this principle "will  
29 endanger the health, safety, and general welfare of the public by  
30 causing distractions to motorists, unsafe pedestrian movement within  
31 travel lanes, sudden stoppage or slowdown of traffic, rapid lane

1 changing and other dangerous traffic movement, increased vehicular  
2 accidents, and motorist injuries and fatalities; and

3 **WHEREAS**, Section 337.406 (1), Florida Statutes specifically  
4 prohibits on all state roads distribution or sale of any merchandise,  
5 goods, property or services and solicitation for charitable purposes  
6 unless such activities are permitted for a limited duration by a  
7 local government "if it is determined that the use will not interfere  
8 with the safe and efficient movement of traffic and the use will  
9 cause no danger to the public."; now, therefore

10 **BE IT ORDAINED** by the Council of the City of Jacksonville:

11 **Section 1.** The foregoing "WHEREAS" clauses are true and  
12 correct and incorporated herein by this reference.

13 **Section 2. Amending Chapter 804 (Jacksonville Traffic**  
14 **Code), Ordinance Code.** Chapter 804 (Jacksonville Traffic Code),  
15 *Ordinance Code*, is hereby amended to amend Part 8 (Pedestrians' Rights  
16 and Duties), Section 804.806 (Pedestrians walking where sidewalks not  
17 provided; not to solicit rides; certain charitable solicitations  
18 allowed), *Ordinance Code* and Section 804.807 (Charitable  
19 solicitations by permit), *Ordinance Code*; and to create a new Part  
20 17 (Pedestrian and Vehicle Safety) to read as follows:

21 **CHAPTER 804. JACKSONVILLE TRAFFIC CODE**

22 \* \* \*

23 **PART 8. PEDESTRIANS' RIGHTS AND DUTIES**

24 \* \* \*

25 **Sec. 804.806. - Pedestrians walking where sidewalks not**  
26 **~~provided; not to solicit rides; certain charitable solicitations~~**  
27 **allowed.**

28 (a) Pedestrians or riders of animals walking along a street or  
29 roadway where sidewalks are not provided shall walk as far  
30 over as possible on the left side of the street or roadway  
31 facing approaching traffic.

1 ~~(b) No person shall stand or be upon or go upon any roadway for~~  
2 ~~the purpose of soliciting a ride or the sale of any thing or~~  
3 ~~service or for charitable contributions or for the purpose of~~  
4 ~~soliciting any business or employment from the occupant of~~  
5 ~~any vehicle, unless said solicitation is permitted pursuant~~  
6 ~~to Section 804.807 herein.~~

7 ~~(c) Subsection (a) shall also be applicable to riders of animals.~~

8 ~~(d) No person shall stand or be upon or go upon any shoulder or~~  
9 ~~berm or any neutral ground of any roadway for the purpose of~~  
10 ~~soliciting a ride, employment, business, or charitable~~  
11 ~~contribution or for the purpose of soliciting the sale of any~~  
12 ~~thing or service from the occupant of any vehicle, unless~~  
13 ~~said solicitation is permitted pursuant to Section 804.807~~  
14 ~~herein. Neutral ground mean and include any area which divides~~  
15 ~~a roadway or divides the roadway for vehicles driving in~~  
16 ~~opposite directions.~~

17 ~~(e)~~ (b) Violation of this Section shall constitute a class A civil  
18 offense.

19 **Sec. 804.807. - Charitable solicitations by permit.**

20 (a) A permit for charitable solicitation ~~en~~in the right-of-way of  
21 any ~~public street or highway~~ designated roadway, as defined in  
22 Section 804.1701, in the City, as required pursuant to Chapter  
23 804, Part 17, may be obtained from the ~~Neighborhoods~~ Public  
24 Works Department, provided the applicant meets the following  
25 criteria:

26 (1) The applicant's name and address and, if applicable, its  
27 charitable solicitation organization's Florida  
28 registration number ~~in the City, including the name and~~  
29 ~~address of the charitable organization to receive funds~~  
30 ~~from the solicitation.~~

31 (2) The applicant shall provide a plan for review and comment

1 by the City Traffic Engineer, which plan will maximize  
2 the safety of the applicant's representatives, as well  
3 as the motoring public, at the locations where the  
4 solicitation will take place. Within 90 days from the  
5 effective date of this Section, the City's Traffic  
6 Engineer shall develop a definitive list of safety  
7 methods to identify and provide visibility to all  
8 individuals who will be operating in the right-of-way  
9 and to alert traffic approaching the intersection(s) or  
10 road segment(s) where such charitable solicitations will  
11 be occurring. Such safety methods shall be included in  
12 the applicant's safety plan.

13 (3) The applicant shall indicate in specific detail the  
14 location of such solicitation, together with the hours  
15 thereof, not to exceed 2436 total hours in any 4872  
16 consecutive hour period.

17 (4) The applicant shall provide an indemnification and hold  
18 harmless for the organization, if applicable, and all  
19 individual solicitors in favor of the City in a form  
20 satisfactory to the City attorney.

21 (5) No person under the age of 2118 years shall ~~participate~~  
22 ~~in~~conduct any solicitation in the right-of-way pursuant  
23 to a permit granted under this Section.

24 (6) All solicitation shall occur during daylight hours (from  
25 sunrise to sunset) only.

26 (7) Unless determined to be indigent, ~~the~~ applicant shall  
27 provide proof of commercial general liability insurance  
28 against claims for bodily injury and property damage  
29 occurring on City roadways and rights-of-way or arising  
30 from the applicant's solicitation activities or use of  
31 the City roadways and rights-of-way by applicant or the

1 applicant's agents, contractors, volunteers or employees  
2 having limits of not less than \$1,000,000 per occurrence  
3 for the general aggregate (per location). The  
4 certificate of insurance shall name the City of  
5 Jacksonville as an additional insured and shall be filed  
6 with the ~~Neighborhoods~~Public Works Department by no  
7 later than 48 hours before the date of solicitation. If  
8 an applicant seeks an indigency determination, he or she  
9 must provide an application for determination of civil  
10 indigent status, such application being the same  
11 application used by the Clerk of Court. A complete  
12 application for determination of civil indigent status  
13 must be submitted with the permit application and shall  
14 be reviewed and evaluated using the same methodology and  
15 criteria as the Clerk of Court. Each permit application  
16 shall be approved only if it is determined that the use  
17 will not interfere with the safe and efficient movement  
18 of traffic and the use will cause no danger to the  
19 public. Decisions on permits and indigency  
20 determinations must be made within five (5) business  
21 days from the date of submission of a completed  
22 application. The failure to render a decision on a  
23 permit or indigency within this time shall result in a  
24 positive determination. The decision on the permit and  
25 indigency determination shall be the final action of the  
26 City. A copy of all approved permits shall be forwarded  
27 to the Sheriff's Office Chief of Patrol, or to their  
28 successor individuals or others as designated by the  
29 Sheriff.

30 No permit shall be issued for any commercial or other  
31 non-charitable activities. No more than one (1) permit

1                   shall be issued for any intersection or road segment at  
2                   any one time.

3                   (8) In the event that a permit is denied, said applicant may  
4                   request emergency injunctive relief from the Circuit  
5                   Court of the Fourth Judicial Circuit of the State of  
6                   Florida. Due to the overriding public interest in  
7                   preventing unsafe conditions for motorists and  
8                   pedestrians within the rights-of-way of designated  
9                   roadways, no provisional permits shall be issued by the  
10                   City.

11                   ~~(8) All funds raised from the solicitation shall be donated~~  
12                   ~~to a not-for-profit charitable organization licensed and~~  
13                   ~~registered to do business in the State of Florida.~~

14                   (b) The applicant shall comply with all other laws, City codes  
15                   and regulations pertaining to public safety, traffic and  
16                   solicitation, including Sections 614.117, 614.138, 614.143  
17                   and 614.144, *Ordinance Code*.

18                   (c) The ~~Neighborhoods~~Public Works Department may decline to issue  
19                   subsequent permits to any individual or group violating the  
20                   parameters of a previously issued permit or violating any  
21                   requirements of this Section, or any other City ordinance or  
22                   ~~any state statute~~ involving traffic safety.

23                   (d) During active solicitation, at least one solicitor at each  
24                   location shall be in possession of a copy of the authorizing  
25                   permit and the certificate of insurance and shall display the  
26                   copy to any law enforcement officer upon request. All  
27                   solicitors shall possess picture or other form of government-  
28                   issued identification.

29                   (e) Permits issued pursuant to this Section shall be for a specific  
30                   time period not to exceed ~~48~~72 consecutive hours.

31                   (f) No individuals or group shall be granted more than two permits

1 per calendar year.

2 (g) For purposes of this Section only, the term *right-of-way* shall  
3 have that definition for "public rights-of-way" provided in  
4 Section 804.1701~~be deemed to include all portions of any~~  
5 ~~public roadway normally available for use by motor vehicles~~  
6 ~~and all medians or traffic islands within such roadways, but~~  
7 ~~shall not include sidewalks or other areas adjacent to the~~  
8 ~~roadway.~~

9 (h) Soliciting in the right-of-way without a valid permit issued  
10 pursuant to this Section shall be punished by the Sheriff by  
11 a fine not exceeding \$50 for a first offense and \$250 for a  
12 second or subsequent offense.

13 \* \* \*

14 **PART 17. - PEDESTRIAN AND VEHICLE SAFETY.**

15 **Sec. 804.1701. - Pedestrian and Vehicle Safety.**

16 (a) Definitions. The following words, terms and phrases, when  
17 used in this Section, shall have the meanings ascribed to  
18 them in this Subsection, except where the context clearly  
19 indicates a different meaning:

20 (1) Designated roadways means the interstate/intrastate  
21 system (including interstate/intrastate entrance and  
22 exit ramps), and arterial and collector roadways and  
23 rights-of-way. For purposes of this definition,  
24 collector and arterial roadways and rights-of-way shall  
25 be those roadways (and their rights-of-way) classified  
26 as a collector or higher on the Functional Highway  
27 Classification Map of the Comprehensive Plan. It also  
28 encompasses the first 440 feet of local roadways  
29 intersecting with these designated roadways and any  
30 areas within the rights-of-way not designated or  
31 intended for pedestrian use. The portions of these



1 designated roadways subject to this Section include the  
2 portions within the area open for vehicular traffic  
3 (including medians), plus four feet outside of the  
4 shoulders and/or curbs.

5 (2) Legally parked means a vehicle that is standing,  
6 stopped, or parked in an area designated, or legally  
7 authorized, for parking.

8 (3) The traveled portion of a designated roadway means any  
9 portion of a designated roadway (including travel lanes,  
10 turn lanes, bike lanes and shoulders) that is normally  
11 used by moving motor vehicle traffic that is not an area  
12 designated for or routinely used as a parking area for  
13 the general public.

14 (4) Median means any area separating traffic lanes on a  
15 roadway. A median includes, but is not limited to, any  
16 paved or unpaved, marked or unmarked, landscaped or non-  
17 landscaped, portions of a roadway which exist between  
18 lanes of traffic.

19 For the purpose of this Section, the phrase "public rights-of-  
20 way" shall be defined as set forth in Section 334.03(21), Florida  
21 Statutes, and Section 711.103, Ordinance Code, and they may be  
22 amended from time to time.

23 (b) Prohibitions. Except as provided herein, or as otherwise  
24 permitted by law or through a valid permit issued pursuant to  
25 Section 804.807, it is unlawful to make any use of the public  
26 rights-of-way in a manner that interferes with the safe and  
27 efficient movement of people and property from place to place  
28 on a public road or right-of-way. Such prohibited activity  
29 includes:

30 (1) Occupancy of median. It is unlawful for any person to  
31 stop, stand, or otherwise occupy or remain in a median

1           on any designated roadway when that person is not in the  
2           process of lawfully crossing the road in accordance with  
3           applicable traffic and safety laws. Stopping, standing,  
4           or otherwise occupying a median through two consecutive  
5           opportunities to cross in accordance with applicable  
6           traffic and safety laws is prima facie evidence of a  
7           violation of this Subsection.

8           (2) Physical interaction on roadway. It is unlawful for any  
9           person to engage in any physical interaction between a  
10           pedestrian and an occupant of a motor vehicle, including  
11           but not limited to the transfer of any product or  
12           material, while the motor vehicle is not legally parked  
13           and is located on the traveled portion of a designated  
14           roadway.

15           (3) Commercial use of public rights-of-way. It is unlawful  
16           to use any public right-of-way for commercial activity.  
17           Commercial activity prohibited by this Section includes,  
18           but is not limited to, vending or sale of goods, display  
19           of goods for sale, storage of goods for sale in  
20           connection with commercial activity, or repair or  
21           manufacturing of goods. Signage is not "commercial  
22           activity" regulated by this chapter; however, there  
23           shall be no signage placed or displayed in any median,  
24           except for safety signage that may be required by a  
25           permit issued pursuant to Section 804.807.

26           (c) Exemptions. Nothing in this Section shall prohibit the  
27           following:

28           (1) Law Enforcement, fire and rescue, or other government  
29           employees or contractors acting within the scope of  
30           their lawful authority;

31           (2) A person lawfully conducting inspection, construction,

1 maintenance, repair, survey, or other similarly  
2 authorized services;

3 (3) A person responding to lend aid during an emergency  
4 situation or who is within the roadway due to a  
5 mechanical or physical defect in his or her vehicle that  
6 occurred while driving in the roadway;

7 (4) Entering or exiting a bus or other public transit system;

8 (5) Use of public roads and rights-of-way that have been  
9 closed to vehicular traffic for a special event  
10 permitted by the appropriate governmental entity-; and

11 (6) A person or entity engaged in charitable solicitations  
12 while in possession of a valid permit issued pursuant  
13 to Section 804.807, so long as such person is in  
14 compliance with the requirements of that Section and the  
15 terms of the permit and safety plan, and any person  
16 engaged in donating to such permitted organization or  
17 individual.

18 (d) Penalties. The following civil and criminal penalties may be  
19 assessed by administrative or judicial process.

20 (1) In addition to other penalties authorized herein, a  
21 person who violates this Section may be administratively  
22 or judicially assessed a civil penalty of up to \$100 for  
23 each violation, provided:

24 (i) For the first offense, the offender is given an  
25 educational notice from the Sheriff's Office  
26 educating the offender, and the notice shall be  
27 documented in the Sheriff's information system for  
28 due process and recordkeeping.

29 (ii) For the second violation, the offender shall also  
30 be given an official warning and may be trespassed  
31 as applicable from the non-pedestrian part of the

1                   hundred block of the right-of-way.

2                   (iii) For the third violation, if an additional warning  
3                   is not appropriate, a civil citation shall be  
4                   issued.

5                   (iv) For the fourth violation, in conjunction with the  
6                   civil penalties, the offender may be arrested or  
7                   given a notice to appear, as applicable, with a  
8                   maximum of 10 days penalty if the violator is  
9                   arrested and convicted.

10                  (2) A person who aids or participates in a violation for  
11                  which a civil penalty may be assessed under this Part  
12                  shall be considered a principal in the violation and may  
13                  be assessed a civil penalty of up to the maximum amount  
14                  prescribed for that violation.

15                  (3) Due to the transient nature of these activities, each  
16                  incident occurring more than every twenty (20) minutes  
17                  after the violation has been corrected shall constitute  
18                  a separate violation.

19                  **Section 3. Repealing Section 250.118 (Newspaper street**  
20                  **sales allowed), Part 1 (In General), Chapter 250 (Miscellaneous**  
21                  **Business Regulations), Ordinance Code.** Section 250.118 (Newspaper  
22                  street sales allowed), Part 1 (In General), Chapter 250 (Miscellaneous  
23                  Business Regulations), *Ordinance Code*, is hereby repealed. A copy  
24                  of the repealed Section 250.118 is attached hereto as **Exhibit 1.**

25                  **Section 4. Effective Date.** This Ordinance shall become  
26                  effective upon signature by the Mayor or upon becoming effective  
27                  without the Mayor's signature; however, for the first thirty (30)  
28                  days after the effective date, the Sheriff shall conduct a public  
29                  education campaign and only issue warnings to violators.

1 Form Approved:

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3           /s/ Gaby Young          

4 Office of General Counsel

5 Legislation prepared by: Gaby Young

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