

1 The Neighborhoods, Community Services, Public Health and Safety
2 Committee offers the following Substitute to File No. 2022-574:

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

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

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

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

15 (d) During active solicitation, at least one solicitor at each
16 location shall be in possession of a copy of the authorizing
17 permit and the certificate of insurance and shall display the
18 copy to any law enforcement officer upon request. All
19 solicitors shall possess picture or other form of government-
20 issued identification.

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

23 (f) No individuals or group shall be granted more than two permits
24 per calendar year.

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

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

5 * * *

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

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

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

12 (1) Designated roadways means the interstate/intrastate
13 system (including interstate/intrastate entrance and
14 exit ramps), and arterial and collector roadways and
15 rights-of-way. For purposes of this definition,
16 collector and arterial roadways and rights-of-way shall
17 be those roadways (and their rights-of-way) classified
18 as a collector or higher on the Functional Highway
19 Classification Map of the Comprehensive Plan. It also
20 encompasses the first 440 feet of local roadways
21 intersecting with these designated roadways and any
22 areas within the rights-of-way not designated or
23 intended for pedestrian use. The portions of these
24 designated roadways subject to this Section include the
25 portions within the area open for vehicular traffic
26 (including medians), plus four feet outside of the
27 shoulders and/or curbs.

28 (2) Legally parked means a vehicle that is standing,
29 stopped, or parked in an area designated, or legally
30 authorized, for parking.

31 (3) The traveled portion of a designated roadway means any

1 portion of a designated roadway (including travel lanes,
2 turn lanes, bike lanes and shoulders) that is normally
3 used by moving motor vehicle traffic that is not an area
4 designated for or routinely used as a parking area for
5 the general public.

6 (4) Median means any area separating traffic lanes on a
7 roadway. A median includes, but is not limited to, any
8 paved or unpaved, marked or unmarked, landscaped or non-
9 landscaped, portions of a roadway which exist between
10 lanes of traffic.

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

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

22 (1) Occupancy of median. It is unlawful for any person to
23 stop, stand, or otherwise occupy or remain in a median
24 on any designated roadway when that person is not in the
25 process of lawfully crossing the road in accordance with
26 applicable traffic and safety laws. Stopping, standing,
27 or otherwise occupying a median through two consecutive
28 opportunities to cross in accordance with applicable
29 traffic and safety laws is prima facie evidence of a
30 violation of this Subsection.

31 (2) Physical interaction on roadway. It is unlawful for any

1 person to engage in any physical interaction between a
2 pedestrian and an occupant of a motor vehicle, including
3 but not limited to the transfer of any product or
4 material, while the motor vehicle is not legally parked
5 and is located on the traveled portion of a designated
6 roadway.

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

18 (c) Exemptions. Nothing in this Section shall prohibit the
19 following:

20 (1) Law Enforcement, fire and rescue, or other government
21 employees or contractors acting within the scope of
22 their lawful authority;

23 (2) A person lawfully conducting inspection, construction,
24 maintenance, repair, survey, or other similarly
25 authorized services;

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

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

31 (5) Use of public roads and rights-of-way that have been

1 closed to vehicular traffic for a special event
2 permitted by the appropriate governmental entity-; and
3 (6) A person or entity engaged in charitable solicitations
4 while in possession of a valid permit issued pursuant
5 to Section 804.807, so long as such person is in
6 compliance with the requirements of that Section and the
7 terms of the permit and safety plan, and any person
8 engaged in donating to such permitted organization or
9 individual.

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

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

16 (i) For the first offense, the offender is given an
17 educational notice from the Sheriff's Office
18 educating the offender, and the notice shall be
19 documented in the Sheriff's information system for
20 due process and recordkeeping.

21 (ii) For the second violation, the offender shall also
22 be given an official warning and may be trespassed
23 as applicable from the non-pedestrian part of the
24 hundred block of the right-of-way.

25 (iii) For the third violation, if an additional warning
26 is not appropriate, a civil citation shall be
27 issued.

28 (iv) For the fourth violation, in conjunction with the
29 civil penalties, the offender may be arrested or
30 given a notice to appear, as applicable, with a
31 maximum of 10 days penalty if the violator is

