

ORDINANCE NO. C-14-38

AN ORDINANCE AMENDING CHAPTER 25, STREETS AND SIDEWALKS, OF THE CODE OF ORDINANCES OF THE CITY OF FORT LAUDERDALE, FLORIDA, CREATING ARTICLE XI, SOLICITATION AND DISPLAY ON PUBLIC RIGHTS-OF-WAY, PROVIDING FOR LIMITATION OF USE OF PUBLIC RIGHT-OF-WAY SOLICITATIONS, STORAGE, SALE AND EXHIBITION OF GOODS; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Commission of the City of Fort Lauderdale has a significant interest in protecting the health, safety and welfare of the pedestrians and motorists in the City; and

WHEREAS, the City Commission finds that use of the public right-of-way for solicitation of donations or for the storage, sale or exhibition of merchandise and materials can pose significant hazards to the solicitors, other pedestrians and motorists; and

WHEREAS, such hazards can be created by the actions of either solicitors or occupants of vehicles who want to interact with solicitors; and

WHEREAS, solicitors create a safety hazard for themselves and the motorists when entering upon public streets, distributing items to vehicle occupants, or receiving money or other items from vehicle occupants; and

WHEREAS, distraction of motorists occasioned by solicitations or by the storage or exhibition of goods and materials in the right-of-way impedes the safe and orderly flow of traffic, causes vehicles to stop unexpectedly, causes vehicles to linger at traffic control devices, and causes motorists to fail to attend to driving; and

WHEREAS, distracted drivers pose a significant risk of physical injury to other motorists and pedestrians; and

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

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WHEREAS, according to the Florida Department of Highway Safety and Motor Vehicles Traffic Crash Facts 2012 Annual Report, 473 pedestrians were killed on Florida roadways in 2007; 58 of those pedestrians were killed on roadways in Broward County; and

WHEREAS, in the City of Fort Lauderdale, approximately 140 pedestrians were involved in traffic accidents in 2012 and 154 pedestrians were involved in traffic accidents in 2013, revealing an increase in pedestrian and vehicle crashes; and

WHEREAS, public health, safety and welfare requires the imposition of reasonable manner and place restrictions on solicitation and the storage and exhibition of goods and other materials in the public right-of-way, while respecting the constitutional right of free speech for all citizens; and

WHEREAS, such regulations are necessary in order to prevent dangers to persons and property, and to prevent delays and interference with vehicular traffic flow; and

WHEREAS, it is necessary and appropriate to create Chapter 25, Article XI of the Code of Ordinances to address the concerns identified herein;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF FORT LAUDERDALE, FLORIDA:

SECTION 1. That Chapter 25, Streets and Sidewalks, of the Code of Ordinances of the City of Fort Lauderdale shall be hereby amended to create Article XI, Solicitation and display on public rights-of-way to read as follows:

ARTICLE XI. SOLICITATION AND DISPLAY ON PUBLIC RIGHTS-OF-WAY

Sec. 25-267. Right-of-Way Solicitors and Canvassers.

(a) Definition. The following words, terms and phrases, when used in this Article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

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Right-of-way canvasser or solicitor shall mean any person who sells or offers for sale anything or service of any kind, or advertises for sale anything 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 anything 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 streets or roadways in the City, whether or not such vehicle is temporarily stopped in the travel lanes of the road.

Right-of-way shall have the same definition as ~~provide~~ provided in Sec. 25-97 of the Code of Ordinances.

(b) Prohibition of right-of-way canvassers and solicitors. It shall be unlawful for any person to act as a right-of-way canvasser or solicitor on any portion of a public right-of-way with a functional classification of Arterial on the Broward County Highway Functional Classifications Map and a Broward County Metropolitan Planning Organization Roadway 2012 Peak Level of Service (LOS) designation of D, E or F. (See ~~Attachment~~ Exhibit "A")

(c) Prohibition of storage of goods, merchandise and other materials. It shall be unlawful for any person to store or exhibit any goods, merchandise or other materials on any portion of the public street, including the median, or bicycle lane.

(d) It is a violation of this section for any *Right-of-way canvasser or solicitor* to hold, carry, possess or use any sign or other device of any kind, within any portion of the public right-of-way contrary to any of the terms and provisions of ~~the~~ Section 47-22, of the Unified Land Development Regulations.

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(e) Nothing in this section shall be construed to apply to:

(1) Licensees, lessees, franchisees, permittees, employees or contractors of the city, county or state authorized to engage in inspection, construction, repair or maintenance or in making traffic or engineering surveys.

(2) Any of the following persons while engaged in the performance of their respective occupations: firefighting and rescue personnel, law enforcement personnel, emergency medical services personnel, health care workers or providers, military personnel, civil preparedness personnel, emergency management personnel, solid waste or recycling personnel; public works personnel or public utilities personnel.

(3) Use of public streets, alleys, sidewalks or other portions of the public right-of-way in areas which have been closed to vehicular traffic for festivals or other events or activities permitted by the city.

(f) Violations of this section shall be punishable as provided in Section 1-6 of this Code.

SECTION 2. That if any clause, section, or other part of this Ordinance is held invalid or unconstitutional by any court of competent jurisdiction, the remainder of this Ordinance shall not be affected thereby, but shall remain in full force and effect.

SECTION 3. That all ordinances or parts of ordinances in conflict herewith, be and the same are hereby repealed.

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SECTION 4. That this ordinance shall be in full force and effect ten days from the date of final passage.

PASSED FIRST READING this the 3rd day of September, 2014.
PASSED SECOND READING this the ____ day of _____, 2014.

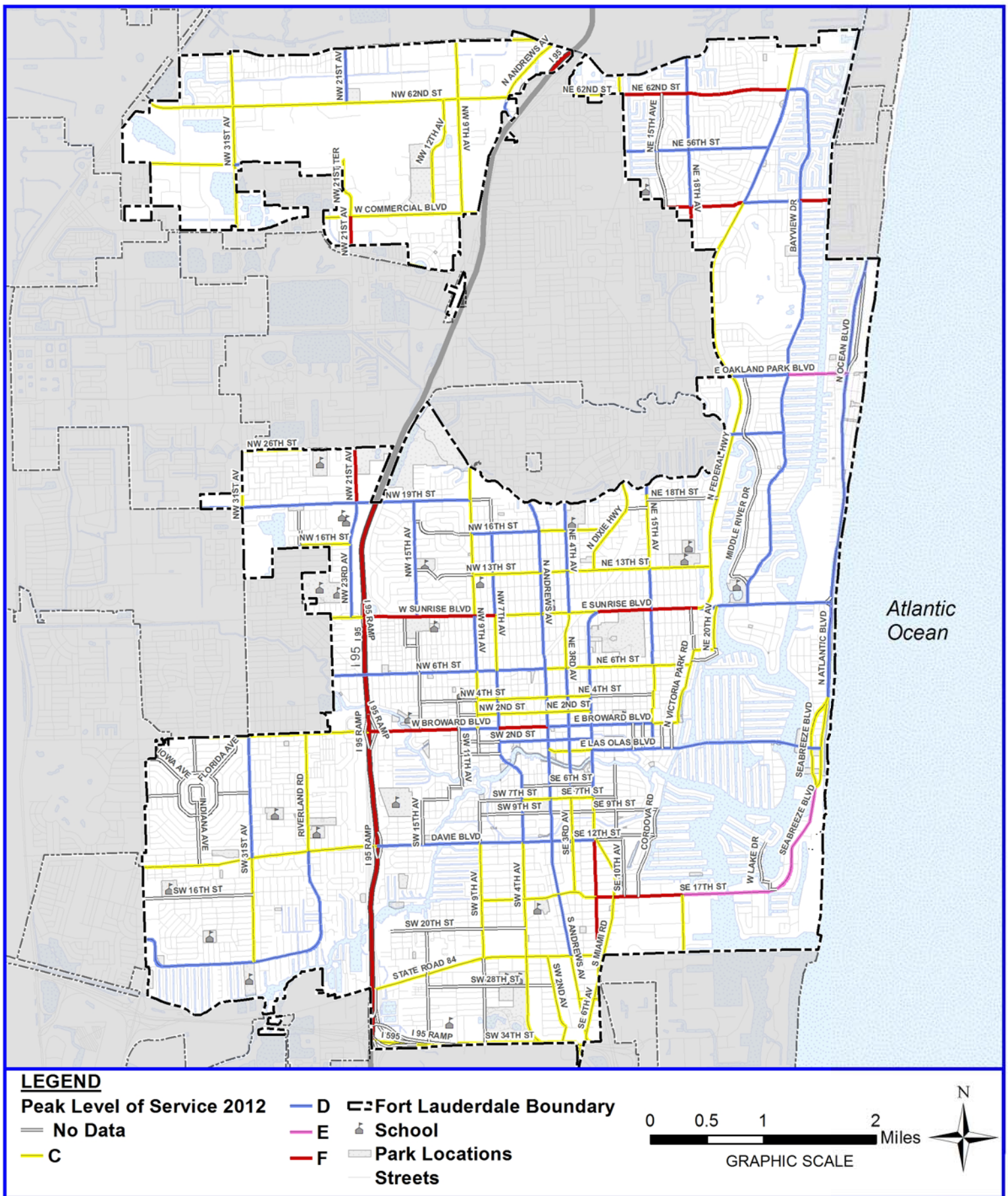
Mayor
JOHN P. "JACK" SEILER

ATTEST:

City Clerk
JONDA K. JOSEPH

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* Level of Service (LOS) is a traffic quality measure based on roadway performance, rated A-F. All major corridors within the City of Fort Lauderdale, as reported by the Metropolitan Planning Organization, had LOS C or worse.

City of Fort Lauderdale Peak Level of Service 2012

Exhibit "A" of Ordinance C-14-38



CITY OF FORT LAUDERDALE



7/1/2014