

Pass

Karen Phillips

From: Gabrielle Taylor
Sent: Monday, August 08, 2011 3:26 PM
To: Karen Phillips
Cc: Greg Oravec; Roger Orr; Denise French; Jack Kelly
Subject: Ordinance amending Chapter 71 - Traffic Rules

Hi, legal requests that this item be pulled and placed on the next agenda as a discussion item.
Thanks!!!

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PORT ST. LUCIE FLORIDA, PROVIDING FOR THE AMENDMENT OF CHAPTER 71 TO ADD SECTIONS 71.03 THROUGH 71.08, PORT ST. LUCIE CITY CODE; SPECIFICALLY, SECTION 71.03, INTENT; SECTION 71.04, DEFINITIONS; SECTION 71.05, FINDINGS AND DETERMINATIONS; 71.06, PROHIBITIONS; 71.07, SEVERABILITY; 71.08, PENALTIES; PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, Section 316.008, Florida Statutes, authorizes the City Council to regulate roads within the City of Port St. Lucie, Florida; and

WHEREAS, the City of Port St. Lucie City Council finds that persons displaying advertising in roads, distributing materials or goods to occupants of motorized vehicles in roads, or soliciting business or charitable contributions from the occupants of motorized vehicles in roads is hazardous to public safety and impedes the normal, orderly, and safe flow of traffic; and

WHEREAS, the City of Port St. Lucie seeks to provide for the safety of its citizens by prohibiting transactions involving occupants of motorized vehicles on public roads within the City of Port St. Lucie; and

WHEREAS, the City Council finds that passage of this Ordinance will further the interest of the health, safety, and general welfare of the public.

NOW, THEREFORE, THE CITY OF PORT ST. LUCIE HEREBY ORDAINS:

SECTION 1: Port St. Lucie City Code Chapter 71 is hereby amended to read as follows:

Section 71.03. Intent

It is the intent of this Ordinance to protect the health, safety and general welfare of the citizens of the City of Port St. Lucie, to assure the free, orderly, uninterrupted movement of motorized vehicles on public roads within the City of Port St. Lucie. This Ordinance is not intended to control traffic, as that term is defined in Chapter 316, Florida Statutes. This Ordinance is intended to apply evenhandedly to all persons who engage in the activities proscribed herein, regardless of their message. This Ordinance is intended to be narrowly-tailored to serve the significant government interest of public safety, and to leave open ample alternative channels of displaying advertising, distributing goods and materials, and soliciting business and charitable contributions.

Section 71.04. Definitions

"Roads" shall include streets, shoulders, roadbeds, medians, and all other ways open to travel by operators of motorized vehicles within the City of Port St. Lucie. This definition excludes private roads and roads that are open to motor vehicle travel.

Section 71.05. Findings and Determinations

The City of Port St. Lucie City Council hereby finds and determines that mixing pedestrians and temporarily stopped motor vehicles in the same space at the same time is inherently dangerous, and that the combination of the high volume of motorized vehicles and congested roads in the City of Port St. Lucie and persons engaging in advertising, distribution, or solicitation that is directed at motor vehicle occupants on those roads is hazardous to public safety, both for occupants of motorized vehicles located on public roads and for persons engaging in such advertising, distribution, and solicitation.

The City Council further hereby finds and determines that the prohibitions set forth in this Ordinance are narrowly-tailored to serve the significant interest of promoting and protecting the public health, safety, and welfare of the Citizens of the City of Port St. Lucie, and that said prohibitions leave open ample alternative channels of communication.

Section 71.06. Prohibitions

1. No person shall be upon or go upon any road for the purpose of displaying advertising of any kind or distributing materials or goods or soliciting business or charitable contributions of any kind from the occupant of any motorized vehicle located on public roads of the City of Port St. Lucie

2. No person shall be within four (4) feet of the edge of the road for the purpose of distributing materials or goods or soliciting business or charitable contributions of any kind from the occupant of any motorized vehicle located on public roads of the City of Port St. Lucie.

3. The language in this Section is intended to prohibit the activities described above only when they are directed by pedestrians toward occupants of motor vehicles that are on the traveled portion of public roads that are open to traffic – the term "traveled portion" includes travel lanes, turn lanes, and other portions of the road that

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are generally used for motor vehicle travel. This Ordinance is not intended to prohibit activities such as advertising, distribution of goods or materials, or business or charitable solicitation that is directed toward pedestrians on sidewalks.

Section 71.07. Severability and Applicability

If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions thereof.

Section 71.08. Penalties

1. Pursuant to Section 162.22, Florida Statutes, any person convicted of violating the provisions of this Ordinance shall be punished by a fine no to exceed \$500, by imprisonment not to exceed 60 days, or by both such fine and imprisonment.

2. In addition to the penalties provided by subsection (1) of this Section, any violation of this Ordinance shall be subject to appropriate civil action in a court of appropriate jurisdiction, pursuant to Section 162.30, Florida Statutes.

SECTION 2. This ordinance shall become effective ten (10) days after its final adoption.

PASSED AND APPROVED by the City Council of the City of Port St. Lucie, Florida, this ____ day of _____, 2011.

CITY COUNCIL
CITY OF PORT ST. LUCIE

BY: _____
Joann M. Faiella, Mayor

ATTEST:

Karen A. Phillips, City Clerk

APPROVED AS TO FORM:

Roger G. Orr, City Attorney

M E M O R A N D U M

TO: JERRY A. BENTROTT, CITY MANAGER 
THRU: ROGER G. ORR, CITY ATTORNEY 
FROM: GABRIELLE TAYLOR, ASSISTANT CITY ATTORNEY 
DATE: AUGUST 2, 2011
SUBJECT: ORDINANCE AMENDING CHAPTER 71 ADDING SECTION 71.03
THROUGH 71.08

Attached please find an Ordinance adding sections 71.03 through 71.08, to Chapter 71 governing Traffic Rules. These sections provide for the prohibition of solicitors in the right of way. Staff has met with the Sheriff, and City of Ft. Pierce and County representatives who are all in agreement that this prohibition is necessary to promote safety for pedestrians and motorists.

Please place this Ordinance on the City Council Agenda for first reading at the next council meeting.

Please advise if you have any further questions in this regard.

GT/mh
Attach.

cc: City Council
Karen A. Phillips, City Clerk

RECEIVED

AUG 03 2011

City Manager's Office