

ORDINANCE NO. F-1033

AN ORDINANCE AMENDING ARTICLE 2, DIVISION 1, SECTIONS 46-27
"DEFINITIONS" AND 46-32 "SOLICITATION ON ROADWAYS"
OF THE WHEATON CITY CODE

WHEREAS, the Corporate Authorities of the City of Wheaton deem it in the interest of the public safety, health and welfare to eliminate traffic hazards created by the presence of solicitors on heavily trafficked roadways and to protect the welfare, safety, peace, comfort and convenience of the public when traveling upon those roadways within the City; and

WHEREAS, the Corporate Authorities of the City of Wheaton, have determined, that the two roadways containing the highest average volumes of vehicular traffic within the City of Wheaton are Roosevelt Road and Butterfield Road and that the intersection of Blanchard and Naperville Roads represents a significant danger for pedestrian vehicle conflicts due to its size and the complexity of its traffic patterns; and

WHEREAS, the City of Wheaton maintains statistics pertaining to accidents occurring on Naperville and Roosevelt Roads and, based upon traffic volumes, have concluded that there are a substantial number of vehicular accidents on these roadways caused in part by the number of lanes, the complexities of interactions of traffic and vehicles at intersections on these roadways, a lack of pedestrian crosswalks, the amount of traffic occurring at intersections on these roadways, vehicles stopping, entering and starting in intersections and other variables which contribute to accidents in intersections; and

WHEREAS, accident statistics maintained for Butterfield and Roosevelt Roads by the City establish that between the dates of October of 1999 and October of 2004, 844 accidents occurred on Butterfield Road and 2093 vehicular accidents occurred on Roosevelt Road making them the highest accident roadways in Wheaton; and

WHEREAS, Roosevelt and Butterfield Roads contain significant amounts of traffic during most daylight and mid-evening hours; and

WHEREAS, there are numerous other roadways within the City of Wheaton that have less traffic and provide adequate opportunity for non-commercial solicitors wishing to solicit on roadways in conformance with state statute; and

WHEREAS, solicitors within roadways constitute distractions to the drivers of automobiles in consequence of their efforts to attract the attention of the drivers of the vehicles who should be focused on the operation of their motor vehicles and traffic control devices and not distracted by solicitors to solicit them; and

WHEREAS, Illinois State Statute authorizes municipalities to prohibit solicitation upon all roadways under the municipality's jurisdiction.

WHEREAS, the Corporate Authorities of the City of Wheaton deem it in the best interests of the public health, safety and welfare to minimize vehicular pedestrian conflicts and other traffic hazards on roadways where non commercial solicitation is permitted.

NOW THEREFORE BE IT ORDAINED, by the Mayor and City Council of the City of Wheaton, DuPage County, Illinois, that Chapter 46, Article 3, Sections 46-27 and 46-32 are hereby amended as follows:

SECTION 1.

The definition Solicit/Solicitation contained in Section 46-27 of Article 3, Division 1, of Chapter 46 of the Wheaton City Code is repealed and rescinded in its entirety and replaced with the following definitions which shall be placed within Section 46-27 of Article 3, Division 1, in alphabetical order:

“COMMERCIAL SOLICITATION.”

Shall mean and include any one or more of the following activities: any attempt or activity in furtherance of selling, acquiring or otherwise obtaining orders or contracts for the purchase of goods, wares, merchandise, food products, or any other property of any kind, character or description, including but not limited to real estate and personal property of any kind and type, or services of any kind, character or description whatsoever for any kind of consideration by a person, partnership, business, corporation, or limited liability company for profit.

INTERSECTION

Intersection shall mean any portion of the paved surface of the roadway and the shoulders and right-of-way contiguous to the paved surface, as measured one thousand (1,000) feet from the geometric center of the intersection of two roadways.

NON-COMMERCIAL SOLICIT/SOLICITATION.

Any activity which is carried on for the benefit of any charitable or non-profit association, organization, corporation, or religious corporation (all of which are referred to hereinafter as non profit organization) registered with the Illinois Secretary of State which seeks the contribution of alms, food, clothing, money, subscriptions, property or donations with or without an exchange of consideration.

ROADWAY

Roadway shall mean any public highway, road, street or alley within the corporate boundaries of the City of Wheaton or under the jurisdiction of the Wheaton Police Department.

SOLICITOR

Solicitor shall mean any person, partnership, corporation, business, limited liability company, charitable, non-profit corporation, religious corporation or group engaged in or conducting commercial or non-commercial solicitation.”

SECTION 2.

All other definitions contained in Section 46-27 are hereby re-affirmed.

SECTION 3.

That Section 46-32 of Article 2, Division 1, of Chapter 46 of the Code of Ordinances of the City of Wheaton is hereby repealed and rescinded in its entirety and replaced with a new Section 46-32 which shall be entitled **Solicitation On Roadways** and which shall read:

“SECTION 46-32 SOLICITATION ON ROADWAYS.

Commercial solicitation. Commercial solicitation is prohibited at, within or upon all roadways.

Non-Commercial Solicitation. Non-commercial solicitation is prohibited at, within and upon Roosevelt Road or Butterfield Road, any intersection of any roadway with Roosevelt Road or Butterfield Road, and the intersection of Naperville Road and Blanchard Roads.

Other than roadways and intersections specified in this Section, persons may engage in non-commercial solicitation for any non profit organization registered with the Illinois Secretary of State on any other roadway within the City provided that the person and non profit organization soliciting shall otherwise comply with all terms and conditions of this article and the following additional conditions:

- a. Any non profit organization or person shall notify the police department of roadway locations where it will be soliciting not less than ten (10) days prior to the solicitation. Notification may be provided on a form supplied by the police department, by e-mail or any written form and shall include the name of the non profit organization or person and the dates and locations of the non commercial solicitation. If another non profit organization or person has previously notified the police department of its intent to solicit at the same location on the same day, the person or non profit organization providing the later notice shall be informed by the police department that the location is already occupied

so that non profit organization or person may seek an alternative location. No permit or fee shall be required.

- b. No more than four non profit solicitors may occupy an intersection at the same time.
- c. Non-commercial solicitation may commence no earlier than one (1) hour after sunrise and terminate no later than one (1) hour before sunset.
- d. Any person engaged in non-commercial solicitation shall comply with all of the provisions of 625 ILCS 5/11-1006.
- e. Non-commercial solicitation shall be conducted so as not to pose or create a hazard to the public safety or impede or disrupt the free flow of traffic. No person soliciting in conformance with this section shall make physical contact with any vehicle on a roadway.

Penalties. Any person or non profit organization found to have violated this Section shall be fined not less than Seven-hundred fifty dollars (\$750.00) nor more than One thousand dollars (\$1,000.00) for each day of a violation. Any person or non profit organization found to have violated any other section of this ordinance shall be fined not less than One Hundred dollars (\$100.00) nor more than Five Hundred dollars (\$500.00) for each day of a violation.”

SECTION 4: That all ordinances and parts of ordinances in conflict with or inconsistent with the provisions of this ordinance are hereby repealed to the extent of any such conflict or inconsistency.

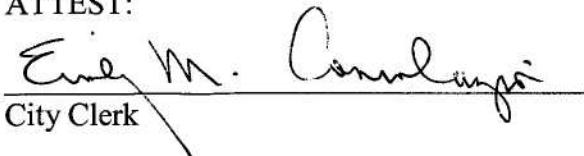
SECTION 5: That if any part of part or portion of this ordinance shall be declared invalid by a court of competent jurisdiction, such partial invalidity shall not affect the remainder of this ordinance.

SECTION 6: That this ordinance shall be in full force and effect from and after its passage, approval, and publication in pamphlet form as is hereby authorized and directed to be done by the Mayor and City Council.



Mayor Carr

ATTEST:



Emily M. Connellings
City Clerk

Roll Call Vote:

Ayes: Councilman Mork
Councilman Mouhelis
Councilman Bolds
Councilwoman Corry
Councilman Johnson
Mayor Carr

Nays: None

Absent: Councilwoman Johnson

Motion Carried Unanimously

Passed: April 18, 2005

Published: April 19, 2005