



PIMA COUNTY BOARD OF SUPERVISORS
DISTRICT 1
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ALLY MILLER
SUPERVISOR

MEMORANDUM

Date: May 28, 2013

To: Robin Brigode,
Clerk of the Board

From: Ally Miller, District 1 Supervisor
Pima County Board of Supervisors

Re: Agenda Item Placement

Please place the following item and supplemental materials on the **June 4, 2013 agenda**.

Ordinance - Solicitation and Panhandling in Unincorporated Pima County roadways.

Thank you,

A handwritten signature in purple ink, appearing to read "Joe Cuffari", is written over a horizontal line.

Joseph Cuffari on behalf of Supervisor Ally Miller

MAY 28 13 PM 01:16 POC CLK D-ED

BT

ORDINANCE NO. 2013- _____

AN ORDINANCE OF THE BOARD OF SUPERVISORS OF PIMA COUNTY, ARIZONA, RELATING TO THE PROHIBITION OF PEDESTRIAN SOLICITATION WITHIN COUNTY RIGHTS OF WAY; AMENDING TITLE 10 OF THE PIMA COUNTY CODE BY ADDING A NEW CHAPTER 10.37 TO PROHIBIT PEDESTRIAN SOLICITATION WITHIN COUNTY RIGHTS OF WAY. *(All Districts)*

WHEREAS, the Pima County Board of Supervisors has the authority under Arizona Revised Statutes Section 11-251(4) to lay out, maintain, control, and manage public roads, ferries, and bridges within the County, and

WHEREAS, the Pima County Board of Supervisors has the authority to establish policies and procedures to provide for the care and safety of the County rights of way, and

WHEREAS, the Pima County Board of Supervisors has determined that pedestrian solicitation within the County's public roadways is a hazard to the public safety and welfare, and

WHEREAS, the Pima County Board of Supervisors consider it essential to the safety of motorists and pedestrians alike that pedestrians be prohibited from using public rights of way to solicit motorists traveling on County roads and streets.

THEREFORE, BE IT ORDAINED BY THE BOARD OF SUPERVISORS OF PIMA COUNTY, ARIZONA, THAT:

Section 1. Title 10 of the Pima County Code is amended to add a new chapter 10.37 to read as follows:

CHAPTER 10.37

PROHIBITED USE OF PUBLIC RIGHT OF WAY

Sections:

10.37.010 Purpose and intent.
10.37.020 Prohibited conduct.
10.37.030 Classification and penalty.

10.37.010 Purpose and intent.

It is the purpose and intent of this ordinance to protect the safety of pedestrians and motorists and to promote the safe and orderly flow of pedestrian and vehicular travel on unincorporated County roads and streets. It is the Pima County Board of Supervisors' finding that the practice of allowing pedestrians to occupy County roads and streets, including curbs, driveways, intersections, and medians, for the purpose of soliciting donations, advertising or offering to sell services or products, or

any other activity intended to engage motorists, greatly increases the chances of physical injury to both pedestrians and motorists, interrupts the normal traffic flow, and increases traffic delays. The Pima County Board of Supervisors has a compelling interest in protecting the welfare of pedestrians and motorists that utilize the County's roads and streets, and to maintain a functional, safe traveling environment for motorists and pedestrians alike.

10.37.020 Prohibited conduct.

No person shall stand upon or otherwise occupy a County street or roadway to solicit or attempt to solicit employment, business, contributions, donations, or sales of any kind from a motorist within the County street or roadway. For the purposes of this section, "street" or "roadway" means the entire width between the boundary lines of every public right of way including curbs, driveways, intersections, traffic medians, and shoulder areas open to public use.

10.37.030 Classification and penalty.

A violation of this chapter shall constitute a class 3 misdemeanor punishable by up to 30 days in jail and a fine up to five hundred dollars (\$500.00) per violation. Community service work may be substituted for the monetary fine at a rate of ten dollars (\$10.00) per hour.

Section 2. Signs giving notice of this ordinance shall be placed at strategic locations throughout the County as determined by the Pima County Department of Transportation.

Section 3. The various County officers and employees are authorized and directed to perform all acts necessary or desirable to give effect to this ordinance.

Section 4. This ordinance shall be effective 31 days from the date of adoption.

PASSED AND ADOPTED by the Board of Supervisors of Pima County, Arizona, this 4th day of June, 2013.

PIMA COUNTY BOARD OF SUPERVISORS

ATTEST:

Ramón Valadez, Chairman

Robin Brigode, Clerk of the Board

APPROVED AS TO FORM:



Deputy County Attorney



Swan and Sunrise



INA and CRACLE



Campbell and Sunrise

City of Tucson's ordinance on the subject:

Sec. 20-500. Purpose and intent; legislative findings.

It is the purpose and intent of this article to protect the safety of pedestrians and occupants of motor vehicles, and to promote the orderly flow of vehicular and pedestrian traffic.

Mayor and council find that the practice of pedestrians soliciting or otherwise engaging occupants of vehicles at intersections for donations, services or sales increases the danger of physical injury to both the pedestrian and the occupants of vehicles, interrupts traffic flow and increases traffic delays. Medians serve as safety islands to those pedestrians who are crossing the street. Medians also promote the safety of occupants of motor vehicles by serving as an unoccupied buffer between opposing lanes of traffic. Pedestrian and motor vehicle safety is jeopardized when the curbcut, crosswalk and median areas are blocked or impeded by persons engaging in solicitation or sales. Further, persons on medians and roadways who interact with motorists distract and disrupt vehicular traffic and create a safety risk. The city's interest in protecting the welfare of pedestrians and occupants of motor vehicles is compelling.

(Ord. No. 9058, § 1, 5-18-98; Ord. No. 9479, § 1, 10-23-00)

Sec. 20-501. Prohibited conduct.

No person shall stand upon or otherwise occupy a street or highway and solicit or attempt to solicit employment, business, contributions, donations or sales of any kind from the occupant of any vehicle. For the purposes of this section, "street" or "highway" means the entire width between the boundary lines of every way, including traffic medians, if a part of the way is open to the use of the public for purposes of vehicular travel.

(Ord. No. 9058, § 1, 5-18-98; Ord. No. 9479, § 2, 10-23-00)

Sec. 20-502. Classification and penalty.

Violation of any requirement imposed by section 20-501 shall constitute a misdemeanor punishable by community service or fines in an amount up to two hundred and fifty dollars (\$250.00), or by imprisonment not to exceed twenty-four (24) hours, or by both such fine and imprisonment. The rate of substitution of community service work for the fine amount shall be calculated at ten dollars (\$10.00) per hour.

(Ord. No. 9058, § 1, 5-18-98)

Here are the relevant sections from the Oro Valley Town Code on this issue:

Article 11-5
SOLICITATION OF EMPLOYMENT, BUSINESS OR CONTRIBUTIONS FROM OCCUPANTS OF
VEHICLES TRAVELING ON TOWN STREETS OR HIGHWAYS

Sections:

- 11-5-1 Purpose
- 11-5-2 Regulation
- 11-5-3 Definition of "Traveled Portion"

11-5-1 Purpose

The purpose of this article is to prevent dangers to persons and property, to prevent delays and to avoid interference with the traffic flow. Roadways that have center medians often are designed to deal with specific traffic flow problems. Any delay or distraction may interfere with traffic planning. Sometimes persons stand near intersections and near traffic lights to contact drivers or passengers in cars that are passing or that are stopped temporarily due to traffic lights or traffic flow.

((O)96-14, Enacted, 04/03/1996)

11-5-2 Regulation

It shall be unlawful for any person to solicit, or attempt to solicit, employment, business or contributions of any kind, or collect monies for the same, from the occupants of any vehicle traveling upon any town street or highway when such solicitation or collection:

1. Causes the person performing the activity to enter onto the traveled portion of a street or highway.
2. Involves the person performing the activity to be located upon any median area which separates traffic lanes for vehicular travel in opposite directions.
3. The person performing the activity is located such that vehicles cannot move into a legal parking area to safely conduct the transaction.

((O)96-14, Enacted, 04/03/1996)

11-5-3 Definition of "Traveled Portion"

For purposes of this article, the traveled portion of the street or highway shall mean that portion of the road normally used by moving motor vehicle traffic.

((O)96-14, Enacted, 04/03/1996)

Here are the Marana Town Code provisions:

CHAPTER 12-8. SOLICITATION OF EMPLOYMENT, BUSINESS OR CONTRIBUTIONS FROM OCCUPANTS OF VEHICLES TRAVELING ON TOWN STREETS OR HIGHWAYS

12-8-1 Purpose and intent

It is the purpose and intent of this chapter to protect the safety of pedestrians and occupants of motor vehicles and to promote the orderly flow of vehicular and pedestrian traffic.

12-8-2 Definition

For purposes of this chapter, "street" or "highway" means the entire width between the boundary lines of every way, including traffic medians, if a part of the way is open to the use of the public for purposes of vehicular travel.

12-8-3 Prohibited conduct

No person shall stand upon or otherwise occupy a street or highway and solicit or attempt to solicit employment, business, contributions, donations or sales of any kind from the occupant of any vehicle.

12-8-4 Violation; penalties

A. A violation of this chapter is a class 3 misdemeanor.

B. The magistrate may impose community service in lieu of a fine for violation of this chapter. For purposes of this chapter, community service work shall be credited at \$10 per hour.

THE DAILY TERRITORIAL

AFFIDAVIT OF PUBLICATION

STATE OF ARIZONA }
 } ss.
COUNTY OF PIMA }

Monica Akyol, being first duly sworn, deposes and says that (s)he is the Inside Sales Manager of THE DAILY TERRITORIAL, a daily newspaper printed and published in the County of Pima, State of Arizona, and of general circulation in the City of Tucson, County of Pima, State of Arizona and elsewhere, and hereto attached:

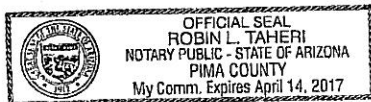
NOTICE OF HEARING
Solicitation and Panhandling
in unincorporated County roadways
June 4, 2013

was printed and published correctly in the regular and entire issue of said THE DAILY TERRITORIAL for 1 issues; that was first made on the 8th day of May, 2013 and the last publication thereof was made on the 8th day of May, 2013; that said publication was made on each of the following dates, to-wit:

5/8/13

at the Request of: PC Board Clerk

by [Signature], Inside Sales Manager, subscribed and sworn
to before me this 8th day of May, 2013.



[Signature: Robin L. Taheri]
Notary Public in and for the County of Pima, State of Arizona

My commission expires 4/14/2017

Notice of the
Pima County Board of Supervisors
Pursuant to A.R.S. § 38-431.02,
NOTICE IS HEREBY GIVEN that the
Pima County Board of Supervisors
shall hold a public hearing on June
4, 2013, at the hour of 9:00 A.M.
or soon thereafter to hear oral and/
or written comments concerning
a proposed Ordinance regulating
solicitation and panhandling in
unincorporated County roadways. The
Hearing will be held in the Board of
Supervisors Hearing Room, 130 West
Congress, 1st Floor, Tucson, Arizona.
PUBUSH: The Daily Territorial
May 8, 2013