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CLERK OF THE BOARD
OF COUNTY COMMISSIONERS
MIAMI-DADE COUNTY, FLORIDA

MEMORANDUM

Agenda Item No. 7(C)

(Second Reading 9-3-14)

TO: Honorable Chairwoman Rebeca Sosa
and Members, Board of County Commissioners

DATE: May 6, 2014

FROM: R. A. Cuevas, Jr.
County Attorney

SUBJECT: Ordinance relating to solicitation or collection by minors in the public right-of-ways; creating Section 21-36.2 of the Code

Ordinance No. 14-78

The accompanying ordinance was prepared and placed on the agenda at the request of Prime Sponsor Commissioner Barbara J. Jordan, and Co-Sponsors Vice Chair Lynda Bell, Commissioner Audrey M. Edmonson and Commissioner Sally A. Heyman.

R. A. Cuevas, Jr.
County Attorney

RAC/cp

Memorandum

MIAMI-DADE COUNTY

Date: September 3, 2014

To: Honorable Chairwoman Rebeca Sosa
and Members, Board of County Commissioners

From: Carlos A. Gimenez
Mayor

Subject: Ordinance relating to solicitation or collection by minors in the public right-of-way; creating Section 21-36.2 of the Code of Miami-Dade county, Florida, prohibiting solicitation or collection in the public right-of-way by minors without accompaniment by an adult; limiting hours of solicitation or collection; enacting prohibitions on solicitation or collection at high traffic or high accident intersections

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This proposed ordinance creates Section 21-36.2-13 of the Code of Miami-Dade County relating to solicitation or collection by minors in the public right-of-way. The ordinance will be enforced with existing resources in the Miami-Dade Police Department and will have no fiscal impact to the County.

Genaro "Chip" Iglesias
Deputy Mayor

Fls7414

MEMORANDUM
(Revised)

TO: Honorable Chairwoman Rebeca Sosa
and Members, Board of County Commissioners

DATE: September 3, 2014

FROM: R. A. Cuevas, Jr.
County Attorney

SUBJECT: Agenda Item No. 7(C)

Please note any items checked.

_____ **"3-Day Rule" for committees applicable if raised**

_____ **6 weeks required between first reading and public hearing**

_____ **4 weeks notification to municipal officials required prior to public hearing**

_____ **Decreases revenues or increases expenditures without balancing budget**

_____ **Budget required**

_____ **Statement of fiscal impact required**

_____ **Ordinance creating a new board requires detailed County Mayor's report for public hearing**

_____ **No committee review**

_____ **Applicable legislation requires more than a majority vote (i.e., 2/3's ____, 3/5's ____, unanimous _____) to approve**

_____ **Current information regarding funding source, index code and available balance, and available capacity (if debt is contemplated) required**

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 7(C)
9-3-14

ORDINANCE NO. 14-78

ORDINANCE RELATING TO SOLICITATION OR COLLECTION BY MINORS IN THE PUBLIC RIGHT-OF-WAY; CREATING SECTION 21-36.2 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA, PROHIBITING SOLICITATION OR COLLECTION IN THE PUBLIC RIGHT-OF-WAY BY MINORS WITHOUT ACCOMPANIMENT BY AN ADULT; LIMITING HOURS OF SOLICITATION OR COLLECTION; ENACTING PROHIBITIONS ON SOLICITATION OR COLLECTION AT HIGH TRAFFIC OR HIGH ACCIDENT INTERSECTIONS; PROVIDING SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE

WHEREAS, the Board of County Commissioners wishes to protect minors who seek to solicit or collect donations from any person in a motor vehicle, or desire to sell any thing or any service of any kind to any person traveling on a roadway within the unincorporated area of the County; and

WHEREAS, these minor solicitors and collectors pose a danger to themselves and the public by interfering with the normal operation and safe flow of vehicular traffic on roadways and public right-of-ways; and

WHEREAS, intersections are designed to accommodate traffic, but are not suited to safely accommodate minors walking on right-of-ways, medians, traffic lanes, and sidewalks who wish to solicit or collect donations, or sell any thing or service to motor vehicle drivers therein; and

WHEREAS, according to the Florida Department of Highway Safety and Motor Vehicles 2011 Florida Traffic Crash Statistics, an average of 72.2 pedestrians were struck and killed annually on Miami-Dade County roadways from 2007 to 2011, including 78 in 2011; and

WHEREAS, according to the Florida Department of Highway Safety and Motor Vehicles 2011 Florida Traffic Crash Statistics, an average of 1,345.8 pedestrians were injured by motor vehicles annually on Miami-Dade County roadways from 2007 to 2011, including 1,229 in 2011; and

WHEREAS, the National Highway Traffic and Safety Administration's 2010 Traffic Safety Facts reported that more pedestrians were fatally struck in Florida than in any other state; and

WHEREAS, this Board seeks to utilize the least restrictive measures to advance the goal of public and vehicular safety, and has determined that the roadways and intersections enumerated in section 21-36.2(e) present a heightened danger for minor pedestrians and right-of-way solicitors as well as a great danger to drivers; and

WHEREAS, the intersections enumerated in section 21-36.2(e) comprise the top 10 most frequent locations for vehicular crashes within unincorporated Miami-Dade County in 2013 as determined by the Miami-Dade Police Department; and

WHEREAS, this Board has determined that other alternative channels of communication exist for minors seeking to solicit funds, such as the mail, the internet, door-to-door, in other locations, or other non-prohibited intersections; and

WHEREAS, this Board has always supported measures that serve to protect the health, safety, and welfare of pedestrians and drivers in the county; and

WHEREAS, Miami-Dade County has a significant interest in protecting its citizens and ensuring that its streets and sidewalks are safe for everyone,

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA:

Section 1. Section 21-36.2 of the Code of Miami-Dade County, Florida, is hereby created as follows:

Sec. 21-36.2 Roadway solicitation by minors; applicable area; adult supervision required; permissible hours; prohibition at enumerated roadways; penalty for section violation.

(a) Minor solicitor or collector shall mean any person under the age of eighteen years who sells or offers for sale any thing or any service of any kind, or who seeks to solicit or collect any donation of any kind, or who personally hands to or seeks to transmit by hand or receive by hand any thing or service of any kind, whether or not payment in exchange is required or requested, to any person or organization 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 county, whether or not such vehicle is temporarily stopped in the travel lanes of the road. The term shall not apply to any person who merely holds or displays a sign lawfully permitted to be displayed by a person, as long as there is no entry by such person or sign into any portion of the roadway or its median. Further, this term shall not apply to official citations or notices provided pursuant to governmental authority.

(b) Applicable area. This section shall be applicable only in the unincorporated areas of Miami-Dade County.

(c) Accompaniment by adult. Any minor solicitor or collector must be accompanied by an adult at all times on any public right-of-way or roadway.

(d) Permissible hours. It shall be unlawful for a minor solicitor or collector to operate between the hours of 9:00 p.m. and 9:00 a.m.

(e) Prohibited roadways. No accompanying adult, minor solicitor, or minor collector may stand or walk within any public right-of-way, including sidewalks, bike paths, and medians within 250 feet of the following intersections for any of the purposes listed in § 21-36.2(a). Two-hundred and fifty (250) feet is measured from the lateral curb or boundary line of the below listed intersections:

(1) SW 137th Avenue & SW 152nd Street

(2) SW 107th Avenue & SW 16th Street
(3) NW 27th Avenue & NW 79th Street
(4) SW 117th Avenue & SW 104th Street
(5) SW 117th Avenue & SW 72nd Street
(6) SW 137th Avenue & SW 56th Street
(7) NW 7th Avenue & NW 103rd Street
(8) SW 117th Avenue & SW 152nd Street
(9) NW 67th Avenue & NW 169th Street
(10) NW 72nd Avenue & NW 12th Street

(f) Revisions. The Board of County Commissioners shall have the continuing authority to update, amend, or revise the list of ten intersections enumerated in subsection (e) by resolution as often as needed, but must update the list every ten (10) years at a minimum from the effective date of this ordinance.

(g) Chapter 316, Florida Statutes. The enforcement of this section shall not, in any way, preclude the enforcement of Fla. Stat. § 316.130(3)-(5), as applicable.

(h) Enforcement. It shall be the duty of all County officers to enforce the provisions of this section. Any person who violates this section shall be prosecuted before a court of competent jurisdiction and subject, upon conviction, to the penalties listed in § 21-36.2(i) and within the discretion of the county judge.

(i) Penalties. Any person convicted of a violation of the provisions of this section may be punished by:
(1) A first violation of this section: a verbal warning or reprimand.
(2) Subsequent violations of this section: a fine of not more than thirty dollars ($30.00) and/or imposition of community service hours or required participation in after-school programs.

Section 2. If any section, subsection, sentence, clause or provision of this ordinance is held invalid, the remainder of this ordinance shall not be affected by such invalidity.

Section 3. It is the intention of the Board of County Commissioners, and it is hereby ordained that the provisions of this ordinance, including any sunset provision, shall become and be made a part of the Code of Miami-Dade County, Florida. The sections of this ordinance may

be renumbered or relettered to accomplish such intention, and the word "ordinance" may be changed to "section," "article," or other appropriate word.

Section 4. This ordinance shall become effective ten (10) days after the date of enactment unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

PASSED AND ADOPTED: September 3, 2014

Approved by County Attorney as to form and legal sufficiency:

Prepared by:

Javier Zapata

Prime Sponsor:	Commissioner Barbara J. Jordan
Co-Sponsors:	Vice Chair Lynda Bell
	Commissioner Audrey M. Edmonson
	Commissioner Sally A. Heyman