

3  
4 **AN ORDINANCE amending “§ 99.010 Prohibiting Use Of**  
5 **Public Right- Of- Way For The Purpose Of Selling**  
6 **Goods And Solicitations” in Chapter 99: Streets and**  
7 **Sidewalks; Trees and Shrubs, of the Fort Wayne Municipal**  
8 **Code of Ordinances**  
9

10 WHEREAS, the Fort Wayne Fire Department and Fort Wayne Professional Firefighters  
11 Local 124 have historically operated and participated in the “Fill the Boot” charity fundraiser on  
12 or around Labor Day weekend; and  
13

14 WHEREAS, the “Fill the Boot” charity fundraiser involves firefighters soliciting  
15 donations on a public right-of-way with said donations ultimately being donated to a charitable  
16 organization(s); and,  
17

18 WHEREAS, the Fort Wayne Municipal Code of Ordinances (“Fort Wayne Code”) §  
19 99.010 prohibits use of a public right-of-way for the purpose of soliciting from the driver or  
20 occupants of a motor vehicle; and,  
21

22 WHEREAS, the City of Fort Wayne (“City”) has informed the Fort Wayne Fire  
23 Department and Fort Wayne Professional Firefighters Local 124 that the “Fill the Boot” charity  
24 fundraiser cannot operate in a manner that requires solicitation of donations while on a public  
25 right-of-way; and,  
26

27 WHEREAS, the exceptions to the solicitation prohibitions on public rights-of-way in §  
28 99.010 do not extend to drivers or occupants of motor vehicles; and  
29

30 WHEREAS, the Fort Wayne Fire Department and Fort Wayne Professional Firefighters  
31 Local 124 desire to organize a “Fill the Boot” campaign this and every subsequent Memorial  
32 Day weekend for the purposes of charitable fundraising.  
33

34 NOW THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE  
35 CITY OF FORT WAYNE, INDIANA,  
36

37 **SECTION 1.** That § 99.010: “Prohibiting Use of Public Right-of-Way for the Purpose  
38 of Selling Goods and Solicitations” be amended and shall read as follows:  
39

40 **§ 99.010 PROHIBITING USE OF PUBLIC RIGHT-OF-WAY FOR THE PURPOSE OF**  
41 **SELLING GOODS AND SOLICITATIONS.**  
42

43 (A) No street, sidewalk, space between the sidewalk and curbing (commonly known as  
44 “parkstrip”), curbing, or the commonly traveled portion of any street in the city, including any  
45 median (the portion of a divided highway separating the traveled ways for traffic in opposite  
46 directions), shall be utilized by any person for the purpose of sale or distribution without charge

1 of any goods or materials, and/or the solicitation of donations for charitable purposes from the  
2 drivers or occupants of any motor vehicle.

3  
4 (B) For the purposes of this section *SALE* or *DISTRIBUTION* shall mean the physical exchange  
5 of goods or materials with or without remuneration.

6  
7 (C) Nothing in this section shall prohibit the sale or distribution without charge to, and/or the  
8 solicitation of donations for charitable purposes ("Charitable Solicitation") from persons other  
9 than the drivers or occupants of motor vehicles, which persons are not on the travelled portion of  
10 any street or median in the city.

11  
12 (D) The prohibitions of this section shall only apply to major arterial streets as that classification  
13 is utilized in the Office of Traffic Engineering of the city.

14  
15 (E) The prohibitions on solicitation in § 99.010 (A) and Charitable Solicitation in § 99.010 (C)  
16 do not apply to charitable organizations or persons and organizations acting on their behalf or for  
17 their benefit which have been issued a permit under this subparagraph § 99.010 (E) and who are  
18 in compliance with all other provisions of § 99.010. A charitable organization or an organization  
19 acting on their behalf wishing to perform Charitable Solicitation while standing on a parkstrip,  
20 curbing, or the commonly traveled portion of any street in the city, including any median, must  
21 comply with the following requirements in order to be excepted from the prohibition listed in §  
22 99.010 (A):

- 23  
24 (1) Not less than 14 days prior to the date desired for Charitable Solicitation, submit a  
25 complete application to the FWPD, with a copy sent to the Chief of Police, for a  
26 Charitable Solicitation permit ("Charitable Solicitation Permit"). The application  
27 shall require the charitable organization or organization acting on their behalf to  
28 provide its full name, a point of contact for the organization, the desired date(s),  
29 time(s) and specific location(s) for soliciting, the name, mailing address and phone  
30 number of the group which will be engaging in solicitation activities on behalf of the  
31 charitable organization, and an agreement by the organization indemnifying the city  
32 and holding the city harmless from any and all claims, suits, demands, damages, and  
33 attorney fees arising out of or related to the acts or omissions of persons soliciting for  
34 the organization. The form may require further information that is reasonably  
35 necessary to the direct enforcement of this section and the purposes of this article.  
36
- 37 (2) At the time of submitting a completed application, the charitable organization shall  
38 also submit the following and failure to do so shall render the application incomplete:  
39
- 40 (a) Written proof of liability insurance in the amount of at least \$1,000,000 per  
41 occurrence that insures the applicant and all persons who will be soliciting. The  
42 policy must include the City of Fort Wayne as an additional insured.
  - 43 (b) An application permit fee of \$300. This fee will be used to defray the city's cost  
44 of processing the application and compliance monitoring on the street. This fee is  
45 nonrefundable, unless the permit is denied.

1 (c) Written proof that the organization benefiting from the collection is a charitable  
2 organization that is qualified under Section 501(c)(3) of the Internal Revenue  
3 Code.  
4

5 (3) Additional solicitation activity restrictions:  
6

- 7 (a) No more than one permit per calendar year may be issued to an organization.  
8 (b) Street soliciting under a permit shall be authorized for no more than three  
9 consecutive calendar days, and shall be limited to the period of 9:00 a.m. and until  
10 one half hour prior to sunset, at the approved location(s) specified in the  
11 application.  
12 (c) All solicitors must be eighteen years of age or older and must be an employee of  
13 the City of Fort Wayne.  
14 (d) No solicitor may impede traffic at any time.  
15 (e) All solicitors must wear an identification badge which identifies the charitable  
16 organization soliciting contributions and allows motorists to verify the  
17 organization's authenticity.  
18 (f) A safety plan must be submitted with the application for the permit. This plan  
19 must include a description of collection notification signs to be used and safety  
20 equipment and procedures to be used by those individuals collecting for the  
21 charitable organization.  
22 (g) No solicitor may touch or knock upon any part of any motor vehicle while  
23 soliciting.  
24

25 **SECTION 2.** That the City is directed to take all action necessary and proper for the  
26 implementation of this Ordinance, including notifying all city departments, divisions, or city-  
27 operated utilities of the Ordinance and its requirements.

28  
29 **SECTION 3.** That this Ordinance shall be in full force and effect from and after its  
30 passage and any and all necessary approval by the Mayor.  
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35 \_\_\_\_\_  
36 Russ Jehl, Council Member  
37

38 **APPROVED AS TO FORM AND LEGALITY**

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41 \_\_\_\_\_  
42 Joseph G. Bonahoom, Attorney for City Council  
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38 **APPROVED AS TO FORM AND LEGALITY**  
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42 \_\_\_\_\_  
43 Joseph G. Bonahoom, Attorney for City Council  
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**BILL NO. G-19-08-29 AA**

**REPORT OF COMMITTEE ON REGULATIONS**

**August 20, 2019**

**Tom Freistroffer Chair**

**Michael Barranda Co-Chair**

**All Council Members**

An Ordinance amending "§ 99.010 Prohibiting Use Of Public Right- Of- Way For The Purpose Of Selling Goods And Solicitations" in Chapter 99: Streets and Sidewalks; Trees and Shrubs, of the Fort Wayne Municipal Code of Ordinances

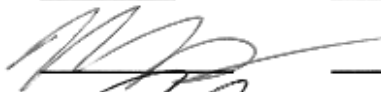
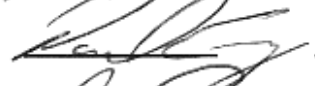


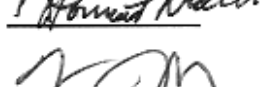
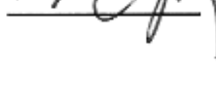
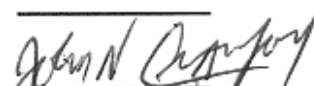
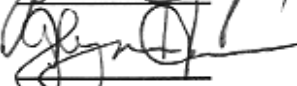
**COMMITTEE ON REGULATIONS HAVE HAD SAID Ordinance under consideration and beg leave to report back to the Common Council that said Ordinance**

DO PASS

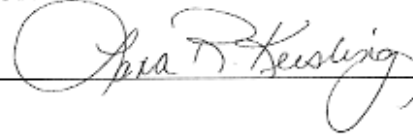
DO NOT PASS

ABSTAIN

NO REC

	_____	_____	_____
	_____	_____	_____
	_____	_____	_____
	_____	_____	_____
	_____	_____	_____
	_____	_____	_____
_____		_____	_____
_____		_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

**LANA R. KEESLING  
CITY CLERK**



Public Hearing Date: N/A

Read the first time in full and on motion by Councilman Freistroffer.

Read the second time by title and referred to the Regulations Committee.

Read the third time in full and on motion by Councilman Freistroffer, placed on passage by the following vote:

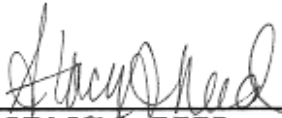
<u>TOTAL VOTES</u>	<u>AYES</u>	<u>NAYS</u>	<u>ABSTAINED</u>	<u>ABSENT</u>
ARP	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
BARRANDA	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
CRAWFORD	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
DIDIER	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
ENSLEY	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
FREISTROFFER	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
HINES	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
JEHL	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
PADDOCK	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

DATED: August 27, 2019

  
 \_\_\_\_\_  
 STACY A. REED, DEPUTY CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, as

Ordinance No. G-19-08-29AA on the 27th day of August, 2019

  
 \_\_\_\_\_  
 STACY A. REED  
 DEPUTY CITY CLERK

  
 \_\_\_\_\_  
 PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the 28th of August 2019, at the hour of 12:15 o'clock P.M. E.S.T.

  
 \_\_\_\_\_  
 STACY A. REED, DEPUTY CITY CLERK

Approved and signed by me this \_\_\_\_\_ day of \_\_\_\_\_

2019, at the hour of \_\_\_\_\_ o'clock \_\_\_\_\_ E.S.T.

FORT WAYNE, INDIANA  
**RECEIVED**  
 SEP 09 2019  
 LANA R. KEESLING  
 CITY CLERK

\_\_\_\_\_  
 THOMAS C. HENRY, MAYOR

Public Hearing Date: N/A

Read the first time in full and on motion by Councilman Freistroffer.

Read the second time by title and referred to the Regulations Committee.

Read the third time in full and on motion by Councilman Freistroffer, placed on passage by the following vote:


<u>TOTAL VOTES</u>	<u>AYES</u>	<u>NAYS</u>	<u>ABSTAINED</u>	<u>ABSENT</u>
ARP	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
BARRANDA	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
CRAWFORD	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
DIDIER	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
ENSLEY	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
FREISTROFFER	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
HINES	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
JEHL	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
PADDOCK	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

DATED: September 10, 2019

  
\_\_\_\_\_  
LANA R. KEESLING, CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, as

Ordinance No. G-19-08-29AA on the 10th day of September, 2019

  
\_\_\_\_\_  
LANA R. KEESLING  
CITY CLERK

  
\_\_\_\_\_  
PRESIDING OFFICER