

ORDINANCE NO. 34-17

AN ORDINANCE REPEALING ORDINANCE NO. 6-17 AND SECTION 13-253 OF THE FORT SMITH CODE OF ORDINANCES; AMENDING SECTION 18-72 OF THE FORT SMITH CODE OF ORDINANCES; ADOPTING PROHIBITIONS OF OCCUPYING ROADWAY PORTIONS OF PUBLIC RIGHTS-OF-WAY, AND ESTABLISHING PROCEDURE FOR A SPECIAL PERMIT FOR USE OF LANED ROADWAY, AND FOR OTHER PURPOSES

BE IT ORDAINED AND ENACTED BY THE BOARD OF DIRECTORS OF THE CITY OF FORT SMITH, ARKANSAS, THAT:

SECTION 1: Ordinance No. 6-17, passed on February 20, 2017, is hereby repealed. Moreover, Section 13-253 of the Fort Smith Code of Ordinances, repealed by Section 6 of Ordinance No. 6-17, is specifically repealed and shall not be considered to have been reenacted by the repeal of Ordinance No. 6-17. Additionally, Section 18-72 of the Fort Smith Code of Ordinances is amended to delete the word “begging.”

SECTION 2: The provisions of Sections 3 and 4 below are adopted to enhance public safety in usage of the active roadway portions of public rights-of-way. The provisions of Section 3 shall be codified within the reserved portion of Article II of Chapter 22 – Streets and Sidewalks – of the Fort Smith Code of Ordinances. The provisions of Section 4 shall be codified as Section 13-253 of the Fort Smith Code of Ordinances.

SECTION 3:

A. Definitions. For the purposes of Sections 3 and 4 of this Ordinance, the following terms shall have the following meanings:

(1) “Public street right-of-way” shall refer to any area designated by plat, ordinance or by prescriptive use by the City of Fort Smith or by the State of Arkansas as an area for public highway or street purposes.

(2) "Roadway" means that portion of a public street right-of-way improved, designed, or ordinarily used for vehicular travel ("traffic lane"), including but not limited to medians between traffic lanes and shoulders of any "on or off" ramp of a highway, which median or shoulder is not accessible by pedestrians except through use of a traffic lane.

(3) "Roadway crosswalk" means that portion of a public street right-of-way roadway improved, designated or ordinarily used for pedestrian crossing of a roadway.

(4) "Bus Stop" means that portion of a public street right-of-way, including any roadway, improved, designated or ordinarily used for public bus entry or exit.

(5) "Laned Roadway" means a roadway which is divided into two (2) or more clearly marked lanes for vehicular traffic moving in the same direction.

B. Prohibition. Unless authorized by permit issued pursuant to Section 24-201 of the Fort Smith Code of Ordinances (parades and special events) or pursuant to Section 13-253 of the Fort Smith Code of Ordinances (enacted by Section 4 of this Ordinance), no person not occupying a motor vehicle shall walk on, stand in, sit in, extend any body part or device into, or otherwise occupy any portion of a roadway within any public street right-of-way, provided that walking within a legally established crosswalk or bus stop is not prohibited and further provided that police, firefighters, emergency personnel and authorized governmental maintenance workers are exempt from this provision while performing official duties.

SECTION 4:

A. Special Permits. In addition to the authority granted pursuant to Section 24-201, the Chief of Police may issue a permit specifically providing for the use of the outside lane of a laned roadway for a fundraising event conducted by (1) a 501(c)(3) charitable organization under the Internal Revenue Code, or (2) an organization representing public service employees, or (3) any Fort Smith based civic group or any

Fort Smith resident that otherwise complies with the requirements of Section 24-201.

B. Permit Procedure.

(1) Permit applications issued under this section must be received by the Chief of Police at least forty-five (45) days and no more than one (1) year prior to any permit date(s) requested by the applicant.

(2) Permits shall only be issued for the days of Friday and/or Saturday and/or a federal holiday, and for no hours other than those between 9:00 a.m. and one hour before sunset. Only one permit shall be issued for any particular day or two day period. Permits may not be issued to any entity or person more than twice per calendar year. A permit may be issued for a maximum of two separate locations under one permit. A supplemental permit may be issued if a scheduled event is rained out.

(3) The permitted event location shall only be for roadways consisting of at least two lanes of traffic proceeding in each direction. All event locations must be pre-approved by the Chief of Police.

(4) The Chief of Police shall have sole discretion and authority either to close to normal traffic the permitted outside lane or to allow for cones to be placed along the center line and lanes to provide a visual caution to drivers. Permittees shall provide a sign approved by the Chief of Police to be placed and maintained during the event at least fifty (50) feet, but no more than two hundred (200) feet, from the point where the permittee shall conduct the event, so that any vehicular traffic desiring not to be contacted by those operating under the permit shall have an opportunity to use another open lane or otherwise indicate that they do not wish to be contacted.

(5) No more than twenty (20) persons shall be authorized to participate at any permitted location.

(6) The permit shall require the permittee to arrange for the presence of at least one sworn off-duty public safety officer of the City of Fort Smith at each permitted site

for the sole purpose of maintaining the peace. The cost of providing for said public safety officer shall be borne by the permittee.

(7) All persons participating pursuant to the permit shall wear an OSHA approved reflective vest.

(8) Fee. The fee for each permit issued pursuant to this section shall be \$25.00 in addition to any other fee otherwise required under Section 24-201.

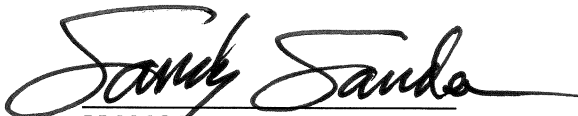
SECTION 5: Any person convicted of violating the provisions of Section 3 or Section 4 of this Ordinance shall be deemed guilty of a misdemeanor and shall be punished as set forth in Section 1-9 of the Fort Smith Code of Ordinances.

SECTION 6: Severability. If any section, subsection, sentence, clause, phrase or application of this Ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this Ordinance.

SECTION 7: Emergency Clause. It is determined that public health, safety and welfare as it relates to the use of the City's roadways and public rights-of-way requires the creation of rules and regulations regarding same. Thus, an emergency is declared to exist and this Ordinance shall be in full force and effect upon passage.

THIS ORDINANCE ADOPTED this 11th day of July, 2017.

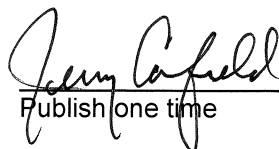
APPROVED:


MAYOR

ATTEST:


CITY CLERK

Approved as to form:


Publish one time