

ORDINANCE NO. 2017-11 OF THE CITY OF LAKE WORTH, FLORIDA, AMENDING CHAPTER 19, "STREETS AND SIDEWALKS", ARTICLE 1, "IN GENERAL", BY CREATING SECTION 19-14, TO BE ENTITLED "RIGHT-OF-WAY SOLICITORS AND CANVASSERS"; PROHIBITING SOLICITATIONS IN AND UPON CERTAIN RIGHTS-OF-WAY WITHIN THE CITY; PROVIDING FOR DEFINITIONS; FINDINGS AND INTENT; ENFORCEMENT AND PENALTIES; CODIFICATION; CONFLICTS; SEVERABILITY; AND, AN EFFECTIVE DATE.

WHEREAS, the City Commission of the City of Lake Worth has a significant interest in protecting the health, safety and welfare of the pedestrians and drivers in the City and ensuring the free flow of traffic within the City; and

WHEREAS, the City Commission finds that a dangerous condition exists when person(s) approach vehicles and vehicular travel lanes to solicit employment, business, or charitable contributions from drivers traveling on major streets and roadways; and

WHEREAS, according to the Department of Highway Safety and Motor Vehicles 2015 annual report on traffic crash facts, in Palm Beach County in 2015, there were 604 pedestrians involved in motor vehicles accidents of which 529 were injured and of which 35 of those were fatally injured; and

WHEREAS, State, county and city transportation agencies design public roadways for the safe and efficient movement of motor vehicles and pedestrians on such roadways; and

WHEREAS, the Florida Department of Transportation Manual of Uniform Minimum Standards for Design, Construction and Maintenance for Streets and Highways ("Florida Greenbook") does not include provisions for any kind of transaction to take place between motor vehicles and pedestrians sitting or standing close to the travel lanes of public roads; and

WHEREAS, the Florida Greenbook requires that planning and design of new streets and highways include provisions that minimize vehicle and pedestrian conflicts and recommends that pedestrian pathways be placed as far from roadways as practical because of the inherently dangerous nature of vehicles and pedestrians in close proximity to each other; and

WHEREAS, under section 337.406, Florida Statutes, the Florida Legislature has determined that the failure to prohibit activities in the right-of-way such as the free distribution or sale, or display or solicitation for free distribution or sale, of any merchandise, goods, property or services; the solicitation for charitable purposes; and the display of advertising of any sort, will endanger the health, safety, and

general welfare of the public by causing distractions to motorists, unsafe pedestrian movement within travel lanes, sudden stoppage or slowdown of traffic, rapid lane changing and other dangerous traffic movement, increased vehicular accidents, and motorist injuries and fatalities; and

WHEREAS, medians are part of the roadways and are designed to separate opposing traffic channels and direct traffic and provide a vehicle refuse area for an errant vehicles; and

WHEREAS, the City's law enforcement agency, Palm Beach County Sheriff Office, has analyzed each of the major roadways within the City and has determined that certain intersections, as specified herein, pose the greatest threat to public safety and the free flow of traffic in connection with the activities of right-of-way solicitors and canvassers; and

WHEREAS, the distribution of any thing and/or solicitation of any thing to and from a motor vehicle can also create other safety and nuisance concerns for the residents and guests of the City; and

WHEREAS, the City seeks to provide for the safety of its citizens by regulating the use of public roadway intersections within the City; and

WHEREAS, the City Commission of the City of Lake Worth deems it to be in the best interests of the citizens and residents of the City and serves a valid public purpose to prohibit right-of-way solicitors and canvassers at certain intersections located within the City.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF LAKE WORTH, FLORIDA, that:

Section 1: That the foregoing "WHEREAS" clauses are ratified and confirmed as being true and correct and are made a specific part of this Ordinance.

Section 2: Chapter 19, Article I, of the Code of Ordinances of the City of Lake Worth, is hereby amended by the creation of Section 19-14, to be entitled "Right-of-Way Solicitors and Canvassers", as follows:

Sec. 19-14. - Right-of-Way Solicitors and Canvassers

- (A) **Definitions.** For the purposes of this section, "right-of-way canvasser or solicitor" shall mean any person who sells or offers for sale any thing or service of any kind, or who seeks 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 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 City, 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. Further, this term shall not apply to official citations or notices provided pursuant to governmental authority.

(B) Findings; purpose; intent.

1. The City Commission of the City of Lake Worth desires to adopt an ordinance restricting right-of-way canvassers and solicitors from certain intersections located in the City because such canvassers and solicitors pose a danger to themselves and the public at large by interfering with the safe movement of normal vehicular traffic; and
2. According to a 2017 report by Smart Growth America, a national group that advocates for smart development, since 2009, pedestrians in Florida are more likely to be struck by vehicles than elsewhere in the United States;
3. According to the Smart Growth America report, the metropolitan areas from Miami to West Palm Beach are one of the most dangerous metropolitan areas for pedestrians with 1,508 pedestrian fatalities from 2005-2014; and
4. According to the Florida Department of Highway Safety and Motor Vehicles 2015 Florida Traffic Crash Statistics Report, 632 pedestrians were killed on Florida roadways in 2015; 35 of those pedestrians were killed on roadways in Palm Beach County; and
5. As reported in the USDOT National Highway Traffic Safety Administration's June 2008 National Pedestrian Crash Report, the Lake Worth experienced 2 pedestrian crash deaths in 2006 alone; and
6. Based upon statistics collected by the U.S. Department of Transportation, Federal Highway Administration, Florida pedestrian fatalities are on the rise; and
7. According to a Palm Beach County Metropolitan Planning Organization's Bicycle and Pedestrian Safety Team commissioned study, Lake Worth Road (from Jog Road east into downtown Lake Worth) is a corridor of concern based on crash data involving pedestrians and bicyclists in Palm Beach County from 2010 to 2014 with central Palm Beach County being the most intense for pedestrian crashes in the past five years; and
8. Numerous types of right-of-way canvassers and solicitors may seek to operate within the City of Lake Worth, including, but not limited to, children, adolescents and adults who seek to collect money for school and

community activities; vendors who sell flowers, newspapers and other products; and, people who seek donations or distribute written information; and

9. Right-of-way canvassers and solicitors approach motorists and passengers in motor vehicles engaged in travel on roads, and are particularly susceptible and vulnerable to serious injury, or death due to the speed and number of motorists who operate vehicles on busy roads within the city; and

10. Roadways are primarily designed for vehicular traffic and are not suited to safely accommodate right-of way canvassers and solicitors; and

11. The presence of right-of-way canvassers and solicitors interferes with the safe movement of normal vehicular traffic; and

12. The road network in the City is substantially burdened by a high volume of traffic, roadway and adjacent construction and road design which frequently includes vehicle turns and movements that demand a driver's strict attention; and

13. It is the intention of the City Commission to use the least restrictive means to advance the significant governmental interests of traffic safety and public safety and, consequently, the Palm Beach County Sheriff's Office analyzed each of the major roads within the City and determined that the intersections listed in subsection (C) below present an increased and significant danger for use by distracted drivers, pedestrians and right-of-way canvassers and solicitors and pose the greatest threat to traffic and public safety in reference to activities and use by right-of-way canvassers and solicitors, and therefore the City Commission has determined that such activities and use by right-of way canvassers and solicitors shall be prohibited at the intersections listed in subsection (C); and

14. It is the finding of the City Commission that many other alternative channels of communication (other than right-of-way canvassing and solicitation at the prohibited intersections) exist for persons who seek to exercise their First Amendment freedoms, such as, but by no means limited to, solicitation of funds or distribution of literature through the mail or at alternate locations (such as houses of worship, shopping areas and special events); the sale and/or distribution of newspapers through home or office delivery, vending machines and retail stores; other authorized and permitted business, charitable and other activities under the City's code; and the sale of goods and services at retail stores, through the internet and from vending machines; and

15. The City Commission desires to preserve and protect the personal safety and quality of life of its residents and of those who use streets within

the City, both pedestrians and motorists alike; and

16. The City Commission has reviewed the proposed regulations provided by this section and finds that such regulations accomplish the purposes intended while utilizing the least restrictive means; and

17. The City Commission finds that it is in the best interests of the residents of the City to adopt this section.

(C) *Prohibited intersections.* It shall be unlawful for any person to act as a right-of-way canvasser or solicitor at the intersections of:

1. Interstate 95 (I-95) northbound and southbound on and off ramps at Sixth Avenue South;
- Interstate 95 (I-95) northbound and southbound on and off ramps at 10th Avenue North;
3. Lake Worth Road and the CSX railway (located west of the Interstate 95 (I-95) overpass at Lake Worth Road);
4. Intersection of 10th Avenue North and North Dixie Highway; and,
5. Intersection of 6th Avenue South and South Dixie Highway.

For purposes of enforcement, the above identified intersections shall include any area within 100 feet from the lateral curb or boundary line of the intersection; and, shall also include the entire length of the Interstate 95 (I-95) on and off ramps at 6th Avenue South and 10th Avenue North.

(D) *Chapter 316, Florida Statutes.* The enforcement of this section shall not, in any way, preclude the enforcement of Section 316.130(5), Florida Statutes, as applicable.

(E) *Precedence.* It is the intent of this section that the prohibition herein for persons acting as right-of-way canvassers or solicitors at the identified intersections takes precedence over and prohibits any authorized or permitted activity under Chapter 19, Article VI, of this code, regarding the authorized and permitted use of pedestrian and vehicular rights-of-way and other public property.

(F) *Enforcement and Penalties.*

1. It shall be the duty of any law enforcement officer authorized to enforce the laws of the state to enforce the provisions of this section against any person found in violation.

2. Any violation of any of the provisions of this section shall be prosecuted as a misdemeanor of the second degree and punished by a fine of not more than five hundred dollars (\$500.00) and/or imprisonment in an authorized facility for not more than sixty (60) days.
3. Notwithstanding the foregoing, the enforcement provisions and penalty provisions provided for in this section are not exclusive. The city may pursue any other legal or equitable remedies available under law for the enforcement of this section and related penalties, including without limitation, code enforcement.

Section 3: If any part, sentence, paragraph, section or clause is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of the ordinance shall not be affected thereby. In the event of a subsequent change in applicable law, so the provision which had been held invalid is no longer invalid, the provision shall thereupon return to full force and effect without further action by the City and shall thereafter be binding under this ordinance.

Section 4: That any ordinances or parts thereof in conflict with the provisions of this ordinance are hereby repealed to the extent of such conflict.

Section 5: That it is the intention of the City Commission, and It is hereby ordained, that the provisions of this ordinance shall become and made a part of the Code of the City of Lake Worth; that the sections of this Ordinance may be renumbered or re-lettered to accomplish such intentions; and that the word "Ordinance" shall be changed to "Section" or other appropriate word.

Section 6: This ordinance shall become effective ten (10) days after passage.

The passage of this ordinance on first reading was moved by Commissioner Amoroso, seconded by Commissioner Hardy, and upon being put to a vote, the vote was as follows:

Mayor Pam Triolo	AYE
Vice Mayor Scott Maxwell	AYE
Commissioner Omari Hardy	AYE
Commissioner Andy Amoroso	AYE
Commissioner Herman Robinson	AYE

The Mayor thereupon declares this ordinance duly passed on first reading on the 6th day of May, 2017.

The passage of this ordinance on second reading was moved by Vice Mayor Maxwell, seconded by Commissioner Hardy, and upon being put to a vote, the vote was as follows:

Mayor Pam Triolo	AYE
Vice Mayor Scott Maxwell	AYE
Commissioner Omari Hardy	AYE
Commissioner Andy Amoroso	ABSENT
Commissioner Herman Robinson	AYE

The Mayor thereupon declared this ordinance duly passed on the 20th day of June, 2017.

CITY OF LAKE WORTH, FLORIDA

Pam Triolo, Mayor

ATTEST:

Deborah M. Andrea, City Clerk