

ORDINANCE NO. 2014-0008

1  
2 AN ORDINANCE OF THE CITY OF WILTON MANORS,  
3 FLORIDA, AMENDING CHAPTER 10, ARTICLE VI,  
4 ENTITLED "SOLICITORS, CANVASSERS, PEDDLERS AND  
5 ITINERANT VENDORS"; AMENDING SECTION 10-137,  
6 ENTITLED "DEFINITIONS"; CREATING SECTION 10-150, TO  
7 BE ENTITLED "RIGHT-OF-WAY SOLICITORS AND  
8 CANVASSERS"; PROHIBITING SOLICITATIONS IN AND  
9 UPON CERTAIN ROADWAYS AND RIGHTS-OF-WAY WITHIN  
10 THE CITY; PROVIDING FOR DEFINITIONS; PROVIDING  
11 FOR FINDINGS AND INTENT; PROVIDING FOR PENALTIES;  
12 PROVIDING FOR CODIFICATION; PROVIDING FOR  
13 CONFLICTS; PROVIDING FOR SEVERABILITY; AND  
14 PROVIDING FOR AN EFFECTIVE DATE.  
15

16 WHEREAS, the City Commission of the City of Wilton Manors has a  
17 significant interest in protecting the health, safety and welfare of the pedestrians and  
18 drivers in the City, and ensuring the free flow of traffic within the City; and

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

23 WHEREAS, the City's professional staff and police department has analyzed  
24 each of the major roadways within the City and has determined that certain roads,  
25 as specified herein, pose the greatest threat to public safety and the free flow of  
26 traffic in connection with the activities of right-of-way solicitors and canvassers;  
27 and

28 WHEREAS, the City's Police Department has specifically analyzed the  
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1 number traffic accidents at intersections within the City from 2009 through 2013, as  
2 well as related pedestrian safety matters, and prepared a report detailing their  
3 findings. A copy of the report is attached hereto as Exhibit “A”, and incorporated  
4 herein; and

5 **WHEREAS**, from 2008 – 2012, the City ranked 13<sup>th</sup> among Florida’s 121  
6 small cities (population 3,000 – 14,999) for having the most pedestrian related  
7 injury and fatality accidents; and

8 **WHEREAS**, the City of Fort Lauderdale and the City of Oakland Park have  
9 ranked 2<sup>nd</sup> and 8<sup>th</sup>, in their respective classifications; and

10 **WHEREAS**, 93% of all traffic accidents within the City occur on the subject  
11 roadways identified by the police department, including 94% of all pedestrian-  
12 related accidents; and

13 **WHEREAS**, the distribution of handbills upon public property, including vehicles  
14 and roadways, can also create safety and nuisance concerns for the residents and guests of  
15 the City; and

16 **WHEREAS**, according to the Department of Florida Highway Safety and  
17 Motor Vehicles (the “Department”), the number of citations issues for aggressive  
18 and careless driving increased from 3,815 in 2003 to 23,180 in 2010; and

19 **WHEREAS**, according to the Department, Broward County is second only to  
20 Miami-Dade County for the number of Uniform Traffic Citations issued in 2010;

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and

**WHEREAS**, the City Commission of the City of Wilton Manors deems it to be in the best interests of the citizens and residents of the City to prohibit right-of-way solicitors and canvassers on certain major streets located within the City.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF WILTON MANORS, 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. All exhibits attached hereto are expressly incorporated herein by reference and made a part hereof.

**Section 2:** Chapter 10, Article VI of the Code of Ordinances of the City of Wilton Manors, entitled “Solicitors, Canvassers, Peddles, and Itinerant Vendors”, is hereby amended by amending Section 10-137, to be entitled “Right-of-Way Solicitors and Canvassers”, as follows:

Section 10-137            Definitions.

Unless otherwise provided for herein, For the purposes of this article, the term "solicitor" or "canvasser" means any person who attempts to solicit orders for the sale of goods, wares or merchandise, whether the sale is consummated in the city or to be consummated when approved by some other person elsewhere, or who bargains to sell any goods, wares or merchandise for cash or otherwise, by sample or by any other manner, personal property of any nature whatsoever, or for services to be furnished or performed, for present or future delivery, traveling by foot, wagon, automobile, motor truck, or any type of conveyance, from place to place,

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1 from house to house, ~~or from street to street~~, including any person collecting or  
2 soliciting contributions or donations, cash, services, signatures, or otherwise,  
3 including any person who aids, abets, or otherwise authorizes and instructs another,  
4 on their behalf, to solicit or canvass to any charitable, nonprofit, or other  
5 eleemosynary organization; provided that the provisions of this article should not be  
6 applicable to any person who enters the residence or business of any resident of the  
7 city at the express prior request or invitation of such resident.

8  
9 **Section 3:** Chapter 10, Article VI of the Code of Ordinances of the City of  
10 Wilton Manors, entitled “Solicitors, Canvassers, Peddles, and Itinerant Vendors”, is  
11 hereby amended by creating Section 10-150, to be entitled “Right-of-Way Solicitors  
12 and Canvassers”, as follows:

### 13 **Ch. 10-150 Right-of-Way Solicitors and Canvassers**

14  
15  
16 (A) Definitions. For the purposes of this section, “right-of-way canvasser or  
17 solicitor” shall mean any person who sells or offers for sale any thing or service  
18 of any kind, or who seeks any donation of any kind, or who personally hands to  
19 or seeks to transmit by hand or receive by hand any thing or service of any kind,  
20 whether or not payment in exchange is required or requested, to any person who  
21 operates or occupies a motor vehicle of any kind, which vehicle is engaged in  
22 travel on or within any portion of any of the streets or roadways in the City,  
23 whether or not such vehicle is temporarily stopped in the travel lanes of the  
24 road. The term shall not apply to any person who merely holds or displays a  
25 sign lawfully permitted to be displayed by a person as long as there is no entry  
26 by such person or sign into any portion of the roadway or its median. Further,  
27 this term shall not apply to official citations or notices provided pursuant to  
28 governmental authority.

#### 29 30 (B) Prohibition of right-of-way canvassers and solicitors

##### 31 (l) Findings; purpose; intent.

32  
33  
34 (a) The City Commission of the City of Wilton Manors desires to  
35 adopt an ordinance restricting right-of-way canvassers and solicitors to  
36 certain streets and roadways located in the City because such canvassers  
37 and solicitors pose a danger to themselves and the public at large by  
38 interfering with the safe movement of normal vehicular traffic; and

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(b) According to the Florida Department of Highway Safety and Motor Vehicles 2007 Florida Traffic Crash Statistics Report, 530 pedestrians were killed on Florida roadways in 2007; 65 of those pedestrians were killed on roadways in Broward County; and

(c) Based upon statistics collected by the Surface Transportation Policy Project, the Miami-Fort Lauderdale area is one of the most dangerous areas in the United States for pedestrians; and

(d) Numerous types of right-of-way canvassers and solicitors may seek to operate within the City of Wilton Manors, 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

(e) 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

(f) Roads are primarily designed for vehicular traffic and are not suited to safely accommodate right-of way canvassers and solicitors; and

(g) According to 2008–2012 statistical data collected by Florida Department of Transportation, the city ranked 13<sup>th</sup> in the state among Florida's 121 small cities (population 3,000 – 14,999) for having the most pedestrian related injury and fatality accidents. Neighboring cities ranked 2<sup>nd</sup> and 8<sup>th</sup> in their respective classifications; and Broward County ranked 2<sup>nd</sup> in the state in having the most pedestrian related injury and fatality accidents; and

(h) According to the Wilton Manors Police Department, 93% of all traffic and pedestrian accidents within the city occur on the subject roadways identified in Section (C), including 94% of all pedestrian-related accidents; and

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(i) The presence of right-of-way canvassers and solicitors interferes with the safe movement of normal vehicular traffic; and

(j) The road network in the City is substantially burdened by a high volume of traffic, and road design frequently includes complex vehicle turn movements that demand a driver's strict attention; and

(k) 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 City staff analyzed each of the major roads within the City and determined that the roads 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 vendors and solicitors shall be prohibited on the roads listed in subsection (C); and

(l) It is the finding of the City Commission that many other alternative channels of communication (other than right-of-way canvassing and solicitation on the prohibited roadways) 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; and the sale of goods and services at retail stores, through the internet and from vending machines; and

(m) 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

(n) 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

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

(C) Prohibited roadways. It shall be unlawful for any person to act as a right-of-way canvasser or solicitor at or within 200 feet from the lateral curb or boundary line of any intersection located on the following roadways: N.E 26<sup>th</sup> Street, Wilton Drive (SR 811), Dixie Highway, Oakland Park Blvd. (SR 816), N. Andrews Avenue, N.W. 9<sup>th</sup> Avenue (SR 845), and N.E. 6<sup>th</sup> Avenue.

(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) Enforcement and Penalties.

(1) It shall be the duty of any police officer of the city to require any person seen soliciting or canvassing and who is not known by the officer to be duly permitted, to produce his solicitor's or canvasser's permit, and to enforce the provisions of this chapter against any person found in violation thereof.

(2) Any person who violates any terms or provisions of this section shall be prosecuted before a court of competent jurisdiction and, upon conviction of such violation before the judge of the county court, shall be subject to the penalties prescribed by the county judge. Each day of violation of any term or provision of this article shall constitute a separate and distinct violation. Any person who violates this section shall further be subject to the code enforcement provisions of Chapter 2, Article III Division 2 of the City Code, and the penalties set forth in Section 1-15 of the City Code, as well as any other penalties provided by law.

**Section 4:** 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

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1 provision shall thereupon return to full force and effect without further action by the  
2 City and shall thereafter be binding under this Ordinance.

3 **Section 5:** That any ordinances or parts thereof In conflict with the provisions  
4 of this Ordinance are hereby repealed to the extent of such conflict.

5 **Section 6:** That it is the intention of the City Commission, and It is  
6 hereby ordained, that the provisions of this Ordinance shall become and made a  
7 part of the Code of the City of Wilton Manors; that the sections of this Ordinance may  
8 be renumbered or re-lettered to accomplish such intentions; and that the word  
9 "Ordinance" shall be changed to "Section" or other appropriate word.

10 **Section 6:** That this Ordinance shall take effect immediately upon adoption.

11 THE REST OF THIS PAGE HAS BEEN INTENTIONALLY LEFT BLANK.  
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**PASSED ON FIRST READING BY THE CITY COMMISSION OF THE CITY OF  
WILTON MANORS, FLORIDA, THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2014.**

**PASSED AND ADOPTED ON SECOND AND FINAL READING BY THE CITY  
COMMISSION OF THE CITY OF WILTON MANORS, FLORIDA THIS \_\_\_\_ DAY  
OF \_\_\_\_\_, 2014.**

CITY OF WILTON MANORS, FLORIDA

By: \_\_\_\_\_  
GARY RESNICK, MAYOR

ATTEST:

RECORD OF COMMISSION VOTE: 1<sup>ST</sup>  
Reading

_____	MAYOR RESNICK	_____
KATHRYN SIMS	VICE MAYOR CARSON	_____
CITY CLERK	COMMISSIONER GALATIS	_____
	COMMISSIONER GREEN	_____
	COMMISSIONER NEWTON	_____

I HEREBY CERTIFY that I have  
approved the form of this Ordinance.

\_\_\_\_\_

KERRY L. EZROL  
CITY ATTORNEY

RECORD OF COMMISSION VOTE: 2<sup>ND</sup>  
Reading

MAYOR RESNICK	AYE
VICE MAYOR CARSON	NAY
COMMISSIONER GALATIS	AYE
COMMISSIONER GREEN	AYE
COMMISSIONER NEWTON	AYE

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