

ORDINANCE 2022-17

AN ORDINANCE OF THE CITY OF LAKE WALES, POLK COUNTY, FLORIDA, AMENDING THE LAKE WALES CODE OF ORDINANCES, CHAPTER 20, TRAFFIC AND MOTOR VEHICLES, SECTION 20-3, OBSTRUCTION OF PUBLIC STREETS, HIGHWAYS AND ROADS, BY REPEALING AND REENACTING SUBSECTIONS (a) AND (b) OF SECTION 20-3, OBSTRUCTION OF PUBLIC STREETS, HIGHWAYS AND ROADS AS PROVIDED HEREIN; PROVIDING FOR CONFLICT AND SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, there have been numerous court rulings concerning solicitation, panhandling, and obstruction of public property since the adoption of Section 20-3 of the Lake Wales Code of Ordinances; and

WHEREAS, the City has recently received correspondence advising of a possible legal challenge to the constitutionality of the cited provision; and

WHEREAS, the City Commission deems it advisable that the cited provision be repealed and reenacted with language to withstand judicial scrutiny; and

WHEREAS, the City Commission wishes to repeal Subsections (a) and (b) of Article I, Section 20-3 and to reenact the cited provisions with revised language; and

WHEREAS, the City Commission finds that this Ordinance is narrowly tailored to impose specific place and manner restrictions to protect the public health, safety, and welfare by reducing the likelihood of serious bodily injury or death that results from conflicts between vehicular traffic and the presence of pedestrians which impede or obstruct streets, highways or roads.

NOW THEREFORE BE IT ENACTED by the City Commission of the City of Lake Wales, Polk County, Florida, as follows:

SECTION 1. Repeal. Subsections (a) and (b) of Section 20-3 of the Lake Wales Code of Ordinances are hereby repealed.

SECTION 2. Re-enactment. Subsections (a) and (b) of Section 20-3 of the Lake Wales Code of Ordinances are hereby reenacted to provide as follows:

(a) 1. A person shall not obstruct or prevent the free use of sidewalks or crosswalks by other persons.

2. A person shall not willfully obstruct the free, convenient, and normal use of a public roadway by:

a. Impeding, hindering, stifling, retarding, of restraining traffic or passage thereon;

b. Standing, sitting, walking, running, or otherwise remaining in the roadway; or

c. Endangering the safe movement of vehicles or pedestrians traveling thereon.

3. A person may not stand, sit, lie, walk upon, or stay for any purpose in between two parallel motor vehicle travel lanes. This prohibition does not prohibit a person from lawfully crossing a street.

4. This Section does not prohibit persons from doing the following:

a. Delivering or offering to deliver a tangible thing to an occupant of a motor vehicle or receiving a tangible thing from an occupant of a motor vehicle at a legal stop in a travel lane when the person is on the side of the vehicle that is closest to the edge of the roadway and the vehicle is located in one of the following locations:

i. On a one-way street with only one travel lane, and the vehicle is located in the travel lane;

ii. On a one-way street with two or more lanes of travel, and the vehicle is located in the travel lane that is rightmost or leftmost from the driver's viewpoint; or

iii. On a two-way street with two or more lanes of travel, and the vehicle is located in the travel lane that is the rightmost from the driver's viewpoint.

iv. In all interactions with motor vehicles in the rightmost travel lane, the person must stay on the rightmost side of the vehicle during the interaction

(b) This prohibition shall not apply to the following persons:

1. Government law enforcement officers, fire rescue, or other government employees acting within the scope of their governmental employment and/or authority;

2. A person conducting legally authorized collection of solid waste or recyclable or recovered materials, construction work, or maintenance work, or other legally authorized work;

3. A person responding to an emergency, such as medical personnel, roadside assistance, or towing and recovery personnel; or

4. A person instructed to stand in the traffic separator by law enforcement personnel or fire rescue personnel.

SECTION 3. Conflict and Severability

In the event this Ordinance conflicts with any other Ordinance of the City of Lake Wales or other applicable law, the more restrictive shall apply. If any phrase or

portion of the Ordinance is held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portion.

SECTION 4. Limitation as to the effect of this Ordinance. Other than as set forth herein, Section 20-3 of the Lake Wales Code of Ordinances shall remain unchanged.

SECTION 5. Effective Date. This Ordinance shall become effective immediately upon its passage by the City Commission.

CERTIFIED AS TO PASSAGE this ^{8th} _____ day of June, 2022.



Jack Milligoss, Mayor
City of Lake Wales

ATTEST:

Jennifer Nanek, CMC, City Clerk