

ORDINANCE NO. 669

AN ORDINANCE of the City Council of the City of Lakewood, Washington, amending Section 9A.04.020A of the Lakewood Municipal Code; amending Section 10.14.050 related to Pedestrian Interference.

WHEREAS, in July 2016, the Washington Supreme Court in City of Lakewood v. Willis, 186 Wn.2d 210, 375 P.3d 1056 (2016) invalidated two provisions of chapter 9A.04 of the City of Lakewood Municipal Code relative to Aggressive Begging as violating the First Amendment of the United States Constitution; and

WHEREAS the purpose of streets, highways, and roads is to move people and goods both safely and efficiently, and streets, highways, and roads are not designed for the purpose of soliciting funds. Direct personal solicitation from drivers distracts them from their primary duty to watch the traffic and potential hazards in the road, observe all traffic control signals or warnings, and prepare to move through the intersection; and

WHEREAS laws which are narrowly tailored to serve the significant governmental interest in traffic flow and roadway safety have been upheld, including a ruling from the Fifth Circuit of the United States Court of Appeals, which upheld an ordinance that prohibited individuals from soliciting the occupants of vehicles while the individual was in the street or roadway, street or roadway shoulder, or neutral ground of any street or roadway in International Society for Krishna Consciousness of New Orleans, Inc. v. City of Baton Rouge, 876 F.2d 494 (5th Cir. 1989); and

WHEREAS legislation which prohibits pedestrians from entering traffic to approach traffic has been held to "serve[] a compelling interest at the heart of the government's function: public safety" in Houston Chronicle Publishing Co. v. City of League City, Texas, 488 F.3d 613 (5th Cir. 2007); and

WHEREAS in the City of Lakewood, police documented thirty-four recorded accidents involving pedestrians in 2011. One pedestrian was killed in these accidents. Twenty-seven people were injured in these accidents; and

WHEREAS in the City of Lakewood, police documented forty-three recorded accidents involving pedestrians in 2012. Thirty two-people were injured in these accidents; and

WHEREAS in the City of Lakewood, police documented forty-three recorded accidents involving pedestrians in 2013. Thirty people were injured in these accidents; and

WHEREAS in the City of Lakewood, police documented forty recorded accidents involving pedestrians in 2014, one of which was a fatality. Twenty-six people were injured in these accidents; and

WHEREAS in the City of Lakewood, police documented fifty-six recorded accidents involving pedestrians in 2015, one of which was a fatality. Thirty-four people were injured in these accidents; and

WHEREAS in the City of Lakewood, police documented fifty-six recorded accidents involving pedestrians through mid-December 2016, one of which was a fatality. Thirty-three people were injured in these accidents; and

WHEREAS the Lakewood Police Department received no less than 193 calls for service (CFS) for panhandling in 2011, 130 in 2012, 145 in 2013, 163 in 2014, 176 in 2015 and 83 CFS in 2016; and

WHEREAS, a safety hazard has been identified with pedestrians attempting to interact with the drivers and passengers of vehicles at busy intersections within the City of Lakewood, including pedestrians leaving the edge of the curb and actively entering the roadway; and

WHEREAS, the practice of pedestrians interacting with the drivers and passengers of vehicles while the pedestrian is in the roadway has been identified as being unsafe for both the pedestrians and for traffic in general; and

WHEREAS, the practice of pedestrians interacting with the drivers and passengers of vehicles while the pedestrian is in the roadway constitutes an impediment to the normal and safe flow of traffic in the City of Lakewood; and

WHEREAS, the City may impose reasonable time, place and manner restrictions in a traditional public forum that serve the City's significant public safety interests; and

WHEREAS, the City finds that limiting the interaction between pedestrians and occupants of vehicles at intersections controlled by traffic signal lights promotes the safety of not only pedestrians but also vehicular traffic and, leaves open ample alternative channels of communication;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF LAKEWOOD, WASHINGTON, DO ORDAIN as follows:

Section 1: Section 10.16.050 LMC entitled "Pedestrian Obstruction of Traffic" is renamed "Pedestrian Obstruction in Roadways," and amended to read as follows:

~~It shall be unlawful for any pedestrian to walk or be on a public roadway in a manner which unnecessarily or unreasonably interferes with, delays, obstructs or halts the travel of vehicles over and/or across the public roadway. Violation of this section shall constitute a misdemeanor punishable by a fine not to exceed \$1,000.00, in addition to other costs and assessments provided by law.~~

A. As used in this section:

(1) "Curb" means the lateral lines of a roadway, whether constructed above grade or not, which are not intended for vehicular travel.

(2) "Roadway" means that portion of the public street including the vertical airspace above such portion of the public street, which is improved, designed or ordinarily used for vehicular travel, exclusive of the curb, berm or shoulder.

B. No person shall intentionally interrupt or obstruct the movement of vehicle or bicycle travel by walking on, standing on or going into any roadway used for vehicle or bicycle travel and contacting any vehicle, bicycle or occupant therein or halting the travel of such vehicle, bicycle or occupant therein.

C. Any person who violates any of the provisions of this chapter shall be guilty of a misdemeanor.

Section 2: Section 9A.04.020A LMC entitled "Restrictive Areas," is amended to read as follows:

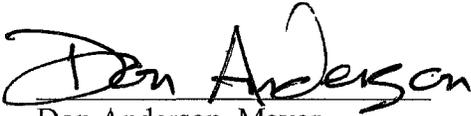
Begging shall be deemed a violation of this section of the municipal code under the following conditions: ~~(1) at on and off ramps leading to and from state intersections from any City roadway or overpass; (2) at intersections of major/principal arterials (or islands on the principal arterials) in the City; (3) within twenty five (25) feet of an ATM machine, or financial institution; (4) within fifteen (15) feet of any (a) occupied handicapped parking space, (b) taxicab stand, or (c) bus stop, train station or in any public parking lot or structure or walkway dedicated to such parking lot or structure; (5) before sunrise or after sunset at any public transportation facility or on any public transportation vehicle or (6) while a person is under the influence of alcohol or controlled substances.~~

Section 3: Severability. If any section, sentence, clause, or phrase of this ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity of any other section, sentence, clause, or phrase of this ordinance.

Section 4: Effective Date. This ordinance shall become effective thirty (30) days after its publication or publication of a summary of its intent and contents.

ADOPTED by the City Council this 15th day of May, 2017.

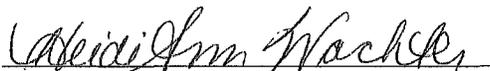
CITY OF LAKEWOOD


Don Anderson, Mayor

Attest:


Alice M. Bush, MMC, City Clerk

Approved as to Form:


Heidi A. Wachter City Attorney