

**ORDINANCE No. 04-54**

**AN ORDINANCE OF THE TOWN OF MIAMI LAKES, FLORIDA, CREATING REGULATIONS FOR RIGHT-OF-WAY VENDORS AND SOLICITORS ON CERTAIN ROADS IN THE TOWN; PROVIDING FOR PURPOSE AND INTENT; PROVIDING FOR DEFINITIONS; PROHIBITING RIGHT-OF-WAY VENDORS AND SOLICITORS ON CERTAIN ROADS; PROVIDING FOR ENFORCEMENT; PROVIDING FOR AN AMENDMENT TO SECTION 8CC-10 OF THE TOWN CODE; PROVIDING FOR REPEAL OF CONFLICTING PROVISIONS; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR PENALTY; PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, based upon statistics collected by the Surface Transportation Project, on average, 565 pedestrians are killed every year in Florida roads, of which 119 are killed in Miami-Dade County; and

**WHEREAS**, numerous types of right-of-way vendors and solicitors operate within the Town of Miami Lakes (the "Town"), 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 to distribute information; and

**WHEREAS**, right-of-way vendors 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 in the Town; and

**WHEREAS**, roads are primarily designed for vehicular traffic and are not suited to safely accommodate right-of-way vendors and solicitors; and

**WHEREAS**, the presence of right-of-way vendors and solicitors interferes with the safe movement of normal vehicular traffic; and

**WHEREAS**, it is the intention of the Town Council to use the least restrictive means to advance the significant governmental interests of traffic safety and public safety and, consequently, Town staff has analyzed each of the major roads within the Town and has determined that Red Road (57<sup>th</sup> Avenue), Ludlam Road (67<sup>th</sup> Avenue), Miami Lakes Drive/154<sup>th</sup> Street, 79<sup>th</sup> Avenue and 87<sup>th</sup> Avenue pose the greatest threat to traffic and public safety, and therefore the Town Council has determined that the prohibition on right-of-way vendors and solicitors shall be limited to those roads; and

**WHEREAS**, it is the belief of the Town Council that many other alternative channels of communication, other than right-of-way vending and solicitation, 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 churches, shopping areas and special events; the sale and/or distribution of newspapers through home delivery, vending machines and retail stores; and the sale of items of all kinds at retail stores, through the internet and from vending machines; and

**WHEREAS**, the Town Council desires to preserve and protect the personal safety and quality of life of its residents and of those who use Town streets, both pedestrians and motorists alike; and

**WHEREAS**, the Town Council further wishes to preserve the impressive aesthetic character of the Town by avoiding the visual clutter that may be caused by an excessive amount of vendors in the Town; and

**WHEREAS**, the Town Council has reviewed the proposed regulations provided by this ordinance and finds that such regulations accomplish the purposes intended in the least restrictive method possible; and

**WHEREAS**, the Town Council finds that it is in the best interests of the residents of the Town to adopt the following amendments to the Town Code.

**IT IS HEREBY ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF MIAMI LAKES, FLORIDA, AS FOLLOWS:**

**Section 1.** The above recitals are true and correct and are incorporated herein by this reference.

**Section 2.** Section 21-27.3 of the Town Code is hereby created to read as follows:

”Section 21-27.3 Right-of-Way Vendors and Solicitors.

(a) Purpose and Intent.

The Town Council of the Town of Miami Lakes desires to adopt an ordinance prohibiting right-of-way vendors and solicitors on certain streets located in the Town because such vendors and solicitors pose a danger to themselves and the public at large by interfering with the safe movement of normal vehicular traffic.

(b) Definitions. As used in this Section, the following term(s) have the meaning set forth herein, except as otherwise indicated by the context.

Right-of-Way Vendor 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 roads designated in subsection (c), 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 or its median. Further, this term shall not apply to official citations or notices provided pursuant to governmental authority.

(c) Prohibition on Right-of-Way Vendors or Solicitors on Certain Roads.

It is a violation of this Section for any person to act as a Right-of-Way Vendor or Solicitor in, at or upon Red Road (57<sup>th</sup> Avenue), Ludlam Road (NW 67<sup>th</sup> Avenue), Miami Lakes Drive/NW 154<sup>th</sup> Street, 79<sup>th</sup> Avenue, and 87<sup>th</sup> Avenue, including the swales and medians abutting such roads.

(d) Right-of-Way Vendors Permit. A person must obtain a permit from

the Town Manager or his designee in order to serve as a Right-of-Way Vendor within the Town. Such permit shall only be issued for vending not prohibited by Section 21-27.3(c), must state the locations where the person may vend and may be subject to conditions. The following criteria shall be applied in the issuance of such a permit:

- i. Availability of rights-of-way;
- ii. Public health and safety;
- iii. Obstruction of traffic;
- iv. Other Right-of-Way Vendors within the same area

(e) Enforcement.

A violation of this Ordinance or any resolution adopted pursuant to this Ordinance may be enforced pursuant to Section 8CC-10 of the Town Code and by issuance of a uniform civil violation notice, citation, summons, notice to appear in county court, or by filing an action in civil court for injunctive relief. This Ordinance is supplemental and nothing contained herein shall prohibit the Town from enforcing this Ordinance by any other lawful means.”

**Section 3. Amendment to Chapter 8CC-10.** Chapter 8CC-10 is hereby amended to include penalties for violations of this Ordinance as follows:

<i>“Code Section</i>	<i>Description of Violation</i>	<i>Civil Penalty</i>
<b>XXX</b>	Right-of-way vending and soliciting on certain prohibited streets	\$100.00

**Section 4. Repeal Of Conflicting Provisions.** Any provision of the Code that conflicts with this Ordinance is hereby repealed.

**Section 5. Severability.** The provisions of this ordinance are declared to be severable and if any section, sentence, clause or phrase of this ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this ordinance but they shall remain in effect, it being the legislative intent that this ordinance shall stand notwithstanding the invalidity of any part.

**Section 6. Inclusion In The Code.** It is the intention of the Town Council that the provisions of this ordinance shall become and be made a part of the Code of Miami Lakes, Florida. The sections of this ordinance may be renumbered or relettered to accomplish such intention, and the word “ordinance” may be changed to “section,” “article,” or other appropriate word.

**Section 7. Effective Date.** This Ordinance shall be effective immediately upon its adoption on second reading.

The foregoing Ordinance was offered by Councilmember Meador, who moved its adoption on first reading. The motion was seconded by Vice Mayor Alonso and upon being put to a vote, the vote was as follows: 5-0-2 (absent)

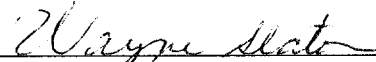
Councilmember Mary Collins	Absent
Councilmember Robert Meador, II	Yes
Councilmember Michael Pizzi	Yes
Councilmember Nancy Simon	Absent
Councilmember Peter Thomson	Yes
Vice Mayor Roberto Alonso	Yes
Mayor Wayne Slaton	Yes

PASSED AND ADOPTED on first reading this 8<sup>th</sup> day of **June**, 2004.

The foregoing Ordinance was offered by Councilmember Collins, who moved its adoption on second reading. The motion was seconded by Vice Mayor Alonso, and upon being put to a vote, the vote was as follows: 5-2

Councilmember Mary Collins	Yes
Councilmember Robert Meador, II	Yes
Councilmember Michael Pizzi	No
Councilmember Nancy Simon	No
Councilmember Peter Thomson	Yes
Vice Mayor Roberto Alonso	Yes
Mayor Wayne Slaton	Yes

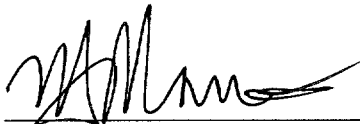
PASSED AND ADOPTED on second reading this 13<sup>th</sup> day of July, 2004.

  
\_\_\_\_\_  
Wayne Slaton  
MAYOR

ATTEST:

  
\_\_\_\_\_  
Beatris M. Arguelles, CMC  
TOWN CLERK

Approved as to form and legality for the use  
and benefit of the Town of Miami Lakes only:

  
\_\_\_\_\_  
Weiss, Serota, Helfman, Pastoriza, Guedes  
Cole & Boniske, P.A.  
TOWN ATTORNEY

F:/700/702001/Ordinances/Right-of-Way Vendors and Solicitors Friday, May 28, 2004, 10:13 a.m.