

Requested by: Police Department
Prepared by: City Attorney

ORDINANCE NO. 2023-52

AN ORDINANCE OF THE CITY OF VENICE, FLORIDA, AMENDING THE CODE OF ORDINANCES, CHAPTER 62, STREETS, SIDEWALKS, AND OTHER PUBLIC PLACES, ARTICLE I, IN GENERAL, TO ADD SECTION 62-3, DANGEROUS USE OF PUBLIC RIGHTS-OF-WAY; PROVIDING FOR REPEAL OF ALL ORDINANCES IN CONFLICT HEREWITH; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE

WHEREAS, Section 316.008, Florida Statutes allows municipalities to regulate the use of streets and highways within its jurisdiction; and

WHEREAS, the primary purpose of the public roads and rights-of-way is to enable pedestrians and lawfully permitted vehicles to safely and efficiently move from place to place, facilitate the delivery of goods and services, and provide the general public with convenient access to goods and services; and

WHEREAS, the purpose of this Ordinance is to prohibit activities that interfere with the primary purpose of public roads and rights-of-way by causing distractions to motorists, unsafe pedestrian movement within travel lanes, sudden stoppage or slowdown of traffic, rapidly changing, dangerous traffic movements, increased vehicular accidents and pedestrian and motorist injuries and fatalities; and

WHEREAS, the most recent 2022 Dangerous by Design study, which utilizes raw data from the National Highway Traffic Safety Administration, identifies the Bradenton-Sarasota-Nort Port metropolitan area as the 19th most dangerous place for pedestrians in the nation; and

WHEREAS, according to the Florida Highway Safety and Motor Vehicle Administration, there have been 5 pedestrian deaths and 150 pedestrian crashes already in the year 2023 in Sarasota County; and

WHEREAS, the Florida Department of Transportation Median Handbook identifies a median as being an adequate pedestrian refuge only when it is at least 6 feet (and preferably 8.5 feet) wide; and

WHEREAS, the Venice City Council finds and determines that the provisions of this Ordinance are in the best interest and furtherance of the health, safety, and welfare of the City, its citizens and taxpayers.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF VENICE, FLORIDA as follows:

SECTION 1. The above whereas clauses are ratified and confirmed as true and correct.

SECTION 2. Chapter 62, Streets, Sidewalks, and Other Public Places, Article I, In General, n 62-3, Reserved, is hereby amended as follows:

Sec. 62-3. – ~~Reserved~~ Dangerous Use of Public Rights-of-Way.

(a) Purpose. It is the purpose of this section that for the protection of public safety, the city will regulate the use of the public rights-of-way on all roads, streets, and highways within the city municipal boundaries.

(b) Dangerous Use of Rights-of-Way. Except as provided herein, or as otherwise permitted by law, it is unlawful to make any use of the public rights-of-way in a manner that interferes with the safe and efficient movement of people and property from place to place on a public road or right-of-way. Such prohibited activity includes, by way of example and not limitation:

(1) Stopping, standing or otherwise occupying a median that is not a sufficient pedestrian refuge on an arterial or collector road within the municipal boundaries of the city by a pedestrian when that pedestrian is not in the process of lawfully crossing the road in accordance with applicable traffic and safety laws.

i. Stopping, standing or otherwise occupying a median that is not a sufficient pedestrian refuge through two consecutive opportunities to cross in accordance with applicable traffic and safety laws is prima facie evidence of a violation of this subsection.

ii. The term “sufficient pedestrian refuge” means a paved or unpaved median separating lanes of traffic that is at least six feet wide, measured from back of curb to back of curb.

(2) Engaging in any physical interaction between a pedestrian and an occupant of a motor vehicle, including the transfer of any product or material, while the motor vehicle is located on the travelled portion of an arterial or collector road within the municipal boundaries of the city and is not legally parked.

(3) For the purposes of this section, the term “public rights-of-way” means as set forth in F.S. § 334.03(21) and as may be amended.

(c) Nothing in this section shall prohibit the following:

- (1) Law enforcement, fire and rescue, or other government employees or contractors acting within the scope of their lawful authority;
- (2) A person conducting inspection, construction, maintenance, repair, survey, or other legally authorized services;
- (3) A person responding to lend aid during an emergency situation;
- (4) Entering or exiting a bus or other public transit system;
- (5) Use of public roads and rights-of-way that have been closed to vehicular traffic for a special event permitted by the appropriate governmental entity.

(d) *Penalty.* Any person who violates this article shall be prosecuted in the same manner as misdemeanors are prosecuted. Upon conviction, a violator shall be punished by a fine not to exceed \$500.00 or by imprisonment not to exceed 60 days, or by both such fine and imprisonment.

(e) *Civil Enforcement.* In addition to any criminal penalties which may be imposed pursuant to subsection (d), the city shall have recourse to such remedies in law and equity as may be necessary to ensure compliance with the provisions of this section, including:

- (1) Injunctive relief to enjoin and restrain any person from violating this section;
- (2) Prosecution before the code enforcement special magistrate; and/or
- (3) Any other relief available pursuant to law.

(f) *Conflicts of Law.* Whenever the requirements or provisions of this section are in conflict with the requirements or provisions of any other lawfully adopted ordinance or statute, the most restrictive requirements shall apply.

Section 62-34 – 62-30 Reserved.

SECTION 3. All ordinances or parts of ordinances in conflict herewith be and the same are hereby repealed.

SECTION 4. If any part, section, subsection or other portion of this ordinance or any application thereof to any person or circumstance is declared void, unconstitutional or invalid for any reason, such part, section, subsection or other portion, or the prescribed application thereof, shall be severable and the remaining provisions of this ordinance, and all applications thereof not having been declared void, unconstitutional or invalid, shall remain in full force and effect. The City of Venice council specifically declares that no invalid or prescribed provision or application was an inducement to the enactment of this ordinance and that it would have enacted this ordinance regardless of the invalid or prescribed provision or application.

SECTION 5. This Ordinance shall become effective immediately upon its approval and adoption, as provided by law.

PASSED BY THE CITY COUNCIL OF THE CITY OF VENICE, FLORIDA THIS 12TH DAY OF DECEMBER 2023.

First Reading: November 28, 2023

Final Reading: December 12, 2023

Adoption: December 12, 2023

Nick Pachota, Mayor

ATTEST:

Kelly Michaels, MMC, City Clerk

I, Kelly Michaels, MMC, City Clerk of the City of Venice, Florida, a municipal corporation in Sarasota County, Florida, do hereby certify that the foregoing is a full and complete, true and correct copy of an Ordinance duly adopted by the Venice City Council, at a meeting thereof duly convened and held on the 12th day of December 2023, a quorum being present.

WITNESS my hand and the official seal of said City this 12th day of December, 2023.

Kelly Michaels, MMC, City Clerk

Approved as to form:

Kelly Fernandez, City Attorney