



MEMORANDUM TO VENICE CITY COUNCIL

THROUGH CHARTER OFFICER: Edward Lavallee, City Manager

E-SIGN: *James R. Clinch*

FROM: Chief Charlie Thorpe 
Charlie Thorpe (Nov 21, 2023 10:54 EST)

DEPARTMENT: Police

DATE: 11/21/2023

MEETING DATE: 11/28/2023

SUBJECT / TOPIC: Ordinance No. 2023-52

BACKGROUND INFORMATION: The purpose of this ordinance is 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.

SUPPORTS STRATEGIC PLAN: Goal Two: Provide Efficient, Responsive Government with High Quality Services

COUNCIL ACTION REQUESTED: For Council Adoption by Motion

Cc: [Click or tap here to enter text.](#)

Review of Contract Routing Tracker:

(Initial or Signature to indicate your Review/Approval)

Finance Department Reviewed: [s]

N/A



Risk Management Reviewed: [s] reviewed by A. Bullock 11/21/2023



City Attorney Reviewed: [s] reviewed by D. Lewis 11/21/2023



City Manager Reviewed: [s] *James R. Clinch*



Funds Availability (account #):

Project #:

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 refuse” 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



Business Impact Estimate

This form should be included in the agenda packet for the item under which the proposed ordinance is to be considered and must be posted on the City of Venice, Florida website by the time notice of the proposed ordinance is published.

Proposed Ordinance Title: 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

This Business Impact Estimate is provided in accordance with section 166.041(4), Florida Statutes. If one or more boxes are checked below, this means the City of Venice is of the view that a business impact estimate is not required by state law¹ for the proposed ordinance, but the City of Venice is, nevertheless, providing this Business Impact Estimate as a courtesy and to avoid any procedural issues that could impact the enactment of the proposed ordinance. This Business Impact Estimate may be revised following its initial posting.

- The proposed ordinance is required for compliance with Federal or State law or regulation;
- The proposed ordinance relates to the issuance or refinancing of debt;
- The proposed ordinance relates to the adoption of budgets or budget amendments, including revenue sources necessary to fund the budget;
- The proposed ordinance is required to implement a contract or an agreement, including, but not limited to, any Federal, State, local, or private grant or other financial assistance accepted by the municipal government;
- The proposed ordinance is an emergency ordinance;
- The ordinance relates to procurement; or
- The proposed ordinance is enacted to implement the following:
 - a) Part II of Chapter 163, Florida Statutes, relating to growth policy, county and municipal planning, and land development regulation, including zoning, development orders, development agreements and development permits;
 - b) Sections 190.005 and 190.046, Florida Statutes, regarding community development districts;
 - c) Section 553.73, Florida Statutes, relating to the Florida Building Code; or
 - d) Section 633.202, Florida Statutes, relating to the Florida Fire Prevention Code.

¹ See Section 166.041(4)(c), Florida Statutes.

In accordance with the provisions of controlling law, even notwithstanding the fact that an exemption noted above may apply, the City of Venice hereby publishes the following information:

1. Summary of the proposed ordinance (must include a statement of the public purpose, such as serving the public health, safety, morals, and welfare): *The purpose is 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.*
2. An estimate of the direct economic impact of the proposed ordinance on private, for-profit businesses in the City of Venice, if any: *There are no known economic impacts for these businesses.*
 - a. An estimate of direct compliance costs that the businesses may reasonably incur: *N/A*
 - b. Any new charge or fee imposed by the proposed ordinance for which businesses would be financially responsible: *N/A*
 - c. An estimate of the City of Venice's regulatory costs, including estimated revenues from any new charges or fees to cover such costs: *N/A*
3. Good faith estimate of the number of businesses likely to be impacted by the proposed ordinance: *None.*
4. Additional information deemed useful: *N/A*

Signature: *James R. Clinch*

Email: jclinch@venicefl.gov










COUNCIL AGENDA ITEM MEMORANDUM (ROW)

Final Audit Report

2023-11-21


Created:	2023-11-21
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Status:	Signed
Transaction ID:	CBJCHBCAABAAIhieUjIZUonQvq9L5EC1ECO-oQ2YIUy8

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