

ORDINANCE 19-41

AN ORDINANCE OF MANATEE COUNTY, FLORIDA, RELATING TO UNLAWFUL ACTIVITY WITHIN PUBLIC ROADS AND RIGHTS-OF-WAY; AMENDING ARTICLE VII OF CHAPTER 2-21 OF THE MANATEE COUNTY CODE TO FURTHER PROHIBIT ACTIVITIES THAT INTERFERE WITH THE PRIMARY PURPOSE OF PUBLIC ROADS AND RIGHTS-OF-WAY; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Board of County Commissioners of Manatee County adopted Ordinance No. 18-12 to amend Article VII of Chapter 2-21 of the Manatee County Code to adopt reasonable time, place and manner regulations to address the County's legitimate and significant interest in providing and promoting safe means of travel and use of the public roads and rights-of-way in Manatee County; and

WHEREAS, Section 2-21-104(a) of the Manatee County Code, as amended by Ordinance No. 18-12, prohibits the use of the public roads and rights-of-way of the County, including appendages thereto, in a manner that interferes with the safe and efficient movement of people and property from place to place; and

WHEREAS, Manatee County has one the highest incidents of motor vehicle collisions with pedestrians resulting in fatal or incapacitating injuries in the State of Florida; and

WHEREAS, motor vehicle collisions with pedestrians increased by 159% from 2017 to 2018 and motor vehicle collisions with pedestrians resulting in fatal or incapacitating injuries has increased by 633% from 2017 to 2018 in Manatee County; and

WHEREAS, the top ranked high crash segment locations within unincorporated Manatee County between 2010 and 2015 are public roads classified as either arterial or collector roads; and

WHEREAS, the majority of intersections controlled by traffic signals are intersections that involve public roads classified as either arterial or collector roads; and

WHEREAS, the unexpected presence of pedestrians near a motor vehicle within the traveled portion of a road increases the risk of collisions, regardless of whether the motor vehicle is in motion or stopped at a traffic signal; and

WHEREAS, the Board of County Commissioners of Manatee County adopted Resolution R-16-036, which approved the amended Manatee County Public Works Highway and Traffic Standards Manual, dated January 2016 (the "Public Works Standards Manual") to include Part 3, Highway and Traffic Standards, Section 3.1.6 Complete Streets; and

WHEREAS, the Public Works Standards Manual provides that a median zone serves three purposes: (1) to provide a buffer between traffic moving in opposite directions, (2) to provide refuge to pedestrians crossing a street, and (3) to provide landscaping or pedestrian amenities within the public realm; and

WHEREAS, pedestrians remaining on or within median zones of highly traveled public roads for purposes other than crossing the road increases the risk of collision between vehicles and pedestrians; and

WHEREAS, person-to-vehicle or vehicle-to-person interactions at intersections on highly traveled public roads is inherently dangerous and has the potential to distract motorists from their driving; and

WHEREAS, the Board of County Commissioners of Manatee County has a significant governmental interest in providing and promoting the health, safety, and general welfare of the public by reducing distractions to motorists and unsafe pedestrian movement within or near travel lanes; and

WHEREAS, more than a year has passed since Ordinance No. 18-12 took effect; and

WHEREAS, the Board of County Commissioners of Manatee County wishes to amend Article VII of Chapter 2-21 of the Manatee County Code to prohibit pedestrian use of median zones on highly traveled public roads for purposes other than lawfully crossing; and

WHEREAS, the Board of County Commissioners of Manatee County wishes to amend Article VII of Chapter 2-21 of the Manatee County Code to prohibit conduct that is intended to result in a transfer of money or any other thing of value, or any other product or material, between a pedestrian and the driver or an occupant of the motor vehicle when the motor vehicle is located on the traveled portion of a highly traveled public road; and

WHEREAS, this Ordinance is enacted pursuant to the home rule power of Manatee County, specifically Section 125.01(1)(m), Florida Statutes, and Section 316.008(1), Florida Statutes, which authorizes the County to regulate the movement of motor vehicles and pedestrians on roads located within Manatee County; and

WHEREAS, the Board of County Commissioners of Manatee County finds that the provisions of this Ordinance are in the best interests of the County, its citizens, taxpayers and business community.

NOW, THEREFORE, BE IT ORDAINED by the Board of County Commissioners of Manatee County:

Section 1. Section 2-21-102 is hereby amended as follows:

Section 2-21-102. – Area of applicability.

~~Unless otherwise specified,~~ This article shall be applicable to and govern all public roads and rights-of-way within the unincorporated areas of Manatee County, Florida.

Section 2. Section 2-21-103 is hereby amended as follows:

Section 2-21-103. – Definitions.

When used in this article, the following words or phrases have the following meanings:

County means Manatee County, Florida.

Designated public roads means the interstate system (including interstate entrance and exit ramps), and arterial and collector roads or rights-of-way, as classified on the Manatee County future traffic circulation functional classification map adopted by the Manatee County Board of County Commissioners, or classified as arterial and collector roads or rights-of-way pursuant to the classification or reclassification procedures and criteria established pursuant to the Manatee County Comprehensive Plan.

Median means the area dividing a public road that separates lanes of traffic traveling in opposite directions or to control and direct vehicular movement, such as turning movements, to include traffic islands. This area may be paved, unpaved, curbed or painted.

Person means any natural person, or nongovernmental legal entity or organization of any kind.

Public road means all roads which are open and available for use by the public, and dedicated to the public use, according to law or by prescription pursuant to Section 335.01(1), Florida Statutes.

Right-of-way means land in which the state, the Department of Transportation, a county or a municipality owns the fee or has an easement devoted to or required for use as a transportation facility pursuant to Section 334.03, Florida Statutes.

Traveled portion of a designated public road means any portion of a designated public road that is normally used by moving motor vehicles, or that is not a lawful parking area.

Section 3. Section 2-21-104 is hereby amended as follows:

Section 2-21-104. – Prohibitions.

(a) Except when a permit or license has been issued by an appropriate governmental entity or otherwise authorized by the rules of the Florida Department of Transportation, it is unlawful to make any use of the public roads and rights-of-way of the County, including appendages thereto, 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:

(1) Storing, selling, or attempting to sell, any goods, merchandise or other materials, or any services.

(2) Sitting, standing or otherwise occupying any portion of the public right-of-way, including any public road, median, alley or sidewalk, while engaged in conduct that constitutes an express or implied threat of injury to any person or of damage to or loss of any property owned by or in lawful possession of another person, or by impeding the passage or free movement of another person, whether such person is on foot, on a bicycle, in a wheelchair, operating a motor vehicle, entering or exiting a motor vehicle, or moving or attempting to move in any other manner. Conduct that constitutes an express or implied threat of injury to any person or of damage to or loss of any property owned by or in lawful possession of another person includes the following forms of conduct:

- i. Confronting or accosting an individual or individuals by approaching or speaking in such a manner as would cause a reasonable person to fear imminent bodily harm or the commission of a criminal act upon that person or property in his/her possession;
- ii. Using obscene or abusive language toward an individual or individual(s); or
- iii. Touching an individual or individuals or his/her mode of transportation, such as a motor vehicle, bicycle or wheelchair without his/her consent.

(3) Soliciting or attempting to solicit employment, business, contributions, donations, or sales or exchanges of any kind, that results in, or is intended to result in, a transfer of money or any product or material between a pedestrian and the driver or an occupant of the motor vehicle while the motor vehicle is located on the traveled portion of a designated public road and is not legally parked.

(4) Stopping or standing on a median on a designated public road, unless the person is in the process of lawfully crossing the public road in accordance with applicable traffic and safety laws, regulations and ordinances. Stopping or standing on a median through two (2) consecutive opportunities to cross a designated public road in accordance with applicable traffic and safety

laws, regulations and ordinances shall be prima facie evidence of a violation of this section.

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

(1) Licensees, lessees, franchisees, permittees, employees or contractors of the city, county or state authorized to engage in inspection, construction, repair or maintenance of streets, roadways, public utilities, or any public structure or property, or in making traffic or engineering surveys whether public or private.

(2) Persons engaged in public services, including but not limited to, firefighting and rescue personnel, law enforcement personnel, emergency medical services personnel, health care workers or providers, military personnel, civil preparedness personnel, emergency management personnel, solid waste personnel, public works personnel, public transportation personnel, or public utilities personnel.

(3) Use of public roads, alleys, sidewalks or other portions of the public right-of-way in areas which have been closed to vehicular traffic for a special event permitted by the appropriate governmental entity.

Section 4. For purposes of codification of any section of the Manatee County Code herein amended, words **underlined** represent additions to original text, and words **stricken** are deletions from the original text.

Section 5. Pursuant to Section 125.68(1), F.S., the Codifier shall codify the substantive amendments to the Manatee County Code contained in Sections 1 through 3 of this Ordinance as provided therein, and shall not codify any other sections not designated for codification.

Section 6. If any section, subsection, sentence, clause, provision or word of this Ordinance is held invalid, same shall be severable and the remainder of this Ordinance shall not be affected by such invalidity, such that any remainder of the Ordinance shall withstand any severed provision, as the Board of County Commissioners would have adopted the Ordinance and its regulatory scheme even absent the invalid part.

Section 7. This Ordinance shall take effect immediately upon filing with the State of Florida Department of State.

DULY ADOPTED with a quorum present and voting this _____ day of _____, 2019.

**BOARD OF COUNTY COMMISSIONERS
OF MANATEE COUNTY, FLORIDA**

By: _____
Chairperson

ATTEST: ANGELINA COLONNESO
CLERK OF THE CIRCUIT COURT AND COMPTROLLER

By: _____
Deputy Clerk