

ORDINANCE NO. 2023- 16

AN ORDINANCE OF ST. JOHNS COUNTY, FLORIDA, RELATING TO PEDESTRIAN AND VEHICLE SAFETY WITHIN PUBLIC ROADS AND RIGHTS-OF-WAY; ADOPTING FINDINGS OF FACT; PROVIDING FOR APPLICABILITY; PROVIDING FOR DEFINITIONS; ESTABLISHING PROHIBITED USE OF PUBLIC ROAD RIGHTS-OF-WAY; PROVIDING FOR ENFORCEMENT AND PENALTIES; PROVIDING FOR ADDITIONAL REMEDIES; PROVIDING FOR SEVERABILITY; PROVIDING FOR SCRIVENERS ERRORS; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Board of County Commissioners of St. Johns County, Florida (“Board”), recognizes that the primary purpose of 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, in the recent 2022 Dangerous By Design study, which utilizes raw data from the National Highway Traffic Safety Administration, the state of Florida was identified as the second-highest ranked state in the country over the period of 2016 through 2020 in both the total number of pedestrian deaths and the average pedestrian deaths per 100,000 people per year; and

WHEREAS, according to the University of Florida Signal Four Analytics database of traffic safety data from the Florida Department of Highway Safety and Motor Vehicles, St. Johns County experienced 60 vehicle/pedestrian crashes, from which there were 4 fatalities, in 2020; 88 vehicle/pedestrian crashes, from which there were 9 fatalities, in 2021; and 86 vehicle/pedestrian crashes, from which there were 7 fatalities, in 2022; and

WHEREAS, in its most recent Florida Pedestrian and Bicycle Strategic Safety Plan, dated September 2021, the Florida Department of Transportation evaluated Florida pedestrian and bicycle safety strategies to combat the comparatively high percentage and recommended enhanced “legislation, regulations, policies and programs to support the overall goal of eliminating fatal and serious crashes involving people walking and biking”; and

WHEREAS, in its guide to traffic safety, Countermeasures That Work: A Highway Safety Countermeasure Guide for State Highway Safety Offices, Tenth Edition, 2020, the National Highway Traffic Safety Administration concluded that pedestrian and motorist traffic law enforcement, paired with outreach and education, is likely to be an effective countermeasure to enhance pedestrian safety, based on high-quality evidence, and is often necessary to change unsafe pedestrian behavior; 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, a median zone serves at least 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 motor vehicles and pedestrians; and

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

WHEREAS, the time necessary to complete such interactions may cause the driver of a motor vehicle to delay proceeding in accordance with traffic signals or cause a person within a right-of-way while traffic is stopped temporarily to remain in the roadway after traffic resumes movement; and

WHEREAS, the Board recognizes the need for, and the benefits of significant government interests in vehicular safety and the free flow of pedestrian and vehicular traffic; and

WHEREAS, the Board 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, protecting the health, safety, and welfare of pedestrians and motorists is a significant government interest. *See Cox v. State of New Hampshire*, 312 U.S. 569, 574 (1941) (“[t]he authority of a [governmental entity] to impose regulations in order to assure the safety and convenience of the people in the use of public highways has never been regarded as inconsistent with civil liberties but rather as one of the means of safeguarding the good order upon which they ultimately depend.”); *see Bischoff v. Florida*, 242 F. Supp. 2d 1226, 1237 (M.D. Fla. 2003) (“[t]he purpose behind [a legislative act] . . . to ensure public safety on roads . . . is a compelling government interest.”); and

WHEREAS, the purpose of this Ordinance is to regulate the use of the public rights-of-way within St. Johns County 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, Section 125.01, Florida Statutes provides for the broad exercise of home rule authority by St. Johns County for the protection of the health, safety and welfare of our residents and visitors; and

WHEREAS, Section 316.008, Florida Statutes authorizes the Board of County Commissioners of St. Johns County to regulate the use of streets and highways under its jurisdiction; and

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

WHEREAS, this Ordinance is not intended to limit any person from exercising his or her constitutional rights or engaging in any other constitutionally protected activity unless their conduct also violates the specific terms of this Ordinance. *See McDonald v. City of Pompano Beach, Fla.*, 556 F. Supp. 3d 1334, 1349 (S.D. Fla. 2021) (“But the act of sitting or standing on mediations generally . . . isn’t *by itself* communicative.”); *also Crocker v. Betty*, 995 F.3d 1232, 1242 (11th Cir. 2021) (“Needless to say, I-95’s median isn’t a public forum of any stripe.”); and

WHEREAS, this Ordinance is intended to apply evenhandedly to all persons who engage in the activities proscribed herein, regardless of whether a message is intended; and

WHEREAS, the regulations set forth below are narrowly tailored to apply only to designated roadways that present greater risks due to generally higher pedestrian or vehicular traffic volume and congestion and to leave open ample alternative channels of communication; and

WHEREAS, the Board finds and determines that the provisions of this Ordinance are in the best interest and the furtherance of the health, safety, and welfare of the County and the public.

NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA, as follows:

Section 1. Findings of Fact. The above recitals are true and correct and incorporated by reference into the body of this Ordinance and adopted as findings of fact.

Section 2. Applicability. The provisions of this Ordinance shall apply only within unincorporated St. Johns County. County-owned roads lying within the municipal boundaries of the City of St. Augustine or the City of St. Augustine Beach shall not be subject to the provisions of this Ordinance.

Section 3. Definitions. When used in this Ordinance, the following words, terms, and phrases shall have the meanings set forth below, except where the context clearly indicates a different meaning:

A. “Board” means the Board of County Commissioners of St. Johns County, Florida.

B. “County” means St. Johns County, Florida.

C. “Designated Roadway” means the interstate/intrastate system (including interstate/intrastate entrance and entrance ramps), and arterial and collector roadways and rights-of-way. For purposes of this definition, arterial and collector roadways and rights-of-way shall be those roadways (and their rights-of-way) classified as a collector or higher according to the St. Johns County Land Development Code, Ordinance No. 99-51, as

amended. It also encompasses the first 440 feet of local roadways intersecting with these designated roadways and any areas within the rights-of-way not designated or intended for pedestrian use. The portions of these designated roadways subject to this Ordinance include the portions within the area open for vehicular traffic (including medians), plus four feet outside of the shoulders and/or curbs.

D. “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 or unpaved, marked or unmarked, landscaped or non-landscaped, and curbed or uncurbed.

E. “Motor vehicle” means a self-propelled vehicle not operated upon rails or guideway, but not including any bicycle, electric bicycle, motorized scooter, electric personal assistive mobility device, mobile carrier, personal delivery device, swamp buggy, or moped.

F. “Legally parked” means a vehicle that is standing, stopped, or parked in an area designated, or legally authorized, for parking.

G. “Person” means any natural person or nongovernmental entity or organization of any kind.

H. “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.

I. “Right-of-way” means land in which the State, the Department of Transportation, a county, or 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.

J. “Sheriff” means the St. Johns County Sheriff.

K. “Traveled portion of a designated roadway” means any portion of a designated roadway (including travel lanes, turn lanes, bike lanes, and shoulders) that is normally used by moving motor vehicle traffic that is not an area designated for or routinely used as a parking area for the general public.

Section 4. Prohibited Use of Public Road Rights-of-Way.

A. 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, street, or highway. Such prohibited activity includes by way of example and not limitation:

i. Engaging in any physical interaction between a pedestrian and an occupant of a motor vehicle, including the transfer of any product, material, or monies, while the motor vehicle is located on the traveled portion of designated roadway and is not legally parked.

ii. Stopping, sitting, standing, or otherwise occupying or remaining in a median on a designated roadway by a person when that person is not in the process of lawfully crossing the road in accordance with applicable traffic and safety laws, regulations, and ordinances. Stopping, sitting, standing, or otherwise occupying or remaining in a median through two (2) consecutive opportunities to cross in accordance with applicable traffic and safety laws is prima facie evidence of a violation of this subsection ii.

B. Nothing in this Section 4 shall prohibit the following:

i. Law enforcement, fire and rescue, or other government employees or contractors acting within the scope of their lawful authority;

ii. A person conducting inspection, construction, maintenance, repair, survey, or other legally authorized services;

iii. A person responding to lend aid during an emergency situation or who is within the roadway due to a mechanical or physical defect in his or her vehicle that occurred while driving in the roadway;

iv. Entering or exiting a bus or other public transit system; or

v. Use of public road rights-of-way that have been closed to vehicular traffic for a special event permitted by the appropriate government entity.

Section 5. Enforcement and Penalties.

A. This Ordinance may be enforced by the Sheriff and other law enforcement agencies.

B. A first-time violation of this Ordinance is a civil infraction punishable by a fine not to exceed \$500.00.

C. A second or subsequent violation of this Ordinance shall be prosecuted in the same manner as misdemeanors are prosecuted. Upon conviction, a violator shall be punished by a fine not to exceed five hundred dollars (\$500.00) or by imprisonment in the county jail not to exceed sixty (60) days or by both such fine and imprisonment, as provided in section 125.69, Florida Statutes.

D. Each violation of this Ordinance shall constitute a separate violation.

E. Due to the transient nature of these activities, each incident occurring more than every twenty (20) minute after the violation has been corrected shall constitute a separate violation.

F. A person who aids or participates in a violation for which a civil penalty may be assessed under this Ordinance shall be considered a principal in the violation and may be assessed a civil penalty of up to the maximum amount prescribed for that violation.

Section 6. Additional Remedies. In addition to any civil or criminal penalties which may be imposed pursuant to Section 5, above, the County shall have recourse to such remedies in law and equity as may be necessary to insure compliance with the provisions of this Ordinance, including but not limited to injunctive relief to enjoin and restrain any person from violating this Ordinance and/or any other relief available pursuant to law or equity.

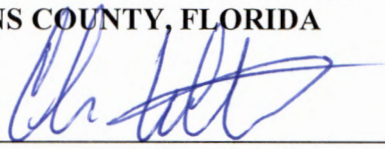
Section 7. Severability. If any section, sentence, clause, or phrase of this Ordinance is held to be unconstitutional, preempted by federal or state law, or otherwise invalid by any court of competent jurisdiction, such unconstitutionality, preemption, or invalidity shall not be construed as to render unconstitutional, preempted, or invalid the remaining sections, sentences, clauses, and phrases of this Ordinance.

Section 8. Scriveners Errors. It is the intent of the Board that scriveners and typographic errors which do not change the tone or tenor of this Ordinance may be corrected with the authorization of the County Administrator, or designee, without subsequent public hearing or approval by the Board by filing a corrected copy of the same with the Clerk of the Board.

Section 9. Effective Date. This Ordinance shall take effect immediately upon its being filed with the Secretary of State. For the first thirty (30) days after the effective date, the Sheriff shall conduct a public education campaign and only issue warnings to violators.

PASSED AND ENACTED by the Board of County Commissioners of St. Johns County, Florida, this 2nd day of may, 2023.

**BOARD OF COUNTY COMMISSIONERS OF
ST. JOHNS COUNTY, FLORIDA**

By: 
Christian Whitehurst, Chair

Attest: Brandon J. Patty,
Clerk of the Circuit Court & Comptroller

By: 
Deputy Clerk

Rendition Date: MAY 02 2023

Adopted regular meeting MAY 02 2023

Effective: MAY 03 2023



LOCALiQ

FLORIDA

PO Box 631244 Cincinnati, OH 45263-1244

PROOF OF PUBLICATION

Minutes And Records
CLERK OF THE COURTS
Minutes And Records
500 San Sebastian View

Saint Augustine FL 32084

STATE OF FLORIDA, COUNTY OF ST JOHNS

The St Augustine Record, a daily newspaper published in St Johns County, Florida; and of general circulation in St Johns County; and personal knowledge of the facts herein state and that the notice hereto annexed was Published in said newspapers in the issues dated or by publication on the newspaper's website, if authorized, on:

04/21/2023

and that the fees charged are legal.
Sworn to and subscribed before on 04/21/2023



Legal Clerk



Notary, State of WI, County of Brown

8.25.26

My commission expires

Publication Cost: \$106.08

Order No: 8727599

of Copies:

Customer No: 764114

1

PO #:

THIS IS NOT AN INVOICE!

Please do not use this form for payment remittance.

MARIAH VERHAGEN
Notary Public
State of Wisconsin

NOTICE OF PUBLIC HEARING OF THE

ST. JOHNS COUNTY BOARD OF COUNTY COMMISSIONERS
NOTICE IS HEREBY GIVEN that the Board of County Commissioners of St. Johns County, Florida, will hold a public hearing to consider adoption of the following ordinance at a regular meeting on Tuesday, May 2, 2023, at 9:00 a.m. in the County Auditorium at the County Administration Building, 500 San Sebastian View, St. Augustine, Florida:

AN ORDINANCE OF ST. JOHNS COUNTY, FLORIDA, RELATING TO PEDESTRIAN AND VEHICLE SAFETY WITHIN PUBLIC ROADS AND RIGHTS-OF-WAY; ADOPTING FINDINGS OF FACT; PROVIDING FOR APPLICABILITY; PROVIDING FOR DEFINITIONS; ESTABLISHING PROHIBITED USE OF PUBLIC ROAD RIGHTS-OF-WAY; PROVIDING FOR ENFORCEMENT AND PENALTIES; PROVIDING FOR ADDITIONAL REMEDIES; PROVIDING FOR SEVERABILITY; PROVIDING FOR SCRIVENERS ERRORS; AND PROVIDING AN EFFECTIVE DATE

The proposed ordinance is on file in the office of the Clerk of the Board of County Commissioners at the County Administration Building, 500 San Sebastian View, St. Augustine, Florida, and may be examined by interested parties prior to the said public hearing. Please take note that the proposed ordinance is subject to revision prior to hearing or adoption. All parties having any interest in said ordinance will be afforded an opportunity to be heard of the public hearing.

If a person decides to appeal any decision made with respect to any matter considered at the hearing, such person will need a record of the proceedings, and for such purposes he/she may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based.

NOTICE TO PERSONS NEEDING SPECIAL ACCOMMODATIONS AND TO ALL HEARING IMPAIRED PERSONS: In accordance with the Americans with Disabilities Act, persons needing a special accommodation to participate in this proceeding should contact ADA Coordinator, at (904) 209-0400 or of the Facilities Management Department, 2416 Dobbs Road, St. Augustine, FL 32086. For hearing impaired individuals: Florida Relay Service: 1-800-955-8770, no later than 5 days prior to the date of this hearing.

BOARD OF COUNTY COMMISSIONERS
OF ST. JOHNS COUNTY, FLORIDA
BRANDON J. PATTY, ITS CLERK
By: Yvonne King, Deputy Clerk



FLORIDA DEPARTMENT *of* STATE

RON DESANTIS
Governor

CORD BYRD
Secretary of State

May 3, 2023



Honorable Brandon Patty
Clerk of Courts
St. Johns County
500 San Sebastian View
St. Augustine, FL 32084

Attention: Crystal Smith

Dear Honorable Brandon Patty,

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your electronic copy of St. Johns County Ordinance No. 2023-16, which was filed in this office on May 3, 2023.

Sincerely,

Anya Owens
Program Administrator

ACO/wlh