

ORDINANCE NUMBER 2023 - \_\_\_\_\_

AN ORDINANCE OF THE CITY OF OCALA, FLORIDA CREATING SECTIONS 58-170 THROUGH 58-172, *CODE OF ORDINANCES, CITY OF OCALA, FLORIDA*; PROVIDING FOR THE REGULATION OF DANGEROUS USES OF THE PUBLIC RIGHTS-OF-WAY; ENFORCEMENT AND PENALTIES; REPEALING INCONSISTENT AND/OR CONFLICTING PROVISIONS; PROVIDING FOR SEVERABILITY OF ORDINANCE PROVISIONS; PROVIDING DIRECTION TO THE CODIFIER; PROVIDING FOR MODIFICATIONS ARISING FROM CONSIDERATION AT A PUBLIC HEARING; AND PROVIDING AN EFFECTIVE DATE.

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WHEREAS, the City of Ocala, Florida, as provided in Article VIII, Section 2(b), of the *Constitution of the State of Florida*, and Section 166.021(1), *Florida Statutes*, enjoys all governmental, corporate and proprietary powers necessary to conduct municipal government, perform municipal functions and render municipal services and may exercise any power for municipal purposes; except as expressly prohibited by law; and

WHEREAS, the City of Ocala, Florida, as provided in Section 166.021(3), *Florida Statutes*, may enact legislation concerning any subject matter upon which the state legislature may act; except when expressly prohibited by law; and

WHEREAS, the City of Ocala, Florida, pursuant to the aforementioned grants of authority and further pursuant to other provisions of Florida law may regulate the use of roads, streets and highways and rights-of-way under their jurisdiction; and

WHEREAS, the City Council of the City of Ocala, Florida finds and determines that the primary purposes of roads and their associated rights-of-way are to enable lawfully permitted vehicles and pedestrians to safely and efficiently move from place-to-place, to facilitate the delivery of goods and services and to provide the public with convenient access to goods and services; and

WHEREAS, the City Council of the City of Ocala, Florida enacts this ordinance to prohibit activities that interfere with the aforementioned primary purposes of roads and their associated 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 and increased vehicular accidents and pedestrian and motorist injuries and fatalities; and

WHEREAS, the City Council of the City of Ocala, Florida has reviewed data and reports which indicate that accidents in the City of Ocala, Florida involving motor vehicles and pedestrians may often result in injury, serious injury and death; and

WHEREAS, the City Council of the City of Ocala, Florida has reviewed additional data and reports which indicate that in 2021 and 2022 there were at least 80 incidents in the City of Ocala, Florida in which motor vehicles and pedestrians were involved; and

WHEREAS, the City Council of the City of Ocala, Florida has reviewed additional data and reports which indicate that in 2021 and 2022 there were at least 8 incidents in the City of Ocala involving motor vehicles and pedestrians in which a pedestrian was killed; and

WHEREAS, the City Council of the City of Ocala, Florida finds and determines that enacting regulations on dangerous uses of public rights-of-way which are intended to curtail activities which are directly related to the aforementioned accidents, injuries and deaths is a meaningful step toward protecting the health, safety and welfare of the City of Ocala, Florida and its citizens; and

WHEREAS, the City Council of the City of Ocala, Florida finds and determines that this ordinance and the regulation of dangerous uses of the public rights-of-way contained herein are in furtherance of the protection of the health, safety and welfare of the citizens of Ocala, Florida; and

WHEREAS, the City Council of the City of Ocala, Florida finds and determines that this ordinance and the regulation of dangerous uses of the public rights-of-way contained herein in the best interest of the City of Ocala, Florida and its citizens; and

NOW THEREFORE, be it ordained, by the City Council of the City of Ocala, Florida, in regular session, as follows:

Section 1. Ratification, Adoption and Incorporation of Recitals.

The City Council of the City of Ocala, Florida ratifies the above-outlined recitals as true and correct; adopts and incorporates them herein as part and parcel of this ordinance.

Section 2. Purpose and Authority for Ordinance.

This ordinance is adopted for the purpose of creating Sections 58-170 through Section 58-172, of the *Code of Ordinances, City of Ocala, Florida*, and is adopted pursuant to the authority granted by Chapter 166, *Florida Statutes*, and other relevant provisions of Florida law.

Section 3. Creation of Sections 58-170 through Section 58-172, Code of Ordinances, City of Ocala, Florida.

Sections 58-170 through Section 58-172 of the *Code of Ordinances, City of Ocala, Florida* are hereby created and shall state as follows:

Section 58-170. Dangerous Use(s) of the Public 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 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 City of Ocala, Florida by a pedestrian when that pedestrian is not in the process of lawfully crossing the road in accordance with applicable traffic and safety laws.
    - a. Stopping, standing or otherwise occupying a median that is not a sufficient pedestrian refuge 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.

- b. For the purposes of this article, a "sufficient pedestrian refuse" shall be defined as a paved or unpaved median separating lanes of traffic that is at least six (6) 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 City of Ocala, Florida and is not legally parked.
3. For the purpose of this article the phrase "right[s]-of-way" shall be defined as set forth in Section 334.03, *Florida Statutes*.

B. 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.

Section 58-171. Penalties for Violations of this Section.

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 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.

Section 58-172. Civil Enforcement of Violations of this Section.

In addition to any criminal penalties which may be imposed pursuant to section 58-171, the City of Ocala, Florida shall have recourse to such remedies in law and equity as may be necessary to insure compliance with the provisions of this article, including:

- (1) Injunctive relief to enjoin and restrain any person from violating this article; and
- (2) Prosecution before the City of Ocala Code Enforcement Board; and/or

- (3) Any other relief available pursuant to law.

Section 4. Direction to Staff.

The City Council of the City of Ocala, Florida directs staff to take any and all steps necessary to effectuate the adoption and implementation of this ordinance; and all other matters as provided for above and herein as well as to ensure the orderly and effective administration and implementation of the intent of this ordinance and the specific matters outlined herein.

Section 5. Direction to the Codifier.

It is the intention of the City Council of the City of Ocala, Florida that (1) this ordinance shall become and be made a part of the *Code of Ordinances, City of Ocala, Florida*, (2) the sections and paragraphs of this ordinance may be renumbered or relettered in order to accomplish said intention; (3) terms or headings not affecting the intent of this ordinance may be changed to further accomplish said intention; and (4) any scrivener's error(s) contained herein which do not affect the intent of this ordinance be corrected with the authorization of the City Manager or their designee and without the need for additional public hearings or consideration by the City Council.

Section 6. Repealing Inconsistent and/or Conflicting Provisions.

The City Council of the City of Ocala, Florida hereby specifically repeals, to the extent of any such conflict, any and all ordinances, resolutions, policies, procedures and/or other articles which are conflicting and/or inconsistent with this ordinance and the intent and direction provided by the City Council herein.

Section 7. Severability of Ordinance Provisions.

If any section, phrase, sentence or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, it is the intent of the City Council of the City of Ocala, Florida that (1) such portion shall be deemed a separate, distinct and independent provision; (2) such holding shall not affect the validity of the remaining portions hereof; and (3) this ordinance be adopted as though any such provision was not included herein.

Section 8. Modifications Arising from Consideration at a Public Hearing.

It is the intention of the City Council of the City of Ocala, Florida that (1) the provisions of this ordinance may be modified as a result of its consideration by the City Council of matters that may arise during the public hearing(s) at which this ordinance is considered; and (2) any such modifications shall be incorporated into the final version of this ordinance.

Section 9. Effective Date of Ordinance.

This ordinance shall become effective immediately upon approval by the Mayor or becoming law without such approval.

PASSED AND ADOPTED, in a regular session with a quorum present and voting, by the City Council of the City of Ocala, Florida this \_\_\_\_ day of \_\_\_\_\_ 2023.

CITY OF OCALA, FLORIDA

\_\_\_\_\_  
By: JAMES HILTY, SR., as  
President of the City Council

ATTEST:

\_\_\_\_\_  
By: ANGEL JACOBS, as  
City Clerk

APPROVED AS TO FORM AND LEGALITY:

\_\_\_\_\_  
By: WILLIAM E. SEXTON, as  
City Attorney

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APPROVED / DENIED by me, as Mayor of the City of Ocala, Florida this \_\_\_\_ day of \_\_\_\_\_ 2023.

\_\_\_\_\_  
By: RUBEN KENT GUINN, as  
Mayor

ORDINANCE NUMBER: \_\_\_\_\_  
INTRODUCED: \_\_\_\_\_  
ADOPTED: \_\_\_\_\_  
LEGAL AD NUMBER: \_\_\_\_\_