

## ORDINANCE NUMBER 3056

**AN ORDINANCE OF THE CITY OF BRADENTON, FLORIDA, RELATING TO UNLAWFUL ACTIVITY WITHIN PUBLIC ROADS AND RIGHTS-OF-WAY; AMENDING CHAPTER 62 OF THE CITY OF BRADENTON CODE TO FURTHER PROHIBIT ACTIVITIES THAT INTERFERE WITH PUBLIC SAFETY AND THE PRIMARY PURPOSE OF PUBLIC ROADS AND RIGHTS-OF-WAY; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, Chapter 62 of the City of Bradenton Code of Ordinances provides for reasonable time, place and manner regulations to address the City's legitimate and significant interest in providing and promoting safe means of travel and use of the public roads and rights-of-way in the City; and

**WHEREAS**, Chapter 62 of the City of Bradenton Code of Ordinances prohibits the use of the public roads and rights-of-way of the City, including appendages thereto, in a manner that interferes with the safe and efficient movement of people and property from place to place; and

**WHEREAS**, the Florida Department of Transportation determined that the City of Bradenton ranked number one in the State of Florida, out of 101 Group II cities, for pedestrian or bicycle accidents with serious injuries and fatalities between the years of 2013 and 2017; and

**WHEREAS**, the City of Bradenton Police Department conducted a study of vehicle accidents involving pedestrians from 2014 to present within the City, to determine which roadways accounted for the greatest number of vehicle on pedestrian accidents ("Safety Study"); and

**WHEREAS**, the Safety Study determined that roadways which may not have documented vehicle-pedestrian accidents in recent years, but which have similar traffic flow and configuration to roadways with documented vehicle-pedestrian accidents, should also be considered to have a high risk for future vehicle-pedestrian accidents; and

**WHEREAS**, the Safety Study recommended that those roadways within the City with documented vehicle-pedestrian accidents, and those with similar characteristics, be designated as high risk roads for pedestrians; and

**WHEREAS**, the City 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 of high risk roadways; and

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

**WHEREAS**, pedestrians remaining on or within any portion of a major roadway classified as high risk roads for pedestrians, including median areas, for purposes other than lawfully crossing the road increases the risk of collision between vehicles and pedestrians; and

**WHEREAS**, person-to-vehicle or vehicle-to-person interactions on high risk roads is inherently dangerous and has the potential to distract motorists from their driving; and

**WHEREAS**, the City wishes to amend Chapter 62 of the City of Bradenton Code of Ordinances to address these concerns related to pedestrian-vehicle interactions; and

**WHEREAS**, this Ordinance is enacted pursuant to the home rule power of the City specifically and pursuant to Article VIII, Section 2, Florida Constitution, and Section 316.008(1), Florida Statutes, which authorizes the City to regulate the movement of motor vehicles and pedestrians on roads located within the City of Bradenton; and

**WHEREAS**, the City Council of Bradenton finds that the provisions of this Ordinance are in the best interests of the health, safety and welfare of the City.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BRADENTON, FLORIDA:**

**Section 1.** Findings of Fact. The foregoing whereas clauses are hereby adopted as findings of fact.

**Section 2.** Amended Code Language.

- A. Section 62-1 of Article I of the City of Bradenton Code of Ordinances shall be repealed in its entirety as follows, and the remaining sections of Article I shall be renumbered accordingly.

Section 62-1. - Obstruction of street right-of-way; peddler's license. "Begin Deleted Language"

- a) ~~Except when a permit has been issued as provided in this Code or otherwise authorized by the rules of the state department of transportation, it is unlawful to make any use of the right of way of any city street, including appendages thereto, in any manner that interferes with the safe and efficient movement of people and property from place to place on the city street. Failure to prohibit the use of right-of-way in this manner will endanger the health, safety, and general welfare of the public by causing distractions to motorists, unsafe pedestrian movement within travel lanes, sudden stoppage or slowdown of traffic, rapid lane changing and other dangerous traffic movement, increased vehicular accidents, and motorist injuries and fatalities. Such prohibited uses include, but are not limited to, the free distribution or sale, or display or solicitation for free distribution or sale, of any merchandise, goods, property or services; the solicitation for charitable purposes; the servicing or repairing of any vehicle, except the rendering of emergency service; the storage of vehicles being serviced or repaired on abutting property or elsewhere; and the display of advertising of any sort, except that any portion of a city street may be used for an art festival, parade, fair or other special event if a permit has been obtained from the city. The city may issue permits of limited duration for the temporary use of the right-of-way for any of these prohibited uses if it is determined that the use will not interfere with the safe and efficient movement of traffic and the use will cause no danger to the public. Before a street may be temporarily closed for a special event, the city must determine that the temporary closure of the street is necessary. Nothing in this subsection shall be construed to authorize such activities on the interstate highway system.~~

~~b) Persons holding valid peddler's licenses issued by the city may make sales from vehicles standing on the right-of-way to occupants of abutting property only. "End Deleted Language"~~

- B. Section 62-56 of Article III of the City of Bradenton Code of Ordinances shall be repealed in its entirety as follows, and the remaining sections of Article III shall be renumbered accordingly.

"Begin Deleted Language" ~~Section 62-56. -- Rollerskating.~~

~~It shall be unlawful for any person to skate with rollerskates in the street. "End Deleted Language"~~

- C. A new Article V of Chapter 62 of the City of Bradenton Code of Ordinances shall be added to read as follows:

"Begin Added Language" Article V. – Prohibited Activities that Interfere with Public Safety and the Primary Purpose of Public Roads. "End Added Language"

- D. A new Section 62-89 shall be added to Article V of the City of Bradenton Code of Ordinances to read as follows:

"Begin Added Language" Section 62-89. - Area of applicability.

This Article shall be applicable to and govern all public roads and rights-of way within the City of Bradenton, Florida. "End Added Language"

- E. A new Section 62-90 shall be added to Article V of the City of Bradenton Code of Ordinances to read as follows:

"Begin Added Language" Section 62-90. - Definitions.

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

City means the City of Bradenton, Florida.

High Risk Road for Pedestrians means the following roads and intersections, as identified and applied from the City of Bradenton Police Department Pedestrian Traffic Safety Study, dated October 24, 2019:

26th Street West;

59th Street West;

43rd Street West;

1st Street West;

Cortez Road West;

Martin Luther King Avenue;

13th Avenue West;

13th Avenue East;

Manatee Avenue East;

Manatee Avenue West;

6th Avenue East;  
6th Avenue West;  
9th Street West; and  
14th Street West.

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 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 High Risk Road for Pedestrians means any portion of a High Risk Pedestrian Road that is normally used by moving motor vehicles, or that is not a lawful parking area, and includes shoulders and bike lanes. "End Added Language"

F. A new Section 62-91 shall be added to Article V of the City of Bradenton Code of Ordinances to read as follows:

"Begin Added Language" Section 62-91. - 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 City, 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 acting 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. Engaging in any physical interaction, including a transfer of 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 High Risk Road for Pedestrians and is not legally parked.
  4. Sitting, standing or otherwise occupying the Traveled Portion of a High Risk Road for Pedestrians, including a median area, unless the person is in the process of lawfully crossing the road at a crosswalk in accordance with applicable traffic and safety laws, regulations and ordinances.
- b) (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.
  4. Entering or exiting a bus or other form of public transit. "End Added Language"

**Section 3.** Codification. The City Clerk shall ensure that this Ordinance shall be submitted for codification upon taking effect.

**Section 4.** Repeal of Inconsistent Ordinances. This Ordinance hereby repeals all ordinances, or parts thereof, in conflict herewith to the extent of such conflict.

**Section 5.** Severability. If any provision of this Ordinance or the application thereof to any person or circumstances is held invalid, the invalidity shall not affect other provisions or applications of the Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared severable.

**Section 6.** Effective Date. This Ordinance shall take effect on November 20, 2019.

FIRST READING        11/13/2019  
PUBLICATION DATE    11/09/2019  
SECOND READING      11/20/2019

PASSED AND DULY ADOPTED, BY THE CITY COUNCIL OF THE CITY OF BRADENTON, FLORIDA, with a quorum present and voting, this 20<sup>TH</sup> day of November, 2019.

CITY OF BRADENTON, FLORIDA

\_\_\_\_\_  
Wayne Poston, Mayor

ATTEST:

By: \_\_\_\_\_  
Sharon Beauchamp, City Clerk

APPROVED AS TO FORM:

By: \_\_\_\_\_  
Scott Rudacille, City Attorney