

ALACHUA COUNTY
BOARD OF COUNTY COMMISSIONERS

ORDINANCE NO. 2021-__

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF ALACHUA COUNTY, FLORIDA, AMENDING CHAPTER 117 OF THE ALACHUA COUNTY CODE OF ORDINANCES, ENTITLED "MISCELLANEOUS OFFENSES"; REPEALING SECTION 117.02, ENTITLED "INTERACTIONS BETWEEN PEDESTRIANS AND VEHICLES PROHIBITED;" CREATING SECTION 117.02 OF THE ALACHUA COUNTY CODE OF ORDINANCES, ENTITLED "PEDESTRIANS PROHIBITED IN TRAFFIC SEPARATORS"; AMENDING CHAPTER 24, ARTICLE II, SECTION 24.16 TO ESTABLISH A CITATION PENALTY; PROVIDING FOR REPEALING CLAUSE, PROVIDING FOR MODIFICATION AT PUBLIC HEARING, PROVIDING FOR SEVERABILITY, PROVIDING FOR INCLUSION IN THE CODE, AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, according to the Florida Department of Highway Safety and Motor Vehicles publication titled "Traffic Crash Facts - 2019 Annual Report" available at https://www.flhsmv.gov/pdf/crashreports/crash_facts_2019.pdf, in Alachua County, there were 156 pedestrians involved in traffic crashes and, of those, 11 were killed and 130 suffered injuries;

WHEREAS, in 2019, in the City of Gainesville, there were 88 pedestrians involved in traffic crashes and, of those, 10 were killed and 68 suffered injuries;

WHEREAS, the County Commission seeks to prevent further pedestrian fatalities or injuries within the County;

WHEREAS, as stated on page 68 of the Florida Department of Transportation publication titled "2014 Median Handbook, as updated October 2017," "[i]n order for a median to be considered a pedestrian refuge, the minimum median width must be at least 6 ft, but preferably at least 8.5 ft;"

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1 **WHEREAS**, based on the Florida Department of Transportation guidance the County
2 Commission finds that medians that are 6 feet in width or less are intended to serve as traffic
3 separators by keeping vehicular traffic that is moving in opposite directions separated and that
4 these traffic separators are not designed to provide safe refuge for pedestrians;

5 **WHEREAS**, the County Commission finds that pedestrians who are present within
6 traffic separators are placing themselves in danger of serious bodily injury or death;

7 **WHEREAS**, the County Commission further finds that many medians exist within the
8 County that are greater than 6 foot in width and that are designed to provide safe pedestrian
9 refuge and do not need to be restricted by this ordinance and remain available for use by
10 pedestrians;

11 **WHEREAS**, the County Commission further finds that this Ordinance is narrowly
12 tailored to impose specific place and manner restrictions to protect the public health, safety and
13 welfare by reducing the likelihood of serious bodily injury or death that result from conflicts
14 between vehicular traffic and the presence of pedestrians within traffic separators that are 6 feet
15 in width or less within the County; and

16 **WHEREAS**, the City of Gainesville adopted a similar regulation as the one set forth
17 below and the County Commission finds that there is public value in maintaining consistency
18 between the jurisdictions for pedestrian safety; and

19 **WHEREAS**, at least 10 days' notice has been given once by publication in a newspaper
20 of general circulation notifying the public of this proposed ordinance; and

21 **WHEREAS**, the public hearings were held pursuant to the published notice described at
22 which hearings the parties in interest and all others had an opportunity to be and were, in fact
23 heard.

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1 **NOW, THEREFORE, BE IT DULY ORDAINED BY THE BOARD OF COUNTY**
2 **COMMISSIONERS OF ALACHUA COUNTY, FLORIDA, AS FOLLOWS:**

3 SECTION 1. The Board of County Commissioners finds and declares that all statements
4 in the preamble of the ordinance are true and correct.

5 SECTION 2. Section 117.02, entitled “Interactions between pedestrians and vehicles
6 prohibited” is hereby repealed in its entirety and is replaced with a new section 117.02 within
7 Chapter 117 of the County Code of Ordinances to read as follows:

8 **Chapter 117 MISCELLANEOUS OFFENSES**

9 **Section 117.02. Pedestrians prohibited in traffic separators.**

10 (a) No person shall stand, sit, walk upon or stay for any purpose within any public right-of-
11 way median that is six feet in width or less (a “traffic separator”), except within areas that
12 are specifically designed and marked for pedestrian access as evidenced by a crosswalk
13 within the median with ADA accessibility features, pedestrian signage and/or flashing
14 lights.

15 (b) Exceptions. The prohibition in section 117.02(a) does not apply to the following persons:

- 16 1. Government law enforcement officers, fire/rescue or other government
17 employees, acting within the scope of their governmental employment and/or
18 authority;
- 19 2. A person conducting legally authorized construction or maintenance work, or
20 other legally authorized work;
- 21 3. A person responding to an emergency situation, such as medical personnel or a
22 tow truck operator; or

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- 1 4. A person instructed to stand in the traffic separator by law enforcement personnel
2 or fire/rescue personnel.

3 (c) Violations of section 117.02(a) shall be punishable as follows:

4 1. Warnings:

5 a. When a designated official of the County determines that there is a
6 violation of section 117.02(a), the official may issue a written warning to
7 the person violating the ordinance. The warning shall advise the person of
8 the violation, and of the possible penalty for a second or subsequent
9 violation.

10 b. For the purposes of this section, it is sufficient warning for subsequent
11 violations if the person is warned, or cited for, a violation within the
12 previous year (365 days).

13 2. Citation. Any person who violates the provisions of section 117.02 after receiving
14 a warning within the previous year, shall be subject to civil citation as provided in
15 Chapter 24, Article II of the Alachua County Code.

16 3. Both Alachua County Codes Enforcement and the Alachua County Sheriff's
17 Office may enforce section 117.02 of the County Code of Ordinances, including
18 issuing warnings and citations for violations of section 117.02(a).

19

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SECTION 3. Section 24.16 titled “Applicable codes and ordinances” is amended to add the following penalty. Except for this addition, the remainder of section 24.16 remains in full force and effect:

Section	Description	Class	Penalty
<u>117.02</u>	<u>Pedestrians prohibited in traffic separators</u>	<u>I</u>	<u>\$50.00</u>

SECTION 4. Repealing Clause. All ordinances or portions thereof in conflict herewith are, to the extent of such conflict, hereby repealed.

SECTION 5. Modification. It is the intent of the Board of County Commissioners that the provisions of this ordinance may be modified as a result of considerations that may arise during public hearings. Such modifications shall be incorporated into the final version of the ordinance adopted by the Board and filed by the Clerk to the Board.

SECTION 6. Severability. If any word, phrase, clause, paragraph, section or provision of this ordinance or the application hereof to any person or circumstance is held invalid or unconstitutional, such finding shall not affect the other provisions or applications of the ordinance which can be given effect without the invalid or unconstitutional provisions or application, and to this end the provisions of this ordinance are declared severable.

SECTION 7. Inclusion in the Code. It is the intent of the Board of County Commissioners of Alachua County, Florida, and it is hereby provided that the provisions of this ordinance shall become and be made a part of the Code of Ordinances of Alachua County, Florida; that the section of this ordinance may be renumbered or re-lettered to accomplish such intent and that the word “ordinance” may be changed to “section”, “article”, or other appropriate CODE: Words ~~stricken~~ are deletions; words underlined are additions.

1 designation.

2 SECTION 8. Effective Date. A certified copy of this ordinance shall be filed with the
3 Department of State by the Clerk of the Board within ten (10) days after enactment by the
4 Board and shall take effect upon filing with the Department of State.

5
6
7 **DULY ADOPTED** in regular session, this ____ day of ____, 2021.

8
9 **BOARD OF COUNTY COMMISSIONERS OF**
10 **ALACHUA COUNTY, FLORIDA**

11
12 ATTEST:

13 BY: _____

14 Ken Cornell, Chair
15 Board of County Commissioners

16 _____
17 J.K. "Jess" Irby, Esq.
18 Clerk

19 APPROVED AS TO FORM

20 _____
21 County Attorney
22

(SEAL)

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