

Legislative #

200464

ORDINANCE NO. 200464

An Ordinance of the City of Gainesville, Florida, creating a new Article VII titled “Pedestrians Prohibited in Traffic Separators” within Chapter 26 titled “Traffic and Motor Vehicles” of the City Code of Ordinances; amending Sec. 2-339 to create a civil citation penalty; providing a severability clause, providing a repealing clause 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 City Commission seeks to prevent further pedestrian fatalities or injuries within the City;

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;”

WHEREAS, at the direction of the City Commission, professional staff in the Department of Transportation and Mobility reviewed the medians within the City to determine how/where the City might limit pedestrian access in order to reduce the likelihood of pedestrian death or injury;

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

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

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

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

16 **WHEREAS**, at least 10 days' notice has been given once by publication in a newspaper
17 of general circulation notifying the public of this proposed ordinance and of public hearings to be
18 held in the City Commission Auditorium, City Hall, City of Gainesville; and

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

22 **NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE**
23 **CITY OF GAINESVILLE, FLORIDA:**

1 **Section 1.** A new Article VII is created within Chapter 26 of the City Code of
2 Ordinances to read as follows:

3 **Chapter 26 TRAFFIC AND MOTOR VEHICLES**

4 **Article VII. Pedestrians Prohibited in Traffic Separators.**

5 **Sec. 26-190. Pedestrians prohibited in traffic separators.** No person shall stand, sit, walk
6 upon or stay for any purpose within any public right-of-way median that is six feet in width or
7 less (a “traffic separator”), except within areas that are specifically designed and marked for
8 pedestrian access as evidenced by a crosswalk within the median with ADA accessibility
9 features, pedestrian signage and/or flashing lights.

10 **Sec. 26-191. Exceptions.** The prohibition in Sec. 26-190 does not apply within the University of
11 Florida Master Plan Boundary as identified on the Future Land Use Map (Figure 2-1) within the
12 Campus Master Plan, as may be amended from time to time. In addition, the prohibition in Sec.
13 26-190 does not apply to the following persons:

14 (a) Government law enforcement officers, fire/rescue or other government employees, acting
15 within the scope of their governmental employment and/or authority;

16 (b) A person conducting legally authorized construction or maintenance work, or other legally
17 authorized work;

18 (c) A person responding to an emergency situation, such as medical personnel or a tow truck
19 operator; or

20 (d) A person instructed to stand in the traffic separator by law enforcement personnel or
21 fire/rescue personnel.

1 **Sec. 26-192. Violations.** Any person who violates the provisions of this article shall be subject
2 to civil citation as provided in Sec. 2-339.

3 **Section 2.** Sec. 2-339 titled “Applicable codes and ordinances” is amended to add the
4 following penalty. Except for this addition, the remainder of Sec. 2-339 remains in full force and
5 effect:

Section	Description	Class	Penalty
<u>26-190</u>	<u>Pedestrians prohibited in traffic separators</u>	<u>I</u>	<u>\$50.00</u>

6

7 **Section 3.** It is the intention of the City Commission that the provisions of Section 1 and
8 Section 2 of this ordinance will become and be made a part of the Code of Ordinances of the
9 City of Gainesville, Florida, and that the sections and paragraphs of this ordinance may be
10 renumbered or relettered in order to accomplish such intentions.

11 **Section 4.** If any word, phrase, clause, paragraph, section or provision of this ordinance or
12 the application hereof to any person or circumstance is held invalid or unconstitutional, such
13 finding will not affect the other provisions or application of the ordinance which can be given
14 effect without the invalid or unconstitutional provisions or application, and to this end the
15 provisions of this ordinance are declared severable.

16 **Section 5.** All ordinances or parts of ordinances, in conflict herewith are to the extent of
17 such conflict hereby repealed.

18 **Section 6.** This ordinance will become effective immediately upon final adoption.

19

1 **PASSED AND ADOPTED** this ____ day of _____, 2021.

2

3

LAUREN POE, MAYOR

4

5

6 Attest:

Approved as to form and legality:

7

8

OMICHELE D. GAINERY
CITY CLERK

NICOLLE M. SHALLEY
CITY ATTORNEY

9

10

11

12

13 This ordinance passed on first reading this ____ day of _____, 2021.

14

15 This ordinance passed on second reading this ____ day of _____, 2021.