

ORDINANCE NO. 2014-XXX

AN ORDINANCE OF SARASOTA COUNTY, FLORIDA, AMENDING ORDINANCE NOS. 83-046, AS AMENDED, AND AS CODIFIED IN ARTICLE I OF CHAPTER 98 OF THE CODE OF ORDINANCES OF SARASOTA COUNTY, FLORIDA, RELATING TO ROADS AND BRIDGES; AMENDING SECTION 98-11 RELATING TO ACTIVITIES IN THE RIGHT OF WAY; PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Board of County Commissioners desires to provide the opportunity for special events to take place on its roads;

WHEREAS, the Board of County Commissioners must ensure that such events take place in a safe manner;

WHEREAS, the use of certain roads for special events may unreasonably interfere with the flow of traffic or with the use and enjoyment of properties in the vicinity of the special events;

WHEREAS, the use of certain roads for special events may significantly affect the County's ability to deliver police, fire, and emergency medical services to the event site and parcels near the event site;

WHEREAS, the use of certain roads for special events may disrupt the use and enjoyment of residential, business, industrial, and government facilities;

WHEREAS, the use of certain roads for special events may result in a noise disturbance; and

WHEREAS, the Board of County Commissioners recognizes that its regulations must be content-neutral time, place, and manner restrictions on the use of such roads as a public forum.

THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF SARASOTA COUNTY:

SECTION 1. In this Ordinance, all ~~striketrough~~ language shall constitute language removed from the code, and all underlined language shall constitute language added to the code.

SECTION 2. Section 98-11 of the Sarasota County Code of Ordinances is hereby amended as follows:

Sec. 98-11. ~~Obstruction of Traffic, Distribution of Items to, Receipt of Items from, and Exchange of Items with Occupants of Motorized Vehicles on~~ Activities in the Right-of-Way.

(a) *Findings.*

(1) It is hereby found and determined that Obstruction of Traffic, distribution of an item to, receipt of an item from, or exchange of any item with the occupant of any motorized vehicle upon a Road presents a threat to the safety and well-being of the citizens of Sarasota County and the traveling public by creating an unreasonable risk of accidents due to distraction of motorists and pedestrians and interference with the vision of motorists and pedestrians.

(2) The prohibitions of Obstruction of Traffic, distribution of any item to, receipt of any item from, or exchange of any item with the occupant of any motorized vehicle upon a Road in the unincorporated area of Sarasota County promotes the health, safety, and welfare of the citizens of Sarasota County and the traveling public.

(3) This section is intended to apply evenhandedly to all persons who engage in the activities prescribed herein, regardless of their message.

(4) This section is intended to be narrowly-tailored to serve the significant government interest of public safety, and to leave open ample alternative channels for distribution, receipt, and exchange upon the public sidewalks or other areas of the Public Right-of-Way not outlined below.

(b) *Definitions.* For the purpose of this section, the following definitions shall apply:

(1) “Median” shall mean an area that separates traffic, also known as a central reservation, median strip, island, or other separator.

(2) “Obstruction of Traffic” means the intentional act of walking, standing, sitting, lying, or placing or use of an object in any manner that results in the interference, slowing or interruption of the passage of the normal flow of vehicles on the Road.

(3) “Public Right-of-Way” shall mean land in which the state, the Florida Department of Transportation, a county, or other public entity owns the fee or has an easement associated with any road, including the public sidewalks.

(4) “Road” shall mean the road surface, medians, travel lanes, turn lanes and all ways open to travel by operators of motorized vehicles within unincorporated Sarasota County. The definition excludes private roads and roads that are not open to motor vehicle travel, and sidewalks open for pedestrian travel.

(5) “Road Surface” shall mean the flat paved or concrete area of the road intended for vehicular use, including any bicycle or breakdown lanes, gutters, and any curb to the top of the curb abutting the paved or concrete area.

(6) "Sidewalk" shall mean that portion of the Right-of-Way between the Road Surface and the adjacent property lines intended for use by pedestrians. A sidewalk may be paved or unpaved.

(c) *Prohibitions on Roads.* It shall be unlawful to violate any of the prohibitions set forth below in the unincorporated areas of Sarasota County, Florida:

(1) It shall be unlawful for any person to act in any manner on a Road which results in the Obstruction of Traffic.

(2) No person shall be upon or go upon any Road to distribute any item to, receive any item from, or exchange any item with the occupant of any motorized vehicle upon the Road, unless the person has obtained a permit as detailed in this section.

(3) No person shall be on the Sidewalk, including any off ramp and distribute any item to, receive any item from, or exchange any item with the occupant of any motorized vehicle upon the Road, unless the person has obtained a permit as detailed in this section.

(4) No person shall throw or toss any item to, or receive any thrown or tossed item from, the occupant of a motorized vehicle on the Road.

(5) Other than County or State employees engaged in roadway maintenance activities, or persons who have obtained a permit as detailed in this section, all persons shall maintain a six-foot separation between themselves and the Road Surface when using a Median for any time period longer than it takes to safely and lawfully cross the Road Surface. If a person cannot maintain a six-foot separation from the Road Surface, then it shall be unlawful to occupy the Median.

(d) Notwithstanding the provisions of Section 98-11(c)(2), (3), or (5), the County Administrator's designee, hereinafter referred to as the Ordinance Administrator, may grant a permit any person to otherwise engage in the activities prohibited in Section 98-11(c)(2), (3), and (5) by issuing a permit to that person, subject to the following limitations:

(1) each permit application must include a written safety plan which includes the following elements, as applicable, to ensure the event occurs in a safe manner:

a. identify a competent person capable of identifying existing and predicible hazards in the surrounding and has authority to take prompt corrective measures to eliminate them;

b. provide a diagram or sketch of the Road location including any intersections, traveling or turn lanes, signs, and traffic control signals;

c. identify the speed limit of the Road;

d. show the location of a warning areas where signs are posted to warn about the event prior to entering the activity area on the diagram or sketch;

e. show the location of a transition area between the warning area and activity area on the diagram or sketch;

f. show the location of the activity area where persons will enter and exit the Road, and conduct any activity on the Road on the diagram or sketch;

g. show the location of a transition area between the activity area and termination of the event location on the diagram or sketch;

h. identify the hours during which the event will take place;

i. provide an estimate of the maximum number of participants for each day the event it is conducted;

(2) The permitted activities can only occur during Friday, Saturday, and Sunday on the following weekends, from 8:00 a.m. to 6:00 p.m.:

a. the first full weekend of March;

b. the first full weekend of June;

c. the first full weekend of September; and

d. the first full weekend of December.

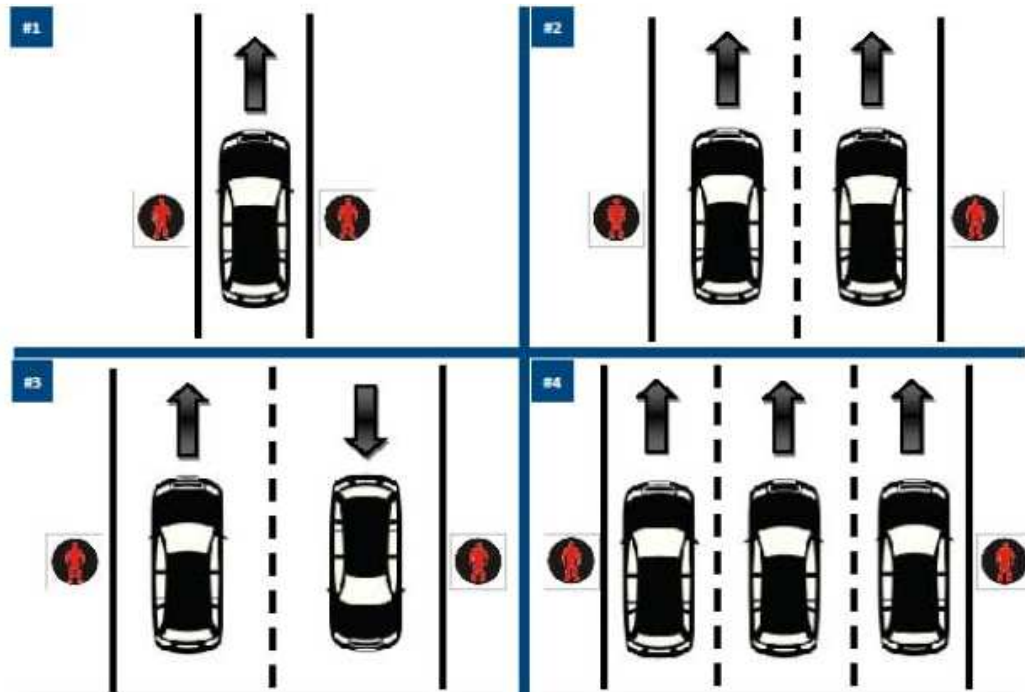
For the purposes of this subsection, the first full weekend shall mean those weekends where Friday, Saturday, and Sunday all fall within the prescribed month.

(3) Each participant must wear high-visibility safety vests meeting the requirements of the International Safety Equipment Association (ISEA) “American National Standard for High-Visibility Safety Vests” (ANSI/ISEA 207-2011).

(4) Each person engaged in the act of going onto any Road to distribute any item to, receive any item from, or exchange any item with the occupant of any motorized vehicle shall only enter the Road while the traffic signal for that lane is red.

(5) A person shall not remain in the traveled portion of the Road while the traffic signal for that lane is green.

(6) As depicted below, any exchange must take place on the side of the vehicle closest to the Sidewalk or Median from which the person enters the Road. A person may not walk between any traveling lanes, or between a turn lane and traveling lane, at any time during the event.



(7) A person shall not approach a moving vehicle or one which does not have a window down and an occupant has given some sign of assent to approach.

(8) Each person engaged in the act of going onto any Road to distribute any item to, receive any item from, or exchange any item with the occupant of any motorized vehicle must be at least 18 years old.

(9) Each person engaged in the act of going onto any Road to distribute any item to, receive any item from, or exchange any item with the occupant of any motorized vehicle shall not be intoxicated.

(10) No pets shall be allowed at the location of any of the permitted activities.

(11) The event may take place only within 300 hundred feet of these intersections:

- a. Center Road and Jacaranda Boulevard;
- b. Clark Road and U.S. 41;
- c. SR 776 and Dearborn Street;

- d. Bee Ridge Road and Beneva Road;
- e. U.S. 41 Bypass and Venice Avenue;
- f. Clark Road and Beneva Road;
- g. Clark Road and Honore Avenue; and
- h. Fruitville Road and Honore Avenue.

Each intersection shall be permitted individually and be available on a first-come-first-served basis, as each permit applicant may only encumber one intersection per event.

(12) To help defer the costs of administration of these provisions, a nominal permit application fee in the amount of ten (10) dollars shall be provided with the application.

(13) Each permit shall include indemnification and release language in which the applicant and all participants in the event agree to pay on behalf of the County all sums which the County shall be obligated to pay by reason of any liability imposed upon the County for damages of any kind resulting from use of the Road, whether sustained by any person, caused by accident or otherwise and shall defend at its own expense and on behalf of the County any claim against the County arising out of the use of the Road. Each volunteer participating in the event must complete an indemnification and release prior to the event. All indemnification and release forms must accompany a permit application. No person may participate in an event without signing the indemnification and release form.

(14) The application for a permit must be made in writing on such forms and in such manner as prescribed by the Ordinance Administrator. A complete permit application must be submitted at least five (5) full working days prior to the date of the event. A permit application cannot be made more than ninety (90) days prior to the date of the event. All permit applications shall be treated on a first come first served basis.

(15) Upon receipt of the application, the Ordinance Administrator shall have five (5) full business days to review its contents for completeness. If the application is incomplete, the Ordinance Administrator must notify the applicant in writing. Once the application is complete, the Ordinance Administrator shall then have five (5) full working days to make a final determination on the permit application.

(16) The Ordinance Administrator may forward a copy of the application to the Sheriff, Fire Marshal, and such other appropriate officials as deemed appropriate for their review and comment.

(17) The Ordinance Administrator may add any conditions to the permit necessary to ensure the health, safety, and welfare of the participants or the public.

(18) The Ordinance Administrator may deny or revoke a permit application when one or more of the following occur:

a. The permit applicant or permittee fails to comply with any of the requirements of this section or any permit condition;

b. The Ordinance Administrator determines that, by reason of disaster, public calamity, riot, or other emergency, the public safety requires denial or revocation to protect health, safety, and welfare;

c. The event impedes the free flow of pedestrian or vehicle traffic in and out of private property to the Road;

d. The event will interfere with another event for which a permit has already been granted for the same date, time, and location;

e. The applicant fails to pay the application fee;

f. The applicant misstated any material fact in the application;

h. There is a substantial and material difference between the information in the application and the actual facts or those facts which appear reasonably to have occurred at the event; or

i. The permittee's activities would or have violated any local, state, or federal law.

(19) Any person denied a permit application, or had their permit application revoked, shall have the right to an appeal of the Ordinance Administrator's determination to the County Administrator. The initiation of an appeal shall be made in writing to the Ordinance Administrator, and a hearing held within three (3) working days thereafter. The County Administrator shall use the requirements outlined in this section in deciding any appeal, and may reverse, affirm, or modify the Ordinance Administrator's decision.

(20) The permit applicant must assign a competent person to attend the event and conduct frequent and regular inspections of the event location to ensure the safety of the event participants.

(21) The competent person identified on the safety plan shall carry a copy of the permit and indemnification and release forms for all volunteers at all times and display to any law enforcement officer on request.

(22) The sale, assignment, or otherwise transfer of a permit is prohibited.

(e) For the purposes of this section, a “person” shall mean any natural person, political subdivision, corporation, partnership, association, or other type of legal entity.

~~(d)~~ (f) Penalties. In accordance with F.S. § 125.69, violations of this section, or any authorization issued thereunder, shall be punishable by a fine not to exceed \$500.00 or by imprisonment in the County jail not to exceed 60 days or by both such fine and imprisonment. Each incident of violation of any subsection or part of a subsection contained in this section shall be deemed a separate offense.

~~(e)~~ (g) Enforcement. The provisions of this section shall be enforced by the Sarasota County Sheriff.

~~(f)~~ (h) Effect on other ordinances and general law. The provisions of this section shall prevail in the event of conflict with the provisions of any existing County ordinance or regulation. The provisions of this section shall yield to the extent of conflict with the provisions of general law, but only to the extent of such conflict.

~~(g)~~ (i) Severability. If any provision of this section is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such provision shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining provisions.

~~(h)~~ (j) Sunset provision. This section shall be automatically repealed on September 30, 2018, unless otherwise amended or ratified by the Board of County Commissioners of Sarasota County, Florida.

SECTION 3. Effective date.

This Ordinance shall take effect upon deposit in the United States Postal Service as Certified Mail to the Department of State.

PASSED AND DULY ADOPTED BY THE BOARD OF COUNTY COMMISSIONERS OF SARASOTA COUNTY, FLORIDA, this ____ day of _____, 2014.

BOARD OF COUNTY COMMISSIONERS OF
SARASOTA COUNTY, FLORIDA

By: _____
Chair

ATTEST:

KAREN E. RUSHING, Clerk of Circuit
Court and Ex-Officio Clerk of the Board of
County Commissioners of Sarasota County,
Florida

By: _____
Deputy Clerk