

**ORDINANCE NO. 19570-03-2011**

**AN ORDINANCE AMENDING CHAPTER 22 OF THE CODE OF THE CITY OF FORT WORTH, AS AMENDED, BY ADDING SECTION 22-95 CREATING A SAFE PASSING ZONE FOR THE PROTECTION OF VULNERABLE ROAD USERS; PROVIDING A PENALTY FOR VIOLATION; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR PUBLICATION IN THE OFFICIAL NEWSPAPER OF THE CITY; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE**

**WHEREAS**, the City Council unanimously adopted the *Bike Fort Worth Plan* on February 9, 2010; and

**WHEREAS**, the City Council has established a strategic goal to improve mobility and air quality; and

**WHEREAS**, the Safe Passing Ordinance provides the foundation for an educational campaign of tolerance and acceptance of active forms of alternative transportation, which furthers the City's goals of (1) promoting Fort Worth as a Bicycle Friendly Community, and (2) continuing to ensure that the City's streets and neighborhoods are pedestrian friendly; and

**WHEREAS**, by law, vulnerable road users are allowed to use the roadway under certain circumstances in Texas, but these users do not have the same physical protection as motorists and are at greater risk of injury or death in connection with use of the roadway; and

**WHEREAS**, approximately 50 cyclists and 400 pedestrians are killed while using roadways every year in Texas; and

**WHEREAS**, it is advisable to amend Chapter 22 of the Fort Worth Code of Ordinances to add new regulations regarding safe passing of vulnerable road users.

**NOW, THEREFORE: Be it Ordained by the City Council of the City of Fort Worth, Texas:**

**SECTION 1.**

**That Chapter 22 of the Code of the City of Fort Worth is hereby amended herein by adding Section 22-95 "Safe Passing of Vulnerable Road Users" to Article III, Operation of Vehicles, and after said amendment shall read as follows:**

**"Section 22-95 Safe Passing Of Vulnerable Road Users.**

- (a) **Definitions.** In this section, a Vulnerable Road User means:

(1) a pedestrian (including a runner), physically disabled person, child, skater, stranded motorist or passenger, highway construction or maintenance worker, tow truck operator, utility worker, or other worker with legitimate business in or near the road or right-of-way;

(2) a person on horseback;

(3) a person operating equipment other than a motor vehicle, including, but not limited to, a bicycle, handcycle, horse-driven conveyance, or unprotected farm equipment;

(4) a person operating a motorcycle, moped, motor-driven cycle, or motor-assisted scooter; or

(5) a firefighter or peace officer whose vehicle is equipped with emergency lights that are activated, regardless of whether it is a marked vehicle.

(b) An operator of a motor vehicle passing a vulnerable road user, who is either travelling or stationary on a highway or street, shall:

(1) vacate the lane nearest to or in which the vulnerable road user is located if the highway or street has two or more marked lanes running in the same direction; or

(2) pass the vulnerable road user at a safe distance.

(A) For the purpose of Subsection (b)(2), when road conditions allow, safe distance is at least:

(i) three feet from the vulnerable road user if the operator's vehicle is a passenger car or light truck, as defined by Texas Transportation Code Section 541.201(7); or

(ii) six feet from the vulnerable road user if the operator's vehicle is a truck, other than a light truck, or a commercial motor vehicle as defined by Texas Transportation Code Section 522.003.

(c) An occupant of a motor vehicle may not knowingly throw or project any object or substance at or against a vulnerable user, or the user's animal, equipment or vehicle.

(d) An occupant of a motor vehicle may not maneuver the vehicle in a manner that:

(1) is intended to cause intimidation or harassment to a vulnerable road user; or

(2) is reckless and which causes a collision with any vulnerable road user on any roadway or intersection. This includes a collision caused by opening a motor vehicle's door into the path of a vulnerable road user or the user's animal or equipment.

(e) It is an affirmative defense to prosecution under this section that, at the time of the offense, the vulnerable road user was acting in violation of any applicable traffic laws.

(f) Offenses.

To the extent that the conduct is not already covered by the Texas Penal or Transportation Codes:

(1) The penalty for any violation of this ordinance that causes injury to a vulnerable road user shall be a fine not to exceed five hundred dollars.

(2) The penalty for violations of sections (c) or (d) which do not result in injury shall be a fine not to exceed five hundred dollars.

(3) The penalty for any violation of this ordinance other than of sections (c) and (d) which does not cause injury to a vulnerable road user shall be a fine not to exceed two hundred dollars.

(g) Exception. This section does not apply to conduct or injuries sustained on private property.”

## **SECTION 2.**

That Chapter 22 of the Code of the City of Fort Worth, as amended, shall remain in full force and effect, save and except as amended by this ordinance.

## **SECTION 3.**

That the terms and provisions of this ordinance are severable and are governed by Section 1-5 of Chapter 1 of the Code of the City of Fort Worth, as amended.

## **SECTION 4.**

The City Secretary of the City of Fort Worth, Texas, is hereby directed to publish the caption and penalty provision, found in Sec. 1 (Sec. 22-95(f)), of this ordinance for two (2) days in the official newspaper of the City of Fort Worth, Texas, as authorized by City Charter and Section 52.013, Texas Local Government Code.

**SECTION 5.**

That this ordinance shall take effect after its passage and publication as required by law, and it is accordingly so ordained.

APPROVED AS TO FORM AND LEGALITY:



\_\_\_\_\_  
Assistant City Attorney

Date: \_\_\_\_\_

ADOPTED: \_\_\_\_\_ March 1, 2011 \_\_\_\_\_

EFFECTIVE: \_\_\_\_\_ *March 6, 2011* \_\_\_\_\_

**City of Fort Worth, Texas**  
**Mayor and Council Communication**

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**COUNCIL ACTION: Approved on 3/1/2011 - Ord. No. 19570-03-2011**

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**DATE:** Tuesday, March 01, 2011

**REFERENCE NO.:** G-17217

**LOG NAME:** 06SAFEPASSING

**SUBJECT:**

Adopt Ordinance Amending Chapter 22 of the Code of the City of Fort Worth by Adding Section 22-95 Creating a Safe Passing Zone for the Protection of Pedestrians, Bicyclists and Other Vulnerable Road Users

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**RECOMMENDATION:**

It is recommended that the City Council adopt the attached Ordinance amending Chapter 22 of the Code of the City of Fort Worth by adding Section 22-95 including a penalty provision, creating a safe passing zone for the protection of pedestrians, bicyclists and other vulnerable road users.

**DISCUSSION:**

The purpose of the Safe Passing Ordinance is to further the the City's goals of (1) promoting Fort Worth as a Bicycle Friendly Community and (2) continuing to ensure that the City's streets and neighborhoods are safe for all roadway users.

On February 9, 2010, the City Council unanimously adopted the Bike Fort Worth plan, which recommends adoption of a citywide safe passing ordinance.

The Planning and Development Department in cooperation with the Police and Legal Departments, developed a Safe Passing Ordinance that creates a safe zone around vulnerable roadway users. These users included pedestrians, cyclists, physically disabled persons, firefighters and peace officers, persons on horseback and more. Although all types of road users are at risk of being injured or killed in a road traffic crash, there are notable differences in fatality rates between different road user groups. In particular, the vulnerable road users are at greater risk than motor vehicle occupants and usually bear the greatest burden of injury.

This ordinance establishes a standard safe passing distance which will help protect vulnerable road users and will be a valuable tool for educational programs and safety awareness campaigns. Exceptions to the safe passing distance will be allowed to accommodate the reasonable flow of traffic. Some of the regulations contained in this ordinance include:

1. Establishing a standard safe passing distance of three feet (six feet for commercial vehicles) that applies when road conditions allow;
2. Prohibiting harassment and intimidation of vulnerable road users;
3. Imposing a penalty on violators of the ordinance; and
4. Providing a defense to prosecution for the motorist if the vulnerable road user was acting in violation of any applicable traffic laws.

Other Texas cities which have adopted a similar ordinance are San Antonio, Austin and El Paso.

**FISCAL INFORMATION / CERTIFICATION:**

The Financial Management Services Director certifies that this action will have no material effect on City funds.

**FUND CENTERS:**

**TO Fund/Account/Centers**

**FROM Fund/Account/Centers**

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**CERTIFICATIONS:**

**Submitted for City Manager's Office by:**

Fernando Costa (6122)

**Originating Department Head:**

Randle Harwood (6101)

Katherine Beck (7918)

**Additional Information Contact:**

Julia McCleary (2593)

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