

ORDINANCE NO. 12-70

AN ORDINANCE OF THE CITY OF HARLINGEN, TEXAS AMENDING TITLE VII, TRAFFIC CODE, CHAPTER 70: TRAFFIC REGULATIONS OF THE CITY OF HARLINGEN, TEXAS CODE OF ORDINANCES, AS AMENDED, BY ADDING SECTION 70.06 REGULATING THE USE OF MOTOR VEHICLES NEAR VULNERABLE ROAD USERS; PROVIDING FOR DEFINITIONS; PROVIDING FOR AN AFFIRMATIVE DEFENSE; PROVIDING A PENALTY NOT TO EXCEED TWO HUNDRED DOLLARS (\$200.00) PER VIOLATION; PROVIDING THAT A VIOLATION OF THIS ORDINANCE IS A STRICT LIABILITY OFFENSE; PROVIDING FOR A SAVINGS CLAUSE; PROVIDING FOR A SEVERABILITY CLAUSE; PROVIDING FOR PUBLICATION; AND ORDAINING OTHER MATTERS PERTAINING TO THE FOREGOING.

WHEREAS, the Elective Commission of the City of Harlingen, Texas desires that the streets, roads, and highways of the City accommodate all road users, regardless of age, ability, and mode of transportation to improve the health and quality of life of the citizens of the City of Harlingen; and,

WHEREAS, the Elective Commission of the City of Harlingen, Texas desires to ensure that the streets, roads, and highways of the City safely accommodate all users whether they are walking, bicycling or using transit; and,

WHEREAS, the Elective Commission of the City of Harlingen, Texas desires to reduce traffic related crashes and mitigate congestion;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF HARLINGEN:

SECTION 1: That Title VII, Traffic Code, Chapter 70: Traffic Regulations of the Harlingen City Code, as amended, is hereby amended by adding Section 70.06 to read as follows:

**SECTION 70.06 REGULATING THE USE OF MOTOR VEHICLES NEAR
VULNERABLE ROAD USERS.**

(a) In this section, Vulnerable Road User means:

- (1) a pedestrian, including a runner, physically disabled person, child, skater, highway construction and maintenance worker, tow truck operator, utility worker, other worker with legitimate business in or near the road or right-of-way, or stranded motorist or passenger;
- (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; or
- (4) a person operating a motorcycle, moped, motor-driven cycle, or motor-assisted scooter.

(b) An operator of a motor vehicle passing a vulnerable road user operating on a highway, street, or road shall:

- (1) vacate the lane in which the vulnerable road user is located if the highway, road, or street has two or more marked lanes running in the same direction; or
- (2) pass the vulnerable road user at a safe distance.

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

- (1) three feet if the operator's vehicle is a passenger car or light truck; or
- (2) six feet 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.

(d) An operator of a motor vehicle that is making a left turn at an intersection, including an intersection with an alley or private road or driveway, shall yield the right-of-way to a vulnerable road user who is approaching from the opposite direction and is in the intersection, or is in such proximity to the intersection as to be an immediate hazard.

(e) An operator of a motor vehicle may not overtake a vulnerable road user traveling in the same direction and subsequently make a right-hand turn in front of the vulnerable road user unless the operator is safely clear of the vulnerable road user, taking into account the speed at which the vulnerable road user is traveling and the braking requirements of the motor vehicle making the right-hand turn.

- (f) An operator 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) threatens a vulnerable road user.
- (g) An operator of a motor vehicle shall exercise due care to avoid colliding with any vulnerable road user on a roadway or in an intersection or roadways.
- (h) 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 the law.
- (i) A person convicted of an offense under this section shall be punished by a fine not to exceed TWO HUNDRED AND NO/100'S (\$200.00) DOLLARS per violation.
- (j) An offense under this section is not a moving violation and may not be made a part of a person's driving record or insurance record.
- (k) An offense under this section is a strict liability offense.
- (l) In addition to enforcement by a peace officer of this city, this section may be enforced by another peace officer of another governmental entity pursuant to a duly authorized interlocal agreement between the governmental entity and the City of Harlingen.

SECTION 2: That CHAPTER 70 of the City of Harlingen, Texas Code of Ordinances, as amended, will remain in full force and effect, and 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 10.07 of Chapter 10 of the City of Harlingen, Texas Code of Ordinances, as amended.

SECTION 4: That the City Secretary of the City of Harlingen, Texas, is hereby authorized and directed to cause a true and correct copy of the caption of this Ordinance to be published in a newspaper having general circulation in the City of Harlingen, Cameron County, Texas.

SECTION 5: That this Ordinance shall take effect fourteen days after the publication of the caption in the newspaper.

FINALLY ENACTED THIS 7th day of ^{November}~~October~~, 2012 at a regular meeting of the Elective Commission of the City of Harlingen, Texas at which a quorum was present and which was held in accordance with TEXAS GOVERNMENT CODE, TITLE 5, SUBTITLE A, CHAPTER 551.

CITY OF HARLINGEN

BY: 

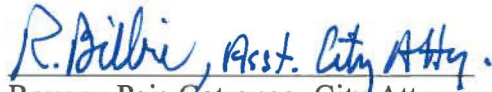
Chris Boswell, Mayor

ATTEST:



Amanda C. Elizondo, City Secretary

APPROVE AS TO FORM:



Roxann Pais Cotroneo, City Attorney