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 Dunwoody, Georgia 30338
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MEMORANDUM

To: Mayor and City Council
From: Billy Grogan, Chief of Police
Date: September 23, 2019
Subject: Adoption of Vulnerable Road User Ordinance

DESCRIPTION

This ordinance expands the City of Dunwoody traffic ordinances to include specific instructions and care for those who are vulnerable road users.

BACKGROUND

Councilman Tom Lambert asked the City Attorney and I to review a Vulnerable Road User ordinance that has been in place in the City of Houston for several years and provide a draft of this ordinance written for the City of Dunwoody.

This ordinance would provide certain protections for those considered vulnerable road users. Those groups include pedestrians, those persons engaged in work upon a highway, in work upon a utility or engaged in the provision of emergency services.

In addition, the definition includes persons operating a bicycle, tricycle or other pedal-powered vehicles, a tractor, a skateboard, roller skates, in-line skates, a scooter, a moped, a motorcycle, an animal-drawn wheeled vehicle, an electric personal assistive mobility device or a wheelchair.

The ordinance prohibits certain actions as they relate to these vulnerable road users including giving at least 3 feet of space to pass if driving a car or light truck and at least 5 feet of space to pass if operating a truck (other than a light truck) or a commercial vehicle as defined by Georgia law.

However, a motorist has an affirmative defense to prosecution if the vulnerable road user was acting in violation of any applicable law.

RECOMMENDATION

Staff recommends the City Council consider adopting this ordinance to better protect vulnerable road users.

Denis Shortal Mayor
 Eric Linton, ICMA-CM City Manager
 Sharon Lowery, CMC City Clerk

Pam Tallmadge City Council Post 1
 Jim Riticher City Council Post 2
 Tom Lambert City Council Post 3

Terry Nall City Council Post 4
 Lynn Deutsch City Council Post 5
 John Heneghan City Council Post 6

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**STATE OF GEORGIA
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ORDINANCE 2019-__-__

AN ORDINANCE TO AMEND THE CODE OF ORDINANCES OF THE CITY OF DUNWOODY, GEORGIA BY ADOPTING A NEW ARTICLE I, "VULNERABLE ROAD USERS" IN CHAPTER 30 (TRAFFIC AND VEHICLES); AND FOR ALL OTHER LAWFUL PURPOSES

WHEREAS, the Mayor and Council of the City of Dunwoody ("City Council") are charged with the protection of the public health, safety and welfare of the citizens of the City of Dunwoody; and

WHEREAS, the Mayor and Council of the City of Dunwoody believe that expanding the City of Dunwoody traffic ordinances to include specific instruction and care for those who are vulnerable road users;

THEREFORE, THE MAYOR AND COUNCIL OF THE CITY OF DUNWOODY, GEORGIA HEREBY ORDAIN that the Code of Ordinances of the City of Dunwoody shall be amended as follows:

A new Article I titled "Vulnerable Road Users" shall be created in Chapter 30, "Traffic and Vehicles," which shall read as follows:

ARTICLE I – VULNERABLE ROAD USERS

Vulnerable road users.

Sec. 30-## - Definitions.

The following words, terms and phrases, when used in this section will have the meanings set forth in this subsection, except when the context clearly indicates a different meaning:

Safe distance means:

- (a) While passing, a separation between a motor vehicle and a vulnerable road user that, when all road traffic and weather conditions are considered, provides the motorist sufficient space and time to avoid a collision with a vulnerable road user but, in any event, not less than 3 feet ~~if the operator's vehicle is a passenger car or light truck and not less than 6 feet if the operator's vehicle is a truck (other than a light truck) or a commercial vehicle as defined by Georgia law;~~ or
- (b) While trailing, a separation between a motor vehicle and a vulnerable road user that, when all road, traffic and weather conditions are considered, provides the motorist sufficient space and time to avoid a collision with a vulnerable road user,

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Vulnerable road user means:

- (a) a pedestrian, including those persons actually engaged in work upon a ~~highway~~roadway, or in work upon utility facilities along a ~~road~~highway, or engaged in the provision of emergency services within the right-of-way; or
- (b) a person riding or leading an animal; or
- (c) a person lawfully operating or riding any of the following on a public right-of-way, crosswalk, or shoulder of the ~~road~~highway:
 - (1) A bicycle, tricycle, or other pedal-powered vehicles;
 - (2) A tractor or similar vehicle designed primarily for agricultural use;
 - (3) A skateboard;
 - (4) Roller skates;
 - (5) In-line skates;
 - (6) A scooter;
 - (7) A moped;
 - (8) A motorcycle;
 - (9) An animal-drawn, wheeled vehicle, or agricultural equipment, or sled;
 - (10) An electric personal assistive mobility device; or
 - (11) A wheelchair.

Sec. 30-## - Action, defense and punishment.

- (a) Action required. An operator of a motor vehicle or motorcycle shall when passing a vulnerable road user on a ~~road~~highway or street;
 - (1) When making a turn at an intersection (including an intersection with an alley or private road or driveway), 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;
 - (2) On a roadway with two lanes or more for traffic moving in the direction of travel, before passing and until safely clear of the vulnerable road user, move completely into a lane to the left of the right lane when it is safe to do so; and
 - (3) On a roadway with only one lane for traffic moving in the direction of travel:

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- (A) When there is sufficient room to the left of the vulnerable road user in the lane for traffic moving in the direction of travel, before passing and until safely clear of the vulnerable road user:
 - (1) Reduce speed to a safe speed for passing relative to the speed of the vulnerable road user; and
 - (2) Pass at a safe distance to clearly avoid coming into contact with the vulnerable road user or the vulnerable road user's vehicle or animal; or
- (B) When there is insufficient room to the left of the vulnerable road user in the lane for traffic moving in the direction of travel to comply with (a)(3)(A) of this subsection, before passing and until safely clear of the vulnerable road user, move completely *into the lane for traffic moving in the opposite direction when it is safe to do so.*

(b) Action Required. Vulnerable Road User:

(1) Every person riding a bicycle upon a roadway at a rate of speed less than the normal flow of traffic at the particular time and place shall ride as near to the right side of the right through lane as is safe except:

(A) While preparing to make or while making turning movements at an intersection or into a private road or driveway;

(B) When approaching an intersection where right turns are permitted and there is a dedicated right turn lane, in which case a person may operate a bicycle in this lane even if the operator does not intend to turn right;

(C) While overtaking and passing another bicycle or vehicle proceeding in the same direction; and;

(D) When reasonably necessary to avoid unsafe conditions including, but not limited to, fixed or moving objects, parked or moving vehicles, bicyclists, pedestrians, animals, and surface hazards.

(2) Any person riding a bicycle on a sidewalk shall always yield the right-of-way to any pedestrians and shall give an audible signal before overtaking and passing the pedestrian.

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(3) Between dusk and dawn, all vulnerable road users shall take reasonable measures to make themselves visible to all other road users.

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(b)(c) Prohibited action. An occupant of a motor vehicle may not:

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- (1) Knowingly throw or project any object or substance at or against a vulnerable road user or the user's animal, equipment, vehicle or conveyance; or
- (2) Overtake a vulnerable road user traveling in the same direction and subsequently make a 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; or

(3) Maneuver the vehicle in a manner that is intended to cause intimidation or harassment to a vulnerable road user or threatens a vulnerable road user; or

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(4) Fail to stop for a vulnerable road user in a crosswalk.

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(3)

(e)(d) Affirmative defense. It is an affirmative defense to prosecution under this section that:

- (1) At the time of the offense, the vulnerable road user was acting in violation of any applicable traffic law; or
- (2) Where sidewalks are not provided or are inaccessible, a pedestrian walking or otherwise moving along and upon a roadhighway shall:
 - (A) When shoulders are provided and are accessible, does not walk on the shoulder facing traffic which may approach from the opposite direction and off the roadway as far as is practicable ~~from the edge of the roadway, facing traffic when a shoulder is available in this direction~~; or
 - (B) When shoulders are not provided or are inaccessible, walk as near as is practicable to the outside edge of the roadway, does not walk

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facing traffic, and when practicable, move clear of the roadway upon meeting an oncoming vehicle; or

(C) When in the roadway, a pedestrian is not wearing reflective clothing visible to motorists.

~~(C)~~(D) It shall not be an affirmative defense when a pedestrian is traveling to the nearest emergency reporting device on a one-way roadway of a controlled access roadhighway with the direction of traffic. is not required to travel facing traffic as otherwise required by (c)(2)(A) and (B) of this section.

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(e) Offenses. The penalty for any violation of this section shall be punished in accordance with Sec. 1-6 of this Code, included but not limited to:

- ~~(d)~~ (1) Six months in jail or probation;
- (2) Up to \$1,000.00 fine;
- (3) Court suspension of driving privileges;
- (4) Said penalties may be reduced or waived upon completion of court-mandated driver safety/pedestrian awareness class.

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SO ORDAINED AND EFFECTIVE, this the ___ day of _____, 2019.

Approved by:

Approved as to Form and Content

Denis L. Shortal, Mayor

City Attorney

Attest:

Sharon Lowery, City Clerk

SEAL