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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 9, 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, was in the roadway when a sidewalk was available and legal to use, or was outside a designated bike lane when one was available.

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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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,

Vulnerable road user means:

- (a) a pedestrian, including those persons actually engaged in work upon a highway, or in work upon utility facilities along a 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 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 highway or street;
 - (1) Vacate the lane in which the vulnerable road user is located if the highway or street has two or more marked lanes running in the same direction if such action can be taken safely; or
 - (2) Pass the vulnerable road user at a safe distance; or
 - (3) 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.
- (b) 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;
- (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.

(c) 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;
- (2) At the time of the offense, the vulnerable road user was in the roadway when there was a sidewalk available which would have been adequate and legal for the vulnerable user to have used in lieu of the roadway; or
- (3) At the time of the offense, the vulnerable road user was outside of a designated bicycle lane in the roadway when the bicycle lane was available for the vulnerable user to have used in lieu of the roadway.

(d) Offenses. The penalty for any violation of this section shall be punished in accordance with Sec. 1-6 of this Code.

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

Approved by:

Approved as to Form and Content

**STATE OF GEORGIA
CITY OF DUNWOODY**

ORDINANCE 2019-__-__

Denis L. Shortal, Mayor

City Attorney

Attest:

Sharon Lowery, City Clerk

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