

ORDINANCE NO. 2011-3485

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF EDINBURG, TEXAS, AMENDING TITLE VII TRAFFIC CODE, CHAPTER 70 TRAFFIC REGULATIONS, BY ADDING §70.79 VULNERABLE DRIVERS., TO PROVIDE FOR SAFE PASSAGE OF VULNERABLE ROAD USERS; CONTAINING A REPEALER CLAUSE; CONTAINING A SAVINGS CLAUSE; PROVIDING FOR A FINE NOT TO EXCEED \$500 UPON CONVICTION THEREOF IN ACCORDANCE WITH §10.99 OF THE CODE OF ORDINANCES OF THE CITY OF EDINBURG; PROVIDING FOR PUBLICATION AND EFFECTIVE DATE; PROVIDING A WAIVER OF THE THREE (3) SEPARATE READINGS; PROVIDING FOR CODIFICATION IN THE CODE OF ORDINANCES OF THE CITY OF EDINBURG AND ORDAINING OTHER PROVISIONS RELATED TO THE SUBJECT MATTER HEREOF.

WHEREAS, bicyclists and pedestrians are allowed to use the roadway by law in Texas, but these users do not have the same physical protection as motorists and are at greater risk of injury or death; and,

WHEREAS, a Safe Passing ordinance provides the foundation for an education campaign of tolerance and acceptance for “active” forms of alternative transportation, which furthers the City’s goals of promoting Edinburg as a Bicycle Friendly community, as well as for the enhancement of streets and neighborhoods.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF EDINBURG, TEXAS, AS FOLLOWS:

SECTION I. The Code of Ordinances of the City of Edinburg, Texas, **TITLE VII TRAFFIC CODE.**, Chapter 70 TRAFFIC REGULATIONS, is hereby amended by adding §70.79 Vulnerable Road Users which shall read in its entirety as follows:

§ 70.79 Vulnerable Road Users.

- (a) In this section, a 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 or street shall:
- (1) vacate the lane in which the Vulnerable Road User is located if the highway 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 at an intersection of 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.

SECTION II. REPEALER CLAUSE. This Ordinance shall be cumulative of all other ordinances dealing with the same subject and any provision of any ordinance in direct conflict with any provision of this Ordinance is hereby repealed and the provisions of this Ordinance shall supersede any provisions in conflict herewith; all provisions of any other ordinance not in conflict herewith shall remain in full force and effect.

SECTION III. SAVINGS CLAUSE. If any section, part, or provision of this Ordinance is declared unconstitutional or invalid, by a court of competent jurisdiction, then, in that event, it is expressly provided, and it is the intention of the City Council in passing this Ordinance that its parts shall be severable and all other parts of this Ordinance shall be severable

and all other parts of this Ordinance shall not be affected thereby and they shall remain in full force and effect.

SECTION IV. PENALTY CLAUSE: Each violation of any of the provisions of this Ordinance shall constitute a separate offense and shall, upon conviction thereof, be punishable by a fine not to exceed \$500 in accordance with section 10.99 of the Code of Ordinances of the City of Edinburg.

SECTION V. PUBLICATION AND EFFECTIVE DATE. This Ordinance shall be published according to law and take effect April 15, 2011.

SECTION VI. WAIVER CLAUSE. The requirement of three separate readings of this Ordinance is hereby dispensed with by a vote of not less than a majority of all the members of the City Council.

SECTION VII. CODIFICATION. The provisions of Section I of this Ordinance shall be published in the appropriate section of Chapter 70. TRAFFIC REGULATIONS, of the Code of Ordinances of the City of Edinburg, Texas, as soon as practicable.

READ, CONSIDERED, PASSED AND APPROVED at a regular meeting of the City Council of the City of Edinburg, Texas, at which a quorum was present and which was held in accordance with V.T.C.A., Government Code, Section 551.041, on the ~~16th~~ ^{15th} day of ~~November~~ ^{February}, 2010. 2011.

CITY OF EDINBURG

By: _____

Richard H. Garcia, Mayor

ATTEST:

By: _____

Myra L. Ayala Garza, City Secretary



APPROVED AS TO FORM:

Gonzalez-Palacios, LLP
Attorneys at Law

By: _____

City Attorney