



CITY OF PLANO COUNCIL AGENDA ITEM

CITY SECRETARY'S USE ONLY				
<input type="checkbox"/> Consent <input type="checkbox"/> Regular <input type="checkbox"/> Statutory				
Council Meeting Date:		02/13/2012		
Department:		Police		
Department Head		Gregory W. Rushin		
Agenda Coordinator (include phone #): Pam Haines, ext 2538				
CAPTION				
An Ordinance of the City of Plano, Texas amending Chapter 14, Offenses-Miscellaneous, of the Code of Ordinances of the City of Plano to add a new Article XI, Vulnerable Road Users, to regulate the conduct of motor vehicle operators while passing cyclists on a highway or street and providing a penalty; and providing a repealer clause, a savings clause, a severability clause, a publication clause and an effective date.				
FINANCIAL SUMMARY				
<input type="checkbox"/> NOT APPLICABLE <input type="checkbox"/> OPERATING EXPENSE <input checked="" type="checkbox"/> REVENUE <input type="checkbox"/> CIP				
FISCAL YEAR:	2011-12	Prior Year (CIP Only)	Current Year	Future Years
		0	0	0
	Encumbered/Expended Amount	0	0	0
	This Item	0	0	0
	BALANCE	0	0	0
FUND(S): GENERAL FUND				
COMMENTS: Any revenue received from amending Chapter 14 of the Code of Ordinances with the addition of a new Article XI - Vulnerable Road Users, is undeterminable at this time. STRATEGIC PLAN GOAL: Amending the Code of Ordinances relates to the City's Goals of Financially Strong City with Service Excellence and Safe Large City.				
SUMMARY OF ITEM				
The City Council deems it necessary and in the best interest of the city and public safety to amend Chapter 14 of the Code of Ordinances of the City of Plano to add a new Article XI, Vulnerable Road Users, to regulate the conduct of motor vehicle operators while passing cyclists on a highway or street.				
List of Supporting Documents:			Other Departments, Boards, Commissions or Agencies	
Memo, Ordinance				



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MEMORANDUM

DATE: February 2, 2012
TO: LaShon Ross, Assistant City Manager
FROM: Gregory W. Rushin, Chief of Police *grushin*
SUBJECT: Safe Passing Ordinance

In October 2011, members of the Plano Bicycle Association (PBA) approached Council and Mr. Glasscock about enacting a Safe Passing Ordinance. Mr. Warren Casteel of the PBA was directed to the police department and shortly thereafter a meeting was convened to explore this proposition. Mr. Casteel, Mr. Dudley Irby and Mr. Rudy Andrea represented the cyclists at the meeting which occurred at the main police station. Also present were Lloyd Neal of Traffic Engineering, Howard Curtis the Police Legal Advisor, Rene Jordan and Amy Fortenberry from Parks and Recreations and Lt. Christensen, Captain Schaffer and myself from the police department. We worked our way through a sample ordinance that was provided, discussing enforceability issues and conflicts with present state laws.

On December 12, 2011, I conducted a short presentation for council documenting the police department's research and results of the meetings with members of PBA. With direction from council to bring back a proposed ordinance, the police department worked with the PBA members and City Legal to prepare the best ordinance possible considering all enforceability and legal issues. The final proposed ordinance as prepared by Mr. Rodney Patten and Mr. Luke Williams of the City Legal Department is attached.

There is no financial impact to the City other than publication and education of the new ordinance.

An Ordinance of the City of Plano, Texas amending Chapter 14, Offenses-Miscellaneous, of the Code of Ordinances of the City of Plano to add a new Article XI, Vulnerable Road Users, to regulate the conduct of motor vehicle operators while passing cyclists on a highway or street and providing a penalty; and providing a repealer clause, a savings clause, a severability clause, a publication clause and an effective date.

WHEREAS, the City of Plano Police Department recently conducted a review of past accidents involving pedal-cyclist and determined that driver inattention was a major cause of most pedal-cyclist crashes within the City; and

WHEREAS, City staff recommends that City Council add a new Article XI, Vulnerable Road Users, to establish safe passing distances and to regulate the other conduct of motor vehicle operators while passing cyclists on a highway or street to enhance cyclist safety; and

WHEREAS, upon recommendation of staff and upon full review and consideration of all matters thereto, the City Council hereby finds and determines that it is necessary and in the best interest of the city and public safety to amend Chapter 14 of the Code of Ordinances of the City of Plano to add a new Article XI, Vulnerable Road Users, to regulate the conduct of motor vehicle operators while passing cyclists on a highway or street.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PLANO, TEXAS, THAT:

Section I. A new Article XI, Vulnerable Road Users of Chapter 14, Offenses-Miscellaneous is hereby adopted to regulate the conduct of motor vehicle operators while passing cyclists on the highway or street to read in its entirety as follows:

“ARTICLE XI. VULNERABLE ROAD USERS

Section 14-127. Definitions. The following words and phrases as used in this section shall have the meanings as set forth in this subsection.

“Vulnerable Road User” shall mean a person operating a bicycle, hand cycle, unicycle, motor-driven cycle, or other human powered wheeled vehicle on a street or highway.

“Safe Distance” shall mean three (3) feet if the operator’s vehicle is a passenger car, or six (6) feet if the operator’s vehicle is a truck or a commercial motor vehicle.

Section 14-128. Passing a vulnerable road user.

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

- (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; or
 - (2) pass the vulnerable road user at a safe distance.
- (b) An operator of a motor vehicle may not overtake and execute a right-hand turn in front of a 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.
- (c) An operator or passenger of a motor vehicle may not knowingly throw or project any object or substance at or against a vulnerable road user.

Section 14-129. Penalty.

Any person, firm or corporation found to be violating any term or provision of this article shall be subject to a fine in accordance with Section 1-4(b) of the City Code of Ordinances for each offense.”

Section II. All provisions of the ordinances of the City of Plano in conflict with the provisions of this Ordinance are hereby repealed, and all other provisions of the Ordinances of the City of Plano, not in conflict with the provisions of this Ordinance, shall remain in full force and effect.

Section III. The repeal of any ordinance or part of ordinances effectuated by the enactment of this Ordinance shall not be construed as abandoning any action now pending under or by virtue of such ordinance or as discontinuing, abating, modifying or altering any penalty accruing or to accrue, or as affecting any rights of the municipality under any section or provisions of any ordinance at the time of passage of this Ordinance.

Section IV. It is the intention of the City Council that this Ordinance, and every provision thereof, shall be considered severable and the invalidity or partial invalidity of any section, clause or provision of this Ordinance shall not affect the validity of any other portion of this Ordinance.

Section V. This Ordinance shall become effective immediately upon its passage and publication as required by law.

DULY PASSED AND APPROVED this the 13th day of February, 2012.

Phil Dyer, MAYOR

ATTEST:

Diane Zucco, CITY SECRETARY

APPROVED AS TO FORM:

Diane C. Wetherbee, CITY ATTORNEY