

ORDINANCE NO. 2014-02

AN ORDINANCE ESTABLISHING APPLICABLE AUTHORITY AND AREA;

DEFINITION OF VULNERABLE ROAD USERS; RESTRICTIONS ON MOTOR VEHICLE USE; PENALTIES, RESTITUTION, DEFENSES; PROVIDING FOR PUBLICATION AND ESTABLISHING AN EFFECTIVE DATE; PROVIDING FOR PENALTIES BY ORDINANCE AND TEXAS LAWS; REPEALING PRIOR ORDINANCE; PROVIDING FOR SERVABILITY; AND ORDAINING OTHER MATTERS RELATED TO THE SUBJECT HEREOF.

WHEREAS, a need has arisen to incorporate regulations regarding the use of motor vehicles on or about the area where pedestrians may locate, and further the health, safety, and interests of the public generally; and

WHEREAS, in accordance with Article I, Section 3 of the Peñitas City Charter, the enumeration of powers granted and authorized by the charter shall not be held or deemed exclusive, but shall be in addition to the powers appropriate for the exercise necessary to carry out powers granted to the City; and

WHEREAS, pursuant to Texas Local Government Code section 51.001, the City has authority to adopt ordinances that are for the good government, peace, or order of the municipality or for the trade and commerce of the municipality and that are necessary to carry out powers granted to the City; and

WHEREAS, pursuant to the Texas Constitution, article XI, section 5, and Texas Local Government Code Section 51.072, the City, as a home-rule municipality, has full power of local self-government.

BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF THE CITY OF PEÑITAS, TEXAS, THAT:

SECTION 1: AUTHORITY; AREA.

- A. The City of Peñitas hereby adopts and enacts this Ordinance that shall be enforceable within the municipality's municipal boundaries and extra territorial jurisdiction. This Ordinance and provisions herewith shall be included in the Peñitas Code of Ordinances.
- B. As matters related to the public's health, safety, and welfare is of the utmost concern the City of Peñitas shall be authorized to enforce, through its City Attorney, this ordinance as may be allowed by law herein.

SECTION 2: DEFINITION(S).

"Vulnerable Road User" for purposes of this Ordinance shall mean:

- (a) A pedestrian, including a runner, physically disabled person, community or school volunteers, child, skater, highway construction or maintenance worker, tow truck operator, utility worker, law enforcement personnel acting in furtherance of the color of law, worker

with legitimate business on or near the road or right of way, or stranded or detained motorist or passenger;

- (b) A person on horseback; and
- (c) A person operating equipment other than a motor vehicle, including, but not limited to: a bicycle, moped, motor- driven cycle, or motor- assisted scooter.

SECTION 3. RESTRICTIONS ON OPERATING A MOTOR VEHICLE NEAR VULNERABLE ROAD USERS.

- (a) An operator of a motor vehicle passing or approaching a vulnerable road user operating on a roadway, street, or alley 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; and
 - 2. Pass the vulnerable road user at a safe distance and speed
- (b) For the purposes of subsection 3(a), when road or travel conditions allow, a safe distance is not less than:
 - 1. Three feet if the operator's vehicle is a passenger car or light truck;
 - 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.
- (c) 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 intersection, or is in such proximity to the intersection as to be an immediate hazard.
- (d) An operator of a motor 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 safety clear of the vulnerable road user, taking into account the speed in which the vulnerable road user is traveling and the braking requirements of the motor vehicle making the right hand turn.
- (e) 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 road user; or
- (f) 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.

SECTION 4. PENALTIES; RESTITUTION.

- (a) All penalties for violators of this ordinance shall be subject to a Class C misdemeanor with a fine between \$50.00 - \$500.00. A violation shall be subject to the provisions contained in "Traffic and Vehicles" Peñitas Code of Ordinances, Section 126-156---126 188. Violators shall also be subject to Texas Local Government Code S431.001, Texas Transportation Code S542.202(a)(2), Texas Penal Code, and any other applicable laws. A violator shall also be subject to the maximum penalties allowed by law for failing to appear in court when charged with an offence as described herein.
- (b) Should a violation proximately result in property or other harm, restitution may be ordered.

(c) It is an affirmative defense to prosecution under this ordinance if at the time of the offense; the vulnerable road user was acting in violation of law.

SECTION 5. CUMULATIVE CLAUSE; REPEALING CLAUSE.

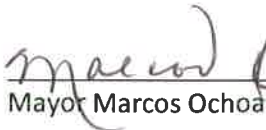
The ordinance shall be cumulative of all ordinances dealing with the same subject and any provision in conflict with this ordinance is hereby repealed and the provisions of this ordinance supersedes. The invalidity of any section, clause, sentence or provision of this ordinance shall not affect the validity of any other part thereof.

SECTION 6. PUBLICATION AND EFFECTIVE DATE.

The importance of the subject matter of this ordinance is such as to create an emergency and the reading of this Ordinance on three (3) separate readings is hereby waived and dispensed with and this Ordinance shall take effect and be in force from and after its passage and approval in accordance with Section 2.13 of the Charter of the City of Peñitas, Texas.

SECTION 7: PROPER NOTICE AND MEETING.

READ, CONSIDERED, AND APPROVED on this the 9 day of July, ²⁰¹⁴~~2104~~ at a Regular Called Meeting of the City Commission of the City of Peñitas, Texas, at which a quorum was present and which was held in accordance with Chapter 551, of the Texas Government Code.


Mayor Marcos Ochoa




City Secretary Ana Valdez