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AN ORDINANCE OF THE CITY OF VERO BEACH, FLORIDA, AMENDING THE CODE OF THE CITY OF VERO BEACH, CHAPTER 74, TRAFFIC AND VEHICLES; CREATING A NEW ARTICLE V RELATED TO PEDESTRIAN REGULATIONS; PROVIDING FOR CONFLICT AND SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, a fundamental purpose of municipal government is to promote, protect, and improve the health, safety, and general welfare of the citizens of the municipality; and

WHEREAS, studies have shown that the conduct and activities of persons outside of vehicles are often a significant cause of driver distractions, leading to vehicle crashes, personal injury, and property damage; and

WHEREAS, such conduct and activities along public rights-of-way are often intentionally directed at drivers for the purpose of gaining their attention, diverting driver focus away from operation of their vehicle; and

WHEREAS, such distracting conduct and activities of persons positioned along public rights-of-way, especially at or in close proximity to intersections and driveways, is particularly problematic as distraction of driver attention at such locations interferes with the safe and efficient movement of traffic and further increases the risk of vehicle and pedestrian crashes; and

WHEREAS, these intentional distractions can lead to drivers abruptly slowing or stopping their vehicles where they impede vehicle and pedestrian traffic, interfere with ingress and egress to and from roadways, cause drivers to make sudden lane or direction changes and other dangerous traffic movements increasing the risks of vehicular and pedestrian crashes particularly at crosswalks, driveways, and sidewalks, and with cross-traffic in intersections, as well as traffic exiting and entering properties adjacent to the right-of-way; and

WHEREAS, the City Council finds the current laws and regulations applicable to pedestrians and vehicular traffic in rights-of-way inadequate to protect public safety from activities that interfere with the safe and efficient movement of traffic and thus fail to adequately address the danger to drivers and occupants of vehicles and pedestrians from intentional distractions to drivers caused by persons along rights-of-way; and

WHEREAS, the City Council desires to adopt this Ordinance with the primary purpose of protecting drivers and occupants of vehicles and pedestrians by preserving lives and promoting the safety of those using the rights-of-way and roadways within the City,

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF VERO BEACH, FLORIDA:

SECTION 1 – ADOPTION OF “WHEREAS” CLAUSES.

The foregoing “Whereas” clauses are hereby adopted and incorporated herein as forming the legislative findings, purpose, and intent of this Ordinance.

SECTION 2 – AMENDMENT OF Chapter 74, Article V.

The Code of the City of Vero Beach, Chapter 74, Traffic and Vehicles, is hereby amended to create a new Article V to be entitled “Pedestrian Regulations” to read as follows:

[CODING: Words stricken are deletions; words underlined are additions].

CHAPTER 74 – TRAFFIC AND VEHICLES

ARTICLE V. – RESERVED PEDESTRIAN REGULATIONS

Section 74-171. - Purpose and intent.

The purpose and intent of this article is to promote and protect the health, safety, and general welfare of the public, and in particular that of pedestrians and drivers and operators of vehicles on, within, and adjacent to the rights-of-way within the city, by regulating the conduct and activities of persons within such rights-of-way to encourage the safe, free, convenient, and normal use of the rights-of-way and roadways within the city. This includes, but is not limited to, prohibiting conduct on rights-of-way that will endanger the health, safety, and general welfare of the public by causing distractions to drivers and operators of vehicles and pedestrians, unsafe pedestrian movement within roadways, sudden stoppage or slowdown of traffic, rapid lane changing, and other dangerous traffic movement. Of particular import is regulation of conduct and activities that cause driver distractions leading to vehicle crashes, personal injuries or fatalities, and property damage, and that otherwise impede, hinder, stifle, retard, or restrain traffic traveling on, entering, or exiting rights-of-way and roadways, changing course or lanes on roadways, or that otherwise endanger the safe movement of vehicles or pedestrians.

Section 74-172. - Definitions.

As used in this article, the following words, phrases, and terms shall have the meanings set forth in this section unless the context clearly indicates otherwise:

Crosswalk:

(a) That part of a roadway at an intersection included within the connections of the lateral lines of the sidewalks on opposite sides of the right-of-way, measured from the curbs or, in the absence of curbs, from the edges of the traversable roadway.

(b) Any portion of a roadway at an intersection or elsewhere distinctly indicated for pedestrian crossing by lines or other markings on the surface.

Driver: Any person who drives or is in actual physical control of a vehicle on a right-of-way or who is exercising control of a vehicle.

Driveway: A road or other improved surface providing access from a roadway to or from the abutting property, including that portion constructed on the right-of-way.

Intersection:

(a) The area embraced within the prolongation or connection of the lateral curblines; or, if none, then the lateral boundary lines of the roadways which join one another at, or approximately at, right angles; or the area within which vehicles traveling upon different roadways joining at any other angle may come in conflict.

(b) Where a highway includes two roadways 30 feet or more apart, then every crossing of each roadway of such divided highway by an intersecting highway shall be regarded as a separate intersection. In the event such intersecting highway also includes two roadways 30 feet or more apart, then every crossing of two roadways of such highways shall be regarded as a separate intersection.

Operator: Any person who is in actual physical control of a vehicle upon the public right-of-way, or who is exercising control over or steering a vehicle.

Pedestrian: Any person afoot.

Right-of-way: The strip of land over which a public roadway is built or is otherwise set aside for a public roadway intended to be used for public passage, utilities, and drainage, including the roadways, parkways, alleys, sidewalks, bikeways, and driveways constructed thereon.

Roadway: That portion of a right-of-way improved, designed, and ordinarily used for vehicular travel, exclusive of the berm or shoulder, and excluding service entrances and driveways leading from the roadway onto adjoining property.

Sidewalk: That portion of a right-of-way between the curbline, or the lateral line, of the roadway and the adjacent property lines, designed, improved, and intended for use by pedestrians.

Traffic: Pedestrians, ridden or herded animals, and vehicles, streetcars, and other conveyances either singly or together while using any right-of-way for purposes of travel.

Vehicle: Every device, in, upon, or by which any person or property is or may be transported or drawn upon a roadway.

Section 74-173. Impeding traffic prohibited.

(a) It shall be unlawful for any person on, within, or adjacent to any public right-of-way within the city to willfully conduct themselves in such a manner or to take any action intended to

obtain the attention of or otherwise distract any driver or operator of a vehicle entering or exiting any driveway along such right-of-way, causing such driver or operator to stop, slow, or otherwise impede the ingress or egress of traffic or vehicle operation along or across such driveway or movement of traffic upon the roadway.

(b) It shall be unlawful for any person on, within, or adjacent to any public right-of-way within the city to willfully conduct themselves in such a manner or to take any action intended to obtain the attention of or otherwise distract any driver or operator of a vehicle at any roadway intersection, causing such driver or operator to stop, slow, or otherwise impede the movement of traffic or vehicle operation through or across such intersection or movement of traffic upon the roadway.

(c) It shall be unlawful for any person to stand in or enter upon any right-of-way within the city, including any roadway, intersection, or driveway located therein or thereon, for the purpose of distributing to or obtaining from the occupant of any vehicle at such location any item or object, causing the driver or operator of such vehicle to stop, slow, or otherwise impede the movement of traffic or vehicle operation.

(d) Nothing in this section is intended to prohibit the reasonable and necessary conduct of a person seeking emergency assistance or the temporary impediment of traffic by a person during an emergency to the extent necessary to address the emergency situation.

(e) Enforcement of this section shall be as provided in the code enforcement ordinance of the city, chapter 2, article VII of this Code, except that in response to a first violation of this section a written warning with no civil penalty assessed shall be issued to the violator in order to inform the violator of the violation and encourage compliance with the law. For a subsequent violation, the violator may be issued a code enforcement citation and assessed the appropriate civil penalty, notwithstanding the violations occur at different locations.

~~Secs. 74-171 – 74-190. – Reserved.~~ Secs. 74-174 – 74-190. – Reserved.

SECTION 3 – CONFLICT AND SEVERABILITY.

In the event any provision of this Ordinance conflicts with any other provision of the Code or other applicable law, the more strict provision shall apply and supersede. If any phrase or portion of this Ordinance or application thereof to any person or circumstance is held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions.

SECTION 4 – CODIFICATION.

The provisions of this Ordinance shall be codified in the Code of the City of Vero Beach, Florida.

SECTION 5 – EFFECTIVE DATE.

This Ordinance shall become effective immediately upon adoption by the City Council.

This ordinance was read for the first time on the ____ day of _____ 2016, and was advertised on the ____ day of _____ 2016, for a public hearing to be held on the ____ day of _____ 2016, at the conclusion of which hearing it was moved for adoption by Councilmember _____, seconded by Councilmember _____, and adopted by the following vote of the City Council:

Mayor Jay Kramer _____
Vice Mayor Randolph B. Old _____
Councilmember Pilar E. Turner _____
Councilmember Richard G. Winger _____
Councilmember Harry Howle III _____

ATTEST:

CITY OF VERO BEACH, FLORIDA

Tammy K. Vock
City Clerk

Jay Kramer
Mayor

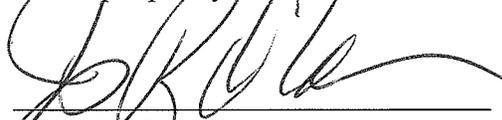
(SEAL)

Approved as to form and legal sufficiency:



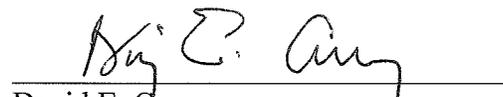
Wayne R. Coment
City Attorney

Approved as conforming to municipal policy



James R. O'Connor
City Manager

Approved as to technical requirements:



David E. Currey
Chief of Police