

**An Ordinance of the City of Plano, Texas amending Chapter 12, Motor Vehicles and Traffic, by adding definitions to Section 12-2 in Article I and by implementing a new Article II, Pedestrian Safety, to prohibit standing, sitting and loitering on a roadway median measuring less than 6 feet in width; and to prohibit pedestrians from approaching a motor vehicle in operation on a major thoroughfare, freeway, or access road; and providing a penalty clause, a repealer clause, a savings clause, a severability clause, a publication clause, and an effective date.**

**WHEREAS**, pedestrian fatalities have increased nationwide according to an analysis by the Governors Highway Association which also noted that – California, Florida and Texas – accounted for 37% of all pedestrian deaths in the first six months of 2021 but are home to 27% of the U.S. population; and

**WHEREAS**, the Texas Department of Transportation (TXDOT) Pedestrian Safety Campaign notes that pedestrian deaths are continuing to rise in Texas and now account for one in five of all traffic fatalities. According to TXDOT in 2020, there were 4,852 crashes involving pedestrians in Texas, resulting in 1,211 serious injuries and 731 deaths, a nine percent increase in pedestrian fatalities over the previous year; and

**WHEREAS**, the U.S. Department of Transportation Federal Highway Administration indicates that for pedestrians to safely cross a roadway, they must estimate vehicles speeds, determine acceptable gaps in traffic based on their walking speed, and predict vehicle paths; and

**WHEREAS**, TXDOT determined that the top factors contributing to traffic crashes in Texas involving pedestrians are pedestrians failing to yield the right-of-way to vehicles, driver inattention, drivers failing to yield the right-of-way to pedestrians and speeding; and

**WHEREAS**, the U.S. Department of Transportation, American Association of State Highway Transportation Officials, National Association of City Transportation Officials, and the TXDOT Roadway Design Manual, recommend a minimum median width of six feet for a median to be used safely as a pedestrian refuge; and

**WHEREAS**, prohibiting pedestrians from standing, sitting and/or loitering on a roadway median measuring less than six feet will protect the health and safety of both pedestrians and motorists; and

**WHEREAS**, prohibiting pedestrians from approaching a motor vehicle in operation on a major thoroughfare, freeway or access road will protect the safety of both pedestrians and motorists; and

**WHEREAS**, even though Chapter 552 of the Texas Transportation Code regulates safety issues related to pedestrians in the road, the City Council of the City of Plano finds that it is necessary to implement additional regulations at a local level to address gaps in state law that place pedestrians and motorists at risk of safety hazards as set out herein; and

**WHEREAS**, the City Council finds that it is in the best interest of public health and safety to implement the herein additional regulations to protect the safety of pedestrians and motorists in Plano, Texas.

**IT IS THEREFORE ORDAINED BY THE CITY COUNCIL OF THE CITY OF PLANO, TEXAS THAT:**

**Section I.** Chapter 12, Motor Vehicles and Traffic, Article I, In General, Sec. 12-2, Definitions, of the City of Plano City Code of Ordinances is amended by adding the following definitions:

*“Access road* means a roadway, frontage roadway, or service roadway designed to provide controlled access to a freeway.

*Controlled-access highway* means as the term is defined in Texas Transportation Code, Section 541.

*Freeway* means as the term is defined in Texas Transportation Code, Section 541.

*Loiter* means to linger or remain on a median for any purpose other than actively crossing a street or other roadway to reach a destination on the opposite side of the street.

*Major thoroughfare* means a roadway, divided or undivided, consisting of six or more marked lanes.

*Median* means the intervening space, physical barrier, or clearly indicated dividing section between the two roadways of opposing traffic on a public divided roadway, highway, or street.

*Operate or operated* means a motor vehicle that is in transit with the engine on, including, but not limited to, while a vehicle is stopped in compliance with an official traffic control device.

*Right-of-way* means as the term is defined in Texas Transportation Code, Section 541.

*Roadway* means as the term is defined in Texas Transportation Code, Section 541.

*Stand or standing* means as the term is defined in Texas Transportation Code, Section 541.”

**Section II.** A new Article II, Pedestrian Safety, shall be added to Chapter 12, Motor Vehicles and Traffic, of the City of Plano City Code of Ordinances as follows:

## **“ARTICLE II. PEDESTRIAN SAFETY**

### **Sec. 12-31. Pedestrians on medians less than six (6) feet in width and approaching a motor vehicle in operation on a major thoroughfare, freeway or access road.**

- (a) Offenses. It shall be an offense for a person to:
  - (1) stand, sit, or loiter on a roadway median that measures less than six (6) feet, or
  - (2) approach a motor vehicle being operated on a major thoroughfare, freeway or access road.
- (b) Defenses. It shall be a defense to prosecution if the conduct prohibited by this subsection was by a person:
  - (1) lawfully and actively crossing a divided roadway in the most direct route possible;
  - (2) immediately and reasonably necessary to prevent bodily injury or death of any person;
  - (3) receiving and/or rendering aid in an emergency situation;
  - (4) performing work in the right-of-way in accordance with a permit issued under Chapter 19 of this code; or

- (5) performing work under city, state, or federal authority to protect the health, safety, or welfare of the community, including but not limited to: activities by police and fire departments; maintenance of roadways, utilities, and other public areas; and activities by city employees or its contractors performing work in the course and scope of their employment and pursuant to authorization from the City Manager or designee.”

**Section III.** All provisions of the Code of Ordinances of the City of Plano, codified or uncodified, in conflict with the provisions of this Ordinance are hereby repealed, and all other provisions of the Code of Ordinances of the City of Plano, codified or uncodified, not in conflict with the provisions of this Ordinance shall remain in full force and effect.

**Section IV.** It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses, and phrases of this Ordinance are severable, and if any phrase, clause, sentence, or section of this Ordinance shall be declared unconstitutional or invalid by any court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any other remaining phrase, clause, sentence, paragraph or section of this Ordinance.

**Section V.** 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 at the time of passage of this ordinance.

**Section VI.** Any violation of the provisions or terms of this ordinance by any person, firm or corporation shall be a misdemeanor offense and shall be subject to a fine in accordance with Section 1-4(b) of the City Code of Ordinances for each offense. Every day a violation continues shall constitute a separate offense.

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

**DULY PASSED AND APPROVED** this the 27th day of June, 2022.

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John B. Muns, MAYOR

ATTEST:

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Lisa C. Henderson, CITY SECRETARY

APPROVED AS TO FORM:

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Paige Mims, CITY ATTORNEY