

ORDINANCE NO. 29244

An ordinance amending Section 28-158.1 of CHAPTER 28, "MOTOR VEHICLES AND TRAFFIC," of the Dallas City Code, as amended; defining terms; prohibiting persons from distracting motorists on designated highways, with certain defenses; providing a penalty not to exceed \$500; providing a saving clause; providing a severability clause; and providing an effective date.

WHEREAS, motorists on the highways designated in this ordinance travel at higher speeds than on any other roadway within the city and, therefore, have a shorter amount of time to react to unexpected distractions or hazards; and

WHEREAS, the presence of individuals carrying signs, wearing costumes, or engaging in other activities intended to draw attention to their signs or themselves on, over, or near those highways poses a greater distraction to motorists than free-standing or mounted signs placed near those highways; and

WHEREAS, individuals standing or walking on or over those designated highways and the associated medians, service roads, and other areas of the roadway not intended for pedestrian travel pose a greater distraction or safety hazard than individuals standing or walking along public sidewalks intended for pedestrian travel; and

WHEREAS, individuals standing or walking on the sidewalks of bridges and overpasses over those designated highways pose an increased safety hazard to motorists traveling on those highways when the individuals are engaged in conduct intended to distract the motorists'

attention or are using those sidewalks for purposes other than pedestrian travel from one side to the other; and

WHEREAS, law enforcement personnel are regularly placed in danger when responding to conduct that distracts motorists on those designated highways as they try to protect the motorists, the individuals engaged in the conduct, and the general public; and

WHEREAS, conduct by individuals, whether for advertisement or demonstration purposes, that is directed at motorists on the highways designated in this ordinance is a serious safety hazard that endangers the traveling public, the individuals engaged in the conduct, and law enforcement personnel responding to the conduct; and

WHEREAS, it is necessary and in the city's governmental interest to regulate such conduct in order to further and protect the public health, safety, and welfare while, at the same time, balancing the public's right to free speech; Now, Therefore,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DALLAS:

SECTION 1. That Section 28-158.1, "Prohibiting the Carrying of Signs on, over, or near Freeways," of Article XIV, "Freeway Regulations," of CHAPTER 28, "MOTOR VEHICLES AND TRAFFIC," of the Dallas City Code, as amended, is amended to read as follows:

"SEC. 28-158.1. **PROHIBITING THE DISTRACTION OF MOTORISTS ON DESIGNATED HIGHWAYS [~~CARRYING OF SIGNS ON, OVER, OR NEAR FREEWAYS~~].**

(a) In this section: [;]

(1) DESIGNATED HIGHWAY means any portion of the following highways in the city:

(A) Central Expressway.

(B) C. F. Hawn Freeway.

- (C) Dallas North Tollway.
- (D) Interstate Highway 20.
- (E) Interstate Highway 30.
- (F) John W. Carpenter Freeway.
- (G) Julius Schepps Freeway.
- (H) Lyndon B. Johnson Freeway.
- (I) Marvin D. Love Freeway.
- (J) President George Bush Turnpike.
- (K) R. L. Thornton Freeway.
- (L) Spur 408.
- (M) Stemmons Freeway.
- (N) U.S. Highway 80.
- (O) Walton Walker Boulevard.
- (P) Woodall Rodgers Freeway.

(2) PROHIBITED AREA means:

(A) that portion of a designated highway between the outer curb lines or lateral lines of the roadway, including but not limited to:

(i) a service road; and

(ii) a median, divider, shoulder, berm, or strip of land (whether improved or unimproved) that is not intended for pedestrian travel; and

(B) any overpass, viaduct, or bridge over a designated highway.

(3) SIGN means any display, painting, drawing, banner, placard, device, flag, light, figure, picture, letter, word, message, symbol, plaque, poster, or other thing that is designed, used, or intended to advertise or inform.

(b) A person commits an offense if, while within the prohibited area of a designated highway, the person engages in conduct that is intended to distract the attention of motorists in a main travel lane of the highway, including but not limited to:

(1) by carrying, holding, waving, displaying, or otherwise drawing attention to [he carries or otherwise displays] a sign; or

(2) by wearing any costume, clothing, attire, or accessory intended to attract or seek the attention of the public. [on, over, or within 75 feet of the roadway of any of the following streets or highways in a manner intended to attract the attention of vehicle occupants on those streets or highways:

<u>STREET</u>	<u>EXTENT</u>
Central Expressway	Live Oak Street, north to the city limits, and Park Row to Overton Road
Central Expressway (Elevated Bypass)	Central Expressway (north) at approximately Woodall Rodgers Freeway to Central Expressway (south) at approximately Grand Avenue
C. F. Hawn Freeway	All portions within the city
Interstate Highway 20	All portions within the city
Interstate Highway 30	All portions within the city
John W. Carpenter Freeway	All portions within the city
Julius Schepps Freeway	All portions within the city
Lyndon B. Johnson Freeway	All portions within the city
Marvin D. Love Freeway	All portions within the city
R. L. Thornton Freeway	All portions within the city
Spur 408	All portions within the city
Stemmons Freeway	All portions within the city
Walton Walker Boulevard	Stemmons Freeway to Irving, Texas, city limits
Woodall Rodgers Freeway	All portions within the city]

(c) A person commits an offense if the person knowingly causes or permits conduct prohibited in Subsection (b) to be performed for his or her benefit by another person.

(d) It is a defense to prosecution under Subsections (b) and (c) that ~~the sign was~~:

(1) the conduct was not visible to motorists in a main travel lane of the designated highway;

(2) the conduct was intended to summon police, fire, medical, or other emergency assistance or warn motorists of an immediate emergency, hazard, or danger;

(3) the conduct was being performed by a law enforcement officer or an employee or agent of a governmental entity in the performance of official duties;

(4) ~~(2)~~ the sign used in the conduct was attached to a vehicle travelling on the designated ~~street or~~ highway; or

(5) ~~(3)~~ the sign used in the conduct was a directional, warning, or other official sign authorized by city, state, or federal law~~;~~ or

~~(4) — a non-governmental sign authorized by city, state, or federal law].~~

(e) Before taking any enforcement action under this section, a police officer or code enforcement officer shall ask the apparent offender's reason for engaging in conduct that distracts the attention of motorists that are in a main travel lane of a designated highway. The police officer or code enforcement officer shall not issue a citation or make an arrest under this section unless the officer reasonably believes that an offense has occurred and that, based on any response and other circumstances, no defense in Subsection (d) is present. Before issuing a citation or making an arrest, the police officer or code enforcement officer shall give the person an oral or written warning that:

(1) requests the person to, within one minute after issuance of the warning:

(A) cease all conduct distracting the attention of motorists that are in a main travel lane of a designated highway; and

(B) completely remove from the prohibited area of the designated highway all signs being used as part of the distracting conduct; and

(2) states that failure to comply with the warning may result in the citation or arrest of the person and the removal by the city of any sign used to distract motorists.

(f) If a sign is not removed in compliance with a warning issued by a police officer or code enforcement officer under Subsection (e), the city may remove the sign and store it at a secure location. If the sign is not claimed within 60 days after removal, it will be deemed

unclaimed or abandoned, and the city may sell, recycle, convert, or dispose of the sign in accordance with city ordinances and policies and any applicable state or federal laws."

SECTION 2. That a person violating a provision of this ordinance, upon conviction, is punishable by a fine not to exceed \$500.

SECTION 3. That CHAPTER 28 of the Dallas City Code, as amended, will remain in full force and effect, save and except as amended by this ordinance.

SECTION 4. That the terms and provisions of this ordinance are severable and are governed by Section 1-4 of CHAPTER 1 of the Dallas City Code, as amended.

SECTION 5. That this ordinance will take effect on January 27, 2014, and it is accordingly so ordained.

APPROVED AS TO FORM:

WARREN M. S. ERNST, City Attorney

By Chris Bowers
Assistant City Attorney

Passed JAN 22 2014

LC/DCC/00560A



PROOF OF PUBLICATION – LEGAL ADVERTISING

The legal advertisement required for the noted ordinance was published in the Dallas Morning News, the official newspaper of the city, as required by law, and the Dallas City Charter, Chapter XVIII, Section 7.

DATE ADOPTED BY CITY COUNCIL JAN 22 2014

ORDINANCE NUMBER 29244

DATE PUBLISHED JAN 25 2014

ATTESTED BY: