ORDINANCE NO. 81 -2017

AN ORDINANCE AMENDING SECTION 18-1(19) OF THE LEXINGTON-FAYETTE URBAN COUNTY CODE OF ORDINANCES, TO INCLUDE THOSE IN WHEELCHAIRS IN THE DEFINITION OF "PEDESTRIAN"; CREATING SECTION 18-94 IN ARTICLE VIII OF CHAPTER 18 OF THE CODE OF ORDINANCES TO PROHIBIT THE CROSSING OF ARTERIAL ROADWAYS IN ANY LOCATION OTHER THAN A CROSSWALK, AN INTERSECTION WITH TRAFFIC CONTROL SIGNALS OR DEVICES, OR AN INTERSECTION; TO PROHIBIT PEDESTRIANS FROM ENTERING ARTERIAL ROADWAYS TO APPROACH VEHICLES AND FROM BEING UPON MEDIANS IN ARTERIAL ROADWAYS; AND AMENDING SECTIONS 18-164 AND 18-166, RELATING TO GENERAL PENALTIES AND THE PENALTIES FOR VIOLATIONS OF SPECIFIC SECTIONS, RESPECTIVELY, TO UPDATE THE MONETARY PENALTIES PROVIDED THEREIN AND TO PROVIDE A PENALTY FOR VIOLATION OF SECTION 18-94.

WHEREAS, at least 5,376 pedestrians were killed in motor vehicle collisions nationally in 2015, the highest number since 1996, and increased nearly ten percent (10%) from 2014 to 2015, the last years in which national data is available. (*National Highway Traffic Safety Administration's National Center for Statistics and Analysis)*; and

WHEREAS, nearly 70,000 pedestrians were injured in motor vehicle collisions nationally in 2015, an increase of nearly eight percent (8%) from 2014 to 2015. (*National Highway Traffic Safety Administration's National Center for Statistics and Analysis)*; and

WHEREAS, in 2014, seventy-six percent (76%) of all pedestrian deaths occurred in urban settings, seventy-two percent (72%) of all pedestrian deaths occur on major roads, and twenty-six percent (26%) of all pedestrian deaths occurred at intersections. (*Insurance Institute for Highway Safety, Highway Loss Data Institute*); and

WHEREAS, the number of distracted drivers has increased substantially over the years; (*Bridgestone America Young Driver Survey 2014; American Journal of Public Health; "Pedestrian Deaths Spiked in 2016, Distraction Cited," New York Times)*; and

WHEREAS, distraction-affected motor vehicle collision fatalities increased 8.8% nationally from 2014 to 2015, to a total of 3,477 deaths, with an additional 391,000 injured. (*National Highway Traffic Safety Administration's National Center for Statistics and Analysis)*; and

WHEREAS, the American Journal of Public Health has found that separating pedestrians from vehicles by time or space is an effective approach to reducing pedestrian- involved motor vehicle collisions; and

WHEREAS, motor vehicle collisions caused at least ten (10) pedestrian deaths in Lexington-Fayette County in 2016, tying it with 2008 as its most deadly year of record; and

WHEREAS, in Lexington-Fayette County, at least three hundred ninety-seven (397) pedestrian-involved motor vehicle collisions have occurred since 2015, resulting in three hundred forty-four (344) injuries; and

WHEREAS, in 2016, twenty percent (20%) of all fatalities resulting from motor vehicle collisions in Lexington-Fayette County were pedestrians; and

WHEREAS, the total average annual daily traffic for all arterial roads in Lexington-Fayette County is more than two million (2,000,000) cars; and

WHEREAS, one-hundred ninety-six (196) motor vehicle collisions have involved hitting or crossing medians in Lexington-Fayette County since 2015, illustrating the threat of injury to those standing upon medians on heavily-trafficked roads; and

WHEREAS, alternative means of addressing the serious public safety issue related to pedestrians in the roadway have been implemented in the past, including the creation of a pedestrian safety work group in 2014, pedestrian safety campaigns, and lowering the speed limits on heavily trafficked roadways downtown in 2016; and

WHEREAS, Lexington-Fayette County has recently been honored by the United States Department of Transportation with the "Mayor's Challenge Award" in September 2016 for its work addressing pedestrian safety; and

WHEREAS, preventing pedestrians and motor vehicles from being in close proximity to each other on roadways is a common sense approach to improving the safety of all involved; and

WHEREAS, the Mayor, Councilmembers, and various Departments in the Urban County Government have received numerous calls from residents relating their fear and concern for the safety of pedestrians that enter the roadway and medians; and

WHEREAS, this Ordinance applies to any pedestrian who crosses a heavily trafficked roadway outside of a crosswalk, any pedestrian who enters a heavily trafficked roadway and approaches a vehicle, and any pedestrian who is upon a median in a heavily trafficked roadway unless that person is in the process of crossing the roadway in a crosswalk; and

WHEREAS, the Ordinance addresses the conduct of those who enter heavily trafficked roadways or stay upon medians located on heavily trafficked roadways within Lexington-Fayette County, the areas where most pedestrian-involved motor vehicle collisions occur and where the risks associated with pedestrians and motor vehicles in close proximity are most profound; and

WHEREAS, the Kentucky Supreme Court in *Champion v. Commonwealth,* 2017 WL 636420, opined that banning pedestrians from approaching vehicles is a "content-neutral way the City could achieve the same goals [safe and efficient roadways] without unjustifiably abridging individual rights to free speech."

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT:

Section 1 – That the above recitals are incorporated herein by reference as if fully stated herein.

Section 2 – That Section 18-1(19) of the Code of Ordinances be and hereby is amended as follows:

(19) *Pedestrian*: Any person afoot or in a wheelchair.

Section 3 – That Section 18-94 titled "Pedestrians Approaching Vehicles or Being upon Median, Prohibited" be and hereby is created in Article VIII of Chapter 18 of the Code of Ordinances as follows:

(1) Definitions – As used in this Section:

(a) *Arterial roadway* shall mean any arterial roadways listed in subsection (4) of this ordinance.

(2) Prohibitions –

(a) No person shall cross an arterial roadway at any place except in a crosswalk. Where there is no crosswalk, a person shall cross only at an intersection in which traffic control signals or other devices are in place. Where there is no crosswalk nor traffic control signals or devices, a person shall cross an arterial roadway only at an intersection.

(b) No person, other than a person in or on a vehicle, shall be upon an arterial roadway or, while upon an arterial roadway, approach a vehicle, except one that is legally parked at the curb or shoulder.

(c) No person shall be upon a median of an arterial roadway unless in the process of legally crossing the roadway in a crosswalk. It is prima facie evidence of a violation of this subsection if a person stays on the median through two consecutive opportunities to cross the roadway in a legal manner under this Chapter and the traffic laws of the Commonwealth Kentucky. The exception found in 3(a)

shall not apply to those pedestrians who stay on the median through two consecutive opportunities to cross.

(3) Exceptions – Sections 2(b) and 2(c) of this ordinance shall not apply to

(a) Any person legally crossing the roadway;

(b) Any person engaged in law enforcement or rescue activities, including providing assistance to an injured or disabled vehicle or person;

(c) Any person entering a stopped vehicle as an invited passenger where it is lawful to do so, including accessing taxicabs or public transportation; and

(d) Any person engaged in emergency repair or maintenance activities of a vehicle.

(4) The following roadways, which carry the most traffic within Lexington-Fayette County, are arterial roadways for the purposes of this Section:

Albany Road

Alexandria Drive

Alumni Drive

Armstrong Mill Road

Athens Boonesboro Road

Avenue of Champions

Bolivar Street

Briar Hill Road

Bryan Avenue

Bryan Station Road

Chinoe Road

Citation Boulevard

Clays Mill Road

Cooper Drive

Crestwood Drive

East and West Fourth Street

East and West High Street

East and West Loudon Street

East and West Main Street

East and West Maxwell Street

East and West New Circle Road

East and West New Circle Ramps

East and West Short Street

East and West Third Street

East and West Vine Street

Elm Tree Lane

Euclid Avenue

Fairway Drive

Fontaine Road

Georgetown Road

Georgetown Street

Harrodsburg Road

Henry Clay Boulevard

Holiday Road

Huguelet Drive

Jefferson Street

Jesselin Drive

Keithshire Way

Lane Allen Road

Leestown Road

Liberty Road

Man O' War Boulevard

Manchester Street

Mason Headley Road

Midland Avenue

North and South Broadway

North and South Limestone

Newtown Pike

Nicholasville Road

Old Frankfort Pike

Old Richmond Road

Oliver Lewis Way

Paris Pike

Race Street

Red Mile Road

Richmond Road

Rose Street

Rosemont Garden

Russell Cave Road

South Ashland Avenue

South Forbes Road

South Upper Street

Sir Barton Way

Southland Drive

Tates Creek Road

Todds Road

Versailles Road

Virginia Avenue

West Reynolds Road	Wellington Way	Winslow Street
Waller Avenue	Wilson Downing Road	
Walton Avenue	Winchester Road	

This Section shall also apply to the first two hundred (200) feet of any roadway that intersects with an arterial roadway, as measured from the point where the roadway and the arterial roadway intersect.

Section 4 – That the appropriate Departments of the Urban County Government shall annually review the list of arterial roadways found in Section 4 of this Ordinance and provide recommendations to the Urban County Council concerning any roadways that it believes, in the interest of pedestrian safety, should be added to or removed from the list of arterial roadways found therein.

Section 5 - That Section 18-164 of the Code of Ordinances be and hereby is amended as follows:

It is a misdemeanor for any person to do any act forbidden or fail to perform any act required in this chapter. Unless another penalty is expressly provided by law or in section 18-166, every person convicted of a violation of any provision of the traffic regulations shall be subject to a fine of not less than twenty-five dollars ($25.00) nor more than two hundred dollars ($200.00).

Section 6 – That Section 18-166 of the Code of Ordinances be and hereby is amended as follows:

(a) Any person who shall violate any of the provisions of the following sections of this chapter:

18-12, 18-13, 18-43, 18-97, 18-98, 18-107, 18-154 and 18-155

shall be fined not less than fifteen dollars ($15.00) nor more than two hundred dollars ($200.00).

(b) Any person who shall violate any of the provisions of the following sections of this chapter:

18-7, 18-10, 18-11, 18-19, 18-20, 18-21, 18-26, 18-27, 18-28, 18-29, 18-30, 18-31, 18-32, 18-34, 18-37, 18-38, 18-39, 18-41, 18-42, 18-53, 18-56, 18-57, 18-58, 18-72, 18-74, 18-75, 18-76, 18-77, 18-78, 18-84, 18-87, 18-88, 18-89, 18-90, 18-91, 18-96, 18-99, 18-100, 18-101, 18-102, 18-103, 18-105, 18-111, 18-118, 18-124, 18-125, 18-128, 18-132, 18-134, 18-136, 18-137, 18-138, 18-141, 18-142, 18-144, 18-146, 18-147, 18-148, 18-149, 18-151, 18-152, 18-153, 18-164 and 18-165

shall be fined not less than twenty-five dollars ($25.00) nor more than two hundred dollars ($200.00).

(c) Any person who shall violate any of the provisions of the following sections of this chapter:

18-94, 18-54, 18-59, 18-15, 18-17, 18-67, 18-68, 18-79, 18-80, 18-82, 18-18, 18-22, 18-23, 18-24, 18-25, 18-104, 18-33, 18-36, 18-150 and 18-156

shall be fined not less than fifty dollars ($50.00) nor more than two hundred dollars ($200.00).

(d) Any person who shall violate the provisions of section 18-69 of this chapter shall be fined not less than one hundred dollars ($100.00) nor more than five hundred dollars ($500.00), or imprisoned for not less than three (3) days nor more than six (6) months, or both so fined and imprisoned.

(e) Any person who shall violate the provisions of section 18-44 of this chapter shall be fined not less than fifty dollars ($50.00) nor more than two hundred dollars ($200.00).

(f) Any person who shall violate any provision of section 18-64(a) shall be fined not less than four dollars ($4.00) nor more than one hundred dollars ($100.00); however, if any parking citation remains unpaid for more than thirty (30) days from the date thereof, the fine shall be not less than eight dollars ($8.00) nor more than one hundred dollars ($100.00).

(g) Any person who shall violate any provision of section 18-66 shall be fined not less than eight dollars ($8.00) nor more than one hundred dollars ($100.00); however, if any parking citation remains unpaid for more than thirty (30) days from the date thereof, the fine shall be not less than sixteen dollars ($16.00) nor more than one hundred dollars ($100.00).

(h) Any person who shall violate any provisions of sections 18-61, 18-63, 18-64(b), 18-64(c), 18-106, 18-108, 18-110, 18-115, 18-119, 18-120, 18-121, 18-122, 18-123, 18-126, 18-127, 18-129, 18-133, and 18-135 shall be fined not less than fifteen dollars ($15.00) nor more than one hundred dollars ($100.00); however, if any parking citation remains unpaid for more than ten (10) working days (excluding Saturdays, Sundays and holidays) from the date thereof, the fine shall be not less than thirty dollars ($30.00) nor more than one hundred dollars ($100.00).

(i) Any person who shall violate any provision of section 18-113.3 shall be fined two hundred fifty dollars ($250.00).

(j) Any person who shall violate any provision of section 18-94 shall be fined one hundred dollars ($100.00). Nothing contained herein shall prohibit the issuance of a warning citation.

Section 7 – That this Ordinance shall be effective sixty (60) days from the date of its passage to provide a period of time to educate residents regarding the Ordinance's new requirements.

PASSED URBAN COUNTY COUNCIL: May 25, 2017

MAYOR

ATTEST:

CLERK OF THE URBAN COUNTY COUNCIL

Published: June 1, 2017- 1t

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