

ORDINANCE NO.

AN ORDINANCE AMENDING SECTION 12-1-34 OF THE CITY CODE TO PROHIBIT THE USE OF PORTABLE ELECTRONIC DEVICES WHILE OPERATING A MOTOR VEHICLE OR BICYCLE, AND CREATING AN OFFENSE.

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

PART 1. Section 12-1-34 of the City Code is amended to read:

§ 12-1-34 USE OF PORTABLE ELECTRONIC DEVICES WHILE OPERATING A MOTOR VEHICLE OR BICYCLE.

(A) In this section:

(1) portable electronic device means a hand-held mobile telephone, personal digital assistant, MP3 or other hand-held music player, electronic reading device, laptop computer, pager, broadband personal communication device, global positioning or navigation system, electronic game device, or portable computing device.

(2) use means employing a portable electronic device for any reason including, but not limited to the following activities while holding or touching the device:

(a) speaking or listening in conversation;

(b) viewing, taking, or transmitting electronic images;

(c) composing, sending, viewing, accessing, browsing, retrieving, or saving email messages, text messages, or other electronic data;

(d) entering or changing information in a global positioning or navigation system or any software or application designed for navigation;

(e) accessing or viewing an internet website or computer application; or

(f) playing a game.

(3) operating a bicycle means a person who is astride a permanent and regular seat attached to the bicycle and the bicycle is in motion.

(B) ~~[(A)]~~ An operator of a motor vehicle ~~[driver of a motor vehicle]~~ may not use a portable electronic device ~~[wireless communication device to view, send, or compose an electronic message or engage other application software]~~ while the vehicle is in motion.

(C) A person may not use a portable electronic device while operating a bicycle.

(D) ~~[(B)]~~ It is an affirmative defense to prosecution of an offense under this section if ~~[a wireless communications device is used]:~~

(1) the portable electronic device is used in a hands-free mode of operation, and used to engage in telephone communication or to listen to music;

(2) the portable electronic device is [as] a global positioning or navigation device, or global positioning or navigation software on a device, and the device is affixed to the motor vehicle or bicycle;

(3) use of a portable electronic device is for obtaining emergency assistance to report a crime, traffic accident, medical emergency, or serious traffic hazard, or to prevent a crime about to be committed; or

(4) use of a portable electronic device is in the reasonable belief that a person's life or safety is in immediate danger.

~~[(6)] [if the device is permanently installed inside the vehicle; or]~~

~~[(7)] [solely in a voice activated or other hands free mode.]~~

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2 (E) [(C)] This section does not apply to [an operator of an] authorized
3 emergency personnel [vehicle] using a portable electronic [wireless
4 communication] device while acting in an official capacity.
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6 (F) This section does not apply to citizen's band radio devices, two-way radio
7 communication in a commercial vehicle, or to persons engaged in Amateur
8 Radio Emergency Service (ARES) activities or Radio Amateur Civil
9 Emergency Service (RACES) activities.
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11 (G) [(D)] To the extent that this section conflicts with the Texas Transportation
12 Code Section 545.424, regarding the use of wireless communication devices
13 while operating a motor vehicle by minors, or Texas Transportation Code
14 Section 545.425, regarding the use of wireless communication devices in
15 school crossing zones, this section does not apply.
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17 **PART 2.** This ordinance shall take effect January 1, 2015.

18 **PASSED AND APPROVED**
19

20 §
21 §
22 _____, 2014 § _____
23 Lee Leffingwell
24 Mayor
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27 **APPROVED:** _____
28 Karen M. Kennard
29 City Attorney
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31 **ATTEST:** _____
32 Jannette S. Goodall
City Clerk