

ORDINANCE NO. 2016-04

AN ORDINANCE OF THE CITY OF LAKE DALLAS, TEXAS, AMENDING THE CODE OF ORDINANCES, CITY OF LAKE DALLAS, TEXAS, TO AMEND ARTICLE IV (“RULES OF THE ROAD”) OF CHAPTER 102 (“TRAFFIC AND VEHICLES”) TO REPEAL SECTION 102-126 AND REPLACE SAID SECTION TO PROHIBIT THE USE OF HAND-HELD COMMUNICATION DEVICES (CELL PHONES) WHILE OPERATING A MOTOR VEHICLE ON A PUBLIC STREET; PROVIDING A REPEALING CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR A PENALTY OF FINE NOT TO EXCEED THE SUM OF FIVE HUNDRED DOLLARS (\$500.00) FOR EACH OFFENSE; AND, PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of Lake Dallas, Texas, has previously adopted Section 102-126 of the Code of Ordinances to prohibit the use of hand-held communications devices in school zones; and

WHEREAS, following the adoption of Section 102-126, the Texas Legislature amended the Texas Transportation Code to adopt Section 545.425, which prohibits the use of wireless communication devices in school zones and which preempts Section 102-126 of the Code of Ordinances, thereby rendering Section 102-126 of the Code of Ordinances obsolete and appropriate for repeal; and

WHEREAS, the City Council finds that there is an unacceptably high rate of collisions involving damage, bodily injury and death resulting from the use of hand-held communication devices while operating motor vehicles upon public roadways; and

WHEREAS, according to the first published work in the United States to examine texting while driving in an actual driving environment, researchers at the Texas A&M Transportation Institute have determined that a driver’s reaction time is doubled when distracted by reading or sending a text message; and

WHEREAS, according to the same study, drivers who faced a flashing light when texting were eleven times more likely to miss the flashing light; and

WHEREAS, according to the same study, drivers were less able to safely maintain their position in the driving lane and/or maintain a constant speed when they were texting while driving, tending to slow down in an effort to reduce the demand of multiple tasks; and

WHEREAS, according to the Virginia Tech Transportation Institute, drivers who text message while driving are 23 times more likely to be involved in a crash, near crash or a crash relevant conflict than those driving while not distracted; and

WHEREAS, the City Council finds that safe roadways promote and protect the public health, safety and welfare of the citizens of Lake Dallas.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LAKE DALLAS, TEXAS:

SECTION 1. That the Code of Ordinances, City of Lake Dallas, Texas, be and is hereby amended by amending Article IV (“Rules of the Road”) of Chapter 102 (“Traffic and Vehicles”) to repeal section 102-126 and to replace said section with a new Section 102-126 to prohibit the use of hand-held wireless communication devices while driving, said Section 102-126 to henceforth read in its entirety as follows:

“CHAPTER 102

TRAFFIC AND VEHICLES

...

ARTICLE IV. RULES OF THE ROAD

...

Sec. 102-126. Use of handheld communications devices.

(a) The following words, terms and phrases, when used in the section, shall have the meanings assigned in this section, except where the context clearly indicates a different meaning:

Engage in a call shall mean participating in any form of communication, including but not limited to talking, listening, dialing, entering, reading, transmitting, or receiving audible or visual information, using a handheld communications device.

Electronic message means a communication in which data (composed in whole or in part of text, numbers, images, or symbols) is sent, entered, or received by a method other than by voice using a wireless communication device and includes SMS and MMS messages.

Wireless communication device means a device that uses a commercial mobile service as defined by 47 U.S.C. Section 332, and includes an electronic communication device capable of creating, sending or receiving sound or an electronic message such as a mobile phone, a personal digital assistant, a computer, a mobile computer, a tablet computer, a media player and a vehicle’s onboard computer.

(b) It shall be unlawful for a person to use a wireless communication device to engage in a call or to view, send, or create an electronic message while operating a motor vehicle upon a public street or highway within the city.

(c) An operator of a motor vehicle holding a wireless communications device to, or in the immediate proximity of, his ear while operating the motor vehicle is presumed to be engaging in a call within the meaning of this section.

(d) It is an affirmative defense to prosecution of an offense under this section if the wireless communication device was being used:

- (1) In the course and scope of the user's duties as the operator of an emergency vehicle;
- (2) To communicate with an emergency response operator, fire department, law enforcement agency, hospital, physician's office, or health clinic regarding a medical or other emergency situation;
- (3) In response to emergency situations or to monitor extreme weather conditions by a person acting under the authority of the City;
- (4) To monitor the wireless communication device for emergency alerts during hazardous weather conditions;
- (5) In a vehicle that was parked or stopped out of the traffic lanes of a street or highway;
- (6) In a global positioning or navigation system device;
- (7) Solely in a voice-activated or other hands-free mode; or
- (8) Under a license issued by the Federal Communications Commission.

(e) An offense under this section is a misdemeanor punishable by a fine of not more than five hundred dollars. No culpable mental state shall be required to be plead or proven to substantiate guilt in the prosecution of any case in which an offense under this section is alleged.

Secs. 102-127–102-150. Reserved.”

SECTION 2. That all ordinances of the City of Lake Dallas, Texas, in conflict with the provisions of this ordinance be and the same are hereby repealed and all other ordinances of the City

not in conflict with the provisions of the ordinance shall remain in full force and effect.

SECTION 3. That should any section, paragraph, sentence, subdivision, clause, phrase or provision of this ordinance be adjudged or held to be unconstitutional, illegal, or invalid, the same shall not affect the validity of this ordinance as a whole or any part or provision hereof other than the part so decided to be unconstitutional, illegal, or invalid and shall not affect the validity of the remainder of this ordinance or any other provision of the Code of Ordinances of the City of Lake Dallas.

SECTION 4. That any person violating any of the provisions of this ordinance shall be deemed guilty of a misdemeanor and subject to a penalty as provided for in this ordinance, and upon conviction shall be punished by fine not to exceed the sum of Five Hundred Dollars (\$500.00) for each offense.

SECTION 5. That this ordinance shall take effect immediately from and after its passage and the publication of the caption as the law and charter in such cases provide.

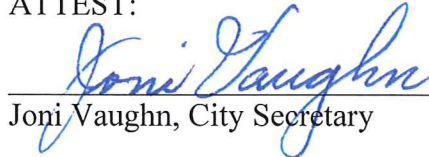
DULY PASSED AND APPROVED by the City Council of the City of Lake Dallas, Texas, on this the 23rd day of February, 2016.

APPROVED:



Mike McCaleb, Mayor

ATTEST:



Joni Vaughn, City Secretary



APPROVED AS TO FORM:

David Berman, City Attorney