

**ORDINANCE NO. 2016-3797**

**AN ORDINANCE AMENDING CHAPTER 10, "TRAFFIC CODE" OF THE CODE OF ORDINANCES OF THE CITY OF COLLEGE STATION, TEXAS, BY ADDING SECTION 10-14 "USE OF WIRELESS COMMUNICATION DEVICES WHILE OPERATING A MOTOR VEHICLE OR BICYCLE", PROVIDING A SEVERABILITY CLAUSE; DECLARING A PENALTY; AND PROVIDING AN EFFECTIVE DATE.**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF COLLEGE STATION, TEXAS:**

- PART 1:** That Chapter 10, "Traffic Code", be amended by adding Section 10-14 "Use of Wireless Communication Devices While Operating a Motor Vehicle or Bicycle", as set out in Exhibit "A", attached hereto and made a part of this ordinance for all purposes.
- PART 2:** That if any provisions of any section of this ordinance shall be held to be void or unconstitutional, such holding shall in no way affect the validity of the remaining provisions or sections of this ordinance, which shall remain in full force and effect.
- PART 3:** That any person, firm, or corporation violating any of the provisions of this chapter shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punishable by a fine of not less than Twenty-five Dollars (\$25.00) nor more than Two Hundred Dollars (\$200.00). Each day such violation shall continue or be permitted to continue, shall be deemed a separate offense. Said Ordinance, being a penal ordinance, becomes effective ninety (90) days after its date of passage by the City Council, as provided by Section 35 of the Charter of the City of College Station.

**PASSED, ADOPTED and APPROVED this 11<sup>th</sup> day of August, 2016.**

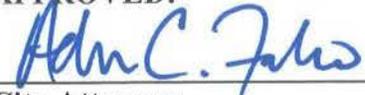
**APPROVED:**

  
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**Mayor**

**ATTEST:**

  
\_\_\_\_\_  
**City Secretary**

**APPROVED:**

  
\_\_\_\_\_  
**City Attorney**

**EXHIBIT "A"**

That Chapter 10, "Traffic Code", is hereby amended by adding Section 10-14 "Use of Wireless Communication Devices While Operating a Motor Vehicle or Bicycle", and is to read as follows:

**Section 10-14****Use of Wireless Communication Devices While Operating a Motor Vehicle or Bicycle****A. Definitions.**

1. **Authorized Emergency Personnel** means a person who is a law enforcement officer, firefighter, member of a governmental emergency medical services, communications or public utility function, or member of a governmental emergency management function.
2. **Hands-free Device** means speakerphone capability or a telephone attachment or other piece of equipment, regardless of whether permanently installed in the motor vehicle allowing use of the Wireless Communication Device without use of either of the operator's hands.
3. **Use** means employing, accessing or operating the Wireless Communication Device for any reason.
4. **Wireless Communication Device** has the meaning assigned in Texas Transportation Code § 545.425, as amended.

**B. Violation.** An operator of a motor vehicle or a bicycle may not use a Wireless Communication Device while operating a motor vehicle or bicycle on a public roadway or highway.

**C. Affirmative Defenses.** It is an affirmative defense to prosecution to an offense under this section if:

1. **Complete Stop.** The motor vehicle or bicycle is at a complete stop.
2. **Hands-free Device.** The Wireless Communication Device is used in Hands-free Device mode of operation to engage in telephone communication or to listen to audio transmissions.
3. **Navigation.** The Wireless Communication Device is used as global positioning or navigation device or for its global positioning or navigation operating software and the Wireless Communication Device is affixed to the motor vehicle or bicycle.

**4. Emergency Services.** The Wireless Communication Device is used for obtaining emergency assistance to report a crime, traffic accident, medical emergency, serious traffic hazard or in prevention of a crime.

**D. Presumption.** Evidence that a police officer observed a person holding a Wireless Communication Device while operating a motor vehicle or bicycle in motion creates a rebuttable presumption that the person used a Wireless Communication Device in violation of this section.

**E. Conflicts.** To the extent this section conflicts with any provision of the Texas Transportation Code regarding the use of wireless communication devices or hand-held mobile telephones, this section does not apply.

**F. Non-Applicability.** This section does not apply to:

- a.** A person licensed by the Federal Communication Commission while operating a radio frequency device other than a Wireless Communication Device.
- b.** Authorized Emergency Personnel while acting in official capacity.