

AN ORDINANCE 2010-10-07-0853

**AMENDING CHAPTER 19, ARTICLE VII OF THE CITY CODE OF SAN ANTONIO, TEXAS, BY ADDING SECTION 19-255 PROHIBITING THE USE OF A HAND-HELD MOBILE COMMUNICATION DEVICE TO SEND, READ, OR WRITE A TEXT MESSAGE OR ENGAGE IN ANY OTHER USE OF THE DEVICE BESIDES DIALING TELEPHONE NUMBERS OR TALKING TO ANOTHER PERSON, WHILE OPERATING A MOVING MOTOR VEHICLE; AND PROVIDING FOR A FINE OF UP TO \$200.00 PER VIOLATION.**

\* \* \* \* \*

**WHEREAS**, the City Council finds that the use of a hand-held mobile communication device to send, read, or write a text message, view pictures or written text, whether transmitted by internet or other electronic means, engage in gaming or any other use of the device besides dialing telephone numbers, or talking to another person while operating a moving motor vehicle, is a traffic hazard, a danger to the public and creates a particular danger or probability of danger in the City of San Antonio; and

**WHEREAS**, the City Council believes that prohibiting the use of hand-held mobile communication devices to engage in any use of a mobile communication device besides dialing telephone numbers or talking to another person, with certain defenses, would further and protect the public health, safety, and welfare; **NOW THEREFORE:**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SAN ANTONIO:**

**SECTION 1.** That Division 1, "General," of Article V, "General Rules of Vehicle Operation," of Chapter 19, "Motor Vehicles and Traffic" of the City Code of San Antonio, Texas, is hereby amended by the addition of Section 19-255, entitled "Regulating the use of Hand-held Mobile Communication Devices while Driving," which shall read as follows:

**SEC. 19-255 REGULATING THE USE OF HAND-HELD MOBILE COMMUNICATION DEVICES WHILE DRIVING.**

(a) In this section:

- (1) **HAND-HELD MOBILE COMMUNICATION DEVICE** means a text-messaging device or other electronic, two-way communication device that is designed to receive and transmit voice communication, text or pictorial communication, or both, whether

by internet or other electronic means. The term includes a mobile telephone, and a personal digital assistant (PDA).

- (2) TEXT MESSAGE means a two-way communication (whether real-time or asynchronous) 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 and transmitted through either a short message service (SMS) or a computer network.
  - (3) WIRELESS TELEPHONE SERVICE means two-way, real time voice telecommunications service that is interconnected to a public switched telephone network and is commonly referred to as cellular service or personal communication service.
- (b) A person commits an offense if the person uses a hand-held mobile communication device to send, read, or write a text message, view pictures or written text, whether transmitted by internet or other electronic means, engage in gaming or any other use of the device, besides dialing telephone numbers or talking to another person, while operating a moving motor vehicle. This ordinance shall not apply to public safety personnel in the normal course and scope of performing their duties.
- (c) It is an affirmative defense to prosecution of an offense under this section if a hand-held mobile communication device is used:
- (1) while the vehicle is stopped, out of the moving lanes of the roadway;
  - (2) strictly to engage in a telephone conversation, including dialing or deactivating the call;
  - (3) as a global positioning or navigation system that is affixed to the vehicle;
  - (4) to communicate with an emergency response operator, a fire department, a law enforcement agency, a hospital, a physician's office, or a health clinic regarding a medical or other emergency situation to prevent injury to a person or property;
  - (5) in the reasonable belief that a person's life or safety is in immediate danger; or
  - (6) solely in a voice-activated or other hands-free mode.
- (d) Only warning citations may be issued for the first 90 days following the effective date of this Ordinance so that an educational effort by the City of

San Antonio may be conducted to inform the public about the importance and requirements of this new Ordinance. Thereafter, a person convicted of an offense under this section shall be punished by a fine of up to \$200.

- (e) An offense under this section is not a moving violation and may not be made a part of a person's driving record or insurance record.
- (f) In addition to enforcement by a peace officer of the City of San Antonio, this section may be enforced by a peace officer of another entity, including those employed by school districts, duly authorized to issue traffic citations within the City of San Antonio.

**SECTION 3.** That the remainder of CHAPTER 19 of the City Code of San Antonio, Texas will remain in full force and effect, save and except as amended by this Ordinance.

**SECTION 4.** Should any article, section, part, paragraph, sentence, phrase, clause, or word of this Ordinance, for any reason, be held illegal, inoperative, or invalid, or if any exception to or limitation upon any general provision herein contained be held to be unconstitutional or invalid or ineffective, the remainder shall, nevertheless, stand effective and valid as if it had been enacted and ordained without the portion held to be unconstitutional or invalid or ineffective.

**SECTION 5.** The publishers of the City Code of San Antonio, Texas are authorized to amend said Code to reflect the changes adopted herein and to correct typographical errors and to format and number paragraphs to conform to the existing Code.

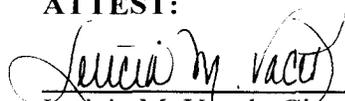
**SECTION 6.** The City Clerk of the City of San Antonio is hereby directed to publish notice of this Ordinance as required by Section 17 of the Charter of the City of San Antonio and the laws of the State of Texas.

**SECTION 7.** This Ordinance shall take effect 5 days from the date of publication in accordance with Section 6 above.

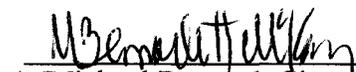
**PASSED AND APPROVED this 7<sup>th</sup> day of October, 2010.**

  
M A Y O R  
Julián Castro

**ATTEST:**

  
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Letícia M. Vacek, City Clerk

**APPROVED AS TO FORM:**

  
\_\_\_\_\_  
Michael Bernard, City Attorney

<b>Agenda Item:</b>	<b>4</b>						
<b>Date:</b>	10/07/2010						
<b>Time:</b>	10:10:57 AM						
<b>Vote Type:</b>	Motion to Approve						
<b>Description:</b>	An Ordinance amending Chapter 19, Article VII of the City Code, to prohibit the use of a hand-held mobile communications device to send, read, or write a text message, or engage in any other use of the device besides dialing telephone numbers or talking to another person, while operating a motor vehicle, and providing for a fine of up to \$200.00 per violation. [Erik J. Walsh, Assistant City Manager; William McManus, Police Chief]						
<b>Result:</b>	Passed						
<b>Voter</b>	<b>Group</b>	<b>Not Present</b>	<b>Yea</b>	<b>Nay</b>	<b>Abstain</b>	<b>Motion</b>	<b>Second</b>
Julián Castro	Mayor		x				
Mary Alice P. Cisneros	District 1		x				
Ivy R. Taylor	District 2		x				
Jennifer V. Ramos	District 3		x				
Philip A. Cortez	District 4		x			x	
David Medina Jr.	District 5		x				
Ray Lopez	District 6		x				
Justin Rodriguez	District 7		x				x
W. Reed Williams	District 8		x				
Elisa Chan	District 9		x				
John G. Clamp	District 10		x				

**Prohibit the Use of a hand-held mobile communications device to send, read or write text message, or engage in any other use beside dialing or talking**

**City Council  
Agenda #4  
October 7, 2010**



## **Background**

- **On August 21, 2008 City Council passed ordinance:**
  - **City Code amended to regulate the use of hand-held mobile telephones and mobile communication devices in school zones**
  - **Only applied to school zones in which signs are conspicuously posted to indicate the beginning and end of the school zone**
  - **During the 2009 school year, SAPD wrote 306 citations for cell phone violations in school zone**



## Background

- September 1, 2009, State law banned the use of cell phones in school zones
- Interim Councilwoman Leticia Cantu introduced a texting while driving Council Consideration Request on April 13, 2010
- A public hearing for texting took place on May 12, 2010. Residents were able to speak on the issue of texting.

## Background

- In June 2010, the matter was presented to the City Council's Public Safety Committee.
- The Committee recommended that all uses of the phone, with the exception of dialing, answering and speaking, are prohibited while driving.



## National Statistics

### According to the National Highway Traffic and Safety Administration (NHTSA)

- A 2008 survey reveals an increase in the use of electronic devices while driving
- It is estimated that 11 percent of all vehicles were being operated by drivers using some type of phone (hand-held or hands-free)
- Distracted-driving related crashes caused nearly 5,500 deaths and 450,000 injuries during 2009

## State Statistics

### According to the TxDot, where "Cell/Mobile Phone Use" was listed as a contributing factor in crashes in 2008:

- 41% of the 3,193 crashes, where cell phone use was a contributing factor, resulted in a death, serious injury or injury.
- 17.6% of those crashes resulted in a fatality or serious injury
- 23.4% resulting in injury



## Other Texas Cities

- Austin bans texting but allows phone calls
  - Up to \$200 fine for violation
- El Paso bans use of any non hands free devices
  - Up to \$200 fine for violation
- Houston, Dallas and Fort Worth have no restrictions/bans

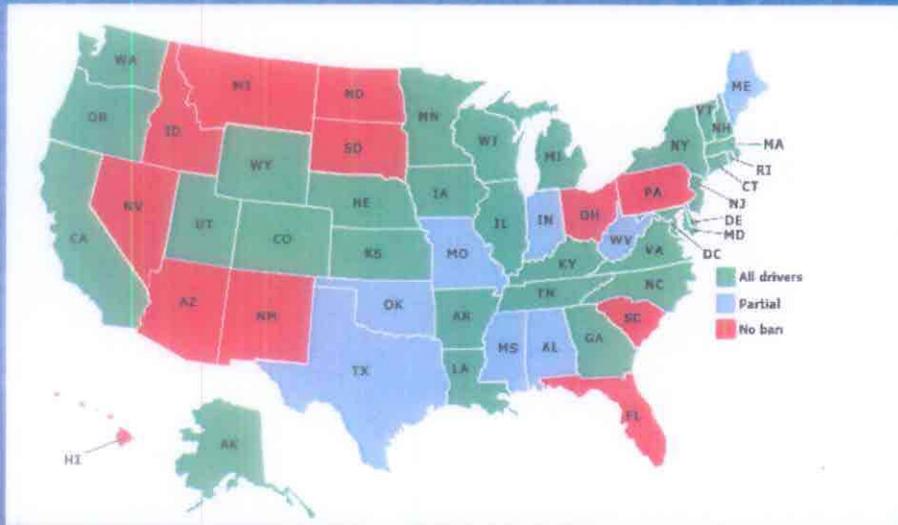


## Other States

- Text messaging is banned for all drivers in 30 states and the District of Columbia.
- Novice drivers are banned from texting in 8 states:
  - Alabama, Indiana, Maine, Mississippi, Missouri, Oklahoma, Texas, and West Virginia
- School bus drivers are banned from text messaging in 2 states
  - Oklahoma, and Texas

## Other States

### Map of texting bans



## Recommendations

- Banning the use of hand held mobile communication devices for texting or internet usage while driving
  - School zones restrictions will remain unchanged
- Dialing telephone numbers and talking to another person is allowed
- SAPD will monitor & analyze effects of both proposed ordinance & ban on hand-held devices in school zones.
  - Will brief the Public Safety Committee in Spring 2011

## Exceptions

- The vehicle is stopped out of traffic lanes
- Dialing or talking on the phone
- GPS or Navigation System affixed to the vehicle
- Public Safety Personnel in the normal course and scope of performing their duties
- Reasonable belief a person's life or safety is in danger
- Solely in a voice-activated or other hands-free mode

## Enforcement

- Only warning citations would be issued for the first 90 days following the effective date of the ordinance
- Maximum fine of \$200
- An educational effort by the San Antonio Police Department will be conducted to inform the public about the importance and requirements of this new ordinance



**Prohibit the Use of a hand-held  
mobile communications device to  
send, read or write text message,  
or engage in any other use beside  
dialing or talking**

**City Council  
Agenda #4  
October 7, 2010**