

**ORDINANCE NO. 2016-O-009**

**AN ORDINANCE AMENDING CHAPTER 19 (MOTOR VEHICLES AND TRAFFIC) OF THE CITY OF LAREDO CODE OF ORDINANCES BY REPEALING AND REPLACING THE LANGUAGE IN SECTION 19-224 (REGULATING THE USE OF HAND-HELD MOBILE COMMUNICATION DEVICES WHILE DRIVING) TO ENSURE THE ENFORCEABILITY OF THE PROVISIONS CONTAINED THEREIN; AND PROVIDING FOR THE FOLLOWING: FINDINGS OF FACT, SAVINGS, SEVERABILITY, REPEALER, AND AN EFFECTIVE DATE.**

**WHEREAS**, the City of Laredo has exclusive control over the highways and streets of the municipality pursuant to section 311.002 of the Texas Transportation Code; and

**WHEREAS**, there have been many national studies which conclude that the use of a hand-held communication device for any reason creates distractions for persons who operate a motor vehicle on streets and highways; and

**WHEREAS**, these findings are reliable and available for view on the United States Government website at Distrction.Gov, and are incorporated herein by reference; and

**WHEREAS**, the City Council finds that prohibiting the use of a hand-held mobile communication device when a person operates a motor vehicle is in the best interest of the public and supports the health, safety, morals, and general welfare of the citizens of Laredo; and

**WHEREAS**, the City Council further finds that while these amendments will increase enforceability, the regulations have not substantively changed, and full enforcement of the provisions of this Ordinance may proceed immediately upon passage and publication.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LAREDO, TEXAS THAT:**

**Section 1.** The City of Laredo Code of Ordinances, Chapter 19 (Motor Vehicles and Traffic), Article VI (Operation), Section 19-224 (Regulating the Use of Hand-Held Mobile Communication Devices While Driving) is hereby amended by replacing the language in its entirety with the following:

**Sec. 19-224. - Regulating the Use of Hand-Held Mobile Communication Devices While Driving.**

**(a)** For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning. Words and phrases which are not defined in this subchapter but are defined in the Texas Transportation Code or other ordinances or code provisions of the city shall be given the meanings set forth in those ordinances or in the Texas Transportation Code.

- (1) **AUTHORIZED EMERGENCY PERSONNEL.** A person who is a law enforcement officer, firefighter, a governmental medical emergency medical services provider, or a governmental emergency management provider.
  - (2) **HAND-HELD MOBILE COMMUNICATION DEVICE.** A portable electronic device to include any hand-held 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, portable computing device, or other similar device.
  - (3) **HANDS-FREE MODE OF OPERATION.** Use of a hand-held mobile communication device that has an internal feature or function or that is equipped with an attachment or addition, whether or not permanently part of the portable electronic device, by which a person uses the hand-held mobile communication device without the use of either hand (or prosthetic device or aid in the case of a physically disabled person) regardless of whether the use of either hand (or prosthetic device) is necessary to activate or deactivate the hand-held mobile communication device.
  - (4) **PARK OR PARKED.** The operator has completely ceased movement of a motor vehicle in a lawful manner and location. For the purposes of this section, "parked" does not mean a vehicle stopped in a lane of traffic due to either a lawful traffic control device, or the conditions of the roadway, or traffic congestion patterns then existing.
  - (5) **USE.** Employing a hand-held mobile communication device for *any* reason including, without limitation, the following activities while holding or touching the device:
    - 1) dialing or deactivating a phone call;
    - 2) speaking in or listening to a conversation;
    - 3) viewing, taking, or transmitting electronic images; composing, sending, viewing, accessing, browsing, retrieving, or saving email messages, text messages, or other electronic data;
    - 4) entering or changing information in a global positioning or navigation system or any software or application designed for navigation;
    - 5) accessing or viewing an Internet website or computer application; or playing a game.
- (b) An operator of a vehicle may not use a hand-held mobile communication device while the vehicle is in motion.
- (c) It is an affirmative defense to prosecution of an offense under this section if:
- (1) the vehicle is lawfully 'parked' as that term is defined herein;
  - (2) the vehicle is in operation on private property;

- (3) the hand-held mobile communication device is used in a hands free mode of operation;
- (4) use of the hand-held mobile communication device is for obtaining emergency assistance to report a crime, traffic accident, medical emergency, or serious traffic hazard, or to prevent an imminent crime from being committed; or
- (5) use of a hand-held mobile communication device is in the reasonable belief that a person's life or safety is in immediate danger.

(d) This section does not apply to the following:

- (1) use of a hand-held mobile communication device by a person who is authorized emergency personnel when used solely for the performance of that person's official duties; or
- (2) use of a radio frequency device other than a hand-held mobile communication device by an operator who is licensed by the Federal Communications Commission.

(e) In recognition of the educational efforts previously undertaken by the City of Laredo informing the citizens about the same requirements contained in the provisions of this new Ordinance, no additional time will be given for the issuance of warnings in lieu of citations after the effective date of this ordinance. Thereafter, a person who commits an offense under this Section shall be punished by a fine of no more than two hundred dollars (\$200).

(f) In addition to enforcement by a peace officer of the City, 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.

**Section 2.** All of the above premises are hereby found to be true and correct legislative and factual findings of the City Council and are hereby approved and incorporated into the body of this ordinance as if copied in their entirety.

**Section 3.** Chapter 19, Article VI of the City Code of Laredo Texas, as Amended, will remain in full force and effect, save and except as amended by this Ordinance.

**Section 4.** Should any sentence, paragraph, subdivision, clause, phrase, or section of this Chapter be adjusted or held to be unconstitutional, illegal, or invalid, the same shall not affect the validity of this Chapter in whole or any part or provision thereof, other than the part so declared to be invalid, illegal or unconstitutional.

**Section 5.** The provisions of this Chapter shall be cumulative of all other ordinances or parts of ordinances governing or regulating the same subject matter as that covered herein; provided, however, that all prior ordinances or parts of ordinances inconsistent or in conflict with any of the provisions of this Chapter are hereby expressly repealed to the extent that such inconsistency

is apparent. This Chapter shall not be construed to require or allow any act that is prohibited by any other ordinance.

**Section 6.** This Chapter shall take effect immediately from and after its passage and publication as may be required by law.

**PASSED BY THE CITY COUNCIL AND APPROVED BY THE MAYOR ON THIS**

1 DAY OF February, 2016.


  
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PETE SAENZ, MAYOR

ATTEST:

  
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DOANH "ZONE" T. NGUYEN  
ACTING CITY SECRETARY

APPROVED AS TO FORM:

RAUL CASSO  
CITY ATTORNEY

  
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KRISTINA K. LAUREL HALE  
FIRST ASSISTANT CITY ATTORNEY