

City of Houston, Texas, Ordinance No. 2013-_____

AN ORDINANCE AMENDING CHAPTER 45 OF THE CODE OF ORDINANCES, HOUSTON, TEXAS, BY ADDING A NEW ARTICLE XIV RELATING TO THE USE OF WIRELESS COMMUNICATION DEVICES FOR TEXTING WHILE OPERATING A MOTOR VEHICLE; CONTAINING FINDINGS AND OTHER PROVISIONS RELATING TO THE FOREGOING SUBJECT; PROVIDING FOR A PENALTY; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE; AND DECLARING AN EMERGENCY.

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WHEREAS, the City Council finds that there is a high incidence of Houston drivers using wireless communication devices for texting 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 Houston; **NOW, THEREFORE,**

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF HOUSTON, TEXAS:

Section 1. That the findings contained in the preamble of this Ordinance are determined to be true and correct and are hereby adopted.

Section 2. That Chapter 45 of the Code of Ordinances, Houston, Texas, is hereby amended to add a new Article XIV to read as follows:

“ARTICLE XIV. Texting While Driving

Sec. 45-341. Definitions.

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:

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.

Roadway means that portion of a public street or highway improved, designed, or used for vehicular travel.

Wireless communication device means an electronic communication device capable of creating, sending or receiving an electronic message. The term includes but is not limited to a mobile phone, a personal digital assistant, a computer, a mobile computer, a tablet computer, a media player and a vehicle’s onboard computer.

Sec. 45-342. Offense.

It shall be unlawful for a person to use a wireless communication device to view, send, or create an electronic message while operating a motor vehicle upon a roadway within the city.

Sec. 45-343. Defense.

It is an affirmative defense to prosecution of an offense under this section that the person was using a wireless communication device:

- (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 a vehicle that was parked or stopped out of the traffic lanes of a roadway;

- (4) That was attached to or installed in the vehicle as a global positioning or navigation system;
- (5) Solely in a voice-activated or other hands-free mode; or
- (6) Under a license issued by the Federal Communications Commission.

Sec. 45-344. Penalty.

An offense under this section is a misdemeanor punishable by a fine of not less than \$1.00 nor more than \$500.00.”

Section 3. That the Director of the Department of Public Works and Engineering is hereby directed to place appropriate signage at the entrance to the City of each state highway, U.S. highway, or interstate highway, in such language as shall be approved by the City Legal Department, advising motorists entering the City that texting while driving is prohibited and subject to a maximum fine of \$500.00.

Section 4. That if any provision, section, subsection, sentence, clause, or phrase of this Ordinance, or the application of same to any person or set of circumstances, is for any reason held to be unconstitutional, void or invalid, the validity of the remaining portions of the Ordinance or their application to other persons or sets of circumstances shall not be affected thereby, it being the intent of the City Council in adopting this Ordinance that no portion hereof or provision or regulation contained herein shall become inoperative or fail by reason of any unconstitutionality , voidness or invalidity of any other portion hereof, and all provisions of the Ordinance are declared to be severable for that purpose.

Section 5. That there exists a public emergency requiring that this Ordinance be passed finally on the date of its introduction as requested in writing by the Mayor; therefore, this Ordinance shall be passed finally on such date and shall take effect at

12:01 a.m. on the _____ day next following the date of its passage and approval
by the Mayor.

PASSED AND APPROVED this ____ day of _____, 2013.

Mayor of the City of Houston

Prepared by Legal Dept. _____
RZ:asw 11/27/2012 Senior Assistant City Attorney
Requested by Mayor Annise Parker
L.D. File No. 0391200338001