

**ORDINANCE NUMBER 2014 - 14**

**AN ORDINANCE BY THE TOWN COUNCIL OF THE TOWN OF LAGUNA VISTA, TEXAS; AN ORDINANCE BANNING TEXTING WHILE DRIVING; CONTAINING A REPEALER CLAUSE; PROVIDING FOR A FINE NOT TO EXCEED \$500 UPON CONVICTION THEREOF; PROVIDING FOR PUBLICATION AND EFFECTIVE DATE; AND ORDAINING OTHER PROVISIONS RELATED TO THE SUBJECT MATTER HEREOF.**

**WHEREAS**, the Town Council desires to keep drivers and pedestrians safe within the Town limits of the Town of Laguna Vista, Texas, and

**WHEREAS**, the Town Council desires to heighten the public's awareness of the dangers of texting while driving; and

**WHEREAS**, the Town Council believes that it serves the interest of the public to ban the use of electronic devices to send or receive text messages while a person is driving;

**WHEREAS**, this Ordinance is done in memory of Becky Haugh.

**NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF LAGUNA VISTA, TEXAS, AS FOLLOWS:**

**SECTION I.** The Code of Ordinances of the Town of Laguna Vista is hereby amended by adding a section entitled "Banning of Texting While Driving" which shall read in its entirety as follows:

**SECTION 1. USE OF WIRELESS COMMUNICATION DEVICE; OFFENSE**

- (A) **DEFINITIONS.** For the purpose of this section the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**AUTHORIZED GOVERNMENT VEHICLE.** A motor vehicle owned by the United States, the State of Texas or a political subdivision of the State of Texas.

**ELECTRONIC MESSAGE.** A self-contained piece of digital communication that is designed or intended to be transmitted to or from a wireless communication device, other than a voice message. An electronic message includes, but is not limited to, a text-based communication, a nonverbal command or request to access or receive information from an internet site, electronic mail, a text message, an instant message or such other data that uses a commonly recognized electronic communications protocol.

**OPERATE or OPERATING.** To drive or be in physical control of a motor vehicle that is in motion.

**OPERATOR.** A person who drives or has physical control of a motor vehicle.

**WIRELESS COMMUNICATION DEVICE.** Has the meaning assigned in Texas Transportation Code § 545.425 (use of wireless communication device offense).

- (B) It shall be unlawful for an operator of a motor vehicle to use a wireless communication device to view, read, send or compose an electronic message or manually engage other application software while operating a motor vehicle upon any roadway in the Town, including when stopped, except as provided in division (C)(2).
- (C) It is an exception to the prohibition in division (B) if:
- (1) An operator of a motor vehicle uses a wireless communication device to strictly engage in a telephone conversation or to listen to a voicemail message, including dialing or deactivating a phone call;
  - (2) An operator of a motor vehicle uses a wireless communication device while stopped or standing at a position parallel to and as close as possible to the right hand edge or curb or a roadway where parking, standing or stopping in a nonemergency situation is not otherwise prohibited; or
  - (3) An operator of a motor vehicle uses a wireless communication device solely in a voice-activated or other hands-free mode.
- (D) It is an affirmative defense to prosecution of conduct prohibited in division (B) if:
- (1) An operator of an authorized government vehicle uses a wireless communication device to respond to an emergency while acting in an official capacity while operating an authorized government vehicle;
  - (2) An operator of a motor vehicle uses a wireless communication device to:
    - (a) Operate only a global positioning or navigation system;
    - (b) Obtain emergency assistance by contacting an emergency response service, including a rescue, emergency medical, or hazardous material response service; a hospital; a fire department; a law enforcement agency; a medical doctor's office, or an individual to administer first aid treatment;
    - (c) Obtain emergency assistance to prevent a crime about to be committed;
    - (d) Report a traffic accident or serious traffic hazard; or
    - (e) Communicate with the reasonable belief that a person's life, safety or property is in immediate danger.
- (E) To the extent that any clause, phrase, provisions, sentence or part of this section conflicts with Texas Transportation Code § 545.424, regarding the use of wireless communication devices while operating a motor vehicle by minors, or Texas Transportation Code § 545.425, regarding the use of wireless communication devices in school crossing zones, this section does not apply.

## SECTION 2. PENALTY

- (1) Any person who violates any provision of this Ordinance for which no other penalty has been provided shall be subject to a penalty.
- (2) Any person convicted of a violation of any provision of this Ordinance shall be considered to be endangering the health of the citizens of the Town and shall be subject to a fine of not less than \$1 and no greater than \$500 per violation.

**SECTION II. EFFECT**

This ordinance shall become effective ninety days after its passage, and after publication and the posting of signage along the public roadways within the Town informing the public of the duty to comply with the requirements of this ordinance.

**SECTION III. CONFLICT**

All ordinances or parts of ordinances in conflict herewith are hereby repealed.

**FIRST READING - PASSED, APPROVED AND ADOPTED** by the Town Council of the Town of Laguna Vista, Texas at the Regular Meeting on the 13<sup>th</sup> day of May 2014.

**SECOND READING – PASSED, APPROVED AND ADOPTED** by the Town Council of the Town of Laguna Vista, Texas at the regular meeting on the 10<sup>TH</sup> day of June 2014.

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Susie Houston, Mayor

Attest:

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Alma Deckard, City Secretary