

ORDINANCE NO. 2014-02

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SINTON, TEXAS, RELATING TO RESTRICTIONS ON USE OF WIRELESS COMMUNICATIONS WHILE DRIVING, CREATING AN OFFENSE, PROVIDING FOR PENALTIES, PROVIDING FOR SEVERANCE, PROVIDING FOR PUBLICATIONS AND PROVIDING FOR AN EFFECTIVE DATE

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

Section 1. Use of Wireless Communications While Driving.

A. Definitions

“Hands-free device” means speakerphone capability or a telephone attachment or other piece of equipment, regardless of whether permanently installed in the motor vehicle, that allows use of the wireless communication device without use of either of the operator’s hands.

“Park or Parked” shall mean for the operator to completely cease movement of a motor vehicle in a lawful manner and location. For purposes of this Section, “Parked” does not include or mean a vehicle stopped in a lane of traffic due to either a lawful traffic control device, or the conditions on the roadway or traffic congestion patterns then existing.

“Wireless communication device” means a device that uses a commercial mobile service, as defined by 47 U.S.C. § 332.

B. An operator of a motor vehicle may not use a wireless communication device while operating a motor vehicle within the city limits.

C. This section does not apply to an operator of a motor vehicle using a wireless communications device:

1. while the vehicle is parked;
2. that is affixed to the vehicle and used as a global positioning or navigation system;
3. that is used with a hands-free device;
4. who is an operator of an authorized emergency vehicle while acting in an official capacity;
5. who is licensed by the Federal Communications Commission while operating a radio frequency device other than a wireless communication device; or
6. while driving a motor vehicle on private property.

D. It is an affirmative defense to prosecution of an offense under this section if a wireless communications device is used to make an emergency call to:

- (1) an emergency response service, including a rescue, emergency medical or hazardous material response service;

- (2) a hospital;
- (3) a fire department;
- (4) a health clinic;
- (5) a medical doctor's office;
- (6) an individual to administer first aid treatment; or
- (7) a police department.

E. A violation of this Ordinance is a Class C misdemeanor.

F. The culpable mental state required by Section. 6.02 of the Texas Penal Code is specifically negated and dispensed with and a violation under this subsection is a strict liability offense.

G. To the extent that this section conflicts with the Texas Transportation Code, this section does not apply.

#### SECTION 2. Force and Effect

If for any reason any section paragraph subdivision clause phrase word or provision of this ordinance shall be held invalid or unconstitutional by final judgment of a court of competent jurisdiction it shall not affect any other section paragraph subdivision clause phrase word or provision of this ordinance for it is the definite intent of this City Council that every section paragraph subdivision clause phrase word or provision hereof be given full force and effect for its purpose.

#### SECTION 3. Publication

Publication shall be made one time in the official publication of the City of Sinton, Texas.

#### SECTION 4. Effective Date

This ordinance takes effect immediately upon passage.

APPROVED by the City Council of the City of Sinton, Texas, the 21 day of January, 2014.

ATTEST: Cathy Duhart  
City Secretary Cathy Duhart

Pete Gonzales  
Mayor Pete Gonzales