

CITY OF WATAUGA, TEXAS
ORDINANCE NO. 1611

AN ORDINANCE BY THE CITY COUNCIL OF THE CITY OF WATAUGA AMENDING CHAPTER 40, ARTICLE III, DIVISION 1 OF THE CODE OF ORDINANCES FOR THE CITY OF WATAUGA, TEXAS BY THE ADDITION OF SECTION 40-88 TO PROHIBIT THE USE OF WIRELESS COMMUNICATION DEVICES WHILE DRIVING A MOTOR VEHICLE; CREATING AN OFFENSE FOR VIOLATION; PROVIDING THAT ALL ORDINANCES IN CONFLICT HERewith ARE HEREBY REPEALED TO THE EXTENT THEY ARE IN CONFLICT; PROVIDING A SAVINGS CLAUSE; PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Watauga, Texas (hereinafter "City") is a Home Rule municipality having full powers of self-government and may enact ordinances relative to its citizens' health, safety, and welfare that are not inconsistent with the Constitution and laws of the State; and

WHEREAS, the City Council of the City of Watauga (hereinafter "City Council") finds and determines that distracted driving constitutes a potential threat to the health, safety, and welfare of motorists and pedestrians within the City since drivers are at risk of losing safe control of their vehicles due to manual, visual, and cognitive distractions, and are therefore more likely to be involved in an accident than undistracted drivers; and

WHEREAS, these regulations do not conflict with the Texas Transportation Code Section 545.424 regarding the use of wireless communication devices while operating a motor vehicle by minors; and

WHEREAS, the regulations in this Ordinance are not in conflict with Texas Transportation Code Section 545.425 regarding the use of wireless communication devices in school crossing zones; and,

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Watauga, Texas as follows:

I.

Chapter 40, Article III, Division 1 of the Code of Ordinances for the City of Watauga is hereby amended to include Section 40-88 providing for the prohibition of using a wireless communication device while operating a motor vehicle.

Sec. 40-88. - USE OF WIRELESS COMMUNICATION DEVICE; OFFENSE.

(A) In this section:

- (1) "Hands-free device" shall have the meaning assigned by Section 545.425 of the Texas Transportation Code as now or hereafter amended.
- (2) "Wireless communication device" shall have the meaning assigned by Section 545.425 of the Texas Transportation Code as now or hereafter amended.

(B) Except as provided by Subsection (D), an operator may not use a wireless communication device while operating a motor vehicle within the City of Watauga unless:

- (1) the vehicle is stopped; or
- (2) the wireless communication device is used with a hands-free device.

(C) The City shall post signs at each point of entry into the City on U.S. 377 and at each point of entry into the City on Watauga Road, Hightower Drive, Starnes Road, Chapman Road, Park Vista Boulevard, and Whitley Road informing drivers that use of wireless communication devices while driving is prohibited.

(D) It is an affirmative defense to prosecution of an offense under this Section if the 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) This Section does not apply to authorized emergency personnel using a portable electronic device while acting in official capacity.
- (F) This Section does not apply to an operator who is licensed by the Federal Communication Commission while operating a radio frequency device other than a portable electronic device or an operator using a two-way radio communication device in a commercial vehicle.
- (G) A person commits an offense if the person uses a wireless communication device while driving a motor vehicle within the City. An offense under this Section is punishable by a fine in accordance with Section 1-7.

II.

This Ordinance shall be and is hereby cumulative of all other ordinances of the City of Watauga, Texas, and this Ordinance shall not operate to repeal or affect any of such other ordinances, except insofar as the provisions thereof might be inconsistent or in conflict with the provisions of this Ordinance, in which event such conflicting provisions, if any, in such other ordinance(s) are hereby repealed.

III.

If any section, sub-section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid, such decision shall not affect the validity of the remaining portions of this Ordinance.

IV.

This Ordinance shall become effective and be in full force and effect from and after the date of passage and adoption by the City Council and upon approval thereof by the Mayor of the City of Watauga, Texas and publication hereof as prescribed by law.

PASSED AND ADOPTED by the City Council of the City of Watauga, Texas on the 16th day of NOV., 2015.

APPROVED:


HECTOR F. GARCIA, Mayor

ATTEST:



ZOLAINA R. PARKER, City Secretary



APPROVED AS TO FORM AND LEGALITY:



MARK G. DANIEL, City Attorney