

ORDINANCE NO. 18-0514-1

THE CODE OF ORDINANCES, ADOPTED BY THE CITY COUNCIL OF THE CITY OF NATALIA, TEXAS, IS HEREBY AMENDED BY ADDING SECTION 40-56 TO BE TITLED "USE OF WIRELESS COMMUNICATION DEVICES", UNDER ARTICLE III, TRAFFIC CONTROL DEVICES, OF CHAPTER 40, TRAFFIC AND VEHICLES; PROHIBITING THE USE OF HAND-HELD COMMUNICATION DEVICES WITHIN A DESIGNATED SCHOOL ZONE; PROVIDING FOR AN EFFECTIVE DATE, A SEVERABILITY CLAUSE, SAVINGS CLAUSE AND REPEALER.

WHEREAS, in 2017, the Texas Legislature passed a statewide ban on use of a wireless communication device for electronic messaging while driving or operating a motor vehicle; and,

WHEREAS, the Texas Legislature permits cities to adopt stricter ordinances limiting or prohibiting the use of any wireless communication device while driving or operating a motor vehicle; and,

WHEREAS, it has been found that the use of wireless communication devices cause distraction to persons driving or operating a motor vehicle, and are most likely to cause an auto accident.

WHEREAS, for the safety and welfare of all beings in the City of Natalia, Texas, the City Council hereby finds it in the best interest to prohibit the use of hand-held communication devices to all persons driving or operating a motor vehicle within a designated school zone.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NATALIA, TEXAS, THAT CHAPTER 40, ARTICLE III, OF THE CODE OF ORDINANCES SHALL BE AMENDED TO ADD THE FOLLOWING SECTIONS:

1) SECTION 40-56. USE OF WIRELESS COMMUNICATION DEVICES.

(a) It shall be unlawful for any person to use a hand-held communication device while driving or operating a moving motor vehicle in a school zone when school is in session, during the time school zones are in effect, where school zones signs are posted and signs prohibiting the use of wireless communication devices are posted.

(b) Any person driving or operating a moving motor vehicle who holds a hand-held communication device to, or in the immediate proximity of, his or her ear shall be presumed to be engaging in the use of a wireless communication device.

(c) Section shall not apply to:

- 1) Any person driving or operating a moving motor vehicle who is using a hands-free wireless communication device and being used in a hand-free manner.
- 2) Any law enforcement, public safety or police officer; emergency service officials; first aid, emergency medical technicians, and personnel; or any fire safety officials; in performance of their official duties within the capacity of their employment.

- 3) The use of any wireless communication device for the sole purpose of communicating with any law enforcement, public safety or police officer; emergency service official; first aid, emergency medical technicians, and personnel; or any fire safety official; for and under an emergency situation.

(d) A violation under this section shall apply the same penalty provisions provided under Article III, Section 40-55.

2) SEVERABILITY CLAUSE

Should any part, sentence, phrase or section of this ordinance be determined to be unlawful, void or unenforceable, the validity of the remaining portions of this ordinance shall not be adversely affected. No portion of the ordinance shall fail or become inoperative by reason of the invalidity of any other part. All provisions of this Ordinance are declared to be severable.

3) SAVINGS CLAUSE

The repeal or amendment of any ordinance or part of ordinances affected by the enactment of this Ordinance shall not be construed as abandoning any action now pending under or by virtue of such ordinance or as discontinuing, abating, modifying, or altering any penalty accruing or to accrue or as affecting any right of the City of Natalia under any section or provisions of any ordinance in effect at the time of passage of this Ordinance.

4) REPEALER CLAUSE

All ordinances or parts of ordinances in force when the provisions of this Ordinance becomes effective which are inconsistent or in conflict with the terms and provisions contained in this Ordinance are hereby repealed only to the extent of such conflict.

5) EFFECTIVE DATE

This here ordinance shall become effective upon passage and publication as required by State Law.

PASSED, APPROVED and ADOPTED this ____ day of _____, 2018 by the majority vote of the Governing Body of the City of Natalia, Texas.

Approved:

Tommy F. Ortiz
Mayor

Attest:

Lisa S. Hernandez,
City Administrator/Secretary, TRMC