

## **Ordinance**

**Adding a new section 53-16 of the city code relating to restrictions on use of wireless communications while driving, creating an offense, providing for penalties, providing for severance, providing for publication, and providing for an effective date,**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CORPUS CHRISTI:**

**SECTION 1.** Chapter 53 of the City of Corpus Christi Code of Ordinances is amended by adding a new Section 53-16 to read:

Sec. 53-16. 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.

C. 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.

D. A violation of this Section is a Class C misdemeanor punishable as provided in Section 1-6 of the Code of Ordinances.

E. 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.

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

**SECTION 2.** 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 shall be made one time in the official publication of the City of Corpus Christi as required by the City Charter of the City of Corpus Christi.

**SECTION 4.** Penalties are as provided in Section 1-6 of the Code of Ordinances.

**SECTION 5.** This ordinance takes effect immediately upon passage.

That the foregoing ordinance was read for the first time and passed to its second reading on this the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, by the following vote:

Nelda Martinez	_____	Chad Magill	_____
Kelley Allen	_____	Colleen McIntyre	_____
Rudy Garza	_____	Lillian Riojas	_____
Priscilla Leal	_____	Mark Scott	_____
David Loeb	_____		

That the foregoing ordinance was read for the second time and passed finally on this the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, by the following vote:

Nelda Martinez	_____	Chad Magill	_____
Kelley Allen	_____	Colleen McIntyre	_____
Rudy Garza	_____	Lillian Riojas	_____
Priscilla Leal	_____	Mark Scott	_____
David Loeb	_____		

PASSED AND APPROVED, this the \_\_\_\_\_th day of \_\_\_\_\_, \_\_\_\_\_.

ATTEST:

\_\_\_\_\_  
Armando Chapa  
City Secretary

\_\_\_\_\_  
Nelda Martinez  
Mayor