

ORDINANCE NO. 2019-19

HANDS FREE DEVICES AN ORDINANCE OF THE CITY OF BASTROP AMENDING CHAPTER 12, "TRAFFIC AND VEHICLES," OF THE BASTROP CITY CODE OF ORDINANCES TO ADD ARTICLE 12.13, "USE OF PORTABLE ELECTRONIC DEVICES WHILE OPERATING A MOTOR VEHICLE," SECTIONS 12.13.001, 12.13.002, 12.13.003, AND 12.13.004; RESTRICTING THE USE OF PORTABLE ELECTRONIC DEVICES WHILE OPERATING A MOTOR VEHICLE IN THE CITY OF BASTROP; PROVIDING FOR: FINDINGS OF FACT, ENACTMENT, REPEALER, SEVERABILITY, CRIMINAL FINES NOT TO EXCEED \$300 PER OFFENSE; EFFECTIVE DATE, CODIFICATION, AND PROPER NOTICE AND MEETING.

WHEREAS, the Bastrop City Council (the "City Council") of the City of Bastrop (the "City") seeks to promote orderly and safe use of property within its city limits and its extraterritorial jurisdiction ("ETJ"); and

WHEREAS, Texas Local Government Code Section 51.001 provides that the City has general authority to adopt ordinances or regulations that are for the good government, peace, or order of the City and that are necessary or proper for carrying out a power granted by law to the City; and

WHEREAS, Chapter 311 of the Texas Transportation Code gives the City exclusive control over public rights-of-way within its corporate boundaries; and

WHEREAS, the City Council desires to increase safety by amending the regulations of the use of portable electronic devices while operating a motor vehicle; and

WHEREAS, the City Council finds that incorporating a distracted driving regulation is reasonable and necessary for the good government, peace, and order of the City.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BASTROP, TEXAS, AS FOLLOWS:

SECTION 1. FINDINGS OF FACT The foregoing recitals are incorporated into this ordinance by reference as findings of fact as if expressly set forth herein.

SECTION 2. ENACTMENT Chapter 12 of the City of Bastrop Code of Ordinances is hereby amended by adding after and below Section 12.12.008 the following: Article 12.13, Sections 12.13.001, 12.13.002, and 12.13.003, 12.13.004, to read in accordance with *Attachment A*, which is attached hereto and incorporated into this ordinance for all intents and purposes.

SECTION 3. REPEALER All ordinances, resolutions, or parts thereof, that are in conflict or inconsistent with any provision of this ordinance are hereby repealed to the extent of such conflict, and the provisions of this ordinance shall be and remain controlling as to the matters regulated, herein.

SECTION 4. SEVERABILITY Should any of the clauses, sentences, paragraphs, sections or parts of this Ordinance be deemed invalid, unconstitutional, or unenforceable by a court of law or administrative agency with jurisdiction over the matter, such action shall not be construed to affect any other valid portion of this ordinance.

SECTION 5. EFFECTIVE DATE This ordinance shall be effective immediately upon passage and publication.

SECTION 6. PROPER NOTICE & MEETING It is hereby officially found and determined that the meeting at which this ordinance was passed was open to the public, and that public notice of the time, place and purpose of said meeting was given as required by the Open Meetings Act, Texas Government Code, Chapter 551. Notice was also provided as required by Chapter 52 of the Texas Local Government Code.

READ & ACKNOWLEDGED on First Reading on the 14th day of May 2019.

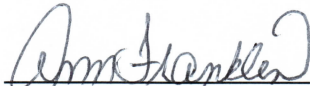
READ & APPROVED on the Second Reading on the 28th day of May 2019.

APPROVED:



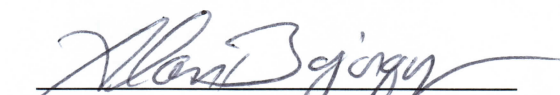
Connie B. Schroeder, Mayor

ATTEST:



Ann Franklin, City Secretary

APPROVED AS TO FORM:



Alan Bojorquez, City Attorney

CITY OF BASTROP, TX

CODE OF ORDINANCES

CHAPTER 12: TRAFFIC AND VEHICLES

ARTICLE 12.13 USE OF PORTABLE ELECTRONIC DEVICES WHILE OPERATING A MOTOR VEHICLE.

Sec. 12.13.001 Definitions

(a) In this article:

1. *Authorized emergency personnel*: means a person who is a law enforcement officer, firefighter, member of a governmental emergency medical services function, or a member of a governmental emergency management function.
2. *Hands-free device*: means speakerphone capability, a telephone attachment, or another function or other piece of equipment, regardless of whether permanently installed in or on a portable electronic device or in a motor vehicle, that allows use of the portable electronic device without use of either of the operator's hands, except to activate or deactivate a function of the portable electronic device or hands-free device. The term includes voice-operated technology and a push-to-talk function.
3. *Portable electronic device*: means a handheld mobile telephone, personal digital assistant, MP3 or other hand-held music player, electronic reading device, laptop computer, pager, broadband personal communication device, global positioning or navigation system, electronic game device, or portable computing device.
4. *Use*: means employing a portable electronic device for any reason including, without limitation, the following activities while holding or touching the device:
 - A) dialing or deactivating a phone call;
 - B) speaking in or listening to a conversation;
 - C) viewing, taking, or transmitting electronic images;
 - D) entering or changing information in a global positioning or navigation system or any software or application designed for navigation;
 - E) accessing or viewing an internet website or computer application; or
 - F) playing a game.

Sec. 12.13.002 Restriction

An operator of a motor vehicle may not use a portable electronic device while the vehicle is in motion.

Sec. 12.13.003 Enforcement

- (a) An offense under this article shall be punishable as a class C misdemeanor, for which the maximum fine per violation shall be \$300.00.
- (b) It is an affirmative defense to prosecution of an offense under this article if:
 - 1. the motor vehicle is at a complete stop;
 - 2. the portable electronic device is used with a hands-free device to engage in telephone communication or to listen to audio transmissions;
 - 3. the portable electronic device is a global positioning or navigation device, or global positioning or navigation software on a device, and the device is affixed to the motor vehicle;
 - 4. use of the portable electronic device is for obtaining emergency assistance to report a crime, traffic accident, medical emergency, or serious traffic hazard, or to prevent a crime about to be committed; or
 - 5. use of the portable electronic device is in the reasonable belief that a person's life or safety is in immediate danger.
- (c) This article does not apply to authorized emergency personnel using a portable electronic device while acting in an official capacity.
- (d) This article does not apply to an operator who is licensed by the Federal Communications 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.
- (e) To the extent that this article conflicts with the Texas Transportation Code Chapter 545, this article does not apply.

Sec. 12.13.004 Signage

After consulting with the chief of police, the city manager is authorized to have traffic safety signs erected warning motorists of restrictions imposed by this article, state law, or both.