



**CITY OF SAN ANTONIO
OFFICE OF THE CITY COUNCIL
COUNCIL CONSIDERATION REQUEST**

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2014 AUG 20 PM 2:15

TO: Mayor & City Council

FROM: City Councilman Mike Gallagher, District 10

COPIES TO: Sheryl Sculley, City Manager; Leticia Vacek, City Clerk; Edward Benavides, Chief of Staff; Chris Callanen, Assistant to the City Council; Robert F. Greenblum, City Attorney; John Peterek, Senior Management Analyst

SUBJECT: Amendment to the City Code related to the use of a hand-held mobile communication device while driving

DATE: August 20, 2014

Issue Proposed for Consideration

I ask for your support for the inclusion of the following item on the agenda of the earliest available meeting of the Governance Committee:

I request that City Staff examine the current ordinance related to the ban on the use of hand-held mobile communication devices and add a provision stating that they may only be used in a "hands-free" capacity unless in an emergency situation. The intent of this amendment to the ordinance is to curb distracted driving as well as to provide SAPD with a better ability to enforce the ban on hand-held mobile communication devices while driving city-wide.

Brief Background

Chapter 19, Article VII section 19-255 of the San Antonio City Code prohibits the use of a hand-held mobile communication device to send, read, or write a text message or engage in any other use of the device besides dialing telephone numbers or talking to another person, while operating a moving motor vehicle; and provides a fine of up to \$200 per violation.

The ordinance establishing the city-wide ban on the use of hand-held mobile devices while driving was enacted in October of 2010. This ordinance followed a ban on texting while driving and the use of hand-held mobile devices in school zones which was established on 2008.

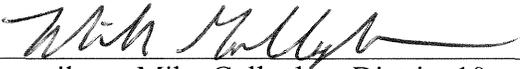
SAPD has been citing violators of the cell phone ban in school zones since 2009, and in 2011, the ban on hand-held mobile devices while driving became City-wide. Since the City-wide ban began, there have been more than 1900 accidents attributed to distracted driving related to the use of hand-held mobile devices. Of that total, 6 were fatal and 28 were incapacitating. SAPD has also issued 7038 citations to drivers using hand-held mobile devices since 2009.

The current ordinance does not completely ban all use of hand-held mobile devices and allows drivers to actually perform functions such as dialing a phone number that would require the driver to divert their attention away from the roadway. There has been an upward trend both nationwide and statewide to adopt total bans on the use of hand-held mobile devices while operating motor vehicles. In fact, two large cities in Texas; Corpus Christi and El Paso, have

recently adopted ordinances that restricts all use of hand-held mobile devices while Austin and Ft. Worth are on the cusp of passing total ban ordinances.

I would like for City Council to consider crafting and adopting similar ordinance language which would ban the use of hand-held mobile devices while driving, but will still allow for drivers to use their phones in a "hands-free" manner. Sample ordinance language (modeled after Corpus Christi) to consider is attached below.

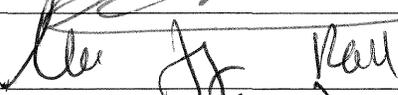
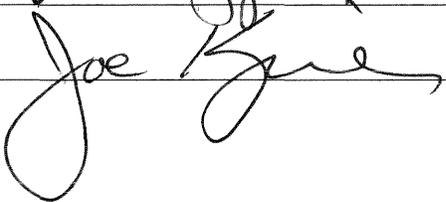
Submitted for Council consideration
by:



Councilman Mike Gallagher, District 10

Supporting Councilmember's Signatures (4 only)

District No.

- | | | | |
|----|---|-------------------|----------|
| 1. |  <i>R. S. M.</i> | <i>Discussion</i> | <u>4</u> |
| 2. |  | | <u>8</u> |
| 3. |  <i>Al J. Hall</i> | | <u>7</u> |
| 4. |  <i>Joe Green</i> | | <u>9</u> |

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Listed below is the current City Ordinance for the city of Corpus Christi that bans the use of hand-held mobile devices. This could be used as a model for San Antonio to construct and adopt a similar ordinance banning the use of hand-held devices while driving.

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.***

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