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CITY OF SANTA FE, NEW MEXICO

BILL NO. 2014-20

INTRODUCED BY:

- Mayor Javier Gonzales
- Councilor Peter Ives
- Councilor Bill Dimas

AN ORDINANCE

RELATING TO THE *CITY OF SANTA FE UNIFORM TRAFFIC ORDINANCE*; AMENDING THE PROVISIONS REGARDING ENGAGING IN A CALL WHILE DRIVING AND TEXTING WHILE DRIVING; AND AMENDING THE TRAFFIC VIOLATION PENALTY SCHEDULE TO DOUBLE THE PENALTY ASSESSMENT FOR USING A MOBILE COMMUNICATION DEVICE WHILE DRIVING AND TO TRIPLE THE PENALTY ASSESSMENT FOR USING A MOBILE COMMUNICATION DEVICE WHILE DRIVING IN A SCHOOL ZONE.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF SANTA FE:

Section 1. Section 12-6-12.18 of the Uniform Traffic Ordinance (being Ord. #2006-34, as amended) is amended to read:

12-6-12.18 PROHIBITED ACTIVITIES WHILE DRIVING.

- A. No person shall:
 - (1) drive a vehicle while engaged in any activity which interferes with the safe operation of the vehicle;

- 1 (2) drive while having in his lap any adult person, adult or minor, or any animal;
2 (3) drive while seated in the lap of another person while the vehicle is in motion;
3 (4) drive a vehicle while having either arm around another person;
4 (5) operate a motor vehicle's equipment, including but not limited to the vehicle
5 horn or lights, in such a manner as to distract other motorists on the public way or in such a
6 manner as to disturb the peace[; or

7 ~~(6) except as provided in subsection D. below, operate a vehicle upon a public~~
8 ~~street or highway while using a mobile telephone to engage in a call or create, send or read~~
9 ~~text messages].~~

10 B. Except as provided in subsection E. below, no person shall use a handheld mobile
11 communication device while driving a motor vehicle to:

12 (1) engage in a call to receive and transmit voice communication; and

13 (2) read or view a text message or manually type on a handheld mobile
14 communication device for any purpose.

15 [B]C. For the purposes of Section 12-6-12.18, the following definitions apply:

16 (1) "Driving" means being in actual physical control of a motor vehicle on a
17 highway or street and includes being temporarily stopped because of traffic, a traffic light or
18 stop sign or otherwise, but "driving" excludes operating a motor vehicle when the vehicle has
19 pulled over to the side of or off of an active roadway and has stopped at a location in which it
20 can safely remain stationary;

21 (2) "Engage in a call" [;] means talking into, dialing or listening on a hand-held
22 mobile [telephone] communication device.

23 ~~([2]3) [HAND HELD MOBILE TELEPHONE. A mobile telephone with which a~~
24 ~~user engages in a call]~~ "Handheld mobile communication device" means a wireless
25 communication device that is designed to engage in a call and receive and transmit voice, text

1 or image communication, using at least one hand (or prosthetic device or aid in the case of
2 physically disabled person).

3 ~~(3)~~4 “Hands-free mobile [~~telephone~~] communication device”~~[-A mobile~~
4 [~~telephone~~] means a wireless communication device that has an internal feature or function, or
5 that is equipped with an attachment or addition, whether or not permanently part of such
6 mobile [~~telephone~~] communication device, by which a user engages in a call without the use
7 of either hand (or prosthetic device or aid in the case of a physically disabled person),
8 whether or not the use of either hand (or prosthetic device) is necessary to activate, deactivate
9 or initiate a function of such [~~telephone~~] communication device.

10 ~~(4) — MOBILE TELEPHONE. The device used by subscribers and other users of~~
11 ~~wireless telephone service to access such service and shall include personal digital assistants.]~~

12 (5) “Non-travel lane [~~The~~] means the berm or shoulder of a street or highway.

13 (6) “Text message means a digital communication transmitted or intended to be
14 transmitted between communication devices and includes electronic mail, an instant message,
15 a text or image communication and a command or request to an internet site; but "text
16 message" excludes communications through the use of a computer-aided dispatch service by
17 law enforcement or rescue personnel. [~~PERSONAL DIGITAL ASSISTANT. A device~~
18 ~~operated using a wireless telecommunications service that provides for data communication~~
19 ~~other than by voice.~~

20 ~~(7) — WIRELESS TELEPHONE SERVICE. Two way real time voice~~
21 ~~telecommunications service that is interconnected to a public switched telephone network and~~
22 ~~commonly referred to as cellular service or personal communication service.]~~

23 [E]D. An operator of a motor vehicle who holds a mobile [~~telephone~~] communication
24 device to, or in the immediate proximity of, his or her ear is presumed to be engaging in a call within
25 the meaning of this Section. The presumption established by this Section is rebuttable by evidence

1 tending to show that the operator was not engaged in a call. Immediate proximity shall mean that
 2 distance as permits the operator of a mobile ~~[telephone]~~ communication device to hear
 3 telecommunications transmitted over such mobile ~~[telephone]~~ communication device, but shall not
 4 require physical contact with such operator's ear.

5 ~~[D]~~E. ~~[Subsection A.(6)]~~ Paragraph B, above shall not apply to:

6 (1) The use of a mobile ~~[telephone]~~ communication device for the sole purpose
 7 of communicating with any of the following regarding an emergency situation: an emergency
 8 response operator; a hospital, physician's office or health clinic; an ambulance company or
 9 corps; a fire department, district or company; or a police department;

10 (2) The use of a hands-free mobile ~~[telephone]~~ communication device when
 11 being used in a hands free manner; or

12 (3) The use of a hands-free mobile ~~[telephone]~~ communication device when
 13 being used in a non-travel lane.

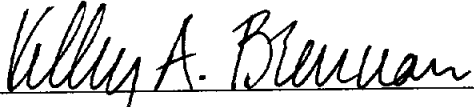
14 (4) The use of an amateur radio by a driver who holds a valid amateur radio
 15 operator license issued by the federal communications commission.

16 **Section 2. Traffic Violation Penalty Assessment, Schedule A of the City of Santa Fe**
 17 **Uniform Traffic Ordinance (being Ord. #2006-34, as amended) is amended to include the**
 18 **following amendments:**

Prohibited Activities While Driving (including hand held mobile [telephone] <u>communication device</u> use)	12-6-12.18	[\$100.00] <u>\$200.00</u>
<u>Mobile communication device use</u> <u>while driving in a school zone</u>	<u>12-6-12.18</u>	<u>\$300.00</u>

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1 APPROVED AS TO FORM:

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3 Kelley A. Brennan

4 KELLEY A. BRENNAN, INTERIM CITY ATTORNEY

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M/Melissa/2014 Bills/2014-20 Talking_Texting in School Zone_060914