

**ORDINANCE NO.**

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF ARGYLE, TEXAS, AMENDING THE ARGYLE CODE OF ORDINANCES CHAPTER 12 BY ADDING A NEW ARTICLE; PROHIBITING USE OF A HANDHELD ELECTRONIC DEVICES WHILE OPERATING A MOTOR VEHICLE; REPEALING CONFLICTING ORDINANCES; PROVIDING A PENALTY CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the Town Council (the “Town Council”) of the Town of Argyle, Texas (the “Town”), finds and determines that distracted driving is a threat to the health, safety, and welfare of all motorist and pedestrians within the Town; and

**Comment [A1]:** These are sample legislative findings. These can be edited, deleted, or added to. Perhaps a work session with Council would be beneficial to bolster these findings.

**WHEREAS**, the Town Council finds and determines that drivers who use handheld electronic devices while operating a motor vehicle are at risk of losing safe control of their vehicles due to manual, visual, and cognitive distractions, and are therefore more likely to have an accident than undistracted drivers; and

**WHEREAS**, the Town of Argyle is a type-A General Law Municipality authorized to enact regulations not inconsistent with state law and that are necessary for the government, interest, welfare, or good order of the Town; and

**WHEREAS**, these regulations do not conflict with the Texas Transportation Code Section 545.424, regarding the use of wireless communication devices while operating a motor vehicle by minors, or Texas Transportation Code Section 545.425, regarding the use of wireless communication devices in school crossing zones; and

**WHEREAS**, these regulation are is necessary for the government, interest, welfare, or good order of the Town; and

**WHEREAS**, the Town Council finds and declares that the meeting at which this Ordinance is considered is open to the public as required by law, and that public notice of the time, place and purpose of said meeting was given as required by Chapter 551, Texas Government Code; therefore,

**NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF ARGYLE, TEXAS:**

**Section 1.** The statements contained in the preamble to this Ordinance are hereby adopted as findings of fact and as a part of the operative provisions hereof.

**Section 2.** The Town of Argyle Code of Ordinances Chapter 12 is hereby amended by adding Article 12.06 and shall read as follows:

## **ARTICLE 12.06 USE OF PORTABLE ELECTRONIC DEVICES PROHIBITED**

### **Sec. 12.06.01 Definitions**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Portable electronic device* shall mean any handheld wireless communication device, laptop computer, tablet, media player, handheld gaming device, or any electronic device capable of displaying text-based communications, games, pictures, or video.

*Hands-free device* shall mean speakerphone capability, telephone attachment, or another function or other piece of equipment installed in or on a wireless communication device that allows the use of a handheld wireless communication device without the use of the operator's hand(s), except to activate or deactivate a function of the a hand-held electronic device or hands-free device.

### **Sec. 12.06.02 Use of Portable Electronic Device-Offense**

- (a) A person may not use a portable electronic device while operating a motor vehicle upon a public street or highway.
- (b) In this Section, use of a portable electronic device includes, but is not limited to:
  - (1) viewing the display screen of a portable electronic device;
  - (2) holding a portable electronic device in a position to talk into or listen on; or
  - (3) manipulating a portable electronic device by interacting with its display screen or pushing any button to enter text, dial numbers, or to engage in any other function.
- (c) This Section does not apply to an operator of an authorized emergency vehicle or law enforcement vehicle using a portable electronic device while acting in an official capacity.
- (d) The culpable mental state required by Texas Penal Code § 6.02, is specifically negated and dispensed with and a violation under this subsection is a strict liability offense.

### **Sec. 12.06.03 Same-Defense to Prosecution.**

It is a defense to prosecution under this Article if the portable electronic device is used:

- (1) while the vehicle is stopped, out of the moving lanes of the roadway;

- (2) as a global positioning or other navigation system that is affixed to the vehicle;
- (3) solely as a hands-free device;
- (4) to obtain emergency assistance at a traffic accident;
- (5) to communicate with an emergency response service, fire department, police department, hospital, health clinic, or physician's office in an attempt to prevent injury to person or property; or
- (6) to communicate with reasonable belief a person's life or safety is in immediate danger.

**Sec. 12.06.04 Same-Penalty.**

An offense under this Article is a misdemeanor punishable by a fine not to exceed \$200.

**Comment [A2]:** Comparable to other Transp. Code offenses. Max legal fine is \$500.

**Sec. 12.06.05 Conflicting regulations.**

To the extent that any part of this section conflicts with Texas Transportation Code provisions regarding the use of wireless communications devices while operating a motor vehicle by minors, the use of wireless communication devices in school crossing zones, or the use of a wireless communication device by operators of a school bus, this section does not apply.

**Section 4.** Any person violating any of the provisions of this ordinance shall be deemed guilty of a misdemeanor and shall be fined as provided herein.

**Section 5.** If any section, subsection, sentence, clause or phrase of this ordinance shall for any reason be held to be invalid, such decision shall not affect the validity of the remaining portions of this ordinance.

**Section 6.** The fact that the present ordinances and regulations of the Town of Argyle, Texas are inadequate to properly safeguard the health, safety, morals, peace and general welfare of the inhabitants of the Town of Argyle, Texas, creates an emergency for the immediate preservation of the public business, property, health, safety and general welfare of the public which requires that this ordinance shall become effective from and after the date of its passage, and it is accordingly so ordained.

PASSED AND APPROVED BY THE TOWN COUNCIL OF THE TOWN OF ARGYLE, TEXAS, on this \_\_\_ day of \_\_\_\_\_, 2015.

\_\_\_\_\_  
Mayor Peggy Krueger, Town of Argyle

ATTEST:

---

Kristi Gilbert, Town Secretary

APPROVED AS TO FORM AND LEGALITY:

---

Matthew C.G. Boyle, Town Attorney