



ORDINANCE NO. 3274

AN ORDINANCE OF THE CITY OF FARMERS BRANCH, TEXAS, AMENDING CHAPTER 82 OF THE CODE OF ORDINANCES OF THE CITY OF FARMERS BRANCH, TEXAS, BY AMENDING ARTICLE II “OPERATION OF VEHICLES”, BY AMENDING DIVISION 1 “GENERALLY”, BY ADDING SECTION 82-22 “USE OF WIRELESS COMMUNICATION DEVICES WHILE DRIVING”; PROVIDING A REPEALING CLAUSE; PROVIDING A SAVINGS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR A PENALTY OF A FINE NOT TO EXCEED THE SUM OF TWO HUNDRED DOLLARS (\$200.00) FOR EACH OFFENSE; AND PROVIDING AN EFFECTIVE DATE

WHEREAS, the City Council finds that the use of a wireless communication device to send, read, or write a text message, view pictures or written text, whether transmitted by internet or other electronic means, engage in gaming or any other use of the device, besides dialing telephone numbers, or talking to another person while operating a moving motor vehicle, is a traffic hazard, a danger to the public, and creates a particular danger or probability of danger in the City of Farmers Branch; and

WHEREAS, the City Council believes that prohibiting the use of wireless communication devices to engage in any use of a mobile communication device besides dialing telephone numbers or talking to another person, with certain defenses, would protect the public health, safety, and welfare;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FARMERS BRANCH, TEXAS, THAT:

SECTION 1. Chapter 82 “Traffic and Vehicles” of the Code of Ordinances of the City of Farmers Branch, Texas, is amended by amending Article II “Operation of Vehicles”, by amending Division 1 “Generally”, by adding Section 82-22 “Use of Wireless Communication Devices While Driving”, which shall read as follows:

“CHAPTER 82 TRAFFIC AND VEHICLES

...

ARTICLE II. OPERATION OF VEHICLES

DIVISION 1. GENERALLY

...

Sec. 82-22. Use of Wireless Communication Devices While Driving.

(a) Definitions. For the purpose of this Section, the following words, terms, phrases and their derivations shall have the meanings as set out below:

- (1) *Handheld wireless communication device* means a wireless communication device that is portable, and includes, but is not limited to, wireless telephones, tablets, ipads, smartphones, or laptops, whether it is physically attached to a vehicle.
- (2) *Text-based communications* means a communication that is designed or intended to be composed with at least one hand on a handheld communication device and that is transmitted between wireless communication devices for the purpose of manually communicating in a non-spoken manner with another person in a written medium. The term includes:
 - (a) a text message;
 - (b) an instant message;
 - (c) an email;
 - (d) a comment on any social media; or
 - (e) any other type of electronic message.
- (3) *Use* of a wireless communication device shall include, but not be limited to:
 - (a) sending or reading a text message or email;
 - (b) posting or reading any written communications or comments on any social media;
 - (c) use of the internet for any purpose; or
 - (d) use of any smartphone application other than a GPS navigation application that has voice activated directions.

(b) An operator of a motor vehicle commits an offense if the operator uses a handheld wireless communication device to read, write, or send a text-based communication while operating a motor vehicle on a public street.

(c) Subsection (b) does not apply to an operator of an authorized emergency or law enforcement vehicle using a wireless communication device while acting in an official capacity.

(d) It is a defense to prosecution under subsection (b) if the text-based communication is performed:

- (1) while the vehicle is stopped, out of the moving lanes of the roadway;
- (2) strictly to engage in a telephone conversation, including dialing or deactivating the call;
- (3) as a global positioning or navigation system that is affixed to the vehicle;
- (4) to communicate with emergency response operator, a fire department, a law enforcement agency, a hospital, a physician's office, or a health clinic regarding a medical or other emergency situation to prevent injury to a person or property;
- (5) in the reasonable belief that a person's life or safety is in immediate danger; or
- (6) solely in a voice-activated or other hands-free mode.

(e) An offense under this section is not a moving violation and may not be made a part of a person's driving record or insurance record. No citations will be issued for the first 90 days following the effective date of this Section so that an education effort by the City may be conducted to inform the public about the importance and requirements of this new Section. Thereafter, a person convicted of an offense under this Section shall be punished by a fine of up to \$200.00."

SECTION 2. That all provisions of the ordinances of the City of Farmers Branch in conflict with the provisions of this Ordinance be, and the same are hereby, repealed, and all other provisions of the ordinances of the City of Farmers Branch not in conflict with the provisions of this Ordinance shall remain in full force and effect.

SECTION 3. An offense committed before the effective date of this Ordinance is governed by prior law and the provisions of the Ordinances of the City of Farmers Branch, as amended, in effect when the offense was committed and the former law is continued in effect for this purpose.

SECTION 4. That should any sentence, paragraph, subdivision, clause, phrase or section of this Ordinance be adjudged or held to be unconstitutional, illegal, or invalid, the same shall not affect the validity of this Ordinance as a whole or any part or provision thereof other than the part thereof decided to be unconstitutional, illegal, or invalid.

SECTION 5. That any person, firm, or corporation violating any of the provision or terms of this Ordinance, upon conviction in Municipal Court, shall be punishable by a fine not to exceed the sum of Two Hundred Dollars (\$200.00) for each offense.

SECTION 6. This Ordinance shall take effect immediately from and after its passage and the publication of the caption, as the law and charter in such case provide.

DULY PASSED BY THE CITY COUNCIL OF THE CITY OF FARMERS BRANCH, TEXAS, ON THE 18th DAY OF MARCH, 2014.

ATTEST:

APPROVED:

Angela Kelly, City Secretary

William P. Glancy, Mayor

APPROVED AS TO FORM:

Peter G. Smith, City Attorney
(PGS:3-5-14:TM 65050)