

1 CITY OF SANTA FE, NEW MEXICO

2 ORDINANCE NO. 2014-26

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5 AN ORDINANCE

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

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

15 Section 1. Section 12-6-12.18 of the Uniform Traffic Ordinance (being Ord. #2006-  
16 34, as amended) is amended to read:

17 12-6-12.18 PROHIBITED ACTIVITIES WHILE DRIVING.

18 A. No person shall:

19 (1) drive a vehicle while engaged in any activity which interferes with the safe  
20 operation of the vehicle;

21 (2) drive while having in his lap any adult person, adult or minor, or any animal;

22 (3) drive while seated in the lap of another person while the vehicle is in motion;

23 (4) drive a vehicle while having either arm around another person;

24 (5) operate a motor vehicle's equipment, including but not limited to the vehicle  
25 horn or lights, in such a manner as to distract other motorists on the public way or in such a

1 manner as to disturb the peace[;or

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

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

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

7 C. For the purposes of Section 12-6-12.18, the following definitions apply:

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

13 (2) "Engage in a call" means talking into, dialing or listening on a hand-held  
14 mobile communication device.

15 (3) "Handheld mobile communication device" means a wireless communication  
16 device that is designed to engage in a call and receive and transmit voice, text or image  
17 communication, using at least one hand (or prosthetic device or aid in the case of a physically  
18 disabled person).

19 (4) "Hands-free mobile communication device" means a wireless  
20 communication device that has an internal feature or function, or that is equipped with an  
21 attachment or addition, whether or not permanently part of such mobile communication  
22 device, by which a user engages in a call without the use of either hand (or prosthetic device  
23 or aid in the case of a physically disabled person), whether or not the use of either hand (or  
24 prosthetic device) is necessary to activate, deactivate or initiate a function of such  
25 communication device.

1 (5) "Non-travel lane" means the berm or shoulder of a street or highway.

2 (6) "Text message" means a digital communication transmitted or intended to be  
3 transmitted between communication devices and includes electronic mail, an instant message,  
4 a text or image communication and a command or request to an internet site; but "text  
5 message" excludes communications through the use of a computer-aided dispatch service by  
6 law enforcement or rescue personnel.

7 D. An operator of a motor vehicle who holds a mobile communication device to, or in  
8 the immediate proximity of, his or her ear is presumed to be engaging in a call within the meaning of  
9 this Section. The presumption established by this Section is rebuttable by evidence tending to show  
10 that the operator was not engaged in a call. Immediate proximity shall mean that distance as permits  
11 the operator of a mobile communication device to hear telecommunications transmitted over such  
12 mobile communication device, but shall not require physical contact with such operator's ear.

13 E. Paragraph B, above shall not apply to:

14 (1) The use of a mobile communication device for the sole purpose of  
15 communicating with any of the following regarding an emergency situation: an emergency  
16 response operator; a hospital, physician's office or health clinic; an ambulance company or  
17 corps; a fire department, district or company; or a police department;

18 (2) The use of a hands-free mobile communication device when being used in a  
19 hands free manner; or

20 (3) The use of a hands-free mobile communication device when being used in a  
21 non-travel lane.

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

24 **Section 2. Traffic Violation Penalty Assessment, Schedule A of the City of Santa Fe**  
25 **Uniform Traffic Ordinance (being Ord. #2006-34, as amended) is amended to include the**

1 following amendments:

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

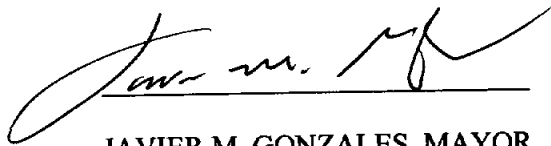
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PASSED, APPROVED and ADOPTED this 13<sup>th</sup> day of August, 2014.

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JAVIER M. GONZALES, MAYOR

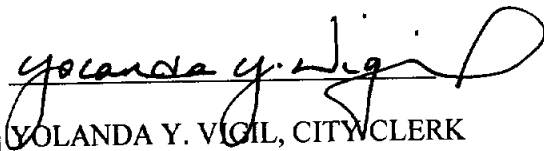
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8 ATTEST:

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YOLANDA Y. VIGIL, CITY CLERK

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12 APPROVED AS TO FORM:

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KELLEY A. BRENNAN, INTERIM CITY ATTORNEY

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M/Melissa/2014 Ordinances/2014-26 Talking\_Texting in School Zone\_060914