

ORDINANCE NO. 3987-A

A NEW ORDINANCE AMENDING THE CITY OF MUSKOGEE CODE OF ORDINANCES, BY AMENDING CHAPTER 78, TRAFFIC AND VEHICLES, ARTICLE V, DRIVING, OVERTAKING AND PASSING; CREATING SECTION 78-171, DEFINITIONS; COMPOSING, SENDING, READING TEXT MESSAGE WHILE VEHICLE IN MOTION; PENALTIES; EXCEPTIONS; PROVIDING FOR REPEALER, SEVERABILITY, AND DECLARING AN EMERGENCY.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MUSKOGEE, OKLAHOMA, AS FOLLOWS:

AN EMERGENCY ORDINANCE

Section 1: That Section 78-171, *Definitions; Composing, Sending, Reading Text Message While Vehicle in Motion; Penalties; Exceptions*, is hereby created in Chapter 78, *Traffic and Vehicles*, Article V, *Driving, Overtaking and Passing*, as follows:

Sec. 78-171. – Definitions; Composing, Sending, Reading Text Message While Vehicle in Motion; Penalties; Exceptions.

(a) Definitions. The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them as follows:

Cellular telephone means an analog or digital wireless telephone authorized by the Federal Communications Commission to operate in the frequency bandwidth reserved for cellular telephones;

Compose, send or read with respect to a text message means the manual entry, sending or retrieval of a text message to communicate with any person or device;

Electronic communication device means an electronic device that permits the user to manually transmit a communication of written text by means other than through an oral transfer or wire communication. This term does not include a device that is physically or electronically integrated into a motor vehicle or a voice-operated global positioning or navigation system that is affixed to a motor vehicle, or a hands-free device that allows the user to write, send or read a text message without the use of either hand except to activate, deactivate or initiate a feature or function; and

Text message includes a text-based message, instant message, electronic message, photo, video or electronic mail.

(b) It shall be unlawful for any person to operate a motor vehicle on any street or highway within this state while using a hand-held electronic communication device to manually compose, send or read an electronic text message while the motor vehicle is in motion.

(c) Penalties. Any person who violates the provisions of section shall, upon conviction, be punished by a fine of not more than One Hundred Dollars (\$100.00).

(d) Exceptions. The prohibitions of this section shall not apply if the person is using the cellular telephone or electronic communication device for the sole purpose of communicating with any of the following regarding an imminent emergency situation:

- i. An emergency response operator;
- ii. A hospital, physician's office or health clinic;
- iii. A provider of ambulance services;
- iv. A provider of firefighting services; or
- v. A law enforcement agency.

Section 2: REPEALER. All ordinances or parts of ordinances in direct conflict herewith are hereby repealed to the extent of the conflict.

Section 3: SEVERABILITY. Should any section, subsection, sentence, provision, clause or phrase hereof be held invalid, void or unconstitutional for any reason, such holding shall not render invalid, void or unconstitutional any other section, subsection, sentence, provisions, clause or phrase of this ordinance, and the same are deemed severable for this purpose.

Section 4: EMERGENCY. This ordinance being designated to protect the public health, safety and welfare of the inhabitants of the City of Muskogee, Oklahoma, and its passage being immediately necessary, an emergency is hereby declared to exist and by reason whereof this ordinance shall take effect immediately upon its passage, approval and publication as provided by law.

PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF MUSKOGEE, OKLAHOMA, THIS DAY OF , 2015.

JOHN R. COBURN, MAYOR

ATTEST:

PAMELA S. BATES, CITY CLERK

Approved as to form and legality, this day of , 2015.

ROY D. TUCKER, CITY ATTORNEY