

**Ordinance No.**

**An ordinance amending Chapter 23, Traffic, Article II, Operation of Vehicles Generally, Section 23-71, Reserved, specifically adopting State Statute with regard to Composing, Sending, Reading Text Message While Vehicle in Motion, Penalties – Exceptions; repealing all ordinances to the contrary; and declaring an emergency.**

**BE IT ORDAINED BY THE COUNCIL OF THE CITY OF BROKEN ARROW:**

**SECTION I.** That Chapter 23, Chapter 71, Reserved, of the Code of Ordinances of the City of Broken Arrow, is hereby amended to read as follows:

**Section 23-71. Composing, Sending, Reading Text Message While Vehicle in Motion – Penalties - Exceptions**

A. 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.

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

C. The Department of Public Safety shall not record or assess points for violations of this section on any license holder's traffic record maintained by the Department.

D. The provisions of subsection A 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:

1. An emergency response operator;
2. A hospital, physician's office or health clinic;
3. A provider of ambulance services;
4. A provider of firefighting services; or
5. A law enforcement agency.

E. Municipalities may enact and municipal police officers may enforce ordinances prohibiting and penalizing conduct under the provisions of this section. The provisions of such ordinances shall be the same as provided for in this section; the enforcement provisions of those ordinances shall not be more stringent than those of this section; and the fine and court costs for municipal ordinance violations shall be the same or a lesser amount as provided for in this section.

F. For the purpose of this section:

1. "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;
2. "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;
3. "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  
4. "Text message" includes a text-based message, instant message, electronic message, photo, video or electronic mail.

**SECTION II.** Any ordinance or parts of ordinances found to be in conflict herewith are hereby repealed.

**SECTION III.** An emergency exists for the preservation of the public health, peace and safety, and therefore this ordinance shall become effective from and after the time of its passage and approval.

**PASSED AND APPROVED** and the emergency clause ruled upon separately this 19<sup>th</sup> day of January, 2016.

ATTEST:

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MAYOR

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(Seal) CITY CLERK

APPROVED:

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DEPUTY CITY ATTORNEY