



## FOR IMMEDIATE RELEASE

August 11, 2015

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### **Ordinance Prohibits Use of Hand-Held Wireless Devices While Operating a Motor Vehicle**

New Braunfels, Texas — On Monday, August 10, 2015 New Braunfels City Council adopted an ordinance prohibiting the use of hand-held wireless communication devices while operating a motor vehicle inside the New Braunfels city limits.

“Hand-held wireless communication device” is defined as a text-messaging device or other electronic, two-way communication device that uses a commercial mobile service (as defined by 47 United States Code §332) that is designed to receive and transmit voice communication, text message or pictorial communication, or both, whether by internet or other electronic means. The term also includes devices such as mobile telephones, personal digital assistants (PDA), MP3 or other portable music players, electronic reading devices, laptop computers or tablets, portable computing devices, portable global positioning or navigation systems, pagers, electronic game devices and broadband personal communication devices.

The ordinance prohibits the following on hand-held wireless communication devices:

- Engaging in calls;
- Sending, reading or writing a text message;
- Taking or viewing pictures or written text whether transmitted by the internet or other electronic means, or accessing or viewing a website or software application;
- Gaming; and
- Any other use of the device while operating a motor vehicle (“Operating a motor vehicle” includes a motor vehicle that is moving, stopped or standing on a public street, highway or right-of-way, unless it is lawfully parked).

The use of hand-held wireless communication devices is allowed in the following instances:

- While the vehicle is legally parked, or is being driven on private property. (“Park or parked” means for the operator to completely cease movement of a motor vehicle in a lawful manner and location. For the purposes of this ordinance, “parked” does not mean a vehicle stopped in a lane of traffic due to either a lawful traffic control device, or the conditions on the roadway, or traffic congestion patterns then existing.)

- That is used with a hands-free wireless communication device (“Hands-free wireless communication device” means a mobile telephone, a device with speakerphone capability, a telephone attachment, or another function or other piece of equipment, regardless of whether permanently installed in or on a wireless communication device or in a motor vehicle, that allows use of the wireless communication device without use of either of the operator's hands – or a prosthetic device or aid in the case of a physically disabled person).
- If the operator is a law enforcement officer, firefighter, member of a governmental emergency medical services function, or member of a governmental emergency management function, and the operator is using the device to conduct official business related to the position.
- If the operator is licensed by the Federal Communications Commission while operating a radio frequency device, other than a hand held mobile communication device; or an operator is using two-way radio communication.

If someone receives a citation and proceeds to contest it in Municipal Court, they may assert and prove one of the following defenses, as applicable, to be found “not guilty” by a judge or jury:

- Reporting illegal activity to a law enforcement agency;
- Communicating with an 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;
- Having the reasonable belief that a person's life or safety is in immediate danger.

The fines escalate beginning with: first offense minimum \$100, second offense minimum \$200, third and subsequent offenses minimum \$500. For offenses of this ordinance type, state law limits the maximum fine to \$500 per offense. Each day's violations shall constitute a separate and distinct offense. Any prior conviction under this ordinance will count towards a second and third charge regardless of when it occurred. 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.

While the ordinance is effective immediately once signed by the Mayor and filed with the City Secretary, the Council set a public education period until November 1, 2015 and only warnings will be issued until that time. The City will launch its “NB is Hands Free – Just Drive” campaign during the awareness period.

Additional information is available at [www.nbtexas.org/handsfree](http://www.nbtexas.org/handsfree).

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