

ORDINANCE NO. 18-859

AN ORDINANCE OF THE MAYOR AND COMMON COUNCIL OF THE TOWN OF CHINO VALLEY, ARIZONA, AMENDING THE CHINO VALLEY TOWN CODE TITLE VII, TRAFFIC CODE, CHAPTER 71, TRAFFIC RULES, BY ADDING A NEW SECTION 71.14, USE OF MOBILE COMMUNICATION DEVICES AND TEXTING WHILE OPERATING A MOTOR VEHICLE.

WHEREAS, the Mayor and Common Council of the Town of Chino Valley (the "Town Council") has a substantial and compelling interest in promoting safe driving and the safety of its residents and visitors; and

WHEREAS, ARIZ. REV. STAT. § 28-626(B) authorizes the adoption of additional traffic regulations that are not in conflict with existing state traffic or transportation regulations, penalties or procedures; and

WHEREAS, there is currently no state law regulating the use of mobile communication devices by drivers; and

WHEREAS, the use of mobile communication devices and texting while driving a motor vehicle have increased in recent years and have contributed to the increase in injuries, deaths, property damage, health care cost and auto insurance rates; and

WHEREAS, motorists who operate hand-held mobile communication devices or text while driving a motor vehicle are statistically more likely to become involved in traffic accidents; and

WHEREAS, to promote the safety and welfare of its citizens and visitors, the Town Council finds it necessary to adopt this Ordinance regulating the use of hand-held mobile communication devices while driving in the Town of Chino Valley, Arizona.

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Common Council of the Town of Chino Valley, Arizona, as follows:

Section 1. The recitals above are incorporated as if fully set forth herein.

Section 2. The Chino Valley Town Code Title VII (Traffic Code), Chapter 71 (Traffic Rules), is hereby amended to add a new Section 71.14 (Use of Mobile Communication Devices and Texting While Operating a Motor Vehicle) to read as follows:

71.14 Use of mobile communication devices and texting while operating a motor vehicle.

(A) Definitions.

(1) "Hands-free use" means the use of a mobile communication device without the use of either hand.

(2) "Mobile communication device" means a wireless communication device that is designed to engage in calls, and/or receive and transmit text, images, and/or data.

(3) "Operating a motor vehicle" means being in actual physical control of a motor vehicle on a highway or street and includes being temporarily stopped because of traffic, a traffic control device or otherwise, but excludes operating a motor vehicle when the vehicle has pulled over to the side of the road or off a roadway and has stopped at a location in which the vehicle can safely remain stationary.

(B) Prohibited Use. No person shall, except as otherwise provided in this section, use a mobile communication device while operating a motor vehicle upon a street or highway, unless that device is specifically designed or configured to allow hands-free use and is used in that manner while operating a motor vehicle. A law enforcement officer may stop a motor vehicle or motor driven cycle if the officer has reasonable suspicion to believe a violation of this section is occurring.

(C) Exemptions. This section shall not apply to:

(1) The use of a mobile communication device for the sole purpose of communicating with any of the following regarding an immediate emergency situation, safety hazard or criminal activity:

- (a) An emergency response operator;
- (b) An ambulance company;
- (c) Fire department and rescue service personnel;
- (d) Law enforcement personnel;
- (e) A hospital; or
- (f) A physician's office or health clinic.

(2) The activation, initiation or deactivation of hands-free use while operating a motor vehicle.

(3) The use of a mobile communication device by law enforcement, public safety personnel and persons operating authorized emergency vehicles while performing official public safety duties.

(4) The use of a mobile communication device while driving on private property.

(5) A person driving a school bus or transit vehicle that is the subject to Arizona Revised Statutes or United State Department of Transportation regulations.

(D) Affirmative Defense. It is an affirmative defense to a violation of this section if the driver was not operating the vehicle in a careless manner and was:

(1) A driver (a) using a two-way radio or a private Land Mobile Radio System, within the meaning of Title 47 Code of Federal Regulations Part 90, while in the performance and scope of work-related duties and (b) who is operating fleet vehicles or who possess a commercial vehicle license; or

(2) A driver holding a valid amateur radio operator license issued by the federal communications commission and using a half-duplex two-way radio.

(E) Penalties. In addition to all other penalties authorized under the Chino Valley Town Code, a person found to be in violation of this section is subject to a base civil penalty of \$125.00. A

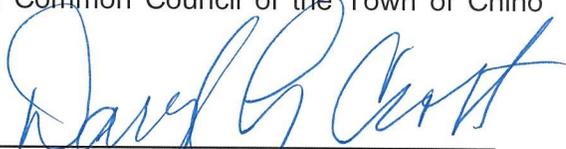
person found to be in violation of this section and involved in a motor vehicle accident is subject to a base civil penalty of \$250.00, in addition to any other penalties or assessments authorized by law.

Section 3. If any provision of this Ordinance is for any reason held by any court of competent jurisdiction to be unenforceable, such provision or portion hereof shall be deemed separate, distinct and independent of all other provisions and such holding shall not affect the validity of the remaining portions of this Ordinance.

Section 4. The Mayor, the Town Manager, the Town Clerk and the Town Attorney are hereby authorized and directed to take all steps necessary to cause the execution of the Agreement and to take all steps necessary to carry out the purpose and intent of this Ordinance.

Section 5. This Ordinance shall become effective on January 1, 2019.

PASSED AND ADOPTED by the Mayor and Common Council of the Town of Chino Valley, Arizona this 13th day of November, 2018.



Darryl L. Croft, Mayor

ATTEST:



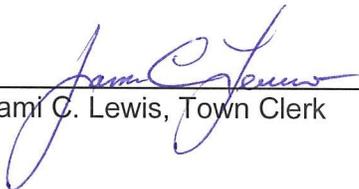
Jami C. Lewis, Town Clerk

APPROVED AS TO FORM:



Andrew J. McGuire, Town Attorney
Gust Rosenfeld, PLC

I hereby certify the above foregoing Ordinance No. 18-859 was duly passed by the Council of the Town of Chino Valley, Arizona, at a meeting held on November 13, 2018, and that quorum was present, and that the vote thereon was 7 ayes and 0 nays and 0 abstentions. 0 Council members were absent or excused.



Jami C. Lewis, Town Clerk