



City of Denton

City Hall
215 E. McKinney Street
Denton, Texas
www.cityofdenton.com

AGENDA INFORMATION SHEET

DEPARTMENT: Police

CM/ DCM/ ACM: Todd Hileman

DATE: September 19, 2017

SUBJECT

Consideration of an ordinance of the City of Denton, Texas amending section 18-38 of the code of ordinances relating to the use of wireless communication devices while operating a vehicle to provide that section 18-38 shall not regulate or prohibit reading, writing, or sending electronic messages while operating a vehicle because this activity is regulated and prohibited by state law; providing a repealer clause; providing a savings clause; providing for a penalty not to exceed \$200 for violations of this ordinance; and providing for an effective date.

BACKGROUND

On May 6, 2014, the City Council adopted Ordinance 2014-112 prohibiting texting while driving on any roadway within the City of Denton, excluding the interstate highways and their associated frontage roads. Denton City Council requested reconsideration of Ordinance 2014-112 to strengthen restrictions on handheld communication devices on all roadways in the City limits. After consideration by the Traffic Safety Committee and multiple presentations (see **Prior Action/Review section**), City Council adopted Ordinance 2016-394 on December 6, 2016, amending the previous texting ban and allowing only “hands free” use of wireless devices for placing phone calls unless stopped, and prohibiting texting by drivers, with an effective enforcement date of June 1, 2017.

During the 85th Texas Legislative Session, HB 62 became law banning texting while driving state wide, and preempting any existing city ordinances banning texting, emailing, etc. The effective date for the state wide ban against texting while driving was set for September 1, 2017. There was some uncertainty this summer if additional legislation would be passed by the State Legislature during their Special Session. A bill was introduced during the Special Session that would pre-empt all local regulation of wireless devices while driving, but it was not passed into law.

DISCUSSION

City Attorney staff reviewed the language in HB 62 and determined a revision of Ordinance 2016-394 removing reference to texting, but leaving in reference prohibiting handheld use of wireless devices for the purpose of placing phone calls, would effectively achieve the same allowances and prohibitions on wireless device usage as the December 6, 2016 version of Ordinance 2016-394, and would not be preempted by HB 62.

FISCAL INFORMATION

There are no additional direct costs related to implementation of this ordinance. The “No Handheld Device” signs that were installed in late May are still applicable if the ordinance is amended; the signs read “Prohibited – Hand Held Device While Operating a Motor Vehicle by City Ordinance up to \$200 fine”.

If approved, staff would create and implement a revised communications and public education plan.

PRIOR ACTION/REVIEW (Council, Boards, Commissions)

On May 6, 2014, the City Council approved Ordinance No. 2014-112, prohibiting texting while driving on any roadway within the City of Denton.

On February 23, 2016, the City Council received a Work Session briefing related to Ordinance No. 2014-112 from Chief Howell. Council requested the Traffic Safety Commission review the existing ordinance.

On March 7, 2016, Traffic Safety Commission reviewed Ordinance No. 2014-112 requesting staff to bring a formal recommendation back to the Commission for formal consideration and action.

On May 2, 2016, the Traffic Safety Commission received a report and recommended forwarding a complete ban on the use of handheld devices while driving (5-0).

On June 7, 2016, the City Council received a Work Session briefing related to Ordinance 2014-112 from Chief Howell. Council requested a report with additional data.

On October 18, 2016, the City Council received a Work Session briefing and requested the item be set for Individual Consideration on November 1, 2016. Council requested a report with additional data.

On November 1, 2016, the City Council discussed the proposed ordinance and gave staff direction to further revise Section 18-38 and reset the item for December 6, 2016.

On December 6, 2016, the City Council approved an ordinance to ban the use of handheld devices while driving.

RECOMMENDATION

Staff recommends approval of this ordinance.

STRATEGIC PLAN RELATIONSHIP

The City of Denton's Strategic Plan is an action-oriented road map that will help the City achieve its vision. The foundation for the plan is the five long-term Key Focus Areas (KFA): Organizational Excellence; Public Infrastructure; Economic Development; Safe, Livable, and Family-Friendly Community; and Sustainability and Environmental Stewardship. While individual items may support multiple KFAs, this specific City Council agenda item contributes most directly to the following KFA and goal:

Related Key Focus Area: Safe, Liveable & Family-Friendly Community

Related Goal: 4.1 Enhance public safety in the community

EXHIBITS

1. Agenda Information Sheet
2. Current Ordinance 2016-394
3. Proposed Ordinance

Respectfully submitted:
Lee Howell
Chief of Police