

CITY OF ELEPHANT BUTTE
ORDINANCE NO. 145

AN ORDINANCE ADOPTING THE NEW MEXICO UNIFORM TRAFFIC ORDINANCE
BY REFERENCE.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF ELEPHANT BUTTE,
NEW MEXICO, THAT:

SECTION 1. ADOPTION BY REFERENCE

The 2010 Compilation of the New Mexico Uniform Traffic Ordinance, including all amendments adopted through July 1, 2014 and specifically comprising of Section 12-6-18, are herewith adopted by reference, pursuant to Section 3-17-6 NMSA 1978.

SECTION 2. NEW UNIFORM TRAFFIC ORDINANCE SECTION

Texting While Driving

- A. A person shall not read or view a text message or manually type on a handheld mobile communication device for any purpose while driving a motor vehicle, except to summon medical or other emergency help or unless that device is an amateur radio and the driver holds a valid amateur radio operator license issued by the Federal Communications Commission.
- B. The provisions of this section shall not be construed as authorizing the seizure or forfeiture of a handheld mobile communications device. Unless otherwise provided by law, the handheld mobile communication device used in the violation of the provisions of this section is not subject to search by a law enforcement officer during a traffic stop made pursuant to the provisions of this section.
- C. As used in this section:
 - 1) "driving" 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 light or stop sign or otherwise, but "driving" excludes operating a motor vehicle when the vehicle has pulled over to the side of or off an active roadway and has stopped at a location in which it can remain safely stationary;
 - 2) "handheld mobile communication device" means a wireless communications device that is designed to receive and transmit text or image messages, but "handheld mobile communications device" excludes global positioning or navigation systems, devices that are physically or electronically integrated into a motor vehicle and voice-operated or hands-free devices that allow the user to compose, send or read a text message without the use of a hand except to activate, deactivate or initiate a feature or function; and
 - 3) "text message" means a digital communication transmitted or intended to be transmitted between communication devices and includes electronic mail, an instant message, a text or image communication and a command or request to an internet site; but "text message" excludes communications through the use of a computer-aided dispatch service by law enforcement or rescue personnel.
- D. A violation of the provisions of this section is punishable by a fine of \$25 for a first violation and \$50 for a second or subsequent violation. Violations of provisions of this section may be included in a local penalty assessment ordinance.

SECTION 3. EFFECTIVE DATE

The effective date of this ordinance shall be the 12th day of August, 2014.

PASSED, APPROVED AND ADOPTED by the Governing Body of the City of Elephant
Butte, New Mexico, this 6th day of August, 2014.

BY:



Eunice Kent, Mayor

Attest:



Alan Briley, Acting City Clerk