

ORDINANCE NO. 2010-001

AN ORDINANCE AMENDING ORDINANCE # 2009-006
(AN ORDINANCE ADOPTING THE 2009 MODEL TRAFFIC CODE (MTC))
FOR THE TOWN OF CRESTONE

WHEREAS, Ordinance # 2009-006, adopted the 2009 Model Traffic Code (MTC) for the Town of Crestone; and

WHEREAS, House Bill 09-1094 enacted certain amendments to the provisions of C.R.S. §42-4-239(2) (Misuse of Mobile Communication Device While Operating a Motor Vehicle) which should be incorporated into the provisions of the 2009 Model Traffic Code, as adopted by the Town of Crestone.

NOW THEREFORE, be it ordained by the Town Board of Trustees of the Town of Crestone that Section 239 (Misuse of Mobile Communication Devices – definitions) of the Model Traffic Code for the Town of Crestone as adopted by Ordinance # #2009-006 is repealed and reenacted to read as follows:

293 Misuse of Mobile Communication Devices – definitions

(1) as used in this section, unless the context otherwise requires:

(a) “Emergency” means a situation in which a person:

(I) Has reason to fear for such person’s life or safety or believes that a criminal act may be perpetrated against such person or another person, requiring the use of a wireless telephone while the car is moving; or

(II) Reports a fire, a traffic accident in which one or more injuries are apparent, a serious road hazard, a medical or hazardous materials emergency, or a person who is driving in a reckless, careless, or otherwise unsafe manner.

(b) “Operating a motor vehicle” means driving a motor vehicle on a public highway, but “operating a motor vehicle” shall not mean maintaining the instruments of control while the motor vehicle is at rest in a shoulder lane or lawfully parked.

(c) “Use” means talking on or listening to a wireless telephone or engaging the wireless telephone for text messaging or other similar forms of manual data entry or transmission.

(d) "Wireless telephone" means a telephone that operates without a physical, wireline connection to the provider's equipment. The term includes, without limitation, cellular and mobile telephones.

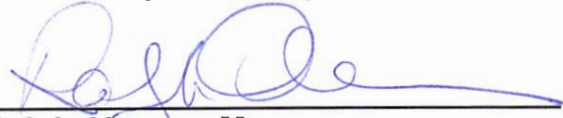
- (2) A person under eighteen years of age shall not use a wireless telephone while operating a motor vehicle.**
- (3) A person eighteen years of age or older shall not use a wireless telephone for the purpose of engaging in text messaging or other similar forms of manual data entry or transmission while operating a motor vehicle.**
- (4) Subsection (2) or (3) of this section shall not apply to a person who is using the wireless telephone:**
 - (a) To contact a public safety entity; or**
 - (b) During an emergency.**
- (5) (a) A person who operates a motor vehicle in violation of subsection (2) or (3) of this section commits a class A traffic infraction as defined in section 42-4-1701 (3), and the court or the department of revenue shall assess a fine of fifty dollars.**
 - (b) A second or subsequent violation of subsection (2) or (3) of this section shall be a class A traffic infraction as defined in section 42-4-1701(3), and the court or the department of revenue shall assess a fine of one hundred dollars.**
- (6) (a) An operator of a motor vehicle shall not be cited for a violation of subsection (2) of this section unless the operator was under eighteen years of age and a law enforcement officer saw the operator use a wireless telephone for the purpose of engaging in text messaging or other similar forms of manual data entry or transmission.**
- (7) The provisions of this section shall not be construed to authorize the seizure and forfeiture of a wireless telephone, unless otherwise provided by law.**
- (8) This section does not restrict operation of an amateur radio station by a person who holds a valid amateur radio operator license issued by the federal communications commission.**

Any person who violates the provisions of this section commits a traffic infraction and shall be subject to the penalties provided in Section 4 of Ordinance #2009-006

IT IS HEREBY DELCARED THAT THIS ORDINANCE IS NECESSARY TO THE IMMEDIATE PRESERVATION OF THE PUBLIC PEACE, HEALTH, AND SAFETY,

DUE TO THE NECESSITY OF IMMEDIATE ENFORCEMENT OF TRAFFIC REGULATIONS AND THE CHANGES THERETO IN THE TOWN AND SHALL TAKE EFFECT AND BE ENFORCED FROM AND AFTER PASSAGE OF THE SAME.

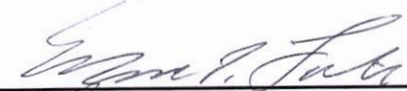
INTRODUCED, approved, signed and adopted this 11th day of January, 2010.


Ralph Abrams, Mayor

Attest:

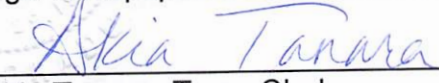

Akia Tanara, Town Clerk

APPROVED AS TO FORM:


Eugene L. Farish, #2557
Crestone Town Attorney

CERTIFICATION

I HEREBY CERTIFY that the within Ordinance was introduced, read in full, approved and adopted at the regular meeting of the Board of Trustees of the Town of Crestone, Colorado on the 11th day of January, 2010 and published by title in The Crestone Eagle, a legal newspaper in the Town of Crestone on February 1, 2010.


Akia Tanara, Town Clerk

