

A BILL FOR AN ORDINANCE AMENDING CHAPTER 8, ARTICLE 1, OF THE FOXFIELD MUNICIPAL CODE FOR UNIFORMITY WITH STATE LAW AND TO ALLOW MUNICIPAL ENFORCEMENT OF CERTAIN TRAFFIC VIOLATIONS

WHEREAS, the Town of Foxfield has previously adopted the 2010 Model Traffic Code;

WHEREAS, the Colorado General Assembly passed Senate Bill 17-027 on June 1, 2017, amending state law to modify the offense of misuse of wireless telephones in motor vehicles;

WHEREAS, the Colorado General Assembly passed House Bill 17-1162 on May 18, 2017, allowing for municipalities to penalize, in municipal court, the driving of a motor vehicle while the license of the operator is under restraint as the result of an outstanding judgment; and

WHEREAS, the Board of Trustees of the Town of Foxfield desires to amend the Foxfield Municipal Code for uniformity with the state law and municipal enforcement of the rules regarding misuse of wireless telephones in motor vehicles and to allow for municipal enforcement of driving under restraint.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF TRUSTEES OF FOXFIELD, COLORADO:

Section 1. Section 8-1-30, subsection (10), is hereby repealed and reenacted as follows:

Sec. 8-1-30. Amendments.

...

(10) Subsection 239 is modified as follows:

a. Subsection (2) is modified to read as follows:

"A person under eighteen (18) years of age shall not use a wireless telephone while operating a motor vehicle. This subsection (2) does not apply to acts specified in subsection (3) of this section."

b. Subsection (3) is modified to read as follows:

"A person 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."

c. In Subsection (5), all references to "section 42-4-1701(3)" are modified to read "section 42-4-1701(3), C.R.S."

d. Subsection (6) is modified to read as follows:

"(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 (18) years

of age and a law enforcement officer saw the operator use, as defined in paragraph (c) of subsection (1) of this section, a wireless telephone.

(6)(b) An operator of a motor vehicle shall not be cited for a violation of subsection (3) of this section unless 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, in a manner that caused the operator to drive in a careless and imprudent manner, without due regard for the width, grade, curves, corners, traffic, and use of the streets and highways and all other attendant circumstances, as prohibited by section 42-4-1402, C.R.S."

Section 2. Section 8-1-60 of the Foxfield Municipal Code is hereby amended by the following revisions to subsection (2) and the addition of a new subsection (4), which read as follows:

Sec. 8-1-60. Penalties.

It shall be unlawful for any person to violate any of the provisions stated or adopted in this Article.

...

(2) Any violations of Section 239(3), Misuse of a Wireless Telephone; Section 1105, Speed Contests - Speed Exhibitions; Section 1401, Reckless Driving; and Section 1413, Eluding or Attempting to Elude Police Officer, of the Model Traffic Code shall constitute a misdemeanor traffic violation, punishable as provided by Section 1-4-20 of this Code; provided, however, that nothing contained herein shall empower the court to subject any person under the age of eighteen (18) to any imprisonment as a portion of a penalty for violation of the provisions of this Article.

...

(4) Any person found guilty or who pleads guilty or nolo contendere to a violation of section 239(3), Misuse of Wireless Telephone, shall be subject to the following criminal penalty:

(a) Except as provided in subsection (2) below, a minimum mandatory fine of not less than three hundred dollars.

(b) If the person's actions are the proximate cause of bodily injury or death to another, a minimum mandatory fine of not less than three hundred dollars or imprisonment for a period of ten (10) days to one (1) year, or both such fine and imprisonment.

Section 3. Article 8-1 of the Foxfield Municipal Code is amended by the addition of a new Section 90 to read as follows:

Sec. 8-1-90. Driving Under Restraint Prohibited

Any person who drives a motor vehicle or off-highway vehicle upon any street or highway in the Town of Foxfield with knowledge that the person's license or privilege to drive, either as a resident or nonresident, is under restraint for an outstanding judgment is guilty of a civil traffic infraction punishable pursuant to Section 8-1-60 above.

Section 4. The Town Board of Trustees hereby finds, determines, and declares that this ordinance is promulgated under the general police powers of the Town of Foxfield, that it is promulgated for the health, safety, and welfare of the public, and that this ordinance is necessary for the preservation of health and safety and for the protection of public convenience and welfare. The Board of Trustees further determines that the ordinance bears a rational relation to the proper legislative object sought to be attained.

Section 5. If any clause, sentence, paragraph, or part of this ordinance or the application thereof to any person or circumstances shall for any reason be adjudged by a court of competent jurisdiction invalid, such judgment shall not affect application to other persons or circumstances.

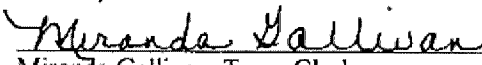
Section 6. Unless otherwise stated, this ordinance shall become effective thirty (30) days after final publication.

Adopted as Ordinance No. 07 Series of 2017, by the Board of Trustees of Foxfield, Colorado, and signed and approved by its Mayor or presiding officers this 5th day of October A.D. 2017.

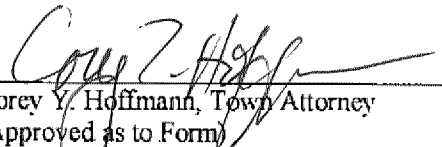


Lisa Jones, Mayor

ATTEST:



Miranda Gallivan, Town Clerk



Corey Y. Hoffmann, Town Attorney
(Approved as to Form)

