



## VILLAGE OF CORRALES

### ORDINANCE NO. 11-003

**AN ORDINANCE AMENDING SECTION 12-6-12.18. PROHIBITED ACTIVITIES WHILE DRIVING, OF THE UNIFORM TRAFFIC ORDINANCE OF THE VILLAGE OF CORRALES, AS ADOPTED BY ORDINANCE 10-007 ON AUGUST 24, 2010; PROHIBITING THE USE OF MOBILE TELEPHONES AND PERSONAL DIGITAL ASSISTANTS (TEXT MESSAGING DEVICES) WHILE DRIVING; PROVIDING EXCEPTIONS FOR EMERGENCY USES AND FOR CERTAIN OTHER USES OF HANDS-FREE MOBILE TELEPHONES.**

**WHEREAS**, the Village Council, the governing body (“Governing Body”) of the Village of Corrales (the “Village”) finds that the use of hand-held mobile telephones and text messaging devices by drivers of motor vehicles causes inadequate attention to traffic and the roadway and is likely to lead to motor vehicle collisions and other accidents; and

**WHEREAS**, many municipalities in the vicinity of Corrales, including the cities of Albuquerque, Santa Fe, and Española, have expressly forbidden the use of hand-held mobile telephones and text messaging devices by the drivers of motor vehicles in those jurisdictions; and

**WHEREAS**, the Governing Body finds that the use of hand-held mobile telephones and text messaging devices by drivers should be prohibited in the Village, for the enhanced safety of Village residents and the traveling public generally, subject to limited exceptions for emergency uses.

**NOW, THEREFORE, BE IT ORDAINED** by the Governing Body of the Village of Corrales, New Mexico, that:

Section 12-6-12.18 of the Uniform Traffic Ordinance of the Village of Corrales, relating to Prohibited Activities While Driving, as adopted by Ordinance 10-007 on August 24, 2010, shall be, and hereby is, amended to read as follows:

- A. No person shall:
- (1) drive a vehicle while engaged in any activity which interferes with the safe operation of the vehicle;
  - (2) drive while having in his or her lap any person, adult or minor, or any animal;
  - (3) drive while seated in the lap of another person while the vehicle is in motion;
  - (4) drive a vehicle while having either arm around another person;

(5) operate a motor vehicle's equipment, including but not limited to the vehicle horn or lights, in such a manner as to distract other motorists on the public way or in such a manner as to disturb the peace; or

(6) except as provided in subsection D. below, operate a vehicle upon a public street or highway while using a mobile telephone or personal digital assistant to engage in a call or create, send or read text messages.

B. For the purposes of this Section 12-6-12.18, the following definitions apply:

(1) **ENGAGE IN A CALL.** "Engage in a call" means talking into, dialing or listening on a hand-held mobile telephone.

(2) **HAND-HELD MOBILE TELEPHONE.** "Hand-held mobile telephone" means a mobile telephone with which a user engages in a call using at least one hand (or prosthetic device or aid in the case of a person with a physical disability).

(3) **HANDS-FREE MOBILE TELEPHONE.** "Hands-free mobile telephone" means a mobile telephone that has an internal feature or function, or that is equipped with an attachment or addition, whether or not permanently part of such mobile telephone, by which a user engages in a call without the use of either hand (or prosthetic device or aid in the case of a person with a physical disability), whether or not the use of either hand (or prosthetic device or aid) is necessary to activate, deactivate or initiate a function of such telephone.

(4) **MOBILE TELEPHONE.** "Mobile telephone" means the device used by subscribers and other users of a wireless telecommunications service to access such service, and includes personal digital assistants.

(5) **NON-TRAVEL LANE.** "Non-travel lane" means the berm or shoulder of a street or highway.

(6) **PERSONAL DIGITAL ASSISTANT.** "Personal digital assistant" means a device operated using a wireless telecommunications service that provides for data communication other than by voice.

(7) **WIRELESS TELECOMMUNICATIONS SERVICE.** "Wireless telecommunications service" means a two-way real time voice telecommunications service that is interconnected to a public switched telephone network and commonly referred to as cellular service or personal communication service.

C. An operator of a motor vehicle who holds a mobile telephone to, or in the immediate proximity of, his or her ear is presumed to be engaging in a call within the meaning of this Section. The presumption established by this subsection C. is rebuttable by evidence tending to show that the operator was not engaged in a call. "Immediate vicinity" for the purposes of this subsection C. shall mean such distance as permits the operator of a mobile telephone to hear telecommunications transmitted over such mobile telephone, but shall not require physical contact with such operator's ear.

D. Subsection A.(6) of this Section shall not apply to:

(1) The use of a mobile telephone for the sole purpose of communicating with any of the following regarding an emergency situation: an emergency response operator; a hospital, physician's office or health clinic; an ambulance company or corps; a fire department, district or company; or a police department;

(2) The use of a hands-free mobile telephone when being used in a hands free manner; or

(3) The use of a mobile telephone when being used while stopped in a non-travel lane.

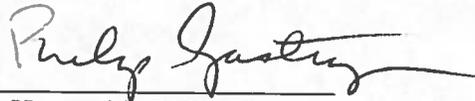
SEVERABILITY CLAUSE: Should any section, paragraph, clause or provision of this Ordinance be held to be invalid or unenforceable for any reason, the invalidity or unenforceability of such section, paragraph, clause or provision shall not affect any of the remaining provisions of this Ordinance. The Governing Body of the Village of Corrales hereby declares that it would have passed this Ordinance and each section, subsection, sentence, clause, word or phrase thereof irrespective of any one or more sections, subsections, sentences, clauses, words or phrases being declared unconstitutional or otherwise invalid.

COMPILING CLAUSE: The amendment made by this Ordinance shall be incorporated in and compiled as a part of the Uniform Traffic Ordinance of the Village of Corrales.

EFFECTIVE DATE AND PUBLICATION: This Ordinance shall become effective and be in full force and effect from and after its passage, publication and posting, according to law.

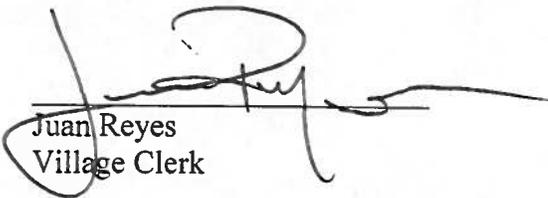
**PASSED, APPROVED AND ADOPTED** by the Governing Body of the Village of Corrales, New Mexico, this 8<sup>th</sup> day of February, 2011.

APPROVED:



The Honorable Philip Gasteyer  
Mayor, Village of Corrales

ATTEST:



Juan Reyes  
Village Clerk