

PALMER LAKE, COLORADO

ORDINANCE NO. 16 OF 2017

AN ORDINANCE OF THE BOARD OF TRUSTEES OF THE TOWN OF PALMER LAKE AMENDING CHAPTER 10.04 OF THE PALMER LAKE MUNICIPAL CODE CONCERNING AN AMENDMENT TO THE 2009 EDITION OF THE MODEL TRAFFIC CODE PREVIOUSLY ADOPTED BY THE TOWN BY THE ADDITION OF A NEW SECTION 239 TO THE MODEL TRAFFIC CODE GOVERNING USE OF WIRELESS TELEPHONES AND SETTING PENALTIES FOR VIOLATIONS THEREOF

WHEREAS, THE TOWN OF PALMER LAKE (THE "TOWN") IS A COLORADO MUNICIPAL CORPORATION AUTHORIZED BY STATE LAW, INCLUDING, BUT NOT LIMITED TO, SECTION 31-15-401 OF THE COLORADO REVISED ("C.R.S.") STATUTES, TO EXERCISE ITS POLICE POWERS TO PROMOTE AND PROTECT THE HEALTH, SAFETY, AND WELFARE OF THE COMMUNITY AND ITS CITIZENS; AND

WHEREAS, PURSUANT TO SECTION 31-15-702(1)(a)(I), C.R.S., THE TOWN IS AUTHORIZED TO REGULATE THE USE OF STREETS; AND

WHEREAS, PURSUANT TO SECTION 42-1-102(48), C.R.S., THE TOWN HAS THE AUTHORITY TO ADOPT LOCAL POLICE REGULATIONS UNDER THE CONSTITUTION AND LAWS OF THE STATE OF COLORADO; AND

WHEREAS, AS CODIFIED IN CHAPTER 10 OF THE TOWN OF PALMER LAKE'S MUNICIPAL CODE, THE TOWN HAS PREVIOUSLY ADOPTED THE 2009 EDITION OF THE MODEL TRAFFIC CODE PROMULGATED BY THE COLORADO DEPARTMENT OF TRANSPORTATION BY REFERENCE, WITH CERTAIN AMENDMENTS THERETO CODIFIED AT SECTION 10.04.030; AND

WHEREAS, SINCE THE ADOPTION OF THE 2009 EDITION OF THE MODEL TRAFFIC CODE, THE COLORADO GENERAL ASSEMBLY HAS ADOPTED NEW LAWS GOVERNING VEHICLES, TRAFFIC, AND THE USE OF THE STREETS; AND

WHEREAS, PURSUANT TO ITS AUTHORITY, THE BOARD OF TRUSTEES DESIRES TO INCORPORATE NEW LEGISLATION AND LAWS PASSED BY THE STATE SINCE THE ADOPTION OF THE 2009 EDITION OF THE MODEL TRAFFIC CODE BY AMENDING THE 2009 VERSION OF THE MODEL TRAFFIC CODE AS PREVIOUSLY ADOPTED; AND

WHEREAS, THE TOWN DESIRES TO AMEND SECTION 10.04.030 TO SET FORTH THE PROHIBITION FOR MISUSE OF A WIRELESS TELEPHONE AND SET THE PENALTIES FOR VIOLATION THEREOF.

NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF PALMER LAKE, EL PASO COUNTY, COLORADO, AS FOLLOWS:

Section 1. The recitals contained above are incorporated herein by reference and are adopted as findings and determinations of the Board of Trustees.

Section 2: Section 10.04.030 of the Palmer Lake Municipal Code shall be amended with the addition of a new subsection (H) to add a new Section 239, entitled “Misuse of a wireless telephone – definitions - preemption” to the 2009 edition of the Model Traffic Code, such subsection to read as follows in its entirety:

(H) The adopted Code is modified by the addition of a new Section 239 to read as follows:

239. Misuse of a wireless telephone – definitions - preemption.

(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 (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.

(3) 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.

(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 violates subsection (2) of this section shall be assessed a fine of fifty dollars.

(b) A second or any subsequent violation of subsection (2) of this section shall be assessed a fine of one hundred dollars.

(5.5) (a) Except as provided in subsections (5.5)(b) and (5.5)(c) of this section, a person who violates subsection (3) of this section shall be assessed a fine of three hundred dollars.

(b) If the person's actions are the proximate cause of bodily injury to another, the person shall be prosecuted in district court pursuant to Section 42-4-239(5.5)(b), C.R.S.

(c) If the person's actions are the proximate cause of death to another, the person shall be prosecuted in district court pursuant to Section 42-4-239(5.5)(c), C.R.S.

(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, as defined in paragraph (c) of subsection (1) of this Section, a wireless telephone.

(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 1402 of the Model Traffic Code.


(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.

Section 3. Severability. It is hereby declared to be the intention of the Board of Trustees of the Town of Palmer Lake, Colorado that the sentences, clauses and phrases of this ordinance are severable, and if any sentence, clause or phrase of this ordinance be declared unconstitutional or invalid by the valid judgment or decree of Court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any of the remaining sentences, clauses or phrases of this ordinance since the same would have been enacted by the Board of Trustees without the incorporation of any unconstitutional or invalid sentence, clause or phrase.

Section 4. Publication and Effective Date. The Town Clerk shall certify to the passage of this ordinance and cause notice of its contents and passage to be published by title only in a newspaper of general circulation and in full on the Town official web site. This Ordinance shall become effective thirty (30) days after the date of publication

ORDINANCE PASSED, APPROVED AND ADOPTED ON THIS ___ DAY OF ____, 2017 BY A VOTE OF 7 FOR AND 0 AGAINST.

<p>_____ JOHN CRESSMAN, MAYOR</p> <p>ATTEST:</p> <p> _____ TARA BERRETH, TOWN CLERK</p>	<p>Approved as to Form:</p> <p>_____ MAUREEN JURAN, TOWN ATTORNEY</p>
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PALMER LAKE, COLORADO ORDINANCE NO. 15 OF 2017

AN ORDINANCE OF THE BOARD OF TRUSTEES OF THE TOWN OF PALMER LAKE (A) REPEALING ALL PRIOR ORDINANCES AND PALMER LAKE MUNICIPAL CODE PROVISIONS RELATED TO THE OPERATION OF MARIJUANA CULTIVATION FACILITIES, MARIJUANA PRODUCT MANUFACTURING FACILITIES, MARIJUANA TESTING FACILITIES, RETAIL MARIJUANA STORES, AND MARIJUANA CLUBS WITHIN THE TOWN, TO INCLUDE REPEAL OF CHAPTERS 5.30 AND 5.40 OF THE PALMER LAKE MUNICIPAL CODE, (B) READOPTING A NEW CHAPTER 5.30 REGULATING SUCH MARIJUANA RELATED USES WITHIN THE TOWN, (C) AMENDING CHAPTERS 17.37, GOVERNING THE C2 GENERAL BUSINESS AND COMMERCIAL ZONE, AND CHAPTER 17.40, GOVERNING THE M1 GENERAL INDUSTRIAL ZONE, TO PROVIDE THAT MARIJUANA LAND USES WITHIN SUCH ZONE DISTRICTS SHALL BE CONDITIONAL USES AND SUBJECT TO CERTAIN LOCATION RESTRICTIONS AS SET FORTH IN CHAPTER 5.30, AND (D) ADDING A NEW CHAPTER 17.82 PROHIBITING MARIJUANA CLUBS AND GOVERNING THE PERSONAL USE CULTIVATION OF MARIJUANA WITHIN THE TOWN

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