

ORDINANCE NO.2013-009

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**AN ORDINANCE PROHIBITING THE USE OF CELLPHONES AND OTHER
HANDHELD MOBILE COMMUNICATION DEVICES WITH HEADPHONES,
EARPHONES AND/OR HEADSETS WHILE DRIVING A VEHICLE WITHIN THE
CITY OF NAGA AND IMPOSING PENALTIES FOR VIOLATION THEREOF:-**

Author: Hon. Jose A. Tuason

Be it ordained by the Sangguniang Panlungsod of the City of Naga, that:

SECTION 1. DEFINITION OF TERMS.

1.1. Cellphone refers to a device that can make and receive telephone calls over a radio link as well as send and receive text and multi-media messages while moving around a wide geographic area. It is also known as a cellular phone, mobile phone and a hand phone.

1.2. Handheld Mobile Communication Devices refer to electronic communication equipment such as, but not limited to, cellular phones, smart phones, i-phones, wireless telephones, two-way radio transceivers, walkie-talkie, pagers and beepers, laptops, notebooks and tablet computers utilizing VOIP (voice over internet protocol) technology, navigational systems, and any other mobile communications device capable of transmitting, receiving, or both, of encrypted data and/or signals through wireless, electronic or any other similar means.

1.3. Headphones are a pair of small loudspeakers that are designed to be held in place close to a user's ears. Headphones either have wires for connection to a signal source such as an audio amplifier, radio, CD player, portable media player or mobile phone, or have a wireless receiver, which is used to pick up signal without using a cable. They are sometimes known as ear speakers. The in-ear versions are also known as earphones or earbuds.

1.4. Headset refers to a headphone and/or an earphone combined with a microphone.

1.5. Vehicle shall refer to any four, three or two-wheeled vehicle which includes, but not limited to, cars, trucks, tricycles, motorcycles, which are combusted or electrically operated. It can also refer to pedicabs and bicycles.

1.6. Driving is when any individual is in control of the mechanism and direction of any vehicle.

ORDINANCE NO. 2013-009
Series o f 2 0 1 3

Page- t w o -

1.7. Use of cellphone and other handheld electronic communication device refers to the act of making a call, receiving a call or the act of composing, sending or viewing of text and multi-media messages, including the act of doing internet and other similar functions.

SECTION 2. PROHIBITION. It is hereby prohibited for a driver to use and operate or actively use by hearing, monitoring or communicating any cellphone device and other handheld mobile communication devices with headphones, earphones and/or headsets while driving a vehicle within the City of Naga.

SECTION 3. EXEMPTION.

3.1. This ordinance shall exempt any person using hearing aid or other hearing device which typically fits in or behind the wearer's ear that is designed to amplify and modulate sound for the wearer.

3.2. This ordinance shall exempt from violation any officer of the law or law enforcer who is in actual operation in responding to an emergency, in pursuit of a law violator or criminal and/or calling for assistance to his/her colleague thru the use of a handheld electronic communication device.

3.3. This exemption can be extended to any person, if same is also calling for immediate assistance to any law enforcer due to life threatening situation while he/she is driving a vehicle.

SECTION 4. PENAL CLAUSE. Any driver found guilty violating Section 3 of this Ordinance shall be penalized as follows:

FIRST OFFENSE - a fine of One Thousand Pesos (₱1,000.00) and/or an imprisonment of 7 days or both at the discretion of the court;

SECOND OFFENSE - a fine of Three Thousand Pesos (₱3,000.00) and/or an imprisonment of 14 days or both at the discretion of the court;

THIRD OFFENSE - a fine of Five Thousand Pesos (₱5,000.00) and/or an imprisonment of 21 days or both at the discretion of the court;

ORDINANCE NO. 2013-009
Series o f 2 0 1 3

Page- t h r e e -

SECTION 5. NO CONTEST PROVISION. Any person or individual who is apprehended or cited for the violation of this ordinance and who does not wish to contest the violation and is willing to pay voluntary the fine imposed upon him/her prior to the filing of the formal charge with the proper court shall be allowed to pay twenty five percent (25%) less or the imposable fine with Treasurer's Office to avoid being criminally prosecuted within twelve (12) hours from apprehension otherwise the case shall be prosecuted.

SECTION 6. SEPARABILITY CLAUSE. If for any reason, any provision, portion or part of this ordinance found to be inconsistent with any law, other provisions or part/s thereof not so affected shall remain in full force and effect.

SECTION 7. REPEALING/AMENDATORY CLAUSE. All ordinances rules and regulations or part/s thereof, which are inconsistent or in conflict with the provisions of this ordinance are hereby repealed, amended and/or modified accordingly.

SECTION 8.EFFECTIVITY. This ordinance shall take effect immediately upon its approval and publication in the local newspaper of general circulation.

ENACTED: February 19, 2013.

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WE HEREBY CERTIFY to the correctness of the foregoing ordinance.

GIL A. DE LA TORRE
Secretary to the
SangguniangPanlungsod

GABRIEL H. BORDADO, JR.
City Vice Mayor &
Presiding Officer

APPROVED:

JOHN G. BONGAT
City Mayor