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**Mayor**

Ben White

**Mayor Pro Tem**

Dave Ruesink

**City Manager**

Glenn Brown

**Councilmembers**

John Crompton

James Massey

Dennis Maloney

Katy-Marie Lyles

Lawrence Stewart

**Agenda**

**College Station City Council**

**Workshop Meeting**

**Thursday, October 08, 2009 3:00 p.m.**

**City Hall Council Chambers, 1101 Texas Avenue**

**College Station, Texas**

1. Presentation, possible action, and discussion on items listed on the consent agenda.
2. Presentation, possible action, and discussion concerning an alternative to address the administrative office space needs for city staff, the need for a larger city council chamber, and more public meeting space.
3. Presentation, possible action and discussion regarding Cell Phone Use in School Zones.
4. Presentation, possible action, and discussion regarding a proposed amendment to the City's smoking ordinance that would define tobacco/cigar bars in the City and add them as an exception.
5. Presentation, possible actions and discussion regarding street maintenance operations for existing roadway infrastructure.
6. Council Calendar
  - October 13 83rd Annual Transportation Course Luncheon at TAMU – The Zone Club, 12:00 p.m.
  - October 19 Council Workshop/Regular Meeting in Council Chambers, 12:00 p.m.
  - October 19 Annual Chamber of Commerce Banquet, 6:30 p.m.
  - October 21-23 Texas Municipal League Annual Conference, Ft. Worth
7. Presentation, possible action, and discussion on future agenda items: A Council Member may inquire about a subject for which notice has not been given. A statement of specific factual information or the recitation of existing policy may be given. Any deliberation shall be limited to a proposal to place the subject on an agenda for a subsequent meeting.
8. Discussion, review and possible action regarding the following meetings: Arts Council of the Brazos Valley, Audit Committee, Brazos County Health Dept., Brazos Valley Council of Governments, Brazos Valley Wide Area Communications Task Force, Cemetery Committee, Code Review Committee, Design Review Board, Historic Preservation Committee, Interfaith Dialogue Association, Intergovernmental Committee, Joint Relief Funding Review Committee, Landmark Commission, Library Committee, Metropolitan Planning Organization, National League of Cities, Outside Agency Funding Review, Parks and Recreation Board, Planning and Zoning Commission, Sister City Association, TAMU Student Senate,

## City Council Workshop Meeting

Thursday, October 8, 2009

Research Valley Partnership, Regional Transportation Committee for Council of Governments, Texas Municipal League, Transportation Committee, Wolf Pen Creek Oversight Committee, Wolf Pen Creek TIF Board, Zoning Board of Adjustments, BVSWM, Signature Event Task Force, (Notice of Agendas posted on City Hall bulletin board).

9. Executive Session will immediately follow the workshop meeting in the Administrative Conference Room.

Consultation with Attorney {Gov't Code Section 551.071}; possible action. The City Council may seek advice from its attorney regarding a pending or contemplated litigation subject or settlement offer or attorney-client privileged information. Litigation is an ongoing process and questions may arise as to a litigation tactic or settlement offer, which needs to be discussed with the City Council. Upon occasion the City Council may need information from its attorney as to the status of a pending or contemplated litigation subject or settlement offer or attorney-client privileged information. After executive session discussion, any final action or vote taken will be in public. The following subject(s) may be discussed:

- a. Application with TCEQ for permits in Westside/Highway 60 area, near Brushy Water Supply Corporation
- b. Sewer CCN permit requests for Brushy & Wellborn Services Areas
- c. Water CCN permit requests for Brushy & Wellborn Services Areas
- d. Bed & Banks Water Rights Discharge Permits for College Station and Bryan
- e. Legal aspects of Water Well, permits and possible purchase of or lease of water well sites
- f. Cliff A. Skiles, DVM & C.A. Skiles Family Partnership, Ltd. Water permit applications with the Brazos Valley Groundwater Conservation District
- g. TMPA v. PUC (College Station filed Intervention)
- h. City of Bryan suit filed against College Station, Legal issues and advise on Brazos Valley Solid Waste Management Agency contract, on proposed methane gas contract
- i. Update on legal proceedings for Grimes County Landfill site and contracts for development of Grimes County site
- j. Weingarten Realty Investors v. College Station, Ron Silvia, David Ruesink, Lynn McIlhaney, and Ben White
- k. Chavers et al v. Tyrone Morrows, Michael Ikner, City of Bryan, City of College Station, et al
- l. Rogers Sheridan v. Barbara Schob & Greg Abbott
- m. Clancey v. College Station, Glenn Brown, and Kathy Merrill
- n. Legal issues related to Economic Development Agreement between City of College Station & Sahara Realty
- o. Legal issues related to the real estate contract between City of College Station and CHSC, Ltd.

Real Estate {Gov't Code Section 551.072}; possible action The City Council may deliberate the purchase, exchange, lease or value of real property if deliberation in an open meeting would have a detrimental effect on the position of the City in negotiations with a third person. After executive session discussion, any final action or vote taken will be in public. The following subject(s) may be discussed:

- a. Property located south of the intersection of George Bush Drive and Holleman Drive.

10. Action on executive session, or any workshop agenda item not completed or discussed in today's workshop meeting may be discussed in tonight's Regular Meeting if necessary.

11. Adjourn.

City Council Workshop Meeting

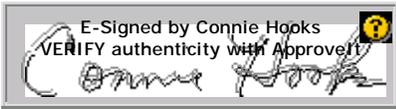
Thursday, October 8, 2009

APPROVED:

\_\_\_\_\_  
City Manager

Notice is hereby given that a Workshop Meeting of the City Council of the City of College Station, Texas will be held on the 8<sup>th</sup> day of October, 2009 at 3:00 pm in the City Hall Council Chambers, 1101 Texas Avenue, College Station, Texas. The following subjects will be discussed, to wit: See Agenda

Posted this 5<sup>th</sup> day of October, 2009 at 2:00 pm



\_\_\_\_\_  
City Secretary

I, the undersigned, do hereby certify that the above Notice of Meeting of the Governing Body of the City of College Station, Texas, is a true and correct copy of said Notice and that I posted a true and correct copy of said notice on the bulletin board at City Hall, 1101 Texas Avenue, in College Station, Texas, and the City's website, [www.cstx.gov](http://www.cstx.gov) . The Agenda and Notice are readily accessible to the general public at all times. Said Notice and Agenda were posted on October 5, 2009 at 2:00 pm and remained so posted continuously for at least 72 hours proceeding the scheduled time of said meeting.

This public notice was removed from the official board at the College Station City Hall on the following date and time: \_\_\_\_\_ by \_\_\_\_\_.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2009.

CITY OF COLLEGE STATION, TEXAS

By \_\_\_\_\_

Subscribed and sworn to before me on this the \_\_\_\_\_ day of \_\_\_\_\_,

\_\_\_\_\_ Notary Public – Brazos County, Texas My commission expires: \_\_\_\_\_

This building is wheelchair accessible. Handicap parking spaces are available. Any request for sign interpretive service must be made 48 hours before the meeting. To make arrangements call (979) 764-3517 or (TDD) 1-800-735-2989. Agendas may be viewed on [www.cstx.gov](http://www.cstx.gov). Council meetings are broadcast live on Cable Access Channel 19.

**October 8, 2009**  
**Workshop Agenda Item 2**  
**City Staff and Public Meeting Space Needs**

**To:** Glenn Brown, City Manager

**From:** Chuck Gilman, Director of Capital Projects

**Agenda Caption:** Presentation, possible action, and discussion concerning an alternative to address the administrative office space needs, the need for a larger city council chamber, and more public meeting space.

**Recommendation(s):** Staff recommends proceeding with a study to evaluate the feasibility of expanding the Municipal Courts Building, or receive alternative direction from City Council.

**Summary:** The City Council requested an update from staff on the status of a solution to address the administrative space needs, and the need for larger public meeting spaces to hold City Council Meetings, Planning and Zoning Meetings, etc. Staff is considering the option of expanding the Municipal Courts Building to meet these needs in an effort to address the immediate space needs while being sensitive to the current economic conditions and the public reaction to the cost of building a new city hall.

Staff would retain the services of an architect to conduct a feasibility study for this alternative. The scope of this study would include the following:

1. Development of a facility program for the meeting and office space needs for the intermediate term (10 years)
2. Determination of the additional improvements that will be required by our design criteria and development ordinances (e.g. additional parking, utility improvements façade improvements, additional landscaping/streetscaping, etc);
3. Development of a preliminary floor plan for the building expansion
4. Development of a preliminary opinion of probable construction cost for the expansion.

**Budget & Financial Summary:** Funds for phase I of a City Hall facility that would include a new Council Chambers and limited administrative offices were approved as part of the 2003 General Obligation Bond (GOB) package. A total of \$4,300,000 was approved. Funds in the amount of \$190,270 have been expended or committed to date on design work and miscellaneous expenditures, leaving a balance of \$4,109,730 for future design and construction needs.

October 8, 2009  
Workshop Agenda Item 3  
Cell Phone Use in School Zones

**To:** Glenn Brown, City Manager

**From:** Mark Smith, Director of Public Works

**Agenda Caption:** Presentation, possible action and discussion regarding Cell Phone Use in School Zones

**Recommendation(s):** Staff recommends enforcement of the recent amendment to the Transportation Code prohibiting the use of wireless communication devices by drivers in school zones.

**Summary:** In the last legislative session, House Bill 55 was approved. The new law makes it an offense to use a cell phone without a hands free device while driving in a school zone. There are several exceptions that allow certain emergency uses. In order to enforce this provision, the City must install signage that meets guidelines described in the legislation.

This item was presented to Council on August 27<sup>th</sup> for discussion and at that time Council asked that the issue be discussed by the Council Transportation Committee (CTC) and with CSISD officials. Subsequent to those discussions, the CTC and the CSISD Trustees recommend that the signs be installed.

**Budget & Financial Summary:** The cost of installing the signage ranges between \$200 per sign to install a separate sign adjacent to existing school zone flashers and \$1,000 per sign to replace the existing flashers with taller poles to accommodate the additional signage. Staff recommends installing the separate sign at 52 locations for a total cost of \$10,400. The cost of the signs and installation will be paid from the red light camera fund.

**Attachments:**

1. House Bill 55
2. Signage
3. Memorandum I

AN ACT

relating to an offense of using a wireless communication device while operating a motor vehicle.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 545.425, Transportation Code, is amended to read as follows:

Sec. 545.425. USE OF WIRELESS COMMUNICATION DEVICE; OFFENSE  
[BY CERTAIN MOTORISTS]. (a) In this section:

(1) "Hands-free device" means speakerphone capability or a telephone attachment or other piece of equipment, regardless of whether permanently installed in the motor vehicle, that allows use of the wireless communication device without use of either of the operator's hands.

(2) "Wireless communication device" means a device that uses a commercial mobile service, as defined by 47 U.S.C. Section 332.

(b) Except as provided by Subsection (c), an operator may not use a wireless communication device while operating a motor vehicle within a school crossing zone, as defined by Section 541.302, Transportation Code, unless:

(1) the vehicle is stopped; or

(2) the wireless communication device is used with a hands-free device.

(b-1) A municipality, county, or other political

1 subdivision that enforces this section shall post a sign that  
2 complies with the standards described by this subsection at the  
3 entrance to each school crossing zone in the municipality, county,  
4 or other political subdivision. The department shall adopt  
5 standards that:

6 (1) allow for a sign required to be posted under this  
7 subsection to be attached to an existing sign at a minimal cost; and

8 (2) require that a sign required to be posted under  
9 this subsection inform an operator that:

10 (A) the use of a wireless communication device is  
11 prohibited in the school crossing zone; and

12 (B) the operator is subject to a fine if the  
13 operator uses a wireless communication device in the school  
14 crossing zone.

15 (c) An operator [~~A person~~] may not use a wireless  
16 communication device while operating a passenger bus with a minor  
17 passenger on the bus unless [~~except in case of emergency or if~~] the  
18 passenger bus is stopped [~~not in motion~~].

19 (d) It is an affirmative defense to prosecution of an  
20 offense under this section that:

21 (1) the wireless communication device was used to make  
22 an emergency call to:

23 (A) an emergency response service, including a  
24 rescue, emergency medical, or hazardous material response service;

25 (B) a hospital;

26 (C) a fire department;

27 (D) a health clinic;

1           (E) a medical doctor's office;

2           (F) an individual to administer first aid  
3 treatment; or

4           (G) a police department; or

5           (2) a sign required by Subsection (b-1) was not posted  
6 at the entrance to the school crossing zone at the time of an  
7 offense committed in the school crossing zone.

8           (e) This section does not apply to:

9           (1) an operator of an authorized emergency vehicle  
10 using a wireless communication device while acting in an official  
11 capacity; or

12           (2) an operator who is licensed by the Federal  
13 Communications Commission while operating a radio frequency device  
14 other than a wireless communication device.

15           (f) This section preempts all local ordinances, rules, or  
16 regulations that are inconsistent with specific provisions of this  
17 section adopted by a political subdivision of this state relating  
18 to the use of a wireless communication device by the operator of a  
19 motor vehicle.

20           SECTION 2. The change in law made by this Act applies only  
21 to an offense committed on or after the effective date of this Act.  
22 An offense committed before the effective date of this Act is  
23 governed by the law in effect when the offense was committed, and  
24 the former law is continued in effect for that purpose. For  
25 purposes of this section, an offense was committed before the  
26 effective date of this Act if any element of the offense was  
27 committed before that date.

1 SECTION 3. This Act takes effect September 1, 2009.

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President of the Senate

---

Speaker of the House

I certify that H.B. No. 55 was passed by the House on May 15, 2009, by the following vote: Yeas 106, Nays 32, 1 present, not voting; and that the House concurred in Senate amendments to H.B. No. 55 on May 29, 2009, by the following vote: Yeas 138, Nays 4, 1 present, not voting.

---

Chief Clerk of the House

I certify that H.B. No. 55 was passed by the Senate, with amendments, on May 26, 2009, by the following vote: Yeas 27, Nays 4.

---

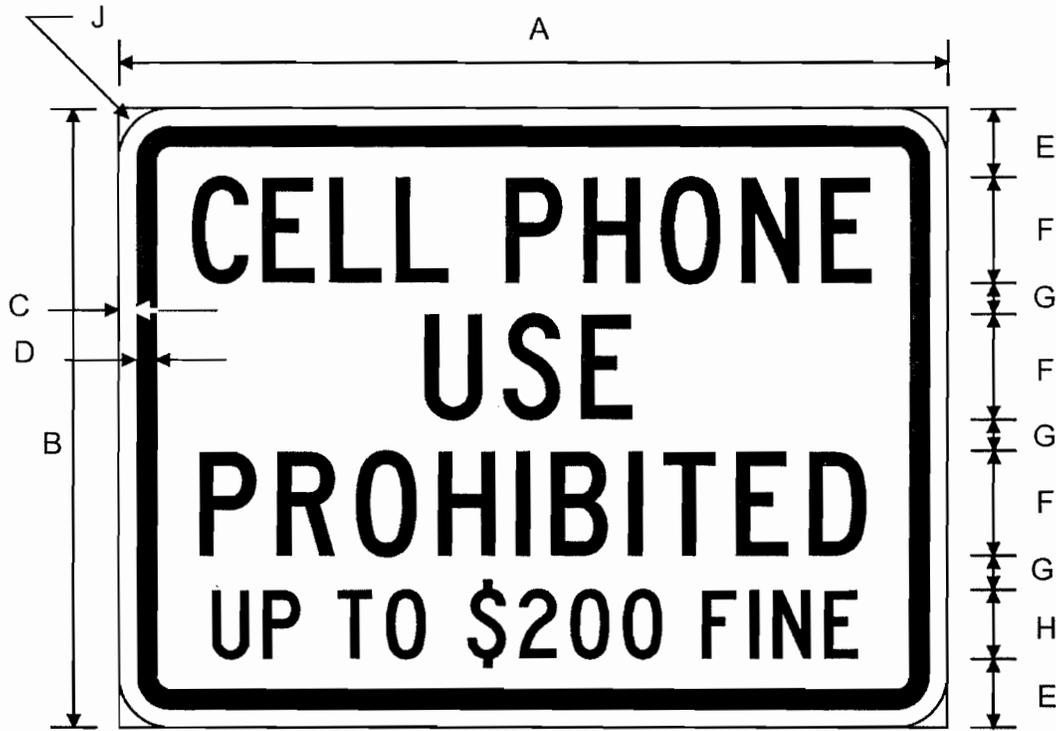
Secretary of the Senate

APPROVED: \_\_\_\_\_

Date

---

Governor



S7-1T



| A  | B  | C    | D    | E | F  | G | H  | J   |
|----|----|------|------|---|----|---|----|-----|
| 24 | 18 | .375 | .625 | 2 | 3C | 1 | 2C | 1.5 |
| 36 | 18 | .375 | .625 | 2 | 3C | 1 | 2C | 1.5 |
| 48 | 36 | .75  | 1.25 | 4 | 5C | 3 | 4C | 3   |

COLORS: LEGEND - BLACK  
 BACKGROUND - WHITE (RETROREFLECTIVE)



CITY OF COLLEGE STATION

COPY

## MEMORANDUM

**TO:** Harvey Cargill, City Attorney  
**FROM:** Adam C. Falco, Senior Assistant City Attorney   
**DATE:** September 23, 2009  
**RE:** Review of Texas Transportation Code §545.425 (Cell Phones in School Zone)

The 81<sup>st</sup> Texas Legislature amended § 545.425 of the Transportation Code to make it a class C misdemeanor if a person uses a wireless communication device while operating a motor vehicle in a school crossing zone. There are defenses to this offense and the law gives municipalities the choice to enforce this law by erecting the proper signage or not enforce it by not putting up the proper signage.

Questions regarding the Enforcement and Prosecution of §545.425

### 1. Does the City have to enforce this new law?

**No.** The law only allows enforcement of this ban if the city places signs to give drivers notice of the enforcement of the law. The signs must state the use of the wireless communication device is prohibited and that the operator is subject to a fine. §545.425 (b-1).

### 2. Does the new law have any affirmative defenses?

**Yes.** The law allows the use of a wireless communication device if an operator is using it to make an emergency call to an emergency response service, emergency medical service, and hazardous materials response. The affirmative defense is also for an emergency call to a hospital, fire department, health clinic, medical doctor's office, a person to administer first aid, and a police department. Another affirmative defense is the law can also not be enforced if the signs are not in place. §545.425(d).

### 3. Will there be problems with enforcement and prosecution of the new law?

**Maybe.** The most difficult element of the law to prove will be if the person was actually making an emergency call as defined by the statute. Unless the officer gets an admission from the operator that he was not making an emergency call then that is when the difficulties would arise. If the officer is not able to view the call history on the phone the City Attorney would need to subpoena the phone records to prove the operator was not making an emergency phone call. This would be essential because if the defendant proves at trial an emergency call was made then there cannot be a prosecution. The law cannot be enforced if the vehicle is stopped or a hands free device is used by the operator. §545.425(b).

#### Attachments:

1. Texas Transportation Code §545.425
2. Austin American Statesman News Article

#### *Legal Department*

P.O. BOX 9960 • 1101 TEXAS AVENUE  
COLLEGE STATION • TEXAS • 77842  
TEL. 979.764.3507 • FAX. 979.764-3481

13  
[www.cstx.gov](http://www.cstx.gov)

**Effective: September 1, 2009**

Vernon's Texas Statutes and Codes Annotated [Currentness](#)

Transportation Code [\(Refs & Annos\)](#)

Title 7. Vehicles and Traffic [\(Refs & Annos\)](#)

Subtitle C. Rules of the Road [\(Refs & Annos\)](#)

[§ Chapter 545](#). Operation and Movement of Vehicles [\(Refs & Annos\)](#)

[§ Subchapter I](#). Miscellaneous Rules

→ **§ 545.425. Use of Wireless Communication Device; Offense**

(a) In this section:

(1) "Hands-free device" means speakerphone capability or a telephone attachment or other piece of equipment, regardless of whether permanently installed in the motor vehicle, that allows use of the wireless communication device without use of either of the operator's hands.

(2) "Wireless communication device" means a device that uses a commercial mobile service, as defined by [47 U.S.C. Section 332](#).

(b) Except as provided by Subsection (c), an operator may not use a wireless communication device while operating a motor vehicle within a school crossing zone, as defined by [Section 541.302, Transportation Code](#), unless:

(1) the vehicle is stopped; or

(2) the wireless communication device is used with a hands-free device.

(b-1) A municipality, county, or other political subdivision that enforces this section shall post a sign that complies with the standards described by this subsection at the entrance to each school crossing zone in the municipality, county, or other political subdivision. The department shall adopt standards that:

(1) allow for a sign required to be posted under this subsection to be attached to an existing sign at a minimal cost; and

(2) require that a sign required to be posted under this subsection inform an operator that:

(A) the use of a wireless communication device is prohibited in the school crossing zone; and

(B) the operator is subject to a fine if the operator uses a wireless communication device in the school crossing zone.

(c) An operator may not use a wireless communication device while operating a passenger bus with a minor passenger on the bus unless the passenger bus is stopped .

(d) It is an affirmative defense to prosecution of an offense under this section that:

(1) the wireless communication device was used to make an emergency call to:

(A) an emergency response service, including a rescue, emergency medical, or hazardous material response service;

(B) a hospital;

(C) a fire department;

(D) a health clinic;

(E) a medical doctor's office;

(F) an individual to administer first aid treatment; or

(G) a police department; or

(2) a sign required by Subsection (b-1) was not posted at the entrance to the school crossing zone at the time of an offense committed in the school crossing zone.

(e) This section does not apply to:

(1) an operator of an authorized emergency vehicle using a wireless communication device while acting in an official capacity; or

(2) an operator who is licensed by the Federal Communications Commission while operating a radio frequency device other than a wireless communication device.

(f) This section preempts all local ordinances, rules, or regulations that are inconsistent with specific provisions of this section adopted by a political subdivision of this state relating to the use of a wireless communication device by the operator of a motor vehicle.

TEXAS

## School zone cell phone ban optional?

### Cities may choose not to install signs, making new law unenforceable.

By Ben Wear  
AMERICAN-STATESMAN STAFF  
Wednesday, August 12, 2009

A new state law intended to restrict use of cell phones in school zones statewide might instead give local governments license to ignore it.

Many cities and counties, strapped for cash, could choose to refrain from installing signs in school zones notifying drivers of a prohibition against using all but a hands-free cell phone while driving through a school zone, officials said.

The City of Austin, however, will spend as much as \$80,000 over the next two years installing hundreds of signs warning of a \$200 fine for using a cell phone while driving in a school zone.

The law, which will go into effect Sept. 1, contains four words that some contend make it optional for cities and counties to install the signs. And without the signs, the law is unenforceable because it says that the absence of signs is a defense against prosecution.

Bennett Sandlin, general counsel for the Texas Municipal League, said the law clearly gives local governments a choice.

"If a city doesn't have the money to put up a sign right now, that's just the way it is," Sandlin said. "It's going to be a matter of each city attorney deciding what to do on their own."

The law, sponsored by state Rep. Dan Branch, R-Dallas, says that a city or county "that enforces this section" of the law must post the signs. The inclusion of those words seems to suggest that there could be another group of cities and counties that don't enforce that section of the law.

"That's where we're getting the possibly permissive language," said Kristy Orr, an assistant city attorney with the City of Austin. "It would be a very rare piece of law that would tell us, 'This is the law, but you don't necessarily need to enforce it.'"

Branch said Tuesday that he did not intend for the law to be optional — the purpose was to have a uniform law on cell phone use throughout Texas.

He said he wasn't sure how the seemingly ambiguous four words ended up in his bill. Cities across Texas were beginning to pass various types of cell phone bans, he said, and in areas like the Dallas-Fort Worth Metroplex, that can be confusing to a driver passing through several jurisdictions on a single car trip.

"It's something we'll have to clarify in the next session," he said. "That's unfortunate because that was not the stated intent of the author. It was our intent to have a standard approach and protect active school zones, which are sort of sacred ground."

In any case, the City of Austin plans to install the signs at the 266 school zones within its jurisdiction. Given that two signs are needed to define the limits of a school zone, and many schools have more than one such zone, the city estimates it will have to install as many as 750 signs, said Karla Villalon, a spokeswoman for the city transportation department.

The 18-inch-by-24-inch signs, assuming they can be attached to an existing school zone sign pole, will cost about \$75 each, said Carlos Lopez, the Austin district engineer for the Texas Department of Transportation. But in some cases, cities and counties — or TxDOT, which has responsibility for school zones when a state highway passes through a town of fewer than 50,000 people — might have to put up a pole along with the sign. That could cost \$350 each time, Lopez said.

Robert Spillar, the City of Austin's transportation director, said the city has not set aside money for the signs. Nonetheless, it will begin installing them this fall, starting with elementary schools. It could take two years to get them all up, he said.

"I don't see how we can not put them up," Spillar said. He said he isn't sure the mere presence of signs will change driver behavior, and said some sort of education program might be necessary to get the message across. "It's an unfunded mandate that has our backs against the wall. We can't enforce it if the signs aren't up."

Branch, while acknowledging that the initial cost could be a problem for a city or county, said that in the end, local governments would recover much more than they spend.

"The cost of the signs was less than the cost of one traffic fine," he said.

What about the \$350 cost if a new pole is involved?

"Big deal, so that's two fines," Branch said, noting that each sign would be up for years catching cell phone talkers, and potentially protecting students. "It's not an unfunded mandate."

[bwear@statesman.com](mailto:bwear@statesman.com); 445-3698

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**Find this article at:**

<http://www.statesman.com/news/content/news/stories/local/2009/08/12/0812cellphone.html>

**October 8, 2009  
Workshop Agenda Item 4  
Smoking Ordinance**

**To:** Glenn Brown, City Manager

**From:** Hayden Migl, Assistant to the City Manager

**Agenda Caption:** Presentation, possible action, and discussion regarding a proposed amendment to the City's smoking ordinance that would define tobacco/cigar bars in the City and add them as an exception.

**Recommendation(s):** N/A

**Summary:** The City Council passed changes to the City's smoking ordinance on January 22 of this year prohibiting smoking in workplaces, bars and bar areas. Exceptions to the ordinance included specialty tobacco stores and actors or actresses participating in a theatrical performance.

After the ordinance was passed, staff contacted bar owners to ensure that their businesses came into compliance and Police allowed a 30-day grace period in which the ordinance was enforced but no citations were issued.

Since that time an issue has come up regarding the Hookah Station located at Northgate. The Hookah Station is a bar that customers smoke flavored tobacco from hookahs, but they are also allowing other forms of smoking in the establishment. There have been complaints from other bar owners in the City that this is not equitable since the Hookah Station operates as a bar. The Hookah Station owners' argument is the ordinance allows their bar to currently operate as it is today because they are a tobacco specialty shop; however, City staff has pointed out that a majority of their revenue comes from the sale of alcohol which makes them a bar according to the ordinance.

The owners of the Hookah Station have met with the City and requested an exception. This item is to determine if Council desires staff to come forward with an amendment that would define tobacco/cigar bars in the City and add them as an exception.

This business is not currently in compliance with the ordinance, but enforcement action is not being taken at this location until direction is received from Council.

**Budget & Financial Summary:** N/A

**Attachments:**

1. Smoking ordinance
2. Letter from Hookah Station Owner (to be provided prior to the Council meeting)

**EXHIBIT "A"****SECTION 9: TOBACCO PRODUCTS AND SMOKING**A. Definitions

- (1) **Public Meeting** means a meeting required to be open to the public under TEX. GOVT. CODE, Chapter 551.
- (2) **Public Place** means an enclosed, indoor area to which the public has access and includes, but is not limited to the following:
  - (a) the common areas of a retail store, office, grocery store, or other commercial establishments;
  - (b) a restaurant or cafeteria;
  - (c) a public or private or secondary school;
  - (d) a public or private institution of higher education;
  - (e) a hospital or nursing home;
  - (f) an elevator;
  - (g) City and school buses;
  - (h) City building, owned or leased by the City and used for City purposes;
  - (i) an enclosed theater, auditorium, movie house, or arena;
  - (j) a courtroom or a jury waiting or deliberation room; or
  - (k) bar or bar area
- (3) **Smoke** or **smoking** includes:
  - (a) carrying or holding a lighted pipe, cigar or cigarette of any kind or any other lighted smoking equipment or device;
  - (b) lighting a pipe, cigar, or cigarette of any kind or any other smoking equipment or device; or
  - (c) emitting or exhaling the smoke of a pipe, cigar, or cigarette of any kind or any other smoking equipment or device.
- (4) **Bar.** A bar is an establishment that is dedicated predominately to the serving of alcohol rather than food.

- (5) **Bar area.** A bar area is an area physically separated from a food serving area dedicated predominately to the serving of alcohol rather than food.
- (6) **Workplace** means an enclosed area in which employees work or have access during the course of their employment.

B. Offense; Penalty.

- (1) A person commits an offense if the person smokes at a public meeting, in a public place, in a workplace or in any other enclosed, indoor area in which “no smoking” signs are conspicuously posted by the person in charge, and the person is not in an area designated as a smoking area under Subsection C below.
- (2) It is an exception to the application of provision (1) of this subsection that the person is smoking:
  - (a) as an actor or actress in a theatrical performance; or
  - (b) a tobacco specialty shop.

Smoking shall be allowed and smoking signs are not required to be posted by the person in charge under Subsection C when smoking is permitted by Subsection B(2)a and B(2)b.

C. Designation of No Smoking and Smoking Areas

- (1) The person in charge shall designate the following areas as “non-smoking”:
  - (a) food order areas, cashier areas, check-out lines for stores;
  - (b) City library;
  - (c) elevators;
  - (d) City and school buses, including associated terminals;
  - (e) restrooms;
  - (f) movie theaters, hospitals, and rest home facilities;
  - (g) within a twenty foot (20’) radius of the entry way of all public places, except for bars and bar areas where there shall be a ten foot (10’) radius around the entry way;
  - (h) all other public places including restaurants and cafeterias; and
  - (i) workplaces.
- (2) Smoking areas shall not be designated to cover areas in provisions (1)(a) through (1)(i) of this subsection. It is not required that any smoking areas be designated.

D. Signs

- (1) The person in charge of a public place or workplace shall place signs visible at each entrance of the building to notify persons entering that smoking is prohibited or that smoking is prohibited except in areas designated as smoking areas.
- (2) The person in charge shall conspicuously post signs in areas designated as a smoking area that smoking is permitted in the area.

E. Facilities to Extinguish Smoking Material

All public places shall be equipped for extinguishments of smoking materials. Facilities for extinguishments of smoking materials that are located in areas of public places other than designated smoking areas shall be accompanied by clearly visible signs, stating “no smoking”.

F. Owner/Operator Responsible

A person commits an offense if he is the owner, operator, manager or an employee of an establishment and he intentionally permits or fails to make a reasonable effort to prevent smoking in a “no smoking” area.

**October 8, 2009  
Workshop Agenda Item No. 5  
Street Maintenance Operations**

**To:** Glenn Brown, City Manager

**From:** Mark Smith, Director of Public Works

**Agenda Caption:** Presentation, possible actions and discussion regarding street maintenance operations for existing roadway infrastructure.

**Recommendation(s):** NA

**Summary:** Staff will make a presentation describing management, strategies for existing roadway infrastructure. The presentation will include a discussion of service levels and costs for street maintenance operations.

**Budget & Financial Summary:** The FY 2010 budget for street maintenance operations is \$2,752,428.

**Attachments:**