

TITLE

AN ORDINANCE TO AMEND TITLE 15, TITLED "MOTOR VEHICLES, TRAFFIC AND PARKING," OF THE CODE OF ORDINANCES, CITY OF OAK RIDGE, TENNESSEE, BY DELETING SECTION 15-301, TITLED "PROHIBITED USE OF HAND-HELD MOBILE TELEPHONE IN MARKED SCHOOL ZONE; PROHIBITED USE OF MOBILE TELEPHONE WITH HANDS-FREE DEVICE BY PERSON UNDER 18," WITHOUT REPLACEMENT, AND BY DELETING SECTION 15-349, TITLED "TEXTING WHILE DRIVING PROHIBITED," AND SUBSTITUTING THEREFOR A NEW SECTION 15-349, TITLED "USE OF WIRELESS COMMUNICATION DEVICE PROHIBITED WHILE DRIVING," TO COMPLY WITH PUBLIC CHAPTER 412, WHICH NEW LAW IS EFFECTIVE JULY 1, 2019.

WHEREAS, Tennessee Code Annotated §16-18-302 gives the City the authority to enforce in City Court any ordinance that mirrors, substantially duplicates, or cross-references the language of a state criminal statute if the state offense is a Class C misdemeanor and the civil fine for the ordinance violation is not in excess of \$50.00; and

WHEREAS, under this authority, City Code §15-301 mirrors Tennessee Code Annotated §55-8-207 to prohibit the use of hand-held mobile telephones in marked school zones and the use of hands-free devices by minors; and

WHEREAS, under this authority, City Code §15-349 mirrors Tennessee Code Annotated §55-8-199 to prohibit the use of hand-held mobile telephones and personal digital assistant devices to transmit or read a written message while driving; and

WHEREAS, effective July 1, 2019 by adoption of Public Chapter 412, Tennessee Code Annotated §55-8-207 will be deleted from state law and Tennessee Code Annotated §55-8-199 will be revised to prohibit the use of hand-held wireless telecommunications devices (ex. cellphones) by any driver with limited exceptions; and

WHEREAS, this change in the statute results in two needed modifications to the City Code for state law compliance: (1) deletion of City Code §15-301 and (2) a complete revision of City Code §15-349.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF OAK RIDGE, TENNESSEE:

Section 1. Title 15, titled "Motor Vehicles, Traffic and Parking," Chapter 3, titled "Operation of Vehicles Generally," of the Code of Ordinances, City of Oak Ridge, Tennessee, is hereby deleting Section 15-301, titled "Prohibited use of hand-held mobile telephone in marked school zone; Prohibited use of mobile telephone with hands-free device by person under 18," in its entirety without replacement.

Section 2. Title 15, titled "Motor Vehicles, Traffic and Parking," Chapter 3, titled "Operation of Vehicles Generally," of the Code of Ordinances, City of Oak Ridge, Tennessee, is hereby amended by deleting Section 15-349, titled "Texting while driving prohibited," in its entirety and substituting therefor a new Section 15-349, titled "Use of Wireless Communication Device Prohibited While Driving," which new section shall read as follows:

Section 15-349. Use of Wireless Communication Device Prohibited While Driving.

(1) For the purposes of this section, unless the context requires otherwise, the following definitions apply:

A. "Stand-alone electronic device" means a portable device other than a wireless telecommunications device that stores audio or video data files to be retrieved on demand by a user;

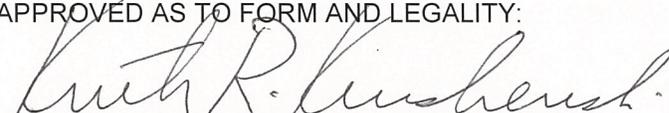
- B. "Utility services" means electric, natural gas, water, wastewater, cable, telephone, or telecommunications services or the repair, location, relocation, improvement, or maintenance of utility poles, transmission structures, pipes, wires, fibers, cables, easements, rights-of-way, or associated infrastructure;
  - C. "Wireless telecommunications device" means a cellular telephone, a portable telephone, a text-messaging device, a personal digital assistant, a stand-alone computer, a global positions system receiver, or substantially similar portable wireless device that is used to initiate or receive communication, information, or data. "Wireless telecommunications device" does not include a radio, citizens band radio, citizens band radio hybrid, commercial two-way radio communication device or its functional equivalent, subscription-based emergency communication device, prescribed medical device, amateur or ham radio device, or in-vehicle security, navigation, autonomous technology, or remote diagnostics system.
- (2) (A) A person, while operating a motor vehicle on any road or highway in this state, shall not:
- (1) Physically hold or support, with any part of the person's body, a:
    - (a) Wireless telecommunications device. This subsection (2)(A)(1)(a) does not prohibit a person eighteen (18) years of age or older from:
      - (i) Using an earpiece, headphone device, or device worn on a wrist to conduct a voice-based communication; or
      - (ii) Using only one (1) button on a wireless telecommunications device to initiate or terminate a voice communication; or
      - (iii) Stand-alone electronic device;
  - (2) Write, send, or read any text-based communication, including, but not limited to, a text message, instant message, email, or internet data on a wireless telecommunications device or stand-alone electronic device. This subsection (2)(A)(2) does not apply to any person eighteen (18) years of age or older who uses such devices:
    - (a) To automatically convert a voice-based communication to be sent as a message in a written form; or
    - (b) For navigation of the motor vehicle through use of a device's global positioning system;
  - (3) Reach for a wireless telecommunications device or stand-alone electronic device in a manner that requires the driver to no longer be:
    - (a) In a seated driving position; or
    - (b) Properly restrained by a safety belt;
  - (4) Watch a video or movie on a wireless telecommunications device or stand-alone electronic device other than viewing data related to the navigation of the motor vehicle; or

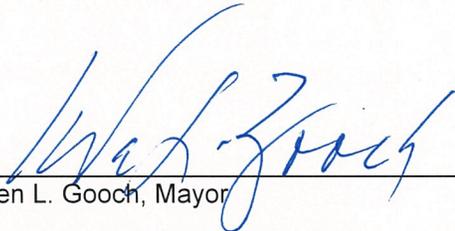
- (5) Record or broadcast video on a wireless telecommunications device or stand-alone electronic device. This subsection (2)(A)(5) does not apply to electronic devices used for the sole purpose of continuously recording or broadcasting video within or outside of the motor vehicle.
- (B) Notwithstanding subsections (2)(A)(1) and (2)(A)(2), and in addition to the exceptions described in those subsections, a function or feature of a wireless telecommunications device or stand-alone electronic device may be activated or deactivated in a manner requiring the physical use of the driver's hand while the driver is operating a motor vehicle if:
  - (1) The wireless telecommunications device or stand-alone electronic device is mounted on the vehicle's windshield, dashboard, or center console in a manner that does not hinder the driver's view of the road; and
  - (2) The driver's hand is used to activate or deactivate a feature or function of the wireless telecommunications device or stand-alone electronic device with the motion of one (1) swipe or tap of the driver's finger, and does not activate camera, video, or gaming features or functions for viewing, recording, amusement, or other non-navigational functions, other than features or functions related to the transportation of persons or property for compensation or payment of any fee.
- (3)
  - (A) A violation of this section is a Class C misdemeanor, subject only to imposition of a fine not to exceed fifty dollars (\$50.00) for a person's first or second offense. A person violating this section is subject to the imposition of court costs not to exceed ten dollars (\$10.00), including, but not limited to any statutory fees of officers. State and local litigation taxes are not applicable to a case prosecuted under this section.
  - (B) If the violation is the person's third or subsequent offense, or the violation results in an accident, or the violation occurs in a work zone when employees of the Department of Transportation or construction workers are present, or if the violation occurs in a marked school zone when a warner flasher or flashers are in operation, the fine is established by state law at an amount higher than fifty dollars (\$50.00) and, therefore, the violation must be charged on the state offense and not a city ordinance violation.
  - (C) In lieu of any fine imposed under subsection (3)(A), a person who violates this section as a first offense may attend and complete a driver education course pursuant to Tennessee Code Annotated §55-10-301.
  - (D) Each violation constitutes a separate offense.
  - (E) A traffic citation that is based solely upon a violation of this section is considered a moving traffic violation.
- (4) This section does not apply to the following persons:
  - (A) Officers of this state or of any county, city, or town charged with the enforcement of the laws of this state, or federal law enforcement officers when in the actual discharge of their official duties;
  - (B) Campus police officers and public safety officers, as defined by Tennessee Code Annotated §49-7-118, when in the actual discharge of their official duties;

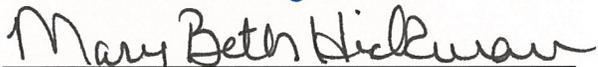
- (C) Emergency medical technicians, emergency medical technician-paramedics, and firefighters, both volunteer and career, when in the actual discharge of their official duties;
- (D) Emergency management agency officers of this state or of any county, city, or town, when in the actual discharge of their official duties;
- (E) Persons using a wireless telecommunications device to communicate with law enforcement service agencies, medical providers, fire departments, or other emergency service agencies while driving a motor vehicle, if the use is necessitated by a bona fide emergency, including a natural or human occurrence that threatens human health, life, or property;
- (F) Employees or contractors of utility service providers acting within the scope of their employment; and
- (G) Persons who are lawfully stopped or parked in their motor vehicles or who lawfully leave standing their motor vehicles.

Section 3. This ordinance shall become effective ten (10) days after adoption on second reading, the welfare of the City of Oak Ridge requiring it.

APPROVED AS TO FORM AND LEGALITY:

  
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Kenneth R. Krushenski, City Attorney

  
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Warren L. Gooch, Mayor

  
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Mary Beth Hickman, City Clerk

First Reading: 07/08/2019  
Publication Date: 07/11/2019  
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Publication Date: 08/15/2019  
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