

**ORDINANCE NO. 2014-20**

**AN ORDINANCE OF THE FLAGSTAFF CITY COUNCIL AMENDING TITLE 9, TRAFFIC, CHAPTER 9-01, TRAFFIC CODE, BY ADDING A NEW SECTION 9-01-001-0013, USE OF WIRELESS COMMUNICATION DEVICES WHILE DRIVING PROHIBITED; EXCEPTIONS; AND PROVIDING FOR PENALTIES**

**RECITALS:**

WHEREAS, while there is ample research regarding the dangers of distracted driving generally, there is an increasing amount of evidence showing that text messaging is the most dangerous driver distraction of all; and

WHEREAS, this Council finds that prohibiting text messaging and similar behaviors while driving is necessary for the health and safety of Flagstaff citizens;

**ENACTMENTS:**

**NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FLAGSTAFF AS FOLLOWS:**

SECTION 1. General.

Title 9, Traffic, Chapter 9-01, Traffic Code, is amended by adding the following section:

9-01-001-0013. USE OF WIRELESS COMMUNICATION DEVICES WHILE VEHICLE OR BICYCLE IS IN MOTION PROHIBITED; EXCEPTIONS.

- A. A person shall not operate a motor vehicle or a bicycle on a street, sidewalk or trail while using a handheld wireless communications device to compose manually, send or read a written message for the purpose of non-voice interpersonal communication, including but not limited to texting, emailing and instant messaging, while the motor vehicle or bicycle is in motion.
- B. This section does not apply to any of the following persons if the use of the handheld wireless communications device is made as part of their official duties:
  - 1. Law enforcement and public safety personnel.
  - 2. Drivers of authorized emergency vehicles.
- C. Enforcement and Penalties.
  - 1. Any peace officer may stop a motor vehicle or bicycle if the officer has reasonable cause to believe a violation of this Ordinance is occurring.
  - 2. A violation of this article is a civil traffic violation.
  - 3. A person found to be in violation of this Ordinance and not involved in a motor vehicle or bicycle crash is subject to a civil penalty of \$100 dollars plus any other penalty assessment authorized by law.

- 4. A person found to be in violation of this Ordinance and involved in a motor vehicle or bicycle crash is subject to a civil penalty of \$250 dollars plus any other penalty assessments authorized by law.
- 5. Violations of this Ordinance shall be administered pursuant to the procedures for civil traffic violations as set out in A.R.S. 28-1591 through 28-1601.

SECTION 2. Warning Period

For the purpose of informing and educating persons who operate motor vehicles and motor driven cycles and bicyclists, any law enforcement office may only issue verbal warnings to persons who would be violating this ordinance for a six month period after the ordinance is in effect.

SECTION 3. Severability

Should any sentence, paragraph, section, subsection, division, subdivision, clause or phrase of this ordinance be adjudged to be unconstitutional, illegal or invalid, the same shall not affect the validity of the document as a whole, or any part or provision thereof other than that part so decided to be unconstitutional, illegal or invalid, and shall not affect the validity of this ordinance, or the Flagstaff City Code, as amended, as a whole.

SECTION 4. Clerical Corrections

That the City Clerk is authorized to correct typographical and grammatical errors, as well as errors of wording and punctuation, as necessary; and that the City Clerk is authorized to make formatting changes needed for purposes of clarity and form, if required, to be consistent with Flagstaff City Code.

SECTION 5. This Ordinance is effective 30 days after adoption by the Flagstaff City Council.

PASSED AND ADOPTED by the City Council and approved by the Mayor of the City of Flagstaff this 15th day of July, 2014.

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MAYOR

ATTEST:

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CITY CLERK

APPROVED AS TO FORM:

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CITY ATTORNEY