

ORDINANCE NO. _____

AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE CITY OF SMYRNA, GA,
AMENDING SECTION _____ OF THE CITY CODE PROHIBITING THE USE OF
HANDHELD MOBILE TELEPHONES OR PORTABLE ELECTRONIC DEVICES WHILE
OPERATING A MOTOR VEHICLE.

BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF
SMYRNA:

PART 1. Section _____ of the City Code is amended to read:

§ _____ DISTRACTED DRIVING – PROHIBITING THE USE OF HANDHELD
MOBILE TELEPHONES OR PORTABLE ELECTRONIC DEVICES WHILE
OPERATING A MOTOR VEHICLE.

(A) In this section:

- (1) “Portable Electronic Device” includes, but is not limited to, MP3 or other hand-held music players, electronic reading devices, laptop computers, smart-watches, pagers, broadband personal communication devices, global positioning or navigation systems, electronic game devices, portable computing devices, or personal digital assistants.
- (2) “Hands-Free Use” means the use of a mobile telephone or portable electronic device without the use of either hand by employing an internal feature of, or an attachment to, the device.
- (3) “Use” means employing a handheld mobile telephone or portable electronic device for any reason including, without limitation, the following activities without employing hands-free features:
 - (a) dialing or deactivating a phone call;
 - (b) speaking in or listening to a conversation;
 - (c) viewing, taking, or transmitting electronic images;
 - (d) composing, sending, viewing, accessing, browsing, retrieving, or saving email messages, text messages, or other electronic data;
 - (e) entering or changing information in a global positioning or navigation system or any software or application designed for navigation;
 - (f) accessing or viewing an internet website or computer application or;

(g) playing a game.

(4) “Operating” means being in actual physical control of a motor vehicle on a Highway or street and includes being temporarily stopped because of traffic, a traffic light or stop sign or otherwise, but excludes operating a motor vehicle when the vehicle has pulled over to the side of the road or off an active roadway and has stopped at a location in which it can safely remain stationary.

(B) No person shall, except as otherwise provided in this Ordinance, use a mobile telephone or portable electronic device while operating a motor vehicle upon a street or highway, unless that device is specifically designed or configured to allow hands-free listening and talking and used in that manner while operating a motor vehicle.

(C) This section shall not apply to the following:

(1) The use of a mobile telephone or portable electronic device for the sole purpose of communicating with any of the following regarding an immediate emergency situation:

- (a) An emergency response operator;
- (b) An ambulance company;
- (c) Fire district and rescue service personnel
- (d) Law enforcement personnel;
- (e) A hospital; or
- (f) A physician’s office or health clinic

(2) The activation or deactivation of hands-free use, as long as the mobile telephone or portable electronic device is securely configured and attached to the vehicle or integrated into the vehicle.

(3) First responder exception. This section does not apply to an emergency service professional using a mobile telephone or portable electronic device while operating an emergency vehicle in the course and scope of his or her duties.

(D) An offense under this section shall be subject to Section 1-8 “General Penalty” provision of the City Code of Smyrna, however a person who violates this section will be fined no less than \$ _____ for the first offense. For the second, and any subsequent conviction, within a five-year period of time, as measured from the date of the previous conviction, to the date of the current arrest for which a conviction is obtained, a fine of not less than \$ _____ will apply.