

ORDINANCES OF THE CITY OF HELENA, MONTANA

ORDINANCE NO. 3146

AN ORDINANCE PROHIBITING DRIVING WHILE DISTRACTED

NOW, THEREFORE, BE IT ORDAINED BY THE COMMISSION OF THE CITY OF HELENA, MONTANA:

That Title 8, Traffic Regulations, of the Helena City Code is hereby amended by adding this following new Chapter 2:

CHAPTER 2

DISTRACTED DRIVING

SECTION:

- 8-2-1: Definitions
- 8-2-2: Prohibited Activities
- 8-2-3: Violation, Penalty

8-2-1: DEFINITIONS: For the purpose of this chapter, the following terms, phrases, words, and their derivations shall have the meanings given herein:

BICYCLE: Mechanical transportation device propelled solely by human power, having two tandem wheels, and a seat height of more than 25 inches from the ground; or a mechanical transportation device equipped with two or three wheels, foot pedals to permit muscular propulsions, and an independent power source that provides a maximum of 2 brake horsepower, with a piston or rotor displacement of not more than 3.05 cubic inches, 50 centimeters.

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ELECTRIC PERSONAL
ASSISTIVE MOBILITY DEVICE:

Mechanical transportation device having 2 non-tandem wheels, being self-balancing, and designed to transport only one person with an electric propulsion system that limits the maximum speed to 12 ½ mph.

ENGAGE IN A CALL:

Talking into or listening on a hand-held mobile telephone, but not including holding a hand-held mobile telephone to activate, deactivate, or initiate a function of the telephone.

HAND-HELD MOBILE TELEPHONE:

A mobile telephone with which a user engages in a call using at least one hand.

HANDS-FREE ACCESSORY:

An attachment, add-on, built-in feature, or addition to a mobile telephone, whether or not permanently installed in a motor vehicle, that when used allows the vehicle operator to maintain both hands on the steering wheel.

HANDS-FREE MOBILE TELEPHONE:

A hand-held mobile telephone that has an internal feature or function or that is equipped with a hands-free accessory, whether or not permanently part of the hand-held mobile telephone, by which a user engages in a call without the use of either hand, whether or not the use of either hand is necessary to activate, deactivate, or initiate a function of the telephone.

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IMMEDIATE PROXIMITY:

The distance that permits the operator of a hand-held mobile telephone to hear telecommunications transmitted over a hand-held mobile telephone, but does not require physical contact with the operator's ear.

MOBILE ELECTRONIC DEVICE:

Any hand-held or other portable electronic equipment capable of providing data communication between two or more persons, including a text-messaging device, a mobile telephone when used for text-messaging, a paging device, a personal digital assistant, or a laptop computer; equipment that is capable of playing a video game or a digital video disk; equipment on which digital photographs are taken or transmitted; or any combination of those functions.

The term does not include two-way radios, audio equipment, or any equipment installed in a motor vehicle for the purpose of providing navigation, emergency assistance to the operator of the motor vehicle, or video entertainment to the passengers in the rear seats of the motor vehicle.

MOBILE TELEPHONE:

A cellular, analog, wireless, or digital telephone capable of sending or receiving telephone communications without an access line for service.

MOTORIZED NONSTANDARD VEHICLE:

Mechanical transportation device propelled by its own power, using an internal combustion engine or an electric motor and having a wheelbase of less than 40 inches

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and a wheel diameter of less than 10 inches. This includes any motorized skateboard and pocket rocket.

MOTOR VEHICLE:

Mechanical transportation device propelled by its own power and designed or used to transport persons or property upon streets, alleys, and other public rights-of-way, except those moved by animal power or used exclusively upon stationary rails or tracks. This includes any car, truck, motor home, motorcycle, quadricycle, and medium-speed electric vehicle having a maximum speed of 45 mph, propelled by an electric motor or other device that transforms electrical energy into motion, stores electricity in batteries, ultracapacitors, or other devices charged from a power grid or renewable electrical energy source, fully enclosed with at least one door for entry, and having a wheelbase of 40 inches or greater and a wheel diameter of 10 inches or greater.

OPERATING:

Being in actual physical control of a vehicle, whether or not the vehicle is moving, while in a driving lane on any public street or highway right-of-way, riding a bicycle on a sidewalk, or being in actual physical control of a moving vehicle on an alley right-of-way.

USING OR USE:

Holding a hand-held mobile telephone or a mobile telephone in the user's hand, or holding said devices or telephones to the user's ear or in immediate

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proximity to the user's ear or face, or activating or physically manipulating or controlling a mobile electronic device.

VEHICLE: Any motorized vehicle, motorized nonstandard vehicle, electric personal assistive mobility device, or bicycle.

8-2-2: PROHIBITED ACTIVITIES:

A. Except as otherwise provided in this section, a person may not operate a vehicle while using a hand-held mobile telephone to engage in a call or while using a mobile electronic device.

B. Subsection (A) does not apply to:

1. the use of a hand-held mobile telephone for the sole purpose of communicating with any of the following regarding an emergency situation:

- a. an emergency response operator;
- b. a hospital, physician's office, or health clinic;
- c. an ambulance company or service;
- d. a fire department; or
- e. a police department.

2. any of the following persons while in the performance of their official duties and within the scope of their employment:

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- a. a public safety officer as defined in Section 44-4-401, MCA; and
 - b. a firefighter or operator of an ambulance or other authorized emergency vehicle as defined in Section 61-8-102, MCA.
3. the use of a hands-free accessory or hands-free mobile telephone.

8-2-3: **VIOLATION, PENALTY:** Any person convicted of a violation under this chapter shall be fined not to exceed \$100. A conviction under this chapter is not to be reported as a traffic regulation violation for purposes of points under Section 61-11-203, MCA.

FIRST PASSED BY THE COMMISSION OF THE CITY OF HELENA, MONTANA, THIS 26th DAY OF SEPTEMBER, 2011.

ATTEST: /S/ James E. Smith
MAYOR

/S/ Debbie Havens
CLERK OF THE COMMISSION

FINALLY PASSED BY THE COMMISSION OF THE CITY OF HELENA, MONTANA, THIS 7th DAY OF NOVEMBER, 2011.

ATTEST: /S/ James E. Smith
MAYOR

/S/ Debbie Havens
CLERK OF THE COMMISSION