

ORDINANCE NO. 10-5521

AN ORDINANCE OF THE CITY OF BILLINGS, PROVIDING THAT THE BILLINGS, MONTANA CITY CODE BE AMENDED BY ADDING A NEW DIVISION TO ARTICLE 24-300 OPERATION OF VEHICLES, TITLED "DIVISION 5. USE OF ELECTRONIC COMMUNICATIONS DEVICES WHILE OPERATING A MOTOR VEHICLE", AND ADDING NEW SECTIONS TO BE NUMBERED 24-360, 24-361.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BILLINGS, MONTANA:

Section 1. That the Billings, Montana City Code be amended by adding a new division to Article 24-300 OPERATION OF VEHICLES, titled "DIVISION 5. USE OF ELECTRONIC COMMUNICATIONS DEVICES WHILE OPERATING A MOTOR VEHICLE", and by adding new sections to be numbered 24-360 and 24-361.

Article 24-300 OPERATION OF VEHICLES

DIVISION 5. USE OF ELECTRONIC COMMUNICATIONS DEVICES WHILE OPERATING A MOTOR VEHICLE

Sec. 24-360. Electronic Communications Device Usage While Driving Prohibited

(a) No person shall use or have in their immediate physical possession a hand held electronic communications device while operating a motor vehicle, motorcycle, quadricycle, or a bicycle on a public highway within the city limits of Billings.

(b) "Hand held electronic communications device" includes wireless or cellular phones, PDAs, Blackberries, smart phones, laptop and notebook computers utilizing VOIP (voice over internet protocol) technology, wireless and cellular phones utilizing push-to-talk technology, GPS systems, navigational systems, and any other mobile communication device that uses short-wave analog or digital radio transmissions between the device and a transmitter to permit wireless communications to and from the user of the device.

(c) "Immediate physical possession" means touching the hand held electronic communications device, or physically holding the device in one's hand or up to one's ear. Simply having the electronic communications device on one's person or in a motor vehicle does not constitute immediate physical possession.

(d) Exceptions.

(1) This provision shall not apply to any person reporting a health, fire, safety, or police emergency.

(2) This provision shall not apply to governmental fire agencies, ambulance services, law enforcement agencies, emergency responders, or any other "Authorized Emergency Vehicle" as defined in Montana Code Annotated Sec. 61-8-102(2)(a).

(3) This provision shall not apply to passengers in a motor vehicle, or persons using a hand held electronic communications device while maintaining a motor vehicle in a stationary position, not in gear, while in a parking lane or space out of moving traffic lanes.

(4) This provision shall not apply to persons using a "hands free device". A "hands free device" is an external device that connects to a wireless telephone, wireless communications device or electronic communications device that allows use of the device without touching the telephone or wireless or electronic communications device with one's hands, and includes voice-activated technologies that can be utilized without touching the device. Use of a hands free device is permitted while operating a motor vehicle provided the driver does not touch the wireless telephone or wireless or electronic communications device with one's hands while operating a motor vehicle.

(5) This provision shall not apply to drivers using two way radios while in the performance and scope of their work-related duties.

(6) This provision shall not apply to drivers holding a valid amateur radio operator license issued by the Federal Communications Commission while using a two way radio.

Sec. 24-361. Penalty.

Persons found to have committed a violation of this division shall be subject to civil penalties as specified in Section 18-1304.

Section 2. EFFECTIVE DATE. This ordinance shall be effective October 31, 2010.

Section 3. REPEALER. All resolutions, ordinances, and sections of the City Code inconsistent herewith are hereby repealed.

Section 4. SEVERABILITY. If any provision of this ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect the other provisions of this ordinance which may be given effect without the invalid provisions or application, and, to this end, the provisions of this ordinance are declared to be severable.

PASSED by the City Council on first reading this 26th day of July, 2010.

PASSED, ADOPTED and APPROVED on second reading this 23rd day of August, 2010.

CITY OF BILLINGS



By Thomas W. Hanel
Thomas W. Hanel, Mayor

ATTEST:

By Cari Martin
Cari Martin, City Clerk