



Item: Ordinance 3090 Amending Title 10, Chapter 39 of the Official Code of the City of Great Falls by adding section 110 titled "Use of Electronic Communication Devices While Operating A Motor Vehicle."

Initiated By: City Commission

Presented By: James W. Santoro, City Attorney

Action Requested: That the City Commission accept Ordinance 3090 on first reading and set public hearing for July 3, 2012.

Suggested Motion:

1. Commissioner moves:

"I move that the City Commission (accept/deny) Ordinance 3090 on first reading and set a public hearing for July 3, 2012."

2. Mayor calls for a second, discussion, inquiries from the public, and calls the vote.

Background: On May 15, 2012, a work session was held at the Civic Center to discuss issues relating to cell phones and distracted driving.

City Attorney Santoro presented a PowerPoint that highlighted the following major issues:

1. Options that are available: (i) do nothing and rely on current laws, (ii) limit the use to hands-free capabilities or (iii) absolute prohibition;
2. Review of other larger and smaller communities in Montana as well as other states cell phone ordinances and laws; and
3. Penalty options.

The current regulations regarding miscellaneous driving rules set forth in Title 10, Chapter 39 of the Official Code of the City of Great Falls were discussed. A new section (10.39.110) could be added and could be titled "Use of Electronic Communication Device While Operating A Motor Vehicle."

At the conclusion of the May 15th work session presentation, the City Commission directed the City Attorney to proceed with drafting an Ordinance for the purpose of regulating the use of hand-held electronic devices by persons operating a motorized vehicle or bicycle within the city limits of Great Falls.

Concurrences: City Attorney's Office, Great Falls Police Department and Great Falls Fire Department.

Fiscal Impact: If adopted as proposed, a person who found to have committed a violation of Ordinance 3090 will be fined a minimum penalty of one-hundred (\$100) dollars up to a maximum penalty of five hundred (\$500) dollars.

Alternatives: The City Commission could amend or deny Ordinance 3090.

Attachments/Exhibits: Ordinance 3090 and Exhibit A.

ORDINANCE 3090

AN ORDINANCE OF THE CITY OF GREAT FALLS AMENDING TITLE 10, CHAPTER 39 OF THE OFFICIAL CODE OF THE CITY OF GREAT FALLS BY ADDING SECTION 110 TITLED "USE OF ELECTRONIC COMMUNICATION DEVICES WHILE OPERATING A MOTOR VEHICLE"

WHEREAS, the use of mobile telephones and other electronic communication devices while operating a motor vehicle presents an unacceptable risk to the driving public by creating a driving distraction; and

WHEREAS, the regulations regarding miscellaneous driving rules are found in Title 10, Chapter 39 of the Official Code of the City of Great Falls.

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

Section 1. That Title 10, Chapter 39 of the Official Code of the City of Great Falls be amended by adding Section 110 titled "USE OF ELECTRONIC COMMUNICATIONS DEVICES WHILE OPERATING A MOTOR VEHICLE." The full text and provisions of which are set forth in Exhibit A, attached hereto and, by this reference, made a part hereof.

Section 2. EFFECTIVE DATE. This ordinance shall be effective 30 days after second reading and final adoption.

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.

APPROVED by the City Commission of the City of Great Falls, Montana, on first reading June 19, 2012.

PASSED, APPROVED AND ADOPTED by the City Commission of the City of Great Falls, Montana, on second reading July 3, 2012.

Michael J. Winters, Mayor

ATTEST:

Lisa Kunz, City Clerk

(Seal of the City)

APPROVED FOR LEGAL CONTENT:

James W. Santoro, City Attorney

State of Montana)
County of Cascade : ss
City of Great Falls)

I, Lisa Kunz, City Clerk of the City of Great Falls, Montana, do hereby certify that I did post, as required by law and as prescribed and directed by the City Commission, Ordinance 3090 in three places within the limits of said City to-wit:

On the Bulletin Board, first floor, Civic Center Building;
On the Bulletin Board, first floor, Cascade County Court House;
On the Bulletin Board, Great Falls Public Library

(Seal of the City)

Lisa Kunz, City Clerk

Exhibit “A”

**Chapter 39
MISCELLANEOUS DRIVING RULES**

Sections:

- 10.39.055 Loud noises - prohibited
- 10.39.060 Processions--parades--permits required when
- 10.39.070 Driving on sidewalk prohibited--exception
- 10.39.080 Boarding or alighting from moving vehicles prohibited
- 10.39.090 Passenger regulations
- 10.39.100 Violation--misdemeanor—penalty
- 10.39.110 Use of Electronic Communication Devices While Operating a Motor Vehicle**

10.39.055 Loud noises—prohibited

Refer to OCCGF 8.56.030(C). (Ord. 2790, 2000; Ord. 2640 § (part), 1994).

10.39.060 Processions--parades--permits required when

No funeral procession or parade containing two hundred or more persons or fifty or more vehicles or any marching band and drum and bugle corps, except the forces of the United States Army or Navy, the military forces of this State, or the forces of the Police and Fire Departments shall occupy, march or proceed along any street unless application is made and approved by the City administration and a permit issued by the Park & Recreation Department. Such application must meet the requirements of the City Parade policy and such other regulations as are set forth in this chapter which may apply. (Ord. 2245, 1981; Prior code §10-2-9(F)).

10.39.070 Driving on sidewalk prohibited—exception

The driver of a vehicle shall not drive upon any sidewalk area except at a permanent driveway. (Prior code §10-2-9(G)).

10.39.080 Boarding or alighting from moving vehicles prohibited

It is unlawful for any person to board or alight from any vehicle while such vehicle is in motion. (Ord. 2646 § (part), 1994; Prior code §10-2-9(L)).

10.39.090 Passenger regulations

It is unlawful for any person to ride on any vehicle or portion thereof not designed or intended for the use of passengers. This provision shall not apply to an employee engaged in the necessary discharge of a duty or to persons riding within truck bodies in the space intended for merchandise. (Ord. 2646 § (part), 1994; Prior code §10-2-9(M)).

10.39.100 Violation--misdemeanor—penalty

Every person convicted of a misdemeanor for the violation of any provisions of this chapter shall be punished by a fine of not more than five hundred dollars or by imprisonment for not more than six months or by both such fine and imprisonment. (Ord. 2646 § (part), 1994; Prior code §10-2-9(Z)).

10.39.110 Use of Electronic Communication Devices While Operating a Motor Vehicle

1. Electronic Communication Device Usage While Driving Prohibited

(a) No person operating a motorized vehicle or a bicycle on a public highway within the city limits of Great Falls shall use a mobile telephone to engage a call, or use any other hand held electronic communication device to compose, send, view or retrieve email, a text message, or other electronic data.

(b) “Hand held electronic communication device” includes wireless or cellular phones, laptop and notebook computers, GPS and navigational systems, pagers, electronic games and any other device that would permit wireless communications to and from the user of the device.

(c) 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 operators or passengers of a motorized vehicle using a hand held electronic communication device 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 or electronic communication device that allows use of the hands free device.

(5) This provision shall not apply to drivers using two way radios while in the performance and scope of their work-related duties, or to drivers holding a valid amateur radio operator license issued by the Federal Communications Commission while using a two way radio.

2. Violation; Penalty: A person who is found to have committed a violation of Section 10.39.110 shall be fined a minimum penalty of one hundred (\$100) dollars up to a maximum penalty of five hundred (\$500) dollars.