

Recommended by: Councilor Jonathan F. Austin, Chair, and Public Safety Committee

**Submitted by: Councilor Kimberly Rafferty, Chair
Transportation and Communication Committee**

ORDINANCE NO. 10-100

AN ORDINANCE TO AMEND THE GENERAL CITY CODE OF THE CITY OF BIRMINGHAM, 1980, TITLE 10, "MOTOR VEHICLES AND TRAFFIC", CHAPTER 8, "MISCELLANEOUS DRIVING RULES", TO PROHIBIT THE USE OF WIRELESS HANDSETS TO COMPOSE, READ, OR SEND TEXT MESSAGES WHILE OPERATING A MOTOR VEHICLE.

WHEREAS, numerous studies have found that texting while driving leads to driver distraction, increasing the risk of being involved in serious motor vehicle accidents; and,

WHEREAS, driver use of handheld devices to send electronic messages is on the increase; and,

WHEREAS, the Council of the City of Birmingham finds that the increased risk to drivers and other motorists and passengers on roadways within the City is of great concern; and,

WHEREAS, the Council accordingly finds that it is in the best interest of the health, safety and welfare of the citizens of the City of Birmingham and other persons travelling on roadways within the City to ban the use of use of wireless handsets to compose, read, or send text messages while operating a motor vehicle.

SECTION 1.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Birmingham that the General City Code of the City of Birmingham, 1980, Title 10, "Motor Vehicles and Traffic", Chapter 8, "Miscellaneous Driving Rules" is hereby amended to prohibit the use of wireless handsets to compose, read, or send text messages while operating a motor vehicle to add a new section as follows:

“(a) Definitions.

“(1) ‘Wireless handset’ shall mean a portable electronic or computing device, including but not limited to, cellular telephones, laptop computers, and personal digital assistants (PDA’s), or other similar device capable of transmitting data in the form of a text message.

“(2) ‘text message’, also referred to as short messaging service (SMS), shall mean the process by which users send, read, or receive messages on a wireless handset, including but not limited to, text messages, instant messages, electronic messages, or e-mails, in order to communicate with any person or device.

“(b) Text Messaging While Driving Prohibited. It shall be unlawful for individuals to use wireless handsets to compose, read, or send text messages while operating a vehicle in the city of Birmingham.

“(c) Applicability.

“(1) This ordinance shall apply to all individuals operating motor vehicles within the city limits of Birmingham, AL.

“(2) Notwithstanding subsection (1), this law shall not be construed to prohibit the use of any wireless handset by:

“(A) Any law enforcement, public safety, or police officers; emergency service officials, first aid, emergency medical technicians, and personnel; and fire safety officials in the performance of duties arising out of and in the course of their employment as such;

“(B) A person using a wireless handset inside a motor vehicle while such motor vehicle is parked, standing, or stopped, and is removed from the flow of traffic, in accordance with applicable laws, rules, or ordinances, or is stopped due to the inoperability of such motor vehicle.

“(d) Penalties. A violation of any provisions of this ordinance shall carry a fine not exceeding one hundred (\$100.00) dollars, plus court costs, for each single violation. Each such violation shall constitute a separate and distinct offense.”

SECTION 2. Effective Date of Ordinance. This ordinance shall become effective immediately upon its publication in accordance with city and state law.

SECTION 3. Severability The provisions of this ordinance are severable only by a court of competent jurisdiction. If any provision, section, paragraphs, sentence, or part thereof, or the application thereof to any person, shall be declared unconstitutional or invalid by a court of competent jurisdiction, such declaration shall not affect or impair the remainder of the ordinance, it being the legislative intent to ordain and enact each provision, section, paragraph, sentence, and part thereof, separately and independently of each other.

SECTION 4. Repeal of Inconsistent Ordinance or Resolution. To the extent that any ordinance or resolution is in conflict with this ordinance, it is hereby repealed to the extent of such conflict.

Adopted by the Council of the City of Birmingham July 13, 2010 and Approved by the Mayor July 15, 2010

Paula R. Smith
City Clerk 