# Huntsville, Alabama

Cover Memo

308 Fountain Circle
Huntsville, AL 35801

**Meeting Type:** City Council Regular Meeting **Meeting Date:** 8/24/2023 **File ID:** TMP-3239

**Department:** City Council

**Subject:** **Type of Action:** Introduction

Introduction of an Ordinance amending Chapter 25 - Traffic and Vehicles, Section 25-180 - Restricted use of Wireless Communication Devices While Driving of Article IV General Rules of Vehicle Operation, of the Code of Ordinances of the City of Huntsville, Alabama.

Ordinance No.

**Finance Information:**

**Account Number:** NA

**City Cost Amount:** NA

**Total Cost:** NA

**Special Circumstances:**

**Grant Funded:** NA

**Grant Title - CFDA or granting Agency:** NA

**Resolution #:** NA

**Location: (list below)**

**Address:**

**District:** District 1 ☐ District 2 ☐ District 3 ☐ District 4 ☐ District 5 ☐

**Additional Comments:**

**SUBSTITUTE "A"**

**ORDINANCE NO. 23-694**

**WHEREAS,** the City of Huntsville has a continued interest in protecting the safety and welfare of citizens; and

**WHEREAS**, the number of motor vehicle crashes caused by distracted driving are increasing; and

**WHEREAS**, existing law prohibits a person from operating a motor vehicle while using a wireless communication device to send, receive, download or view any electronic or digital content including music, video, picture, or other communication including but not limited to electronic mail, instant messaging or text messaging, but makes an exception for a person using a mobile or wireless communication device to make or receive a telephone call; and

**WHEREAS**, the City Council believes that prohibiting the use of hand-held mobile or wireless communication device while operating a motor vehicle, with certain exceptions, would further protect the public health, safety and welfare of the public.

**NOW, THEREFORE, BE IT ORDAINED** by the City Council of the City of Huntsville, Alabama, that Ordinance 10-464, as adopted and approved on July 22, 2010, and Division 3 *Restricted Use of Wireless Communication Devices While Driving* of Article IV *General Rules of Vehicle Operation* of Chapter 25 *Traffic and Vehicles* of the Code of Ordinances, City of Huntsville, Alabama, are hereby amended as follows:

**Section 1**. Sec. 25-180 is amended to read as follows:

**Sec. 25-180. Definitions.**

The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning. Except as may be otherwise provided in this division, all words and phrases used in this division which are defined in Ala. Code § 32-1-1.1 (1975) shall have the meanings ascribed to them in that section.

*Text-Based Communication* shall include, but is not limited to, a text message, instant message, e-mail, or Internet data communicated through a wireless telecommunications device.

*Utility Services* shall include electric, natural gas, water, wastewater, cable, telephone, or telecommunications services or the repair, location, relocation, improvement, or maintenance of utility poles, transmission structures, pipes, wires, fibers, cables, easements, rights-of-way, or associated infrastructures.

*Wireless telecommunications device* shall include a cellular, analog, wireless or digital device, computer or telephone, capable of accessing the internet or sending, receiving or downloading any electronic or digital data or other wireless communication with another person,

including, but not limited to, videos, pictures, text-based communications, or phone calls. Covered devices include, but are not limited to, devices commonly known as smartphones, cell phones, electronic readers, electronic tablets, laptops, netbooks, GPS devices and other similarly equipped wireless devices. Covered devices shall not include voice radios, mobile radios, land mobile radios, commercial mobile radios, two-way radios or their functional equivalent with the capability to transmit and receive voice transmission utilizing a "push to talk" or "press to transmit" function, subscription-based emergency communication devices, prescribed medical devices, amateur or ham radio devices, or in-vehicle security, navigation, or remote diagnostic systems.

**Section 2.** Section 25-181 is amended to read as follows:

**Sec. 25-181. - Restricted use of wireless communication devices while driving.**

No person shall operate or drive a vehicle upon any highway, public roadway or street while doing any of the following:

(1) Using a wireless telecommunications device to write, send, read, or otherwise engage in a text-based communication;

(2) Watching, recording, or capturing a photograph or video;

(3) Using a handheld wireless telecommunications device to engage in a voice-based communication; and/or

(4) Physically holding or otherwise supporting with any part of his or her body a wireless telecommunications device.

**Section 3.** Section 25-182 is amended to read as follows:

**Sec. 25-182. - Exceptions.**

The following uses of a wireless telecommunications device are not subject to the restrictions of Section 25-181:

(1) An emergency services professional, including a law enforcement officer, emergency medical services personnel, ambulance operator, firefighter, volunteer firefighter, or other similarly employed public safety-first responder, using a wireless telecommunications device during the performance of his or her official duties. Personal use of a wireless communication device shall remain subject to the provisions contained in section 25-181.

(2) An individual using an earpiece, a headphone device, steering wheel controls, speaker phone or any voice-activated technology, or other device worn on the person or mounted onto the dashboard, center console, windshield, or other part of the vehicle to conduct substantially hands-free voice-based wireless communications.

(3) An individual using a wireless telecommunication device to obtain emergency services including, but not limited to, an emergency call to a law enforcement agency, health care provider, fire department, or other emergency services agency or entity.

(4) An individual using a wireless telecommunication device while the motor vehicle is parked on the shoulder of the highway, roadway or street, or the vehicle is stopped due to normal traffic being obstructed.

(5) An individual using a wireless telecommunication device as a global positioning or navigation system to receive driving directions which has been pre-programmed with the desired coordinates. A person programming coordinates while operating a vehicle remains a violation of section 25-181.

(6) An individual using a continuous recording device that operates within or outside the vehicle, including, but not limited to, a dash camera or backup camera.

(7) An individual using a wireless telecommunications device by an employee or contractor of a utility services provider within the scope of his or her employment while responding to a utility emergency or performing other critical utility services.

(8) An individual using an ignition interlock device, as defined in Ala. Code § 32-5A-191.4.

(9) An individual using a wireless telecommunications device who is a passenger in a vehicle, and not the driver or operator of the vehicle.

(10) An individual 18 years of age or older, using a wireless telecommunications device in a manner that requires the physical use of the individual's hand while operating or driving a motor vehicle if both of the following occur:

a. The device is mounted to the vehicle, including the windshield, dashboard, or center console of the vehicle, and the device does not create an unsafe obstruction of the person's view of the road.

b. The individual's hand is used to activate or deactivate a feature or function of the device with the motion of one swipe or tap of the individual's finger, and the swipe or tap does not activate the camera, video, or gaming features or functions for viewing, recording, amusement, or other non-navigational functions, other than functions or features related to the transportation of persons or property for compensation or payment of a fee.

(11) A licensed physician using a wireless telecommunications device while responding to an emergency medical situation.

**Section 4.** Section 25-183 is amended to read as follows:

**Sec. 25-183. - Violations.**

(a) A law enforcement officer enforcing this section may treat a violation as the primary or sole reason for issuing a citation to the operator of a motor vehicle.

(b) A law enforcement officer enforcing this section may not search a motor vehicle or the operator or passenger of the motor vehicle solely because of a violation of this section.

(c) A law enforcement officer may not use a violation of this section to establish probable cause for any other violation.

**Section 5**. Section 25-184 is amended to read as follows:

**Sec. 25-184. - Penalty.**

Any person who violates any provision of this division shall upon conviction be punished, in addition to such other punishment as may be provided by the court, by fines and penalties as follows:

(1) For a first conviction, within a 24-month period of time, by a fine of $50.00.

(2) For a second conviction, within a 24-month period of time, by a fine of $100.00.

(3) For a third or subsequent conviction, within a 24-month period of time, by a fine of $150.00, imprisonment for not more than 10 days, a term of community service or by a combination of such fine, imprisonment and/or community service.

**Section 6**. The severability of the provisions of section 1-8 of the Code of Ordinances, City of Huntsville, Alabama shall apply to this ordinance.

**Section 7**. After its adoption and approval, this ordinance shall become effective on January 1, 2024.

Adopted this the ____ day of _____, 2023.

_____
President of the City Council of the
City of Huntsville, Alabama

Approved this the ___ day of _____, 2023.

_____
Mayor of the City of Huntsville, Alabama

INTRODUCED 8/24/2023
POSTPONED 9/14/2023
POSTPONED 9/28/23

# ORDINANCE NO. 23-694

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(3) An individual using a wireless telecommunication device to obtain emergency services including, but not limited to, an emergency call to a law enforcement agency, health care provider, fire department, or other emergency services agency or entity.

(4) An individual using a wireless telecommunication device while the motor vehicle is parked on the shoulder of the highway, roadway or street, or the vehicle is stopped due to normal traffic being obstructed and the vehicle transmission is in neutral or park.

(5) An individual using a wireless telecommunication device as a global positioning or navigation system to receive driving directions which has been pre-programmed with the desired coordinates. A person programming coordinates while operating a vehicle remains a violation of section 25-181.

(6) An individual using a continuous recording device that operates within or outside the vehicle, including, but not limited to, a dash camera or backup camera.

(7) An individual using a wireless telecommunications device by an employee or contractor of a utility services provider within the scope of his or her employment while responding to a utility emergency or performing other critical utility services.

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Any person who violates any provision of this division shall upon conviction be punished, in addition to such other punishment as may be provided by the court, by fines and penalties as follows:

(1) For a first conviction, within a 24-month period of time, by a fine of $100.00 or by imprisonment of not more than ten days.

(2) For a second conviction, within a 24-month period of time, by a fine of $200.00 or by imprisonment for not more than 30 days.

(3) For a third or subsequent conviction, within a 24-month period of time, by a fine of $300.00 or by imprisonment for not more than three months or by both such fine and imprisonment.

**Section 6**. The severability of the provisions of section 1-8 of the Code of Ordinances, City of Huntsville, Alabama shall apply to this ordinance.

**Section 7**. After its adoption and approval, this ordinance shall become effective on January 1, 2024.

**ORDINANCE NO. 23-694 (Cont.)**

**ADOPTED** this the ___ day of _____, 2023.

_____
President of the City Council of
the City of Huntsville, Alabama

**APPROVED** this the ___ day of _____, 2023.

_____
Mayor of the City of Huntsville,
Alabama