

ORDINANCE NO. \_\_\_\_\_

LIMITING THE USE OF WIRELESS TELECOMMUNICATION DEVICES WHILE OPERATING A MOTOR VEHICLE WITHIN THE CITY OF MARIETTA, GEORGIA.

WHEREAS, the City of Marietta, Georgia (“the City”) desires to promote the health, safety, and general welfare of the public by preventing motor vehicle-related fatalities, injuries, and property damage within the City limits; and

WHEREAS, in 2010, the Georgia General Assembly enacted laws prohibiting the use of wireless telecommunication devices to write, send, and read text based communications while operating a motor vehicle; and

WHEREAS, these laws do not fully regulate drivers’ use of wireless telecommunication devices to engage in other potentially distracting activities such as making voice calls, using the internet and other application software, and using global positioning or navigation systems; and

WHEREAS, despite the enactment of these laws, studies have shown that the number of serious traffic accidents and accident-related fatalities in Georgia have increased significantly; and

WHEREAS, studies show that the majority of roadway fatalities in Georgia involve a driver’s failure to maintain lane, which indicates a prevalence of distracted driving; and

WHEREAS, the Mayor and City Council find that the use of wireless telecommunication devices while operating a motor vehicle encourages distracted driving, and has contributed to the increase in traffic accidents and fatalities on Georgia’s roadways in recent years; and

WHEREAS, the Mayor and City Council believe that strictly limiting all use of wireless telecommunication devices while operating a motor vehicle in accordance with this ordinance will protect the public health, safety, and welfare of the citizens and visitors of the City of Marietta; and

WHEREAS, the City of Marietta has the authority pursuant to OCGA § 40-6-371(a)(19) to adopt and enforce temporary or experimental regulations as may be necessary to address emergencies or special conditions; and

WHEREAS, the Mayor and City Council find that rapidly evolving technological advancements in wireless telecommunication coupled with the increased occurrence of distracted driving creates a special condition and public emergency warranting the implementation of an experimental regulation such as this ordinance to protect the public health, safety, and welfare of the citizens and visitors of the City of Marietta; and

WHEREAS, the Mayor and City Council determine that this ordinance shall be a temporary and experimental regulation, lasting no longer than two (2) years in duration, for the purpose of addressing a special condition and public emergency; and

WHEREAS, this ordinance does not conflict with the Georgia Uniform Rules of the Road regarding the use of wireless telecommunication devices while operating a motor vehicle.

NOW, THEREFORE, BE IT ORDAINED by the Mayor and City Council of the City of Marietta as follows:

§ \_\_\_\_\_ USE OF WIRELESS TELECOMMUNICATION DEVICES WHILE OPERATING A MOTOR VEHICLE

(A) As used in this Code section:

- (1) 'Wireless telecommunication device' shall mean a cellular telephone, a text-messaging device, a personal digital assistant, a laptop computer, a global positioning system receiver, or any other substantially similar wireless device that is used to initiate or receive communication or information.
- (2) 'Hands-free accessory' shall mean an attachment or feature on a wireless telecommunication device that allows the user to employ the device without holding it in the user's hand or between the user's head and shoulder. This definition shall include, but is not limited to:
  - (1) Single ear blue-tooth ear pieces or other similar devices that are worn on the head or in one ear;
  - (2) Personal assistant software or other computer applications that perform functions in response to verbal commands;
  - (3) Any other device or feature that recites text based content aloud to the user without requiring the user to hold the device.
- (3) 'Use' of a wireless telecommunication device shall mean the following:
  - (a) Initiating, engaging in, and terminating voice calls;
  - (b) Engaging in text based communication;
  - (c) Utilizing a global positioning or navigation system;
  - (d) Utilizing computer or mobile application software; or
  - (e) Accessing internet content.
- (4) 'Operating a motor vehicle' shall mean driving a vehicle, including all times the vehicle is temporarily stopped in traffic or stopped at a traffic light, stop sign, or other traffic sign. This definition shall exclude all times a vehicle is lawfully parked, or has been pulled over to the side of the road and stopped at a location where it can safely remain stationary.

- (B) No individual shall operate a motor vehicle on any roadway within the City of Marietta while using a wireless telecommunication device without employing a hands-free accessory to do so.
  - (1) This Code section shall not prohibit individuals from employing a single touch or swipe of a finger on a wireless telecommunication device to initiate hands-free use of the device.
  - (2) This Code section shall not permit any individual to engage in conduct that is prohibited by the Georgia Uniform Rules of the Road regarding the use of wireless telecommunication devices while operating a motor vehicle.
- (C) No individual shall operate a motor vehicle on any roadway within the City of Marietta while employing a wireless telecommunication device to watch motion, view still images, or view or read text based content upon the screen of a wireless telecommunication device, other than that related to the functioning or navigation of the vehicle.
- (D) This Code section shall not apply when the prohibited conduct was engaged in:
  - (1) For the purpose of reporting a traffic accident, medical emergency, fire, criminal act or potential criminal act, or serious road hazard;
  - (2) By a public utility employee or contractor acting within the scope of his or her employment while responding to a public utility emergency;
  - (3) By a law enforcement officer, firefighter, emergency medical services employee, ambulance driver, or other similarly employed first responder during the performance of his or her official duties; or
  - (4) While in a motor vehicle that is lawfully parked or pulled over to the side of the road and stopped at a location where it can safely remain stationary.
- (E) An offense under this Code section shall be subject to the provisions of the General Penalty, under Code section 10-4-160, except that fines are not to exceed \$150.00 per violation. Each violation of this Code section shall constitute a separate offense. The court imposing such a fine shall forward a record of the disposition to Department of Driver Services.