

AN ORDINANCE OF THE CITY OF ROBERTS, IDAHO, TO DEFINE AND PROHIBIT THE USE OF A MOBILE ELECTRONIC DEVICE WHILE DRIVING; ESTABLISH PENALTIES; ALLOW POLICE TO STOP VEHICLES FOR VIOLATIONS; PROVIDING SEVERABILITY, PUBLICATION BY SUMMARY, ESTABLISHING EFFECTIVE DATE AND DATE FOR REVIEW AND ASSESSMENT.

**ORDINANCE # 553**

WHEREAS, driving is a high risk and dangerous activity when drivers are distracted and not paying proper attention to surrounding conditions as they drive; and

WHEREAS, the purpose of this Ordinance is to encourage and promote safe driving habits, regulate the safe use of mobile electronic devices in motor vehicles, and to reduce vehicle accidents, injury to people, and damage to property; and

WHEREAS, distractions that divert attention from the task of driving are inherently dangerous to the drivers, their passengers, and others on or near the roadway; and

WHEREAS, mobile electronic devices, if used improperly or at inappropriate times while driving, contribute to driver distractions; and

WHEREAS, research supports the conclusion that driving while distracted (including texting while driving) is dangerous; and

WHEREAS, adoption of this Ordinance will encourage drivers to use their mobile electronic devices (with some exceptions) only when stopped, parked, or standing (and not while the vehicle is moving); and

WHEREAS, this Ordinance allows for the use of mobile electronic devices where the use outweighs the danger generated by use; and

WHEREAS, because of the dangers created by the misuse of mobile electronic devices is significant, this Ordinance specifically authorizes a City peace officer to stop a vehicle for the sole purpose of enforcing this Ordinance; and

WHEREAS, this Ordinance creates an infraction fine unless the driver continues to violate the Ordinance, in which case, the fine may be a misdemeanor; and

WHEREAS, this Ordinance is being adopted and enforced as a reasonable exercise of municipal police powers granted to the City pursuant to Idaho Code Title 50, Chapter 3, and as a temporary regulation necessary to cover the special condition of driving while

using a mobile electronic device in the absence of a State-wide regulation of the same;  
and

WHEREAS, this Ordinance shall be reviewed and assessed on or before October 1, 2021,  
to determine whether this Ordinance should be revoked or continued.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE  
CITY OF ROBERTS, IDAHO, THAT:

## **SECTION 1.**

### **DISTRACTED DRIVING**

#### **(A) DEFINITIONS**

- (1) **Mobile Electronic Device.** Any handheld or portable electronic device capable of receiving, producing, displaying, or providing wireless data or voice communication, including a cellular telephone; broadband personal communication device; two-way messaging device; text messaging device; pager; electronic device that can receive or transmit text or character-based images, access or store data or connect to the internet; personal digital assistant; laptop computer; computer tablet; stand-alone computer; portable computing device; mobile device with a touch screen display that is designed to be worn; electronic games; equipment that is capable of playing a video, taking photographs, capturing images or recording or transmitting video; and any similar device that is readily removable from a vehicle and may be used to write, send or read text or data or capture images or video through manual input. "Mobile electronic device" shall not include a radio designed for the citizens band service or the amateur radio service of the Federal Communications Commission or a commercial two-way radio communications device.
- (2) **Motor Vehicle.** A device or vessel classified as a "motor vehicle" in Idaho Code Section 49-123"V".
- (3) **Operate.** Driving or occupying the driver's position of a motor vehicle in motion upon a public way, street, road or highway. "Operate" shall not include a motor vehicle that is lawfully parked or standing.
- (4) **Park.** Standing of a vehicle, whether occupied or not, other than temporarily for the purpose of and while actually engaged in loading or unloading property or passengers.

- (5) Standing. The complete halting of a vehicle, whether occupied or not, other than temporarily for the purpose of and while actually engaged in loading or unloading property or passengers.

## B. USE OF MOBILE ELECTRONIC SEVICES PROHIBITED

Except as specifically provided in this Section, no person shall operate a motor vehicle while using a mobile electronic device.

## C. EXCEPTIONS

1. The provisions of this Chapter shall not apply to:

- a. A law enforcement officer, firefighter, emergency medical technician, paramedic, operator of an authorized emergency vehicle or similarly engaged paid or volunteer public safety first responder during the performance of that person's official duties, and a public utility employee or contractor acting within the scope of that person's employment when responding to a public utility emergency.

- b. The use of a mobile electronic device including a text messaging device, for emergency purposes. "Emergency purposes" include, contacting a 911 system; reporting an emergency to a law enforcement agency, health care provider, fire department or other emergency services agency or entity; reporting a fire, traffic accident, serious road hazard or medical or hazardous materials emergency to appropriate authorities; and reporting the operator of another motor vehicle who is driving in a reckless or otherwise unsafe manner or who appears to be driving under the influence of alcohol or drugs to law enforcement.

2. Use of a global positioning or navigation system feature of a mobile electronic device, provided that the operator of the vehicle is not manually entering information into the global positioning or navigation system feature of the device and the device is not in the operator's hands while operating the motor vehicle.

3. Use of a mobile electronic device in a voice-operated or hands free mode, only where the operator of the motor vehicle does not use their hands to operate the device, except to activate or deactivate the voice-operated function of device.

D. AUTHORITY FOR PRIMARY VEHICLE STOP. A City peace officer is hereby authorized to utilize this Section as the primary or sole reason for issuing a citation to a driver.

## E. PENALTIES.

Unless otherwise provided herein, any person who violates this Section is guilty of an infraction in an amount of \$100 to be paid at Roberts City Hall. . Any person who violates this Section more than three (3) times within a two (2) year period is guilty of a misdemeanor for such violation.

**SECTION 2.** Savings and Severability Clause. The provisions and parts of this Ordinance are intended to be severable. If any section, sentence, clause, or phrase of this Ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause, or phrase of this Ordinance.

**SECTION 3.** Publication. This Ordinance, or a summary thereof in compliance with Idaho Code, shall be published once in the official newspaper of the City, and shall take effect immediately upon its passage, approval, and publication.

**SECTION 4.** Effective Date. This Ordinance shall be in full force and effect from and after its passage, approval, and publication.

**SECTION 5** Council Review and Assessment. This Ordinance is a temporary regulation necessary to cover the special condition of driving while using a mobile electronic device in the absence of a State-wide regulation of the same. The Council shall review and assess the necessity of this temporary Ordinance on or before October 1, 2021, to determine whether it should continue as a temporary Ordinance or should be revoked.

PASSED by the City Council and APPROVED by the Mayor of the City of Roberts, Idaho, this 2<sup>th</sup> day of March, 2019.

CITY OF ROBERTS, IDAHO

  
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ROBERT D. BERLIN JR., MAYOR

ATTEST:

  
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GALE SCRIVNER, CITY CLERK

(SEAL)