

ORDINANCE NO. 399-2011

AN ORDINANCE TO RESTRICT USE OF WIRELESS COMMUNICATION DEVICES WHILE DRIVING

WHEREAS, the City Council of the City of Spanish Fort, Alabama, is aware of growing public concern regarding the safety implications of the widespread use of wireless communication devices while operating motor vehicles; and

WHEREAS, the City Council of the City of Spanish Fort, Alabama, finds that restricting the use of wireless communication devices while operating motor vehicles would protect the public health, safety and welfare.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SPANISH FORT, AS FOLLOWS:

SECTION 1: RESTRICTED USE OF WIRELESS COMMUNICATION DEVICES WHILE OPERATING A VEHICLE.

A. Definitions.

The following words, terms, and phrases 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 Ordinance, all words and phrases used in this Ordinance which are defined in Section 32-1-1.1 of the Code of Alabama, (1975) shall have the meanings ascribed to them in that Section.

Wireless Communication 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, including, but not limited to, videos, pictures or communications, such as electronic mail, instant messages and text messages. Such device may include telecommunication capabilities. Covered devices include, but are not limited to, devices commonly known as Blackberries, iPhones, iPads, Kindles, laptops, netbooks and other similarly equipped wireless devices. Covered devices shall not include voice radios, mobile radios, land mobile radios, commercial mobile radios or two-way radios with capability to transmit and receive voice transmission utilizing a “push to talk” or “press to transmit” function.

B. Restricted Use of Wireless Communication Devices While Driving.

No person shall operate a vehicle upon any highway, roadway, street or alley while using a wireless communication device to read or write messages, including, but not limited to, text messages, instant messages or electronic mail.

C. Exceptions.

Subsection (B) shall not apply only in the following instances:

- (1) An emergency services professional using a wireless communication device while operating an authorized emergency vehicle in the due course of business; personal use of a wireless communication device shall remain subject to the provisions contained in Subsection (B);
- (2) An individual using a wireless communication device to make or receive a telephone call;
- (3) An individual using a wireless communication 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 communication 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; and
- (5) An individual using a Global Positioning System (GPS) or navigation units.

(E) Penalty.

Any person who violates any provision of this Ordinance 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, by a fine of \$100.00 and/or by imprisonment of not more than 10 days;
- (2) For a second conviction, by a fine of \$200.00 and/or by imprisonment for not more than 30 days; and
- (3) For a third or subsequent conviction, by a fine of \$500.00 and/or by imprisonment for not more than three months or by both such fine and imprisonment.

SECTION 2. Severability Clause.

If any part, section or subdivision of this Ordinance shall be held unconstitutional or invalid for any reason, such holding shall not be construed to invalidate or impair the remainder of this Ordinance, which shall continue in full force and effect notwithstanding such holding.

SECTION 3. Effective Date.

This Ordinance shall become effective thirty (30) days from and after the date of its adoption.

Adopted and approved this _____ *day of April, 2011.*

Joseph C. Bonner
Mayor

ATTEST:

Mary Lynn Williams, MMC
City Clerk