

ORDINANCE NO. 1196

AN ORDINANCE PROHIBITING THE USE OF MOBILE COMMUNICATION DEVICES WHILE OPERATING A MOTOR VEHICLE IN THE CITY LIMITS; PROVIDING CERTAIN EXCEPTIONS; AND PROVIDING A PENALTY THEREFOR.

WHEREAS, the City of Miles City has determined that the use of handheld cellular telephones and other voice and electronic communication devices by vehicle operators while the vehicle is in motion constitutes an unreasonable distraction to the vehicle operator;

AND WHEREAS, such operator distraction constitutes a public safety hazard and increases the potential for motor vehicle accidents within the city limits of the City of Miles City which cause injury to persons and damage to property;

AND WHEREAS, §61-8-103 MCA permits local governments to adopt additional traffic regulations which are not in conflict with the provisions of Title 61, Chapter 8, Montana Code Annotated;

AND WHEREAS none of the provisions of this Ordinance conflict with the provisions of Title 61, Chapter 8, Montana Code Annotated;

BE IT ORDAINED by the City Council of the City of Miles City, Montana as follows:

Section 1. There is added to Chapter 22, Article V of the Code of Ordinances of the City of Miles City, Montana, a Section 22-151, to read as follows:

Sec. 22-151. Use of Mobile Communications Device by Vehicle Operator Prohibited. (a) Except as otherwise provided in subsection (b) of this section, no person shall operate a motor vehicle upon a public road within the city limits of the City of Miles City while using a mobile communication device. "Mobile communication device" means a text messaging device or a wireless, two-way communication device designed to receive and transmit voice or text communication. "Using a mobile communications device" shall include, but not be limited to, the following activities: (1) talking or listening to another person on a mobile communications device; (2) text messaging; (3) sending, reading or listening to an electronic message; or (4) browsing the internet via the mobile communications device.

(b) The provisions of this section shall not apply to:

(1) Law enforcement officers, operators of emergency vehicles, and operators of governmental transportation and public works vehicles, when on duty and acting in their official capacities.

(2) Persons using a mobile communications device by means of a "hands free" device allowing the driver to talk to and listen to the other party without the use of hands.

(3) Persons using a mobile communications device to call 911 telephone numbers or other emergency telephone numbers to contact public safety forces.

(4) Persons using a mobile communications device while maintaining a motor vehicle in a stationary parked position, and not in gear.

(c) The penalty for a violation of this section shall be a fine of \$50.00 upon a first conviction, a fine of \$100.00 upon a second conviction, a fine of \$200.00 upon a third conviction, and a fine not to exceed \$500.00 upon a fourth or greater subsequent conviction, as determined by the City Court. If a violation of subsection (a) of this section occurs at the time of a traffic accident, the driver may be subject to a fine not to exceed \$500.00.

(d) The City, upon passage of this ordinance, shall erect signs giving notice of the prohibition of use of mobile communication devices utilizing signage of a design approved by the Montana Department of Transportation, at the following locations:

- (1) On the southerly right of way at the Tongue River Bridge on west Main Street;
- (2) On the southerly right of way at the Tongue River Bridge on west Pacific Street;
- (3) On the westerly right of way at the Yellowstone River Bridge on Highway 59 North;
- (4) On the easterly right of way in the immediate vicinity of the City limits boundary on Highway 59 South;
- (5) On the easterly right of way in the immediate vicinity of the City limits boundary on South Strevell Avenue; and,
- (6) On the northerly right of way in the immediate vicinity of the City limits boundary on Valley Drive East.

Such signs shall be erected prior to enforcement of this section.

Section 2. This ordinance shall become effective thirty (30) days following its final passage.

SAID ORDINANCE READ AND PUT UPON ITS PASSAGE THIS 9TH DAY OF MARCH, 2010.

Joe Whalen, Mayor

ATTEST:

Kori Pray, City Clerk

**FINALLY PASSED AND ADOPTED THIS 23RD DAY OF MARCH,
2010.**

Joe Whalen, Mayor

ATTEST:

Kori Pray, City Clerk