

ORDINANCE NO. 29 (14-15)

An Ordinance to amend Section 333.11 of the Codified Ordinances of the City of Marietta, Ohio, relating to the Use of Electronic Wireless Communication Devices While Driving Prohibited.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MARIETTA, OHIO:

Section 1: That Section 333.11 "Texting While Driving Prohibited" of the Codified Ordinances of the City of Marietta, Ohio, shall be and is hereby amended and more fully set forth as follows:

333.11 USE OF ELECTRONIC WIRELESS COMMUNICATION DEVICES WHILE DRIVING PROHIBITED

(A) No person shall drive a motor vehicle, trackless trolley, or street car on any street, highway, or property open to the public for vehicular traffic while using in any manner an electronic wireless communication device in the City of Marietta.

(B) Section (A) of this section does not apply to any of the following:

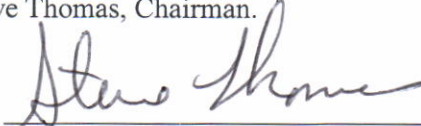
- (1) A person using a handheld electronic wireless communications device in that manner for emergency purposes, including an emergency contact with a law enforcement agency, hospital or health care provider, fire department, or other similar emergency agency or entity;
- (2) A person driving a public safety vehicle who uses a handheld electronic wireless communications device in that manner in the course of the person's duties;
- (3) A person using a handheld electronic wireless communications device in that manner whose motor vehicle is in a stationary position and who is outside a lane of travel;
- (4) A person receiving wireless messages on a device regarding the operation or navigation of a motor vehicle; safety-related information, including emergency, traffic, or weather alerts; or data used primarily by the motor vehicle;
- (5) A person receiving wireless messages via radio waves;
- (6) A person using a navigation device in a voice-operated or hands-free manner who does not manipulate the device while driving;
- (7) A person conducting wireless interpersonal communication with a device that does not require manually entering letters, numbers, or symbols or reading text messages, except to activate, deactivate, or initiate the device or a feature or function of the device;
- (8) A person operating a commercial truck while using a mobile data terminal that transmits and receives data;
- (9) A person using a handheld electronic wireless communications device in conjunction with a voice-operated or hands-free device feature or function of the vehicle.

- (C) As used in this section:
- (1) "Electronic wireless communications device" includes any of the following:
 - (a) A wireless telephone;
 - (b) A text-messaging device;
 - (c) A personal digital assistant;
 - (d) A computer, including a laptop computer and a computer tablet;
 - (e) A navigational device;
 - (f) A walkie-talkie device;
 - (g) A Google glass device;
 - (h) Any other substantially similar wireless device that is designed or used to communicate text.
 - (2) "Voice-operated or hands-free device" means a device that allows the user to vocally impose or send, or to listen to a text-based communication without the use of either hand except to activate or deactivate a feature or function.
 - (3) "Write, send, or read a text-based communication" means to manually write or send, or read a text-based communication using an electronic wireless communications device, including manually writing or sending, or reading communications referred to as a text messages, instant messages, or electronic mail.
- (D)
- (1) Whoever violates Section (A) is guilty of a minor misdemeanor.
 - (2) If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one (1) violation of Section A, the offender is guilty of a misdemeanor of the fourth degree. In addition, the Court may impose a Class seven (7) suspension of the offenders driver's license or operator's permit.
 - (3) If, within one year of the offense, the offender has been convicted of or pleaded guilty to two (2) or more violations of Section A, the offender is guilty of a misdemeanor of the third degree. In addition the Court may impose a Class seven (7) suspension of the offenders driver's license or operator's permit.

Section 2: That existing Section 333.11 of the Codified Ordinances of the City of Marietta, Ohio, shall be and is hereby repealed.

Section 3: That this Ordinance shall take effect and be in full force from and after the earliest time allowed by law but not before July 5, 2014.

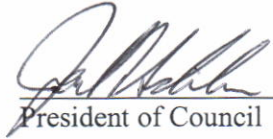
Introduced by the Police & Fire Committee, Steve Thomas, Chairman.



Chairman

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Passed this 6th day of March, 2014.



President of Council

ATTEST:



Clerk of Council

Approved this 6th day of March, 2014.



Mayor

First Reading February 6, 2014

Second Reading February 20, 2014

Third Reading March 6, 2014