

AN ORDINANCE OF THE CITY OF OSAGE BEACH, MISSOURI, CREATING NEW SECTIONS IN CHAPTER 340 MISCELLANEOUS DRIVING RULES SECTION 340.155 HANDS FREE DRIVING OF THE CITY CODE FOR VARIOUS PURPOSES AS SET FORTH.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF OSAGE BEACH, MISSOURI AS FOLLOWS:

Section 1. Within the City Code there are hereby enacted new Sections set out as follows:

Section 340.155 **Hands Free Driving.**

A. As used in this section, the following terms shall mean:

(1) "Commercial motor vehicle", the same meaning as is ascribed to such term in section R.S.Mo. § 302.700;

(2) "Electronic communication device", a portable device that is used to initiate, receive, store, or view communication, information, images, or data electronically.

(a) Such term shall include but not be limited to: cellular telephones; portable telephones; text-messaging devices; personal digital assistants; pagers; broadband personal communication devices; electronic devices with mobile data access; computers, including but not limited to tablets, laptops, notebook computers, and electronic or video game systems; devices capable of transmitting, retrieving, or displaying a video, movie, broadcast television image, or visual image; and any substantially similar device that is used to initiate or receive communication or store and review information, videos, images, or data.

(b) Such term shall not include: radios; citizens band radios; commercial two-way radio communication devices or their functional equivalent; subscription-based emergency communication devices; prescribed medical devices; amateur or ham radio devices; or global positioning system receivers, security, navigation, communication, or remote diagnostics systems permanently affixed to the vehicle;

(3) "Highway", the same meaning as is ascribed to such term in section R.S.Mo. § 302.010;

(4) "Noncommercial motor vehicle", the same meaning as is ascribed to such term in section R.S.Mo. § 302.700;

- (5) "Operating", the actual physical control of a vehicle;
- (6) "Operator", a person who is in actual physical control;
- (7) "School bus", the same meaning as is ascribed to such term in section R.S.Mo. § 302.700;
- (8) "Voice-operated or hands-free feature or function", a feature or function, whether internally installed or externally attached or connected to an electronic communication device, that allows a person to use an electronic communication device without the use of either hand, except to activate, deactivate, or initiate the feature or function with a single touch or single swipe.

B. Except as otherwise provided in this section, while operating a noncommercial motor vehicle or commercial motor vehicle on any highway or property open to the public for vehicular traffic in this state, no operator shall:

- (1) Physically hold or support, with any part of his or her body, an electronic communication device;
- (2) Write, send, or read any text-based communication, including but not limited to a text message, instant message, email, or social media interaction on an electronic communication device. This subdivision shall not apply to operators of a noncommercial motor vehicle using a voice-operated or hands-free feature or function that converts the message to be sent as a message in a written form, provided that the operator does not divert his or her attention from lawful operation of the vehicle;
- (3) Make any communication on an electronic communication device, including a phone call, voice message, or one-way voice communication; provided however, that this prohibition shall not apply to use of a voice-operated or hands-free feature or function;
- (4) Engage in any form of electronic data retrieval or electronic data communication on an electronic communication device;
- (5) Manually enter letters, numbers, or symbols into any website, search engine, or application on an electronic communication device;
- (6) Watch a video or movie on an electronic communication device, other than watching data related to the navigation of the vehicle; or

- (7) Record, post, send, or broadcast video, including a video conference, on an electronic communication device, provided that this prohibition shall not apply to electronic devices used for the sole purpose of continually monitoring operator behavior by recording or broadcasting video within or outside the vehicle.

C. The operator of a school bus shall not use or operate an electronic communication device while the school bus is in motion unless the device is being used in a similar manner as a two-way radio to allow live communication between the operator and school officials or public safety officials. The operator of a school bus shall not use or operate an electronic communication device or a two-way radio while loading or unloading passengers.

D. This section shall not apply to:

- (1) Law enforcement officers or operators of emergency vehicles, as such term is defined in **R.S.Mo. § 304.022**, who are both using the electronic communication device and operating the emergency vehicle in the performance of their official duties;
- (2) Operators using an electronic communication device for the sole purpose of reporting an emergency situation and continuing communication with emergency personnel during the emergency situation;
- (3) Operators of noncommercial motor vehicles using an electronic communication device solely through a voice-operated or hands-free feature or function;
- (4) Operators of commercial motor vehicles using a voice-operated or hands-free feature or function, as long as the operator remains seated and is restrained by a seat belt as required by law;
- (5) Operators of commercial motor vehicles reading a message displayed on a permanently installed communication device designed for a commercial motor vehicle with a screen that does not exceed ten inches tall by ten inches wide in size;
- (6) Operators using electronic communication devices while the vehicle is lawfully stopped or parked;
- (7) Commercial motor vehicles that are responding to a request for roadside assistance, when such response is conducted by a motor club as defined in section 385.450 or a towing company as defined in **R.S.Mo. § 304.001**;
- (8) The use of an electronic communication device to relay information between a transit or for-hire vehicle operator and that

operator's dispatcher, provided the device is mounted or affixed to the vehicle;

- (9) The use of an electronic communication device to access or view a map for navigational purposes;
 - (10) The use of an electronic communication device to access or listen to an audio broadcast or digital audio recording; or
 - (11) The use of an electronic communication device to relay information through a transportation network company's digital network to a transportation network company driver, provided the device is mounted or affixed to the vehicle.
- E. (1) A violation of this Section shall be an ordinance violation. Penalties for violations of this section shall be as provided in this subsection. Prior convictions shall be pleaded and proven in the same manner as required under **R.S.Mo. § 558.021**.
- (2) For a conviction under this section where there is no prior conviction under this section within the preceding twenty-four months, the court shall impose a fine of up to one hundred fifty dollars.
 - (3) For a conviction under this section where there is one prior conviction under this section within the preceding twenty-four months, the court shall impose a fine of up to two hundred fifty dollars.
 - (4) For a conviction under this section where there are two or more prior convictions under this section in the preceding twenty-four months, the court shall impose a fine of up to five hundred dollars.
 - (5) For a conviction under this section where the violation occurred in a work zone when workers are present, as such terms are defined in **R.S.Mo. § 304.580**, or for a conviction under this section where the violation occurred in an area designated as a school zone and marked in any way that would alert a reasonably prudent operator to the presence of the school zone, the court shall impose a fine of up to five hundred dollars.
 - (6) A violation of this section while operating a commercial motor vehicle shall be deemed a serious traffic violation, as such term is defined in **R.S.Mo. § 302.700**, for purposes of commercial driver's license disqualification under **R.S.Mo. § 302.755**.

F. A law enforcement officer who stops a noncommercial motor vehicle for a violation of this section shall inform the operator of the operator's right to decline a search of their electronic communication device. No warrant shall be issued to confiscate or access an

electronic communication device based on a violation of this section unless the violation results in serious bodily injury or death.

G. A violation of this section shall not be used to establish probable cause for any other violation.

H. Prior to January 1, 2025, a law enforcement officer who stops a noncommercial motor vehicle for a violation of this section shall not issue a citation for a violation of this section and shall only issue a warning.

I. No person shall be stopped, inspected, or detained solely for a violation of this section.

Section 2. Severability

The chapters, sections, paragraphs, sentences, clauses and phrases of this ordinance are severable, and if any phrase, clause, sentence, paragraph or section of this ordinance shall be declared unconstitutional or otherwise invalid by the valid judgment or degree of any Court of any competent jurisdiction, such unconstitutionality or invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs, or sections of this ordinance since the same would have been enacted by the Board of Aldermen without the incorporation in this ordinance of any such unconstitutional or invalid phrase, clause, sentence, paragraph or section.

Section 3. Repeal of Ordinances not to affect liabilities, etc.

Whenever any part of this ordinance shall be repealed or modified, either expressly or by implication, by a subsequent ordinance, that part of the ordinance thus repealed or modified shall continue in force until the subsequent ordinance repealing or modifying the ordinance shall go into effect unless therein otherwise expressly provided; but no suit, prosecution, proceeding, right, fine or penalty instituted, created, given, secured or accrued under this ordinance previous to its repeal shall not be affected, released or discharged but may be prosecuted, enjoined and recovered as fully as if this ordinance or provisions had continued in force, unless it shall be therein otherwise expressly provided.

Section 4. That this Ordinance shall be in full force and effect from and after the date of passage and approval of the Mayor.

READ FIRST TIME: December 19, 2024 READ SECOND TIME: January 2, 2025

I hereby certify that Ordinance No.24.88 was duly passed on January 2, 2025, by the Board of Aldermen of the City of Osage Beach. The votes thereon were as follows:

Ayes:	5	Nays:	0
Abstentions:	0	Absent:	1

This Ordinance is hereby transmitted to the Mayor for his signature.

Jan. 2, 2025

Date

Tara Berreth

Tara Berreth, City Clerk

Approved as to form:

CB

Cole Bradbury, City Attorney

I hereby approve Ordinance No.24.88.

Michael Harrison

Michael Harrison, Mayor

Jan. 2, 2025

Date

Tara Berreth

Tara Berreth, City Clerk