

CITY AND BOROUGH OF SITKA

ORDINANCE NO. 2016-05

AN ORDINANCE OF THE CITY AND BOROUGH OF SITKA AMENDING SITKA GENERAL CODE TITLE 10 "PUBLIC PEACE, SAFETY AND MORALS" BY ADDING A NEW CHAPTER 10.25 ENTITLED, "CELLULAR PHONE USE WHILE DRIVING"

1. **CLASSIFICATION.** This ordinance is of a permanent nature and is intended to become a part of the Sitka General Code.

2. **SEVERABILITY.** If any provision of this ordinance or any application thereof to any person or circumstance is held invalid, the remainder of this ordinance and application thereof to any person or circumstances shall not be affected thereby.

3. **PURPOSE.** The purpose of this ordinance is to establish a code that defines conduct and penalties considered unlawful within the City and Borough of Sitka regarding the use of cell phones while operating a motor vehicle.

4. **ENACTMENT.** NOW, THEREFORE, BE IT ENACTED by the Assembly of the City and Borough of Sitka that the Sitka General Code Title 10 is amended by adding a new section 10.25 entitled, "Cellular Phone Use While Driving" to read as follows (new language underlined; deleted language stricken):

**Title 10
PUBLIC PEACE, SAFETY AND MORALS**

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**Chapter 10.25
Cellular Phone Use While Driving**

Sections:

<u>10.25.010</u>	<u>Definitions</u>
<u>10.25.020</u>	<u>Unlawful Use</u>
<u>10.25.030</u>	<u>Exceptions</u>

10.25.010 Definitions

A. Cell phone means a hand-held cellular telephone.

B. Use means employing a cell phone for any reason including, without limitation, the following activities while holding or touching the device:

1. Dialing or deactivating a phone call;

2. Speaking in or listening to a conversation, or music;

3. Viewing, taking or transmitting electronic images including videos;
4. Composing, sending, viewing, accessing, browsing, retrieving or saving email messages;
5. Entering or changing information in a global positioning or navigation system or any software or application designed for navigation;
6. Accessing or viewing an internet website or computer application or;
7. Playing a game.

C. Authorized emergency personnel means a person who is a law enforcement officer, firefighter, member of a governmental emergency medical services function, or member of a governmental emergency management function.

10.25.020 Prohibited Use

A. An operator of a motor vehicle may not use a cell phone when the vehicle is in motion, or while stopped at a stop sign or traffic light.

10.25.030 Exceptions

A. It is an affirmative defense to prosecution of an offense under this section if:

1. The cell phone is used in a hands-free mode of operation;
2. Use of the cell phone is for obtaining emergency assistance to report a crime, traffic accident, medical emergency, or serious traffic hazard or to prevent a crime about to be committed;
3. Use of a cell phone is in the reasonable belief that a person's life or safety is in immediate danger.

B. 10.25.020 (A) does not apply to:

1. Vehicle dispatching and response information for motor vehicles providing emergency road service or roadside assistance;
2. Information for use in performing highway construction, maintenance, or repair or data acquisition by the municipality; or

3. Information for use in performing utility construction, maintenance, repair, or data acquisition by a public utility; in this subparagraph, "public utility" has the meaning given in AS 42.05.990;

4. Authorized emergency personnel using a cell phone while acting in an official capacity;

5. **EFFECTIVE DATE.** This ordinance shall become effective 30 days after the date of its passage.

PASSED, APPROVED, AND ADOPTED by the Assembly of the City and Borough of Sitka, Alaska this 26th day of April, 2016.



Mim McConnell, Mayor

ATTEST:



Sara Peterson, CMC
Municipal Clerk

1st reading 3/22/16

2nd reading 4/12/16 amended

3rd reading 4/26/16