

ORDINANCE NO. 2018-2

**AN ORDINANCE OF THE YAVAPAI COUNTY BOARD OF SUPERVISORS
REGULATING PORTABLE COMMUNICATION
DEVICES AND TEXTING WHILE OPERATING A MOTOR VEHICLE**

WHEREAS, the Yavapai County Board of Supervisors is authorized in A.R.S. §11-251(17) to adopt provisions necessary to preserve the health of the county, and in A.R.S. §11-251(31) to make and enforce all local, police, sanitary and other regulations not in conflict with general law; and

WHEREAS, A.R.S §§28-626(B) and 11-251.05 authorize the adoption of additional traffic regulations that are not in conflict with other state traffic or transportation regulations; and

WHEREAS, texting while driving a motor vehicle and the use of portable communication devices has increased in recent years; and

WHEREAS, the use of portable communication devices and texting while driving a motor vehicle have contributed to the increase of injuries, deaths, property damage, health care costs and auto insurance rates; and

WHEREAS, motorists who operate portable communication devices and/or text while driving a motor vehicle are statistically more likely to become involved in a traffic accident; and

WHEREAS, it is the desire of the Yavapai County Board of Supervisors to promote public health and safety;

THEREFORE, be it resolved, that the Yavapai County Board of Supervisors adopts this Ordinance to be effective throughout Yavapai County, excluding sovereign tribal nations.

SECTION I: DEFINITIONS

“HANDS-FREE MOBILE DEVICE” shall mean one of the following:

- A device that has an internal feature or function, or that is equipped with an attachment or addition, whether or not permanently part of such device, which is not held by the driver during motor vehicle use. The device must not obstruct the driver’s view of the front or sides of the motor vehicle or interfere with the safety or operating equipment of the motor vehicle.
- A device that is programmed entirely before a person begins to drive or operate a motor vehicle such as a Global Positioning Device.

“PORTABLE COMMUNICATIONS DEVICE” shall mean the following portable devices: any mobile telephone, personal digital assistant (PDA), device with mobile data access, laptop computer, pager, electronic game, or computing device.

“MOTOR VEHICLE”, “DRIVE” and “DRIVER” have the same meaning as those terms are defined in Title 28, Chapter 1, Arizona Revised Statutes, Transportation. Driving includes, but is not limited to, any time a vehicle is in the traveled portion of a public roadway, whether or not the vehicle is in motion.

SECTION II: ILLEGAL ACTIVITIES

A person shall not drive a motor vehicle while holding in his or her hand, typing on or otherwise manually operating a portable communications device.

SECTION III: EXEMPTIONS

Notwithstanding Section II, the following activities are not prohibited by this Ordinance:

- When a person uses a hands-free mobile device that is not being held in his or her hand, typed on or otherwise manually operated so as to distract the driver.
- When a person makes a call to communicate an emergency to a law enforcement agency or fire department, a hospital or physician’s office, or an ambulance.
- When a person is driving an authorized law enforcement or emergency vehicle and the use of the portable communications device is in the performance of official duties.
- When a person is driving a school bus or transit vehicle that is subject to Arizona Revised Statutes or United State Department of Transportation regulations that supersede this ordinance.
- When a driver is using a two-way radio or a private Land Mobile Radio System, within the meaning of Title 47 Code of Federal Regulations Part 90, while in the performance and scope of work-related duties, and who is operating a fleet vehicle or under a commercial vehicle license; or a driver holding a valid amateur operator license issued by the Federal Communications Commission using a half-duplex two way radio.
- When a person is driving a motor vehicle on private property.
- When a driver has pulled off of the traveled portion of the roadway in a safe and legal location and placed the vehicle in park in order to operate a handheld portable communications device.

SECTION IV: ENFORCEMENT AND PENALTIES

Enforcement shall be the responsibility of city, county and state of Arizona law enforcement representatives.

A law enforcement officer may stop a motor vehicle if the officer has reasonable cause to believe a violation of this Ordinance is occurring.

A violation of this Ordinance is a civil traffic violation.

A person found to be in violation of this Ordinance and not involved in a motor vehicle crash or collision is subject to a civil penalty of \$100 dollars plus any other penalty assessments and surcharges authorized by law.

A person found to be in violation of this Ordinance and involved in a motor vehicle crash is subject to a civil penalty of \$250 dollars plus any other penalty assessments and surcharges authorized by law.

Violations of this Ordinance shall be administered pursuant to the procedures for civil traffic violations as set out in Title 28, Chapter 5, Arizona Revised Statutes (A.R.S. §28-1591 et seq.).

SECTION V: EFFECTIVE DATE

This Ordinance is effective 30 days after adoption by the Yavapai County Board of Supervisors.

SECTION VI: INTERPRETATION AND SEVERABILITY

In the interpretation of this Ordinance, the singular may be read as the plural, the masculine gender as the feminine or neuter, and the present tense as the past or future, where context so dictates.

In the event any particular clause or section of this Ordinance should be declared invalid or unconstitutional by any court of competent jurisdiction, the remaining portions shall remain in full force and effect. Toward that end, the provisions of these regulations are declared to be severable.

APPROVED AND ADOPTED BY THE YAVAPAI COUNTY BOARD OF SUPERVISORS this
____ 3rd ____ day of ____ October ____, 2018.

/s/ Rowle P. Simmons
Chairman, Board of Supervisors

ATTEST:

/s/ Kim Kapin
Clerk of the Board

Approved as to form:

/s/ Martin Brennan
Deputy Yavapai County Attorney