

ORDINANCE # 5988

**AN ORDINANCE TO PROHIBIT CERTAIN USE OF HANDHELD ELECTRONIC WIRELESS COMMUNICATION DEVICES WHILE DRIVING IN THE CITY OF RAPID CITY BY ADDING SECTION 10.12.410 TO THE RAPID CITY MUNICIPAL CODE.**

WHEREAS, the City of Rapid City (“City”) is authorized to regulate the use of motor vehicles and other vehicles operated within the City pursuant to the authority granted by Section 9-31-1 of the South Dakota Codified Laws; and

WHEREAS, the City of Rapid City pursuant to Rapid City Municipal Code Title 10 does regulate the use of vehicles in the streets and thoroughfares of the City; and

WHEREAS, certain use of handheld electronic wireless communication devices while driving poses a risk to the public’s health, welfare, and safety, by causing drivers of motor vehicles and other vehicles to be distracted, therefore increasing the potential for vehicle accidents; and

WHEREAS, the Common Council of the City of Rapid City desires to protect the public’s health, welfare, and safety in regard to the foregoing activities that may distract motor vehicle and other vehicle drivers within the City; and

WHEREAS, the Common Council of the City of Rapid City finds that it is in the best interests of the public health, welfare, and safety to prohibit certain use of handheld electronic wireless communication devices while driving within the territorial jurisdiction of the City of Rapid City.

NOW, THEREFORE, BE IT ORDAINED by the City of Rapid City that Section 10.12.410 is hereby added to the Rapid City Municipal Code to read as follows:

**10.12.410 Certain use of handheld electronic wireless communication devices while driving prohibited.**

A. No person may operate a motor vehicle within the City while using a handheld electronic wireless communication device to write, send, or read a text-based communication. This section does not apply to a person who is using a handheld electronic wireless communication device:

1. While the vehicle is lawfully parked;
2. To contact any emergency public safety answering point or dispatch center;
3. To write, read, select, or enter a telephone number or name in an electronic wireless communications device for the purpose of making or receiving a telephone call; or

4. When using voice operated or hands free technology.

B. Terms used in this section mean:

1. "Electronic wireless communication device," means a mobile communication device that uses short-wave analog or digital radio transmissions or satellite transmissions between the device and a transmitter to permit wireless telephone communications to and from the user of the device within a specified area;

2. "Voice operated or hands free technology," means technology that allows a user to write, send, or listen to a text-based communication without the use of either hand except to activate, deactivate, or initiate a feature or function; and

3. "Write, send, or read a text-based communication," means using an electronic wireless communications device to manually communicate with any person using text-based communication including communications referred to as a text message, instant message, or electronic mail.

C. A handheld electronic wireless communication device may be seized for forensic examination upon compliance with the search and seizure requirements of SDCL Chapter 23A-35.

D. Penalty for a violation of this section shall be in conformance with state law.

CITY OF RAPID CITY

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Mayor

ATTEST:

\_\_\_\_\_  
Finance Officer

(SEAL)

First Reading:  
Second Reading:  
Published:  
Effective: