

# ORDINANCE NO. 839

## AN ORDINANCE TO PROHIBIT ELECTRONIC MESSAGING WHILE DRIVING

**WHEREAS**, the use of wireless communications devices by motorists for electronic messaging has increased in recent years, and;

**WHEREAS**, while wireless communications devices have assisted with quick reporting of road emergencies, their use has also contributed to accidents and other mishaps thereby endangering the citizens of the City of Roanoke, and;

**WHEREAS**, when motorists hold a wireless communications device in their hand or hands to read, compose, and/or send an electronic message and attempt to drive, their chances of becoming involved in a traffic accident mishap increase.

**THEREFORE, BE IT NOW ORDAINED** by the City Council of the City of Roanoke, Alabama, as follows:

### **SECTION 1.** Prohibiting electronic messaging while driving.

#### **a) Definitions.**

- (1) "Electronic message" means a self-contained piece of digital communication that is designed or intended to be transmitted between physical devices. An electronic message includes, but is not limited to, a text-based communication, a command or request to access an internet site, or other data that uses a commonly recognized electronic communications protocol.
- (2) " Wireless communication device" means a cellular, analog, wireless or digital device, computer or telephone, capable of accessing, sending or receiving wireless electronic messages, conversation or other interchange of information, including, but not limited to, a wireless telephone service, a wireless internet service or a wireless text messaging service, but does not include voice radios, mobile radios, land mobile radios, commercial mobile radios or two-way radios with the capability to transmit and receive voice transmissions utilizing a "push to talk" or "press to transmit" function, or other voice radios used by a law enforcement officer, and emergency

services provider, and employee or agent or public safety organizations, first responders, school bus operators, taxi cab drivers or mobile commercial enterprises.

**(b) Violation- Electronic Messaging While Driving.**

- (1) A driver of a motor vehicle may not use a wireless communication device to view, send, or compose an electronic message while operating a motor vehicle.
- (2) It is an affirmative defense to prosecution of an offense under this section if a wireless communications device is used:
  - (a) while the motor vehicle is parked on the shoulder of a roadway or the vehicle is stopped due to normal traffic being obstructed and the vehicle transmission is in neutral or park;
  - (b) for making a telephone call;
  - (c) as a global positioning or navigation system that is affixed to the vehicle;
  - (d) for obtaining emergency assistance to report a traffic accident, medical emergency, or serious traffic hazard, or to prevent a crime about to be committed;
  - (e) in the reasonable belief that a person's life or safety is in immediate danger or;
  - (f) if the device is permanently installed inside the vehicle.
- (3) This section does not apply to an operator or an authorized emergency vehicle using a wireless communication device while acting in an official capacity.

**(c) Violations as misdemeanor; penalties.**

- (1) It is a misdemeanor for any person to violate any provision of the above subsection (b).
- (2) Every person convicted of a misdemeanor for a violation of this section shall for a first conviction thereof be punished by a fine or not more than \$50.00 or by imprisonment for not more than ten days; for conviction of a second offense committed within one year after the date of the first offense, such person shall be punished by a fine of not more than \$100.00 or by imprisonment for not more than 30 days or by both such fine and imprisonment; for conviction of a third offense or subsequent offense committed within one year after the date of the first offense, such person shall be punished by a fine of not more than \$500.00 or by imprisonment for not more than three months or by both such fine and imprisonment.

**SECTION 11. SEVERABILITY.**

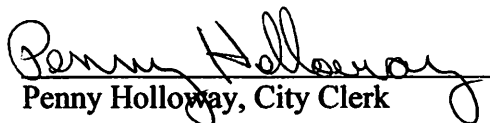
The provisions of this ordinance are severable. If any provision, section, paragraph, sentence, or part thereof, or the application thereof to any person or thing shall be held unconstitutional or invalid, such holding shall not affect or impair the remainder of this ordinance of the remaining persons or things to which applies, it being the legislative intent to enact each provision, section, sentence, paragraph, and part thereof, and the application thereof, separately and verbally from each other.

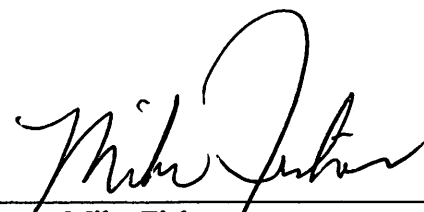
**SECTION 111. EFFECTIVE DATE.**


This ordinance shall become effective April 1, 2010, upon its publication as required by law.

**PASSED AND ADOPTED**, this the 22, February, 2010.

ATTEST:

  
Penny Holloway, City Clerk

  
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Mayor Mike Fisher

  
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Council member Mack Bell

  
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Council member Joseph Roberson

  
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Council member Buster Robinson

  
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Council member Tammi Holley

  
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Council member Russ Cummings