

ORDINANCE NO. 733

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COLUMBIA FALLS, MONTANA, ADOPTING CHAPTER 10.80 HANDHELD ELECTRONIC COMMUNICATION DEVICES

WHEREAS, the City Council believes that certain changes are necessary to promote the health, general welfare and safety of the citizens of Columbia Falls;

WHEREAS, a hearing on said text amendments was held by the City Council of the City of Columbia Falls, Montana, at its regular meeting on Monday, June 18, 2012, after said hearing was advertised according to law; and at said hearing on said date, the City Council considered the staff report, public input, council comments as well as any comments filed or voiced with respect to said changes; and

WHEREAS, the City Council has determined that the text amendments are in the best interest of the City.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF COLUMBIA FALLS, MONTANA AS FOLLOWS:

Section One. Sections Amended: That Title 10 of the Columbia Falls Municipal Code is hereby amended as set forth on Exhibit AA@ attached hereto.

Section Two. Inconsistent Provisions: All ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section Three. Severability: The provisions of this Ordinance are severable. If any provision of this Ordinance is held invalid, such invalidity shall not affect other provisions or applications of this Ordinance which can be given effect without the invalid provision.

Section Four. Effective Date: This Ordinance shall become effective thirty (30) days after its final passage and approval by the City Council of the City of Columbia Falls, Montana.

PASSED AND APPROVED BY THE CITY COUNCIL OF COLUMBIA FALLS, MONTANA THIS 6<sup>th</sup> DAY OF AUGUST, 2012, THE COUNCIL VOTING AS FOLLOWS:

AYES: Petersen, Plevel, Shepard, Bates, Fisher, Barnhart  
NOES: None  
ABSENT: Karper

*Todd Watkins*  
City Clerk

APPROVED BY THE MAYOR OF COLUMBIA FALLS, MONTANA THIS 6<sup>th</sup> DAY OF August, 2012.

*Donald Barnhart*  
Mayor

ATTEST:  
*Todd Watkins* City Clerk

ORDINANCE 733 - EXHIBIT "A"

Chapter 10.80

USE OF HANDHELD ELECTRONIC COMMUNICATIONS DEVICES

Sections:

- 10.80.010 Definitions
- 10.80.020 Electronic Communication Devices
- 10.80.030 Penalty

10.80.010 Definitions.

As used in this chapter, the following terms shall have the meanings indicated herein, unless the context otherwise clearly requires that another meaning is intended:

HANDHELD ELECTRONIC COMMUNICATIONS DEVICE: Includes wireless or cellular phones, personal digital assistants (PDAs), Blackberries, smartphones, laptop and notebook computers utilizing VOIP (voice over internet protocol) technology, wireless and cellular phones utilizing push to talk technology, GPS systems, navigational systems, and any other mobile communications device that uses shortwave analog or digital radio transmissions between the device and a transmitter to permit wireless communications to and from the user of the device.

HANDS FREE DEVICE: An external device that connects to a wireless telephone, wireless communications device or electronic communications device that allows use of the device without touching the telephone or wireless or electronic communications device with one's hands, and includes voice activated technologies that can be utilized without touching the device.

10.80.020 Electronic Communications Devices.

Electronic communications device usage while driving prohibited.

A. Use; Possession: No person shall use or have in their immediate physical possession a handheld electronic communications device while operating a motor vehicle, motorcycle, quadricycle, or a bicycle on a public highway as defined in Montana Code Annotated section 61-1-101(23) within the city limits.

B. Immediate Physical Possession: Means touching the handheld electronic communications device, or physically holding the device in one's hand or up to one's ear.

Simply having the electronic communications device on one's person or in a motor vehicle does not constitute immediate physical possession.

C. Exceptions:

1. This provisions shall not apply to any person reporting a health, fire, safety or police emergency.

2. This provision shall not apply to governmental fire agencies, ambulance services, law enforcement agencies, emergency responders, or any other "authorized emergency vehicle" as defined in Montana Code Annotated section 61-8-102(2)(a).

3. This provision shall not apply to passengers in a motor vehicle, or persons using a handheld electronic communications device while maintaining a motor vehicle in a stationary position, not in gear, while in a parking land or space out of moving traffic lanes.

4. This provision shall not apply to persons using a "hands free device." Use of a hands free device is permitted while operating a motor vehicle provided the driver does not touch the wireless telephone or wireless or electronic communications device with one's hands while operating a motor vehicle.

5. This provision shall not apply to drivers using two-way radios while in the performance and scope of their work related duties.

6. This provision shall not apply to drivers holding a valid amateur radio operator license issued by the federal communications commission while using a two-way radio.

10.80.030            Penalty.

Violation; Penalty: A person who violates this section shall be deemed to have committed a municipal infraction, a civil offense, and shall for a first violation, a civil penalty of not more than one hundred dollars (\$100.00) shall be imposed, and for each repeat violation, a civil penalty of not more than three hundred dollars (\$300.00) shall be imposed.