

**ORDINANCE NO. O-18-13**

**AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE CITY OF  
BISBEE, ARIZONA, PROHIBITING THE USE OF HANDHELD MOBILE  
TELEPHONES OR PORTABLE ELECTRONIC DEVICES BY  
AMENDING CHAPTER 9, HEALTH AND SANITATION, AND ADDING  
ARTICLE 9.8, DISTRACTED DRIVING, TO THE CITY CODE**

**WHEREAS**, the use of handheld mobile telephones and portable electronic devices while operating motor vehicles has shown to cause distracted driving, which increases the risk of motor vehicle crashes; and

**WHEREAS**, the Arizona Legislature, to date, has not enacted legislation directly regulating the use of handheld mobile telephones or portable electronic devices; and

**WHEREAS**, it becomes necessary to enact regulation of the use of handheld mobile telephones and portable electronic devices to protect the welfare, health and safety of the residents of the City; and

**WHEREAS**, the Mayor and Council have determined that amending Chapter 9, Health and Sanitation, by adding Article 9.8, Distracted Driving, is just and appropriate, and is found in the best interest of the City; and

**WHEREAS**, this amendment is in the best interests of the City and its citizens and are within the authority granted to the Mayor and Council by Sections 1.03 and 6.02 of the City Charter of the City of Bisbee,

**NOW, THEREFORE, BE IT ORDAINED** by the Mayor and Council of the City of Bisbee, Arizona that the certain document, known as City Code of the City of Bisbee, is amended as follows:

**SECTION 1.** City Code, Chapter 9, Health and Sanitation, is hereby amended by adding Article 9.8 as follows:

**ARTICLE 9.8 Distracted Driving**

**Prohibited Use Of Handheld Mobile Telephone Or Portable Electronic Device**

**9.8.1 Prohibited Conduct**

No person shall, except as otherwise provided in this ordinance, use a mobile telephone or portable electronic device while operating a motor vehicle upon a street or highway, unless that device is specifically designed

## ORDINANCE NO. O-18-13

or configured to allow hands-free listening and talking and used in that manner while operating a motor vehicle.

### 9.8.2 Definitions

A. **“Hands-free use”** means the use of a mobile telephone or portable electronic device without the use of either hand by employing an internal feature of, or an attachment to, the device.

B. **“Operating”** means being in actual physical control of a motor vehicle on a highway or street and included being temporarily stopped because of traffic, a traffic light or stop sign or otherwise, but excludes operating a motor vehicle when the vehicle has pulled over to the side of the road or off an active roadway and has stopped at a location in which it can safely remain stationary.

C. **“Handheld mobile telephone”** and **“portable electronic device”** means a wireless communication device that is designed to engage in calls, receive and transmit text, image messages, and data and requires being held in one hand.

### 9.8.3 Exemptions

This section shall not apply to:

(1) the use of a mobile telephone or portable electronic device for the sole purpose of communicating with any of the following regarding an immediate emergency situation:

- (a) An emergency response operator;
- (b) An ambulance company;
- (c) Fire district and rescue service personnel;
- (d) Law enforcement or emergency personnel;
- (e) A hospital; or
- (f) A physician’s office or health clinic.

(2) the activation or deactivation of hands-free use, as long as the mobile telephone or portable electronic device is securely configured and attached to the vehicle or integrated into the vehicle.

(3) First responder exception:

**ORDINANCE NO. O-18-13**

This section does not apply to an emergency service professional using a mobile telephone or portable electronic device while operating an emergency vehicle in the course and scope of his or her duties.

**9.8.4 Penalty**

A. A violation of article 9.8 is a civil traffic violation.

B. A person who violates article 9.8 and is not involved in a motor vehicle collision is subject to a civil penalty of \$150 for the first violation, \$200 for the second violation and \$300 for the third violation.

C. A person who violates article 9.8 and is involved in a motor vehicle collision is subject to a civil penalty of a minimum amount of \$350.

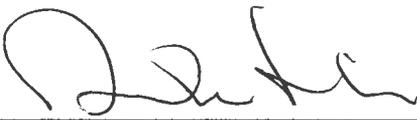
**SECTION 2.** The various City officers and employees are authorized and directed to perform all acts necessary or desirable to give effect to this ordinance.

**SECTION 3.** If any provisions of this ordinance, or of its application to any person or circumstance is declared invalid or unenforceable, as determined by a court of competent jurisdiction, the invalidity or unenforceability shall not affect other provisions or applications of this ordinance which can be given effect without the invalid provision or circumstance, and to this end, the provisions of this ordinance are severable.

**SECTION 4.** This ordinance will become effective thirty (30) days after the date of adoption.

**PASSED AND ADOPTED** by the Mayor and Council of the City of Bisbee, Arizona, this 4th day of December, 2018.

**CITY OF BISBEE**

By:   
\_\_\_\_\_  
David Smith, Mayor

**ATTEST:**

  
\_\_\_\_\_  
Ashlee Coronado, City Clerk

**APPROVED AS TO FORM:**

  
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Britt Hanson, City Attorney