

**ORDINANCE NO. 2019-02**

AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF SNOWFLAKE, ARIZONA, AMENDING THE SNOWFLAKE TOWN CODE, BY ADDING TITLE 6, CHAPTER 2, SECTION 14 ENTITLED “USE OF PORTABLE WIRELESS COMMUNICATION DEVICE WHILE DRIVING”

BE IT ORDAINED by the Mayor and Town Council of the Town of Snowflake, Arizona, that Town Code Title 6, be amended by adding Chapter 2 - Section 14 to read as follows:

**Title 6 – Motor Vehicles and Traffic**  
**Chapter 2 – Traffic Control**  
**Section 14 - USE OF PORTABLE WIRELESS**  
**COMMUNICATION DEVICE WHILE DRIVING**

**6-2-14: USE OF PORTABLE WIRELESS COMMUNICATION DEVICE WHILE DRIVING :**

A: Unless a motor vehicle is parked or stopped pursuant to section ARS 28-645, subsection A, paragraph 3 or section ARS 28-851, a person may not operate a motor vehicle on a street or highway if the person does either of the following:

1. Physically holds or supports with any part of the person's body either of the following:
  - (a) A portable wireless communication device, except that a person may use a portable wireless communication device with an earpiece, headphone device or device worn on a wrist to conduct a voice-based communication.
  - (b) A stand-alone electronic device.
2. Writes, sends or reads any text-based communication, including a text message, instant message, email or internet data, on a portable wireless communication device or stand-alone electronic device. This paragraph does not apply to either of the following:
  - (a) The use of voice-based communications, including through the use of a portable wireless communication device or stand-alone electronic device, to direct the writing, sending, reading or other communicating of any text-based communication.
  - (b) The use of a portable wireless communication device or stand-alone device when used in a hands-free manner for:

- (i) Navigation of the motor vehicle.
- (ii) Use of a global positioning system.
- (iii) Obtaining motor vehicle information or information related to driving a motor vehicle.

**B.** This section does not prohibit the operation of a motor vehicle while using a device, including a device that is accessible through an interface that is embedded in a motor vehicle, that allows communication without the use of either of the driver's hands, except to activate or deactivate a function of the device.

**C.** This section does not apply to:

1. An operator of an authorized emergency, law enforcement or probation vehicle who uses a portable wireless communication device while acting in an official capacity.
2. An operator who is licensed by the federal communications commission while operating a radio frequency device other than a portable wireless communication device.
3. An operator who uses a two-way radio or private land mobile radio system, within the meaning of 47 Code of Federal Regulations part 90, while in the performance and scope of the operator's work-related duties and who is operating a fleet vehicle or who possesses a commercial driver license.
4. An operator who uses a portable wireless communication device either:
  - (a) To report illegal activity or summon emergency help.
  - (b) That was permanently or temporarily affixed to the motor vehicle to relay information in the course of the operator's occupational duties between the operator and either:
    - (i) A dispatcher.
    - (ii) A digital network or software application service.

**D.** A person who violates this section is subject to a civil penalty as follows:

1. At least \$75 but not more than \$149 for a first violation.
2. At least \$150 but not more than \$250 for a second or subsequent violation.

**E.** A peace officer who stops a motor vehicle for an alleged violation of this section may not:

1. Take possession of or otherwise inspect a portable wireless communication device in the possession of the operator unless otherwise authorized by law.

**F. The enforcement and regulation of the use of portable wireless communication devices while operating a motor vehicle under this section is valid only until December 31<sup>st</sup>, 2020 pursuant to ARS 28-914.H after which this town code will be void.**

**G.** For the purposes of this section:

1. "Portable wireless communication device":

(a) Means a cellular telephone, a portable telephone, a text-messaging device, a personal digital assistant, a stand-alone computer, a global positioning system receiver or a substantially similar portable wireless device that is used to initiate or receive communication, information or data.

(b) Does not include a radio, citizens band radio, citizens band radio hybrid, commercial two-way radio communication device or its functional equivalent, subscription-based emergency communication device, prescribed medical device, amateur or ham radio device or in-vehicle security, navigation or remote diagnostics system.

2. "Stand-alone electronic device" means a portable device other than a portable wireless communication device that stores audio or video data files to be retrieved on demand by a user.

PASSED AND ADOPTED by the Mayor and Town Council of the Town of Snowflake, Arizona, this \_\_\_\_\_ day of \_\_\_\_\_ 2020.

Attest:

\_\_\_\_\_  
Lynn Johnson, Mayor

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Katie Melsner, Town Clerk

Approved as to Form:

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Robert M. Hall, Town Attorney