

ORDINANCE NO. 1502

AN ORDINANCE TO ENACT SECTION 21-03-25  
OF THE CODE OF THE CITY OF JAMESTOWN, NORTH DAKOTA,  
PERTAINING TO PROHIBITING THE USE OF A WIRELESS COMMUNICATIONS DEVICE WHILE OPERATING A VEHICLE;

TO ENACT SECTION 21-03-26  
OF THE CODE OF THE CITY OF JAMESTOWN, NORTH DAKOTA,  
PERTAINING TO PROHIBITING THE USE OF A WIRELESS COMMUNICATIONS DEVICE BY A MINOR WHILE OPERATING A VEHICLE;

TO ENACT SECTION 21-03-27  
OF THE CODE OF THE CITY OF JAMESTOWN, NORTH DAKOTA,  
PERTAINING TO FAILURE TO MAINTAIN CONTROL OF A VEHICLE WHILE THE DRIVER IS DISTRACTED;

AND

TO AMEND AND RE-ENACT SECTION 21-06-03  
OF THE CODE OF THE CITY OF JAMESTOWN, NORTH DAKOTA,  
PERTAINING TO SPEED LIMITATIONS

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF JAMESTOWN, NORTH DAKOTA,  
that Sections 21-03-25, 21-03-26, and 21-03-27 of the Code of the City of Jamestown, North Dakota, are  
hereby enacted AND that Section 21-06-03 is hereby amended and re-enacted to read as follows:

SECTION 21-03-25. Use of a wireless communications device prohibited.

1. The operator of a motor vehicle that is part of traffic may not use a wireless communications device to compose, read, or send an electronic message.
2. Under this section:
  - a. "Electronic message" means a self-contained piece of digital communication that is designed or intended to be transmitted between physical devices. The term includes electronic mail, a text message, an instant message, a command or request to access a worldwide web page, or other data that uses a commonly recognized electronic communications protocol. The term does not include:
    - 1) Reading, selecting, or entering a telephone number, an extension number, or voice mail retrieval codes and commands into an electronic device for the purpose of initiating or receiving a telephone or cellular phone call or using voice commands to initiate or receive a telephone or cellular phone call;
    - 2) Inputting, selecting, or reading information on a global positioning system device or other navigation system device;
    - 3) Using a device capable of performing multiple functions, such as fleet management systems, dispatching devices, phones, citizen band radios, music players, or similar devices, for a purpose that is not otherwise prohibited;

- 4) Voice or other data transmitted as a result of making a telephone or cellular phone call;
  - 5) Data transmitted automatically by a wireless communication device without direct initiation by an individual; or
  - 6) A wireless communications device used in a voice-activated, voice-operated, or any other hands-free manner.
- b. "Traffic" means operation of a motor vehicle while in motion or for the purposes of travel on any street or highway and includes a temporary stop or halt of motion, such as at an official traffic-control signal or sign. The term does not include a motor vehicle that is lawfully parked.
3. This section does not apply if a wireless communications device is used for obtaining emergency assistance to report a traffic accident, medical emergency, or serious traffic hazard or to prevent a crime about to be committed, in the reasonable belief that an individual's life or safety is in immediate danger, or in an authorized emergency vehicle while in the performance of official duties.

(Reflects NDCC 39-08-23)

#### SECTION 21-03-26. Use of a wireless communications device by minor prohibited.

An individual under eighteen years of age who has been issued a class D license may not operate an electronic communication device to talk, compose, read, or send an electronic message while operating a motor vehicle that is in motion unless the sole purpose of operating the device is to obtain emergency assistance, to prevent a crime about to be committed, or in the reasonable belief that an individual's life or safety is in danger.

(Reflects NDCC 39-08-24)

#### SECTION 21-03-27. Failure to maintain control.

1. An operator of a motor vehicle may not fail to maintain control of that motor vehicle. An individual is in violation of this section if that individual:
  - a. Commits an offense under this title and, at the time of the offense, the individual was engaged in the operation of a motor vehicle while distracted; or
  - b. Is determined to have been the operator of a motor vehicle that was involved in a reportable accident as defined in NDCC Section 39-08-09 which resulted in property damage and, at the time the reportable accident occurred, the individual was engaged in the operation of a motor vehicle while distracted.
2. An individual may be issued a citation or summons for any other traffic offense that was committed by the individual in relation to the individual's commission of the traffic

offense of failure to maintain control of a motor vehicle.

3. As used in this section, "operation of a motor vehicle while distracted" means the operation of a motor vehicle by an individual who, while operating the vehicle, is engaged in an activity that:
  - a. Is not necessary to the operation of the vehicle; and
  - b. Actually impairs, or would reasonably be expected to impair, the ability of the individual to safely operate the vehicle.

(Reflects NDCC 39-08-25)

#### SECTION 21-06-03. Speed limitations.

- a) Subject to the provisions of section 21-06-02 and except in those instances when a lower speed is specified in this chapter, it presumably is lawful for the driver of a vehicle to drive the same at a speed not exceeding:
  - 1) Twenty (20) miles an hour when approaching within fifty (50) feet of a grade crossing of any railway when the driver's view is obstructed. A driver's view shall be deemed to be obstructed when at any time during the last two hundred (200) feet of his approach to such crossing, he does not have a clear and uninterrupted view of such railway crossing and of any traffic on such railway for a distance of four hundred (400) feet in each direction from such crossing;
  - 2) Twenty (20) miles an hour when passing a school during school recess or while children are going to or leaving school during opening or closing hours;
  - 3) Twenty (20) miles an hour when approaching within fifty feet (50) and in traversing an intersection of streets or highways when the driver's view is obstructed. A driver's view shall be deemed to be obstructed when at any time during the last fifty (50) feet of his approach to such intersection, he does not have a clear and uninterrupted view of such intersection and of the traffic upon all of the streets or highways entering such intersection for a distance of two hundred (200) feet from such intersection;
  - 4) Twenty miles (20) an hour when the driver's view of the street or highway ahead is obstructed within a distance of one hundred (100) feet;
  - 5) Twenty-five (25) miles an hour on any street or highway in a business district or in a residence district or in a public park, unless a different speed limit is designated and posted;
  - 6) Sixty (60) miles an hour on access-controlled, paved and divided, multilane interstate highways, unless otherwise permitted, restricted or required by conditions;
  - 7) Sixty-five (65) miles an hour on access-controlled, paved and divided, multilane interstate highways, unless otherwise permitted, restricted or required by conditions;

- 8) Seventy-five (75) miles an hour on access-controlled, paved and divided, multilane interstate highways, unless otherwise permitted, restricted or required by conditions.
- b) It shall be unlawful for any person to drive a vehicle upon a street or highway at a speed that is unsafe. It shall be prima facie unsafe for any person to exceed any highway speed limit prescribed by law or established pursuant to law.
- c) In charging a violation of the provisions of this section, the complaint must specify the speed at which the defendant is alleged to have driven and the speed which this section prescribes shall be prima facie lawful at the time and place of the alleged offense.
- d) The city traffic engineer and chief of police may establish temporary speed limits in road construction or road maintenance areas by posting signs to give notice of the beginning and end of the construction or maintenance areas and the designated speed limits for the posted areas.

(Reflects NDCC 39-09-02)

ATTEST:

Jeff Fuchs, City Administrator

APPROVED:

Katie Andersen, Mayor

Introduced by Council Member Buchanan

Seconded by Council Member Phillips

First Reading: November 6, 2017

Second Reading: December 4, 2017

Final Passage: December 4, 2017

Roll Call No. 4 showed: 5 ayes, 0 nays, 0 absent.