

AN ORDINANCE REPEALING AND REPLACING SECTION 340.350 OF THE CODE OF ORDINANCES, CITY OF BLUE SPRINGS, MISSOURI

WHEREAS, Section 340.350 of the Code of Ordinances, City of Blue Springs, MO prohibits Text Messaging While Operating a Motor Vehicle; and

WHEREAS, the State of Missouri has adopted and amended Section 304.822 of the Revised Statutes of Missouri (RSMo) Electronic communication device use of while driving prohibited; and

WHEREAS, to comply with State Statute Section 304.822, RSMo, the City recommends that the current Section 340.350 of the Code of Ordinances be repealed and replaced.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF BLUE SPRINGS, MISSOURI, as follows:

NOTE: LANGUAGE TO BE ADDED IS UNDERLINED. LANGUAGE TO BE DELETED IS SHOWN AS ~~STRICKEN~~. Sections and Subsections not set out herein are not amended or changed.

Section 1. That Section 340.350 of the Code of Ordinances, City of Blue Springs, Missouri, is repealed in its entirety.

Section 2. That the Code of Ordinances, City of Blue Springs, Missouri, is hereby amended by adding a Section 340.350 as follows:

Section 340.350 Electronic communication device, use of while driving prohibited.

A. As used in this section, the following terms shall mean:

1. "Commercial motor vehicle", the same meaning as is ascribed to such term in Section 302.700, RSMo.
2. "Electronic communication device", a portable device that is used to initiate, receive, store, or view communication, information, images, or data electronically.
 - a. Such term shall include but not be limited to: cellular telephones; portable telephones; text-messaging devices; personal digital assistants; pagers; broadband personal communication devices; electronic devices with mobile data access; computers, including but not limited to tablets, laptops, notebook computers, and electronic or video game systems; devices capable of transmitting, retrieving, or displaying a video, movie, broadcast television image, or visual image; and any substantially similar device that is used to initiate or receive communication or store and review information, videos, images, or data.

- b. Such term shall not include: radios; citizens band radios; commercial two-way radio communication devices or their functional equivalent; subscription-based emergency communication devices; prescribed medical devices; amateur or ham radio devices; or global positioning system receivers, security, navigation, communication, or remote diagnostics systems permanently affixed to the vehicle.
 3. "Highway", the same meaning as is ascribed to such term in Section 302.010, RSMo.
 4. "Noncommercial motor vehicle", the same meaning as is ascribed to such term in Section 302.700, RSMo.
 5. "Operating", the actual physical control of a vehicle.
 6. "Operator", a person who is in actual physical control.
 7. "School bus", the same meaning as is ascribed to such term in Section 302.700, RSMo.
 8. "Voice-operated or hands-free feature or function", a feature or function, whether internally installed or externally attached or connected to an electronic communication device, that allows a person to use an electronic communication device without the use of either hand, except to activate, deactivate, or initiate the feature or function with a single touch or single swipe.
- B. Except as otherwise provided in this section, while operating a noncommercial motor vehicle or commercial motor vehicle on any highway or property open to the public for vehicular traffic in this state, no operator shall:
 1. Physically hold or support, with any part of his or her body, an electronic communication device;
 2. Write, send, or read any text-based communication, including but not limited to a text message, instant message, email, or social media interaction on an electronic communication device. This subdivision shall not apply to operators of a noncommercial motor vehicle using a voice-operated or hands-free feature or function that converts the message to be sent as a message in a written form, provided that the operator does not divert his or her attention from lawful operation of the vehicle;
 3. Make any communication on an electronic communication device, including a phone call, voice message, or one-way voice communication; provided however, that this prohibition shall not apply to use of a voice-operated or hands-free feature or function;
 4. Engage in any form of electronic data retrieval or electronic data communication on an electronic communication device;
 5. Manually enter letters, numbers, or symbols into any website, search engine, or application on an electronic communication device;
 6. Watch a video or movie on an electronic communication device, other than watching data related to the navigation of the vehicle; or

7. Record, post, send, or broadcast video, including a video conference, on an electronic communication device, provided that this prohibition shall not apply to electronic devices used for the sole purpose of continually monitoring operator behavior by recording or broadcasting video within or outside the vehicle.
- C. The operator of a school bus shall not use or operate an electronic communication device while the school bus is in motion unless the device is being used in a similar manner as a two-way radio to allow live communication between the operator and school officials or public safety officials. The operator of a school bus shall not use or operate an electronic communication device or a two-way radio while loading or unloading passengers.
- D. This section shall not apply to:
1. Law enforcement officers or operators of emergency vehicles, as such term is defined in Section 304.022, RSMo, who are both using the electronic communication device and operating the emergency vehicle in the performance of their official duties;
 2. Operators using an electronic communication device for the sole purpose of reporting an emergency situation and continuing communication with emergency personnel during the emergency situation;
 3. Operators of noncommercial motor vehicles using an electronic communication device solely through a voice-operated or hands-free feature or function;
 4. Operators of commercial motor vehicles using a voice-operated or hands-free feature or function, as long as the operator remains seated and is restrained by a seat belt as required by law;
 5. Operators of commercial motor vehicles reading a message displayed on a permanently installed communication device designed for a commercial motor vehicle with a screen that does not exceed ten inches tall by ten inches wide in size;
 6. Operators using electronic communication devices while the vehicle is lawfully stopped or parked;
 7. Commercial motor vehicles that are responding to a request for roadside assistance, when such response is conducted by a motor club as defined in Section 385.450, RSMo or a towing company as defined in Section 304.001, RSMo;
 8. The use of an electronic communication device to relay information between a transit or for-hire vehicle operator and that operator's dispatcher, provided the device is mounted or affixed to the vehicle;
 9. The use of an electronic communication device to access or view a map for navigational purposes;
 10. The use of an electronic communication device to access or listen to an audio broadcast or digital audio recording; or
 11. The use of an electronic communication device to relay information through a transportation network company's digital network to a transportation network company driver, provided the device is mounted or affixed to the vehicle.

- E. Except as otherwise provided in this subsection, violation of this section shall be an infraction. Penalties for violations of this section shall be as provided in this subsection.
 - 1. For a conviction under this section where there is no prior conviction under this section within the preceding twenty-four months, the court shall impose a fine of up to one hundred fifty dollars (\$150).
 - 2. For a conviction under this section where there is one prior conviction under this section within the preceding twenty-four months, the court shall impose a fine of up to two hundred fifty dollars (\$250).
 - 3. For a conviction under this section where there are two or more prior conditions under this section in the preceding twenty-four months, the court shall impose a fine of up to five hundred dollars (\$500).
 - 4. For a conviction under this section where the violation occurred in a work zone when workers are present, as such terms are defined in Section 304.580, RSMo, or for a conviction under this section where the violation occurred in an area designated as a school zone and marked in any way that would alert a reasonably prudent operator to the presence of the school zone, the court shall impose a fine of up to five hundred dollars (\$500).
- F. A law enforcement officer who stops a noncommercial motor vehicle for a violation of this section shall inform the operator of the operator's right to decline a search of their electronic communication device. No warrant shall be issued to confiscate or access an electronic communication device based on a violation of this section unless the violation results in serious bodily injury or death.
- G. A violation of this section shall not be used to establish probable cause for any other violation.
- H. The provisions of this section shall be subject to the reporting requirements set forth in Section 590.650, RSMo.
- I. Prior to January 1, 2025, a law enforcement officer who stops a noncommercial motor vehicle for a violation of this section shall not issue a citation for a violation of this section and shall only issue a warning.
- J. No person shall be stopped, inspected, or detained solely for a violation of this section.

Section 3: Scrivener's Errors. Typographical errors and other matters of a similar nature that do not affect the intent of this Ordinance, as determined by the City Clerk and City Attorney, may be corrected with the endorsement of the City Administrator without the need to come before the City Council.

PASSED by the City Council of the City of Blue Springs, Missouri, and approved by the Mayor of Blue Springs, this 2nd day of October 2023.

CITY OF BLUE SPRINGS



Carson Ross, Mayor

ATTEST:



Erin Ford, Deputy City Clerk

1st Reading: October 2, 2023
2nd Reading: October 2, 2023

**CITY OF BLUE SPRINGS
CITY COUNCIL INFORMATION FORM**

DATE SUBMITTED: September 7, 2023

SUBMITTED BY: Sarah Carnes

DEPARTMENT: Law

<input checked="" type="checkbox"/> Ordinance	<input type="checkbox"/> Resolution	<input type="checkbox"/> Presentation	<input type="checkbox"/> Public Hearing
<input type="checkbox"/> Contract	<input type="checkbox"/> Discussion	<input type="checkbox"/> Economic Dev.	<input type="checkbox"/> Other

ISSUE/REQUEST

Passage of a Bill repealing Section 340.350 Text Messaging While Operating A Motor Vehicle Prohibited; Exceptions; Commercial Motor Vehicle, Use of Hand-Held Mobile Telephone, Text Messaging Prohibited and approving new Section 340.350 Electronic communication device, use of while driving prohibited.

BACKGROUND/JUSTIFICATION

Each year, the Missouri Legislature approves new laws that may impact municipal city codes. In 2023, the Legislature amended Section 304.822, RSMo Electronic Communication Device, use of While Driving Prohibited. Repealing the current Section 340.350 and replacing it with the new language that tracks the current Missouri Law will aid in consistent enforcement.

FINANCIAL IMPACT

Contractor: N/A

PROJECT TIMELINE

Estimated Start Date	Estimated End Date
October 3, 2023	N/A

STAFF RECOMMENDATION

Staff recommends approval.

OTHER BOARDS & COMMISSIONS ASSIGNED

Name of Board or Commission: N/A

ECONOMIC DEVELOPMENT PROJECT

N/A

LIST OF REFERENCE DOCUMENTS ATTACHED

1. Bill amending the Code

REVIEWED BY

Requesting Director: Sarah E. Carnes	Budget: N/A
Legal: Sarah E. Carnes	Interim City Administrator: Christine Cates