

NOTICE

THE COMMISSIONERS OF THE CITY OF REHOBOTH BEACH ON APRIL 19, 2024,
ADOPTED ORDINANCE NO. 0424-01 WHICH READS AS FOLLOWS:

**AN ORDINANCE
TO AMEND CHAPTER 92, AUTOMOBILES, VEHICLES AND TRAFFIC, ARTICLE
XXVIII, RACING AND CARELESS DRIVING, OF THE MUNICIPAL CODE OF THE
CITY OF REHOBOTH BEACH, 2001, AS AMENDED, BY INSERTING A NEW
SECTION 92-246 RELATING TO REGULATING THE USE OF ELECTRONIC
COMMUNICATION DEVICES WHILE DRIVING**

WHEREAS, the Mayor and Commissioners of the City of Rehoboth Beach, for the purpose of promoting the health, safety, and welfare of the City of Rehoboth Beach, desire to establish a municipal regulation and corresponding penalty concerning the use of electronic communication devices while operating a motor vehicle; and

WHEREAS, City of Rehoboth Beach Charter Section 13(e) states in relevant part, that “in [the case of] motor vehicle violations the fines and penalties imposed under the ordinances of the City of Rehoboth Beach shall be the same as those provided by the Laws of Delaware for the same offense.”; and

WHEREAS, 21 *Del. C.* § 4176C, which is a section of the State Code relating to the use of electronic devices while operating a motor vehicle, states in relevant part, that “[w]hoever violates this section shall for the first offense be subject to a civil penalty of \$100. For each subsequent like offense occurring within 2 years of the former offense the person shall be subject to a civil penalty of not less than \$200 nor more than \$300. . . .”

BE IT ORDAINED, by the Commissioners of the City of Rehoboth Beach, in session met, in the manner following to wit:

Section 1. Chapter 92, Automobiles, Vehicles and Traffic, Article I, Definitions, Section 92-1, Terms Defined, of the Municipal Code of the City of Rehoboth Beach, Delaware, 2001, as amended be and the same is hereby further amended by making insertions as shown by underlining as follows:

§ 92-1 Terms Defined.

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CELL TELEPHONE

A cellular, analog, wireless or digital telephone.

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ELECTRONIC COMMUNICATION DEVICE

A cell telephone, personal digital assistant, electronic device with mobile data access, laptop computer, pager, broadband personal communication device, 2-way messaging device, electronic game, or portable computing device.

ENGAGES (ENGAGING) IN A CALL

When a person talks into or listens on an electronic communication device, but shall not mean when a person dials or punches a phone number on an electronic communication device.

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HANDS-FREE ELECTRONIC COMMUNICATION DEVICE

An electronic communication device that has an internal feature or function, or that is equipped with an attachment or addition, whether or not permanently part of such electronic communication device, by which a user engages in a call without the use of either hand or both hands.

HANDS-FREE EQUIPMENT

The internal feature or function of a hands-free electronic communication device or the attachment or addition to a hands-free electronic communication device by which a user may engage in a call without the use of either hand or both hands.

Section 2. Chapter 92, Automobiles, Vehicles and Traffic, Article XXVIII, Racing and Careless Driving, of the Municipal Code of the City of Rehoboth Beach, Delaware, 2001, as amended be and the same is hereby further amended by inserting a new Section 92-246 in its entirety as follows:

§ 92-246 Use of Electronic Communication Devices.

- A. No person shall drive a motor vehicle on any highway while using an electronic communication device while such motor vehicle is in motion.
- B. For the purposes of this section, “Using” shall mean holding in a person’s hand or hands an electronic communication device while:
 - (1) Viewing or transmitting images or data;
 - (2) Playing games;
 - (3) Composing, sending, reading, viewing, accessing, browsing, transmitting, saving or retrieving e-mail, text messages or other electronic data; or
 - (4) Engaging in a call.
- C. Subsection (a) of this section shall not apply to:

- (1) A law-enforcement officer, a firefighter, an emergency medical technician, a paramedic or the operator of an authorized emergency vehicle in the performance of their official duties;
- (2) A person using an electronic communication device to report to appropriate authorities a fire, a traffic accident, a serious road hazard, or medical or hazardous materials emergency, or to report the operator of another motor vehicle who is driving in a reckless, careless or otherwise unsafe manner or who appears to be driving under the influence of alcohol or drugs, or to report any crime;
- (3) A person using a cell telephone who is operating a school bus and covered under 21 *Del. C. § 4176B*;
- (4) A person engaging in a call with a hands-free electronic communication device while utilizing hands-free equipment and such person does not hold the hands-free electronic communication device in such person's hand or hands;
- (5) The activation or deactivation of hands-free equipment or a function of hands-free equipment;
- (6) Use of an amateur radio by an FCC-licensed amateur radio operator; and
- (7) A person who during their course of employment with a business or government entity uses a 2-way radio mounted or attached to a motor vehicle to communicate with a central dispatch, base of operation, or with other employees of such business or government entity.

D. Whoever violates this Section shall for the first offense be subject to a civil penalty of \$100. For each subsequent like offense occurring within 2 years of the former offense the person shall be subject to a civil penalty of not less than \$200 nor more than \$300. No motor vehicle points shall be assessed for a violation of this section.

Section 2. This Ordinance shall become effective immediately upon its adoption by the Commissioners of the City of Rehoboth Beach.

SYNOPSIS: This Ordinance amends Chapter 92 of the City Code to insert requirements and penalties relating to the use of electronic communication devices while operating a motor vehicle.