

NOW THEREFORE BE IT ORDAINED BY THE COUNTY COUNCIL OF THE COUNTY OF NEWBERRY, SOUTH CAROLINA that:

SECTION 1. The provisions for a Distracted Driving Ordinance as set forth on the attached exhibit are to be enacted and shall become effective _____, 2014.

SECTION 2. The American Legal Publishing Company as the codifier of the County Code, in consultation with the County Attorney, shall assign a code section number or numbers and incorporate the provisions into the County Code.

AND IT IS SO ORDAINED by Newberry County Council this ____ day of _____, 2014 in meeting duly assembled at Newberry, South Carolina.

(SEAL)

NEWBERRY COUNTY COUNCIL

By: _____
Henry H. Livingston, III, Chairman

Attest:

Laurie N. Renwick, Clerk to Council

1st reading: May 7, 2014
Public Hearing:
2nd reading: May 21, 2014
3rd reading:

Reviewed and approved as to form

A. J. Tothacer, Jr., County Attorney

Wayne Adams, County Administrator

EXHIBIT

Distracted Driving

(a) Offense: No person shall operate a motor vehicle, motorcycle, moped, or bicycle on, or in, a public street, public highway, public parking lot, or public parking garage while using a mobile phone or other portable electronic communication device.

(b) Exceptions: The provisions of this section shall not apply to the following:

- (1) The operator of a motor vehicle, motorcycle, moped, or bicycle that is legally parked.
- (2) The operator of a motor vehicle, motorcycle, moped, or bicycle who is using a mobile phone or other portable electronic communication device that is specifically designed and configured to allow hands free use and is being used in that manner.
- (3) A law enforcement officer, firefighter, emergency medical services personnel, ambulance driver, or other similarly employed public safety personnel using a mobile phone or portable electronic communication device solely for the performance of his or her official duties.
- (4) The operator of a motor vehicle, motorcycle, moped, or bicycle using a mobile phone or other portable electronic communication device to report a crime or emergency situation to the appropriate authorities.

(c) Definitions:

- (1) Motor vehicle is defined by Title 56, Chapter 1, Article 1, §56-1-10(7) of the South Carolina Code of Laws.
- (2) Motorcycle and moped shall be defined by Title 56, Chapter 1, Article 1, §56-1-10(8) of the South Carolina Code of Laws.
- (3) Bicycle shall be given its plain and ordinary meaning of a two wheeled, human propelled conveyance. Bicycle shall include said human propelled conveyances with any number of wheels, including but not limited to three wheelers.
- (3) Operate means to drive or ride a motor vehicle, motorcycle, moped, or bicycle including while temporarily stationary because of traffic, a traffic control device, or other momentary delays.
- (3) Mobile phone means a mobile, wireless telephone.
- (4) Other portable electronic communication device means a mobile phone, cellphone, text-messaging device, personal digital assistant, computer, tablet, or any other substantially similar wireless device that is used to initiate or receive a wireless communication or data. Other portable electronic communication device does not mean a direct connect, two-way, push button activated, voice radio.
- (5) Using a mobile phone or other portable electronic communication device means talking into, listening to a communication on, sending text messages with, reading text messages on the screen of, sending e-mail with, reading e-mail on the screen of, or viewing the screen of said device.

- (a) A person who holds a mobile phone or other portable electronic communication device up to, or proximately near, his or her ear is presumed to be

using it to talk into or listen to a communication on said device in violation of this section.

(b) A person who holds a mobile phone or other portable electronic communication device while manipulating the keyboard or screen is presumed to be using it to read or send text messages, read or send e-mails, or view the screen of said device in violation of this section.

(d) Penalties:

(1) A violation of this section shall be punishable by a fine of:

(a) up to \$100 plus court costs for a first offense.

(b) up to \$200 plus court costs for a second offense occurring within one year of a first offense.

(c) up to \$300 plus court costs for a third or subsequent offense occurring within one year of a second offense.

(2) In the discretion of the Magistrate Court, upon a conviction for a third or subsequent offense, the offending cell phone or other portable electronic communication device may be seized and destroyed.