



REQUEST FOR CITY COUNCIL ACTION

MEETING DATE:

February 3, 2021

DEPARTMENT:

City Attorney

DIVISION

Administration

STRATEGIC OUTCOMES

- ☒ Safe & Prosperous
- ☐ Active & Appealing
- ☐ Respected & Responsible
- ☐ Connected & Engaged
- ☐ Unique & Creative

ACTION

- ☐ Motion
- ☐ Resolution
- ☐ Ordinance - Introduction
- ☒ Ordinance - Adoption
- ☐ Public Hearing

TITLE:

Repeal Yuma City Code §§ 211-09 and 211-10: Traffic Rules

SUMMARY RECOMMENDATION:

Repeal Yuma City Code §§ 211-09 and 211-10. (City Attorney) (Richard Files)

REPORT:

In 2013 and 2014, many state leaders began discussing whether Arizona should enact a statewide prohibition on using cellular telephones while driving. The Arizona Legislature for years had resisted efforts at enacting a statewide ban because Arizona had existing distracted driving laws believed to already address the issue effectively and covered more than just phones. While the Arizona Legislature did adopt a statewide law prohibiting teenage drivers from using cell phones for talking or texting while driving, in 2017, it was unwilling to go any further with a statewide ban. Without a statewide prohibition, many Arizona cities and towns adopted local hands-free ordinances and texting bans within each jurisdiction.

In response to significant increase in traffic accidents with links to uses of portable communication devices, the City of Yuma adopted Ordinance O2015-057 in November 2015, which amends Title 21, Chapter 211 of the Yuma City Code (Y.C.C.) to add §§ 211-09 and 211-10 relating to distracted driving. Those two sections prohibit drivers from using a portable communication device while driving unless the device is hands-free within the City jurisdiction. At the time the City adopted O2015-057, Arizona was among only four states in the United States that did not have some type of restriction on the use of portable communication devices by all drivers.

The 2019 Arizona Legislature, in response to several tragedies in jurisdictions without hands-free ordinances, enacted a statewide ban on texting/talking while driving. While deliberating the bill, the state legislators noted that 19 cities/towns and counties had already enacted local hands-free rules and specifically noted the success of the City of Yuma ordinances.

Codified at A.R.S. § 28-914, the statewide provision purports to take the best part of the existing laws and largely mimics the Yuma ordinance found at Y.C.C. §§ 211-09 and 211-10. The Legislature also was worried about enacting a swift prohibition without ample notice, so A.R.S. § 28-914 borrows from a Georgia statute

implementing the law over two years and allowing the local rules to remain valid until then.

The statute went into effect April 22, 2019, but provided citations shall not be issued until January 1, 2021. In the interim, municipalities were permitted to continue issuing citations under existing local regulations. Because the state Legislature deemed A.R.S. § 28-914 to be a matter of statewide concern, the law preempts the body or field of law, leaving no room for further local regulation or deregulation. Therefore beginning January 1, 2021, when the law took full effect, municipalities may no longer regulate the use of portable wireless communication devices while driving and any ordinances that do so are deemed void.

To avoid potential issues, it is recommended that the relevant sections of the Y.C.C., specifically Y.C.C. § 211-09 and Y.C.C. § 211-10 be repealed in their entirety and violators will be cited under the applicable Arizona Revised Statutes. With the state law ban on texting and driving now in effect, Yuma will still meet the City Council's strategic outcome of Safe and Prosperous City.

FISCAL REQUIREMENTS	CITY FUNDS:	\$0.00	BUDGETED:	\$0.00
	STATE FUNDS:	\$0.00	AVAILABLE TO TRANSFER:	\$0.00
	FEDERAL FUNDS:	\$0.00	IN CONTINGENCY:	\$0.00
	OTHER SOURCES:	\$0.00 \$0.00 \$0.00	FUNDING FOR THIS ITEM IS FOUND IN THE FOLLOWING ACCOUNT/FUND/CIP:	
	TOTAL:	\$0.00		
	FISCAL IMPACT STATEMENT: None at this time.			

ADDITIONAL INFORMATION	SUPPORTING INFORMATION NOT ATTACHED TO THE CITY COUNCIL ACTION FORM THAT IS ON FILE IN THE OFFICE OF THE CITY CLERK: 1. Copy of Yuma City Code §§ 211-09 and 211-10 with strikethroughs 2. 3. 4. 5.		
	IF CITY COUNCIL ACTION INCLUDES A CONTRACT, LEASE OR AGREEMENT, WHO WILL BE RESPONSIBLE FOR ROUTING THE DOCUMENT FOR SIGNATURE AFTER CITY COUNCIL APPROVAL? <input type="checkbox"/> Department <input checked="" type="checkbox"/> City Clerk's Office <input type="checkbox"/> Document to be recorded <input type="checkbox"/> Document to be codified		

SIGNATURES	CITY ADMINISTRATOR:	DATE:
	Philip A. Rodriguez	1/13/2021
	REVIEWED BY CITY ATTORNEY:	DATE:
	Richard W. Files	1/13/2021
	RECOMMENDED BY (DEPT/DIV HEAD):	DATE:
WRITTEN/SUBMITTED BY:	DATE:	
Emily K. Hart	1/04/2021	