

ORDINANCE NO. 17-971

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MONTCLAIR AMENDING CHAPTER 8.02.010 (“DEFINITIONS”) AND ADDING CHAPTER 8.28.020 (“PEDESTRIAN USE OF MOBILE ELECTRONIC DEVICES”) TO THE MONTCLAIR MUNICIPAL CODE

WHEREAS, Section VII of Article XI of the California Constitution provides that a City may make and enforce within its limits all local, police, sanitary, and other ordinances and regulations not in conflict with general laws; and

WHEREAS, a number of national university and safety studies, including a 2012 study conducted by the Harborview Injury Prevention and Research Center, University of Washington, reveal that approximately one in three pedestrians use their mobile electronic devices or text message while crossing busy streets; and

WHEREAS, according to the same University of Washington study, crashes involving vehicles and pedestrians injure an estimated 60,000 people and kill approximately 4,000 each year in the United States; and

WHEREAS, nationally, the number of traffic fatalities overall has been falling due to safer vehicles, increased seat-belt use and fewer alcohol-related incidents, but pedestrian deaths have increased starting in 2010, with pedestrian-involved vehicle accidents accounting for 14 percent of United States traffic fatalities, up from 11 percent in 2007, with urban areas experiencing higher pedestrian deaths as a percentage of all traffic fatalities, up from 20 percent in 2005 to 24 percent in 2013; and

WHEREAS, an estimated 30 percent of pedestrians engage in distracting activities while crossing streets including talking on the phone, text messaging, or listening to music; and

WHEREAS, according to the Safe Kids Worldwide advocacy group approximately half of students ages 15 to 19 report they use a mobile electronic device when walking to and from school; and

WHEREAS, people who are distracted by their mobile electronic devices take, on average, an estimated 0.75 to 1.29 seconds longer to cross the road than those who were not distracted by, or using a mobile electronic device, and people who are texting take approximately 2 seconds longer to cross the typical four lane road; and

WHEREAS, people who are distracted by their mobile electronic devices are four times more likely to ignore traffic lights, cross outside the crosswalk, or not look both ways before crossing a street; and

WHEREAS, a 2009 University of Alabama at Birmingham study found that children are at an even higher risk for injuries or death in a pedestrian accident when using a mobile electronic device, particularly when children attempt to multitask due to reduced cognitive capacity to devote to potentially dangerous activities such as crossing streets; and

WHEREAS, the University of Alabama study found that in a simulated computer environment, children, while distracted by a mobile electronic device, take 20 percent longer to begin crossing the street and are 43 percent more likely to be hit by a vehicle or have a close call; and

WHEREAS, a study by the journal, Injury Prevention, has determined that an increase in the use of headphones by pedestrians in environments with moving vehicles has led to a dramatic rise in the number of injuries, with teenagers, young adults and men the most at risk and that the wearing of headphones may have played a direct part in the injury accidents, as the users could not hear or were distracted from warnings that they were in danger; and

WHEREAS, a 2017 study completed by the Governors Highway Safety Association, the most recent study to examine pedestrian-related injuries and death related to distracted walking, found an alarming 11 percent increase in pedestrian deaths from 2015 to 2016, with a double-digit increase projected for 2017 as compared to 2016; and

WHEREAS, the rise in pedestrian-related deaths is attributed to a growing number of Americans choosing to travel by foot for health, transportation, and economic or environmental reasons and the use of mobile electronic devices while engaged in walking; and

WHEREAS, states reported nearly 2,700 pedestrian fatalities in the first six months of 2016 compared with fewer than 2,500 in the same period a year earlier, for an 11 percent increase; and

WHEREAS, compared with 2014, 2016 pedestrian fatalities represented an increase in 22 percent; and

WHEREAS, more than twice as many states (34) reported an uptick in pedestrian deaths in the first half of 2016 than those reporting decreases (15 plus in the District of Columbia), while just one (Maine) saw no change; and

WHEREAS, pedestrians now account for 15 percent of all vehicle-related fatalities; and

WHEREAS, the National Highway Traffic Safety Administration reported that through the first nine months of 2016, nearly 28,000 people were killed in traffic incidents overall, an 8 percent spike over the previous year and following a more than 7 percent increase the year before that; and

WHEREAS, the Governors Highway Safety Association is urging government agencies across the United States to adopt strategies, including:

- High-visibility enforcement and public information campaigns targeting both pedestrians and motorists;
- Identifying high-risk zones and conducting educational outreach in these areas;
- Enacting policies that ensure streets are safe for all users, irrespective of mode of transportation;
- Undertaking safety-minded infrastructure improvements; and

WHEREAS, as the nation makes progress in roadway and vehicle traffic safety, there exists a lack of progress in pedestrian safety.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MONTCLAIR DOES HEREBY ORDAIN AS FOLLOWS:

SECTION I. Amendment of Code. Section 8.02.010 (“Definitions”) of Chapter 8.02 (“Definitions”) of Title 8 (“Vehicles and Traffic”) of the Montclair Municipal Code is hereby amended to include the following:

8.02.010. Definitions.

As used in this Title, the following definitions shall apply. For purposes of Title 8, these definitions shall supersede any other definitions of the same terms elsewhere in this Code.

Emergency Responders include, but are not limited to, public safety officers of either a municipal or county police department or fire department, emergency medical technicians, paramedics, private ambulance service responders, emergency management workers, and federal and state law enforcement and fire service officers on duty and responding to an emergency service request.

Mobile Electronic Device means any handheld, head- or body-mounted, or portable electronic equipment capable of providing wireless and/or data communication between two or more persons or a device for providing amusement, including but not limited to a cellular phone, smart phone, text messaging device, paging device, personal digital assistant, laptop computer, video game, video/audio player, digital photographic device, or any other similar electronic device.

Pedestrian means a person who is afoot or who is using any of the following: (1) a means of conveyance propelled by human power other than a bicycle; or (2) an electric personal assistive mobility device.

Personal Audio Equipment means any device placed in, on or around a person's ears capable of providing an audible sound, including but not limited to headphones or ear buds.

Viewing means looking in the direction of the screen of a mobile electronic device.

SECTION II. Addition to Code. Section 8.28.020 ("Pedestrian Use of Mobile Electronic Devices" is hereby added to Chapter 8.28 ("Pedestrians") of Title 8 ("Vehicles and Traffic") of the Montclair Municipal Code to read as follows:

Chapter 8.28

PEDESTRIANS

8.28.020. Pedestrian Use of Mobile Electronic Devices.

A. No pedestrian shall cross a street or highway while engaged in a phone call, viewing a mobile electronic device or with both ears covered or obstructed by personal audio equipment.

B. Upon presenting evidence, it is an affirmative defense to any citation for a violation of subsection (A) that the cited person was engaged in, or making, a "911" emergency communication with a mobile electronic device.

C. Emergency responders viewing a mobile electronic device, or whose ears are covered or obstructed by audio equipment, while in the performance and scope of his or her official duties are exempt from subsection (A).

D. Persons with medically prescribed hearing aides are exempt from subsection (A).

E. Any person who violates any provision of this Chapter is guilty of an infraction violation punishable in accordance with Chapter 1.12 of Title 1 of this Code.

SECTION III. Severability. If any section, subsection, subdivision, paragraph, sentence, clause, or phrase of this Ordinance or any part thereof is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portion of this Ordinance or any part thereof. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause, or phrase thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses, or phrases be declared unconstitutional.

SECTION IV. Effective Date. This Ordinance shall be in full force and effect thirty (30) days after passage.

SECTION V. Posting. The City Clerk shall certify to the passage of this Ordinance and cause the same to be posted pursuant to Government Code Section 36933.

APPROVED AND ADOPTED this 4th day of December, 2017.

Paul M. Eaton

Mayor

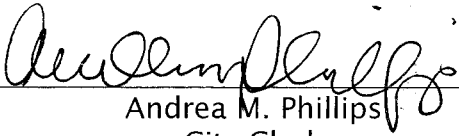
ATTEST:

Andreana Oliveira

City Clerk

I, Andrea M. Phillips, City Clerk of the City of Montclair, DO HEREBY CERTIFY that the foregoing is a true and correct copy of Ordinance No. 17-971 of said City, which was introduced at a regular meeting of the City Council held on the 20th day of November, 2017, and finally passed not less than five (5) days thereafter on the 4th day of December, 2017, by the following vote, to-wit:

AYES: Martinez, Ruh, Raft, Eaton
NOES: None
ABSTAIN: None
ABSENT: Dutrey



Andrea M. Phillips
City Clerk