

ORDINANCE 2024-8

AN ORDINANCE TO AMEND CHAPTER 20, ARTICLE III, SECTION 20 OF THE GERMANTOWN CODES OF ORDINANCES RELATED TO MUNICIPAL COURT FEES FOR TRAFFIC AND MOTOR VEHICLES

WHEREAS, the City of Germantown Board of Mayor and Aldermen desires to make a violation of Tennessee Code Annotated § 55-8-199 and 55-12-139 into a municipal ordinance violation; and

WHEREAS, the City of Germantown and Board of Mayor and Aldermen desires to adopt a municipal ordinance for compliance with financial responsibility law and prohibited uses of wireless telecommunications devices or stand-alone electronic devices; and

WHEREAS, the Tennessee General Assembly amended the laws pertaining to municipal court jurisdiction under Tennessee Code Annotated § 16-18-302(a)(3), granting authority of a city to set a fee for expungement of said court records; and

WHEREAS, the City of Germantown and Board of Mayor and Aldermen desires to adopt a fee for the expungement of public records in municipal court;

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF MAYOR AND ALDERMEN OF THE CITY OF GERMANTOWN, TENNESSEE, that Chapter 20, Article III. Division 20 be amended as follows:

(**UNDERLINED** text to be added and **STRIKETHROUGH** text to be deleted refers to Chapter 20, Article III. of the ordinance.)

DIVISION 20

Sec. 20-156. Fee for expunction of municipal court records.

By the authority granted under Tennessee Code Annotated, § 16-18-302(a) (3) (D) the City of Germantown adopts a fee of \$100.00 set by appropriate resolution by the board of mayor and aldermen for the expunction of eligible municipal court public records.

Sec. 20-157. Compliance with financial responsibility law required.

(a) Every vehicle operated within the corporate limits must be in compliance with the financial responsibility law.

(b) At the time the driver of a motor vehicle is charged with any moving violation under Title 55, Chapters 8, 9 and 10, Parts 1-5, Chapter 50: any provision in this title of this municipal code; or at the time of an accident for which notice is required under T.C.A. § 55-10-106, the officer shall request evidence of financial responsibility as required by this section. In case of an accident for which notice is required under T.C.A. § 55-10-106, the officer shall request such evidence from all drivers involved in the accident, without regard to apparent or actual fault.

(c) For the purposes of this section, "financial responsibility" means:

(1) Documentation, such as the declaration page of an insurance policy, an insurance binder, or an insurance card from an insurance company authorized to do business in Tennessee, stating that a policy of insurance meeting the requirements of the Tennessee Financial Responsibility Law of 1977, compiled in T.C.A., Chapter 12, Title 55, has been issued;

- (2) A certificate, valid for one (1) year, issued by the commissioner of safety, stating that a cash deposit or bond in the amount required by the Tennessee Financial Responsibility Law of 1977, compiled in T.C.A., Chapter 12, Title 55, has been paid or filed with the commissioner, or has qualified as a self-insurer under T.C.A. §55-12-111; or
- (3) The motor vehicle being operated at the time of the violation was owned by a carrier subject to the jurisdiction of the Department of Safety or the Interstate Commerce Commission, or was owned by the United States, the state of Tennessee, or any political subdivision thereof, and that such motor vehicle was being operated with the owner's consent.
- (d) It is a civil offense to fail to provide evidence of financial responsibility pursuant to this ordinance. Any violation of this ordinance is punishable by a civil penalty of up to fifty dollars (\$50). The civil penalty prescribed by this ordinance shall be in addition to any other penalty prescribed by the laws of this state or by the City's municipal code of ordinances.
- (e) On or before the court date, the person charged with a violation of this ordinance may submit evidence of compliance with this ordinance in effect at the time of the violation. If the court is satisfied that compliance was in effect at the time of the violation, the charge of failure to provide evidence of financial responsibility may be dismissed **at the discretion of the court**.

Sec. 20-158. Prohibited uses of wireless telecommunications devices or stand-alone electronic devices.

- (a) As used in this section:

Stand-alone electronic device means a portable device other than a wireless telecommunications device that stores audio or video data files to be retrieved on demand by a user;

Utility services means electric, natural gas, water, waste-water, cable, telephone, or telecommunications services or the repair, location, relocation, improvement, or maintenance of utility poles, transmission structures, pipes, wires, fibers, cables, easements, rights-of-way, or associated infrastructure; and

Wireless telecommunications device means a cellular telephone, a portable telephone, a text-messaging device, a personal digital assistant, a stand-alone computer, a global positioning system receiver, or substantially similar portable wireless device that is used to initiate or receive communication, information, or data. **Wireless telecommunications device** does not include a radio, citizens band radio, citizens band radio hybrid, commercial two-way radio communication device or its functional equivalent, subscription-based emergency communication device, prescribed medical device, amateur or ham radio device, or in-vehicle security, navigation, autonomous technology, or remote diagnostics system.

- (b) (1) A person, while operating a motor vehicle on any road or highway in this City, shall not:

- (a) Physically hold or support, with any part of the person's body, a:

- (i) Wireless telecommunications device. This subdivision (b)(1)(a)(i) does not prohibit a person eighteen (18) years of age or older from using an earpiece, headphone device, or device worn on a wrist to conduct a voice-based communication; or using only one (1) button on a wireless telecommunications device to initiate or terminate a voice communication; or

- (ii) Stand-alone electronic device:

- (b) Write, send, or read any text-based communication, including, but not limited to, a text message, instant message, email, or internet data on a wireless telecommunications device or stand-alone electronic device. This subdivision (b)(1)(b) does not apply to any person eighteen (18) years of age or older who uses such devices:

- (i) To automatically convert a voice-based communication to be sent as a message in a written form; or
- (ii) For navigation of the motor vehicle through use of a device's global positioning system;
- (c) Reach for a wireless telecommunications device or stand-alone electronic device in a manner that requires the driver to no longer be:
 - (i) In a seated driving position; or
 - (ii) Properly restrained by a safety belt;
- (d) Watch a video or movie on a wireless telecommunications device or stand-alone electronic device other than viewing data related to the navigation of the motor vehicle; or
- (e) Record or broadcast video on a wireless telecommunications device or stand-alone electronic device. This subdivision (B)(1) does not apply to electronic devices used for the sole purpose of continuously recording or broadcasting video within or outside of the motor vehicle.

(2) Notwithstanding subdivisions (b)(1)(a) and (b), and in addition to the exceptions described in those subdivisions, a function or feature of a wireless telecommunications device or stand-alone electronic device may be activated or deactivated in a manner requiring the physical use of the driver's hand while the driver is operating a motor vehicle if:

- (a) The wireless telecommunications device or stand-alone electronic device is mounted on the vehicle's windshield, dashboard, or center console in a manner that does not hinder the driver's view of the road; and
- (b) The driver's hand is used to activate or deactivate a feature or function of the wireless telecommunications device or stand-alone electronic device with the motion of one (1) swipe or tap of the driver's finger, and does not activate camera, video, or gaming features or functions for viewing, recording, amusement, or other non-navigational functions, other than features or functions related to the transportation of persons or property for compensation or payment of a fee.
- (c) (1) A violation of this section shall be punishable only by a fine not to exceed fifty dollars (\$50.00).
(2) Any person violating this section shall be subject to the imposition of court costs not to exceed ten dollars (\$10.00), including, but not limited to, any statutory fees of officers. State and local litigation taxes are not applicable to a case prosecuted under this section.
- (3) Each violation of this section constitutes a separate offense.

(d) This section does not apply to the following persons:

- (1) Officers of this state or of any county, city, or town charged with the enforcement of the laws of this state, or federal law enforcement officers when in the actual discharge of their official duties;
- (2) Campus police officers and public safety officers, as defined by T.C.A. § 49-7-118, when in the actual discharge of their official duties;

- (3) Emergency medical technicians, emergency medical technician-paramedics, and firefighters, both volunteer and career, when in the actual discharge of their official duties;
- (4) Emergency management agency officers of this state or of any county, city, or town, when in the actual discharge of their official duties;
- (5) Persons using a wireless telecommunications device to communicate with law enforcement agencies, medical providers, fire departments, or other emergency service agencies while driving a motor vehicle, if the use is necessitated by a bona fide emergency, including a natural or human occurrence that threatens human health, life, or property;
- (6) Employees or contractors of utility services providers acting within the scope of their employment; and
- (7) Persons who are lawfully stopped or parked in their motor vehicles or who lawfully leave and are standing out of their motor vehicles.

(e) A traffic citation that is based solely upon a violation of this section is considered a moving traffic violation.

BE IT FURTHER ORDAINED that this ordinance shall become effective immediately after its passage on the third and final reading, in accordance with the Charter of the City of Germantown, the public welfare requiring it.

Passed First Reading: March 25, 2024

Passed Second Reading: April 22, 2024

Passed Third Reading: _____, 2024

Mayor

Attest: City Recorder