



INTEGRITY \* RESPECT \* LAWS AND THE CONSTITUTION \* ACCOUNTABILITY \* PROBLEM SOLVING \* PROFESSIONALISM

## MEMORANDUM

DATE: August 8, 2012

TO: Michael Culpepper, City Manager

FROM: Gary Mayer, Chief of Police 

RE: Requested Distracted Driving Ordinance Information

Please let this memorandum serve as an executive summary on this matter.

At the City Council meeting on July 23, 2012, there was direction to provide data provided to the previous City Council and a report from the Police Department. That data is attached in the following nine attachments:

1. Driving While Distracted PowerPoint Presentation
2. Distracted Driving Memo July 26, 2012
3. Distracted Driving Statistics November 18, 2011
4. Distracted Driving Ordinance Fines
5. Educational Postcard
6. Distracted Driving Other Detail November 23, 2011
7. AAA/Michigan Association of Chiefs of Police/Office of Highway Safety Planning 2010 Award for Excellence in Traffic Safety
8. City Council Report from Police Department requesting adoption of ordinance
9. Memo Clarification of Distracted Driving Ordinance

The July 23<sup>rd</sup> conversation focused on Section 3 of our ordinance:

3. *Any action by the driver of a motor vehicle that diverts his or her attention resulting in the failure to use due care and caution in the safe operation of a motor vehicle while the vehicle is in motion on any highway or street or place open to the general public within the City of Troy. Such action can include but is not limited to: eating, reading, writing, performing personal hygiene/ grooming, physical interaction with pets, passengers, or unsecured cargo, any of which is done in a manner that prohibits the driver from maintaining direct physical control of the motor vehicle steering mechanism with at least one hand that is free of all other objects and used entirely to form a controlled grip on the steering mechanism.*  
(07-12-2010)

I mentioned then that our policy is for those drivers who are driving while distracted AND committing another traffic offense you can issue a citation or warning for "distracted driving other". There has to be a connection between a distracted driving behavior inside the car and an observed traffic violation. This has appeared in Department internal correspondence and is being followed.

In conclusion, I have provided the requested information and stand ready to answer questions.

*In response to recent requests regarding  
our "Driving While Distracted" policy,  
please review this PowerPoint presentation  
which was prepared by  
Captain Colleen Mott and  
Lieutenant David Livingston  
in July of 2010*



*Gary G. Mayer  
Chief of Police  
July 27, 2012*



Captain Colleen A. Mott  
Lt. David Livingston

## **Driving While Distracted**

## Driving While Distracted

### ***Background***

- ❖ For the past several years, the City of Troy Police Department has reduced the number of traffic crashes by maintaining a consistent level of education and enforcement practices.
- ❖ Enforcement practices include giving warnings when warnings are warranted and writing tickets when a ticket is warranted.
- ❖ Troy Police officers are trained and experienced in recognizing traffic violations, including distracted driving.

## Driving While Distracted

### ***Background***

- In 2008, 20 percent of all crashes involved a distraction. (National Highway Traffic Safety Administration - NHTSA).
- Nearly 6,000 people died in 2008 in crashes involving a distracted driver, and more than half a million were injured. (NHTSA)
- Younger, inexperienced drivers under 20 years old have the highest proportion of distraction-related fatal crashes.
- Drivers using hand-held devices are four times as likely to get into crashes serious enough to injure themselves. (Source: Insurance Institute for Highway Safety)
- Using a cell phone while driving delays a driver's reactions as much as driving with a BAC of .08 percent (legally intoxicated). (Source: University of Utah)

## Driving While Distracted – Why?

### *Why was this ordinance created?*

- Problem Solving is a core value of the Troy Police Department
- A problem was identified, based on data compiled from Troy PD crash statistics: **Distracted driving is a significant causal factor in traffic crashes.**
- DWD is widespread: education and enforcement efforts are in order
- In developing this ordinance, the Troy Police Department worked in conjunction with the Michigan Traffic Improvement Association

## Driving While Distracted – Why?

- *Why a new ordinance? Why not use the laws currently on the books?*
  - The trend around the country is to legislate distracted driving laws, in recognition of the growing hazard that distracted driving presents to the motoring public.
  - Current laws carry significant point penalties that will ultimately be much more costly for offenders
  - The Troy ordinance penalty is consistent with those of similar laws across the country

## Comparison of Current Law and New Ordinance

### CURRENT LAW

- Failing to Use Due Care and Caution = \$125 and 2 points
- Reckless Driving = misdemeanor crime with fine determined by a judge; 6 points
- Careless Driving = \$205 and 3 points
- State Law DWD = \$200 fine and zero points (all revenue goes to State of Michigan)

### DWD ORDINANCE

- Troy DWD – cell phone = \$75 fine and zero points
- Troy DWD – texting = \$200 fine and zero points
- Troy DWD – other distractive activity = \$200 fine and zero points

## National Trends

### HANDHELD CELL PHONE USE PROHIBITED

- California
- Connecticut
- Delaware
- Maryland
- New Jersey
- New York
- Oregon
- Washington
- District of Columbia
- Virgin Islands

### ALL CELL PHONE USE PROHIBITED

- 28 states and D.C. ban all cell phone use by novice drivers
- Bus drivers in 18 states and D.C. may not use a cell phone when passengers are present

## Local Trends

### TRI-STATE AREA

- **Shelby Twp** (2002) & **Clinton Twp** (2006) –DWD ordinance: no eating, drinking, reading, using cell phone, etc.
- **Detroit** (2006) – no handheld phone, texting or engaging in distractive behaviors
- **Southfield** (2007) – committing a traffic offense while using a handheld phone

### TROY

- **Distracted Driving Ordinance**
  - **3 sections**
    - Texting
    - Handheld cell phone use
    - Distractive activity

## Driving While Distracted Ordinance Section #1

### Section #1: TEXTING

- The ordinance reads: *The physical manipulation of any 2-way wireless electronic communications device used for dialing numbers; or scrolling; or typing or entering multiple letters, numbers, symbols, or other text; or the sending, receiving, and reading of any non-voice data in the vehicle while the motor vehicle is in motion on any highway or street or place open to the general public within the City of Troy. As used in this subsection, a wireless 2-way communication device does not include a global positioning or navigation system that is affixed to the motor vehicle.*
- This section addresses texting and similar behaviors related to texting, such as dialing phone numbers, reading messages and scrolling for messages, music, internet information, etc. This particular section is modeled after the State of Michigan texting law that took effect on July 1, 2010.

## Driving While Distracted Ordinance Section #2

### Section #2: CELL PHONE USE

- The ordinance reads: *The physical manipulation or handling of any wireless entertainment or electronic communication device for the purpose of speaking into, or listening to voice data, while the motor vehicle is in motion on any highway or street or place open to the public within the City of Troy.*
- This section is specific to cell phone use. It is **NOT** a ban on cell phone use. It merely limits the type of cell phone you can use. If you have a hand-held device you will need to pull off the roadway (including the shoulder) and find a safe location to place your call. This section allows for the use of a hands-free device such as a ear speaker/microphone combination plugged into the phone, a blue-tooth device, a sync system, and even the use of a speaker phone, as long as the phone can be secured without physically holding it. The operative words in this section are **"the physical manipulation or handling"**, which means that you cannot have a cell phone in your hand to talk into or listen to.

## Driving While Distracted Ordinance Section #3

### Section #3: COMMON DISTRACTIVE ACTIVITY

- The ordinance reads: *Any action by the driver of a motor vehicle that diverts his or her attention resulting in the failure to use due care and caution in the safe operation of a motor vehicle while the vehicle is in motion on any highway or street or place open to the general public within the City of Troy. Such action can include but is not limited to: eating, reading, writing, performing personal hygiene/grooming, physical interaction with pets, passengers, or unsecured cargo, any of which is done in a manner that prohibits the driver from maintaining direct physical control of the motor vehicle steering mechanism with at least one hand that is free of all other objects and used entirely to form a controlled grip on the steering mechanism.*
- When driving a motor vehicle, drivers should concentrate on driving. This section deals with a multitude of driving behaviors that often inhibit drivers from maintaining the level of due care and caution that is necessary for the safe operation of a motor vehicle in motion.

## Driving While Distracted - FAQs

- ***Can I eat/drink/smoke while driving?***

Yes.

If you can eat a food item while maintaining a controlled grip on the steering wheel, no officer will stop you for distracted driving. The same goes for drinking non-alcoholic beverages and smoking.

## Driving While Distracted - FAQs

***What constitutes distracted driving?***

- Reading a novel, map or notes for a meeting; watching a movie
- Writing notes
- Performing personal hygiene – applying makeup, shaving, brushing teeth, styling hair – anything that requires both hands to accomplish.

## Driving While Distracted - FAQs

### *What constitutes distracted driving?*

- Distractive interaction with pets, passengers or cargo (e.g., allowing a Labrador Retriever to sit on your lap, thus obstructing vision and/or access to steering mechanisms and turn signals); pushing, shoving, fighting or wrestling with passengers; changing clothes or a baby's diaper, allowing balloons to float about that create a visual obstruction.

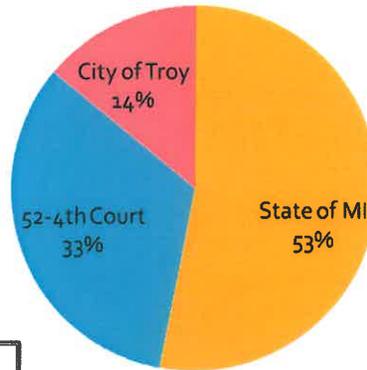
## Driving While Distracted - FAQs

- *Was this ordinance developed to generate revenue for the City of Troy?*

**No.** Our goal is safety, not dollars.

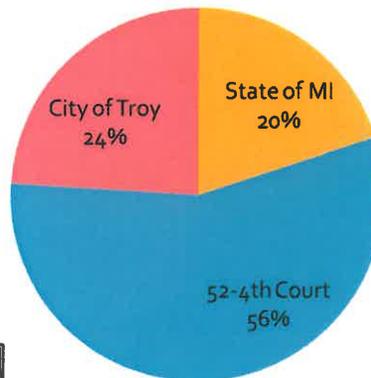
- ✓ A problem was identified: distracted driving. The new ordinance was developed to address this problem.
- ✓ The fine for a DWD violation is in line with similar offenses (the fine for a cell phone violation is among the lowest).
- ✓ The number of citations written by the Troy Police Department is low in comparison to police agencies in the tri-county area. We do not expect those numbers to change significantly as a result of the new ordinance.

**DWD Citation Revenue Breakdown Cell Phone  
(\$75.00)**



City of Troy = \$10.50  
52-4<sup>th</sup> = \$24.50  
State of MI = \$40.00  
Total = \$75.00

**DWD Citation Revenue Breakdown Distracted  
Driving (\$200)**



State of MI = \$40  
City of Troy = \$48  
52-4<sup>th</sup> = \$112  
Total = \$200.00

## Emphasis on Education

- Until October 1, 2010, those who violate the cell phone section of the new ordinance will be given warnings, along with educational materials. Warnings are tracked.
- Second and subsequent offenders will be cited.
- Signs will be posted in strategic areas around the City to notify motorists of the ordinance
- Media-based educational efforts are in progress
- Information is posted on the City web site, the Troy Police web site and the Troy Police Facebook page.



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## MEMORANDUM

DATE: July 26, 2012  
TO: Chief Mayer  
FROM: Capt. Redmond  
RE: City Council Request: Distracted Driving Report

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I have researched the "Distracted Driving" ordinance enforcement levels for the time period of January 1, 2012 thru June 30, 2012.

### Tickets Only

Distracted Driving Hand Held Devices: 78

Distracted Driving Other: 6

Distracted Driving Texting: 10

Total Tickets for all Offenses: 5641

Percent of Total: 1.6%

### Warnings Only

Distracted Driving Hand Held Devices: 82

Distracted Driving Other: 17

Distracted Driving Texting: 12

Total Warnings for all Offenses: 2518

Percent of Total: 4.4%

## Troy Police Department Midyear 2012/2011 Comparison

Description	INCIDENTS			OFFENSES			ARRESTS			CLEARANCES	
	2nd Quarter		Percent Change	2nd Quarter		Percent Change	2nd Quarter		Percent Change	2nd Quarter	
	2012	2011		2012	2011		2012	2011		2012	Percent
Alarms	1,611	1,743	-7.6%	1,611	1,742	-7.5%	NA	NA	NA	NA	NA
All Other	12,772	12,935	-1.3%	12,940	13,121	-1.4%	292	239	22.2%	NA	NA
Group C Miscellaneous Total	14,383	14,678	-2.0%	14,551	14,863	-2.1%	292	239	22.2%	NA	NA
Group E Fire Total	29	18	61.1%	29	18	61.1%	NA	NA	NA	NA	NA
Grand Totals	16,482	16,700	-1.3%	16,946	17,160	-1.2%	1,324	1,229	7.7%	1,078	45.6%

### Traffic Crashes and Citations

#### Reportable Traffic Crashes

	2012	2011	Percent Change	2012 Alcohol involved Crashes	2011 Alcohol involved Crashes
Personal Injury	170	159	6.9%	10 incidents-5.9% involved alcohol	8 incidents-5.0% involved alcohol
Property Damage	1,115	1,203	-7.3%	10 incidents-0.9% involved alcohol	16 incidents-1.3% involved alcohol
Fatal	2	0	+	0 Incidents-0.0% involved alcohol	0 Incidents-0.0% involved alcohol
Total Reportable	1,287	1,362	-5.5%	20 incidents-1.6% involved alcohol	24 incidents-1.8% involved alcohol
Private Property Crashes	363	328	10.7%		
Crashes Grand Total	1,650	1,690	-2.4%		

#### Traffic Citations

Hazardous	3,767	3,861	-2.4%
Non-hazardous	481	326	47.5%
License, Title, Registration	1,102	1,133	-2.7%
Parking	291	225	29.3%
Traffic Citations Total	5,641	5,545	1.7%

Distracted Driving	Citations			Warnings			Combined		
	2nd Quarter		Percent Change	2nd Quarter		Percent Change	2nd Quarter		Percent Change
	2012	2011		2012	2011		2012	2011	
Handheld Device	78	200	-61.0%	82	171	-52.0%	160	371	-56.9%
Other Action	6	15	-60.0%	17	28	-39.3%	23	43	-46.5%
Texting	10	19	-47.4%	12	14	-14.3%	22	33	-33.3%
Distracted Driving Total	94	234	-59.8%	111	213	-47.9%	205	447	-54.1%

Distracted driving citation totals are included in hazardous total.



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## MEMORANDUM

DATE: November 18, 2011  
TO: Chief Gary Mayer  
FROM: Lt. Redmond  
RE: Distracted Driving Statistics

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The Distracted Driving ordinance went into effect on July 1, 2010. The enforcement of the ordinance began with an "Education Period" from July 1 to October 1, 2010, in which we would utilize the press to heavily publicize the ordinance. We also needed to get signs made up and posted at the entry points to the city. Officers were instructed to give "warnings" to those found in violation of the ordinance to help further educate the public. On September 30, 2010 the Police Department decided to extend the "education" period until January 1, 2011.

### 2010 Distracted Driving Statistics

<u>Offense</u>	<u>Citation</u>	<u>Warning</u>	<u>Total</u>
Handheld Device	4	246	250
Other Action	1	30	31
Texting	6	12	18
Distracted Driving Total:	11	192	299

### 2011 Distracted Driving Statistics (Jan 1 thru Nov 15)

<u>Offense</u>	<u>Citation</u>	<u>Warning</u>	<u>Total</u>
Handheld Device	281	249	530
Other Action	29	41	70
Texting	30	19	49
Distracted Driving Total:	340	309	649



## Distracted Driving Ordinance Fines

At a recent City Council meeting a citizen voiced concerns that a possible reason behind this ordinance was to generate revenue for the city. A formula was asserted based on a report that the Police Department had issued 100 warnings in a month. The implication was that when officers would begin issuing citations rather than warnings, this translated to 1200 tickets annually and at a fine of \$200.00 each represented \$240,000.00 in revenue for the city.

The above concern suggests some clarification may be indicated as to how traffic fines are dispersed. The fines attached to any traffic citation do not go directly back to the issuing agency. Traffic ticket fines are dispersed according to formulas set by the State of Michigan and the courts. The distribution for distracted driving related citations is as follows:

### Texting While Driving and Distracted Driving:

- Fine: \$200.00
  - 20% or \$40.00 goes to the State
  - 56% or \$112.00 goes to the Court
  - 24% or \$48.00 comes back to the City

### Driving While Talking on a Cell Phone:

- Fine: %75.00
  - 53% or \$40.00 goes to the State
  - 33% or \$24.50 goes to the Court
  - 14% or \$10.50 comes back to the City

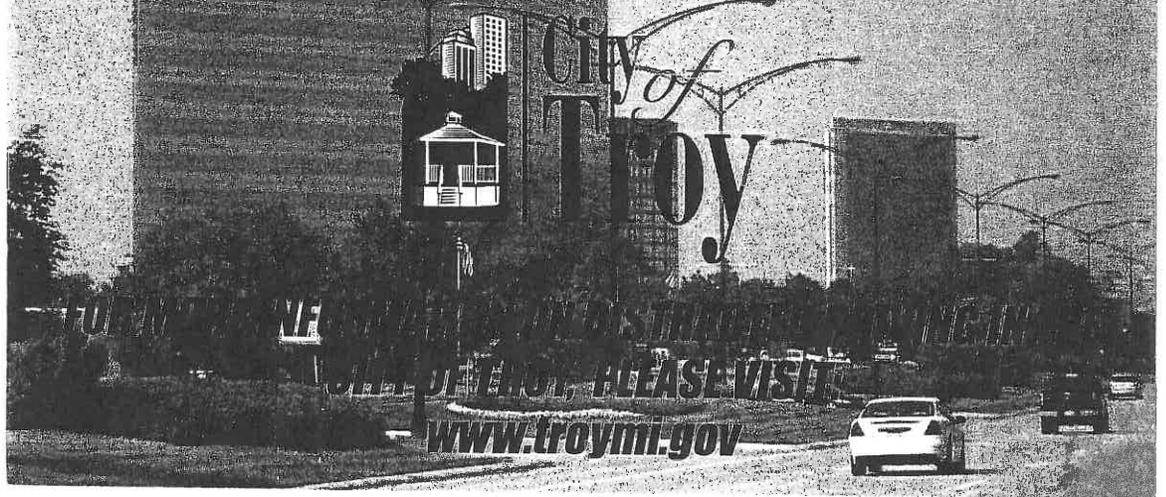
Another aspect of the comments that were made that deserves clarification is the implication that every stop for a violation of this ordinance will result in a formal citation; that is not accurate, as officers have and use discretion in determining the appropriate enforcement action to pursue in regard to any stop for a traffic offense. A traffic stop does not necessarily translate into a traffic ticket in every event.

An advantage of enforcement under this ordinance is that it contains no points. This is similar to approaches taken when seatbelts were initially made mandatory. A no point violation provides officers with the ability to issue a citation that represents a lesser overall penalty to a violator when circumstances indicate such an approach is reasonable.

The Troy Police Department utilizes problem solving in its approach to traffic safety. Traffic enforcement for the mere sake of issuing tickets for the so-called generation of revenue is not practiced by this department. Our approach combines education, engineering considerations, and enforcement; all aimed at preventing traffic crashes. The overall goal is for the driving public to voluntarily comply with traffic regulations. Enforcement is meant to reinforce hazardous driving behavior that causes crashes, and hopefully stop it from being repeated in the future.

Captain Gerry Scherlink

**SAFETY IS EVERYONE'S RESPONSIBILITY!**  
**YOU CAN DO YOUR PART BY AVOIDING**  
**DISTRACTED DRIVING BEHAVIORS**



EDUCATIONAL POSTCARDS  
GIVEN OUT WITH WARNINGS, AT COMMUNITY  
EVENTS, AT POLICE DEPARTMENT.



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David Livingston  
Lieutenant  
Special Operations Section

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## MEMORANDUM

DATE: November 23, 2011  
TO: Chief Gary Mayer  
FROM: Lt Redmond  
RE: "Distracted Driving Other"

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I have compiled the below listed descriptions of some of the tickets and warnings given for the "distracted driving other" ordinance.

### TICKETS:

4/25/11 8:00 AM Dequindre & Wisconsin: Driver was looking through glove box for cell phone while in left lane heading northbound. He crossed completely over the center lane, striking the side of a south bound vehicle. That vehicle spun out and crashed into two others.

2/14/11 3:30 PM Crooks & Wattles: Unsecured dog jumped into drivers lap, causing driver to crash into vehicle in front of her.

4/15/11 6:00 PM South I-75 at Maple: Driver was busy gawking at accident, crashed into vehicle in front of him, which then crashed into a third vehicle.

1/13/11 9:30 AM Big Beaver & Rochester: Driver was going over 60 mph on Big Beaver, using two lanes, while reached over on passenger seat putting cream cheese on her bagel

4/9/11 11:30 AM Big Beaver & Crooks: Driver was weaving back and forth between two lanes while talking and cell phone, and dog in lap.

3/17/11 9:10 AM Rochester & Bishop: Driver was using both hands to put on and tie his necktie, weaving in and out of two lanes.

3/2/11 11:00 AM South I-75 and Coolidge: Driver was going 93 mph while holding chicken nuggets in one hand and the dipping sauce in the other.

2/18/11 12:10 PM Livernois & Town Center: Driver was weaving back and forth into right lane while reading test study papers on the steering wheel.

5/5/11 10:00 AM Big Beaver 7 John R: Driver was weaving back and forth into left lane while looking into the mirror, using both hands, trying to apply eyebrow makeup.

5/31/11 6:50 AM Rochester & Stephenson: Driver was looking for sunglasses in glove box when he crossed over the center line almost striking police vehicle head on.

8/15/11 10:30 AM Crooks & Maple: Driver could not stop in time for red light, ending up in middle of intersection, while talking on cell phone with one hand and using other hand to eat sandwich.

9/28/11 12:50 AM Big Beaver & Rochester: Driver was all over road, appeared to be a drunk driver. Turns out he was using both hands to eat a big hamburger.

### **WARNINGS:**

8/17/11 2:00 PM Coolidge & Golfview: Driver turned right on red without stopping, cutting off other vehicle. She did not see red light because she was busy programming the in dash GPS system.

3/23/11 2:30 PM Big Beaver & Livernois: Driver swerved into center lane forcing vehicle in center lane to slam on brakes. Driver was busy eating taco bell and talking on cell phone.

3/18/11 9:20 PM Wattles & Dequindre: Driver drove through solid red light at Dequindre because she was busy trying to program her new cell phone.

3/16/11 4:30 PM Big Beaver & I-75: Driver speeding 58 in a 45 while reading larger pamphlet draped over steering wheel.

3/15/11 5:55 PM South I-75 and Wattles: Driver 70 mph, raining out, talking on cell phone with one hand, drinking coffee with the other hand. No hands on steering wheel.

3/8/11 4:40 PM Big Beaver & John R: Driver was holding pen and paper with one hand, talking on cell phone with other hand, no hands on wheel.

3/5/11 5:17 PM Big Beaver & Crooks: Driver ran red light while busy trying to change radio stations.

3/2/11 10:00 PM Big Beaver & Livernois: Driver was weaving, no hands on steering wheel, using both hands to eat from container on lap.

2/28/11 9:30 AM Big Beaver & Rochester: Driver was using knees to steer while weaving between two lanes while clipping fingernails.

1/5/11 2:30 PM Big Beaver & Crooks: Driver was going very slow while holding the salad container with one hand, and the other hand for eating. No hands on steering wheel.



**MICHIGAN ASSOCIATION OF CHIEFS OF POLICE**

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**EXECUTIVE STAFF**

Thomas A. Hendrickson  
Executive Director

Jamie K. Foster  
Executive Assistant

January 7, 2011

Chief Gary Mayer  
Troy Police Department  
500 W. Big Beaver Rd.  
Troy, MI 48084

**RE: AAA/MACP/OHSP Traffic Safety Award Banquet  
Thursday, February 10, 2011**

Dear Chief Mayer:

**Congratulations, your department has been chosen as a recipient for the 2010 Michigan Association of Chiefs of Police (MACP) Award for Excellence in Traffic Safety in the Agency Size 81+ category. You will be awarded a plaque from AAA Michigan and get a grant for up to \$15,000 that can be used to purchase equipment or schedule overtime traffic patrols. Both will be presented to you at the 2011 MACP Mid-Winter Awards Banquet, Thursday, February 10, 2011. The banquet begins at 7 PM in the Ambassador Ballroom at the Amway Grand Plaza Hotel. The awards program follows beginning at 8 PM.**

**Each agency will receive one banquet ticket. If you require additional banquet tickets you may purchase them for \$35.00 each. If you are already registered for the entire conference, a banquet ticket was included in your registration.**

**Please RSVP your plans to attend by emailing me at [jafoster@msu.edu](mailto:jafoster@msu.edu) no later than Wednesday, February 2, 2011. Provide me with the names and titles of the individuals who will be representing your agency and how many banquet tickets you need. We prefer that you pay for additional tickets in advance; if this is not possible please contact me to make other arrangements. You may pay for the banquet tickets in advance by check or credit card. Tickets and name tags will be available at the MACP Registration Desk in the Center Concourse until 4 p.m. on Thursday, February 11<sup>th</sup>. MACP staff will also be in the Crown Foyer from 6:30-7 PM with tickets.**

**All winning agencies are also invited to attend the Traffic Safety Breakfast and Program, Friday, February 11, 2011 from 7:30 AM (breakfast) and 9 AM – Noon (training) free of charge. The Traffic Safety breakfast is sponsored by AAA Michigan and will be at 7:30 AM. The traffic safety training program begins at 9 AM. We hope you will be able to attend both. If you plan to attend the breakfast please be sure to indicate that when you RSVP so we can have an accurate counting.**

**If you have any further questions regarding the banquet tickets please call me at 517.349.9420.**

Sincerely,

Jamie K. Foster  
Executive Assistant

Cc: Lt. David Livingston



## 2010 MACP AWARDS FOR EXCELLENCE IN TRAFFIC SAFETY



## DISTRACTED DRIVING INITIATIVE

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Troy Police Department  
500 West Big Beaver Road  
Troy, Michigan 48084

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## MICHIGAN ASSOCIATION OF CHIEFS OF POLICE

### AWARD FOR EXCELLENCE IN TRAFFIC SAFETY 2010

1. Describe the traffic safety problem addressed in 2010 and how the problem was identified.

In November, of 2009, the Troy Police Department Traffic Safety Unit had a meeting to determine how distracted driving behaviors have resulted in traffic crashes. The staff looked at various traffic violations that they have personally been witness to while on patrol or while they investigated traffic crashes. Some of these distracted driving behaviors included the application of make-up while driving; the use of electronic devices while driving, including texting; eating while driving; interaction with other people, pets, or cargo while driving, etc.

The Traffic Safety Unit then began a six month study of distracted driving related traffic crashes that were occurring with more frequency within the City of Troy to try to identify whether any of these behaviors were performed prior to and/or during a crash.

Attached is the result of that study. The study was based primarily on information received from driver/witness statements that were completed at crash scenes. We also collected information from electronically generated traffic citations that were issued to people for moving traffic violations that occurred while the drivers were engaged in distracted driving behaviors. Although these individuals were not involved in crashes, their behaviors were very similar to those who became involved in traffic crashes.

Once the problem was identified, the City of Troy waited to see what the State of Michigan was going to do relative to distracted driving, particularly as it related to the new texting law that was passed in April of 2010.

Once the new State of Michigan law was announced the City of Troy Police Department, with the City of Troy City Attorney's Office, looked at the new law. Based on our traffic study we felt that the State law did not go far enough to address some of the distracted driving behaviors we were experiencing. As a result, a City of Troy ordinance was created (see attached). The new City of Troy Distracted Driving ordinance was passed by City Council on July 14, 2010.



Troy Police Department  
500 West Big Beaver Road  
Troy, Michigan 48084

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## MICHIGAN ASSOCIATION OF CHIEFS OF POLICE AWARD FOR EXCELLENCE IN TRAFFIC SAFETY 2010

### 2. How many officers were involved in this traffic safety initiative?

There were eight (8) police officers and one (1) supervisor involved in the traffic safety initiative. They collected data from crash scenes. They provided copies of numerous traffic violation citations that were written indicating in the notes what distracted driving behaviors they witnessed during their traffic violation investigation. They also assisted in conducting traffic stops that were part of an educational effort to inform the public of the new ordinance.

### During the course of the year, were the efforts impacted by staff or equipment loss?

Not really. Most of the efforts were just part of the officers' normal traffic safety duties. The only difference is that they did a better job of documenting distracted driving behaviors and advising their supervisor of these types of behaviors.

We experienced no equipment loss as a result of working this initiative.



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## MICHIGAN ASSOCIATION OF CHIEFS OF POLICE

### AWARD FOR EXCELLENCE IN TRAFFIC SAFETY 2010

#### 3. Was this a multi-agency effort?

This was NOT a multi-agency effort. However, we did work with the Traffic Improvement Association (TIA) and with the Drivers Against Texting and Talking (DATT) groups to assist us with our educational efforts. These two resources provided us with information, banners, and an informational postcard used to educate drivers who were stopped and warned during the informational phase of our initiative, which began on July 29, 2010, and will run until January 1, 2011, when the enforcement phase of our initiative begins.

Attached you will find copies of some of the banners that DATT has provided to area schools, other local cities, and to retail outlets within the City of Troy and also those in surrounding communities. DATT appeared on the Oprah Winfrey Show in the Spring of 2010, when she had her cell phone/distracted driving campaign going.

Attached is a copy of the postcard that TIA helped to develop with the Troy Police Department. The postcard is provided to drivers stopped for a distracted driving related infraction. The postcard is given to them as part of our educational efforts to inform drivers of the dangers of distracted driving. These postcards are also distributed to local hotels, restaurants, car dealerships, schools, the local Michigan Secretary of State office, and retail outlets throughout the City of Troy as a way to advise motorists of the new law and specifically of the dangers associated with driving while distracted.

The Troy Police Department also partnered with the City of Troy Department of Public Works (DPW) and the Oakland County Road Commission (RCOC) in the development and placement of traffic warning signs that have been erected within the City of Troy.

Attached is a photograph of one of the signs that will alert motorists driving through the City of Troy of this new ordinance.

The City of Troy Police Department has also shared our distracted driving ordinance information with the City of Livonia Police Department. We have also received an inquiry from the City of Wayne Police Department requesting the same information.



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## MICHIGAN ASSOCIATION OF CHIEFS OF POLICE

### AWARD FOR EXCELLENCE IN TRAFFIC SAFETY 2010

4. Give a **detailed** description of the initiative employed to solve this traffic safety problem.

Once the Troy Police Department identified a problem with crashes related to distracted driving behaviors, and after the State of Michigan Texting While Driving Law was passed, we embarked on an initiative to go further than the State of Michigan law with regards to distracted driving behaviors.

The Troy Police Department worked with the City of Troy City Attorney's Office on several drafts of the new ordinance. The ordinance was based on information researched from many mainstream groups that are involved in ways to identify and reduce the number of distracted driving crashes. These groups include: The National Highway Traffic Safety Administration (NHTSA); Office of Highway Safety Planning (OHSP); Carnegie Mellon University; Pew Research Center; Nationwide Insurance Company; University of Michigan Transportation Research Institute; US Department of Transportation; and the National Safety Council, to name just a few of the many resources that were researched to develop the ordinance.

We also looked at several existing laws from the eight (8) states and the District of Columbia that already have distracted driving laws which are primary stop laws, as opposed to secondary violation laws. We employed some of the same language in the City of Troy ordinance that the eight (8) states used in their state law language.

Once the drafts were written, discussed and amended, as needed, the draft ordinance was presented to the City of Troy City Council on July 14, 2010. After some discussion the new ordinance was passed by a vote of 5-1. The new ordinance was to go into effect on July 29, 2010. There was also to be a grace period where only WARNINGS would be given to drivers while educational efforts were employed throughout the City of Troy as well as surrounding communities.

The new ordinance is also a primary enforcement ordinance, which means that a Troy police officer can stop a driver after witnessing a distracted driving behavior such as using an electronic device while their vehicle is in motion even if they are committing no other traffic violation.

The City of Troy Police Department began the educational process by contacting the news media regarding the new ordinance. We received quite a bit of publicity from the various news media, including print, voice, and text media outlets.

Next, the City of Troy developed a clarification document of the new ordinance because there were several people making comments about the new ordinance that were not correct.

Attached is a copy of the clarification document that went so far as to identify what the specific fine would be for violating the new ordinance and how much of that fine the City of Troy would get. The fine schedule was made public to put to rest information circulating that this ordinance was simply developed in order to raise revenue for the City of Troy, which is totally fictitious.

Next, the Troy Police Department partnered with the DATT group to conduct seminars and provide educational materials to local schools, businesses, and retail stores about the dangers associated with distracted driving behaviors. The DATT group provided banners and posters that illustrate quite well these dangers. Banners will periodically be posted for the motoring public to view in areas throughout the City of Troy.

The Troy Police Department also worked with the Traffic Improvement Association (TIA) to develop a postcard that would assist us in educating the public on the dangers of distracted driving. The postcard is used to give to drivers stopped by officers during the educational phase of our initiative (July 29, 2010 – January 1, 2011) and also given to various retail stores, car dealerships, the local Michigan Secretary of State office, restaurants, hotels, schools, etc., for distribution to their patrons as part of our educational efforts.

The City of Troy also placed the new ordinance on its website: [www.troymi.gov](http://www.troymi.gov), along with a copy of the ordinance clarification document that was developed to help explain the new ordinance.

We have also posted warning signs throughout the City of Troy, thanks to the efforts of the City of Troy DPW and the Oakland County Road Commission, to alert drivers of the new ordinance.

Troy police officers are stopping vehicles for violating the new ordinance and giving warnings until January 1, 2011 when the enforcement phase of the initiative begins. Like any law, particularly any new law, it is only as good as the enforcement effort that follows the educational effort that precedes it. The Troy Police Department will be enforcing this new ordinance aggressively! We feel that the new law, if abided by, will reduce the number of crashes in the city. If people know the ordinance will not be enforced we have not accomplished anything.

**Troy Police Department  
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We will continue to educate the public while we aggressively enforce the new ordinance. Our goal is to reduce the number of crashes by effectively reducing the number of distracted driving behaviors that lead to crashes. It is only through aggressive educational and enforcement efforts that this goal will be accomplished.



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## MICHIGAN ASSOCIATION OF CHIEFS OF POLICE

### AWARD FOR EXCELLENCE IN TRAFFIC SAFETY 2010

#### 5. Was the media engaged? If so, how?

The media was engaged from the time the new ordinance was brought in front of the City Council to the present day. After the City of Troy City Council approved the ordinance there were MANY reports through the various media outlets in the area reporting on the new ordinance. Television, print media, radio news and local radio talk shows spent a lot of time reporting on the new ordinance and asking for public opinion on the new law. The public opinion part of the media coverage is what actually caused the Troy Police Department to respond by creating the previously mentioned clarification document. There were pro and con comments made about the new ordinance and some of the responses people gave were actually distortions of the facts regarding the ordinance that needed to be clarified to alleviate any confusion.

We have a Public Information Officer (PIO) who gave several interviews, both for television as well as radio and print media outlets.

The Mayor of the City of Troy gave a televised interview regarding the new ordinance.

On a few occasions reporters were allowed to go on ride-a-longs with Troy officers who pointed out several distracted driving behaviors, including one for texting, that ended up on the news.

Several local reporters have asked for information regarding the number of traffic stops we have made, how many warnings we have given, and how many citations have been written as a result of the new ordinance.

The Troy Police Department has been very transparent with all types of news media outlets with regard to this ordinance. We will continue to cultivate the relationships we have had with the media, particularly over this one issue, in order to avail ourselves to the opportunity to use the media to help us educate the public regarding the new ordinance. So far, the media has helped tremendously in this educational effort.

Attached are copies of various printed newspaper articles and electronic reporting information from the internet that we have garnered as a result of our efforts to move forward with our distracted driving initiative.



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## MICHIGAN ASSOCIATION OF CHIEFS OF POLICE AWARD FOR EXCELLENCE IN TRAFFIC SAFETY 2010

### 6. Describe how the initiative was successful in impacting the problem.

The initiative has been successful in a number of ways.

First, we have had an influx of educational material and awareness on the distracted driving issue that we have not had before. With the help of the DATT group we have been able to reach out to our school age children, including those preparing to drive, to get the message out to them. The DATT group offers quite a few worthwhile programs, including actual "driving contracts" that drivers sign pledging that they will not text or drive while talking on the cell phone. DATT banners and posters are also keeping the message alive as we continue our education efforts while preparing to enter the enforcement phase of our initiative.

Second, the news media has helped get the educational message out there by providing consistent reminders to their readers and viewers of our efforts to enforce the new distracted driving ordinance. This has actually caused people to research this distracted driving problems on their own by using various internet sites and other available printed materials and research to make their own determination regarding just how important it is to reduce the number of distracted driving behaviors while driving.

Third, as officers we have made over 400 traffic stops to personally warn people of the dangers associated with distracted driving behaviors. We have also used that opportunity to educate them on how to minimize their chances of becoming involved in a traffic crash because of distracted driving behaviors.

Since the above listed efforts have taken place Traffic Safety Unit officers have driven the streets in the City of Troy, both in uniform and in plain clothes, to see what, if any, effect the new ordinance has had on people who drive through Troy. Many officers have reported that they will still see some people talking on cell phones. However, invariably when those drivers see a uniformed police officer they will abruptly put the phone down, giving us the feeling that the driver has received the message and knows his actions are illegal. Plainclothes officers have reported that they have seen people texting at stop lights waiting for the traffic signal to turn green, which is legal under the ordinance, and as soon as the light turns green they put the device down and drive.

Officers have seen an increase in the number of drivers they have seen wearing Bluetooth devices while they drive, which is legal under the new ordinance.

All in all, there is a difference in that it appears that most drivers within the City of Troy are aware of or at least have some knowledge that a distracted driving ordinance exists in the City of Troy.

The only way to make sure the new ordinance is effective will be by being aggressive in the enforcement phase of our initiative. Plans are already in place to enforce the new ordinance in a number of ways that should prove effective.

The bottom line is that we, as a city police department, will do our best to make sure the people who work, shop, live, commute, and play in the City of Troy will be safer from the traffic hazards caused by people who put themselves first before the safety of others by driving in a distracted manner.

We will continue to monitor our initiative and make any necessary changes to ensure that we are successful in our endeavor.



## CITY COUNCIL REPORT

TO: John Szerlag, City Manager

FROM: Gary Mayer, Chief of Police  
David Livingston, Lieutenant, Troy Police Department

SUBJECT: Driving While Distracted Ordinance

### Background:

In recent years there has been an increase in the amount of distracted driving that takes place on our nation's roadways. This phenomenon has spread to all states, towns, and cities, including the City of Troy. Studies by such notable insurance companies as Nationwide and research institutes like the Carnegie Institute indicate that between 50 to 80% of all traffic crashes are the direct result of some type of distracted driving.

While some of these distractions are physical in nature, such as applying makeup while driving, shaving while driving, eating while driving, holding pets while driving, to name just a few, many are of the cognitive nature such as speaking on cell phones, daydreaming, carrying on a conversation with passengers, etc. Texting while driving, reading emails, and surfing the web are also types of distracted driving that encompass both the physical and the cognitive nature of distracted driving.

A recent AAA survey indicated 46% of teens admit to driving while texting. AAA also reports that a car crash accounts for the most deaths of persons aged 15-21 years old.

Research done by the National Highway Traffic Safety Administration shows that in 2008 alone, nearly 6,000 people were killed and more than 500,000 people were injured in crashes involving distracted driving nationwide.

Each year more cities and states throughout the country are taking proactive steps to help reduce the occurrences of distracted driving by providing a means with which to enforce the common types of distracted driving behaviors we have all encountered.

On any given day in the City of Troy, commuters are seen driving in ways that are unsafe. Most of these occurrences are the direct result of drivers dividing their attention between their driving abilities and some other activity like using a computer, taking off a jacket while driving, speaking on a cell phone, eating a bowl of cereal, text messaging, etc.. An attachment to this report shows about forty statements made by drivers in the last six months, where various types of distracted driving admittedly led to traffic crashes in the City of Troy.

City Administration has prepared two proposed ordinances for City Council review.

The first proposed City Ordinance, listed as **Version A**, is modeled after the State of Michigan texting while driving law that took effect on July 1, 2010. There is additional language in the ordinance to expressly identify cell phone dialing and scrolling as distractive behavior that is prohibited as texting.

The second proposed City Ordinance, listed as **Version B**, encompasses other distractive behaviors that have led to traffic crashes in the City of Troy. **Version B** is the preferred version to be adopted. However, City Council has not yet had the opportunity to discuss this version, which includes a variety of different distractions, including the use of handheld cell phones.

#### Financial Considerations:

Traffic crashes in general account for a significant amount of lost time, money, and productivity to our economy due to injuries and deaths every year.

#### Legal Considerations:

Distracted driving will never be eliminated. However, with a proactive approach to the problem, the City of Troy can take steps to minimize the occurrences of distracted driving through education and enforcement efforts.

The City of Troy attorney's office has reviewed the proposed ordinance and approves it as to legality.

#### Policy Considerations:

By reducing the number of instances of distracted driving, through educational and enforcement efforts, the health and safety of all motorists, bicyclists, and pedestrians, utilizing the roads and walkways in the City of Troy will certainly be enhanced.

#### Options:

City Administration recommends the passing of proposed City Ordinance **Version B** on Driving While Distracted, as written.

City Council could also approve the proposed City Ordinance **Version A**, which is limited to texting.

Additionally, City Council could consider **Version B** as a future agenda item.

Reviewed and approved as to legality:

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Lori Grigg Bluhm, City Attorney

## Version A: Texting While Driving

CITY OF TROY  
AN ORDINANCE TO AMEND  
CHAPTER 106 OF THE CODE  
OF THE CITY OF TROY

The City of Troy ordains:

### Section 1. Short Title

This Ordinance shall be known and may be cited as an amendment to add Section 3.2b of Chapter 106 of the Code of the City of Troy.

Section 2. Amendment. Chapter 106 is amended by the addition of a new Section 3.2b as follows;

### 3.2b Use of wireless 2-way communication device for text messages while operating motor vehicle.

- 1) Except as otherwise provided in this section, a person shall not read, manually type, scroll, dial numbers, or send a text message on a wireless 2-way communication device that is located in the person's hand or in the person's lap (including a wireless telephone used in cellular telephone service or personal communication service), while operating a motor vehicle that is moving on a highway, street or place open to the general public within the City of Troy. As used in this subsection, a wireless 2-way communication device does not include a global positioning or navigation system that is affixed to the motor vehicle.
- 2) Subsection 1) does not apply to an individual who is using a device described in subsection 1) to do any of the following:
  - a) Report a traffic accident, medical emergency or serious road hazard.
  - b) Report a situation in which the person believes his or her personal safety is in jeopardy.
  - c) Report or avert the perpetration or potential perpetration of a criminal act against the individual or another person.
  - d) Carry out official duties as a police officer, law enforcement official, member of a paid or volunteer fire department, or operator of an emergency vehicle.
- 3) An individual who violates this section is responsible for a civil infraction.

### Section 3. Savings

All proceedings pending, and all rights and liabilities existing, acquired or incurred, at the time this Ordinance takes effect, are hereby saved. Such proceedings may be consummated under and according to the ordinance in force at the time such proceedings were commenced. This ordinance shall not be construed to alter, affect, or abate any pending prosecution, or prevent prosecution hereafter instituted under any ordinance specifically or impliedly repealed or amended by this ordinance adopting this penal regulation, for offenses committed prior to the effective date of this ordinance; and new prosecutions may be instituted and all prosecutions pending at the effective date of this ordinance may be continued, for offenses committed prior to the effective date of this ordinance, under and in accordance with the provisions of any ordinance in force at the time of the commission of such offense.

Section 4. Severability Clause

Should any word, phrase, sentence, paragraph or section of this Ordinance be held invalid or unconstitutional, the remaining provision of this ordinance shall remain in full force and effect.

Section 5. Effective Date

This Ordinance shall become effective ten (10) days from the date hereof or upon publication, whichever shall later occur.

This Ordinance is enacted by the Council of the City of Troy, Oakland County, Michigan, at a regular meeting of the City Council held at City Hall, 500 W. Big Beaver, Troy, MI, on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
Louise E. Schilling, Mayor

\_\_\_\_\_  
Tonni Bartholomew. City Clerk

**Version B: Distracted Driving**

CITY OF TROY  
AN ORDINANCE TO AMEND  
CHAPTER 106 OF THE CODE  
OF THE CITY OF TROY

The City of Troy ordains:

Section 2. Amendment

Chapter 106 of the Code of the City of Troy is amended as follows:

Add section 1.20.05 to read as follows:

1.0            **WORDS AND PHRASES DEFINED**

1.01.00       Words and phrases.

The following words and phrases when used in this code shall, for the purpose of this code, have the meanings respectively ascribed to them in this chapter. Whenever any word or phrase used in this code is not defined herein but is defined in Act No. 300 of the Public Acts of 1949, as amended, being §257.1 et seq. of the Michigan Compiled Laws, the definition therein shall be deemed to apply to the words and phrases used in this code.

1.20.05       “Distracted Driving” means the following:

- 1) The physical manipulation of any 2-way wireless electronic communication device used for dialing numbers; or scrolling; or typing or entering multiple letters, numbers, symbols, or other text; or the sending, receiving, and reading of any non-voice data in the device while the motor vehicle is in motion on any highway or street or place open to the general public within the City of Troy. As used in this subsection, a wireless 2-way communication device does not include a global positioning or navigation system that is affixed to the motor vehicle.
- 2) The physical manipulation or handling of any wireless entertainment or electronic communication device for the purpose of speaking into, or listening to voice data, while the motor vehicle is in motion on any highway or street or place open to the general public within the City of Troy; or
- 3) Any action by the driver of a motor vehicle that diverts his or her attention resulting in the failure to use due care and caution in

the safe operation of a motor vehicle while the vehicle is in motion on any highway or street or place open to the general public within the City of Troy. Such action can include but is not limited to: eating, reading, writing, performing personal hygiene/grooming, physical interaction with pets, passengers, or unsecured cargo, any of which is done in a manner that prohibits the driver from maintaining direct physical control of the motor vehicle steering mechanism with at least one hand that is free of all other objects and used entirely to form a controlled grip on the steering mechanism.

Add Section 5.14c, and renumber as follows:

**5.0 RIGHTS AND DUTIES OF DRIVERS AND OTHERS.**

~~5.14b~~ (old number)

**5.14 Drag Races Prohibited; "Drag Racing" Defined; Violation Punishable as Misdemeanor.**

- 1) A person shall not operate a vehicle on any highway or other place open to the general public, including any area designated for the parking of motor vehicles, in a speed or acceleration contest or for the purpose of making a speed record, whether from a standing start or otherwise, over a measured or unmeasured distance, and shall not participate in drag racing as defined in subsection (2) of this section.
- 2) "Drag racing" means the operation of 2 or more vehicles from a point side-by-side at accelerating speeds in a competitive attempt to out distance each other over a common selected course or where timing is involved or where timing devices are used in competitive accelerations of speeds by participating vehicles. Persons who render assistance in any manner to such competitive use of vehicles shall be equally charged as participants. The operation of 2 or more vehicles either at speeds in excess of prima facie lawfully established speeds or rapidly accelerating from a common starting point to a speed in excess of such prima facie lawful speed is prima facie evidence of drag racing and is unlawful and shall be punished, upon conviction, as a misdemeanor.

~~5.14~~ (old number)

**5.14a Reckless Driving; Violation Punishable as Misdemeanor.** A person who drives a vehicle on a highway or a frozen public lake, stream, pond, or other place open to the general public, including but not limited to any area designated for the parking of motor vehicles, in willful or wanton disregard for the safety of persons or property, is guilty of reckless driving.

A person who violates this section is guilty of a misdemeanor, punishable by imprisonment in the county jail for not more than 93 days or by a fine of not more than \$500, or both.

~~5.14a~~ (old number)

5.14b. **Careless Driving; Violation as Civil Infraction.** A person who operates a vehicle on a highway or a frozen public lake, stream, pond, or other place open to the general public, including any area designated for the parking of vehicles, in a careless or negligent manner likely to endanger any person or property, but without wantonness or recklessness is responsible for a civil infraction.

**5.14c. Distracted Driving; Violation as Civil Infraction.**

- 1) A person shall not engage in distracted driving within the City of Troy.
- 2) A person who violates this section is responsible for a civil infraction.
- 3) Exceptions. This section does not apply to a person who is using an electronic communication device to do one or more of the following:
  - a) Report a traffic accident, medical emergency or serious road hazard.
  - b) Report a situation in which the person believes his or her personal safety is in jeopardy.
  - c) Report or avert the perpetration or potential perpetration of a criminal act against the individual or another person.
  - d) Carry out official duties as a police officer, law enforcement official, member of a paid or volunteer fire department, or operator of an emergency vehicle.

**Section 3. Savings**

All proceedings pending, and all rights and liabilities existing, acquired or incurred, at the time this Ordinance takes effect, are hereby saved. Such proceedings may be consummated under and according to the ordinance in force at the time such proceedings were commenced. This ordinance shall not be construed to alter, affect, or abate any pending prosecution, or prevent prosecution hereafter instituted under any ordinance specifically or impliedly repealed or amended by this ordinance adopting this penal regulation, for offenses committed prior to the effective date of this ordinance; and new prosecutions may be instituted and all

prosecutions pending at the effective date of this ordinance may be continued, for offenses committed prior to the effective date of this ordinance, under and in accordance with the provisions of any ordinance in force at the time of the commission of such offense.

Section 4. Severability Clause

Should any word, phrase, sentence, paragraph or section of this Ordinance be held invalid or unconstitutional, the remaining provision of this ordinance shall remain in full force and effect.

Section 5. Effective Date

This Ordinance shall become effective ten (10) days from the date hereof or upon publication, whichever shall later occur.

This Ordinance is enacted by the Council of the City of Troy, Oakland County, Michigan, at a regular meeting of the City Council held at City Hall, 500 W. Big Beaver, Troy, MI, on the \_\_\_\_\_ day of \_\_\_\_\_,

\_\_\_\_\_  
Louise E. Schilling, Mayor

\_\_\_\_\_  
Tonni Bartholomew, City Clerk

## Clarification of the City of Troy Distracted Driving Ordinance

Since November 2009, data has been collected from City of Troy crashes, specifically from driver and witness statements. These statements identified a variety of distracted driving behaviors that were the direct causes of traffic crashes in the City of Troy. This data was used as part of the background information given to City Council for consideration in passing this ordinance.

For the past several years, the City of Troy Police Department has reduced the number of traffic crashes by maintaining a consistent level of education and enforcement practices. Enforcement practices include giving warnings when warnings are warranted and writing tickets when a ticket is warranted.

The new City of Troy, Distracted Driving ordinance is comprised of language used in similar ordinances across the country where the use of hand-held electronic devices, including cell phones, are banned. The ordinance is divided into three distinct sections:

### 1. TEXTING

The ordinance reads: ***The physical manipulation of any 2-way wireless electronic communications device used for dialing numbers; or scrolling; or typing or entering multiple letters, numbers, symbols, or other text; or the sending, receiving, and reading of any non-voice data in the vehicle while the motor vehicle is in motion on any highway or street or place open to the general public within the City of Troy. As used in this subsection, a wireless 2-way communication device does not include a global positioning or navigation system that is affixed to the motor vehicle.***

This section addresses texting and similar behaviors related to texting, such as dialing phone numbers or scrolling for and reading messages, music, internet information, etc. This particular section is modeled after the State of Michigan texting law that took effect on July 1, 2010.

### 2. CELL PHONE USE

The ordinance reads: ***The physical manipulation or handling of any wireless entertainment or electronic communication device for the purpose of speaking into, or listening to voice data, while the motor vehicle is in motion on any highway or street or place open to the public within the City of Troy.***

This section is specific to cell phone use. It is NOT a ban on cell phone use. It merely limits the type of cell phone you can use. If you have a hand-held device you will need to pull off the roadway (including the shoulder) and find a safe location to place your call. This section allows for the use of a hands-free device like a blue-tooth, a sync system, and even the use of a speaker phone, as long as the phone can be secured without physically holding it. The operative words in this section are **“the physical manipulation or handling”**, which means that you cannot have a cell phone in your hand to talk into or listen to.

### 3. COMMON DISTRACTIVE BEHAVIORS

The ordinance reads: *Any action by the driver of a motor vehicle that diverts his or her attention resulting in the failure to use due care and caution in the safe operation of a motor vehicle while the vehicle is in motion on any highway or street or place open to the general public within the City of Troy. Such action can include but is not limited to: eating, reading, writing, performing personal hygiene/grooming, physical interaction with pets, passengers, or unsecured cargo, any of which is done in a manner that prohibits the driver from maintaining direct physical control of the motor vehicle steering mechanism with at least one hand that is free of all other objects and used entirely to form a controlled grip on the steering mechanism.*

When driving a motor vehicle a driver should concentrate on driving. This section deals with a multitude of driving behaviors that often inhibit a driver from maintaining the level of due care and caution that is necessary for the safe operation of a motor vehicle in motion.

**READING:** whether you are reading notes for a meeting, reading a map, or reading a novel, reading takes your focus off of the roadway. Consider the fact that you may be driving at 45 MPH, which equates to traveling about 66 feet per second. If you are reading something that takes your focus away from the roadway for even one second, you have traveled 66 feet blindly! A two- second distraction leads you to travel about 132 feet blindly, which is almost half the length of a football field! Too many things can happen during that time that you will not see, let alone be able to react to.

**WRITING:** writing notes is a dangerous practice. Consider the time and distance example previously mentioned. You may have one hand on the steering wheel, but your focus is on writing information down on a piece of paper, on an electronic device or even on your hand. This behavior takes your focus away from your primary objective, which is safe driving.

**PERFORMING PERSONAL HYGIENE:** putting on makeup, combing your hair, and shaving, are types of behavior that often requires the use of a mirror and/or the use of two hands to get the job done. This is dangerous driving behavior.

**INTERACTION WITH PETS AND PASSENGERS:** drivers who keep pets, particularly large pets, on their laps while driving are often prevented from having a clear view of the roadway or ready access to vehicle steering mechanisms, side and rear-view mirrors, turn signals, etc. The ordinance does not mean you cannot have a pet with you in the vehicle, but you must be mindful that depending on the size of the pet and its location within the vehicle, your interaction with the pet could constitute a distraction to safe driving.

Passengers who distract the driver of a moving motor vehicle by engaging in distractive behavior like pushing, shoving, grabbing, fighting, swaying the vehicle by movements done from inside the cabin, leaning out of a vehicle, etc., all constitute a distraction for which the driver may be stopped.

Changing clothes, changing a baby's diaper (yes, we have seen it!) and having balloons float within the cabin of a moving vehicle causing a visual obstruction, are just a couple of the ways that physical interaction with cargo can contribute to unsafe conditions.

City of Troy police officers are trained in recognizing distracted driving. They will not stop drivers unless they exhibit specific distracted driving behaviors. The main focus for police officers, in terms of monitoring driving violations, is the prevention of traffic crashes. Most traffic crashes occur because a driver is not paying attention, they are in a hurry, they are inexperienced, they are exhibiting distracted driving behaviors, or a combination of all of these things.

The best way to avoid a ticket for distracted driving behavior is to eliminate distracted driving practices. When drivers do that, everyone wins.

### **Frequently Asked Questions**

***Can I eat/drink/smoke while driving?*** You can eat food while driving as long as you can maintain control of the steering mechanism. Drivers are required by law to use "due care and caution" while driving. Holding a bowl with one hand while using the other hand to hold a spoon with which to scoop the food out of the bowl, while steering with your knees, does not constitute using due care and caution. Eating a submarine sandwich, or other food item, that requires the use of both hands while steering with your elbows or wrists, does not constitute using due care and caution. If you can eat a food item while maintaining a controlled grip on the steering wheel, no officer is going to stop you for distracted driving. You can drink non-alcoholic beverages and smoke cigarettes while driving.

***Was this ordinance developed in order to generate more revenue for the City of Troy?*** Nothing could be further from the truth. The main focus of the Troy Police Department, in terms of traffic safety, is to reduce the number of traffic crashes by focusing on education, engineering, and enforcement efforts. If you look at the number of tickets the Troy Police Department writes annually, compared to other police agencies in the tri-county area, the ticket numbers have been consistent over the years and are low in comparison, yet we are still successful in reducing the number of traffic crashes each year. The City of Troy intends to continue to provide the community with the very best in education and enforcement efforts that will further reduce the frequency and the severity of traffic crashes. The Distracted Driving ordinance is just another tool that is available to us in our efforts to achieve this end.

***Why do we need a new ordinance? Why not just have the police officers enforce the laws currently on the books and write tickets for careless or reckless driving?*** The trend around the country is to legislate distracted driving laws. The penalties for those laws are generally fines but no points. To be consistent, the Troy ordinance follows this practice by offering penalties that include fines but no points. In contrast, a Careless Driving ticket currently carries a fine of \$205.00 and three points. Reckless Driving is a misdemeanor crime where a judge/magistrate determines fines and costs in addition to six points. By organizing the new Troy ordinance in a three-part distracted driving package, with penalties as fines but no points, we are consistent with similar laws around the country.