MEMORANDUM

TO: Members of the Troy City Council
FROM: Lori Grigg Bluhm, City Attorney
DATE: August 22, 2012
SUBJECT: Proposed Amendment to Distracted Driving Ordinance

At the August 6, 2012 City Council meeting, City Council passed a resolution directing City Administration to prepare an amendment to Chapter 106- Traffic, by deleting part 3 of Section 1.20.05. Attached please find a proposed ordinance amendment for your consideration.

If adopted, the ordinance amendment would be effective in ten days, as long as it was printed in the newspapers prior to that date. (City Charter, Section 5.3).

Please let me know if you have any questions or concerns about this item.

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 Chapter 106, Sections 1.20.05 and 5.14c of the Code of the City of Troy.

Section 2. Amendment

Chapter 106, Section 1.20.05, shall be amended as follows:

1.20.05 "**Distracted Driving**" means the following:

1) The operator of a motor vehicle's 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; or

2) The operator of a motor vehicle's 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 interacting with pets, passengers, or unsecured cargo, and 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.~~

Chapter 106, Section 5.14c shall be amended as follows:

5.14c Distracted Driving; Violation as Civil Infraction

1) A person shall not engage in distracted driving, as defined by Chapter 106, Section 1.20.05 (1), within the City of Troy.

2) A person shall not engage in distracted driving, as defined by Chapter 106, Section 1.20.05 (2), within the City of Troy.

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. Repeal

All ordinances or parts of ordinances in conflict herewith are hereby repealed only to the extent necessary to give this ordinance full force and effect.

Section 4. 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 5. 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 6. 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 _____, _____.

_____
Janice Daniels, Mayor

_____
Aileen Bittner, City Clerk