



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:

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 a 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