

CITY OF KETTERING, OHIO

AN ORDINANCE

By:

No.

**TO AMEND THE CODIFIED ORDINANCES OF
THE CITY OF KETTERING TO INCLUDE
CHAPTER 475 CONCERNING REGULATION OF
TEXT BASED COMMUNICATION WHILE
DRIVING**

WHEREAS, distracted driving is a significant cause of automobile accidents resulting in personal injury and loss of life; and

WHEREAS, engaging in text based communication (“texting”) while driving distracts drivers and greatly increases the risk of accidents; and

WHEREAS, texting while driving causes drivers to completely switch their attention from driving to focus on texting, while drivers talking on cellular phones are more prone to share their attention between both driving and talking; and

WHEREAS, texting while driving is especially dangerous because it involves three types of distractions: Visual – taking the driver’s eyes off the road; Physical – taking the driver’s hands off the wheel; and Cognitive – taking the driver’s mind off driving; and

WHEREAS, the danger associated with texting while driving presents public safety issues that demand regulation in order to protect the health, safety and welfare of citizens and drivers; and

WHEREAS, City Council desires to enact regulations to address the public safety issues caused by texting while driving and thereby protect the public health, safety, and welfare and improve roadway safety for all drivers, passengers, bicyclists, and pedestrians;

NOW, THEREFORE, Be It Ordained by the Council of the City of Kettering, State of Ohio, that:

Section 1. The Codified Ordinances of the City of Kettering, Ohio are hereby amended to include Chapter 475 as follows:

“CHAPTER 475

TEXT BASED COMMUNICATIONS

SECTION 475.01

- (A) No person shall drive a motor vehicle, trackless trolley, or streetcar on any street, highway, or property open to the public for vehicular traffic while using an electronic wireless communications device to write, send, or read a text-based communication.
- (B) Division (A) of this section does not apply to any of the following:
 - (1) A person using an electronic wireless communications device in that manner for emergency purposes, including an emergency contact with a law enforcement agency, hospital or health care provider, fire department, or other similar emergency agency or entity;

- (2) A person driving a public safety vehicle who uses an electronic wireless communications device in that manner in the course of the person's duties;
 - (3) A person using an electronic wireless communications device in that manner whose motor vehicle is in a stationary position, with the transmission in the park or neutral setting or with the engine or power to the motor off, and who is outside a lane of travel;
 - (4) A person reading, selecting, or entering a name or telephone number in an electronic wireless communications device for the purpose of making or receiving a telephone call;
 - (5) A person receiving wireless messages on a device regarding the operation or navigation of a motor vehicle; safety-related information, including emergency, traffic, or weather alerts; or data used primarily by the motor vehicle;
 - (6) A person receiving wireless messages via radio waves;
 - (7) A person using a device for navigation purposes;
 - (8) A person conducting wireless interpersonal communication with a device that does not require manually entering letters, numbers, or symbols or reading text messages, except to activate, deactivate, or initiate the device or a feature or function of the device;
 - (9) A person operating a commercial truck while using a mobile data terminal that transmits and receives data.
- (C) Whoever violates division (A) of this section is guilty of a minor misdemeanor.
- (D) As used in this section:
- (1) "Electronic wireless communications device" includes any of the following:
 - (a) A wireless telephone;
 - (b) A text-messaging device;
 - (c) A personal digital assistant;
 - (d) A computer;
 - (e) Any other substantially similar wireless device that is designed or used to communicate text.
 - (2) "Write, send, or read a text-based communication" means to manually write or send, or read a text-based communication using an electronic wireless communications device, including manually writing or sending, or reading communications referred to as text messages, instant messages, or electronic mail."

Section 2. Any title page or listing of section titles of the Codified Ordinances requiring modification to reflect the amendment of the Codified Ordinances as expressed in this ordinance shall be so modified.

Section 3. Each section and provision of this ordinance is hereby declared to be an independent division and subdivision and, notwithstanding any other evidence of legislative intent, it is hereby declared to be the controlling legislative intent that if any provision of this ordinance, or the application thereof to any person or circumstance, is held to be invalid, the remaining sections or provisions and the application of such sections and provisions to any person or circumstances, other than those to which it is held invalid, shall not be affected thereby; and it is hereby declared that such sections and provisions would have been passed independently of such section or provision so known to be invalid.

Section 4. In order to provide time to educate the public before enforcement of Chapter 475 begins; no ticket, citation or summons shall be issued for a violation of Chapter 475 until after June 30, 2012.

Section 5. This ordinance shall take full force and effect from and after the earliest period provided by law.

Passed by Council this _____ day of _____ 2011.

DONALD E. PATTERSON, Mayor

ATTEST:

CERTIFICATE OF APPROVAL

CONNIE S. GAW,
Clerk of Council

THEODORE A. HAMER, III,
Acting Law Director

(Requested by: City Manager's Office)