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April 20, 2009  
File No. 98-13

Via Fax 610-997-5738  
and Regular Mail  
Cindy Biedenkopf, City Clerk  
Bethlehem City Council  
City of Bethlehem  
10 East Church Street  
Bethlehem, Pennsylvania 18018

Re: Ordinance / Prohibiting the Use of a Handheld Mobile Telephone

Dear Cindy:

This matter was addressed at City Council's meeting of April 7, 2009 and attached please find drafted Ordinance prohibiting the use of handheld mobile telephone by a person operating a motor vehicle or other vehicle on a City street under certain terms and conditions.

Following our telephone communication this date, my research reveals that the Motor Vehicle Code of the Commonwealth of Pennsylvania is silent upon the prohibition of "cell phones" and thus, would permit municipalities to regulate such conduct. Conversely, if the Commonwealth of Pennsylvania would enact legislation banning the use of cell phones while driving, this would "preempt" such regulation and prohibit municipalities such as cities, boroughs and townships from regulating such uses.

I request that this draft be shared with President Donchez and Members of Council, specifically noting that I have included such use while operating a motor vehicle on any street within the City and while using a skateboard, scooter, in-line skates or bicycle on any street within the City. Further, at Paragraph 5 entitled "Penalties", I have preliminarily listed the violations of not less then \$150.00, no more than \$300.00.

I look forward to Council's input as to corrections, deletions and/or additions.

Thank you.

Very truly yours



Christopher T. Spadoni

CTS:cm  
Enclosure  
cc: John F. Spirk, Jr., Esq., City Solicitor (w/enc.)

**AN ORDINANCE PROHIBITING THE USE OF  
A HAND-HELD MOBILE TELEPHONE BY A PERSON OPERATING A  
MOTOR VEHICLE OR OTHER VEHICLE ON A CITY STREET,  
UNDER CERTAIN TERMS AND CONDITIONS**

THE COUNCIL OF THE CITY OF BETHLEHEM HEREBY ORDAINS:

SECTION 1 - Prohibiting Use of Mobile Telephones by Persons Operating Vehicles.

(1) Legislative Findings. The Council of the City of Bethlehem finds:

(a) The City of Bethlehem is a City of the third-class within the Commonwealth of Pennsylvania and maintains a population in excess of 75,000 residents.

(b) As a result of its population, the City of Bethlehem experiences significant motor vehicle and pedestrian traffic within its boundaries.

(c) Bethlehem is a walkable city and this Ordinance would protect the health, safety and welfare of operators of motor vehicles, pedestrians, bicyclists, skateboarders, inline skaters and others.

(d) Mobile telephone usage has continued to increase in popularity in the United States.

(e) Studies show:

(1) Mobile phone usage while driving increases the likelihood of a crash;

(2) Drivers operating motor vehicles while using a mobile phone are impaired;

(3) The act of dialing a mobile phone is the most dangerous part of making a mobile phone call while operating a motor vehicle;

(f) Text messaging, instant messaging, web browsing and other mobile phone technologies are becoming increasingly popular and present an additional danger to motor vehicle operators.

(g) Studies show:

(1) The use of text messages has increased over 1,000 percent from June of 2005 to June of 2007.

(2) Currently, cell phone users send and receive more text messages per month than phone calls.

(h) The use of mobile phones while operating a motor vehicle, skateboard, inline skates or bicycle poses a great risk to the health, safety and welfare of the operator of those vehicles, as well as pedestrians.

(I) Requiring the use of a hands-free device for mobile phones while operating a vehicle within the City of Bethlehem is necessary to protect the health, safety and welfare of the citizens of Bethlehem.

(j) Failure to use a hands-free device for a mobile phone while operating a vehicle within the City of Bethlehem shall constitute a violation of the Codified Ordinances of the City of Bethlehem.

(2) Definitions.

(a) "Hands-free device" shall mean an external device that connects to a mobile telephone or wireless communication device that allows the user to engage in a call without touching the user's telephone or wireless communication device.

(b) "Street" shall have the same meaning as set forth in the Pennsylvania Motor Vehicle and Code and the Codified Ordinances of the City of Bethlehem.

(c) "On-board communications device" shall mean a communications system or device that is hard-wired into the motor vehicle.

(3) Prohibited Conduct. No person shall use a mobile telephone or wireless communication device in any way, including for voice communication, messaging or emailing:

(a) while operating a motor vehicle on any Street within the City;

(b) while using a skateboard, scooter, inline skates or bicycle on any Street within the City.

(4) Exceptions.

(a) Persons using a hands-free device for voice communication, provided that such person does not touch the mobile telephone or wireless communication device connected to such hands-free device while operating or using the vehicle, except as permitted under subparagraph (c).

(b) Persons using a mobile telephone for voice communication to call "911" in an emergency, or to report a traffic accident or unsafe driving by another motorist.

(c) Persons using a mobile telephone or wireless communication device while maintaining a motor vehicle in a stationary position in a parking lane or space out of moving traffic lanes, and not in gear.

(d) Persons using an on-board communications device for non-personal communication in the course of ordinary business in their employment with the City, State or Federal agency or authority.

(5) Penalties.

(a) The penalty for a violation of this Section shall be a fine of not less than \$150.00, nor more than \$300.00.

Sponsored by \_\_\_\_\_

\_\_\_\_\_

PASSED finally in Council on the \_\_\_\_ day of \_\_\_\_\_, 2009.

\_\_\_\_\_  
President of Council

ATTEST:

\_\_\_\_\_  
Cynthia H. Biedenkopf, City Clerk

This Ordinance approved this \_\_\_\_ day of \_\_\_\_\_, 2009.

\_\_\_\_\_  
Honorable John B. Callahan, Mayor