

ORDINANCE NO. 2019-07
INTRODUCED BY: Mayor Bodnar

**AN ORDINANCE REPEALING AND REPLACING
CODIFIED ORDINANCE SECTION 331.43
RELATING TO CELL PHONE USE WHILE DRIVING**

WHEREAS, it had become necessary to revise Codified Ordinance Section 331.43 Texting While Driving Prohibited; and

WHEREAS, the Village of Mayfield Council finds it is in the best interests of the Village to repeal Section 331.43 titled Texting While Driving Prohibited; and

WHEREAS, Village Council deems it in the best interest of the Village and its residents to replace Section 331.43 with a new Section titled Prohibiting the Use of Wireless Handsets to Text Message and Engage in Other Forms of Communication While Driving.

NOW, THEREFORE, BE IT ORDAINED by the Council of Mayfield Village, Cuyahoga County, State of Ohio that:

SECTION 1. Section 331.43 titled Texting While Driving Prohibited of the Village's Codified Ordinances is hereby repealed in its entirety and replaced with Section 331.43 titled Prohibiting the Use of Wireless Handsets to Text Message and Engage in Other Forms of Communication While Driving to read as fully set forth in Exhibit "A" attached hereto and incorporated herein by reference.

SECTION 2. All other provisions of the Village Codified Ordinances not inconsistent herewith shall remain in full force and effect.

SECTION 3. The Clerk of Council is authorized and directed to forward a certified copy of this Ordinance to the Codifier of Mayfield Village.

SECTION 4. The Council finds and determines that all formal actions of this Council relating to the adoption of this Ordinance have been taken at open meetings of this Council and that deliberations of this Council and of its committees, resulting in such formal action, took place in meeting open to the public, in compliance with all statutory requirements including the requirements of Section 121.22 of the Ohio Revised Code.

SECTION 5. This Ordinance shall take effect after adoption and at the earliest time allowed by law.

JOSEPH M. SAPONARO
Council President

First Reading: _____, 2019
Second Reading: _____, 2019
Third Reading: _____, 2019
PASSED: _____, 2019

BRENDA T. BODNAR, Mayor

APPROVED AS TO FORM:

ANTHONY J. COYNE, ESQ.,
Director of Law

ATTEST: _____
MARY E. BETSA, MMC

331.43 PROHIBITING THE USE OF WIRELESS HANDSETS TO TEXT MESSAGE AND ENGAGE IN OTHER FORMS OF COMMUNICATION WHILE DRIVING.

(a) For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

(1) "Computer" means a portable electronic device capable of transmitting and/or receiving data.

(2) "Engage in other forms of communication" means to use a wireless handset to dial, answer, talk, and/or listen, or to use a computer.

(3) "Text message" means a message in the process of being composed, sent, or received via a process using wireless handsets. For the purposes of this section, an e-mail shall be considered a "text message."

(4) "Wireless handset" means a portable electronic device capable of transmitting or receiving data in the form of a text message and capable of engaging in the other forms of communication defined in division (a)(2) above.

(b) No person shall use a wireless handset or a computer to compose, send, or read text messages or engage in other forms of communication as defined in division (a)(2) of this section, while driving a motor vehicle in the Village.

(c) Notwithstanding the provisions of division (b) of this section, this section shall not be construed to prohibit the use of a wireless handset or computer inside a motor vehicle to compose, send, or read a text message or engage in other forms of communication as defined in division (a)(2) of this section when:

(1) A driver is using a wireless handset to contact any law enforcement, police officers, emergency services personnel, emergency medical technicians, or fire safety officials to report an emergency situation; or

(2) A driver is using a wireless handset inside a motor vehicle when such vehicle is parked, standing, or stopped and is removed from the flow of traffic, in accordance with applicable laws or rules, or is stopped due to the inoperability of such vehicle; or

(3) A driver is using a wireless handset connected to a hands-free device which allows the driver to maintain both hands on the vehicle's steering device while the vehicle is operating; or

(4) Safety and Service Personnel are using such communication devices as defined in division (a) of this section in the course of their work, they are exempt from the provisions of this section.

(d) Penalty.

(1) Except as provided in division (d)(2), whoever violates division (b) of this section is guilty of a minor misdemeanor.

(2) If the offender is the holder of a temporary instruction permit who has not attained the age of eighteen years or is the holder of a probationary driver's license and violates division (b) of this section the following penalties shall be imposed:

A. If the offender has not previously been convicted of a violation of this section, whoever violates this section shall be fined one hundred fifty dollars (\$150.00). In addition, the court shall impose a class seven suspension of the offender's driver's license or permit for a definite period of sixty days.

B. If the offender previously has been convicted of a violation of this section, whoever violates this section shall be fined three hundred dollars (\$300.00). In addition, the court shall impose a class seven suspension of the offender's driver's license or permit for a definite period of one year.