

CITY OF BROOK PARK, OHIO

MC 4-17-18 LEGISLATIVE
CA 4-24-18
1st R 5-1-18
2nd R 5-15-18
3rd R
P/C

ORDINANCE NO: 11022-2018

INTRODUCED BY: COUNCILMAN MENCINI, *Council as a whole Mayor Gammella*

AN ORDINANCE
AMENDING SECTIONS 331.45(a) and (c)
OF THE BROOK PARK CODIFIED ORDINANCES
ENTITLED 'TEXTING WHILE DRIVING PROHIBITED,'
AND DECLARING AN EMERGENCY

WHEREAS, on August 31, 2012, legislation passed by the Ohio State Legislature, viz., ORCS4511.204, made it a secondary offense to text while driving; and

WHEREAS, our City has passed identical legislation locally to prohibit the same conduct and also followed the State's formula of making it a secondary offense., i.e., one must be stopped for some other traffic offense before the officer can issue a citation for texting while driving; and

WHEREAS, more and more drivers are being observed within the City limits being involved in and/or causing automobile collisions and other traffic related problems associated with a lack of attention to driving their vehicle; and

NOW THEREFORE, BE IT ORDAINED, by the Council of the City of Brook Park, State of Ohio, that:

SECTION 1: Section 331.45, subsections (a) and (c), which currently read as follows:

331.45 TEXTING WHILE DRIVING PROHIBITED.

(a) No person shall drive a motor vehicle on any street, highway, or property open to the public for vehicular traffic while using a handheld electronic wireless communications device to write, send, or read a text-based communication.

(c) Notwithstanding any provision of law to the contrary, no law enforcement officer shall cause an operator of an automobile being operated on any street or highway to stop the automobile for the sole purpose of determining whether a violation of division (a) of this section has been or is being committed or for the sole purpose of issuing a ticket, citation, or summons for a violation of that nature or causing the arrest of or commencing a prosecution of a person for a violation of that nature, and no law enforcement officer shall view the interior or visually inspect any automobile being operated on any street or highway for the sole purpose of determining whether a violation of that nature has been or is being committed.

is hereby amended to read:

331.45 TEXTING WHILE DRIVING PROHIBITED.

(a) No person shall drive a motor vehicle on any street, highway, or property open to the public for vehicular traffic while using a handheld electronic wireless communications device to write, send, or read a text-based communication **or to send, read, create or interact with Internet-based content, play games or otherwise interact with the internet.**

(c) **Violation of paragraph (a) of this section shall be a primary offense.**

~~Notwithstanding any provision of law to the contrary, no law enforcement officer shall cause an operator of an automobile being operated on any street or highway to stop the automobile for the sole purpose of determining whether a violation of division (a) of this section has been or is being committed or for the sole purpose of issuing a ticket, citation, or summons for a violation of that nature or causing the arrest of or commencing a prosecution of a person for a violation of that nature, and no law enforcement officer shall view the interior or visually inspect any automobile being operated on any street or highway for the sole purpose of determining whether a violation of that nature has been or is being committed.~~

SECTION 2: Former Section 331.45 (a) and (c) of the Brook Park Codified Ordinances are hereby expressly repealed.

SECTION 3: It is found and determined that all formal actions of this Council concerning and relating to the adoption of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and of any of its committees that resulted in such formal action were in meetings open to the public in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

SECTION 4 This Ordinance is hereby declared to be an emergency measure immediately necessary for the preservation of the public peace, health, safety and welfare of said City, and for the further reason of amending Section 331.45 (a) and (c) the Brook Park Codified Ordinances; therefore, this Ordinance shall take effect and be in force immediately from and after its passage and approval by the Mayor.

PASSED: May 15, 2018

[Signature]
PRESIDENT OF COUNCIL

ATTEST: Michelle Blazak
Clerk of Council

APPROVED: [Signature]
MAYOR

5/16/18
DATE

I HEREBY APPROVE THE WITHIN
INSTRUMENT AS TO LEGAL FORM
AND CORRECTNESS

[Signature]
DIRECTOR OF LAW

CERTIFICATE

Michelle Blazak, Clerk of Council, of the City of Brook Park, Ohio, do hereby certify that the foregoing is a true and accurate copy of Ordinance/Resolution No. 11022-2018

passed on the 15th day of May 20 18 by said council.

Michelle Blazak
Clerk of Council

I, Michelle Blazak, Clerk of Council for the City of Brook Park, State of Ohio, do hereby certify that there is no newspaper of general circulation in the municipality and that publication of the foregoing ordinances/resolutions was made by posting true copies at six of the most public places in said municipality as determined by Ordinance No. 4838-1975, location City Hall 6161 Engle Road, Police Station 17401 Holland Road, #1 Fire Station 5590 Smith Road, #2 Fire Station 22530 Ruple Parkway, #3 Fire Station 17401 Holland Road, Brook Park Library 6165 Engle Road, for a period of fifteen days.

commencing May 15, 2018
Michelle Blazak
MICHELLE BLAZAK
Clerk of Council

	Yea	Nay
Stemm	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Mencini	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Orcutt	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Scott	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Burgio	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Poindexter	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Salvatore	<input checked="" type="checkbox"/>	<input type="checkbox"/>