

## ORDINANCE NO. 2019-085

**AN ORDINANCE AMENDING TITLE FIVE, CHAPTER 331 OF THE CODIFIED ORDINANCES OF THE CITY OF FINDLAY ENTITLED "OPERATION GENERALLY" TO DEFINE AND PROHIBIT CERTAIN VIOLATIONS COMMITTED WHILE DRIVING DISTRACTED.**

SECTION 1: That new Chapter 331.45 of the Codified Ordinances of the City of Findlay, Ohio be enacted which reads as follows:

331.45 "Distracted" defined; violations committed while distracted.

A. As used in this section and each section referenced in division (B) of this section, all of the following apply:

- (1) "Distracted" means doing either of the following while operating a vehicle:
  - (a) Using a handheld electronic wireless communications device, as defined in section 4511.204 of the Revised Code, except when utilizing any of the following:
    - (i) The device's speakerphone function;
    - (ii) A wireless technology standard for exchanging data over short distances;
    - (iii) A "voice-operated or hands-free" device that allows the person to use the electronic wireless communications device without the use of either hand except to activate, deactivate, or initiate a feature or function;
    - (iv) Any device that is physically or electronically integrated into the motor vehicle.
  - (b) Engaging in any activity that is not necessary to the operation of a vehicle and impairs, or reasonably would be expected to impair, the ability of the operator to drive the vehicle safely.
- (2) "Distracted" does not include operating a motor vehicle while wearing an earphone or earplug over or in both ears at the same time. A person who so wears earphones or earplugs may be charged with a violation of section 4511.84 of the Revised Code.
- (3) "Distracted" does not include conducting any activity while operating a utility service vehicle or a vehicle for or on behalf of a utility, provided that the

driver of the vehicle is acting in response to an emergency, power outage, or a circumstance affecting the health or safety of individuals.

As used in division (A)(3) of this section:

- (a) "Utility" means an entity specified in division (A), (C), (D), (E), or (G) of section 4905.03 of the Revised Code.
  - (b) "Utility service vehicle" means a vehicle owned or operated by a utility.
- B. If an offender violates section 4511.03, 4511.051, 4511.12, 4511.121, 4511.132, 4511.21, 4511.211, 4511.213, 4511.22, 4511.23, 4511.25, 4511.26, 4511.27, 4511.28, 4511.29, 4511.30, 4511.31, 4511.32, 4511.33, 4511.34, 4511.35, 4511.36, 4511.37, 4511.38, 4511.39, 4511.40, 511.41, 4511.42, 4511.43, 4511.431, 4511.44, 4511.441, 4511.451, 4511.46, 4511.47, 4511.54, 4511.55, 4511.57, 451.58, 4511.59, 4511.60, 4511.61, 4511.64, 4511.71, 4511.711, 4511.712, 4511.713, 4511.72, or 4511.73 of the Revised Code while distracted and the distracting activity is a contributing factor to the commission of the violation, the offender is subject to the applicable penalty for the violation and, notwithstanding section 2929.28 of the Revised Code, is subject to an additional fine of not more than one hundred dollars as follows:

- (1) Subject to Traffic Rule 13, if a law enforcement officer issues an offender a ticket, citation, or summons for a violation of any of the aforementioned sections of the Revised Code that indicates that the offender was distracted while committing the violation and that the distracting activity was a contributing factor to the commission of the violation, the offender may enter a written plea of guilty and waive the offender's right to contest the ticket, citation, or summons in a trial provided that the offender pays the total amount of the fine established for the violation and pays the additional fine of one hundred dollars.

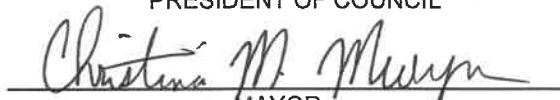
In lieu of payment of the additional fine of one hundred dollars, the offender instead may elect to attend a distracted driving safety course, the duration and contents of which shall be established by the director of public safety. If the offender attends and successfully completes the course, the offender shall be issued written evidence that the offender successfully completed the course. The offender shall be required to pay the total amount of the fine established for the violation, but shall not be required to pay the additional fine of one hundred dollars, so long as the offender submits to the court both the offender's payment in full and such written evidence.

- (2) If the offender appears in person to contest the ticket, citation, or summons in a trial and the offender pleads guilty to or is convicted of the violation, the Court, in addition to all other penalties provided by law, may impose the applicable penalty for the violation and may impose the additional fine of not more than one hundred dollars.

If the Court imposes upon the offender the applicable penalty for the violation and an additional fine or not more than one hundred dollars, the Court shall inform the offender that, in lieu of payment of the additional fine not more than one hundred dollars, the offender instead may elect to attend the distracted driving safety course described in division (B)(1) of this section. If the offender elects the course option and attends and successfully completes the course, the offender shall be issued written evidence that the offender successfully completed the course. The offender shall be required to pay the total amount of the fine established for the violation, but shall not be required to pay the additional fine of not more than one hundred dollars, so long as the offender submits to the Court the offender's payment and such written evidence.

SECTION 2: This Ordinance shall be in full force and effect from and after the earliest period provided by law.

  
PRESIDENT OF COUNCIL

  
MAYOR

PASSED October 15, 2019

ATTEST Debbie DeVore  
CLERK OF COUNCIL

APPROVED October 15, 2019