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CITY OF BETHLEHEM

INTEROFFICE MEMORANDUM

TO: Honorable Eric R. Evans, President of Council

FROM: Christopher T. Spadoni, Esq.

RE: Repeal of Article 738 (Regulating Use of Interactive Wireless Communications Devices by Persons Operating Vehicles)

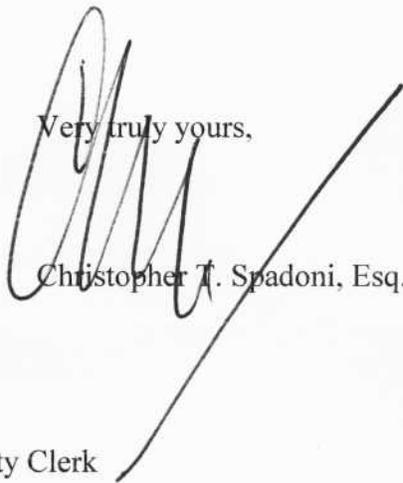
DATE: February 13, 2012

Pursuant to your memo of February 9, 2012, enclosed please find drafted Ordinance to repeal Article 738 as adopted by Bethlehem City Council on May 19, 2010.

Should questions arise or further information be required as to the enclosed, please contact the undersigned.

Thank you.

Very truly yours,



Christopher T. Spadoni, Esq.

CTS: ks

Enclosure

cc: Cynthia H. Biedenkopf, City Clerk

BILL NO. _____

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF BETHLEHEM, COUNTIES OF LEHIGH AND NORTHAMPTON, COMMONWEALTH OF PENNSYLVANIA, REPEALING EXISTING ARTICLE 738 OF THE CODIFIED ORDINANCES ENTITLED "REGULATING USE OF INTERACTIVE WIRELESS COMMUNICATIONS DEVICES BY PERSONS OPERATING VEHICLES"

THE COUNCIL OF THE CITY OF BETHLEHEM HEREBY ORDAINS AS FOLLOWS:

SECTION 1. That existing Article 738 of the Codified Ordinances of the City of Bethlehem entitled "Regulating Use of Interactive Wireless Communications Devices by Persons Operating Vehicles" which reads as follows is hereby repealed in its entirety,

738.01 PURPOSE.

A. Legislative Findings. The Council of the City of Bethlehem finds:

(1) The City of Bethlehem is a Third Class City situate within the Commonwealth of Pennsylvania and maintains a residential population in excess of 75,000.

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

(3) 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 visitors to the City of Bethlehem.

(4) Interactive Wireless Communications Devices (hereinafter referred to as IWCDs) have continued to increase in popularity in the United States. Texting and email correspondence likewise continues to grow as a preferred method of communication.

(5) Studies show:

(a) IWCD usage while driving significantly increases the likelihood of a crash;

(b) Drivers operating motor vehicles while using an IWCD are impaired;

(c) The act of utilizing an IWCD is the most dangerous part of making a mobile communication while operating a motor vehicle;

(d) The use of IWCDs 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, animals, and the general public.

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

(7) Failure to use a hands-free IWCD for mobile communications while operating a vehicle shall constitute a violation of this Ordinance of the City of Bethlehem.

738.02 DEFINITIONS.

The following definitions shall apply in the interpretation and enforcement of this Article:

A. "Interactive Wireless Communications Device." Any wireless electronic communications device that provides for voice or data communication between two or more parties, including, but not limited to, a mobile or cellular telephone, a text messaging device, a personal digital assistant that sends or receives messages or a laptop computer. The term does not include a citizens band radio or a two-way radio.

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

C. "Street" shall have the same meaning as stated in the Codified Ordinances of the City of Bethlehem.

D. "On-board communications device" shall mean a communications system or device that is hard-wired into a motor vehicle.

738.03 PROHIBITED CONDUCT.

A. No person shall use an interactive wireless communication device in any way, including for voice communication, texting, messaging, and/or e-mailing:

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

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

B. Exceptions.

(1) Persons using a hands-free device for voice communication, provided that such person does not touch the IWCD connected to such hands-free device while operating or

using the vehicle, except as permitted under subparagraph (3).

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

(3) Persons using an IWCD while maintaining a motor vehicle in a stationary position in a parking lane or space out of moving traffic lanes, and the vehicle is not in gear.

(4) Emergency personnel or personnel in times of emergency using an on-board communications device for communication in the course of business in their employment with a Municipal, County, State or Federal agency or authority.

738.04 EFFECTIVE DATE.

This Ordinance shall be effective on June 15, 2010. The warning period shall be June 15, 2010 through August 14, 2010 within which violators of this Ordinance shall be notified by Police Officers but shall not be assessed a penalty as set forth in Section 738.99, Penalty. Enforcement of this Ordinance shall commence on August 15, 2010.

738.05 SIGNAGE.

Signage shall be placed at locations to be approved by the City of Bethlehem Police Commissioner, Chairperson of the City Council Public Safety Committee, Director of Public Works, and Director of Community and Economic Development to appropriately notify the public of this Ordinance.

738.99 PENALTY.

The penalty for a violation of this Section shall be a fine of one hundred dollars (\$100.00). The penalty for a sixth or additional violation of this Ordinance shall result in a fine of not less than five hundred dollars (\$500.00).

(Ord. 2010-13. Passed 5/19/10.)

SECTION 2. All Ordinances and parts of Ordinances inconsistent herewith be, and the same are hereby repealed.

Sponsored by _____

PASSED finally in Council this _____ day of _____, 2012.

President of Council

ATTEST:

City Clerk

This Ordinance approved this _____ day of _____, 2012.

Mayor