

Sponsored by Thomas J. DelBono
Seconded by Richard DelBono
First Reading 9-5-01

ORDINANCE NO. 12

**ORDINANCE AMENDING AND SUPPLEMENTING PART II,
GENERAL LEGISLATION, OF THE "CODE OF THE
CITY OF HOBOKEN" BY ADDING A NEW CHAPTER 147
ENTITLED MOBILE TELEPHONES**

WHEREAS, the City Council of the City of Hoboken has not previously defined and/or regulated the use of mobile telephones while operating a motor vehicle within the City limits; and

WHEREAS, the City Council believes that the operation of motor vehicles on public roadways while using mobile telephones may cause the operator to maintain less than full-time attention to the operation of said motor vehicle; and

WHEREAS, the City Council of the City of Hoboken believes that the regulation of the use of mobile telephones while operating motor vehicle within the City will enhance the safety of those persons operating motor vehicles as well as pedestrians in the City.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Hoboken, in the County of Hudson and State of New Jersey, that the Code of the City of Hoboken be and hereby is amended as follows:

Section One:

That a new Chapter 147 be and hereby is established entitled, "Mobile Telephones", which shall read as follows:

Section 147-1. DEFINITIONS

MOBILE TELEPHONE – including but not limited to cellular, analog, wireless and digital telephones.

USE – to use a mobile telephone in (a) dialing; (b) answering; (c) talking; (d) listening.

PARK – for an automatic transmission vehicle that the vehicle is in the park gear or for a standard transmission that the vehicle is in the neutral gear and the break is being utilized or the vehicle is otherwise stationary.

Section 147-2. PURPOSE

It is the purpose of this Ordinance and the policy of the City to regulate the use of mobile telephones by persons operating motor vehicles in order to protect other persons within the City. This Ordinance shall be liberally construed and applied to promote its purposes and policy.

Section 147-3. USE; RESTRICTIONS

(A) PERMITTED USES – Notwithstanding anything contained in this Chapter to the contrary, this Ordinance shall not be construed to prohibit the use of mobile telephones by:

- (1) any law enforcement, public safety or police officers, emergency management officials, first aid, emergency medical technicians and personnel, and fire safety officials in the performance of duties arising out of and in the course of their employment as such.
- (2) a person who is using the mobile telephone to contact public safety forces; or
- (3) while maintaining the vehicle in the parked position either on public or private property, or with a “hands free device” which allows the operator to maintain both hands on the applicable steering device while using the mobile telephone.

(B) RESTRICTIONS – No person shall operate a motor vehicle on any street or highway while engaging in any conduct defined as the “use” of a mobile telephone unless the operator is using a mobile telephone with “hands-free” technology for dialing, answering, talking and listening.

Section 147-4. PENALTIES

Violations of any provision of this Ordinance shall be punishable by a fine not to exceed \$250.00.

Section Two:

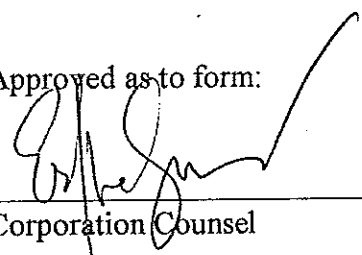
This Ordinance is hereby declared to be an emergency measure dealing with the daily operation of a municipal department, and provided it receives the affirmative vote of two-thirds of all members elected to the Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise it shall take effect and be in force from and after the earliest period allowed by law.

Section Three:

SEVERABILITY -- In the event that any provision of this Ordinance is found by a court of competent jurisdiction to be invalid, unconstitutional or unenforceable, such provision shall be deemed severable from the remainder of this Ordinance and shall not cause the invalidity of unenforceability of the remainder of this Ordinance; and if a provision shall be deemed invalid only because of excessive scope of breadth, the provision shall be deemed valid to the extent of the scope and breadth permitted by law.

James J. Farina, City Clerk

Approved as to form:



Corporation Counsel

Adopted: _____

Approved: _____