



CITY of NOVI CITY COUNCIL

Agenda Item 2
July 2, 2012

SUBJECT: Consideration of adoption of Ordinance 12-178, to amend the City's Code of Ordinances, at Chapter 22, Offenses, in order to add Section 22-51, Unattended Child in Motor Vehicle. FIRST READING

SUBMITTING DEPARTMENT: Police *Don*

CITY MANAGER APPROVAL: *[Signature]*

BACKGROUND INFORMATION:

MCL 750.135a of the State Penal Code makes it an offense to leave a child unattended in a motor vehicle. Novi officers who encounter this situation and determine to take enforcement action currently use this state law provision, which requires a warrant from the County Prosecutor's Office. Adoption of the proposed ordinance, which effectively mirrors the state law, would allow City officers to enforce the statute locally, with a citation or ticket. This saves time for local law enforcement officials. As a 93-day offense under state statute, it is permissible to adopt this as a local offense. Fines and costs would also be handled in the same manner as other local offenses.

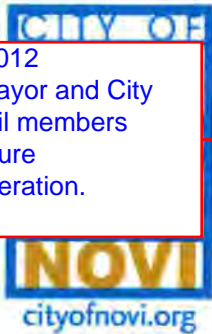
RECOMMENDED ACTION: Approve FIRST READING of Ordinance 12-178, to amend the City of Novi Code of Ordinances, Chapter 22, Offenses, in order to add Section 22-51, "Unattended Child in Motor Vehicle."

	1	2	Y	N
Mayor Gatt				
Mayor Pro Tem Staudt				
Council Member Casey				
Council Member Fischer				

	1	2	Y	N
Council Member Margolis				
Council Member Mutch				
Council Member Wrobel				

MEMORANDUM

6/13/2012
To: Mayor and City
Council members
For future
consideration.
Clay



TO: DIRECTOR OF PUBLIC SAFETY/CHIEF OF POLICE *Dem*
DAVID E. MOLLOY
FROM: LIEUTENANT KEITH A WUOTINEN
SUBJECT: NEW ORDINANCE: UNATTENDED CHILD IN AUTOMOBILE
DATE: JUNE 6, 2012

BACKGROUND:

Under state law, specifically MCL 750.135a of the State Penal Code, it is an offense to leave a child unattended in a motor vehicle. Since this is currently only a state law offense, when Novi police officers are called to or discover this situation, enforcement action has to be taken with the Oakland County Prosecutors Office.

When seeking prosecution with the Oakland County Prosecutors Office for a state law charge, a warrant review packet must be prepared and presented to a county prosecutor for review and issuance of charges. When charges are issued, the case is prosecuted by the county prosecutor and all fines/costs are retained by the county and state.

This procedure is more time consuming for officers and other police department staff, and none of the revenues remain local.

SOLUTION:

This state law offense carries a 93-day penalty, so it is eligible to be adopted as a local ordinance. As a local ordinance, Novi police officers may write a citation for the offense or they may seek prosecution from the city attorney, both of which are substantially less time to process. Additionally, a portion of the fines and costs will be returned locally to Novi from the court.

The nature of the offense, if adopted locally, is identical to that provided for under state law. It is just the processing of the offense that becomes more economical and efficient for police department staff.

C: Tom Schultz, City Attorney
Charles Cooper, City Prosecutor

STATE OF MICHIGAN

COUNTY OF OAKLAND

CITY OF NOVI

ORDINANCE NO. 12-178

AN ORDINANCE TO AMEND THE CITY OF NOVI CODE OF ORDINANCES, CHAPTER 22, "OFFENSES," IN ORDER TO ADD SECTION 22-51, "UNATTENDED CHILD IN MOTOR VEHICLE"

THE CITY OF NOVI ORDAINS:

PART I. That Chapter 22, "Offenses," of the City of Novi Code of Ordinances is amended to add a new Section 22-51, "Unattended Child in Motor Vehicle," to read as follows in its entirety:

22-51 Unattended Child in Motor Vehicle:

- (1) A person who is responsible for the care or welfare of a child shall not leave that child unattended in a vehicle for a period of time that poses an unreasonable risk of harm or injury to the child or under circumstances that pose an unreasonable risk of harm or injury to the child.
- (2) A person who violates this section is guilty of a crime as follows:
 - (a) The person is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than \$500.00, or both.
- (3) As used in this section:
 - (a) "Child" means an individual less than 6 years of age.
 - (b) "Risk of Harm or Injury" means only a possible risk of harm or injury. It can include, but does not require, actual harm or injury to the child. Only the unreasonable risk of harm or injury to the child needs to be established by the prosecution.
 - (c) "Unattended" means alone or without the supervision of an individual 13 years of age or older who is not legally incapacitated.
 - (d) "Vehicle" means that terms as defined in section 79 of the Michigan vehicle code, 1949 PA 300, MCL 257.79.

PART II.

Severability. Should any section, subdivision, clause, or phrase of this Ordinance be declared by the courts to be invalid, the validity of the Ordinance as a whole, or in part, shall not be affected other than the part invalidated.

PART III.

Savings Clause. The amendment of the Novi Code of Ordinances set forth in this Ordinance does not affect or impair any act done, offense committed, or right accruing, accrued, or acquired or liability, penalty, forfeiture or punishment, pending or incurred prior to the amendment of the Novi Code of Ordinances set forth in this Ordinance.

PART IV.

Repealer. All other Ordinances or parts of Ordinances in conflict herewith are hereby repealed only to the extent necessary to give this Ordinance full force and effect.

PART V.

Effective Date: Publication. The provisions of this Ordinance shall become effective fifteen (15) days after its adoption and shall be published within 15 days of its adoption by publication of a brief notice in a newspaper circulated in the City, stating the date of enactment and the effective date of the ordinance, a brief statement as to the subject matter of this Ordinance and such other facts as the Clerk shall deem pertinent, and that a copy of the Ordinance is available for public use and inspection at the office of the City Clerk.

Made, Passed and Adopted by the Novi City Council this ____ day of _____, 2012.

Robert J. Gatt, Mayor

Maryanne Cornelius, City Clerk

Certificate of Adoption

I hereby certify that the foregoing is a true and complete copy of the ordinance adopted at the regular meeting of the Novi City Council held on the ____ day of _____, 2012.

Maryanne Cornelius, City Clerk

Adopted:
Published:
Effective: