

**ORDINANCE NO.**

**AN ORDINANCE OF THE CITY OF KALAMA, WASHINGTON, CREATING A NEW SECTION 10.04.060 TO THE KALAMA MUNICIPAL CODE RELATING TO INATTENTIVE DRIVING.**

**WHEREAS**, the City of Kalama has in its traffic codes, provisions that are derived from state statute, so that major traffic violations are somewhat uniform across the state among the various prosecuting jurisdictions; and

**WHEREAS**, cities, nevertheless, have the discretion and authority to identify separate violations that relate to their enforcement responsibilities, including criminal, civil and traffic violations that may be different than and/or supplementary to state law, and that more specifically address community needs; and

**WHEREAS**, currently, state statutes provide provisions prohibiting negligent driving in the second degree as defined in Section 46.61.525 of the Revised Code of Washington (RCW); and

**WHEREAS**, in order to address those instances that may not fully encompass the conduct intended to be covered by negligent driving in the second degree, cities can add to their city codes, provisions that address problematic driver conduct that may not constitute or rise to the level of negligent driving; and

**WHEREAS**, it is advantageous for the City of Kalama to have included in its codes a provision that covers inattentive driving as those terms can be defined to address those types of traffic related violations that would not necessarily constitute or fall within the scope of negligent driving in the second degree.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF KALAMA, WASHINGTON, DO ORDAIN as follows:

**Section 1. New Section to City Code.** That a new section 10.04.060 of the Kalama Municipal Code be and the same hereby is created to read as follows:

**10.04.060 Inattentive driving.**

A. It is unlawful for any person to operate a motor vehicle in an inattentive manner upon any highway within the city or way open to the public within the city that is maintained primarily for public use and is adjacent to any highway.

B. For the purpose of this section, inattentive manner means the operation of a vehicle in a manner that:

(1) Fails to maintain a careful lookout for persons or property in the direction of travel, or

(2) Evidences a lack of:

(a) Attentiveness required to safely operate the vehicle:

(i) under the prevailing conditions, including, but not limited to, the nature and condition of the roadway, the weather conditions, the presence of pedestrians, or the presence of other traffic; or

(ii) caused by the driver directing focus or attention to something other than driving the motor vehicle; or

(b) Attentiveness that would permit the driver of a motor vehicle to observe anything resting on, or traveling on, or entering the roadway in time to take appropriate action as circumstances require.

C. For the purposes of this section, the term "highway" is defined as set forth in RCW 46.04.197 and the term "way open to the public" is defined as set forth in WAC 200-200-015(8).

D. The offense of operating a vehicle in an inattentive manner shall be considered to be a lesser offense than, but included in the offense of, negligent driving in the second degree as set forth in RCW 46.61.525.

E. A violation of this section shall be a traffic infraction punishable by a monetary penalty of two hundred fifty dollars (\$250.00), plus all mandatory court costs, fees, and assessments.

**Section 2. Implementation.** The Mayor is hereby authorized to implement such administrative procedures as may be necessary to carry out the directions of this legislation.

**Section 3. Severability.** The provisions of this ordinance are declared to be separate and severable. The invalidity of any clause, sentence, paragraph, subdivision, section or portion of this ordinance, or the invalidity of the application thereof to any person or circumstance shall not affect the validity of the remainder of this ordinance, or the validity of its application to other persons or circumstances.

**Section 4. Effective date.** This Ordinance shall take effect and be in force five days from and after its passage, approval and publication as provided by law.

\_\_\_\_\_  
Mayor Pete Poulsen

Attest:

\_\_\_\_\_  
Coni McMaster, City Clerk/Treasurer

Approved as to form:

\_\_\_\_\_  
City Attorney

Passed:  
Published:  
Effective:

DRAFT