

ORDINANCE #09-0824

AN ORDINANCE OF THE CITY OF MERIDIAN, TEXAS, SUPPLEMENTING CHAPTER 70: TRAFFIC REGULATIONS, GENERAL PROVISIONS, SECTION 70.004 “USE OF HANDHELD MOBILE TELEPHONES PROHIBITED IN SCHOOL ZONES”, PROVIDING FOR A PENALTY CLAUSE; PROVIDING FOR A SEVERABILITY CAUSE; PROVIDING AN EFFECTIVE DATE.

WHEREAS, to further serve and protect school-aged children traveling to and from elementary and other educational facilities throughout the state, the State of Texas has adopted certain laws regulating the speed of motor vehicles in a “School Zone” – said laws applying only on official school days and during the hours when the school zone is in effect; and

WHEREAS, using a handheld mobile telephone (a/k/a “cell phone”) while operating a motor vehicle necessarily distracts the actor from his or her operation of said motor vehicle and thus causes him or her to concentrate less on driving safely; and

WHEREAS, using a handheld mobile telephone while operating a motor vehicle necessarily limits the actor’s ability to steer and maneuver said motor vehicle; and

WHEREAS, the City of Meridian, Texas (“City”) finds that the use of a handheld mobile telephone while operating a motor vehicle in a “school zone” (on official school days and during hours when the school zone is in effect) creates a danger (or probability of it) to school children and other that the City seeks to minimize; and

WHEREAS, the safety of all school-aged children traveling to and from elementary schools and other educational facilities located in the City is of paramount importance to the City, and as such, demands a high standard of positive care and control; and

WHEREAS, “strict liability” offenses include, not only those that are regulatory, public welfare or mala prohibita in nature, but also those for example that are designed to protect children; and

WHEREAS, the City desires to implement those rules and regulations that protect health, life, and property and that preserve good government, order and security of the City and its inhabitants.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Meridian, Texas:

SECTION 1. That Chapter 70: Traffic Regulations; General Provisions, of the City of Meridian Code of Ordinances is hereby supplemented and a new section: Section 70.004: “Use of Handheld Mobile Telephone Prohibited in School Zones” is hereby enacted and is to read as follows:

SCHEDULE V: Use of Handheld Mobile Telephones Prohibited in School Zones.

- a. For purposes of this section the following definitions apply:
 1. *Engaging in a call* shall mean talking into, dialing or listening on a handheld mobile telephone, but shall not include holding a mobile telephone to activate or deactivate such telephone.
 2. *Hands-free mobile telephone* shall mean a mobile telephone that has an internal feature or function, or that is equipped with an attachment or addition, whether or not permanently part of such mobile telephone, by which a user engages in a call without the use of either hand (or prosthetic device or aid in the case of a physically disabled person), whether or not the use of either hand (or prosthetic device) is necessary to activate, deactivate or initiate a function of such telephone.
 3. *Handheld mobile telephone* shall mean a mobile telephone with which a user engages in a call using at least one hand (or prosthetic device or aid in the case of the physically disabled person).
 4. *Mobile telephone* shall mean the device used by subscribers and other users of wireless telephone service to access such service and shall include Personal Digital Assistants.
 5. *Personal Digital Assistant* shall mean a device operated using a wireless telecommunications service that provides for data communication other than by voice.
 6. *Wireless telephone service* shall mean two-way real time voice telecommunication service that is interconnected to a public switched telephone network and commonly referred to as cellular service or personal communication service.

- b. Except as otherwise provided below, it shall be unlawful for a person to drive or operate a motor vehicle in a school zone, as designated in Schedule V, on official school days, during the hours when school zones are in effect, and when school zone signs and signs prohibiting handheld mobile telephone use are posted in place, while using a handheld mobile telephone to engage in a call or to create, send or read messages.
- c. An operator of a motor vehicle who holds a mobile telephone to, or in the immediate proximity of his or her ear while such vehicle is in motion is presumed to be engaging in a call within the meaning of this section. “Immediate proximity” shall mean that distance as permits the operator of a mobile telephone to hear telecommunications transmitted over such mobile telephone, but shall not require physical contact with such operator’s ear.
- d. Subsection (b) shall not apply to:
 - 1. The use of a mobile telephone for the sole purpose of communicating with any of the following regarding an emergency situation: an emergency response operator; a hospital, a physician’s office or health clinic; the City’s Police Department; the Texas Department of Public Safety;
 - 2. Any law enforcement, public safety or police officers, emergency services officials, first aid, emergency medical technicians and personnel, or any fire safety officials in the performance of duties arising out of and in the course of their employment as such; or
 - 3. The use of a hands-free mobile telephone when being used in a hands-free manner.
- e. The violation of this section is a “strict liability” offense.

SECTION 2. Penalty. That, any person violating any of the provisions of this Ordinance shall be deemed guilty of a misdemeanor, and upon conviction thereof may be fined as provided in Section 10.99 of the Code of Ordinances of the City of Meridian, Texas.

SECTION 3. Severability. That, if any section or portion of this Ordinance is for any reason held to be invalid or unconstitutional by a decision of a court of

competent jurisdiction, that section or portion shall be deemed severable and shall not affect the validity of the remaining portions of the Ordinance.

SECTION 4. Incorporation. That, this Ordinance shall be, and the same is hereby, deemed to be incorporated into the Code of Ordinances of the City of Meridian, Texas.

SECTION 5. Effective Date. That, this Ordinance shall become effective on August 24, 2009.

PASSED AND APPROVED this the 24, day of August, 2009, by the City Council of the City of Meridian, Texas.

APPROVED:

Mayor

ATTEST:

City Secretary