

**AN ORDINANCE OF MONTGOMERY COUNTY, TEXAS  
PROHIBITING THE OPERATOR OF A VEHICLE  
FROM USING A WIRELESS COMMUNICATION DEVICE  
WHILE IN A SCHOOL CROSSING ZONE  
AND PROHIBITING THE OPERATOR OF A PASSENGER BUS  
FROM USING A WIRELESS COMMUNICATION DEVICE  
WITH A MINOR PASSENGER ON THE BUS  
AND IMPOSING A CRIMINAL PENALTY FOR  
VIOLATION OF THIS ORDINANCE**

**WHEREAS**, the Commissioners Court of Montgomery County, Texas has determined that prohibiting operators of vehicles from using wireless communication devices while in a school crossing zone would be a valuable law enforcement tool of benefit to the public by lessening the danger to schoolchildren and other pedestrians, and by decreasing the number of accidents to which public safety agencies must respond at the expense of the taxpayers; and

**WHEREAS**, the Commissioners Court of Montgomery County, Texas has determined that prohibiting operators of passenger buses from using wireless communication devices with a minor passenger on the bus would be a valuable law enforcement tool of benefit to the public by lessening the danger to the public, and by decreasing the number of accidents to which public safety agencies must respond at the expense of the taxpayers; and

**WHEREAS**, Section 545.425 of the Texas Transportation Code establishes authority for the Commissioners Court of Montgomery County to install appropriate signage to prohibit operators of vehicles from using wireless communication devices while in a school crossing zone on all county roads that are under the jurisdiction of the Commissioners Court; and

**WHEREAS**, the Commissioners Court of Montgomery County finds and determines that it is necessary for safety to the public and to schoolchildren to install the appropriate signage to allow enforcement of Texas Transportation Code Section 545.425 in school crossing zones on county roads under the jurisdiction of the Commissioners Court.

**NOW, THEREFORE, BE IT ORDERED BY THE COMMISSIONERS COURT OF MONTGOMERY COUNTY, TEXAS:**

**Article I. Definitions**

Section 1.1 In this Ordinance, the following words and phrases shall have the meaning ascribed in the Texas Transportation Code and in this Section 1.1:

*Commissioners Court:* Montgomery County, Texas, acting by and through its Commissioners Court.

*Hands-free device:* Means speakerphone capability or a telephone attachment or other piece of equipment, regardless of whether permanently installed in the motor vehicle, that allows use of the wireless communication device without use of either of the operator's hands.

*Passenger bus:* A motor vehicle used to transport persons and designed to accommodate more than 10 passengers, including the operator.

*Person:* An individual, company, partnership, firm, corporation, association, or other legal entity.

*School crossing zone:* A reduced-speed zone designated on a street by a local authority to facilitate safe crossing of the street by children going to or leaving a public or private elementary or secondary school during the time the reduced speed limit applies.

*Wireless communication device:* A device that uses a commercial mobile service, as defined by 47 U.S.C. Section 332.

## **Article II. Offense**

Section 2.1 Pursuant to the provisions of Section 545.425(b) of the Texas Transportation Code, an operator may not use a wireless communication device while operating a motor vehicle within a school crossing zone, unless the vehicle is stopped, or the wireless communication device is used with a hands-free device.

Section 2.2 Pursuant to the provisions of Section 545.425(c) of the Texas Transportation Code, an operator may not use a wireless communication device while operating a passenger bus with a minor passenger on the bus, unless the passenger bus is stopped.

Section 2.3 The Commissioners of each County precinct shall cause signs to be posted in each respective precinct at the entrance to each school crossing zone in the County, which signs shall comply with the standards described in Texas Transportation Code Section 545.425(b-1) and thereby inform each vehicle operator that the use of a wireless communication device is prohibited in the school crossing zone, and the operator is subject to a fine if the operator uses a wireless communication device in the school crossing zone contrary to this Ordinance and the applicable Texas statute. Each Commissioner shall determine whether the signs to be posted in their respective precinct are to be attached to existing signs or posted as stand-alone signs.

Section 2.4 A person commits a misdemeanor offense punishable by a fine not to exceed Two Hundred (\$200.00) Dollars consistent with Texas Transportation Code Section 542.301 if the person violates this Ordinance.

### **Article III. Affirmative Defenses**

Section 3.1 It is an affirmative defense to prosecution of an offense under Section 2.1 and Section 2.2 that the wireless communication device was used to make an emergency call to: (1) an emergency response service, including a rescue, emergency medical, or hazardous material response service; (2) a hospital; (3) a fire department; (4) a health clinic; (5) a medical doctor's office; (6) an individual to administer first aid treatment; or (7) a police department.

Section 3.2 It is an affirmative defense to prosecution of an offense under Section 2.1 that a sign required under Section 2.3 was not posted at the entrance to the school crossing zone at the time of an offense committed in the school crossing zone.

### **Article IV. Exceptions**

Section 4.1 This offense does not apply to an operator of an authorized emergency vehicle using a wireless communication device while acting in an official capacity.

Section 4.2 This offense does not apply to an operator who is licensed by the Federal Communications Commission while operating a radio frequency device other than a wireless communication device.

### **Article V. Effective Date**

Section 5.1 The effective date of this Ordinance shall be September 15, 2009.

### **Article VI. General Provisions**

Section 6.1 All ordinances or parts of ordinances inconsistent with the terms of this Ordinance are hereby repealed; provided, however, that such repeal shall be only to the extent of such inconsistency of other ordinances regulating and governing the subject matter covered by this Ordinance.

Section 6.2 If any provision, section, exception, subsections, paragraph, sentence, clause, or phrase of this Ordinance, or the application of same to any person or set of circumstances, shall for any reason be held unconstitutional, void, or invalid, such provision(s) of this Ordinance or its(their) application to other sets of circumstances are declared to be severable.