

TOWN OF FLOWER MOUND, TEXAS

ORDINANCE NO. 29-09

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, REPEALING SECTION 66-301, "USE OF HAND-HELD MOBILE TELEPHONES PROHIBITED IN SCHOOL ZONES," OF THE CODE OF ORDINANCES OF THE TOWN OF FLOWER MOUND, TEXAS; REPEALING ALL CONFLICTING ORDINANCES; PROVIDING FOR A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Town Council of the Town of Flower Mound, Texas, adopted Ordinance No. 11-08 ("Ordinance") on or about February 4, 2008, which Ordinance generally prohibited the use of a hand-held mobile telephone or wireless communication device while operating a motor vehicle in a school zone; and

WHEREAS, said Ordinance has been effective in protecting the safety of school-aged children traveling to and from schools and other educational facilities located in the Town; and

WHEREAS, on June 20, 2009, Texas Governor Rick Perry signed House Bill 55 into law, which bill generally prohibits the use of all hand-held wireless communication devices while operating a motor vehicle within a school crossing zone; and

WHEREAS, House Bill 55 will be effective on September 1, 2009, and by its terms will preempt all local ordinances addressing the use of hand-held wireless communication devices while operating a motor vehicle within school crossing zones; and

WHEREAS, since House Bill 55 (i) will address the Town's concerns about the safety of school children and others, and (ii) preempts the Town's Ordinance addressing the use of hand-held wireless communication devices while operating a motor vehicle within school crossing zones, current Section 66-301 of the Town's Code of Ordinances will no longer be effective as of September 1, 2009; and

WHEREAS, House Bill 55, to be codified in Section 545.425 of the Texas Transportation Code, as amended, will continue to provide for the necessary safety of school children and others traveling to and from schools and other educational facilities located in the Town.

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NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, THAT:

SECTION 1

All of the above premises are hereby found to be true and correct factual and legislative determinations of the Town of Flower Mound and are hereby approved and incorporated into the body of this Ordinance as if copied in their entirety.

SECTION 2

From and after the effective date of this Ordinance, Section 66-301, "Use of Hand-Held Mobile Telephones Prohibited in School Zones," of the Code of Ordinances of the Town of Flower Mound is hereby repealed in its entirety.

SECTION 3

This Ordinance shall be cumulative of all provisions of ordinances of the Town of Flower Mound, Texas, except where the provisions of this Ordinance are in direct conflict with the provisions of such ordinances, in which event the conflicting provisions of such ordinances are hereby repealed.

SECTION 4

It is hereby declared to be the intention of the Town Council that the phrases, clauses, sentences, paragraphs, and sections of this Ordinance are severable, and if any phrase, clause, sentence, paragraph, or section of this Ordinance shall be declared unconstitutional by any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs, and sections of this Ordinance, since the same would have been enacted by the Town Council without the incorporation in this Ordinance of any such unconstitutional phrase, clause, sentence, paragraph, or section, and said remaining portions shall remain in full force and effect.

SECTION 6

This Ordinance shall take effect and be in full force as of 11:59:59 p.m. on August 31, 2009.

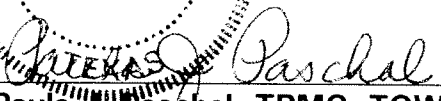
DULY PASSED AND APPROVED BY THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, BY A VOTE OF 5 TO 0, ON THIS THE 17th DAY OF August, 2009.

APPROVED:



Jody A. Smith, MAYOR





Paula J. Paschal, TRMC, TOWN SECRETARY

APPROVED AS TO FORM:



Terrence S. Welch, TOWN ATTORNEY

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