

ORDINANCE 10-08

AN ORDINANCE RESTRICTING THE USE OF CELLULAR PHONES AND OTHER WIRELESS COMMUNICATION DEVICES WHILE OPERATING A MOTOR VEHICLE IN DESIGNATED SCHOOL ZONES WITHIN THE CITY OF CAMMACK VILLAGE; PROVIDING FOR AN EMERGENCY AND OTHER PURPOSES

WHEREAS, the City Council finds that there may be risks related to distracted driving which can include various aspects of the use of a Wireless Communication Device while driving; and

WHEREAS, prohibiting the use of a Wireless Communication Device while driving a motor vehicle in designated school zones within the City of Cammack Village addresses the possible hazards produced by a distracted driver as a result of making a call, answering a call, or creating, sending or reading a text message; and

WHEREAS, this Ordinance is drafted to address the City's police power interests in regulation of the public safety, and appropriately excludes acts for which the City is preempted from regulating, and provides affirmative defenses to prosecution and exceptions to the application of the Ordinance, including allowing the use of hands-free mobile telephone communications and emergency communications.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNSEL OF THE CITY OF CAMMACK VILLAGE, ARKANSAS AS FOLLOWS:

Section 1. Definitions. The following terms shall have the meanings as set forth herein for purposes of this Ordinance 10-08:

- (a) **Hands-free Device.** A hands-free device means speakerphone capability or a telephone attachment or other piece of equipment, regardless of whether permanently installed on the motor vehicle that allows the use of the wireless communication device without the use of either of the operator's hands.
- (b) **Stand or Stopped.** To stand or stopped means to sit and/or stand in an occupied or unoccupied vehicle that is stopped in a location other than in a lane of traffic on a roadway.
- (c) **Wireless Communication Device.** A wireless communication device is a device that uses a commercial mobile service as defined in 47 U.S.C. Section 332.

Section 2. Prohibition of a Wireless Communication Device in Designated School Zones. The use of a cellular phone and/or other Wireless Communication Device in designated school zones on a public right of way is hereby prohibited during times when school zone warning lights are flashing and/or school zone speed limits are applicable.

Section 3. Exceptions to the Prohibition of a Wireless Communication Device in a School Zone. A Wireless Communication Device may be used in a school zone under the following conditions:

- (a) The motor vehicle is Stopped.
- (b) The Wireless Communication Device is a Hands-free device.
- (c) The Wireless Communication Device is used either by an individual operating a school bus while the bus is Stopped or by an individual that operates an authorized emergency vehicle.

emergency response service (including a rescue, emergency medical or hazardous material response service), a hospital, a fire department, a health clinic, a medical doctor's office, an individual to administer first aid treatment or a police department.

Section 4. Posting of a Sign in any Such School Zone as to the Prohibition of the Use of a Wireless Communication Device. The City shall post a sign (or signs) within any such school zone or school zones as the City deems appropriate informing all operators of a motor vehicle that the use of a Wireless Communication Device is prohibited by such operator in such school zone (or zones) and any operator that violates such an ordinance is subject to a fine not to exceed \$100.

Section 5. Fine. Any violation of this Ordinance shall be punishable by a fine not to exceed \$100 and/or the performance of community service not to exceed ten (10) days.

Section 6. Conflict with any Other Ordinance. Except as otherwise set forth herein, this Ordinance repeals any prior Ordinance to the extent such other Ordinance is in conflict with this Ordinance as to any part.

Section 7. Emergency Clause. Due to the increase in the use of Wireless Communication Devices and the risks associated thereof as to distracted driving it is necessary for the City to protect its residents and/or individuals that are present in such school zones (including the students, teachers and parents of such students within the school) in order to protect the public peace and welfare of its residents and all students of which such standards are necessary and vital to the efficient operation of the City of Cammack Village. An emergency is therefore declared to exist and this ordinance shall be in full force and effect as of the ____ day of _____, 2010.

ADOPTED:

Date: _____

APPROVED:

Harry A. Light, Mayor

ATTEST:

Date: _____

Mary Lynn Walker, Recorder