

[illegible]

PART 1. Part 2 of Ordinance No. 20091022-028 is amended to read:

§ 12-1-34 Electronic Messaging While Driving.

(B) It is an affirmative defense to prosecution of an offense under this section if a wireless communications device is used:

- (1) while the vehicle is stopped;
- (2) strictly to engage in a telephone conversation, including dialing or deactivating the call [~~for making a telephone call~~];
- (3) as a global positioning or navigation system that is affixed to the vehicle;
- (4) [(3)] for obtaining emergency assistance to report a traffic accident, medical emergency, or serious traffic hazard, or to prevent a crime about to be committed;
- (5) [(4)] in the reasonable belief that a person's life or safety is in immediate danger;
- (6) [(5)] if the device is permanently installed inside the vehicle; or
- (7) [(6)] solely in a voice-activated or other hands-free mode.

(C) This section does not apply to an operator of an authorized emergency vehicle using a wireless communication device while acting in an official capacity.

(D) To the extent that this section conflicts with the Texas Transportation Code Section 545.424, regarding the use of wireless communication devices while operating a motor vehicle by minors, or Texas Transportation Code Section

545.425, regarding the use of wireless communication devices in school crossing zones, this section does not apply.

PART 2. This ordinance takes effect on January 1, 2010.

PASSED AND APPROVED

_____, 2009 § _____
 § _____

Lee Leffingwell
Mayor

APPROVED: _____

David Allan Smith
City Attorney

ATTEST: _____

Shirley A. Gentry
City Clerk