ANCHORAGE, ALASKA
AO No. 2019-51(S), As Amended

AN ORDINANCE OF ANCHORAGE ASSEMBLY TO PROHIBIT USE OF A CELL PHONE OR MOBILE COMMUNICATION DEVICE BY DRIVERS IN ACTIVE SCHOOL ZONES OR ON SCHOOL GROUNDS, EXCEPT FOR HANDS-FREE, VOICE ONLY USE, AND AMENDING ANCHORAGE MUNICIPAL CODE CHAPTERS 9.28, SERIOUS TRAFFIC OFFENSES, AND 9.48, PENALTIES AND PROCEDURE ON ARREST, ACCORDINGLY.

WHEREAS, distracted driving is dangerous and causes thousands of motor vehicle accidents in the United States each year, many of which often result in injuries and fatalities; and

WHEREAS, while Alaska state law prohibits drivers from texting while driving a motor vehicle, it does not prohibit talking on a hand held cellular phone while driving, even though this is a known distraction and a cause of motor vehicle accidents; and

WHEREAS, House Bill 333 was signed into law on August 28, 2018 and amends the Alaska Uniform Traffic Laws Act, Title 28 of the Alaska Statutes, to authorize a municipality to “adopt an ordinance prohibiting the use of a cellular telephone by a person driving a motor vehicle while on school property or in an active school zone”; and

WHEREAS, about 100 children nationwide each year are struck by vehicles in school zones; and

WHEREAS, there have been numerous reported near-accidents involving drivers talking on cellular phones while operating vehicles in Anchorage school zones; and

WHEREAS, of the 54 citations issued by the Anchorage Police Department between January 2017 through March 2019 for “Driving a motor vehicle with a screen device operating,” AMC section 9.28.050 (which includes texting while driving), 4 of those citations occurred in a school zone; and

WHEREAS, student safety is of the utmost importance, and prohibiting the use of a hand held cellular telephone while driving in an active school zone or on school property will eliminate a dangerous driver distraction and increase the safety of all persons in those areas, especially children; now, therefore:

THE ANCHORAGE ASSEMBLY ORDAINS:

Section 1. Anchorage Municipal Code chapter 9.28 is hereby amended to add a new section to read as follows:

9.28.055 Driving while using a handheld cellular telephone or
mobile communication device in school zones.

A. It is unlawful for the driver of any vehicle to use a mobile communication device while driving a vehicle within an active school zone or upon school grounds, unless:
1. the vehicle is stopped; or
2. the mobile communication device is being used with a hands-free device. [This exception does not allow a person to use their hands to touch the mobile communication device while driving to commence or terminate a call or communication while driving.]

B. It is an affirmative defense under this section that the mobile communication device was used to dial 911 and 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.

C. This section does not apply to an operator of an authorized emergency vehicle using a mobile communication device while acting in an official capacity, if the person reasonably believes hands on use of the mobile communications device is necessary to respond to or address a health, safety or criminal matter.

D. Definitions. For purposes of this section, the following definitions apply:

“Active school zone” means a school zone with signage, as defined in section 9.04.010, between 6:00 a.m. and 9:00 p.m. on days school is in session during regular school operating hours and at any other time persons are visibly present in the school zone and where the maximum speed is 25 miles per hour or less on the streets permanently or due to a temporary speed reduction.

“Hands-free device” means speakerphone capability, an attachment, or another function or other piece of equipment, regardless of whether permanently installed in or on a mobile communication device or in a motor vehicle, that allows use of the mobile communication device without use of either of the operator's hands.

“Mobile communication device” means a cellular telephone, smart
phone, personal data assistant, wireless tablet, computer or any similar device used for voice or visual communication.

E. Penalties. A person who violates subsection A. is guilty of
1. a violation and shall be subject to the fine amount in section 9.48.130, unless the circumstances in 2. of this subsection apply.
2. A class A misdemeanor if the person’s driving causes physical injury or death to another person, and shall be punished as provided in section 9.48.010D.

Section 2. Anchorage Municipal Code section 9.48.010 is hereby amended to read as follows (the remainder of the section is not affected and not set out):

9.48.010 - Penalties.

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D. Any person convicted under the following sections shall be punished by imprisonment for not more than one year, or by a fine of not more than $10,000.00, or by both such fine and imprisonment:

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(CAC 9.48.010; AO No. 267-76; AO No. 78-72; AO No. 82-126; AO No. 82-186(S); AIM 33-83; AO No. 83-168; AO No. 84-60; AO No. 89-52; AO No. 99-15, § 2, 2-9-99; AO No. 2003-73, § 17, 4-22-03; AO No. 2004-151, § 2, 1-1-05; AO No. 2006-89(S), § 3, 6-6-06; AO No. 2009-61, § 7, 7-7-09; AO No. 2011-113(S), § 155, 11-22-11, eff. 12-22-11; AO No. 2012-16, §§ 2, 5, 2-14-12, retro eff. 12-22-11; AO No. 2014-42, § 24, 6-21-14; AO No. 2015-126, § 4, 1-1-16; EO No. 2016-1, § 5, 7-12-16; AO No. 2016-83(S), § 7, 7-26-16)

Section 3. Anchorage Municipal Code section 9.48.130 is hereby amended to read as follows (the remainder of the section is not affected and therefore not set out):

9.48.130 – Traffic offenses fine schedule.

In accordance with AS 28.05.151, a citation issued for violation of any of the following sections of this title shall be subject to disposition with payment of a fine in lieu of a court appearance or as otherwise prescribed. Violations committed within a highway work zone or a traffic safety corridor shall be subject to double the fine amount indicated. Pursuant to AS 28.05.151(e), an offense listed on this schedule may not be disposed of without court appearance if the offense is in connection with a motor vehicle crash that results in the death of a person. Notwithstanding any other provision of this
Code, fines stated as an amount per mile over a designated speed limit established under chapter 9.26 are calculated according to the fine schedule and not subject to the maximum fine amount in this section 9.48.010 A.

<table>
<thead>
<tr>
<th>Title</th>
<th>Section</th>
<th>Fine amount</th>
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<tbody>
<tr>
<td>Driving with a screen device operating</td>
<td>9.28.050.</td>
<td>500.00</td>
</tr>
<tr>
<td>Driving while using a cell phone in a school zone</td>
<td>9.28.055E.1</td>
<td>500.00</td>
</tr>
</tbody>
</table>

(CAC 9.48.060; AO No. 78-72; AO No. 88-12; AO No. 88-167; AO No. 88-180; AO No. 89-134; AO No. 90-24; AO No. 94-68(S), § 38, 8-11-94; AO No. 95-67(S), § 5, 7-1-95; AO No. 95-102, § 1, 4-26-95; AO No. 95-117, § 3, 6-29-95; AO No. 95-163(S), § 20, 8-8-95; AO No. 99-15, § 1, 2-9-99; AO No. 2000-130, § 2, 9-12-00; AO No. 2001-51, § 1, 2-27-01; AO No. 2001-145(S-1), § 8, 12-11-01; AO No. 2003-157, § 2, 12-17-03; AO No. 2004-63, § 2, 4-13-04; AO No. 2011-113(S), § 160, 11-22-11, eff. 12-22-11; AO No. 2012-16, § 6, 2-14-12, retro eff. 12-22-11; AO No. 2013-41(S-1), § 2, 4-23-13; AO No. 2014-42, § 26, 6-21-14; AO No. 2015-111(S-1), § 1, 1-1-16 ; AO No. 2015-126, § 1, 1-1-16 ; EO No. 2016-1, § 6, 7-12-16 ; AO No. 2016-83(S), § 8, 7-26-16 )

Section 4. This ordinance shall be effective 30 days after passage and approval by the Assembly.

PASSED AND APPROVED by the Anchorage Assembly this 21st day of May, 2019.

Chair

ATTEST:

Municipal Clerk