

## ORDINANCE NUMBER XXX-XXXX

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MONTGOMERY, TEXAS, ALTERING THE PRIMA FACIE SPEED LIMITS ESTABLISHED FOR VEHICLES UNDER THE PROVISIONS OF SECTIONS 545.356 AND 545.353 OF THE TEXAS TRANSPORTATION CODE, ON CERTAIN STREETS AND HIGHWAYS OR PARTS THEREOF WITHIN THE CORPORATE LIMITS OF THE CITY OF MONTGOMERY, AS SET OUT IN THIS ORDINANCE, TO WIT: ESTABLISHING A CONSTRUCTION SPEED ZONE ON SH 105 FROM 0.108 MILES WEST OF FM 2854 TO STEWART CREEK ROAD, A DISTANCE OF APPROXIMATELY 0.262 MILES TO REDUCE THE SPEED LIMIT TO 45 MILES PER HOUR; AUTHORIZING THE INSTALLATION OF SIGNAGE IN ACCORDANCE WITH THIS ORDINANCE; PROVIDING FOR THE ALTERATION OF THE PRIMA FACIE SPEED LIMIT OF SH 105 TO INCREASE TO 55 MILES PER HOUR UPON COMPLETION OF CONSTRUCTION; PROVIDING A PENALTY NOT TO EXCEED \$400.00 FOR THE VIOLATION OF THIS ORDINANCE; PROVIDING A REPEALER CLAUSE, A SEVERABILITY CLAUSE, AND AN EFFECTIVE DATE.

WHEREAS, the Texas Department of Transportation (TxDOT) has made it known to the City of Montgomery that operations will begin soon to upgrade SH 105, and such construction activity along SH 105 will create road conditions that require that the maximum speed along such roadway be reduced; and

WHEREAS, pursuant to Section 545.356 of the Texas Transportation Code, the governing body of the City has the same authority as the Texas Transportation Commission to alter prima facie speed limits from the result of an engineering and traffic investigation for an officially designated or marked highway of the state highway system when the highway or part of the highway is under repair, construction or maintenance, with said reasonable and safe prima facie speed limit thereat or thereon being established by the passage of an ordinance and becoming effective when appropriate signs giving notice thereof are erected at such intersection or other place or part of the street or highway; and

WHEREAS, Section 545.353(e) of the Texas Transportation Code provides that the Texas Transportation Commission shall follow the "Procedure for Establishing Speed Zones" as adopted by said Commission in conducting the engineering and traffic investigations related to altering prima facie speed limits; and

WHEREAS, the "Procedures for Establishing Speed Zones" adopted by the Texas Transportation Commission provides that engineering and traffic investigations are not required for establishing construction speed zones; and

WHEREAS, the Texas Department of Transportation, has submitted a request to establish construction speed zones on SH 105; and

WHEREAS, the City Council of the City of Montgomery, Texas, finds that establishment of the requested construction zones is in the best interest of the health, safety and welfare of the traveling public and the persons working along SH 105.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MONTGOMERY, TEXAS, THAT:

Section 1. The facts and recitations set forth in the preamble of this Ordinance are hereby found to be true and correct.

Section 2. Pursuant to the provisions of Sections 545.356 and 545.353, Texas Transportation Code, the City Council has determined that the following prima facie speed limits hereafter indicated for vehicles upon such roads are hereby determined and declared to be reasonable and safe; and such speed limits are hereby fixed at the rate of speed indicated for vehicles traveling upon the named street(s) and highway(s), or parts thereof, described as follows:

“Along SH 105 from 0.108 miles west of FM 2854 to Stewart Creek Road, a distance of approximately 0.262 miles, the speed limit shall be 45 miles per hour.”

Section 3. Upon the completion of the construction activity on the aforementioned section of SH 105, the prima facie speed limit for vehicles traveling upon this section of the main lanes of SH 105 is determined and declared to be 55 miles per hour.

Section 4. The City Administrator or his/her designated representative is hereby authorized and directed to place or cause to be placed appropriate traffic control devices to effectuate the establishment of the maximum prima facie speed limit as herein provided.

Section 5. Any vehicle traveling at a speed in excess of the maximum prima facie speed limit herein established for the designated roads shall be prima facie evidence that the speed is not reasonable or prudent and that it is unlawful. No person shall drive a vehicle at a speed in excess of that which is reasonable and prudent under the circumstances existing.

Section 6. Any person intentionally, knowingly, recklessly, or with criminal negligence violating any of the provisions of this ordinance shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not more than Four Hundred Dollars (\$400.00).

Section 7. All provisions of the ordinances of the City of Montgomery in conflict with the provisions of this Ordinance are hereby repealed, and all other provisions of the Ordinances of the City of Montgomery not in conflict with the provisions of this Ordinance shall remain in full force and effect.

Section 8. In the event any section, paragraph, subdivision, clause, phrase, provision, sentence, or part of this ordinance or the application of the same to any person or circumstance shall for any reason be adjudged invalid or held unconstitutional by a court of competent jurisdiction, it shall not affect, impair, or invalidate this ordinance as a whole or any part or provision hereof other than the part declared to be invalid or unconstitutional; and the City Council of the City of Montgomery, Texas, declares that it would have passed each and every part of the same notwithstanding the omission of any such part thus declared to be invalid or unconstitutional, or whether there be one or more parts.

Section 9. This Ordinance shall be in full force and effect from and after its date of passage, in accordance with the law.

**PASSED AND APPROVED** on the first reading, this XXth day of XXXXX, 2021.

**PASSED AND APPROVED** on the second reading this XXth day of XXXXX, 2021.

**PASSED, APPROVED, AND ADOPTED** on the XXX and final reading this XXth day of XXXXX, 2021.

ATTEST:

APPROVED:

---

City Secretary

---

Mayor