

ORDINANCE NO. 20180507A

AN ORDINANCE OF THE CITY OF NIEDERWALD, TEXAS, PROVIDING FOR REGULATIONS GOVERNING THE USE OF CITY OF NIEDERWALD STREETS BY COMMERCIAL VEHICLES; PROVIDING FOR DEFINITIONS; PROVIDING FOR TRUCK ROUTES; PROVIDING FOR ROAD USE AGREEMENTS; PROVIDING FOR OFFENSES; IMPOSING PENALTIES FOR VIOLATIONS; PROVIDING FOR A SEVERABILITY CLAUSE; PROVIDING FOR A REPEALER CLAUSE; PROVIDING FOR AN EFFECTIVE DATE; FINDING PROPER NOTICE OF MEETING.

WHEREAS, the City of Niederwald is a Type A general-law municipality; and

WHEREAS, Section 311.002 of the Texas Transportation Code provides that a general-law municipality has exclusive control over the highways, streets, and alleys of the municipality; and

WHEREAS, the City Council of the City of Niederwald ("City") seeks to promote the efficient movement of commercial vehicle traffic while preserving the safety and integrity of the City's residential streets; and

WHEREAS, the City Council desires to minimize the operation of commercial motor vehicles upon streets within the City's residential neighborhoods; and

WHEREAS, Section 621.303 of the Texas Transportation Code authorizes municipalities to regulate the length, width, and weight of vehicles operating on a public road; and

WHEREAS, the City Council finds and determines that it is in the best interest of the City to adopt the regulations as set forth herein below in order to promote the public health, safety, and general welfare;

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

SECTION 1. FINDINGS OF FACT.

The findings set forth above are incorporated into the body of this Ordinance as if fully set forth herein.

SECTION 2. PURPOSE.

The purpose of this Ordinance is to minimize wear and tear on City streets and other rights of way, to provide for the safety of motorists and residents, to reduce noise, vibration, and other ill effects

of large and heavy vehicles by directing such vehicles to streets where such negative impacts will be minimized.

SECTION 3. USE OF CITY STREETS BY COMMERCIAL VEHICLES.

Sec. 3.01. Definitions

City means the City of Niederwald, Texas.

Commercial vehicle shall have the same meaning as the definition of “commercial motor vehicle” contained in Texas Transportation Code, Section 548.001(1), as it exists or may be amended, which currently states as follows:

"Commercial motor vehicle" means a self-propelled or towed vehicle, other than a farm vehicle with a gross weight, registered weight, or gross weight rating of less than 48,000 pounds, that is used on a public highway to transport passengers or cargo if:

- (A) the vehicle, including a school activity bus as defined in Texas Transportation Code, Section 541.201, or combination of vehicles has a gross weight, registered weight, or gross weight rating of more than 26,000 pounds;
- (B) the vehicle, including a school activity bus as defined in Texas Transportation Code, Section 541.201, is designed or used to transport more than 15 passengers, including the driver; or
- (C) the vehicle is used to transport hazardous materials in a quantity requiring placarding by a regulation issued under the Hazardous Materials Transportation Act (49 U.S.C. Section 5101 et seq.).

Local commercial vehicle means any commercial vehicle whose origin or destination is within the City limits, as they exist or may be amended.

Motor vehicle shall have the same meaning as the definition of “motor vehicle” contained in Texas Transportation Code, Section 642.001(1), as it exists or may be amended, which currently states as follows:

"Motor vehicle" means a motor vehicle, other than a motorcycle, that is designed or used primarily for the transportation of persons or property.

Personal trailer means a wheeled device made to be hauled without cost by a noncommercial motor vehicle upon a street, road or highway, and includes a horse trailer, dog trailer, car trailer, motorcycle trailer, boat trailer, lawn equipment trailer, gooseneck trailer, and any other noncommercial trailer designed and intended to be used to carry animals, boats, large items, or motor-driven means of transportation.

Recreational vehicle means a portable vehicle designed for a temporary or short-term occupancy for travel, recreational or vacation uses, including but not limited to vacation travel trailers, converted buses, tent trailers or similar devices used for temporary portable housing.

Residential street means any portion of a street that is located within or has adjacency on at least one (1) side to any district classified or permitted by the City's zoning ordinance to contain residential homes, apartments or condominiums, but shall exclude any designated truck route.

Through commercial vehicle means any commercial vehicle not defined as a local commercial vehicle.

Sec. 3.02. Truck routes

(a) No person shall operate any commercial vehicle upon any public street, except upon such streets as are designated as truck routes or in accordance with an approved road use agreement described in Section 3.03 herein below. Whenever any street designated as a truck route is being repaired or is otherwise temporarily out of use, the City Administrator or his/her designee is authorized to designate alternate truck routes for such periods as may be necessary.

(b) This Ordinance shall not apply to:

- (1) Recreational vehicles and personal trailers;
- (2) Street construction, maintenance and repair vehicles engaged in the construction, maintenance, or repair of City streets;
- (3) Vehicles used by public utility companies engaged in providing or expanding their service(s) within the City or repairing facilities within the City;
- (4) Authorized emergency vehicles responding to emergency calls or on official business;
- (5) Vehicles used or operated by the City performing City business;
- (6) Vehicles used by any City franchisee for the franchisee's approved activities; or
- (7) Vehicles operating under a valid permit issued by the Texas or U.S. Department of Transportation pursuant to Texas Transportation Code, Section 623.071, or other applicable federal or state law.

(c) Commercial vehicles restricted to designated truck routes under this Section 3.02 may depart from such truck routes where:

- (1) It is necessary to load or unload merchandise at locations situated off designated truck routes within the City boundaries; provided, however, such vehicles shall not leave a designated truck route until they have reached a turning-off point that can be

described as the shortest practical distance to the destination of the vehicle within the City boundaries which is consistent with the reasonable operation of the vehicle; or

(2) It is necessary to travel to or from a vehicle terminal or place of vehicle repair so long as such vehicle proceeds by the most direct route practical from the truck route to the terminal or place of vehicle repair and so long as the vehicle does not use residential streets to reach a vehicle terminal or place of vehicle repair. In no event will such commercial vehicles departing from a designated truck route, under the provisions of this exception, operate on streets or roadways prohibited for commercial vehicle travel under this Ordinance.

(d) No person shall operate a commercial vehicle, except as exempted in subsection (b), on any street not designated as a truck route without having in their possession a log book, delivery slip, bill of lading, or other evidence of destination or point of origin for such vehicle in the City.

(e) The following streets and roadways or sections of streets and roadways within the City limits are designated as truck routes:

(1) Farm to Market Road 2001;

(2) All state highways including but not limited to State Highway No. 21; and

(3) All United States highways.

(f) The City Administrator shall erect, or cause to be erected, appropriate signage or markings providing identification of designated truck routes or other prohibited areas.

Sec. 3.03. Road use agreements

(a) Any person desiring to operate a commercial vehicle on City streets or roads not designated as a truck route, or in a manner not authorized by this Ordinance, shall enter into a road use agreement with the City. Said individual shall hereinafter be referred to as "applicant."

(b) The road use agreement may relate to the individual operation of a single vehicle or may include multiple vehicles and operators.

(c) Applications shall be obtained from, and submitted to, the City Administrator.

(d) Applicants shall furnish at their expense a corporate surety performance bond, with the City as an additional insured, in an amount determined by the City, based on the estimated cost to the City, at the time of the agreement, reasonably necessary for materials, labor and equipment to reconstruct the particular roadway(s) covered by the road use agreement. Said bond shall be in full force and effect during the duration of the road use agreement.

(e) The applicant shall specify the gross weight of the equipment or vehicles, which shall not exceed 30,000 pounds of gross weight on a designated City truck route or 20,000 pounds gross weight on a non-designated truck route.

(f) The City shall ascertain and designate the particular streets and roadways capable of sustaining the excess load weight and the duration of use.

(g) The road use agreement shall specify the procedure for inspection of any road or street damage caused by or resulting from use by the applicant or agents. A specific date shall be established for reimbursement to the City for the reconstruction of any portion of any street or road after receiving notice of damage. If the applicant fails to timely pay the road damage amount determined by the City, the road use agreement shall terminate, and the City is authorized to pursue all available remedies to collect the road damage amount.

Sec. 3.04. Offenses

(a) It shall be unlawful for any person to operate, or permit to be operated, a commercial vehicle upon any street, road or alley within the City, except that such commercial vehicle may travel or be operated on a street designated as a truck route, United States highway, or state highway.

(b) It shall be unlawful for any person to operate any local commercial vehicle upon any street or alley within the City, except on a designated truck route, United States highway, or state highway.

(1) A local commercial vehicle may leave any designated truck route, United States highway, or state highway and travel on any street or alley within the City for the purpose of delivering or picking up goods, wares, materials, and/or merchandise or returning to its established place of business or home. When a local commercial vehicle enters a street or alley as herein permitted, such vehicle shall enter such street or alley at the intersection nearest the point of pickup or delivery or its established place of business or home and return to the truck route by the nearest route.

(2) Where more than one pickup or delivery off the designated truck route is required, a local commercial vehicle other than a diesel-powered tractor or tractor-trailer combination shall not be required to return to the truck route after each individual pickup or delivery if the next pickup or delivery is less than one-half mile from the preceding pickup or delivery, but in any event the vehicle shall return to the truck route upon the completion of all pickups and deliveries.

(3) No commercial vehicle or diesel-powered tractor or truck-tractor combination shall be operated on any residential street between the hours of 8:00 p.m. and 7:00 a.m. unless a specific written exception has been granted by the City.

(c) It is an offense for an individual to operate a commercial vehicle on all streets and roads in the City unless:

- (1) It is pursuant to a road use agreement with the City that is in effect on the date of operation;
- (2) It is on a truck route designated herein; or
- (3) Pursuant to an authorized activity or exemption herein.

Sec. 3.05. Penalty for violation

- (a) Any person, firm, corporation or entity who violates this Ordinance shall be guilty of a misdemeanor, and upon conviction thereof shall be fined a sum not less than one hundred dollars (\$100.00) and not to exceed five hundred dollars (\$500.00).
- (b) Each day's violation or use of other unauthorized streets within the same day shall constitute a separate offense. The penal provisions under this Ordinance shall not preclude the City from filing suit to enjoin the violation. The City retains all legal rights and remedies available to it pursuant to local, state and federal law.

SECTION 4. SEVERABILITY.

That if any provision of this Ordinance or the application of any provision to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared to be severable.

SECTION 5. REPEALER.

All ordinances and parts of ordinances in conflict with this Ordinance are hereby repealed to the extent of conflict with this Ordinance.

SECTION 6. EFFECTIVE DATE.

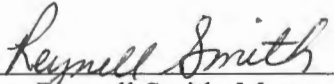
That this Ordinance shall take effect immediately from and after its passage, and it is accordingly so ordained.

SECTION 7. NOTICE OF MEETING.

That it is hereby officially found and determined that the meeting at which this Ordinance is passed was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Texas Open Meetings Act, Texas Government Code, Chapter 551.

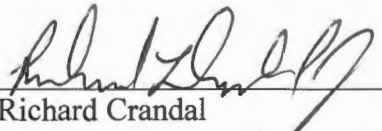
PASSED AND APPROVED on this 7th day of May, 2018.

CITY OF NIEDERWALD, TEXAS



Hon. Reynell Smith, Mayor

ATTEST:



Richard Crandal
City Administrator/Secretary

