

CITY OF SANDY OAKS, TEXAS

ORDINANCE NO. 2019-150

AN ORDINANCE OF THE CITY OF SANDY OAKS AMENDING ORDINANCE NO. 2019-133 PROHIBITING PARKING OF COMMERCIAL VEHICLES UPON PRIVATE PROPERTY; PROVIDING FOR IDLING RESTRICTIONS; CREATING OFFENSES AND PROVIDING PENALTIES FOR VIOLATION; PROVIDING FOR PUBLICATION; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Local Government Code section 51.001 authorizes the governing body of a municipality to adopt, publish, amend or repeal an ordinance, rule, or police regulation that is for the good government, peace, or order of the municipality or for the trade and commerce of the municipality and is necessary or proper for carrying out a power granted by law to the municipality or to an office or department of the municipality; and

WHEREAS, pursuant to Local Government Code section 51.012 a Type A General Law municipality may adopt an ordinance, act, law, or regulation, not inconsistent with state law, that is necessary for the government, interest, welfare, or good order of the municipality as a body politic; and

WHEREAS, Local Government Code section 601.001 grants a municipality by ordinance authority to regulate the parking of motor vehicles on private property in the same manner that it enforces ordinances regulating parking in public no-parking zones, including the impoundment of offending vehicles; and

WHEREAS, the utilization of commercial vehicles upon or within public and residential property within the City of Sandy Oaks (“City”) presents public safety concerns due to fire danger, overcrowding, impact on environmental air quality, and accumulations of waste and debris; and

WHEREAS, the City adopted Ordinance No. 2019-133 implementing commercial parking regulations upon or within public and residential property within the City; and

WHEREAS, the City Council finds that it is in the best interest of the citizens of the City to amend Ordinance No. 2019-133;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SANDY OAKS, TEXAS AS FOLLOWS:

SECTION 1. PREAMBLE INCORPORATED. That all matters stated herein above are found to be true and correct and are incorporated herein by reference as if copied in their entirety.

SECTION 2. DEFINITIONS.

“Axle” means the common axis of rotation of one or more wheels whether power driven or freely rotating, and whether in one or more segments and regardless of the number of wheels carried thereon.

“Commercial vehicle” means a vehicle, including a truck, truck tractor, dump truck, semi, or trailer that meets one or more the following, regardless of whether the vehicle is used for a commercial purpose: (1) Has a gross combination weight rating of 14,000 pounds or more; (2) Has gross combination weight of 14,000 pounds or more; (3) Is 13 feet in height or more and has a gross combination axle count of three or more; or (4) is a road tractor, truck tractor, pole trailer, or semitrailer, as those terms are defined by Section 541.201 of the Texas Transportation Code. Commercial vehicle does not include governmentally owned or leased vehicles, public utility vehicles, or a vehicle used exclusively to transport personal possessions or family members for nonbusiness purposes. A commercial vehicle includes any commercial vehicle that is registered with the Federal Motor Carrier Safety Administration (“FMCSA”) and has been granted operating authority by the FMCSA and United States Department of Transportation (“USDOT”).

“Gross combination axle count” means the combined number of axles of the power unit and any towed unit or units.

“Gross combination weight” means the combined weight of the power unit and any towed unit or units without load plus the weight of any load thereon.

“Gross combination weight rating” means the sum of the gross vehicle weight ratings of the power unit and any towed unit or units.

“Gross vehicle weight rating” means the maximum operating weight of a vehicle, as specified by the manufacturer, including the vehicles chassis, body, engine, engine fluids, accessories, driver, passengers, and cargo.

“Hazardous Material” has the same meaning as the term is used in Ordinance No. 2018-107, as amended.

“Idle” means the operation of an engine in the operating mode where the engine is not engaged in gear, where the engine operates at a speed at the revolutions per minute specified by the engine or vehicle manufacturer for when the accelerator is fully released, and there is no load on the engine.

“Non-Hazardous Material Routes” means the routes as provided by Section 5 herein.

“Permit” means written authorization issued by the City granting a person permission to operate a commercial vehicle within the City as provided by Section 7 herein.

“Person” means an individual, partnership, co-partnership, firm, company, corporation, limited liability company, association, joint stock company, trust, estate, or any other legal entity, its legal representatives, agents or assigns.

“Residential subdivision” means a subdivision in the City for which a plat is recorded in the Bexar County real property records and in which the majority of lots are subject to deed restrictions limiting the lots to residential use and includes the residential streets identified on Exhibit “A” attached hereto and incorporated by reference.

"Road Restrictions" include the residential streets identified on Exhibit "A" attached hereto.

"Vehicle" means every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, except devices exclusively moved by human power or used exclusively upon stationary rails or tracks.

SECTION 3. REGULATION OF PARKING BY COMMERCIAL VEHICLES.

- (A) Except as otherwise provided, it is unlawful for any person to park or leave unattended any commercial vehicle upon or within public or residential property located within a residential subdivision in the City or on a street or road identified as a Road Restriction.
- (B) Except as provided by subsection (C), a person may not park or leave unattended a commercial vehicle on a street within a residential subdivision or Road Restriction.
- (C) A person may park or leave unattended a commercial vehicle on residential property located within a residential subdivision, a Road Restriction or a street within a residential subdivision if the commercial vehicle:
 - (1) is transporting persons or property to or from the residential subdivision or performing work in the subdivision and remains parked in or adjacent to the subdivision only for the period necessary to complete the transportation or work; or
 - (2) is a vehicle owned by a utility that an employee of the utility who is on call 24 hours a day parks at the employee's residence; or
 - (3) is the tractor unit of a detachable unit and parked on the residential property of the property owner.
- (D) A person who parks or leaves unattended a commercial vehicle as permitted by this ordinance is required to park or leave unattended his or her commercial vehicle on a hard surface such as asphalt or concrete. Compliance with this subsection is required within 120 days of the effective date of this Ordinance.

SECTION 4. LIMITATION ON TIME COMMERCIAL VEHICLE MAY REMAIN IDLE.

- (A) It shall be unlawful for a person to cause, allow or permit a commercial vehicle to remain idle in the City for more than 5 consecutive minutes at any time when the commercial vehicle is not in motion.
- (B) It is a defense to prosecution under this Section if:
 - (1) The commercial vehicle was forced to remain motionless because of traffic conditions over which the operator had no control;
 - (2) The commercial vehicle was being used (a) by the United States military, national guard, or reserve forces; or (2) by emergency or law enforcement;

- (3) The commercial vehicle was being operated for maintenance or diagnostic purposes;
- (4) The commercial vehicle was being operated solely to defrost a windshield;
- (5) The commercial vehicle was being used to supply heat or air conditioning necessary for passenger comfort or safety, if the vehicle was a school bus or was intended for commercial passenger transportation or passenger transit operations; or
- (6) The commercial vehicle was being used to provide air conditioning or heating necessary for employee health or safety while the employee was using the vehicle to perform an essential job function related to roadway construction or maintenance.

SECTION 5. NON-HAZARDOUS MATERIAL ROUTES. Except as provided by Ordinance No. 2018-107, as amended, no person shall operate or cause to be operated any Vehicle transporting Hazardous Material on the following streets within the City as they are designated as Non-Hazardous Material Routes:

- 21300 Block of Priest Road Southbound at Lamm Road;
- 22900 Block of Priest Road Northbound, north of IH-37 Northbound entrance ramp;
- 23300 Block of Mathis Road Southbound, south of Dillon Trucking;
- 23500 Block of Mathis Road Northbound at the city limit line;
- 3700 Block of Waterwood Pass Eastbound, just east of Priest Road; and
- 3700 Block of New Mathis Road Eastbound, just east of Mathis Road.

SECTION 6. PARKING AND STORAGE PROHIBITED.

(A) A Vehicle which contains Division 1.1, 1.2, or 1.3 Explosive materials, as defined by Ordinance No. 2018-107, as amended, must not be parked under any of the following circumstances— (1) On or within 5 feet of the traveled portion of a public street or highway; (2) On private property (including premises of fueling or eating facility) without the knowledge and consent of the person who is in charge of the property and who is aware of the nature of the Hazardous Materials the Vehicle contains; or (3) Within 300 feet of a bridge, tunnel, dwelling, or place where people work, congregate, or assemble, except for brief periods when the necessities of operation require the Vehicle to be parked and make it impracticable to park the Vehicle in any other place.

(B) A Vehicle which contains Hazardous Materials other than Division 1.1, 1.2, or 1.3 Explosive materials, as defined by Ordinance No. 2018-107, as amended, must not be parked on or within five feet of the traveled portion of public street or highway except for brief periods when the necessities of operation require the Vehicle to be parked and make it impracticable to park the Vehicle in any other place.

SECTION 7. PERMIT.

(A) Any person operating or storing a commercial vehicle within the City shall obtain a permit from the City to include issuance of a permit in sticker format, which shall be visibly affixed to the commercial vehicle.

(B) Permit. A permit shall be obtained annually and obtained per commercial vehicle unit.

(C) Applications for permits must include:

- (1) The name of applicant;
- (2) The name of the owner of the commercial vehicle unit (legal business name and doing business as name);
- (3) A copy of the CDL of the commercial vehicle's operator(s);
- (4) Principal place of business and local place of business, if applicable;
- (5) Certificate of insurance;
- (6) Purpose of use of commercial vehicle unit;
- (7) A description of the commercial vehicle unit;
- (8) Issued FMCSA and/or USDOT numbers, if applicable;
- (9) Storage location of commercial vehicle unit, if applicable;
- (10) Time of operation and/or storage within the City.

(D) Permits are valid concurrently with the City's fiscal year, October 1st through September 30th and are prorated base on the first day of the month in which the permit is issued.

(E) No permit will be issued for any hazard materials carriers.

(F) No permit will be issued for a Vehicle if the Gross Combination Axle Count exceeds 5.

(G) To qualify for a permit from the City, the owner or operator of the commercial vehicle must own the property the vehicle will reside at.

(H) Approval or denial of a permit shall be at the discretion of the City Administrator based on submission of an acceptable application.

SECTION 8. PENALTY. A person who violates this Ordinance shall be guilty of a class C misdemeanor and shall be punished by a fine not to exceed \$500.00 for each day or part thereof that the violation occurs. Each day that a person remains in violation of this Ordinance shall constitute a separate offense. In the prosecution of an alleged violation of this ordinance no proof of a culpable mental state shall be required.

SECTION 9. SEVERABILITY. If any clause or provision of this Ordinance shall be deemed to be unenforceable for any reason, such unenforceable clause or provision shall be severed from the remaining portion of the Ordinance, which shall continue to have full force and effect.

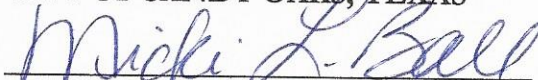
SECTION 10. REPEAL OF CONFLICTING ORDINANCES. All City ordinances or parts of ordinances inconsistent or in conflict herewith, to the extent of such inconsistency or conflict, are hereby repealed.

SECTION 11. PUBLICATION. The City Clerk is hereby authorized and directed to publish this Ordinance, or a caption that summarizes the purpose of this Ordinance and the penalty for violating this Ordinance in the manner and for the length of time prescribed by law.

SECTION 12. EFFECTIVE DATE. This Ordinance shall take effect immediately upon its publication as required by section 52.011 of the Local Government.


PASSED AND APPROVED the 24th day of October 2019.

CITY OF SANDY OAKS, TEXAS



Micki Ball, Mayor

ATTEST:



Katherine Yelton, City Secretary