

**ORDINANCE NO. 2006-11-14-001**

(Revision of 2005-07-26-001)

**AN ORDINANCE REGULATING PARKING AND STANDING ON U.S. HIGHWAY 190, FM 2313, AND ANY CITY STREET RIGHT OF WAY (ROW), PROVIDING EXCEPTIONS AND PENALTIES; REPEALING CONFLICTING ORDINANCES; PROVIDING AN OPEN MEETINGS CLAUSE AND AN EFFECTIVE DATE; AND PROVIDING FOR RELATED MATTERS.**

Whereas, regulation of parking in certain locations on and abutting U.S. Highway 190, FM 2313, and streets, within the City of Kempner (the "City") is necessary for traffic and public safety, protection of business enterprise and the economy;

Whereas, the City Council finds that uncontrolled parking of vehicles contributes to the declining appearance of neighborhoods and is therefore considered a public nuisance;

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

**Section One. Definitions.**

(a) **Parking Area:** Any area designated for vehicular parking that uses any portion of the ROW abutting the business site.

(b) **Parking Lot:** Any area designated for vehicular parking which is located on private property under the control of a business.

(c) **Right-of-Way:** The right of way of any street, road, or highway is the government owned area extending from the property line of privately owned property on one side of the street, road, or highway to the equivalent property line on the opposite side.

(d) **Roadway:** See Right-of-Way

(e) **Traveled Street, Road, or Highway:** That portion of the Right-of-Way that is constructed and maintained to provide an all-weather surface for the transit of motor vehicles.

**Section Two. US Highway 190 and FM 2313.** Parking on the right-of-way (ROW) of U.S. Highway 190 and FM 2313, within the City shall be regulated and controlled as follows:

(a) There shall be no stopping, standing or parking on the paved portion of U.S. Highway 190 and FM 2313, per the attached map, save and except along that portion, if any, designated by lawfully authorized signs as an area in which parking is permitted.

(b) Exceptions in Section Four apply.

**Section Three. City Street ROW.** Stopping or parking on any City street ROW, which includes any area from the private property boundary on one side of the street to the private property boundary on the opposite side of the street, shall be regulated and controlled as follows:

(a) There shall be no stopping, standing, or parking within the ROW.

(b) Exceptions in Section Four\* apply.

(c) Parking for customers of businesses located on City streets is permitted in parking areas or lots adjacent to, or entered from a City ROW.

(1) Parking areas that use any portion of the ROW abutting the business site, or on the side of the City street opposite the business site must be of sufficient size that no vehicle parked there will extend into the traveled portion of that street ROW or create any hazard to traffic by blocking the view of drivers using that City street. Such parking shall be of a pull-in design; that is, the spaces shall be perpendicular to, or at a less than 45 degree angle to the centerline of the City street.

(2) Parking lots are areas located on private property under the control of a business. Entry and egress points shall be identified and should not allow traffic to randomly cross the ROW. The business which controls a parking lot shall be identified to all vehicles entering that lot.

(3) All parking areas or parking lots must have a prepared surface that will sustain movement of vehicles in all weather conditions and prevent mud, dirt, or other materials from being carried onto any City street by vehicles using those areas or lots.

**Section Four. Exceptions.** The driver of any authorized emergency vehicle (as defined by state law) is exempt from the terms of this ordinance when responding to an emergency call, or when in pursuit of an actual emergency and can exercise the privileges set forth in state laws. The driver of any utility repair vehicle is exempt from the terms of this ordinance when responding to the installation and or repair, maintenance or installations of utilities. The driver of any vehicle that experiences an emergency situation may stop/park for temporary repairs/tow. Delivery vehicles may stop in a no parking area to deliver or pick up goods or merchandise provided that such delivery or pick up is accomplished as expeditiously as possible and the delivery vehicle driver is present in the proximity of the delivery vehicle. Any vehicle stopping/parking in no parking zones must activate the vehicle's hazard lamps.

**Section Five. Enforcement.** The Chief of Police and members of the Kempner Police Department, both regular and reserve officers, other law enforcement agencies, or other person(s) designated by the City, are empowered to enforce this ordinance.

**Section Six. Towing and Removal.** Any vehicle or trailer which shall be or remain in any prohibited area designated in Section One or Two above may be removed by or upon order of a police officer, if such vehicle is left unattended and constitutes a safety hazard or an obstruction to traffic, or such vehicle or trailer is imperiled. A vehicle or trailer that is removed or towed pursuant to this section shall be stored in a privately operated garage or storage yard, or other place designated by the City. The owner of such vehicle shall be responsible for the payment of any fees incurred for the towing and/or storage of said vehicle. Should any vehicle left unattended on the ROW, it shall be left to the discretion of law enforcement, considerate of the safety situation and will be subject to towing at owner's expense.

**Section Seven. Parking on Private Property.** It shall be unlawful to park any motor vehicle on private property, driveways or access to property without the consent of the owner of the property.

**Section Eight. Penalties.** Any person convicted of violation of any provision of this ordinance shall be guilty of a misdemeanor and shall be subject to a fine in an amount not to exceed Two Hundred dollars (\$200.00).

**Section Nine. Prima Facie Evidence.** In any prosecution charging a violation of this ordinance governing the standing, stopping or parking of a vehicle, proof that the particular vehicle described in the complaint was parked in violation of Section One or Two above, together with proof that the defendant named in the complaint was, at the time of such parking, the registered owner of such vehicle, shall constitute in evidence a prima facie presumption that the registered owner of such vehicle was the person who parked or placed such vehicle at the point where, and for the time during which, such violation occurred. The registered vehicle owner is entitled to an administrative adjudication hearing to determine liability of offense charged.

**Section Ten. Repeal of Conflicting Ordinance.** All ordinances or parts of Ordinances in conflict with this ordinance are hereby repealed.

**Section Eleven. Severability.** 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 hereof 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 Twelve. Open Meetings.** 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 Open Meetings Act, Chapt. 551, Loc. Gov't. Code.


**Section Thirteen. Effective Date.** This ordinance shall take effect immediately upon its adoption by the City Council and publication as required by the Local Government Code.

PASSED AND APPROVED this 14th day of November, 2006.

The City of Kempner, Texas

Attest:

Approved:

  
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Frances Spinney, City Secretary

  
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Gene Isenhour, Mayor