

ORDINANCE NO 2003-01-14-001 (Revision of 1999-09-21-007)

AN ORDINANCE OF THE CITY OF KEMPNER, TEXAS, PROHIBITING PARKING OF CERTAIN COMMERCIAL VEHICLES ON RESIDENTIAL STREETS; PROVIDING DEFINITIONS; PROHIBITING PARKING ON PROPERTY WITHOUT CONSENT; PROHIBITING THE OPERATION OF CERTAIN COMMERCIAL VEHICLES ON CERTAIN STREETS WITHIN THE CITY LIMITS; ESTABLISHING TRUCK ROUTES; PROVIDING FOR ENFORCEMENT AND TOWING; PROVIDING A PENALTY; REPEALING CONFLICTING ORDINANCES; PROVIDING OPEN MEETINGS, SEVERABILITY AND EFFECTIVE DATE CLAUSES; PROVIDING FOR RELATED MATTERS.

Whereas, the parking of certain commercial vehicles on streets within residential areas creates safety hazards and is detrimental to the health, comfort and convenience of the residents of the City; and

Whereas, the parking of commercial vehicles on streets within residential neighborhoods detracts from the living environment;

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

Section 1. Findings. The foregoing recitals are hereby found to be true and correct and are hereby adopted by the City Council and made a part hereof for all purposes as findings of fact.

Section 2. Definitions. As used in this ordinance the following terms shall have the meaning and definition as follows:

- (a) "*Commercial Vehicle*" means any commercial vehicle as defined in the Section 621.001, Texas Transportation Code, that is not a passenger car or light pickup truck.
- (b) "*Vehicle Load Limit*" means any axle or gross weight limit as established by Section 621.101, Tex. Trans. Code.

Section 3. Parking of Commercial Vehicles. Commercial vehicles shall not be parked and left over-night upon any public street or public way in the City.

Section 4. Commercial Vehicles Within Residential Areas. It shall be unlawful for any person or any owner to leave, park or stand any commercial vehicle, or any truck-tractor, road tractor, semi-trailer, bus, truck or trailer with a rated capacity in excess of one (1) ton, according to the manufacturer's classification, upon any public street or highway within any roadway that is residential a road or street wherein 80% of the occupied properties in a block are occupied for a residential use. This shall not prevent the parking or standing of the above-described vehicles in said areas for the purpose of expeditiously loading and unloading

passengers, freight or merchandise, but not otherwise.

Section 5. Operation of Commercial Vehicles Within City Limits. It shall be unlawful for any person to operate any commercial vehicle rated in excess of one (1) ton, according to the manufacturer's classification, upon any street, boulevard, avenue, or alley within the limits of the City, except designated United States or State highways or designated truck routes; provided that any such commercial vehicle may leave any designated United States or State highway or designated truck routes and travel on any street, boulevard, avenue or alley within the city solely for the purpose of providing emergency, municipal or public utility services, or delivering or picking up goods, wares, materials, equipment, vehicles or merchandise and shall take the most direct route and leave immediately after providing the service. No vehicle rated in excess of one (1) ton shall be permitted to drive upon a residential street without demonstrating that an exception provided herein applies.

Section 6. Truck Routes. Every United States and State highway within the limits of the city is hereby designated as a truck route under the terms of this section.

Section 7. Exceptions. The following vehicles are exempt from the terms of this ordinance while engaged in the listed activity:

- (a) Emergency vehicles (as defined by state law) responding to or from, or at the scene of, an emergency call;
- (b) Vehicles being used to provide any municipal service such as the installation, repair or maintenance of any public street, asset or property, collection of garbage, grounds keeping, etc; and
- (c) Vehicles being used to install, repair or maintain any public service or utility such as telephone, electricity, cable television, gas, water or sewer line;

Section 8. Enforcement. The designated law enforcement agency of the City, both regular and reserve officers, are empowered to enforce this ordinance.

Section 9. Towing and Removal. Any commercial vehicle which shall be or remain standing or parked upon any public street, avenue, way, alley or other public place in violation of this ordinance, the owner or driver of which vehicle has been given previous notice or citation for parking such vehicle in violation of this ordinance, may be removed by or upon an order by a law enforcement officer. The owner of such vehicle shall be responsible for the payment of any fees incurred for the towing and/or storage of said vehicle.

Section 10. Parking on Private Property. It shall be unlawful to park any commercial vehicle on any private property without the consent of the owner of the property.

Section 11. Penalties. Any person convicted of violating any provision of this ordinance

shall be guilty of a misdemeanor and shall be subject to a fine in an amount not to exceed Five Hundred dollars (\$500.00).

Section 12. Prima Facie Evidence. In any prosecution charging a violation of this ordinance governing the standing or parking of a vehicle, proof that the particular vehicle described in the complaint was parked in violation of this ordinance, 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.

Section 13. Repeal of Conflicting Ordinances. All ordinances or parts of ordinances inconsistent with or in conflict with this ordinance are hereby repealed to the extent of such inconsistency or conflict.

Section 14. Severability. It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses and phrases of this Ordinance are severable and, if any phrase, sentence, paragraph or section of this Ordinance should be declared invalid by the final judgment or decree of any court of competent jurisdiction, such invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Ordinance, since the same would have been enacted by the City Council without the incorporation of this ordinance of any such invalid phrase, clause, sentence, paragraph or section. If any provision of this Ordinance shall be adjudged by a court of competent jurisdiction to be invalid, the invalidity shall not affect other provisions or applications of this Ordinance which can be given effect without the invalid provision, and to this end the provisions of this Ordinance are declared to be severable.

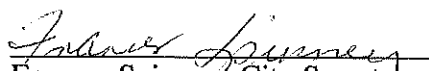
Section 15. Open Meetings. That it is hereby officially found and determined that the meeting at which this ordinance is passed was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act, Chapt. 551, Loc. Gov't. Code.

Section 16. Effective Date. This ordinance shall take effect immediately upon its adoption by the City Council and publication as required by the Local Government Code.

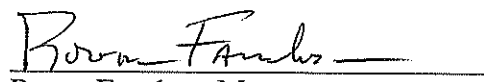
PASSED AND APPROVED on this 14th day of January, 2003.

Attest:

CITY OF KEMPNER, TEXAS



Frances Spinney, City Secretary



Roger Fancher, Mayor