

ORDINANCE NO. 006-04

AN ORDINANCE OF THE CITY OF DE LEON, TEXAS, PROVIDING RESTRICTIONS FOR COMMERCIAL VEHICLES AND PARKING OF TRAILERS AND COMMERCIAL VEHICLES UPON RESIDENTIAL STREETS; PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT; RATIFYING, CONFIRMING, APPROVING, VALIDATING, AUTHORIZING AND DIRECTING THE INSTALLATION, PLACEMENT AND ERECTION OF "NO PARKING SIGNS" WITHIN THE CITY OF DE LEON, TEXAS; PROVIDING FOR A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND PROVIDING FOR A PENALTY CLAUSE.

Whereas, the parking of certain trailers and commercial vehicles on streets within residential areas creates safety hazards; and

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

Whereas, the City has designated a parking area approved for such trailers and commercial vehicles.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DE LEON, TEXAS:

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: Commercial Vehicles and Routes.

(a) *Commercial Vehicles.* It shall be unlawful for any person to operate any commercial vehicle rated in excess of one (1) ton, according to the manufacturers classification, upon any street, boulevard, avenue, or alley within the limits of the City, except designated United States or State highway or a designated truck route, provided that any such commercial vehicle may leave any designated United States or State highway or a designated truck route and travel on any street, boulevard, avenue or alley within the City for the purpose of providing emergency, municipal or public utility services, or delivering or picking up goods, wares, materials, equipment, vehicles or merchandise. The exception of *tractor only* may be parked on private property, providing the tractors are completely parked off the public streets and right-of-ways and do not obstruct the view of traffic.

(b) *Truck Routes Established.* 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.

(c) *Parking of Trailers and Commercial Vehicles.* Trailers and Commercial vehicles shall not be parked upon any public way in the City.

(d) *Diesel Powered Vehicles.* Diesel powered tractors and truck-tractors shall not be left with the engine running inside the City limits for an extended time, except in designated parking areas.

(e) *Definitions.* As used in this Section the following terms shall have the meaning and definition as follows:

1. *"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.

2. *"Vehicle Load Limit"* means any axle or gross weight limit as established by Section 621.001, Texas Transportation Code.

3. *"Tractor"* means a motored vehicle designed to be pulling semi-trailers as defined in the Section 621.001, Texas Transportation Code.

SECTION 3: Commercial Vehicle Parking. It shall be unlawful for any person or any owner to leave, park or stand any commercial vehicle, 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 of the City limits . 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 3A: Trailers Within Residential Areas. It shall be unlawful for any person or owner to leave, park or stand any trailer upon any public street within the city limits, regardless of registration classification. This shall not prevent the parking or standing of the above described trailer in said area for the purpose of expeditiously loading and unloading of freight or merchandise, but not otherwise.

SECTION 4: Transportation of Hazardous Materials:

(a) For the purposes of this section the following terms are defined.

Hazardous material means any quantity, group, form, or class of material designated as hazardous material in any official publication of the Secretary of Transportation of the United States under the authority of 27 U.S.C.A. section 1803 (1976), as amended, including any such publication issued after the effective date of the section.

Requiring placards means that the material to be transported is hazardous and is in sufficient quantity to require placarding in accordance with the Department of Transportation Hazardous Materials Regulations (49 U.S.C.A. Section 1801, et seq. (1976) or in accordance with the Revised Civil Statutes article 6701d, section 139, as

amended, or regulations promulgated under the authority of such section 139, as amended.

Transport shall mean to move any motor vehicle requiring placards upon any public street or highway.

Destination means the specific location within the city where the actual delivery of products or service is completed.

Truck means any motor vehicle with a manufacturer's rated carrying capacity of more than 2,000 pounds, including truck tractors, road tractors with or without trailers, pole trailers, house trailers and semitrailers as defined in V.T.C.A., Transportation Code §41.201 (Exhibit "A").

Vehicles transporting hazardous materials means vehicles transporting or designed to transport materials that by their chemical compounds or reactivity are required to display United States Department of Transportation (D.O.T.) Warning placards and/or labels as directed in V.T.C.A., Transportation Code ch.549 (Exhibit "C").

- (b) No person shall knowingly transport hazardous materials or knowingly cause hazardous materials to be transported upon any public street within the corporate limits of the city, except upon the following:
 - 1. That portion of State Highway 16 lying within the corporate limits of the city.
 - 2. That portion of State Highway 6 lying within the corporate limits of the city.
 - 3. That portion of Farm Road 587 lying within the corporate limits of the city.
- ©.) No person shall knowingly park or let stand any vehicle containing hazardous materials at any location within the corporate limits of the city except for the expeditious loading, unloading and delivery of such material. Properly licensed and regulated businesses located within the corporate limits of the city normally engaged in the sale and/or transportation of hazardous materials may park such vehicles on their own business property.
- (d.) It shall be a defense to prosecution under paragraph (b) of this section that such transport was to a destination within the corporate limits of the city or was from a point of origin within the corporate limits of the city or both.
- (e.) The operator of a vehicle that is used for transport of hazardous materials requiring placards shall before operations, inspect such vehicle and determine that:
 - (1.) Brakes are in good working condition.

- (2.) Steering mechanism is in good working condition.
 - (3.) All electrician wiring is well insulated and firmly secured.
 - (4.) The vehicle is in a safe condition to transport hazardous materials.
 - (5.) All emergency features on bulk transport carriers are installed and operative as outlined in U.S. Department of Transportation specifications and requirements.
- (f.) It shall be presumed for purposes of prosecution under this section that a transporting vehicle contains hazardous materials if it bears a placard.
- (g.) The De Leon Police Department shall enforce the provisions of this ordinance. The De Leon Police Department may delay or stop hazardous material transports or authorize deviation from the prescribed truck routes where accidents, weather, road conditions or other factors require such deviation as determined by members of the Police Department, and with the interest of public safety being the determining factor.

SECTION 5: 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);
- (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 6: Enforcement. The Chief of Police and members of the Police Department, both regular and reserve officers, are empowered to enforce this ordinance.

SECTION 7: Towing and Removal. Any commercial vehicle which shall be or remain standing or parked upon any public street, boulevard, avenue or 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 police 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 8: 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 9: Designated Parking Area For Commercial Vehicles Within The City Limits:

The City of De Leon has designated an area for the parking of non-placarded Commercial Vehicles within the City limits of De Leon, Texas, located at "200 & 300 Block West Almante St.", as shown on the map attached as Exhibit "A".

SECTION 10: 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 (\$500.00).

SECTION 11: 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 12: 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 13: 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 14: 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, Chapter 551, Loc. Gov't. Code.*

SECTION 15: 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 9th day of March, 2004.
PASSED AND FINALLY APPROVED on this 23rd day of March, 2004.
AT A REGULAR CALLED MEETING OF THE CITY COUNCIL OF THE CITY
OF DE LEON, TEXAS.**

CITY OF DE LEON, TEXAS

ATTEST:

B. Gail Neeley, City Secretary

John R. Adcock, Mayor