

ORDINANCE NO. 21-005

AN ORDINANCE AMENDING CHAPTER 27 TRAFFIC, BY ADOPTING REGULATIONS PROHIBITING CERTAIN COMMERCIAL VEHICLES FROM PARKING UPON RESIDENTIAL STREETS AND LOTS AND FROM BEING STORED ON RESIDENTIAL STREETS AND LOTS LOCATED IN RESIDENTIAL AREAS OF THE CITY OF MARLIN; AMENDING DEFINITIONS; PROVIDING FOR PENALTIES; REPEALING AND AMENDING ALL ORDINANCES OR PARTS THEREOF IN CONFLICT; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A SAVINGS CLAUSE; PROVIDING SEVERABILITY AND OPEN MEETINGS CLAUSES; AND PROVIDING FOR RELATED MATTERS.

**WHEREAS**, Subchapter E of Chapter 51 of the Texas Local Government Code authorizes the City of Marlin ("City") to adopt an ordinance, not inconsistent with state law, that is in the best interest of the City and in the best interest of the public health, safety, and welfare of the citizens of the City;

**WHEREAS**, the City is further authorized to adopt ordinances regulating the use of public highways, streets and alleys of the City pursuant to Chapter 311 of the Texas Transportation Code, including the authority to close or regulate the use of a City street to truck traffic;

**WHEREAS**, many streets within the City are not designed for use by large trucks or trucks carrying heavy loads and because large trucks have been traveling upon and using certain City streets, City streets have been damaged as a result;

**WHEREAS**, large trucks and trucks carrying heavy loads cause unreasonable damage and harm to City streets resulting in increased costs to repair and to maintain such streets; and, trucks carrying heavy loads also create public safety concerns for the City due to the damage to the streets caused by such trucks; and

**WHEREAS**, the prohibition of parking and storing trucks and commercial vehicles on lots and property located in residential areas within the City and City highways and streets within residential areas is necessary for the public safety and the protection of the public health, safety, and welfare of its residents,

**NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MARLIN, 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. Amendment of Sec. 27-1 of the City of Marlin Code of Ordinances.** Section 27-1 of Article 1 of Chapter 27 of the Marlin Code of Ordinances is hereby amended to adopt amendments to the definitions for the term "Commercial vehicle" and the term "Truck" in which said definitions shall be amended to read as follows:

## **Sec. 27-1 Definitions.**

(a) “Commerial motor vehicle” shall have the meaning as defined in Texas Transportation Code, Sections 548.001(1), as it may be amended.

(b) “Truck” shall mean any refer to a commercial motor vehicle, which as further defined herein, is designed, used, or maintained primarily for the transportation of materials or property, such as commercial motor vehicles, truck-tractors, road tractors, trailers, semi-trailers, semi-trucks, 18-wheeler trucks, pole trailers, and special mobile equipment which require the operator to possess either a Class B driver’s license or commercial driver’s license (CDL) issued by the Texas Department of Transportation to operate said vehicle.

**Section 3. Adoption of Sec. 27-100 of Article V, Division 1, of the City of Marlin Code of Ordinances.** Section 27-100 of Article V, Division 1, of Chapter 27 of the Marlin Code of Ordinances is hereby adopted to read as follows:

### **Sec. 27-100 Parking trucks in residential areas.**

It shall be unlawful for any person or any owner to leave, park, store, or stand any truck, truck-tractor, road tractor, semi-trailer, bus, or trailer upon any lot, public street, or highway within any residential area within the City. This section shall not prohibit the parking or standing of the above-described vehicles in residential areas of the City for the purpose of temporary parking for the sole purpose of the expeditiously loading and unloading of passengers, loading or delivering freight, or merchandise.

**Section 4. 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 Two Hundred dollars (\$200.00) for each offense. Each day the violation exists shall constitute a separate offense. Such penalty shall be in addition to all the other remedies provided herein.

**Section 5. Savings Clause.** All rights and remedies of the City are expressly saved as to any and all violations of the provisions of any ordinances affecting the operation of vehicles within the City which have accrued at the time of the effective date of this Ordinance; and, as to such accrued violations and all pending litigation, both civil and criminal, whether pending in court or not, under such ordinances, same shall not be affected by this Ordinance but may be prosecuted until final disposition by the courts.

**Section 6. Repeal and Amendment of Conflicting Ordinances.** All ordinances or parts of ordinances in conflict with this Ordinance are hereby repealed and amended to the extent of such conflict only. In the event of a conflict or inconsistency between this Ordinance and any other code or ordinance of the City, including any zoning regulation, the terms and provisions of this more specific and restrictive ordinance shall govern.

**Section 7. 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 8. Effective Date.** This Ordinance shall take effect immediately upon its adoption by the City Council and publication as required by the *Loc. Gov't. Code*.

**Section 9. 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, *Tex. Gov't. Code*.

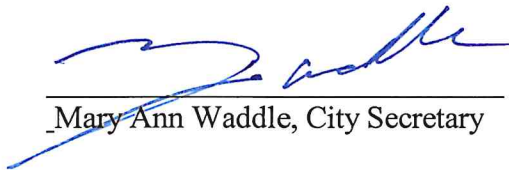
**FIRST READING** on the 10 day of August, 2021.

**SECOND READING** on the 14 day of September, 2021.

**PASSED AND APPROVED** on this the 14 day of September, 2021.

**ATTEST:**

**THE CITY OF MARLIN, TEXAS**

  
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Mary Ann Waddle, City Secretary

  
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Carolyn Lofton, Mayor