

ORDINANCE NO. 5356

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DENISON, TEXAS, AMENDING CHAPTER 25, "TRAFFIC", ARTICLE I "IN GENERAL", TO AMEND SECTION 25-1 "DEFINITIONS", SECTION 25-19, "TRUCK ROUTES" AND SECTION 25-20 "TRUCKS, ETC., RESTRICTED TO PORTION OF U.S. HIGHWAY 75 DESIGNATED FOR THRU-TRAFFIC" AND TO ADD SECTION 25.22 "AFFIRMATIVE DEFENSES" TO THE CITY OF DENISON CODE OF ORDINANCES; PROVIDING FOR A MAXIMUM PENALTY OF \$500 FOR EACH OFFENSE; PROVIDING SEVERABILITY, REPEALER AND SAVINGS CLAUSES; PROVIDING AN EFFECTIVE DATE; AND FINDING AND DETERMINING THE MEETING AT WHICH THIS ORDINANCE IS ADOPTED TO BE OPEN TO THE PUBLIC AS REQUIRED BY LAW.

WHEREAS, the City of the Denison, Texas (the "City") is a home rule municipal corporation pursuant to article 11, section 5 of the Texas Constitution and its Home Rule Charter; and

WHEREAS, the City has the authority to adopt and enforce traffic rules and regulations on city streets by virtue of its home-rule status, and the authority contained in the Texas Transportation Code, and other applicable law; and

WHEREAS, last year there were approximately 20 accidents in the City involving commercial trucks, which resulted in 1 fatality; and

WHEREAS, in the current budget year approximately \$\$1,020,787, or 2.2% of the General Operating Fund, was budgeted for street maintenance and \$8,310,056 in bond fund were budgeted for streets, representing a significant expense for the taxpayers; and

WHEREAS, the City Council has determined that it is in the best interest of the citizens and will improve the health, safety and welfare of the citizens and visitors to the City to require commercial trucks to use street designed for their weight capacity and size, and to reduce damage to streets not engineered for commercial trucks.

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

SECTION 1. Incorporation of Premises. That the above and foregoing premises are true and correct and are incorporated herein and made a part hereof for all purposes.

SECTION 2. Amending Chapter 25, "Traffic", Article I "In General", to amend Section 25-1 "Definitions", Section 25-19, "Truck Routes" and Section 25-20 "Trucks, Etc., Restricted To Portion Of U.S. Highway 75 Designated For Thru-Traffic" and to add Section 25.22 "Affirmative Defenses" to the City of Denison Code of Ordinances. Chapter 25, "Traffic", Article I "In General", Section 25-1 "Definitions", Section 25-19, "Truck Routes" and Section 25-20 "Trucks, Etc., Restricted To Portion Of U.S. Highway 75 Designated For Thru-Traffic" are amended to read as follows and Section 25.22 "Affirmative Defenses" is added to the City of Denison Code of Ordinances as follows:

Sec. 25-1. Definitions. The following definitions shall be added to Section 25-1 in alphabetical order.

Commercial truck means any motor vehicle having a weight of more than 13 tons/26,000 pounds gross vehicle weight rating (GVWR), including the load carried, also including, but not limited to, any vehicle carrying hazardous materials or solid waste. Commercial trucks shall not include vehicles carrying or designated to carry passengers, all governmentally owned or leased vehicles, public utility vehicles, motor homes, recreational vehicles or vehicles used exclusively to transport personal possessions or family members for non-business purposes.

Proof of route means a written verification of pick-ups, deliveries, or destinations, which may include a logbook, delivery slip, shipping order, bill or any other document, that identifies and specifies the date, address, and name of the person requesting or directing the pick-up or delivery and the address of the pick-up or delivery within the corporate limits of the city.

Thru-traffic means commercial truck traffic without a point of origin or point of destination in the corporate limits of the city.

Sec. 25-19. Truck routes.

- (a) The following streets are hereby designated as commercial truck routes within the corporate limits of the city:
 - (1) U.S. Highway 69 from city limits to city limits;
 - (2) U.S. Highway 75 from city limits to city limits;
 - (3) All of Farm-to-Market Road 120 within the city limits;
 - (4) Morton Street between Tone Avenue and Austin Avenue;
 - (5) Crockett Avenue from its intersection with Farm to Market Road 120 to its intersection with Bells Drive and continuing along Bells Drive to its intersection with U.S. Highway 69; and
 - (6) Crawford Street from Austin Avenue to Armstrong Avenue.

- (b) The operator of a commercial truck entering the corporate limits of the city as thru-traffic shall enter the corporate limits of the city on a truck route designated in paragraph (a) above and shall remain on a truck route at all times while within the corporate limits of the city. It shall be unlawful for any person to operate any commercial truck on any city street other than one identified as a truck route in paragraph (a) above unless the commercial truck is:
 - (1) An emergency vehicle operating in response to any emergency call;
 - (2) Traveling to or from a point of origin within the city limits or point of destination within the city limits for commercial purposes only, that is off a truck route, that is proceeding by the shortest route to/from the nearest truck route, and the operator of such commercial truck has in his immediate possession evidence of the proof of route;
 - (3) Driven by an owner and/or operator to and from the residential address reflected on his/her driver's license;
 - (4) Driven by an owner and/or operator, or an employee of the owner and/or operator, to the address where the commercial truck is registered, as reflected on the registration receipt,

and is parked overnight at least twenty-one (21) nights per month;

- (5) Owned and/or operated by and/or on behalf of a governmental entity or a public utility while engaged in the repair, maintenance or construction, within the corporate limits of the city, of public streets and/or utilities;
 - (6) Owned and/or operated by and/or on behalf of a governmental entity while engaging in and/or performing official, authorized government-related business; or
 - (7) Operating upon a city or state officially designated detour.
- (c) All commercial trucks shall be required to carry a copy of the State of Texas registration receipt when operating on public roadways with the corporate limits of the city. The copy of the registration receipt shall be admissible in evidence in any cause in which the gross registered weight of a vehicle is an issue and shall be prima facie evidence of the gross registered weight for such vehicle. A copy of the registration receipt shall be displayed to any officer authorized to enforce this article, upon request of such officer. Failure to display such copy of the registration receipt shall constitute an offense.
- (d) It is unlawful for any person to operate a commercial truck in any manner so as to violate the terms and provisions of this section. Each separate act in violation shall be a separate offense.

Sec. 25-20. Traffic control devices for Truck Routes and Thru-traffic.

The director of public works is hereby authorized to mark and sign or cause the same to be done:

- (1) truck routes for commercial trucks and/or for the thru-traffic of commercial trucks, and (2) streets where commercial trucks are prohibited.

Sec. 25-22. Affirmative defenses.

It is an affirmative defense to prosecution under section 25-19 if the commercial truck is:

- (1) An emergency vehicle operating in response to any emergency call;
- (2) Traveling to or from a point of origin within the city limits or point of destination within the city limits for commercial purposes only, that is off a truck route, that is proceeding by the shortest route to the nearest truck route, and the operator of such commercial truck has in his immediate possession evidence of the proof of route;
- (3) Driven by an owner and/or operator to and from the residential address reflected on his/her driver's license;
- (4) Driven by an owner and/or operator, or an employee of the owner and/or operator, to the address where the commercial truck is registered, as reflected on the registration receipt, and is parked overnight at least twenty-one (21) nights per month;
- (5) Owned and/or operated by and/or on behalf of a governmental entity, a public utility and/or any contractor or material man, while engaged in the repair, maintenance or construction of streets and/or public utilities within the corporate limits of the city;
- (6) Owned and/or operated by and/or on behalf of a governmental entity while engaging in and/or performing official, authorized government-related business; or
- (7) Operating upon a city or state officially designated detour.

SECTION 3: Severability. If any provision, section, subsection, sentence, clause or the application of same to any person or set of circumstances for any reason is held to be unconstitutional, void or invalid or for any reason unenforceable, the validity of the remaining portions of this ordinance or the application thereby shall remain in effect, it being the intent of the City Council of the City of Denison, Texas, in adopting this ordinance, that no portion thereof or provision contained herein shall become inoperative or fail by any reasons of unconstitutionality of any other portion or provision.

SECTION 4: Repealer and Savings. This Ordinance shall be cumulative of all other ordinances of the City and shall not repeal any of the provisions of such ordinances except in those instances where provisions of those ordinances are in direct conflict with the provisions of this Ordinance; whether such ordinances are codified or uncodified, and all other provisions of the Ordinances of the City of Denison, codified or uncodified, not in conflict with the provisions of this Ordinance, shall remain in full force and effect. Such repeal and the amendment expressly made herein shall not abate any pending prosecution for violation of the repealed or amended ordinance, nor shall the repeal or amendment prevent a prosecution from being commenced for any violation if occurring prior to the effective date of this Ordinance.

SECTION 5: Penalty. Any person, firm, entity or corporation who violates any provision of this Ordinance shall be deemed guilty of a misdemeanor, and upon conviction therefore, shall be fined in a sum not exceeding Five Hundred and No/100 Dollars (\$500.00). Each continuing day's violation and/or each separate act shall constitute a separate offense. The penal provisions imposed under this Ordinance shall not preclude the City from filing suit to enjoin the violation. The City retains all legal rights and remedies available to it pursuant to local, state, and federal law.

SECTION 6: Publication and Effective Date. This Ordinance shall become effective immediately upon its adoption and its publication as required by law.

SECTION 7: Open Meeting. It is hereby officially found and determined that the meeting at which this Ordinance was passed was open to the public as required by law, and that public notice of the time, place, and purpose of said meeting was given all as required by Section 551.041, Texas Government Code.

AND IT IS SO ORDERED.

On motion by Council Member Courtright, seconded by Councilmember Thorne, the above and foregoing ordinance was passed and approved by the following vote:

Ayes: Courtright, Thorne, Crawley, Massey and Thomas

Nays:

Abstentions:

Absent: Adams and Redwine

At regular meeting held on July 15, 2024.

ATTEST:



Christine Wallentine, City Clerk


ROBERT CRAWLEY, Mayor

