

ORDINANCE NO. 5315

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DENISON, TEXAS, AMENDING ARTICLE VII "RAILROADS," CHAPTER 25 "TRAFFIC" OF THE CITY OF DENISON CODE OF ORDINANCES IN ORDER TO REPEAL SECTION 25-202 "OBSTRUCTING CROSSINGS"; PROVIDING A REPEALER, SAVINGS AND SEVERABILITY 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 Council of the City of Denison, Texas (the "City Council") has investigated and determined that the City of Denison, Texas ("City" or "Denison") Code of Ordinances, Article VII "Railroads," Chapter 25 "Traffic" should be amended; and

WHEREAS, Texas Transportation Code Section 471.007 governing the obstruction of railroad crossings was repealed due to preemption by the Federal Interstate Commerce Commission Termination Act of 1995 and the Federal Railroad Safety Act; and

WHEREAS, pursuant to the provisions of and subject to the limitations imposed by the Constitution, State law, the Charter of the City, and the City's inherent police powers, the City Council of the City of Denison is empowered to adopt ordinances and rules that are for the good government of the City when the State or Federal Government has not pre-empted such ordinances and rules; and

WHEREAS, the City Council has determined it to be in the best interest of the City and its residents to amend the Code of Ordinances as set forth herein.

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

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. AMENDMENT. The following Section 25-202 "Obstructing Crossings" of Article VII "Railroads," Chapter 25 "Traffic" of the Code of Ordinances of the City of Denison is hereby repealed in its entirety:

Section 25-202. Obstructing Crossings.

It shall be unlawful for any engineer, conductor or other person to, in this city, stop, or cause to be stopped, any railway engine or car across any street, alley, road or highway, so as to obstruct or interfere with the free passage thereon, for a longer time than five (5) minutes at a time.

SECTION 3: SAVINGS/REPEALING CLAUSE. All provisions of any ordinance in conflict with this Ordinance are hereby repealed to the extent they are in conflict; but such repeal shall not abate any pending prosecution for violation of the repealed ordinance, nor shall the repeal prevent a prosecution from being commenced for any violation if occurring prior to the repeal of the ordinance. Any remaining portions of said ordinances shall remain in full force and effect.

SECTION 4. SEVERABILITY. Should any section, subsection, sentence, clause or phrase of this Ordinance be declared unconstitutional or invalid by a court of competent jurisdiction, it is expressly provided that any and all remaining portions of this Ordinance shall remain in full force and effect. Denison hereby declares that it would have passed this Ordinance, and each section, subsection, sentence, clause or phrase thereof irrespective of the fact that any one or more sections, subsections, sentences clauses and phrases be declared unconstitutional or invalid.

SECTION 5. EFFECTIVE DATE. This Ordinance shall become effective immediately upon its adoption and its publication as required by law

SECTION 6. OPEN MEETINGS. That it is hereby 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 Article 551.041, Texas Government Code.

AND IT IS SO ORDERED.

On motion by Mayor Pro Tem Crawley, seconded by Council Member Thorne, the above and foregoing ordinance was passed and approved by the following vote:

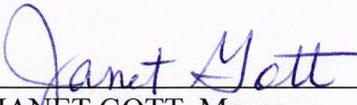
Ayes: Hander, Courtright, Thorne, Gott, Massey and Crawley

Nays:

Abstentions:

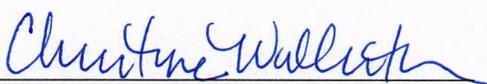
Absent: Thomas

At regular meeting October 2, 2023.



JANET GOTT, Mayor

ATTEST:



Christine Wallentine, City Clerk

