

ORDINANCE NO. 364

AMENDING CHAPTER 12 “TRAFFIC & VEHICLES”, ARTICLE 12.06 “TRUCKS” OF THE CITY OF BANDERA CODE OF ORDINANCES; REGULATING THE WEIGHT LOAD OF VEHICLES TRAVELING ON CITY STREETS; MAKING FINDINGS OF FACT; PROHIBITING TRAVEL THROUGH CITY STREETS OF VEHICLES HAVING A COMBINED GROSS WEIGHT EXCEEDING 26,000 POUNDS; PROVIDING FOR EXCEPTIONS AND CONDITIONS TO SAME; PROVIDING A CRIMINAL FINE NOT TO EXCEED \$500 PER VIOLATION; PROVIDING FOR ENACTMENT, REPEALER, AND SEVERABILITY CLAUSE; PROVIDING FOR EFFECTIVE DATE AND POSTING OF SIGNS; FINDING PROPER NOTICE & MEETING.

WHEREAS, the City of Bandera is a Type A General Law City in the State of Texas; and

WHEREAS, pursuant to Texas Transportation Code Section 311.002, the City of Bandera (“City”) has exclusive control over and under the streets, alleys of the municipality (hereinafter, “streets”); and,

WHEREAS, pursuant to Texas Local Government Code Section 51.012, the City has general authority to adopt an ordinance not inconsistent with state law, that is necessary for the government, interest, welfare, or good order of the municipality; and,

WHEREAS, the City Council finds it necessary and proper for the government, interest, welfare, and good order of the City to regulate the streets within the City’s boundaries by preventing heavy vehicles from disturbing communities and excessively damaging the City’s streets; and,

WHEREAS, the City Council wishes to prevent vehicles, and other weighted items having a combined gross weight of more than 26,000 pounds from traveling on local streets of the City; and,

WHEREAS, having carefully evaluated the streets and traffic situation in the City, the City Council finds that there are reasonably available state highway routes through the City limits for Trucks; and,

WHEREAS, pursuant to Texas Local Government Code Section 54.001, the City has general authority to impose a fine or penalty of up to \$500 for violation of an ordinance,

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

PART 1. Chapter 12 “Traffic & Vehicles”, Article 12.06 “Trucks” is hereby amended as set forth in the attached Exhibit A.

PART 2. That the recitals contained in the preamble hereto are hereby found to be true and such recitals are hereby made a part of this Ordinance for all purposes and are adopted as a part of the judgment and findings of the Council.

PART 3. The City Administrator is hereby authorized to procure and have erected appropriate traffic control signs as required by the law of the State of Texas, providing notice of the restrictions imposed by this Ordinance.

PART 4. It shall be unlawful for any person, firm, or corporation to operate a vehicle in violation of this ordinance. Any person, firm or corporation violating any provision of this Ordinance of failing to observe any provision hereof shall upon conviction be guilty of a misdemeanor and shall be fined a sum not more than Five Hundred Dollars (\$500) and each and every day or fraction of a day in which this Ordinance or any part thereof shall be violated shall be deemed a separate offense and punished as such.

PART 5. It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs, and sections of this ordinance be severable, and, if any phrase, clause, sentence, paragraph, or section of this ordinance shall be declared invalid by judgment or decree of any court of competent jurisdiction, such invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs, or sections of this ordinance and the remainder of this ordinance shall be enforced as written.

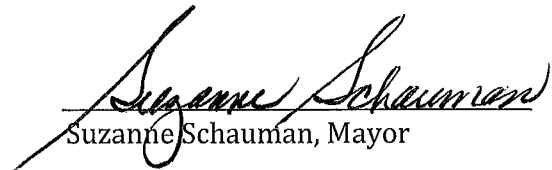
PART 6. That it is officially found, determined and declared that the meeting at which this Ordinance is adopted was open to the public and public notice of the time, place, and subject matter of the public business to be considered at such meeting, including this ordinance, was given, all as required by Chapter 551, as amended, Texas Government Code.

PART 7. This ordinance shall take effect immediately from and after its second reading, passage and publication as may be required by governing law.

PART 8. The repeal or amendment of any ordinance or part of ordinances effectuated by the enactment of this ordinance shall not be construed as abandoning any action now pending under or by virtue of such ordinance or as discontinuing, abating, modifying, or altering any penalty accruing or to accrue or as affecting any rights of the City under any section or provisions of any ordinances in effect at the time of passage of this ordinance.

PART 9. The provisions of this ordinance shall be cumulative of all ordinances not repealed by this ordinance and ordinances governing or regulating the same subject matter as that covered herein.

PASSED, APPROVED, and ADOPTED on this 12th day of September, 2019.


Suzanne Schauman, Mayor

ATTEST:


Jill Shelton, City Secretary

EXHIBIT A

ARTICLE 12.06 TRUCKS, Division 2. Through Truck Traffic is hereby amended as set forth below:

(Deletions are shown as strike-through and additions as underline)

Sec. 12.06.031 Definitions

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Through truck traffic. The driving or operation of a truck on a street or alleyway unless the person driving or operating such truck has occasion to and does bring such truck to a stop at some point, place or location upon the street or alleyway for the purpose of loading or unloading such truck or for the purpose of rendering a service at such point, place or location in connection with the business for which such truck is used or for the purpose of going to and from such person's place of residence.

Truck. For purposes of this Section, shall mean any and every motor vehicle or combination of vehicles containing dual wheels or four (4) axles, including trailers used, designed or maintained primarily for the transportation of property and having a combined gross weight over 26,000 pounds.

Engine Brakes. Shall mean auxiliary or compression engine brake (also known as "Jake Brake") which produces any noise in addition to the normal operating engine noise.

Emergency Situation. Shall mean one in which there is imminent danger of collision with property, persons or animals.

Sec. 12.06.032 ~~Applicability~~ Prohibition

~~The provisions of this division prohibiting through truck traffic on certain streets shall apply at all times or at those times herein specified or as indicated on official signs, except when it is necessary to drive or operate a truck to avoid conflict with other traffic in compliance with the directions of a police officer or official traffic control device. (1989 Code, sec. 16-197)~~

A. Trucks shall not travel within the municipal boundaries of the City of Bandera, except as may be allowed under the terms of this Article.

B. A vehicle subject to this Article shall be equipped and maintained as required by Texas Transportation Code Sec. 725.021 to prevent loose material from escaping by blowing or spilling.

C. The use or operation of an auxiliary or compression engine brake (also known as "Jake Brake") which produces any noise in addition to the normal operating engine noise is prohibited within the city limits. This provision is not intended to prohibit the passage of vehicles equipped with engine brakes or "Jake Brakes" in posted areas but rather prohibit the use of such equipment in posted areas.

Sec. 12.06.033 ~~Designation of limited and prohibited areas~~ Authorization

~~The director of public works shall have the authority to determine areas in which through truck traffic is limited to a specified time or in which through truck traffic is prohibited. The director of public works is authorized to designate such limited through truck traffic or no truck traffic areas by signs, street paintings or any other traffic control device. (1989 Code, sec. 16-198)~~

A. The limitations prescribed by this Article shall not apply to:

- 1) Trucks traveling or operating upon any street designated as a United States or State Highway;
- 2) Trucks making delivery of goods and services within the City;
- 3) Fire trucks or other emergency vehicles or vehicles on emergency business involved in the saving of life or property;
- 4) Implements of husbandry incidentally moved upon a road;
- 5) Road repair, construction, or maintenance vehicles while involved in the repair, construction, or maintenance of roads within the City, or
- 6) Garbage service vehicles while involved in the provision of services to residents of the City.
- 7) When utility, road or other construction activities requires a temporary diversion of truck traffic onto City streets.
- 8) A driver of a truck or truck-tractor may activate or use the unit's engine brake within the city limits in an emergency situation.

B. A Truck which would otherwise be restricted, is permitted to make pick-ups, deliveries, or service calls in the City but shall restrict its' traveling through City streets to a minimum. Said vehicle shall be driven in such a manner as to proceed to its destination or destinations in the City by the most direct route. Upon completion of the pick-ups, deliveries, or service calls, the vehicle shall leave the City by the most direct route. The section shall not be interpreted as permitting a vehicle otherwise restricted from entering or leaving the City.

Sec. 12.06.034 Signs; compliance

It shall be unlawful for a person directly or through an agent, servant or employee to use or permit to be used for through truck traffic any street designated by signs bearing the words "No Through [Truck] Traffic" or "Through Truck Traffic Prohibited." These signs shall be displayed at each intersection of such street or streets with any street upon which through truck traffic is permitted. (1989 Code, sec. 16-199)

Sec. 12.06.035—Specific restrictions

~~Under the provisions of section 12.06.034, through truck traffic is prohibited on Thirteenth Street from a point commencing at State Highway 173 and continuing to State Highway 16 South. (1989 Code, sec. 16-200)~~