

ORDINANCE NO. 449

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF WALLER, TEXAS BY ADDING A NEW SECTION 66-05, THROUGH TRUCK TRAFFIC PROHIBITED TO CHAPTER 66 - STREETS, SIDEWALKS AND OTHER PUBLIC PLACES; ESTABLISHING REGULATIONS RELATED TO TRUCK TRAFFIC ON PUBLIC STREETS DESIGNATED AS NO THROUGH TRUCK STREET; PROVIDING A PENALTY IN AN AMOUNT NOT TO EXCEED \$200 FOR EACH VIOLATION HEREOF; AND PROVIDING FOR SEVERABILITY; AND MAKING FINDS RELATED THERETO.

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WHEREAS, the City Council of the City of Waller, Texas finds that it is in the best interest of the health, safety and welfare of its citizens to prohibit through truck traffic on certain streets within the City; and

WHEREAS, the City Council further finds that the prohibition of through truck traffic on the streets designated herein will help to prolong the life of those streets so designated; and

WHEREAS, the City Council desires to prohibit through truck traffic on the streets designated below; now, therefore

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WALLER, TEXAS:

Section 1. The facts and matters set forth in the preamble are hereby found to be true and correct.

Section 2. The Code of Ordinances of the City of Waller, Texas, is amended by the adding of a new Section 66-05, Through Truck Traffic Prohibited, to Chapter 66, Streets, Sidewalks and Other Public Places, the new Section 66-05 to read as follows:

“Sec. 66-05 Through truck traffic prohibited.

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

(1) *Authorized emergency trucks* shall mean fire department trucks, police trucks, public ambulances for which permits have been issued by the State Board of Health, emergency trucks of municipal departments or public service corporations as are designated or authorized by the governing body of an incorporated city, private trucks operated by volunteer firemen or certified emergency medical volunteers while answering a fire alarm or responding to a medical emergency, and trucks owned by the state or by a political subdivision engaged in emergency utility repair or electric, water, or wastewater services.

(2) *Light truck* shall mean any truck with a manufacturer's rated carrying capacity of two thousand (2,000) pounds or less, including trucks commonly known as pickup trucks, panel delivery trucks, and carryall trucks.

(3) *Proof of route* shall mean a written verification of pick-ups, deliveries, or destinations, which may include a log book, delivery slip, shipping order, bill or any other document which identifies and specifies the date, address, and name of the person requesting or directing the pick-up or delivery and the destination of the pick up or delivery.

(4) *Truck* shall mean any motor vehicle designed, used or maintained primarily for the transportation of property, including "truck tractors," "road tractors," "trailers," "semi-trailers," "pole trailers," and "special mobile equipment" as those terms are defined in Texas Transportation Code Annotated § 541.201.

Terms not defined herein shall be construed in accordance with customary usage.

(b) *Through truck traffic.*

(1) *Regulation.* A person commits an offense if the person operates a truck upon a public street designated as a no through truck street.

(2) *Affirmative defenses.* It is an affirmative defense to prosecution under this section if:

(i) The truck was an authorized emergency truck;

(ii) The truck was a bus or light truck; or

(iii) The truck:

a. was being driven to seek service or repairs at a facility that engages in the business or repairs of commercial motor vehicles or the truck was being driven to or from home or to fulfill a local commercial obligation to a buyer or seller at a given destination, evidenced by a bill or sale or invoice; and

b. the public street was the only route to such destination.”

Section 2. Through truck traffic is prohibited on the following streets:

<u>Street</u>	<u>Extent</u>
Orange	From FM 362 to Penick Road
Pecan	From FM 362 to Penick Road

Section 3. The Superintendent of Public Works is directed to erect and place signs designating the above streets as “No Through Trucks” streets.

Section 4. All ordinances or parts of ordinances inconsistent or in conflict herewith are, to the extent of such inconsistency or conflict, hereby repealed.

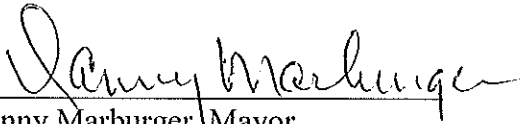
Section 5. Any person who shall intentionally, knowingly, recklessly, or with criminal negligence, violate any provision of this Ordinance, shall be deemed guilty of a misdemeanor and, upon conviction, shall be fined in an amount not to exceed \$200. Each violation shall constitute a separate offense.

Section 6. In the event any clause, phrase, provision, sentence, or part of this Ordinance or the application of the same to any person or circumstance shall for any reason be adjudged invalid or held unconstitutional by a court of competent jurisdiction, it shall not affect, impair, or invalidate this Ordinance as a whole or any part or provision hereof other than the part declared to be invalid or unconstitutional; and the City Council of the City of Waller, Texas, declares that it

would have passed each and every part of the same notwithstanding the omission of any such part thus declared to be invalid or unconstitutional, whether there be one or more parts.

Section 7. This Ordinance shall take effect immediately from and after its passage and the publication of the caption hereof, as provided by law.

PASSED, APPROVED, AND ADOPTED this 28th day of January, 2013.



Danny Marburger, Mayor

ATTEST:



Jo Ann London, City Secretary