

CITY OF WILLOW PARK

ORDINANCE NO. 568-08

AN ORDINANCE OF THE CITY COUNCIL OF WILLOW PARK, TEXAS, PROVIDING CERTAIN RESTRICTIONS FOR ROAD USE, DESIGNATING TRUCK ROUTES, PROHIBITING COMMERCIAL VEHICLES FROM UTILIZING CERTAIN STREETS AND ROADS WITHIN THE CITY LIMITS; PROVIDING EXCEPTIONS; PROVIDING AUTHORIZATION FOR ROAD USE AGREEMENTS; PROVIDING PENALTIES FOR VIOLATION OF THE ORDINANCE; PROVIDING SEVERABILITY, SAVINGS AND REPEALING CLAUSES; REPEALING CERTAIN PORTIONS OF ARTICLE 10.500 "PROHIBITING THROUGH TRUCK TRAFFIC ON RANCH HOUSE ROAD AND VISTA DRIVE" AND REPLACING IT WITH THIS ORDINANCE; PROVIDING AN EFFECTIVE DATE; PROVIDING FOR THE PUBLICATION OF THE CAPTION HEREOF AND PROVIDING FOR ENFORCEMENT.

WHEREAS, the City of Willow Park, Texas ("City") is a municipal corporation organized under the laws of the State of Texas; and

WHEREAS, it is the intent of the City Council to protect the public health, safety and welfare and well being of its citizens; and

WHEREAS, municipalities may, under their police powers, enact reasonable regulations to promote the health, safety and welfare of citizens; and

WHEREAS, TEXAS LOCAL GOVERNMENT CODE §51.001(1) provides that the governing body of a municipality may adopt, publish, amend, or repeal an ordinance, rule or police regulation that is for the good government, peace, or order of the municipality; and

WHEREAS, the City Council is committed to providing well-maintained and safe city streets; and

WHEREAS, the City Council has determined that keeping commercial vehicle routes as direct as possible minimizes public exposure to safety hazards and may reduce the nature or frequency of required street maintenance; and

WHEREAS, the design features and structural strength of residential city streets and streets that are not highways are not supportive of all commercial vehicle sizes and weights; and

WHEREAS, the City Council has determined that it is in the best interest of the public and citizens of the City to repeal the existing language in Article 10.500 of the Code of Ordinances and replace it with the regulations adopted herein.

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

SECTION 1. AUTHORIZATION

The Mayor, or Mayor's designee, is hereby authorized and directed to implement the applicable provisions of this Ordinance.

SECTION 2. AMENDMENT TO CHAPTER 10 "TRAFFIC CONTROL" ARTICLE 10.500 OF THE CITY'S CODE OF ORDINANCES

(a) Chapter 10, "Traffic Control", Article 10.500 of the City's Code of Ordinances is hereby amended to repeal the following language:

ARTICLE 10.500 ~~PROHIBITING THROUGH TRUCK TRAFFIC ON RANCH HOUSE ROAD AND VISTA DRIVE~~

~~Through truck traffic is hereby declared unlawful and is prohibited on Ranch House Road and Vista Drive, both being streets and/or roads, within the corporate limits of the City of Willow Park, Texas.~~

(b) Chapter 10 "Traffic Control" Article 10.500 of the City's Code of Ordinances is hereby amended to add the following language and sections:

ARTICLE 10.500 RESTRICTIONS OF ROAD USE FOR COMMERCIAL VEHICLES AND DESIGNATION OF TRUCK ROUTES

§ 10.501 DEFINITIONS

(a) Commercial Vehicle shall have the same meaning as the definition of "commercial motor vehicle" contained in the TEXAS TRANSPORTATION CODE § 548.001(1), as it exists or may be amended.

(b) Local Commercial Vehicle shall mean any commercial vehicle whose origin or destination is within the city limits, as they exist or may be amended.

(c) Motor Vehicle shall have the same meaning as the definition of "motor vehicle" contained in the TEXAS TRANSPORTATION CODE § 642.001(1), as it exists or may be amended.

(d) Personal Trailer means a wheeled device made to be hauled without cost by a non-commercial motor vehicle upon a road or highway, and includes a horse trailer, dog trailer, car trailer, motorcycle trailer, boat trailer, lawn equipment trailer, gooseneck trailer, and any other trailer designed and intended to be used to carry animals, boats, large items, or motor-driven means of transportation.

(e) Recreational Vehicle means a portable vehicle designed for a temporary or short-term occupancy for travel, recreational or vacation uses, including but not limited to vacation travel trailers, converted buses, tent trailers or similar devices used for temporary portable housing.

(f) Residential street shall mean any portion of a street that is located within or has adjacency on at least one (1) side to any district classified or permitted by the city's zoning ordinance to contain residential homes, apartments or condominiums, but shall exclude any designated truck route.

(g) Through commercial vehicle shall mean any commercial vehicle not defined as a local commercial vehicle.

§ 10.502. TRUCK ROUTES

(a) No person shall knowingly or recklessly operate any Commercial Vehicle upon any public

street, except upon such streets as are designated as Truck Routes or in accordance with an approved Road Use Agreement. Whenever any street designated as a Truck Route is being repaired or is otherwise temporarily out of use, the City Administrator or his/her designee is authorized to designate alternate Truck Routes for such periods as may be necessary.

(b) This Article shall not apply to:

- (1) Recreational Vehicles and Personal Trailers.
- (2) Street construction, maintenance and repair vehicles engaged in the construction, maintenance, or repair of city streets;
- (3) Vehicles used by public utility companies engaged in providing or expanding their service(s) within the City or repairing facilities with the City;
- (4) Authorized emergency vehicles responding to emergency calls or on official business;
- (5) Vehicles used or operated by the city performing city business;
- (6) Vehicles used by any city franchisee for the franchisee's approved activities only if the franchisee's Road Use Agreement with the City provides for repair of damages to City streets caused by the franchisee's vehicles, under any circumstances; or
- (7) Vehicles operating under a valid permit issued by the Texas or U.S. Department of Transportation pursuant to TRANSPORTATION CODE § 623.071.

(c) Commercial vehicles restricted to designated as Truck Routes under this section may depart from such Truck Routes where:

- (1) It is necessary to load or unload merchandise at locations situated off designated truck routes within the city boundaries; provided, however, such vehicles shall not leave a designated Truck Route until they have reached a turning-off point that can be described as the shortest practical distance to the destination of the vehicle within the city boundaries which is consistent with the reasonable operation of the vehicle.
- (2) It is necessary to travel to or from a truck terminal or place of truck repair so long as such vehicle proceeds by the

most direct route practical from the truck route to the terminal or place of truck repair and so long as the vehicle does not use residential streets or roadways to reach a truck terminal or place of truck repair. In no event will such commercial vehicles departing from a designated truck route, under the provisions of this exception, operate on streets or roadways prohibited for truck travel under this Ordinance.

(d) No person shall knowingly or recklessly operate a commercial vehicle, except as exempted in subsection (b) on any street not designated as a Truck Route without having in their possession a log book, delivery slip, or other evidence of destination or point of origin for such vehicle in the City.

(e) The following streets or sections of streets within the municipal limits are designated as Truck Routes:

- (1) Ranch House Road,
- (2) All United States Highways, and
- (3) All State of Texas Highways.

(f) The Director of Public Works shall erect appropriate signage or markings providing identification of designated Truck Routes or other prohibited areas.

§ 10.504 ROAD USE AGREEMENTS FOR USE OF STREETS NOT DESIGNATED AS A TRUCK ROUTE BY CERTAIN COMMERCIAL VEHICLES

1. Any person desiring to operate a commercial vehicle on city streets or roads not designated as a Truck Route, or in a manner not authorized by this Ordinance, shall enter into a Road Use Agreement with the City of Willow Park. Said individual shall hereinafter be referred to as Applicant.

2. The Road Use Agreement may relate to the individual operation of a single vehicle or may include multiple vehicles and operators.

3. Applications shall be obtained from, and submitted to, the City Secretary.

4. Applicants shall furnish at their expense a corporate surety performance bond, with the City as an additional insured, in an amount determined by the

City, based on the estimated cost to the City, at the time of the agreement, reasonably necessary for materials, labor and equipment to reconstruct the particular roadway(s) covered by the Road Use Agreement. Said bond shall be in full force and effect during the duration of the Road Use Agreement.

5. The Applicant shall specify the gross weight of the equipment or vehicles, which shall not exceed 48,000 pounds weight or 18,000 pounds per axle, and their intended route of travel.

6. The City shall ascertain and designate the particular roadways capable of sustaining the excess load weight and the duration of use.

7. The Road Use Agreement shall specify the procedure for inspection of any road or street damage caused by or resulting from use by the Applicant, or agents. A specific date for reimbursement to the City for the reconstruction of any portion of any street or road after receiving notice of damage. If the Applicant fails to timely pay the road damage amount determined by the city, the Road Use Agreement shall terminate.

§ 10.505. OFFENSE

(a) It shall be unlawful for any person to operate, or permit to be operated a commercial vehicle upon any street or alley within the city, except that such commercial vehicle may travel or be operated upon any street designated as a Truck Route, United States Highway, or State of Texas Highway.

(b) It shall be unlawful for any person to operate any local commercial vehicle upon any street or alley within the city, except on a designated Truck Route, United States Highway, or State Highway.

(1) A local commercial vehicle may leave any designated Truck Route, United States Highway, or State Highway and travel on any street or alley within the city for the purpose of delivering or picking up goods, wares, materials, and/or merchandise or returning to its established place of business or home. When a local commercial vehicle enters a street or alley as herein permitted, such vehicle shall enter such street or alley at the intersection nearest the point of pick-up or delivery or its established place of

business or home and return to the truck route by the nearest route.

(2) Where more than one pick-up or delivery off the designated Truck Route is required, a local commercial vehicle other than a diesel-powered tractor or tractor-trailer combination shall not be required to return to the truck route after each individual pick-up or delivery if the next pick-up or delivery is less than one-half mile from the preceding pick-up or delivery, but in any event, the vehicle shall return to the truck route upon the completion of all pick-ups and deliveries.

(3) No commercial vehicle or diesel-powered tractor or truck-tractor combination shall be operated on any residential street between the hours of 8:00 p.m. and 7:00 a.m. unless a specific written exception has been granted by the City.

(c) It is an offense for an individual to operate a commercial vehicle on all streets and roads in the City of Willow Park, Texas unless: (i) it is pursuant to a Road Use Agreement with the City of Willow Park that is in effect on the date of operation; (ii) it is on a Truck Route designated herein; or (iii) pursuant to an authorized activity or exemption herein.

§ 10.507 PENALTY

Any person, firm, corporation or entity who violates this Ordinance shall be guilty of a misdemeanor, and upon conviction thereof, shall be fined a sum not less than one hundred dollars (\$100.00) and not to exceed five hundred dollars (\$500.00).

Each continuing day's violation or use of other unauthorized streets within the same day shall constitute a separate offense. The penal provisions under this Ordinance shall not preclude Willow Park from filing suit to enjoin the violation. Willow Park retains all legal rights and remedies available to it pursuant to local, state and federal law.

SECTION 3. RECITALS

The City Council hereby finds and declares all precatory language herein to be true and correct and approves and adopts the same herein as part of this Ordinance.

SECTION 4. 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 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 5. SEVERABILITY

If any section, paragraph, subsection, sentence, clause, phrase or provision of this Ordinance is for any reason, held to be invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this or any other Ordinance of the City to which these rules and regulations relate. The City of Willow Park hereby declares that it would have passed this Ordinance, and each section, paragraph, subsection, sentence, clause or phrase thereof, irrespective of the fact that any one or more section, paragraph, subsection, sentence, clause or phrase be declared invalid or unconstitutional.

SECTION 6. REPEAL OF ARTICLE 10.500 "PROHIBITING THROUGH TRUCK TRAFFIC ON RANCH HOUSE ROAD AND VISTA DRIVE" OF THE CODE OF ORDINANCES

Willow Park Code of Ordinances Article 10.500 "Prohibiting through Truck Traffic on Ranch House Road and Vista Drive" is repealed in its entirety and replaced by this Ordinance. The effective date of the repeal discussed in this Section shall not occur until the effective date of this Ordinance at which time Article 10.500 "Prohibiting through Truck Traffic on Ranch House Road and Vista Drive" shall be repealed. Such repeal shall not abate any pending prosecution and/or lawsuit or prevent any prosecution and/or lawsuit from being commenced for any violation of Article 10.500 "Prohibiting through Truck Traffic on Ranch House Road and Vista Drive" occurring before the effective date of this Ordinance.

SECTION 7. EFFECTIVE DATE

This Ordinance shall take effect from and after the publication in a newspaper of general circulation.

PASSED AND ADOPTED this 19th day of February, 2008.

/s/ Marvin Glasgow
Mayor

ATTEST:

/s/ Condit Scott
City Secretary/Clerk

APPROVED AT TO FORM:

/s/ [Signature]
City Attorney

The Willow Park City Council in acting on Ordinance No. 568-08 did on the 19th day of February, 2008, vote as follows:

	<u>FOR</u>	<u>AGAINST</u>
Marvin Glasgow, Mayor	_____	_____
Barry K. Tatum, Place 1	_____	_____
J. Teresa Welch, Place 2	_____	_____
Hale Alderman, Place 3	_____	_____
Kenneth Hawkins, Place 4	_____	_____
Barry Brown, Place 5	_____	_____