



City Council Agenda Item Report

April 16, 2013

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SUBJECT: Approval of the second reading of an ordinance prohibiting parking, standing and leaving of commercial motor vehicles upon public and private property.

1. BACKGROUND/HISTORY

At the March 5th meeting, members of City Council requested particular consideration of an ordinance developed by the City of Mesquite that prohibits parking, standing and leaving of commercial motor vehicles upon public and private property. On March 19th, staff presented that ordinance, with minimal modifications to change the city name, match the appropriate chapter, article & division of the Buda Code of Ordinances, reference the UDC rather than zoning ordinance, and reflect the appropriate signatories. In doing so, staff provided a report outlining some concerns with the ordinance, which led to City Council members offering suggested language changes to mitigate those concerns. Staff then received direction to revise the proposed ordinance to incorporate those changes, making necessary alterations to improve enforceability and prosecution.

2. FINDINGS/CURRENT ACTIVITY

The attached draft ordinance is unchanged from the first reading that took place at the April 2nd City Council meeting. This ordinance includes a penalty clause, which requires publication prior to the ordinance taking affect. Staff will use this time period to conduct an education campaign with commercial vehicles.

3. FINANCIAL IMPACT

N/A

4. ACTION OPTIONS/RECOMMENDATION

City Council took action to approve the ordinance on first reading April 2, 2013. City Council may approve on consent, or pull it from consent to approve the ordinance, approve with amendments specified, table action pending revisions or take no action.

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF BUDA, TEXAS, AMENDING CHAPTER 24 OF THE CODE OF THE CITY OF BUDA; BY CREATING THE NEW DIVISION 3 OF ARTICLE 22.04, THEREBY ESTABLISHING COMMERCIAL VEHICLE PARKING REGULATIONS AND ENFORCEMENT AND CREATING EXCEPTIONS FOR CERTAIN TEMPORARY COMMERCIAL VEHICLE PARKING AND FOR THE PARKING OF BUSES AT CERTAIN FACILITIES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR A PENALTY NOT TO EXCEED FIVE HUNDRED DOLLARS (\$500.00) FOR EACH OFFENSE.

WHEREAS, the utilization of commercial motor vehicles upon public and private property within the City of Buda for extended periods, temporary residential purposes or temporary storage presents public safety concerns due to fire danger, increased crime, overcrowding, unsanitary conditions and accumulations of waste and debris due to lack of adequate potable water, wastewater, and solid waste facilities, and is contrary to the character and established uses of zoning districts within the City of Buda; and

WHEREAS, Local Government Code section 601.001 grants a municipality by ordinance to regulate the parking of motor vehicles on private property; and

WHEREAS, the City Council finds that it is in the best interest of the citizens of the City to implement commercial parking regulations.

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

SECTION 1. There is enacted a newly created division of Article 22.04 of the Code of Ordinances of the City of Buda, Texas entitled “Division 3. Commercial Vehicle Parking” consisting of Section 22.04.032 to read as follows:

ARTICLE 22.04. PARKING, STOPPING, AND STANDING

DIVISION 3. COMMERCIAL VEHICLE PARKING

Sec. 22.04.032. Definitions.

For the purpose of this Division, the following terms shall carry the meanings as set out below:

- (a) *Commercial vehicle* shall mean truck-tractor, road tractor, semi trailer, bus, truck or trailer or any other commercial vehicle with a rated carrying capacity of two (2) tons or more according to the manufacturers classification
- (b) *Integral part of a lawfully zoned business* shall mean the operation and use of a commercial vehicle to deliver merchandise, or transport tools, equipment or supplies necessary to the operation of the lawfully zoned business and other uses of commercial vehicle without which the operation of said business would be substantially hindered. Remote and incidental uses of a commercial vehicle in connection with a business, such as advertising, name exposure, and promotion, except where such is specifically permitted by the zoning ordinance, shall not be deemed use as an integral part of such business.

Sec. 22.04.033. Parking of commercial vehicles prohibited – public streets, alleys, etc

It shall be unlawful for any owner or person in control of a commercial vehicle, as defined herein, to leave, park, or stand, or permit the leaving, parking, or standing of such vehicle upon any public street, alley, parkway, boulevard or other property owned or controlled by any unit of government, except that this section shall not apply to:

- (a) Commercial vehicles while being used for street construction, maintenance, or repair;
- (b) Commercial vehicles being utilized by a company engaged in extending public service utilities;
- (c) Passenger buses taking on or discharging passengers at an approved bus stop;
- (d) A commercial vehicle parked in a loading zone for the purpose of loading or unloading freight or merchandise to a lawfully zoned business;
- (e) A commercial vehicle parked for the purpose of delivering or picking up merchandise to or from a specific designated location or loading or unloading personal property to or from a specific designated location that shall not exceed three (3) hours in any case; and
- (f) A commercial vehicle experiencing a mechanical defect making it unsafe or impossible to proceed, for such period of time as emergency repairs are made or, if repairs cannot be made within three (3) hours, until a tow truck arrives.

Sec. 22.04.034. Parking of commercial vehicles prohibited- residential areas.

It shall be unlawful for any owner or person in control of a commercial vehicle, to leave, park, or stand, or permit the leaving, parking or standing of such vehicle within any area of the City zoned residential according to the *Buda Unified Development Code*,

except that this section shall not apply to a commercial vehicle parked for the purpose of immediately delivering or picking up merchandise to or from a specific designated location or loading or unloading personal property to or from a specific designated location while in the normal course of business for which the commercial vehicle operates. Said loading and/or unloading shall not exceed three (3) hours in any case and shall not obstruct a designated fire lane.

Sec. 22.04.035. Parking of commercial vehicles- within certain zoning districts.

- (a) It shall be unlawful for any owner or person in control of a commercial vehicle set forth hereinto leave, park, or stand a commercial vehicle, or permit the leaving, parking, or standing of a commercial vehicle upon property within an area zoned nonresidential according to the *Buda Unified Development Code*, except where one or more of the following conditions exist:
- (1) The commercial vehicle is parked upon a parking surface that meets the standards set forth in the *Buda Unified Development Code* within an area zoned industrial according to the *Buda Unified Development Code* and does not obstruct a designated fire lane.
 - (2) The commercial vehicle is parked or standing for no longer than three (3) hours for the purpose of loading or unloading passengers, freight or merchandise, and does not obstruct a designated fire lane;
 - (3) The commercial vehicle is parked or standing for no longer than three (3) hours at a retail business or restaurant while the driver of the vehicle is a customer of the retail business or restaurant, and does not obstruct a designated fire lane;
 - (4) The commercial vehicle is parked at a lawfully zoned business establishment, wherein such commercial vehicle is utilized as an integral part of such lawfully zoned business, and does not obstruct a designated fire lane;
 - (5) The commercial vehicle is a passenger bus parked on a parking lot during such a period as the bus passengers are attending an event at a facility zoned for such activities, or are customers at a retail center, or in the case of a hotel or motel, during such periods of time that the bus passengers are customers of the hotel or motel, provided that under no circumstance does the commercial vehicle obstruct a designated fire lane;
 - (6) The commercial vehicle parked is parked in a designated area at an exhibit or exhibition hall, convention center, entertainment, or similar facility when the commercial vehicle is involved in the delivery and removal of equipment, products, merchandise, livestock, or other items to and from the facility, and does not obstruct a designated fire lane.

- (7) The commercial vehicle is truck or trailer no greater than twenty-six (26) feet in length, bumper to bumper, being driven by an individual who has rented the vehicle from a commercial business for the purpose of transporting his personal property from one location to another, and parked at a motel or hotel while the driver of the vehicle is a customer of the hotel or motel, and does not obstruct a designated fire lane.
- (8) The commercial vehicle is parked at a motel or hotel while the driver of the vehicle is a customer of the hotel or motel, does not obstruct a designated fire lane, and possesses a placard, measuring at least 8.5 inches by 11 inches, issued by the hotel or motel placed in the driver's-side window of the commercial vehicle indicating the name of the hotel, name of the driver, license plate number of the commercial vehicle, duration of stay at the hotel or motel, the printed name and signature of the hotel's or motel's authorized representative, and a contact telephone number for the hotel or motel.
- (b) It shall be unlawful for any owner or person in control of a commercial vehicle set forth hereinto leave, park, or stand a trailer or semi-trailer or permit the leaving, parking, or standing of a trailer or semi-trailer upon property within an area zoned nonresidential according to the *Buda Unified Development Code*, except where said trailer or semi-trailer is an integral part of a lawfully zoned business.
- (c) Upon approval by resolution, the City Council may temporarily suspend the restrictions imposed by Section 22.04.035(a) in order to accommodate special events held within the City. The resolution of suspension shall become effective forty-eight (48) hours prior to the official start of the scheduled event and shall terminate forty-eight (48) hours after official conclusion of the event.

Sec. 22.04.036. Offense and Penalty.

Each day that a person remains in violation of this ordinance shall constitute a separate offense. In the prosecution of an alleged violation of this ordinance no proof of a culpable mental state shall be required. A person who violates this section shall be guilty of a class C misdemeanor and shall be punished by a fine not to exceed \$500.00 for each day or part thereof that the violation occurs. The registered owner of the vehicle and/or the driver is considered the responsible party.

SECTION 2. If any clause or provision of this Ordinance shall be deemed to be unenforceable for any reason, such unenforceable clause or provision shall be severed from the remaining portion of the Ordinance, which shall continue to have full force and effect.

SECTION 3. This Ordinance shall become effective following passage on second reading and publication in accordance with Section 3.11(D) of the City of Buda Home Rule Charter.

PASSED AND APPROVED on first reading by an affirmative vote of the City Council of the City of Buda, this 2nd day of April, 2013.

PASSED, APPROVED AND ADOPTED on second reading by an affirmative vote of the City Council of the City of Buda, this 16th day of April, 2013.

APPROVED:

Todd Ruge, Mayor

ATTEST:

City Secretary