

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE REGULATING TRAFFIC, AUTHORIZING AND DIRECTING THE INSTALLATION AND ERECTION OF NO THROUGH TRUCK SIGNS ON KYLE CROSSING FROM KOHLERS CROSSING TO VISTA RIDGE; IN THE CITY LIMITS OF KYLE; REPEALING ANY ORDINANCE OR RESOLUTION IN CONFLICT; PROVIDING A SEVERABILITY CLAUSE; DECLARING A PENALTY; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the City of KYLE, Texas is a Home-Rule municipality operating pursuant to its City Charter and the laws of the State of Texas; and

**WHEREAS**, the City of KYLE has exclusive control and power over the streets, alleys, and public grounds and highways of the City pursuant to Transportation Code §311.002, as it may be amended; and

**WHEREAS**, the City Council finds and determines that in order to protect the health, safety and general welfare of the City of KYLE neighborhoods and extend the operational life of public streets, the prohibition of large trucks in residential neighborhoods and the establishment of truck routes is necessary, and

**WHEREAS**, the regulation of traffic, motor vehicles and conveyances upon all public streets, roadway and right-of-ways within the City limits of the City of Kyle (the "City") is essential and necessary to protect the traveling public and to preserve and protect the public safety of the City; and

**WHEREAS**, the: Police Chief; City Engineer; Public Works Director; City Manager; and, City Council have reviewed the situation and issues that are the subject matter of this Ordinance; and

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

**WHEREAS**, the City Council of the City find that the safety and welfare of the citizens of the City desires to prohibit through truck traffic on the street designated below;

**NOW, THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF KYLE, TEXAS, THAT:**

**Section 1.** Findings. The foregoing recitals are hereby found to be true and correct and are hereby adopted by the City Council and made part hereof for all purposes as findings of fact.

**Section 2.** 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 3.** Through truck traffic is prohibited on the following street:

- KYLE CROSSING From KOHLERS CROSSING To VISTA RIDGE

**Section 4.** The Director of Public Works is directed to erect and place signs designating the above street as a “No Trucks” street. “No Trucks” signs be placed, either in the surface of the street or at the side thereof, prohibiting through truck traffic, and no provisions of this ordinance for which signs are required shall be enforceable against an alleged violator, if at the time and place of the alleged violation the sign herein required is not in proper position and sufficiently legible to be seen by an ordinarily observant person.

**Section 5.** That it shall be unlawful for the operator of any vehicle to disobey the instructions of the signs placed in accordance with the provisions of this ordinance.

**Section 6.** That it shall be unlawful for any person to willfully deface, injure, move, remove, obstruct or interfere with any signs under the provisions of this ordinance.

**Section 7.** 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 8. Conflicting Ordinances or Resolutions.** All resolutions or ordinances or parts thereof conflicting or inconsistent with the provisions of this ordinance as adopted and amended herein, are hereby REPEALED to the extent of such conflict. In the event of a conflict or inconsistency between this ordinance and any other resolution, code or ordinance of the City, or parts thereof, the terms and provisions of this ordinance shall govern.

**Section 9. Severability.** If any section, subsection, sentence, clause, phrase, or word of this ordinance is declared unconstitutional or invalid for any purpose, the remainder of this ordinance shall not be affected thereby and to this end the provisions of this ordinance are declared to be severable.

**Section 10. Effective Date.** This ordinance shall be effective from and after its approval and passage in accordance with the Texas Local Government Code and the city charter.

PASSED AND APPROVED on this the \_\_\_\_ day of \_\_\_\_\_, 2017.

FINALLY PASSED AND APPROVED on this the \_\_\_\_ day of \_\_\_\_\_, 2017.

ATTEST:

**The City of Kyle, Texas**

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Jennifer A. Vetrano, City Secretary

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Travis Mitchell, Mayor