

CITY OF TIOGA, TEXAS

ORDINANCE NO. 347

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TIOGA, TEXAS, PROHIBITING PARKING OF COMMERCIAL VEHICLES ON PUBLIC STREETS; PROVIDING FOR INCORPORATION OF PREMISES; PROVIDING FOR FINDINGS; PROVIDING FOR DEFINITIONS; PROVIDING FOR COMMERCIAL PARKING RESTRICTIONS; PROVIDING A CUMULATIVE REPEALER CLAUSE; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR SEVERABILITY; PROVIDING FOR PUBLICATION CLAUSE; PROVIDING A PENALTY; PROVIDING FOR ENGROSSMENT AND ENROLLMENT; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Tioga is a General-Law municipality located in Grayson County, Texas (the "City"), created in accordance with the provisions of the Texas Local Government Code, the Texas Constitution and operating pursuant to the enabling legislation of the state of Texas; and

WHEREAS, the regulation of traffic and vehicles on the public streets in the City affects the health, safety and welfare of its citizens; and

WHEREAS, the City is delegated the authority under Section 542.202 of the Texas Transportation Code to regulate the stopping, standing, or parking of a vehicle;

WHEREAS, Section 545.307 specifically recognizes the power of a municipality to regulate the parking of commercial motor vehicles; and

WHEREAS, the City Council of the City of Tioga, Texas has investigated and determined that it would be advantageous and beneficial to the citizens of the City and in the best interest of the public health, safety, and welfare of the citizens and the public to establish regulations prohibiting the parking of commercial vehicles on public streets.

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

SECTION 1
INCORPORATION OF PREMISES

The above and foregoing premises are true and correct and are incorporated herein and made a part hereof for all purposes.

SECTION 2
FINDINGS

After due deliberations the City Council has concluded that the adoption of this Ordinance is in the best interest of the City of Tioga, Texas and of the public health, safety and welfare.

SECTION 3
DEFINITIONS

Commercial Motor Vehicle means a 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 manufacturer's classification.

Public Street means a publicly-owned or dedicated road, street, drive, or other right-of-way for the use of vehicles within the corporate boundaries of the City of Tioga.

SECTION 4
COMMERCIAL PARKING RESTRICTIONS

(a) 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:

(1) Commercial vehicles while being used for street construction, maintenance, or repair;

(2) Commercial vehicles being utilized by a company engaged in extending public service utilities;

(3) A commercial vehicle parked for the purpose of expeditiously 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;

(4) 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 in a timely manner, until a tow truck arrives; and

(b) It shall be unlawful for any person in control of a commercial vehicle, as defined herein, to leave, park or stand, or permit to leaving, parking or standing of such vehicle upon any vacant lot.

(c) It shall be unlawful for any person in control of a commercial vehicle, as defined herein, to leave, park or stand, or permit to leaving, parking or standing of such vehicle

on private property unless in conjunction with a legally operating business on the property.

(d) If a commercial motor vehicle is found in violation of this section and the identity of the driver cannot be determined, the owner or person in whose name the commercial motor vehicle is registered shall constitute a prima facie presumption that the registered owner of such commercial motor vehicle is the person who committed the violation. This presumption is rebuttable and shall have the effects and consequences set forth Section 2.05 of the Texas Penal Code. The state department of transportation's computer generated record of the registered vehicle owner is prima facie evidence of the contents of the record.

SECTION 5 CUMULATIVE REPEALER

This Ordinance shall be cumulative of all other Ordinances and shall not repeal any of the provisions of such Ordinances except for those instances where there are direct conflicts with the provisions of this Ordinance. Provided however, that any complaint, action, claim or lawsuit which has been initiated or has arisen under or pursuant to such other Ordinances on this date of adoption of this Ordinance shall continue to be governed by the provisions of such Ordinance and for that purpose the Ordinance shall remain in full force and effect.

SECTION 6 SAVINGS

All rights and remedies of the City of Tioga, Texas are expressly saved as to any and all violations of this provision of any other ordinance affecting the City's Ordinance regarding commercial vehicle parking which have secured at the time of the effective date of this Ordinance; and, as to such accrued violations and all pending litigation, both civil and criminal, whether pending in court or not, under such ordinances same shall not be affected by this Ordinance but may be prosecuted until final disposition by the court.

SECTION 7 SEVERABILITY

The provisions of the Ordinance are severable. However, in the event this Ordinance or any procedure provided in this Ordinance becomes unlawful, or is declared or determined by a judicial, administrative or legislative authority exercising its jurisdiction to be excessive, unenforceable, void, illegal or otherwise inapplicable, in whole or in part, the remaining and lawful provisions shall be of full force and effect and the City shall promptly promulgate new revised provisions in compliance with the authority's decisions or enactment.

SECTION 8 PUBLICATION

The City Secretary of the City of Tioga is hereby directed to publish in the Official Newspaper of the City of Tioga the Caption and Effective Date Clause of this Ordinance as required by Section 52.011 of the Local Government Code.

SECTION 9
PENALTY

Any person, firm or corporation violating any of the provisions or terms of this ordinance or of the Code of Ordinances as amended hereby, shall be subject to the same penalty as provided for in the Code of Ordinances of the City of Tioga, and upon conviction shall be punished by a fine not to exceed Five Hundred Dollars (\$500.00) for each offense.

SECTION 10
ENGROSSMENT AND ENROLLMENT

The City Secretary is hereby directed to engross and enroll this Ordinance by copying the descriptive caption in the minutes of the City Council and by filing this Ordinance in the Ordinance records of the City.

SECTION 11
EFFECTIVE DATE

This Ordinance shall become effective from and after its date of passage in accordance with law.

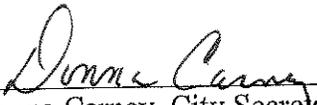
AND IT IS SO ORDAINED.

PASSED AND APPROVED by the City Council of the City of Tioga, Texas this 14th day of ~~July~~, 2017.
AUGUST



Craig Jezek
City of Tioga, Texas

ATTEST:



Donna Carney, City Secretary
City of Tioga, Texas

[SEAL]