

ORDINANCE NO. 2016-10

AN ORDINANCE OF THE CITY OF BURNET, TEXAS ADDING A NEW SECTION FOLLOWING SECTION 106-3, NO THROUGH TRUCK STREETS; AND RENUMBERING THE REMAINDER AS NECESSARY; OF THE CITY OF BURNET CODE OF ORDINANCES; PROVIDING A PENALTY FOR VIOLATIONS; PROVIDING FOR SEVERABILITY; MAKING FINDINGS RELATED THERETO; AND AMENDING THE BURNET CODE OF ORDINANCES ACCORDINGLY.

**WHEREAS**, the City of Burnet, Texas has the authority to regulate heavy truck traffic on the public roadways of the City pursuant to sections 311.001 and 621.303 of the Texas Transportation Code; and

**WHEREAS**, the City Council of the City of Burnet, 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 BURNET, TEXAS:**

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

**Section 2. Code Amended.** Chapter 106 shall have a new section to be inserted after Sec. 106-3 of the Burnet Code of Ordinances as follows, after which the remaining sections shall be renumbered appropriately:

**Sec. 106-04. –No through truck streets**

(a) *Definitions.* The following words, terms and phrases when used in this ordinance 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.

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

(b) Through truck traffic prohibited.

(1) *Regulation.* A person commits an offense if the person operates a Truck upon a public street designated as a no through truck street as established in Section 106-04 (c).

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

(i) The vehicle was an authorized emergency vehicle;

(ii) The vehicle was a school 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 of sale, invoice or other proof of route which shall be displayed immediately upon request; and

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

(c) No through truck traffic routes designated.

The following routes shall be designated as no through truck traffic routes and as shown on the attached Exhibit "A":

Route	Location
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North Hill Street                      Between the intersections of North Hill Street and Highway 29 East, and North Hill Street and FM 963

Pecan Street and Coke Street      Between the intersections of Pecan Street and South Water Street (281 South), and the intersection of Coke Street and Polk Street (highway 29 East), through the intersection of Coke Street and Pecan Street.

(d) The traffic engineer or his/her designee is directed to erect and place signs designating the above streets as no through truck streets.

**Section 3. Ordinances in Conflict**

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

**Section 4. Penalty**

Any person who shall violate any provision of this Ordinance, shall, upon conviction, be fined in an amount not to exceed \$500. Each violation shall constitute a separate offense.

**Section 5. Severability**

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 Burnet, 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 6. Effective Date**

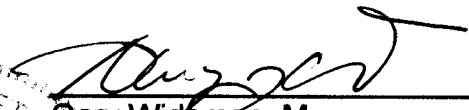
This Ordinance shall take effect immediately from and after its passage and the publication of the caption hereof, as provided by law.

PASSED AND APPROVED, this 10th day of May, 2016.

PASSED, APPROVED, AND FINALLY ADOPTED this 24<sup>th</sup> day of May, 2016.

ATTEST:

  
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Kelly Dix, City Secretary

  
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Gary Widsman, Mayor

