

ORDINANCE NO. 179

AN ORDINANCE PROVIDING FOR DESIGNATION OF TRUCK ROUTES; ESTABLISHING WEIGHT LIMITS FOR HEAVY VEHICLES, PERMITTING PROCEDURES, AND LIABILITY FOR DAMAGES TO TOWN STREETS; PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE OF ALL ORDINANCES; REPEALING ORDINANCE NO. 24 AND ORDINANCE NO. 50; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A PENALTY FOR VIOLATIONS HEREOF; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR PUBLICATION IN THE OFFICIAL NEWSPAPER; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Town of Annetta, Texas is a Type A general law municipality located in Parker County, created in accordance with the provisions of Chapter 6 of the Local Government Code and operating pursuant to the enabling legislation of the State of Texas; and

WHEREAS, the Town of Annetta has exclusive control and power over the streets, alleys, and public grounds and highways of the Town pursuant to Section 311.002 of the Texas Transportation Code; and

WHEREAS, the Town of Annetta has the authority to adopt an ordinance or regulation that is necessary for the government, interest, welfare, or good order of the municipality as a body politic pursuant to Section 51.012 of the Texas Local Government Code; and

WHEREAS, the Town Council of the Town of Annetta finds that the streets and roads within the Town limits are susceptible to damage due to their current condition, the manner in which they were constructed, and the materials used for their construction; and

WHEREAS, the Town Council of the Town of Annetta further finds that heavy vehicles are known to damage street and roads due to weight; and

WHEREAS, the Town Council further finds and has determined it is in the best interests of the public health, welfare, and safety of the citizens of the Town of Annetta that the Town regulate heavy vehicle traffic under the City's police powers, and the negative effects of the aforementioned damage be eliminated, to the extent possible.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF ANNETTA TEXAS, THAT:

**SECTION 1.
DEFINITIONS**

The following words, terms and phrases as used in this ordinance shall have the meanings ascribed to them in this section except where the context clearly indicates a different meaning:

Trailer means every vehicle, with or without motor power, designed for carrying persons or property and for being drawn by a motor vehicle.

Heavy Vehicle means (i) a motor vehicle with a gross weight load in excess of 10,000 pounds, designed, used or maintained primarily for transportation of property and which, for the purposes of this Ordinance, shall include, but not be limited to, trailers and truck tractors; or (ii) a ready-mixed concrete truck (as that term is defined in Section 622.011 of the Texas Transportation Code, as amended) with a tandem axle weight that is heavier than 36,000 pounds, a single axle weight that is heavier than 12,000 pounds, or a gross weight that is heavier than 48,000 pounds. The term does not include a passenger bus, passenger automobile, motorcycle, panel delivery truck, walk-in delivery van, or pickup truck.

Truck tractor means every motor vehicle designed and used primarily for drawing other vehicles and not so constructed as to carry a load other than a part of the weight of the vehicle and load so drawn.

SECTION 2. OFFENSE

A person commits an offense if a person drives, operates or moves, or causes or permits to be driven, operated or moved, on any public street within the city any Heavy Vehicle or combination of Heavy Vehicles contrary to any of the regulations contained in this Ordinance.

SECTION 3. TRUCK ROUTES

(A) Truck Routes. Except as otherwise provided in this Ordinance or state law, no person shall operate or cause to be operated a Heavy Vehicle upon any public street or highway in the corporate limits of the Town except upon the following streets which are hereby designated as truck routes:

- (1) Farm to Market Road 5; and
- (2) Old Annetta Road

(B) Exceptions. The provisions of section 3(A) shall not apply to:

- (1) Emergency vehicles operating in response to any emergency call;
- (2) Vehicles operated for the purpose of constructing or maintaining any public utility or street in the Town;
- (3) Vehicles operated on state highways or Town designated truck routes;
- (4) The operation of vehicles by or on behalf of the City for solid waste collection or similar public services;

- (5) Any vehicles operated by the Town, state, and its political subdivisions; or
- (6) Vehicles which have been issued a Town permit in accordance with this Ordinance.

**SECTION 4.
PERMIT APPLICATION AND ISSUANCE**

(A) Permit. The operator or owner of a Heavy Vehicle may not operate on any Town street or roadway other than a designated truck route without first applying for and receiving a permit from the Mayor or his designee in accordance with this Ordinance.

(B) Application Requirements. Every permit application must be in compliance with the following:

- (1) Every application for a permit issued pursuant to this Ordinance shall be in writing, signed by the operator or owner of the Heavy Vehicle, or some person duly authorized to sign on his/her behalf, and filed with the Town Secretary.
- (2) Every application shall be accompanied by a \$200 permit fee.
- (3) The application must include the following:
 - (a) the name of the applicant, owner, and operator of the Heavy Vehicle;
 - (b) a description of the Heavy Vehicle (including height, weight, and length) to be operated and a description of the commodity or load (including height, weight, and length) to be transported;
 - (c) the requested number of trips to be taken with the Heavy Vehicle;
 - (d) the requested street or streets over which the Heavy Vehicle are to be operated;
 - (e) the number of Heavy Vehicles covered by the permit;
 - (f) The date of expiration of the permit; and
 - (g) An original and executed road damage remediation agreement in a form that has been approved by the Mayor. The agreement will, among other requirements, require a bond in an amount equal to the cost of construction to repair probable damage to the streets caused by applicant based upon the town engineer or his designee's evaluation of the information submitted with the application. The bond must be payable to the Town and conditioned that the applicant will pay the Town the sum of money necessary to repair any damage which might be occasioned to any public street or publicly owned fixture appurtenant to such street by virtue of operation of any Heavy Vehicle under the issued permit. Exclusive venue of any

suit for recovery upon said bond must be in Parker County, Texas and any bond issued must contain unambiguous contractual provision to that effect. Notwithstanding the foregoing, any bond required of a ready-mixed concrete truck will be in accordance with state law.

**SECTION 5.
STREET DAMAGE**

The turning or maneuvering of any Heavy Vehicle upon any of the public streets of the Town in such a manner as to cause damage to the surface of the street is prohibited. If any street is damaged by the turning or maneuvering of any Heavy Vehicle upon the Town streets, the owner and driver of the Heavy Vehicle shall be jointly responsible to respond in damages to the Town.

**SECTION 6.
ADDITONAL REMEDIES**

Any violation of this Ordinance can be enjoined by a suit filed in the name of the Town in a court of competent jurisdiction, and this remedy shall be in addition to any penal provision in this Ordinance.

**SECTION 7.
REPEAL OF PRIOR ORDINANCES**

Town Ordinance Nos. 24 and 50 are hereby repealed in their entirety.

**SECTION 8.
CUMULATIVE CLAUSE**

This ordinance shall be cumulative of all provisions of ordinances and of the Code of Ordinances of the Town of Annetta, Texas, as amended, except where the provisions of this ordinance are in direct conflict with the provisions of such ordinances and such Code, in which event the conflicting provisions of such ordinances and such Code are hereby repealed.

**SECTION 9.
SAVINGS CLAUSE**

All rights and remedies of the Town of Annetta, Texas, are expressly saved as to any and all violations of the provisions of any other ordinances and of the Code of Ordinances of the Town of Annetta which have accrued 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 and of such Code, same shall not be affected by this ordinance but may be prosecuted until final disposition by the courts.

**SECTION 10.
PENALTY CLAUSE**

Any person who commits an offense under this ordinance shall be guilty of a misdemeanor and shall be fined not more than Five Hundred Dollars (\$500.00) for each offense. Each day that a Heavy Vehicle is used in violation of this ordinance shall constitute a separate offense.

**SECTION 11.
SEVERABILITY CLAUSE**

It is hereby declared to be the intention of the Town Council that the phrases, clauses, sentences, paragraphs and sections of this ordinance are severable, and if any phrase, clause, sentence, paragraph or section of this ordinance shall be declared invalid or unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such invalidity or unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this ordinance, since the same would have been enacted by the Town Council without the incorporation in this ordinance of any such invalid or unconstitutional phrase, clause, sentence, paragraph or section.

**SECTION 12.
PUBLICATION CLAUSE**

The Town Secretary of the Town of Annetta is hereby directed to publish in the official newspaper of the Town of Annetta, the caption, penalty clause, and effective date clause once as authorized by Chapter 52 of the Local Government Code.

**SECTION 13.
EFFECTIVE DATE**

This ordinance shall be in full force and effect from and after its passage and publication as required by state law and it is so ordained.

PASSED AND APPROVED on this 18th day of May 2017.

TOWN OF ANNETTA



Bruce Pinckard, Mayor

ATTEST:



Jamee Long, Town Secretary

