

ORDINANCE NO. 2023-001

AN ORDINANCE BY THE CITY COUNCIL OF THE CITY OF NEW BERLIN TEXAS DESIGNATING NO THROUGH TRUCK STREETS WITHIN THE CITY OF NEW BERLIN, TEXAS; AMENDING AND REPLACING ORDINANCE NO. 2019-003 ESTABLISHING REGULATIONS RELATED TO TRUCK TRAFFIC ON PUBLIC STREETS DESIGNATED AS NO THROUGH TRUCK STREETS; ADDING ADDITIONAL STREETS; PROVIDING A PENALTY FOR VIOLATIONS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City of New Berlin, Texas has the authority to regulate heavy truck traffic on public roadways of the City pursuant to Texas law, including section 311.002 of the Texas Transportation Code; and

WHEREAS, the Council finds that city streets are designated and built to handle specific types of traffic; and

WHEREAS, the City Council finds that commercial vehicles, due to their size and weight can cause damage to streets that are not designated for commercial traffic; and

WHEREAS, the City Council desires to prohibit through truck traffic and finds that the prohibition of through truck traffic on the streets designated herein will help to prolong the operational life of public streets; and

WHEREAS, the City Council passed and adopted Ordinance No. 2019-003 in September, 2019 designating the following streets as no through truck traffic prohibited:

Albrecht Rd, Old School Rd, Stahl Rd, Schmidt Rd, Cibolo Rd, S. Santa Clara Rd, Gin Rd, Partnership Rd, and Kunde Rd.

WHEREAS, the City Council finds the need to add the following additional streets:

Portion of Warncke Rd that is within the City of New Berlin city limits, portion of Linne Rd that is within the City of New Berlin city limits, Church Rd, Gin Spur Rd, and include all of Santa Clara Rd within the City of New Berlin city limits

WHEREAS, the City Council finds that it is in the best interest for the health, safety, and welfare of its citizens to prohibit truck traffic on the above streets within the city.

NOW, THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NEW BERLIN, TEXAS;

Section 1. Findings. The findings set out herein are found to be true and correct and are hereby adopted by the City Council and made a part of this Ordinance for all purposes.

Section 2. 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. Terms not defined herein shall be construed in accordance with customary usage.

Authorized emergency vehicle means 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 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.

Commercial vehicle means any vehicle, with a gross vehicle weight in excess of 10,000 pounds or carrying capacity exceeding one tone and used for the delivery of passengers, tools, materials, or livestock. A Recreational Vehicle, herein, is not considered a commercial vehicle.

Light truck means 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.

No Through Truck Street means a city street where Truck Traffic is prohibited.

Proof of route means 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.

Recreation vehicle means personal vehicles such as boats and boat trailers, watercraft and watercraft trailers, travel trailers, pick-up campers or coaches (designed to be mounted on automotive vehicles), and motorized dwellings (RV).

Truck means any motor vehicle designed, used, or maintained primarily for the transportation of property, including "truck tractors," "road tractors," "trailers," "semi-trailers," "pole trainers," and "special mobil equipment" as those terms are defined in Texas Transportation Code Annotated 541.201 and includes a Commercial Vehicle as defined in this Ordinance.

Truck traffic means the operation of any Commercial Vehicle including but not limited to a Truck, truck tractor or combination of any truck, truck tractor, trailer, or semitrailer that are considered commercial vehicles. The operation of a Recreational Vehicle is not considered to be truck traffic.

Section 3. No through Truck Traffic Streets Designated.

Through Truck Traffic is prohibited on the following streets:

Albrecht Rd, Old School Rd, Stahl Rd, Schmidt Rd, Partnership Rd, Kunde Rd, S. Santa Clara Rd, portion of Warncke Rd that is within the City of New Berlin city limits, portion of Linne Rd that is within the City of New Berlin city limits, Church Rd, Gin Spur Rd, and include all of Santa Clara Rd within the City of New Berlin City limits.

Section 4. Through Truck Traffic Prohibited.

No person shall operate a Truck upon any city street designated as a No Through Truck Street. A person commits an offense if the person operates a Truck upon a City street designated as a No Through Truck Street.

Section 5. Exemptions and Affirmative Defenses.

- A. The provisions of this Ordinance shall not apply to:
 - 1. An authorized emergency vehicle in response to any emergency call;
 - 2. A vehicle operated by a public utility in the assigned area for the purpose of inspecting the facility of the public utility or providing maintenance service to such facilities;
 - 3. Municipal and county vehicles performing city and county business services, school buses and church buses.

- B. The following provision is an affirmative defense to prosecution if the truck:
 - 1. 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
 - 2. The public street was the only route to such destination.

Section 6. Installation of Signs.

The City Council authorizes and directs the Mayor to have signs installed on the Streets named in Section 3, warning the public that Truck Traffic is prohibited to drive upon the listed streets.

Section 7. Penalty.

Any person who shall violate any provision of this Ordinance shall be deemed guilty of a misdemeanor and, upon conviction, shall be fined in an amount not more than Two Thousand Dollars (\$2,000.00) per offense or the maximum amount permitted by law. Each day constitutes a separate offense.

Section 8. Cumulative Clause.

This Ordinance shall be cumulative of all other ordinances of the City of New Berlin, and this Ordinance shall not operate to repeal or affect any other ordinances of the City of New Berlin

except insofar as the provisions thereof might be inconsistent or in conflict with the provisions of this Ordinance, in which event such conflicting provisions, if any, are hereby repealed.

Section 9. Severability.

It is hereby declared to be the intention of the City Council of the City 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 should be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of the Ordinance, since the same would have been enacted by the City Council without incorporation in this Ordinance of any such unconstitutional phrases, clause, sentence, paragraph, or section.

Section 10. Publication

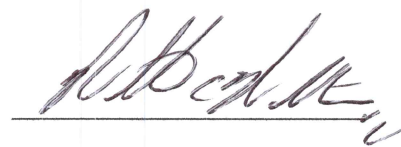
The summary of this Ordinance, attached as Exhibit "A" hereto, shall be published in the official newspaper in accordance with the Texas Local Government Code Section 52.012. Upon such publication an affidavit by the publisher of the official newspaper shall be filed with the City Secretary.

Section 11. Effective Date.

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

PASSED, APPROVED AND ADOPTED on the 17th day of April 2023. Ayes 3
Nays 0 Abstain 0

APPROVED:

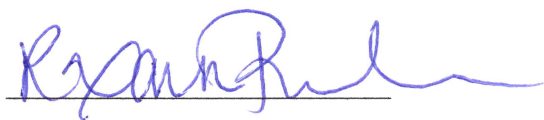


WALTER WILLIAMS JR.

Mayor



ATTESTED BY:

A handwritten signature in blue ink, appearing to read "Ryan R.", is written over a horizontal line.

City Secretary

EXHIBIT "A"
PUBLIC NOTICE

ON April 17, 2023, THE CITY COUNCIL OF THE CITY OF NEW BERLIN, TEXAS ADOPTED AN ORDINANCE THAT: PROHIBITED TRUCK TRAFFIC ON PUBLIC STREETS DESIGNATED AS NO THROUGH TRUCK STREETS; PROVIDED FOR THE INSTALLATION OF SIGNS TO BE POSTED ON THE DESIGNATED STREETS; PROVIDED A PENALTY AND PROVIDED AN EFFECTIVE DATE.

Albrecht Rd, Old School Rd, Stahl Rd, Schmidt Rd, Partnership Rd, Kunde Rd, S. Santa Clara Rd, portion of Warncke Rd that is within the City of New Berlin city limits, portion of Linne Rd that is within the City of New Berlin city limits, Church Rd, Gin Spur Rd, and include all of Santa Clara Rd within the City of New Berlin City limits.