

Ordinance No. 3068-13

**OPERATION OF HEAVY AND OVERSIZED VEHICLES
STREET PROTECTION ORDINANCE**

AN ORDINANCE OF THE CITY OF BALCH SPRINGS, TEXAS, AMENDING CHAPTER 66 OF THE CODE OF ORDINANCES, ENTITLED “STREETS, SIDEWALKS, AND OTHER PUBLIC PLACES” TO ADD A NEW ARTICLE VI TO BE ENTITLED “OPERATION OF HEAVY AND OVERSIZED VEHICLES AND STREET PROTECTION;” CHAPTER 78, SECTION 78-201 ENTITLED “TRUCK ROUTE DESIGNATED” TO IDENTIFY ADDITIONAL ROADS AS TRUCK ROUTES; PROVIDING FOR THE PROTECTION OF CITY STREETS FROM DAMAGE FROM THE PASSAGE OF HEAVY, OVERSIZED AND OVERLENGTHED VEHICLES AND EQUIPMENT, PROVIDING FOR ENFORCEMENT, INCLUDING A CRIMINAL FINE NOT TO EXCEED \$500 PER DAY, SEVERABILITY, IMPOSING PENALTIES, AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the City of Balch Springs, Texas is responsible for the maintenance and repair of the streets within corporate boundaries of the City; and

WHEREAS, the City has invested significant amounts of public money in the construction, maintenance, and repair of those streets; and

WHEREAS, use of those streets for the conveyance and passage of heavy vehicles, oilfield equipment, and other weighty items causes damage to the streets; and

WHEREAS, the City has the authority to regulate the movement and operation of overweight, oversize, or overlength commodities or “superheavy,” oversize, or overlength equipment (that cannot be reasonably dismantled) on a public road other than a state highway that is in the territory of the municipality, pursuant to Texas Transportation Code §621.303; and

WHEREAS, the City has the authority to enforce in its municipal court those state laws governing overweight or oversized vehicles, the fine for violation of which does not exceed \$500, pursuant to Texas Transportation Code Chapters 621 & 623 particularly §621.506(f) & §623.019(f); and

WHEREAS, being a Home Rule City, the City has exclusive control over the highways, streets, and alleys of the municipality, pursuant to Texas Transportation Code § 311.001; and

WHEREAS, the majority of City streets are residential in nature, designed and built for ordinary residential usage, without the appropriate infrastructure or safeguards necessary for the passage of larger commercial vehicles or for more intense use; and

WHEREAS, the continued use of residential streets for more intense purposes has caused the pervasive deterioration of city streets and infrastructure to the detriment of the health, safety and welfare of the citizens of the City of Balch Springs; and

WHEREAS, the City Council has determined that highways under its jurisdiction are insufficient to carry loads as may otherwise be authorized by state law; and

WHEREAS, the City Council has further determined that it is in the best interest of the health, safety and welfare of the citizens of the City of Balch Springs to adopt rules, regulations and policies under the authority granted by State law establishing regulations, restrictions and operations of the streets within the territorial city limits.

WHEREAS, the City has the authority to establish truck routes that prohibit trucks of certain sizes from traveling on particular streets; and

WHEREAS, the City has the authority to prohibit the parking of trucks of certain sizes in residential areas; and

WHEREAS, the City has the authority to require owner or operators of vehicles that damage public property to pay for the damage; and

WHEREAS, the City has the authority to enact regulations that limit noise, dust, and pollution in connection with vehicular travel; and

WHEREAS, the City Council of Balch Springs desires to establish a procedure for the protection of the streets and for the repair or recovery of the cost of repair of the streets that are so damaged;

NOW THEREFORE, BE IT ORDAINED by the City Council of the City of Balch Springs, Texas, that:

Section 1. Recitals

The foregoing recitals are adopted and incorporated herein for all purposes.

Section 2. Amendment of Chapter 66

Chapter 66 of the Balch Springs Code of Ordinances, entitled “Streets, Sidewalks, and other Public Places,” is hereby amended by the addition of a new Article VI, which shall read as follows:

“ARTICLE VI: OPERATION OF HEAVY AND OVERSIZED VEHICLES AND STREET PROTECTION

Sec. 66-201. - Definitions

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

City: the City of Balch Springs, an incorporated municipality in Dallas County, Texas.

City Limits: the incorporated municipal boundaries of the City.

Person: Any human being, corporation, association, sole proprietorship, company, agency. The term also includes a general contractor, subcontractor, or operator of a heavy truck or commercial motor vehicle.

Port of Entry: A street entrance to the City from a state or county highway.

Responsible Person: Any human being, corporation, association, sole proprietorship, company, agency. The term also includes a general contractor, subcontractor, or operator of a commercial motor vehicle or heavy truck.

Heavy Trucks by definition include but are not limited to the following:

Commercial Motor Vehicle: *Motor vehicle designed for transportation of property or for delivery purposes.*

Semitrailer: means vehicle of the trailer type so designed or used in conjunction with a motor vehicle that some part of its own weight and that of its load rest upon or is carried by another vehicle.

Truck: means any motor vehicle designed, used, or maintained primarily for the transportation of property with a manufacturer's rated carrying capacity exceeding two thousand (2,000) pounds and is not intended to include those trucks commonly known as pickup trucks, panel delivery trucks and carry-all trucks.

Truck tractor: means every motor vehicle designed or used 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 as drawn.

Sec. 66-202. - Restrictions; Offense

(a) It shall be unlawful and a violation of this Ordinance for any heavy truck or commercial motor vehicle to operate on streets and alleys within the city,, not designated as a truck route in accordance with Section 78-201 as follows:

(1) Where signs have been properly posted to read *Truck Prohibited* or with such equivalent language, erected pursuant to Sec. 66-204 hereof.

(2) When heavy trucks or semi-trailers exceed a gross weight of fifty-eight thousand four hundred twenty (58,420) pounds.

(3) With a load exceeding 7,000 pounds, or having a greater weight than 600 pounds per inch width of tire upon on any wheel. Such weight prescribes the width, height, length, loading, etc., of motor vehicles.

(4) Over or on a public highway or at a port-of-entry to the city if the vehicle or combination has: (1) a single axle weight heavier than 20,000 pounds, including all enforcement tolerances; (2) a tandem axle weight heavier than 34,000 pounds, including all enforcement tolerances; (3) an overall gross weight on a group of two or more consecutive axles heavier than the weight computed using the following formula and rounding the result to the nearest 500 pounds: $W = 500((LN/(N - 1)) + 12N + 36)$ where: "W" is maximum overall gross weight on the group; "L" is distance in feet between the axles of the group that are the farthest apart; and "N" is number of axles in the group; or (4) tires that carry a weight heavier than the weight specified and marked on the sidewall of the tire, unless the vehicle is being operated under the terms of a special permit.

(5) Notwithstanding Subsection (a)(4), two consecutive sets of tandem axles may carry a gross load of not more than 34,000 pounds each if the overall distance between the first and last axles of the consecutive sets is 36 feet or more. The overall gross weight on a group of two or more consecutive axles may not be heavier than 80,000 pounds, including all enforcement tolerances, regardless of tire ratings, axle spacing (bridge), and number of axles.

The specified limitations are intended to comply with state law requirements as they exist or as they may be amended and to the extent state or federal law provides or a lesser weight restriction, state or federal law shall control.

Notwithstanding any permissible weight limit to the contrary, no vehicle covered herein shall traverse roadways, culverts or bridges with any weight greater than is specified by the appropriate signage indicating a weight limitation.

(b) No person shall operate or cause to be operated any commercial motor vehicle with a rated capacity in excess of twenty-six thousand (26,000) pounds GVWR, according to the manufacturer's classification on a public street within the territorial city limits without a business destination, point of business origin, residential destination, point of residential destination, within the territorial city limits except upon streets

designated as truck routes; provided, however, this section shall not apply to emergency vehicles operating in response to emergency calls, school buses, vehicles for the transportation of the disabled, nor to vehicles operated by a public utility in the performance of inspection or maintenance functions. Such commercial motor vehicle with a business or residential destination or point of business or residential origin within the territorial city limits shall be operated only on designated truck routes or on the shortest street route between such business or residential destination or point of business or residential origin and the nearest designated truck route. To the extent required by state or federal law, the driver of any such commercial motor vehicle shall, at any time such commercial motor vehicle is operated off a designated truck route, carry with him/her a bill of lading, log book, delivery slip or other written evidence showing all points of business origin and business destination within the territorial city limits.

(c) This section does not:

(1) authorize size or weight limits on the national system of interstate and defense highways in this state greater than those permitted under 23 U.S.C. Section 127, as amended;

(2) prohibit the operation of a vehicle or combination of vehicles that could be lawfully operated on a highway or road of this state on December 16, 1974; or

(3) apply to a vehicle or combination of vehicles that operates exclusively:

(A) at a private port of entry;

(B) on private roads associated with the port of entry; and

(C) across a public highway between private roads associated with the port of entry under a contract under Section 623.052, Transportation Code.

(4) apply to any person operating or causing to be operated a motor vehicle on a state highway under a valid and subsisting permit for the operation of overweight or oversize equipment for the transportation of such commodities as cannot be reasonably dismantled issued by the state or Texas Department of Highways and Public Transportation under the provisions of Chapter 623 of the Texas Transportation Code as such Chapter now exists and as it may from time to time be amended.

(d) The terms, provisions and regulations set forth in this section do not apply to truck tractor and trucks operated by a political subdivision or under contract with a political subdivision for the purposes of fire protection or solid waste collection and transport.

(e) It shall be unlawful and a violation of this Ordinance for a person to require an employee, contractor, subcontractor, representative or agent driving a commercial motor vehicle or heavy truck to traverse the public streets of the city on a route that does not consider and utilize the truck routes or otherwise contrary to the provisions of this Ordinance.

(f) In addition to the penalties set forth herein, any person who ships or carries in, or controls the movement of a commercial motor vehicle, may be subjected to administrative penalties and injunctive relief for violation of any of the size and weight regulations set forth in this Ordinance.

Sec. 66-203. - Signs

The Chief of Police is hereby directed to, at his discretion, place signs upon local streets notifying the public that no truck traffic is allowed thereon pursuant to the restrictions provided herein.

Sec. 66-204. - Use by Trucks Originating Outside the City of Balch Springs

All heavy trucks entering the City with a destination point within the City shall use a route that minimizes use of city streets by entering via state or county maintained streets or highways and not departing from these streets or highways until the state or county maintained street or highway intersects the route providing the closest access to the business destination; proceeding on the preferred route, deviating only at major thoroughfare intersections enroute to the intersection within the closest proximity to the destination point. Departing from the destination point, all heavy trucks shall return to the state or county maintained street or highway by the shortest route via major thoroughfare to the state maintained highway.

Sec. 66-204. - Use by Trucks Originating Inside the City

All heavy trucks with a destination point outside the City shall proceed from their point of origin to the closest state or county maintained highway by the shortest route via local roadway to the closest major thoroughfare, proceeding to the closest route via major thoroughfares by the shortest route, and to the state maintained highway by the shortest route.

Sec. 66-205 Operation so as to allow spillage of load prohibited.

It shall be unlawful for any person to operate or cause to be operated any commercial motor vehicle on a public street in such manner as to permit any portion of its cargo, either liquid or solid, to fall out of, spill from, or blow out of such vehicle.

Sec. 66-205. – Enforcement and Penalty

(a) Any violation of this Ordinance shall be punishable by a fine of not more than Five Hundred Dollars (\$500.00) per day, subject to applicable State Law.

(b) Each day a violation occurs constitutes a separate violation.

(c) Payment of any fine collected hereunder shall not relieve a person of liability for repair of any street, roadway, or other property damaged by an Overweight Vehicle.

(d) To the extent a fine to be imposed for an offense committed under this Article does not exceed Five Hundred Dollars (\$500.00), and unless otherwise specifically set forth herein or in state law as adopted, allegation and evidence of a culpable mental state is not required for the proof of an offense defined by this Article.”

Section 3. Amendment of Chapter 78

Chapter 78 of the Balch Springs Code of Ordinances, Section 78-201, entitled “Truck Routes Designated,” is hereby amended to hereinafter read as follows:

Sec. 78-201. - Truck routes designated.

The following streets, or portions thereof, shall be designated as truck routes:

Street	Extent
Elam Road	Acres Drive to Interstate 635
Lake June Road	Cheyenne Road to east city limit line
Seagoville Road	City limit to city limit

Beltline Road

Beltline to Lake June;

Section 4. Reservation of Rights

All rights and remedies of the City of Balch Springs, Texas, are expressly saved as to any and all violations of the provisions of any other ordinance affecting the streets and roadways of the City which existed 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, the same shall not be affected by this Ordinance but may be prosecuted until final disposition by the courts.

Section 5. Severability

It is not the intention of the City of Balch Springs, City Council to enact any provision of this Ordinance in regard to which Federal or State law preempts the City's authority, and it is hereby declared that if any section, paragraph, sentence, clause, or phrase of this Ordinance is declared unconstitutional or otherwise illegal by the valid judgment or decree of any court of competent jurisdiction, such event shall not affect any of the remaining phrases, clauses, sentences, paragraphs, and sections of this, since the same would have been enacted by the City Council without such unconstitutional or illegal phrase, clause, sentence, paragraph, or section.

Section 6. Conflicts

This Ordinance shall be cumulative of all provisions of ordinances of the City except where the provisions of this Ordinance are in direct conflict with the provisions of such ordinances, in which event the conflicting provisions of such ordinances are hereby repealed. Nothing contained in this Ordinance generally or this chapter specifically shall be construed to allow the violation of any residential deed restriction.

Section 7. Publication

This Ordinance shall become effective immediately upon adoption and the penalties and fines herein shall become effective as of the date of its publication as required by Chapter 52, Local Government Code. The City Secretary is hereby directed to cause the caption of this Ordinance to be published in the manner required by law.

ADOPTED, PASSED, AND APPROVED this, the 26th day of August 2013, by a vote of the City Council, City of Balch Springs, Texas.

City of Balch Springs

Carrie F. Gordon, Ph.D, Mayor

Attest:

Cindy Gross, City Secretary