

ORDINANCE NO. 3485-6-17

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ALLEN, COLLIN COUNTY, TEXAS, AMENDING THE CODE OF ORDINANCES BY AMENDING CHAPTER 13 "STREETS AND SIDEWALKS" BY ADDING ARTICLE IV "MOVING BUILDINGS" REGULATING THE MOVING OF BUILDINGS AND OTHER STRUCTURES ON CITY STREETS, ALLEYS AND OTHER ROADWAYS; PROVIDING A SAVINGS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR PENALTY OF A FINE NOT TO EXCEED TWO THOUSAND DOLLARS (\$2,000); AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of Allen, Texas, has determined that it is in the best interest of the public health, safety and welfare of the residents of the City of Allen to amend the Code of Ordinances of the City of Allen to provide for the regulation of the transportation of buildings and other structures on and over the public streets, alleys, and other roadways of the City.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ALLEN, COLLIN COUNTY, TEXAS, THAT:

SECTION 1. The Code of Ordinances of the City of Allen, Texas, be and the same is hereby amended by amending Chapter 13 "Streets and Sidewalks" by adding Article IV "Moving Buildings" to read as follows:

ARTICLE IV. MOVING BUILDINGS

Sec. 13-51. Permit Required; fees.

- (a) No person shall move any building or other structure upon or across the streets, alleys, or other roads within the city without first having secured a permit from the chief building official authorizing such move; provided, no such permit shall be issued for the moving of a structure or building into the city for reconstruction therein unless the owner thereof or his agent first secures a building permit for such construction.
- (b) The person to whom the permit required by this section, referred to in this article as the "mover," shall pay a permit fee established by resolution of the city council from time to time and made a part of the city's fee schedule for each day or fraction thereof that the structure or building is in or on the streets, alleys, other roadways within the city.

Sec. 13-52. Bond; arrangement with utility companies.

Before the permit required by this article is granted by the chief building official, the applicant shall obtain a surety bond payable to the city in the sum of \$25,000.00 executed by a surety company authorized to do business in the State of Texas, to be approved by the building department, conditioned among other things that such applicant will save, indemnify and keep harmless the city against all liabilities, judgments, costs and expenses which may in any way accrue against the city in consequence of the granting of the permit including, but not limited to, any damages to property or injury to person, including death, arising from the intentional or negligent act or omission of the mover, or the mover's officers, employees, directors, contractors, and subcontractors arising from or relating to the activities performed pursuant to the permit that is issued. The chief building official may refuse to issue a removal permit in a case where such work will necessitate the removal or cutting of any wires belonging to a public utility company, or to the city, until such time as the party making application for such permit

shall have made satisfactory arrangements with the parties owning or controlling such wires, whether by written agreement or by depositing with such company a sufficient amount of money to cover the cost of such work, for cutting and replacing the wires so moved or cut, to the satisfaction of the parties owning or controlling such wires.

Sec. 13-53. Contents.

A permit issued by the chief building official to a mover shall state specifically all the conditions to be complied with in moving, shall designate the route to be taken, and shall limit the time for removal.

Sec. 13-54. Denial for dangerous structures.

If the chief of police or designee deems it unsafe or dangerous to the public to move any building or other structure over public streets, roads or alleys because the condition of such building or structure, no permit shall be issued or an issued permit may be revoked for such moving.

Sec. 13-55. Use of designated route.

In no case shall any building or structure be moved on or over a public street, alley, or other roadway except on a route designated by the chief of police or designee.

Sec. 13-56. Continuous operation; precautions at night.

The removal of a building or other structure under a permit, when commenced, shall be continuous during all the hours of the day, and day by day, and at night if required by the chief of police, until completed, and shall be carried on with the least possible obstruction to the street or alley occupied. No building shall be allowed to remain overnight upon any street crossing or intersection, or in such a position as to prevent access to any fire hydrant. Caution lighting shall be placed in conspicuous places at each end and in the center of such building on all sides during the night.

Sec. 13-57. Report of position of structure at night.

It shall be a violation of this article for a mover to fail to report to the chief of police or designee each night the exact location on which the structure is to stand on the streets for the night.

Sec. 13-58. Clearing obstructions on completion.

Upon the expiration of the time named in the permit, or sooner if the use of the streets, alleys, or other roadways are no longer necessary, the mover shall clear such streets, alleys, and/or roadways of all obstructions.

Sec. 13-59. Escort Vehicles.

Movers shall engage escort vehicles to lead and follow the vehicle(s) transporting the building or structure that is being moved, which escort vehicles shall comply with Texas Transportation Code sec. 623.099.

Sec. 13-60. Care in carrying out operation.

All movers shall proceed in a careful manner with the removal, transportation, and relocation of a building or other structure over a public street, alley, or other roadway and shall not in any manner interfere with private property. The director of community development or his designee shall have the power to revoke any permit issued pursuant to this article whenever in his judgment any mover is proceeding in a reckless and careless manner in the removal or transportation of a building or is otherwise failing to comply with the terms of the permit.

Sec. 13-61. Repair of streets, etc.

Every person receiving a permit from the chief building official to move a building or other structure shall, within one day after such building or other structure reaches its destination, report that fact to the chief building official and the director of public works or his designee, who shall thereupon inspect the streets, alleys, and roadways over which such structure has been moved and ascertain the condition thereof. If the removal has caused any damage to the streets, alleys, or roadways, the mover shall forthwith replace the same in as good repair as they were before the permit was granted. Upon failure to do so within ten days thereafter, to the satisfaction of the director of public works and the director of public works or his designee, he shall cause the streets, alleys, avenues or public grounds to be repaired and hold the mover and the sureties of the bonds given by such mover responsible for the payment for such damage.

Sec. 13-62. Indemnity.

- (a) Each mover transporting a building or other structure in the public rights-of-way shall promptly defend, indemnify and hold the city harmless from and against all damages, costs, losses or expenses (i) for the repair, replacement, or restoration of city's property, equipment, materials, structures and facilities which are damaged, or destroyed as a result of the intentional or negligent acts or omissions of mover and movers, officers, employees, agents, contractors, subcontractors, and anyone else performing work pursuant to the moving permit issued, and (ii) from and against any and all claims, demands, suits, causes of action, and judgements for (a) damage to or loss of the property of any owner (including, but not limited to the owner, its agents, officers, employees and subcontractors, city's agents, officers and employees, and third parties); and/or (b) death, bodily injury, illness, disease, loss of services, or loss of income or wages to any owner (including, but not limited to the agents) arising out of, incident to, concerning or resulting from the negligent or willful act or omissions of the mover, its officers, employees, agents, contractors and/or subcontractors, in the performance of activities pursuant to the issued permit.
- (b) This section shall not apply to any liability resulting from the negligent or willful acts of the city, its officers, employees, agents, contractors, or subcontractors.
- (c) This section is solely for the benefit of the city and is not intended to create or grant any rights, contractual or otherwise, to any other owner or entity.

Sec. 13-63. Insurance requirements.

(a) *General.*

- (1) A mover must provide acceptable proof of insurance in the total amount required by this section for permits for transporting a building or structure within or on public rights-of-way, or make other provisions acceptable to the director of community development.
- (2) The coverage must be on an "occurrence" basis and must include coverage for personal injury, contractual liability, premises liability, medical damages, underground, explosion and collapse hazards.
- (3) Each policy must include a cancellation provision in which the insurance company is required to notify the city in writing not fewer than thirty (30) days before canceling, failing to renew, or reducing policy limits.
- (4) The mover shall file the required original certificate of insurance prior to the issuance of a permit. The certificate shall state the policy number; name of the insurance company; name and address of the agent or authorized representative of the insurance company; name, address and telephone number of insured; policy expiration date; and specific coverage amounts.
- (5) The city will accept certificates of self-insurance issued by the State of Texas or letters written by the agency in those instances where the state does not issue such letters, which provide the same coverage as required herein. However, certificates of self-insurance must be approved in advance by the risk manager for the city.
- (6) The required insurance policies shall protect the agency or mover and include the city as an additional insured. The insurance shall be primary coverage for losses covered by the policies.
- (7) All policies shall be endorsed to provide a waiver of subrogation against the city.

(b) *Insurance requirements.* Each mover applying for a permit shall obtain, maintain, and provide proof of the each of the following types of insurance and coverage limits:

- (1) Commercial general liability on an occurrence form with minimum limits of two million dollars (\$2,000,000.00) per occurrence and five million dollars (\$5,000,000.00) aggregate. This coverage shall include the following:
 - a. Products/completed operations to be maintained for one (1) year;
 - b. Personal and advertising injury;
 - c. Owners and contractors protective liability; and
 - d. Explosion, collapse, or underground (XCU) hazards.

- (2) Automobile liability coverage with a minimum policy limits of one million dollars (\$1,000,000.00) combined single limit. This coverage shall include all owned, hired and non-owned automobiles.
- (3). Workers compensation and employers liability coverage. Statutory coverage limits for coverage A and five hundred thousand dollars (\$500,000.00) coverage B employers liability is required.

SECTION 2. Should any word, sentence, paragraph, subdivision, clause, phrase or section of this ordinance or of the Code of Ordinances, as amended hereby, be adjudged or held to be void or unconstitutional, the same shall not affect the validity of the remaining portions of said ordinance or the Code of Ordinances, as amended hereby, which shall remain in full force and effect.

SECTION 3. An offense committed before the effective date of this ordinance is governed by prior law and the provisions of the Code of Ordinances, as amended, in effect when the offense was committed and the former law is continued in effect for this purpose.

SECTION 4. 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 Allen, as previously amended, and upon conviction shall be punished by a fine not to exceed the sum of Two Thousand Dollars (\$2,000) for each offense.

SECTION 5. This ordinance shall take effect immediately from and after its passage and publication of the caption as required by law.

DULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF ALLEN, COLLIN COUNTY, TEXAS, ON THIS THE 27TH DAY OF JUNE 2017.

APPROVED:

Stephen Terrell, MAYOR

APPROVED AS TO FORM:

ATTEST:

Peter G. Smith, CITY ATTORNEY
(kbl:6/16/17:87155)

Shelley B. George, TRMC, CITY SECRETARY