

Ordinance No. 2018-4

AN ORDINANCE OF THE CITY OF BALMORHEA, TEXAS, REPEALING SECTION 28-201 OF THE CODE OF ORDINANCES; BY DELETING THE CURRENT COMMERCIAL VEHICLE PARKING REGULATIONS AND ENFORCEMENT AND CREATING EXCEPTIONS FOR CERTAIN TEMPORARY COMMERCIAL VEHICLE PARKING AND FOR THE PARKING OF BUSES AT CERTAIN FACILITIES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR A PENALTY NOT TO EXCEED ONE-THOUSAND DOLLARS (\$1000.00) FOR EACH OFFENSE AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, it has been demonstrated that the current parking regulations relating to commercial vehicles no longer serve the best interest of the City; and

WHEREAS, the City Council finds that it is in the best interest of the citizens of the City to revise the current commercial parking regulations by clarifying the regulations and excepting from such regulations certain temporary commercial vehicle parking and the parking of passenger buses in connection with entertainment, lodging and other facilities to which members of the public may arrive by passenger bus.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BALMORHEA, TEXAS:

SECTION 1. That Section 28-201 of the Code of Ordinances of the City of Balmorhea, Texas, is hereby repealed to read as follows, in all other respects said Code, Chapter and Article to remain in full force and effect:

STOPPING, STANDING AND PARKING

COMMERCIAL VEHICLE PARKING

Sec. 9-166. Definitions.

For the purpose of this ordinance, the following terms shall carry the meanings as set out below:

Authorized emergency trucks mean fire department trucks, police trucks, public ambulances for which permits have been issued by the State Board of Health, emergency trucks of municipal or volunteer departments or public service corporations as are designated or authorized by the governing body of an incorporated city, private trucks operated by volunteer fireman 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.

Commercial truck means any motor vehicle designed or used for the transportation of property, excluding a passenger bus, passenger automobile, motorcycle, panel delivery truck or pickup truck.

Commercial vehicle shall mean truck-tractor, road tractor, semi-trailer, bus, RV, truck or trailer.

Integral part of a lawfully zoned business shall mean the operation and use of a commercial vehicle to deliver merchandise, or transport tools, equipment or supplies necessary to the operation of the lawfully zoned business and other uses of commercial vehicle without which the operation of said business would be substantially hindered. Remote and incidental uses of a commercial vehicle in connection with a business, such as advertising, name exposure and promotion, except where such is specifically permitted by the zoning ordinance, shall not be deemed use as an integral part of such business.

Motor vehicle means every vehicle that is self-propelled.

Semitrailer means every vehicle of the trailer type so designated or used in conjunction with a motor vehicle that some part of its own weight and that of its own load rests upon or is carried by such motor vehicle.

Trailer means every vehicle without motor power designed or used for carrying property or passengers wholly on its own structure for commercial use and designed to be drawn by a motor vehicle, excluding trailers used for recreational or agricultural purposes and/or trailers carrying commonly recognized recreational vehicles or agricultural products.

Truck means a commercial truck, semitrailer, trailer, truck-tractor, cement mixer, or any combination thereof.

Truck-tractor means every motor vehicle designed or used primary 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.

Vehicle means every mechanical device, in, upon, or by which any person or property is or may be transported or drawn upon a public highway, including motor vehicles, commercial motor vehicles, trucks, truck-tractors, cement mixers, trailers, and semitrailers, but excepting devices moved by human power or used exclusively on stationary rails or tracks.

Sec. 9-167. Parking of commercial vehicles prohibited - public streets, alleys, etc.

It shall be unlawful for any owner or person in control of a commercial vehicle, as defined herein, to leave, park, or stand, or permit the leaving, parking, or standing, of such vehicle upon any public street, alley, parkway, boulevard or other property owned or controlled by any unit of government, except that this section shall not apply to:

- (a) Commercial vehicles while being used for street construction, maintenance, or repair;
- (b) Commercial vehicles being utilized by a company engaged in extending public service utilities;
- (c) Passenger buses taking on or discharging passengers at an approved bus stop;
- (d) A commercial vehicle parked in a loading zone for the purpose of loading or unloading freight or merchandise to a lawfully zoned business;
- (e) A commercial vehicle parked for the purpose of expeditiously delivering or picking up merchandise to or from a specific designated location or loading or unloading personal property to or from a specific designated location; and
- (f) A commercial vehicle experiencing a mechanical defect making it unsafe or impossible to proceed, for such period of time as emergency repairs are made or, if repairs cannot be made in a timely manner, until a tow truck arrives.

Sec. 9-168. Parking of commercial vehicles prohibited - residential areas.

It shall be unlawful for any owner or person in control of a commercial vehicle, to leave, park, or stand, or permit the leaving, parking, or standing of such vehicle within any area of the city zoned residential area according to the *City of Balmorhea Code Zoning Ordinance*, except that this section shall not apply to a commercial vehicle parked for the purpose of expeditiously delivering or picking up merchandise to or from a specific designated location or loading or unloading personal property to or from a specific designated location while in the normal course of business for which the commercial vehicle operates.

Sec. 9-169. Parking of commercial vehicles - within certain zoning districts.

It shall be unlawful for any owner or person in control of a commercial vehicle set forth herein, or any owner or person in control of property described herein to leave, park, or stand a commercial vehicle, or permit the leaving, parking, or standing of a commercial vehicle upon property within an area zoned nonresidential according to the *City of Balmorhea Code Zoning Ordinance*, except where one or more of the following conditions exist:

- (a) The commercial vehicle is parked upon an approved parking surface within an area zoned commercial or industrial (C-1, C-2 and 1-1) according to the *City of Balmorhea Code Zoning Ordinance*. **Approved surfaces shall be limited to asphalt or concrete in a (C-1, C-2) area and/or caliche in an (1-1) area. Surface material shall be approved by city staff prior to installation.** For businesses, residences or empty lots that are currently nonconforming to this requirement, the city will grant a 180-day grace period for landowners in these areas to comply. The 180-day grace period for compliance shall commence upon the second reading and approval of this ordinance.

- (b) The commercial vehicle is parked or standing for the purpose of expeditiously loading and unloading passengers, freight or merchandise;

- (c) The commercial vehicle is parked at a lawfully zoned business establishment, wherein such commercial vehicle is utilized as an integral part of such lawfully zoned business;

- (d) The commercial vehicle is passenger bus parked on a parking lot in an area designated by the owner of the parking lot for the parking of buses, and with the consent of the owner during such period as the bus passengers are attending an event at a facility zoned for such activities, or are customers at a retail center, or in the case of a hotel or motel, during such periods of time that the bus passengers are customers of the hotel or motel;

- (e) The commercial vehicle parked is parked in a designated area at an exhibit or exhibition hall, convention center, entertainment, or similar facility when the commercial vehicle is involved in the delivery and removal of equipment, products, merchandise, livestock or other items to and from the facility. All such commercial vehicles must be identified with an official temporary parking permit issued by the facility hosting the event and must be parked in the area designated for such vehicles. The temporary permit must identify the vehicle to which it is issued by license plate number and state, year, make, model, and color, the driver of the vehicle and the name and date or dates of the event during which the permit is valid; or

Section 9-170 Penalty Provision.

Any person, firm, corporation or other entity violating any provision of this article shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined a sum not exceeding \$1000.00. Each day, or any part thereof, during which a violation of this article shall not preclude the city from filing suit to enjoin the violation. The city retains all legal rights and remedies available to it pursuant to local, state and federal law.


Section 9-171 Effective Date

The Ordinance shall be effective immediately upon the second reading of this ordinance and publication.

PASSED AND APPROVED this, the 12 day of February, 2018.

ATTEST:

CITY OF BALMORHEA



Sandra Navarrete
Sandra Navarrete, City Clerk

John L. Davis
John L. Davis, Mayor

1st Reading: February 12, 2018

2nd Reading: March 12, 2018