

NO. 2016-08

AN ORDINANCE OF THE CITY OF RIESEL, TEXAS PROHIBITING DRIVING OR PARKING OF TRUCKS ON THE EAST CITY SQUARE; PROHIBITING THE DRIVING OR PARKING OF HEAVY EQUIPMENT ON THE EAST CITY SQUARE; PROHIBITING PARKING MOTOR VEHICLES ON THE EAST CITY SQUARE FOR THE PURPOSE OF SALE; PROVIDING FOR SIGNS; MAKING VIOLATION AN OFFENSE (MISDEMEANOR) PUNISHABLE BY A FINE NOT TO EXCEED FIVE HUNDRED (\$500.00), PROVIDING THAT EACH DAY OF VIOLATION IS A SEPARATE OFFENSE; ESTABLISHING EXCEPTIONS, REPEALING CONFLICTING ORDINANCES OR CONFLICTING PROVISIONS OF ORDINANCES, ADOPTING A SEVERABILITY CLAUSE, PROVIDING THAT ORDINANCE NOT AN ELECTION OF REMEDIES; AND ESTABLISHING AN EFFECTIVE DATE

WHEREAS, the City Square is an area of land located within the City of Riesel and owned by the City of Riesel; and

WHEREAS, the City Square is divided by State Highway No. 6 in to the East City Square, being on the East side of State Highway No. 6, and the West City Square, being on the West side of State Highway No. 6; and

WHEREAS, the West City Square is that area of land that has as its West boundary Main Street, as its South boundary Alexander Street, as its East boundary Highway No. 6 and as its North boundary FM 1860 (Frederick Street) (hereinafter "West City Square"); and

WHEREAS, the East City Square has as its West boundary State Highway No. 6, as its South boundary Alexander Street, as its East boundary Wiebusch Street and as its North boundary FM 1860 (Frederick Street) (hereinafter "East City Square"); and

WHEREAS, these properties are collectively referred to as the "City Square"; and

WHEREAS, the City Square is intended to provide public parking for visitors to the Downtown area; and

WHEREAS, the East City Square parking surface has suffered significant damage caused by heavy vehicles; and

WHEREAS, the City has spent significant money repairing the parking surface; and

WHEREAS, the size of trucks and heavy equipment parked on the East City Square also interferes with parking availability;

WHEREAS, the parking of "for sale" vehicles on the East City Square takes up parking space and interferes with the intended use of the East City Square; and

WHEREAS, to protect City property and the ability of the East City Square to function for its intended use it is necessary to enact the regulations set forth herein.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF RIESEL, TEXAS THAT:

SECTION 1. **Incorporation of Recitals.** The foregoing recitals are incorporated herein and made findings of fact.

SECTION 2. **Definitions.** The following words, terms and phrases when used in this section, shall have the meanings ascribed to them in this Ordinance, except where the context clearly indicates a different meaning:

(1) *Authorized emergency trucks* shall mean 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 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.

(2) *East City Square* shall mean the area, or any portion thereof, identified in the foregoing recitals as the East City Square.

(3) *For Sale Motor Vehicle* shall mean a motor vehicle that is parked on the East City Square with a sign or other indication that it is for sale, and which has been parked on the East City Square for the purpose of advertising the vehicle for sale. A motor vehicle with a sign or other indication that it is for sale is presumed to be parked for the purpose of advertising the vehicle for sale after it has been parked on the East City Square for more than four (4) hours.

(4) *Heavy Equipment* shall mean bulldozers, graders, combines, and other such equipment that does not have as its intended use the transport of persons or property.

(5) *Light truck* shall mean any truck with a manufacturer's rated carrying capacity of two (2) tons or less, including trucks commonly known as pickup trucks, panel delivery trucks, and carryall trucks.

(6) *Motor vehicle* shall mean any self-propelled vehicle.

(7) *Truck* shall mean any motor vehicle designed, used or maintained primarily for the transportation of property, including "truck tractors," "road tractors," "trailers," "semi-trailers," "pole trailers," and "special mobile equipment" as those terms are defined in Texas Transportation Code Annotated §541.201.

SECTION 3. **Prohibition.** Except as set forth in Section 6 below, no Truck (as defined herein) or Heavy Equipment (as defined herein) shall be driven upon or parked or allowed to stand

on the East City Square. If the person who parked the Truck or Heavy Equipment in violation hereof cannot be located, the owner of the Truck or Heavy Equipment is presumed to be the violator.

SECTION 4. Violation an Offense. Violation of the prohibition set forth in Section 3 above shall constitute a misdemeanor offense punishable by a fine not to exceed \$500.00. Each day of violation constitutes a separate offense.

SECTION 5. Signage. City Staff are directed to obtain and install signs at each entry point to the East City Square advising of the prohibition of this Ordinance. At a minimum the signs shall read: “NO TRUCK OR HEAVY EQUIPMENT ALLOWED. TOWING ENFORCED”.

SECTION 6. Exceptions. The prohibition of Section 3 of this Ordinance shall not apply to:

- (a) Light Trucks as defined herein, including a Light Truck pulling a light duty trailer;
- (b) Authorized Emergency Trucks as defined herein;
- (c) City-owned or leased Trucks or Heavy Equipment;
- (d) State-owned or contracted Trucks or Heavy Equipment parked with prior approval of the City; or
- (e) A malfunctioning Truck or piece of Heavy Equipment that is directed to park on the East City Square by City police due it creating a hazard or obstruction if parked along a roadway.

SECTION 7 Prohibition. No “For Sale Motor Vehicle” as defined herein shall be parked on the East City Square.

SECTION 8 Violation an Offense. Violation of the prohibition set forth in Section 7 above shall constitute a misdemeanor offense punishable by a fine not to exceed \$500.00. Each day of violation constitutes a separate offense.

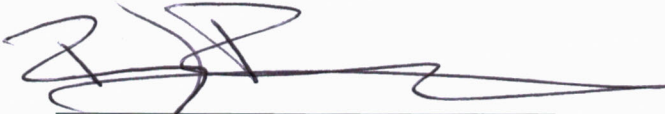
SECTION 9 Severability. That if any section, subsection, sentence, clause or phrase of this ordinance is, for any reason, held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance. The City of Riesel hereby declares that it would have passed this ordinance, and each section, subsection, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases be declared unconstitutional.

SECTION 10 Repeal. This Ordinance repeals any prior ordinance or provision of a prior ordinance on the subject matter that conflicts with this Ordinance.

SECTION 11 No Election of Remedies. The provision for criminal enforcement set forth herein is not an election of remedies by the City, and shall not prevent the City from taking other action in law or in equity against the violator. This may include towing and impoundment of the offending vehicle, with the owner responsible for all costs.

SECTION 12 **Effective Date.** This Ordinance shall become effective upon passage and publication of the ordinance or the caption thereof in the official city newspaper.

PASSED this 13th day of December, 2016.



MAYOR

Attest:



Alisha Lanary

CITY SECRETARY