

Housing

ORDINANCE NO. 2021-03

AN ORDINANCE REPEALLING ORDINANCE 2007-01 OF THE CITY OF DEPORT TEXAS AND REGULATING THE INSTALLATION, USE, STORAGE, AND PARKING OF MANUFACTURED, SMALL/ "TINY HOMES", AND CAMPER TRAILERS NOT LOCATED IN MANUFACTURED HOME PARKS WITHIN THE CITY OF DEPORT; PRESCRIBING REGULATIONS FOR MANUFACTURED, SMALL/TINY HOMES, AND CAMPER TRAILERS; REQUIRING APPLICATION OR VARIANCE FOR MANUFACTURED, SMALL/TINY HOMES, AND CAMPER TRAILERS; PRESCRIBING OTHER REQUIREMENTS TO THE APPROVAL OF APPLICATION; PROVIDING DEFINITIONS; PROVIDING A DEADLINE, PROVIDING A SEVERABILITY CLAUSE, PROVIDING FOR ENFORCEMENT,

WHEREAS, it is deemed in the best interest of the City of Deport for the health, safety, and welfare of its citizens that an Ordinance be established to regulate manufactured homes, small/ "tiny homes", and camper trailers within the City of Deport, Texas; and

WHEREAS, the provisions of this Ordinance shall apply to manufactured homes (not located in manufactured home parks), small/"tiny homes", and camper trailers or recreational vehicles.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DEPORT :

SECTION 1. PURPOSE The purpose of this Ordinance is to establish clear and unambiguous regulations pertaining to manufactured homes, small/ "tiny homes", and camper trailers not in manufactured home parks in the City of Deport and to promote thereby an attractive community.

SECTION 2. DEFINITIONS For the purpose of this Ordinance only, the following terms shall apply unless the context clearly indicates or requires a different meaning.

CITY. City of Deport, Lamar County, Texas.

MAYOR. The legally designated head of the City, or his authorized representative when acting in an official capacity, including but not limited to building inspector.

MANUFACTURED HOME or MANUFACTURED HOUSING or HUD-CODE MANUFACTURED HOME. A structure not manufactured before 5 years prior of application, according to the rules of the U.S. Department of Housing and Urban Development, transportable in one or more sections, which in traveling mode, is eight (8) body feet or more in width or forty (40) body feet or more in length, or when erected on site, is three hundred twenty (320) or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without permanent foundation when connected to the required utilities, and including plumbing, heating, air conditioning, and electrical systems. The term does not include a recreational vehicle as that term is defined by 24 CFR 3282.8 (9).

MOBILE HOME. A structure not manufactured before 5 years prior to the application, transportable in one or more sections, which when in traveling mode is eight (8) body feet or more in width or forty (40) body feet or more in length, or when erected on site, is three hundred twenty (320) or more square feet, and which is built on a permanent chassis, and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and including plumbing, heating, air conditioning, and electrical systems.

OWNER. The person named in the registration/title, or any person occupying a manufactured home, a mobile home, a small/tiny home, a travel trailer, or a recreational vehicle; and/or the owner or lessee of real property where the mobile home, small/tiny home, travel trailer, or recreational vehicle is located.

PERMANENT. The absence of a designated length of time, but with the appearance of long lasting or extended use, occupancy or location. For purposes of this Ordinance, a manufactured home, small/tiny home, and or camper trailers/ recreational vehicle shall be considered permanent if it remains in the same location for more than 30 days or if it remains on the same lot or property for 30 days even though it is moved to various locations.

SMALL/TINY HOME. A structure not manufactured before 5 years prior of application or built on site, which has a livable area of less than one thousand (1,000) square feet and designed to be used as a primary dwelling when connected to the required utilities, and including plumbing, heating, air conditioning, and electrical systems. A tiny home still resting on a trailer or mounted on wheels and axels is considered a travel trailer or recreational vehicle for purposes of the Ordinance.

TRAVEL TRAILER or RECREATIONAL VEHICLE. A portable vehicle built on a chassis and designed as a temporary dwelling for travel, recreation and vacation use and which has been permanently identified by the manufacturer, when such a vehicle has been equipped by the manufacturer for use on public streets and highways. The terms travel trailer and recreational vehicle shall also be deemed to include all other portable contrivances other than mobile homes, used or intended to be used generally for living and sleeping quarters and which may be moved under its own power, towed, or transported by another vehicle. A travel trailer or recreational vehicle that has been tied down, wheels removed, or otherwise modified so that its use on public streets and highways is restricted must then be considered as a tiny home consistent with these Ordinance definitions.

SITE PLAN. Graphic representation, drawn to scale, in a horizontal plane delineating the outlines of the land, included in the plan and all proposed use locations, accurately dimensioned, the dimensions also indicating the relations of each use to that adjoining and to the boundary of the property.

REPLACEMENT. The act of moving one manufactured/small/tiny home from its existing stand and replacing it with another manufactured/small/tiny home.

SECTION 3. PROHIBITIONS & VIOLATIONS

The following constitute prohibited conduct and are considered to be violations of this Ordinance.

- 1) Manufactured homes located in areas outside of a designated manufactured home park are prohibited.
- 2) Camper trailers (recreational vehicles) may not be used as a permanent residence or as a storage facility. Renting or leasing a camper trailer (recreational vehicle) for a permanent residence or storage facility is prohibited. Permanent has the definition contained in Section 2 of this Ordinance.
 - A.) Owners of camper trailers or recreational vehicles who reside inside the territorial limits of the City in an independent structure such as a single-family dwelling, a duplex, or an existing structure that is within the Building Code of the City , may store a camper trailer or recreational vehicle (not connected to utilities) on their property; however, that storage must be on a hard parking surface or if no hard surface is available, in the back yard shielded by a fence, a structure, or a canopy. No camper trailers are allowed to park in the front yard (the street side yard) of a house or lot, or on grass or dirt. The parking of a camper trailer or recreational vehicle for more than 2 hours on a public street in the City of Deport is prohibited.
 - B.) Temporary usage of a camper trailer or recreational vehicle may be exercised with the consent of the real property owner for no more than 21 cumulative days during a calendar year. The intent is to allow family or friends of the real property owner to visit, or to allow reconstruction or remodeling, or emergency quarters for the homeowners. Temporary occupancy does not include rental or any other commercial for-profit operation. Should the temporary usage exceed 21 days, the owner/occupant must obtain a permit as described in this Ordinance.
 - C.) Camper trailers/recreational vehicles that are connected to utilities, such as water or sewer or electricity at a location for 29 consecutive days are presumed to be permanent as defined herein. Temporary disconnection of utilities followed by a reconnection to a camper trailer or RV in the same location does not interrupt the 29 consecutive day prohibition contained in this Ordinance.
- 3.) Small/tiny homes are prohibited and considered a violation of this Ordinance on any lot where there is located another dwelling or a structure which could be occupied as a residence. Any small/tiny home must observe yard setbacks of 10 feet clearance plus easements on all sides and these setbacks and easements must be reflected on the submitted site plan.

SECTION 4. APPLICATION FOR EXTENDED TEMPORARY USE OF CAMPER TRAILER/RECREATIONAL VEHICLE The use or occupancy of any camper trailer or recreational vehicle which exceeds 21 days must be extended by an application for a permit containing the information as follows:

1. Name, address, and telephone numbers (both home and work) of the applicant.
2. The size, year, serial number, and manufacturer of the camper trailer/recreational vehicle, and whether the connections are gas, electric, water or a combination of the three.
3. Location and legal description of lot where the camper trailer/recreational vehicle is located.
4. A picture of the camper trailer/recreational vehicle in the location mentioned in the permit. Pictures must be both the front and back with a copy of the site plan showing the location and orientation of the camper trailer/recreational vehicle.
5. Signed permission from all adjacent property owners within 200 feet of the location of the camper trailer/recreational vehicle with addresses and dates of signature.

All applications for extended temporary use must be accompanied by a \$50 non-refundable processing fee.

The City Secretary shall approve or disapprove the application for the permit. If disapproved, the applicant may request a variance from the City Council, sitting as the Board of Adjustment.

SECTION 5. INSPECTIONS The City may inspect the location of any manufactured, small/tiny home, or camper trailer as necessary to determine compliance with this Ordinance. The City may designate an Officer or an Official who shall have the power to enter at reasonable times upon any private or public property for the purpose of inspecting or investigating the conditions related to compliance and enforcement of this Ordinance.

SECTION 6. NOTICES AND HEARINGS If there is a determination made upon inspection by the City, that there are grounds to believe there has been a violation to any provision of this Ordinance, the City through its City Secretary, City Attorney, or other designee shall give notice of the alleged violation to an owner (as defined in this Ordinance) as follows:

1. In writing;
2. A statement of the reason(s)/allegation(s) that a violation is suspected;
3. A definite time for the performance of any corrective activities listed in the Notice;
4. A statement that the Notice was served on the owner either in person or mailed both regular and return receipt requested mail to the last known address of the owner, or posted prominently at the location and on the manufactured, small/tiny home, or camper trailer which is subject of the investigation;
5. An outline of any remedial action including removal which will effect compliance with the provisions of the Ordinance and the time deadlines to complete those remedial acts.

Any appeal from permanent denial, or any request for a variance to the provisions of this Ordinance must be made on an appropriate form provided by the City addressed to the City Council sitting as the Board of Adjustments for the City. The Board of Adjustments will have the statutory authority as provided under Texas Law and the decision of the Board is final consistent with Texas Statutes.

If an emergency situation exists regarding a violation or a prohibition under this Ordinance which impacts directly on public health or safety, the City may without notice or hearing through its City Attorney or City Secretary issue a written demand to cease and or remedy the emergency situation and to require the owners/occupants of any structures involved in the emergency to cease occupying any buildings the subject of the emergency.

SECTION 7. SITE PLAN AND REQUIREMENTS

1. A site plan must be filed if there is a requested variance or a permit denial or if more than one manufactured, small/tiny home, or camper trailer is to be located on the same lot, block, or property unless the manufactured home is in a location designated for such structures.
2. The instillation of a small/tiny home for other than a temporary use, as defined herein, must, in addition to any other requirements of this Ordinance, include a site plan showing the location of any and all structures on the real property or lot, and the proposed location of the small/tiny home.

The site plan should include plans for any foundation or anchoring system that may be necessary for the proposed structure. In addition, the site plan shall address drainage and must include off street parking spaces for at least 2 vehicles.

SECTION 8. PLUMBING, GAS, AND ELECTRICAL SYSTEMS No manufactured, small/tiny house, or camper trailer may be permanently connected to plumbing, gas systems, or other utilities unless those connections comply with City Code, Health Regulations, or State Health and Safety Rules.

SECTION 9. MISCELLANEOUS Each manufactured, small/tiny home, or camper trailer which acquires permanent status either by time, permit, or variance, must install the necessary skirting with vents, screens, and anchors consistent with manufacturers details. Skirting, porches, awnings and other additions, when installed, must be maintained in good repair and must be reflected either on the site plan or subsequent notification to the City of the proposed instillation. A permit as set out in Section 3 for temporary usage must be obtained for any extensions, additions, or modifications to the original instillation of a manufactured, small/tiny home, or camper trailer.

Any structure that is regulated by this Ordinance, if unoccupied or if the utility services to them are disconnected for 6 months or more regardless of permits or variances, the City must inspect the structure to determine compliance with this Ordinance and any other applicable codes before the structure can be reoccupied and/or utilities restored.

SECTION 10. OCCUPANCY No more than one family may occupy any manufactured, small/tiny home, or camper trailer and in no event shall such structures be used as multifamily dwellings.

SECTION 11. PENALTY Any person, firm or corporation violating any of the provisions of this Ordinance shall be deemed guilty of a misdemeanor and, upon conviction in the Municipal Court of the City shall be subject to a fine not to exceed \$2,000 for each offense, except however, where a different penalty has been established by the State Law for such offense.

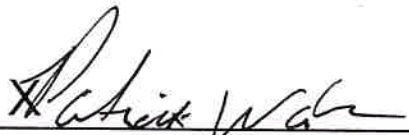
A culpable mental state is not required to be alleged or proved during a misdemeanor prosecution under this Ordinance.

SECTION 12. REPEALING CLAUSE All provisions in conflict with the provisions of this Ordinance shall be, and the same are hereby repealed, and all other provisions not in conflict with the provisions of this Ordinance shall remain in full force and effect.

SECTION 13. SEVERABILITY CLAUSE Any provision, word, sentence, paragraph, clause, phrase or section of this Ordinance or its application to any person or circumstance is adjudged or held invalid, void or unconstitutional, the invalid, void or unconstitutional portion shall not affect the validity of the remaining portions of this Ordinance which shall remain in full force and effect.

SECTION 14. PUBLICATION The City Secretary is hereby authorized and directed to publish the caption of this Ordinance in the manner and for the length of time prescribed by law. This Ordinance shall be in full force and effect from and after its publication in a newspaper for the City of Deport.

PASSED, APPROVED and ADOPTED ON THE 28th DAY OF MAY 2021.



PATRICK WATSON, MAYOR

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DENISE GLOCK, CITY SECRETARY

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DAVID HAMILTON, CITY ATTORNEY