

ORDINANCE NO. 2019-4972

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, REPEALING CHAPTER 30 – RAILROADS; PROVIDING A REPEALER; PROVIDING A SAVINGS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, in a continuing effort to review and update the City's Code of Ordinances, Staff recommends Council repeal Chapter 30 – Railroads of the Code of Ordinances;

Whereas, Chapter 30 includes the following four sections:

- Section 30-1 - Construction and maintenance of crossings;
- Section 30-2 - Blocking streets for more than five minutes;
- Section 30-3 – Definitions; and
- Section 30-4 - Speed limit;

Whereas, the railroad industry is heavily regulated by federal law - the Interstate Commerce Commission Termination Act (“ICCTA”) of 1995 created the Surface Transportation Board ("STB") and gave the STB exclusive jurisdiction over the construction, acquisition, and operation of railroad facilities;

Whereas, the ICCTA states that the remedies set forth in this statute are exclusive and preempt the remedies provided under other federal or state laws - the Federal Railroad Safety Act was enacted in 1970 to promote safety in every area of railroad operation;

Whereas, there have been multiple court cases across the country which have analyzed the effect of the ICCTA and the Federal Railroad Safety Act on local railroad regulations and the consensus among the courts is that state and local regulations of railroad operations are preempted by the two federal statutes;

Whereas, while the City’s regulations could be enforced, it is Staff’s opinion that they would not withstand a court challenge and for these reasons, Staff is recommending the repeal of Chapter 30;

Whereas, once repealed Chapter 30 will be retitled “Chapter 30 – Reserved”; and

Whereas, the City Council has considered the matter and deems it in the public interest to authorize this action.

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

Part 1: Findings. All of the above premises are hereby found to be true and correct legislative and factual findings of the City Council of the City of Temple, Texas, and they are hereby approved and incorporated into the body of this Ordinance as if copied in their entirety.

Part 2: The City Council repeals Chapter 30 – Railroads.

Part 3: All Ordinances or parts of Ordinances in conflict with the provisions of this ordinance are to the extent of such conflict hereby repealed.

Part 4: It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses and phrases of this Ordinance are severable and, if any phrase, clause, sentence, paragraph or section of this Ordinance should be declared invalid by the final judgment or decree of any court of competent jurisdiction, such invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Ordinance, since the same would have been enacted by the City Council without the incorporation in this Ordinance of any such invalid phrase, clause, sentence, paragraph or section.

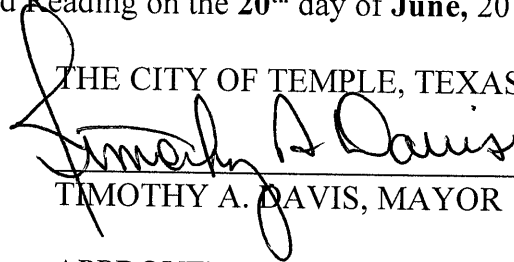
Part 5: This Ordinance shall take effect immediately from and after its passage in accordance with the provisions of the Charter of the City of Temple, Texas, and it is accordingly so ordained.

Part 6: It is hereby officially found and determined that the meeting at which this Ordinance was passed was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act.

PASSED AND APPROVED on First Reading and Public Hearing on the 6th day of June, 2019.


PASSED AND APPROVED on Second Reading on the 20th day of June, 2019.

THE CITY OF TEMPLE, TEXAS




TIMOTHY A. DAVIS, MAYOR

APPROVED AS TO FORM:



Kayla Landeros
City Attorney

ATTEST:



Lacy Borgeson
City Secretary

