

ORDINANCE NO. 06-05-30

AN ORDINANCE ESTABLISHING DEFINITIONS, LICENSE, WATER AND SEWER, AND MOVING PERMIT FOR MOBILE HOMES AND HUD-CODE MANUFACTURED HOMES; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH DECLARING AN EMERGENCY PROVIDING FOR ENFORCEMENT AND PENALTIES.

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SECTION 2. Definitions

A. "Abandonment": with regard to a Mobile Home or HUD-Code Manufactured Home, means the failure to occupy, maintain, and preserve the Home for the purpose of habitation, for a period of 180 calendar days or more. Abandonment may be evidenced by, but is not limited to, termination of utility or telephone service, continuous failure to occupy, change of type of use, failure to pay taxes or rent, failure to respond to written notices, or by any other reasonable means. Abandonment will not be presumed due to one factor only but by a combination of factors.

B. "HUD-Code Manufactured Home": A structure, constructed on or after June 15, 1976, according to the rules of the U.S. Department of Housing and Urban Development, transportable in on (1) or more sections, which in the 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

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 includes the plumbing, heating, air conditioning and electrical systems.

C. "Lot or Space": A plot of ground designed for the placement of one (1) manufactured home.

D. "Manufactured Housing Community": A lot or parcel of land containing spaces with improvements and utilities that are sold or leased for the long-term occupancy and placement of HUD-Code Manufactured Homes, and that includes services and facilities for the residents.

E. "Mobile Home": A structure that was constructed before June 15, 1976, transportable in one (1) or more sections, which in the 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 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 includes the plumbing, heating, air conditioning and electrical systems.

F. "Recreational Vehicle": Any motor home, mobile trailer, camper, recreational unit or any similar vehicle principally designated for temporary habitation, regardless of size.

SECTION 3. Mobile Homes Prohibited

It shall hereafter be unlawful to locate a mobile home, as herein defined, in the City of Frankston. Mobile Homes lawfully located within the City prior to the effective date of this ordinance shall be allowed to continue to remain in place, in which case the home shall be considered to be subject to the continuance provisions of this ordinance, or may be replaced with a HUD-Code Manufactured Home without the need to obtain a variance. A Mobile Home lawfully located within the City prior to the effective date of this ordinance may not be replaced with another Mobile Home.

SECTION 4. Placement of HUD-Code Manufactured Homes Outside of a Manufactured Housing Community.

A. HUD-Code manufactured homes shall not be permitted to be located within the limits of the city on any space, lot or tract of land other than in a platted and approved Manufactured Housing Community, nor shall any private or public utilities be connected or extended, except in any one or more of the following circumstances:

(1). The HUD-Code Manufactured Home was legally in existence at its present location as of the effective date of this ordinance in which case the home shall be considered to be subject to the continuance provisions of this ordinance. If a HUD-Code Manufactured Home existing in the corporate limits of the City subsequent to the continuance provisions of this ordinance, and used for any purpose, is removed or replaced for any reason, a variance as prescribed in this ordinance must be obtained before another HUD-Code Manufactured Home may be placed on the site.

(2). For exceptions to placement of a HUD-Code Manufactured Home in the corporate limits of the City, a written application for exception shall be submitted to the City Secretary and shall require the granting of a variance as prescribed by this ordinance. The application shall state:

- (a). Name and address of applicant.
- (b). Size, model, year of manufacture, original cost, and photograph of the HUD-Code Manufactured Home.
- ©. Legal description of the property upon which it is proposed to place the HUD-Code Manufactured Home and name and address of the property owner. The HUD-Code Manufactured Home must be located on a separately platted or re-platted lot so that the size of the lot will accommodate the HUD-Code Manufactured Home as follows: (1) the home is at least 25 feet from the road frontage and (2) the home is at least 10 feet from any adjoining property lines. The person who intends to occupy such HUD-Code Manufactured Home must submit a copy of a duly recorded deed or lease in a form acceptable to the City Council showing that the intended occupant owns the lot upon which the HUD-Code Manufactured Home is to be located. No other structure designed or to be used for human occupancy shall be located on such lot, and shall meet all applicable codes and ordinances for the intended use.
- (d). Drawing showing size of lot, location of lot, and how the HUD-Code Manufactured Home is to be placed on lot.
- (e). Form signed by applicant stating that he or she understands the requirements of the ordinances for the area in which the HUD-Code Manufactured Home will be placed.
- (f). Form signed by applicant stating the HUD-Code Manufactured Home will have tie-downs and will be skirted and shall be maintained intact to prevent accumulations of flammable materials beneath the manufactured home.

B. Nothing provided in this section pertaining to manufactured housing shall in any way abrogate the enforceability by private parties of deed restrictions pertaining to manufactured housing.

C. Any variance, special exception, or permit issued pursuant to this Ordinance authorizing the placement of a HUD-Code Manufactured Home outside of a Manufactured Housing Community shall expire six (6) months after issuance if the structure has not been properly installed in accordance with this Ordinance. The property owner may apply in writing for an extension by the City Council for a period of three (3) months. An application for an extension must demonstrate the owner's diligent efforts to have the home installed in a timely manner.

SECTION 5. Installation of Manufactured Homes--Application, Habitability, Ownership, Installers and Inspections.

A. Application.

(1). Prior to the installation of a new or used HUD-Code Manufactured Home for use as a dwelling in any area in the corporate limits of the City determined appropriate by the City, including a subdivision, planned unit development, single lot, and rental community or park, the homeowner of the new or used HUD-Code Manufactured Home shall make application to the City.

(2). An application to install a new or used HUD-Code Manufactured Home for use as a dwelling in the corporate limits of the City shall be considered to be granted unless the City in writing denies the application and states the reason for the denial not later than the 45th day after the date the application is received.

(3). An administrative fee of \$100.00 shall be charged to receive and process an application to install a new or used HUD-Code Manufactured Home in the corporate limits of the City.

B. Habitability.

(1). All HUD-Code Manufactured Homes located in the corporate limits of the City or re-located in the corporate limits of the City shall be habitable as defined by applicable State of Texas law/statute and the City of Frankston.

(2). Prior to approving an application installation of a used or previously owned HUD-Code Manufactured Home in the corporate limits of the City, the City may request that a habitability inspection of the used or previously owned HUD-Code Manufactured Home be conducted by an individual authorized by the State of Texas to conduct said habitability inspection. The cost of such habitability inspection shall be borne by the owner of the used or previously owned HUD-Code Manufactured Home.

C. Certificate of Title and/or Statement of Ownership and Location.

All HUD-Code Manufactured Homes located in the corporate limits of the City or relocated in the corporate limits of the City shall have a valid Certificate of Title and/or Statement of Ownership and Location. Proof of a valid Certificate of Title and/or Statement of Ownership and Location shall be made available to the City as part of the application of paragraph A above.

D. Installation of a new HUD-Code Manufactured Home.

(1). A new HUD-Code Manufactured Home placed in the corporate limits of the City shall be installed in accordance with applicable State of Texas law/statute by an

installer certified/licensed by the State of Texas.

(2). Installation of such new HUD-Code Manufactured Home shall be warranted by the retailer/installer in accordance with applicable State of Texas law/statute.

(3). All State law/statute applicable to the installation of a new HUD-Code Manufactured Home shall be complied with.

E. Installation of a used or previously owned HUD-Code Manufactured Home.

(1). A used or previously owned HUD-Code Manufactured Home placed in the corporate limits of the City shall be installed in accordance with applicable State of Texas law/statute by an installer certified by the State of Texas or by the homeowner certified as a temporary installer by the State of Texas.

(2) Installation of such used or previously owned HUD-Code Manufactured Home shall be warranted by the installer in accordance with applicable State of Texas law/statute by an inspector certified/licensed by the State of Texas or inspected in accordance with applicable State of Texas law/statute by an inspector certified/licensed by the State of Texas.

(3). All State law/statute applicable to the installation of a used or previously owned HUD-Code Manufactured Home shall be complied with.

SECTION 6. Installation of Manufactured Homes--Skirting and Tie-Downs.

A. All HUD-Code Manufactured Homes and legally-located Mobile Homes shall be installed by a state-certified installation company and must have skirting and adequate tie-downs as required by Texas Insurance regulations.

B. Documentation demonstrating who installed the manufactured home and when the home was installed must be submitted to the City prior to approval of utility hookups and occupancy.

C. The Manufactured Housing Community owner/manager shall keep the manufactured home installation register available for inspection at all times, by law enforcement officer, public health officials and other officials whose duties necessitate acquisition of the information contained in the register. The installation register records shall not be destroyed for a period of two (2) years following the date of removal of the manufactured home.

SECTION 7. Prohibited Parking.

It shall be unlawful for any person to park any HUD-Code Manufactured Home, Mobile Home or Recreational Vehicle on any public street, alley, highway or other public place within the limits of the City for any of the following purposes:

- (1). Human occupancy at any time;
- (2). Storage for more than twenty-four (24) hours;
- (3). Any other purpose for more than forty-eight (48) hours.

SECTION 8. Recreational Vehicles.

It shall be unlawful for any person to occupy a Recreational Vehicle for more than seven (7) consecutive days unless the Recreational Vehicle is located in an RV Park or Manufactured Housing Community. The occupancy of a Recreational Vehicle for more than seven (7) consecutive days on a public street or private driveway is strictly prohibited. Any such person currently occupying a Recreational Vehicle as his or her permanent residence as of the date of this ordinance will be allowed to continue to occupy the Recreational Vehicle as his or her permanent residence. When the Recreational Vehicle is moved from its current location or when the resident ceases to occupy the Recreational Vehicle as his or her permanent residence, the property will lose its continuance status.

SECTION 9. Abandonment.

A. Any existing Mobile Home or HUD-Code Manufactured Home as herein defined, which continues to be used for any purpose subsequent to the continuance provisions of this ordinance, and which is abandoned according to the definition of "abandonment" contained in this ordinance, for a continuous period of one hundred eighty (180) calendar days, shall lose its continuance status, and shall be subject to removal unless a variance is obtained as provided herein.

B. Any HUD-Code Manufactured Home that is located pursuant to the variance provisions of this ordinance, and which is subsequently abandoned according to the definition of "abandonment" contained in this ordinance, shall be deemed to have permanently lost its location privilege and status, and the site on which the structure had been located shall henceforth be used only for purposes other than the location of a HUD-Code Manufactured Home.

SECTION 10. Removal.

Any Mobile Home, HUD-Code Manufactured Home, or Recreational Vehicle that is located within the corporate limits of the City of Frankston so as to be in violation of any term or condition of this ordinance shall be subject to removal from the City at the expense of the owner. If, upon a City-directed order for removal, the owner fails to comply, the City may enter upon the property in question and take steps to have the subject vehicle or structure removed at the expense of the owner. Prior to removal, the City shall give the owner written notice by certified mail and by publication one time in a newspaper of general circulation in the City that the City intends to remove the Home or

Recreational Vehicle. If the mailed notice is returned undeliverable, the City shall post the notice on the Home or Recreational Vehicle. All such notices shall be mailed, published, or posted no less than ten (10) business days prior to the removal of the Home or Recreational Vehicle. Recovery of the City's expenses, including storage expenses, may be through imposition of a lien against the owner's lot or by suit for debt.

SECTION 11. Variances.

- A. A variance to the provisions of this ordinance shall only be granted pursuant to a public hearing before the City Council.
- B. All property owners within five hundred (500) feet of any portion of the property on which the variance is sought shall be notified by regular mail of such hearing. After the public hearing, the City Council shall deny, approve, or approve with conditions. City Council action shall only take place at a regularly scheduled monthly meeting.
- C. The public hearing and property owner notification calendar utilized by the City shall be based on the statutory provisions of the Municipal Zoning laws of the State of Texas.
- D. All advertising and notification costs shall be borne by the applicant for the variance.
- E. In exercising its power to grant a variance in accordance with this ordinance, the City Council shall make findings and show in its minutes that:
 - (1). There are special circumstances existing on the property on which the application is made related to size, shape, area, topography, surrounding conditions and location that do not apply generally to other property in the same area that justify the use of the property for HUD-Code Manufactured Home purposes.
 - (2). That a variance is necessary to permit the applicant the same rights in the use of this property that are presently enjoyed, under the Ordinance, by other properties in the vicinity, but which rights are denied to the property on which the application is made.
 - (3). That the variance, if granted, will be of no material detriment to the public welfare or injury to the use, enjoyment or value of property in the vicinity.
 - (4). That the variance does not violate the intent of this Ordinance or its amendments.

SECTION 12. Manufactured Housing Community Locations.

A HUD-Code Manufactured Home may be located at one of the following locations:

- A. Phillips Manufactured Home Community located at the corner of East Main Street and South Garrison Street.

SECTION 13. Manufactured Housing Community Water Supply and Sanitary Sewer.

Each Manufactured Housing Community shall have City water connections furnishing an ample and adequate supply of water and shall be connected with the sanitary sewer and adequate provisions shall be made for the collection and removal of waste and garbage in accordance with all applicable ordinances of the City and other statutes.

SECTION 14. Authority for Continuance of Nonconformities.

A. Unless stated otherwise in this ordinance, any nonconforming manufactured/mobile home, which existed lawfully on the effective date of this ordinance and which remains nonconforming by the terms of this ordinance, and any such manufactured /mobile home, which shall become nonconforming as of the effective date of this ordinance, or upon any subsequent amendment to this ordinance, may be continued.

B. Unless stated otherwise in this ordinance, manufactured/mobile home communities which existed lawfully on the effective date of this ordinance, but do not conform to the minimum requirements set forth in this ordinance, may be continued notwithstanding such nonconformity. Any individual home located in such manufactured/mobile home community shall be subject to Section 14.B above.

SECTION 15. Penalty.

Any person, firm or corporation violating any provision of this ordinance shall be guilty of a misdemeanor, and upon conviction shall be fined not less than ten dollars (\$10.00) or no more than five hundred dollars (\$500.00) plus court costs. Each day that such violation continues unabated shall constitute a separate offense.

SECTION 16. Enforcement Procedures.

In addition to the enforcement and penalty procedures provided in this ordinance, the attorney representing the City shall take such other legal action, including injunctive relief, as may be necessary to enforce the provisions of this ordinance.

SECTION 17. Validity.

If provision of this ordinance is found to be invalid by a court of jurisdiction, it shall not affect the validity of the remaining provisions.

SECTION 18. Conflicts.

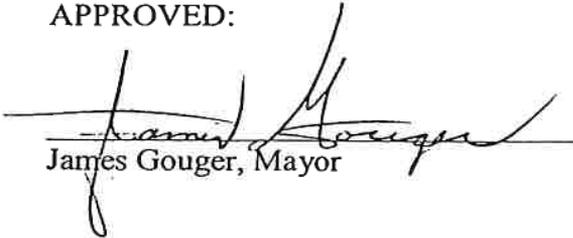
This ordinance shall be considered an addition to other ordinances now in effect dealing with land use management and where conflicts occur, the stricter of the conflicting rules shall prevail.

SECTION 19. Effective Date.

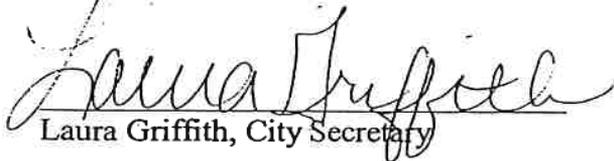
This ordinance shall become effective upon satisfaction of any publication requirement promulgated by the Local Government Code of the State of Texas and the City of Frankston City Charter, otherwise it shall take effect upon passage.

PASSED AND ADOPTED on this the 30th day of May 2006.

APPROVED:


James Gouger, Mayor

ATTEST:


Laura Griffith, City Secretary