

APPLE CREEK TOWNSHIP, BURLEIGH COUNTY, NORTH DAKOTA

TRUCK ROUTE ORDINANCE

Ordinance No. 1

An ordinance to protect and secure the public health, safety and general welfare by regulating truck and commercial motor carrier traffic and by establishing and prohibiting certain routes for truck and commercial motor carrier traffic within the Township as authorized by law, including but not limited to North Dakota Century Code 39-12-03; and to provide that violation thereof is a civil infraction and to provide civil forfeitures, injunctive relief and other remedies therefor.

THE TOWNSHIP OF APPLE CREEK, BURLEIGH COUNTY, NORTH DAKOTA ORDAINS:

Section 1. Title. This ordinance shall be known and cited as the Apple Creek Township Truck Route Ordinance.

Section 2. Definition of Terms. As used in this ordinance, the following words and terms shall have the meanings stated herein:

- A. "Township" means Apple Creek Township, Burleigh County, North Dakota.
- B. "Apple Creek Township Supervisor" means that person designated by the Township Board to enforce the provisions of Township ordinances.
- C. "Commercial Truck" means any self-propelled or towed vehicle designed or used on public highways to transport goods, wares, merchandise, sand, gravel or other mining substance, or other property having either a gross weight, gross vehicle weight or gross combination weight of 60,000 pounds or 6 tons per axle. Commercial trucks shall not include vehicles carrying or designed to carry only passengers, all governmentally owned or leased vehicles, public utility vehicles, motor homes or recreational vehicles, or vehicles used exclusively to transport personal possessions or family members for non-business purposes.
- D. "Gross Combination Weight or 'GCW'" means the combined weight of a combination of vehicles and any load on those vehicles.
- E. "Gross Weight, Gross Vehicle Weight, or 'GVW'" means the combined weight of a motor vehicle and any load on that vehicle and any load towed by that vehicle.
- F. "Person" includes an agency, company, organization, firm, association, partnership, joint venture, corporation, trust or entity of any type or combination thereof as well as any natural person.
- G. "Road" means any public street, highway or route within the Township.

- H. "Implements of Husbandry" means every vehicle which is designed or used for agricultural purposes and exclusively used by the owner or owner's agent thereof in the conduct of agricultural operations.

Section 3. Rule of Construction. Any word or term not defined in Section 2 of this ordinance shall be considered to be defined in accordance with its common or standard definition.

Section 4, Regulation of Commercial Truck Traffic; Prohibited Truck Routes. No person may operate a commercial truck on a prohibited truck route. For purposes of this ordinance, the following roads shall be entitled "Prohibited Truck Routes.":

- A. All of 80th Street SE between Lincoln Road and Northgate Drive.
- B. All of 22nd Avenue SE between 66th Street SE and 93rd Street SE.
- C. All of Northgate Drive SE between 66th Street SE and 80th Street SE.
- D. All of Poplar Lane
- E. All of Chestnut Drive
- F. All of Maple Lane
- G. All of Spruce Place

Section 5. Permission for Travel on Other Than Prohibited Truck Routes. Except for prohibited truck routes identified in Section 4, a person may operate a commercial truck on roads within the Township.

Section 6. Exemptions. The prohibited truck route limitations prescribed in this ordinance shall not apply to:

- A. Fire trucks or other emergency vehicles or vehicle on emergency business involved in the saving of life or property; or
- B. Repair, construction, or maintenance vehicles while involved in the repair, construction or maintenance of roads, public and private utilities, an cable television within the Township; or
- C. Refuse service vehicles while involved in the provision of services to residents of the Township.
- D. Implements of Husbandry as defined in Section 2(H) of this ordinance.

Section 7. Pickups, Deliveries and Service Calls. A commercial truck that would otherwise be restricted from using prohibited truck routes and that is being used to make pick-ups, deliveries or service calls in the Township may use prohibited truck routes, shall restrict its travel to a minimum and shall not be driven or moved on prohibited truck routes except when being used to make pick-ups, deliveries or service calls within the Township. Said commercial truck shall be driven in such a manner as to proceed to its destination or destinations in the Township by the most direct route. Upon completion of the pick-ups, deliveries or service calls, the commercial truck shall return to the nearest permitted truck route or leave the Township by the most direct route. This section shall not be interpreted as permitting a commercial truck from

entering or leaving the Township by other than a permitted truck route. No prohibited truck route may be used for pick-ups, deliveries or service calls in the event an alternate truck route is available or established.

Section 8. Special Permits. The Apple Creek Township Supervisor shall have authority to grant a written permit in special cases which would otherwise be in violation of the provisions of this Ordinance. Such permits shall not be given for more than one (1) round trip, and in no case shall a permit be valid for a period longer than ten (10) days from the date of issue. The Township Board must be notified in writing when special permits are issued. The special permit shall describe the vehicle, the time and dates of travel, and the route or routes to be taken by the specially-permitted vehicle.

Section 9, Signs. The Township Board shall procure and have posted appropriate signs along any prohibited truck route or routes as required by law. Such signage shall say "Commercial Vehicles Prohibited unless exempted, Apple Creek Township Ordinance No. _1_" or words to that effect.

Section 10. Violations and Fines. Any person who violates this ordinance shall be issued a municipal infraction as follows:

- A. First and Second Violation. Any person who is found responsible for a municipal civil infraction for violation of this ordinance is, for the first violation, subject to a civil forfeiture of not more than \$1,000 for the second violation subject to a civil forfeiture of not more than \$2,000 plus costs related to each violation, which costs may include all direct or indirect fees and expenses the Township has incurred in connection with each violation, including reasonable attorneys' fees. This ordinance may also be enforced by suit for injunction, damages or other appropriate legal or equitable action.
- B. Subsequent Violations. Any person who is found to be responsible for a municipal civil infraction for violation of this ordinance is, for each violation after the second violation, subject to a civil forfeiture of not more than \$5,000 plus costs, which may include all direct or indirect fees and expenses the Township has incurred in connection with the violation, including reasonable attorneys' fees. This ordinance may also be enforced by suit for injunction, damages or other appropriate legal or equitable action.

Section 11. Enforcement. The Township Supervisor, his or her designee and sworn law enforcement officers, including but not limited to the Burleigh County Sheriffs Office and the North Dakota Highway Patrol are authorized to enforce the provisions of this ordinance.

Section 12. Severability. This ordinance and the various parts, sections, paragraphs, subsections, sentences, phrases and clauses thereof are hereby declared to be severable. If any part, section, paragraph, subsection, sentence, phrase, or clause is adjudged unconstitutional or invalid by a court of competent jurisdiction, it is hereby provided that the remainder of this ordinance shall not be affected thereby.

Section 13. Administrative Liability. No officer, agent, or employee of the Township or member of the Township Board shall render him/herself personally liable for any damage that may accrue to any person as a result of any act, decision or other consequence or occurrence arising out of the discharge of his/her duties and responsibilities pursuant to this ordinance.

Section 14. Repeal. All ordinances or parts of ordinances which are in conflict with this ordinance are hereby repealed, and this ordinance shall take precedence over any such ordinance.

Moved by _____, seconded by _____, that the foregoing ordinance be adopted.

Yeas:

Nays:

Absent:

ORDINANCE DECLARED ADOPTED BY CHAIRMAN _____.

CERTIFICATION

I hereby certify that the above is a true and correct copy of the ordinance, adopted by the Apple Creek Township Board at a duly called meeting of that Township Board held on the ____ day of _____, 2024, pursuant to the required statutory procedures.

Dated this ___ day of _____, 2024.

Apple Creek Township