

ORDINANCE NO. ___32470___

An ordinance amending Chapter 28, "Motor Vehicles and Traffic," of the Dallas City Code by amending Sections 28-2, 28-4, 28-5.1, 28-19, 28-76.2, 28-81.1, 28-88, and 28-129; providing amended definitions; creating an auxiliary unit to the Dallas Department of Transportation known as parking enforcement officers; amending the costs and fees that must be paid to redeem and impounded vehicle; providing a penalty not to exceed \$500; providing a saving clause; providing a severability clause; and providing an effective date

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

SECTION 1. That Section 28-2, "Definitions," of Article I, "In General," of Chapter 28, "Motor Vehicles and Traffic," of the Dallas City Code is amended by adding a new Paragraph (4.2) to read as follows:

"(4.2) CITY MARSHAL means the city marshal of the city, or the marshal's authorized representative."

SECTION 2. That Paragraph (14) of Section 28-2, "Definitions," of Article I, "In General," of Chapter 28, "Motor Vehicles and Traffic," of the Dallas City Code is amended to read as follows:

"(14) METER AND PARKING BAN HOLIDAYS include only the following days:

- (A) New Years Day (January 1);
- (B) Martin Luther King's Birthday (third Monday in January);

- (C) President’s Day (third Monday in February);
- (D) Memorial Day (last Monday in May);
- (E) Independence Day (July 4);
- (F) Labor Day/Cesar E. Chavez Day (first Monday in September);
- (G) Thanksgiving Day (fourth Thursday in November); and
- (H) Christmas Day (December 25).”

SECTION 3. That Section 28-2, “Definitions,” of Article I, “In General,” of Chapter 28, “Motor Vehicles and Traffic,” of the Dallas City Code is amended by adding a new Paragraph (18.1) to read as follows:

“(18.1) PARKING ENFORCEMENT OFFICER means the person designated by the city manager to perform the functions of parking enforcement officer or his authorized representative.”

SECTION 4. That Section 28-2, “Definitions,” of Article I, “In General,” of Chapter 28, “Motor Vehicles and Traffic,” of the Dallas City Code is amended by adding a new Paragraph (20.1) to read as follows:

“(20.1) PEACE OFFICER means officers who are required to obtain and maintain a commission through the Texas Commission on Law Enforcement and listed in Section 2.12 of the Texas Code of Criminal Procedure. This includes police officers, city marshals, and arson investigators.”

SECTION 5. That Section 28-4, “Authority to Remove Vehicles; Redemption; Fees;” of Article I, “In General,” of Chapter 28, “Motor Vehicles and Traffic,” of the Dallas City Code is amended to read as follows:

“SEC. 28-4. AUTHORITY TO REMOVE VEHICLES; REDEMPTION; FEES.

(a) A city peace [~~police~~] officer, or parking enforcement officer is authorized to remove or cause the removal of a vehicle or other property of any description from a street to a place designated by the chief of police or the director, when:

- (1) the vehicle or property is left unattended upon a bridge or viaduct or in a tunnel or underpass;

(2) the vehicle is illegally parked so as to block the entrance to any private driveway;

(3) the vehicle is found upon a street and a report has previously been made that the vehicle has been stolen or a complaint has been filed and a warrant issued charging that the vehicle has been unlawfully taken from the owner;

(4) the peace officer or parking enforcement officer has reasonable grounds to believe that the vehicle has been abandoned;

(5) a vehicle upon a street is so disabled that its normal operation is impossible or impractical and the person or persons in charge of the vehicle are incapacitated by reason of physical injury or other reason to such an extent as to be unable to provide for its removal or custody, or are not in the immediate vicinity of the disabled vehicle;

(6) a peace ~~[an]~~ officer arrests any person driving or in control of a vehicle for an alleged offense and the officer is by law required to take the person arrested immediately before a magistrate;

(7) the vehicle is standing, parked, or stopped in any portion of a street, and the peace officer or parking enforcement officer has reason to believe that the vehicle constitutes a hazard or interferes with the normal function of a governmental agency or that the safety of the vehicle is imperiled;

(8) the vehicle is standing, parked, or stopped in violation of the parking ban regulations;

(9) the vehicle is standing, parked, or stopped in violation of any provision of this chapter;

(10) the vehicle is the subject of a hearing officer's order for a parking violation and impoundment of the vehicle is authorized by Section 28-130.10 of this chapter;

(11) the vehicle is in an accident and the vehicle's owner or operator fails to show evidence of financial responsibility as required under Chapter 601 of the Texas Transportation Code, as amended; or

(12) the vehicle is stopped by a police officer or city marshal for an alleged violation of a city or state traffic law or other law applicable to the operation of a vehicle on the roadway and the vehicle's owner or operator fails to show evidence of financial responsibility as required under Chapter 601 of the Texas Transportation Code, as amended.

(b) A vehicle removed and towed under this section must be kept at the place designated by the chief of police or the director until application for redemption is made by the owner or the owner's authorized agent, who will be entitled to possession of the vehicle upon payment of costs of immobilization, towing, notification, impoundment, and storage. The chief of police or the director shall charge fees for storage of vehicles at city pound locations in accordance with the following regulations:

(1) The storage fee is \$20 for each day or portion of a day that a vehicle not longer than 25 feet is stored and \$35 for each day or portion of a day that a vehicle longer than 25 feet is stored, except that a storage fee may not be charged for more than one day if the vehicle remains at the city pound location for less than 12 hours.

(2) Storage fees on a stolen vehicle will be charged as outlined in Paragraph (1) of this subsection, commencing on the second day following the date notice is received by the owner of the vehicle, or the owner's agent, that the vehicle may be claimed.

(3) Storage fees on a vehicle owned by an arrested person will be charged as outlined in Paragraph (1) of this subsection, commencing on the date of impoundment.

(4) Storage fees will not be collected when a vehicle is not involved in an accident, but is taken into protective custody and the driver is incapacitated due to physical injury or other illness to the extent that the driver is unable to care for the vehicle.

(5) Storage fees on any vehicle involved in a motor vehicle accident will be charged as outlined in Paragraph (1) of this subsection, commencing on the date of impoundment.

(6) An impoundment fee of \$20, in addition to applicable towage, notification, and storage fees, will be charged for a vehicle that has been removed and towed to a city pound location.

(7) A notification fee of \$50, in addition to applicable towage, impoundment, and storage fees, will be charged for a vehicle that has been removed and towed to a city pound location.

(8) All unpaid fines, penalties, and costs assessed against the person by a hearing officer for a parking violation if the vehicle was towed as result of parking violation fees.

(c) A police officer or city marshal may, at his discretion, with the express written permission of an arrested person, leave an arrested person's vehicle at the scene of the arrest or other location. In these instances, the arresting officer shall ensure that the vehicle is legally parked and secured.

(d) The chief of police, the director, or a designated representative may release a vehicle without payment of immobilization, towage, notification, impoundment, or storage fees under the following circumstances:

(1) a vehicle was taken into protective custody when the incident did not involve an arrest, violation, or automobile accident;

(2) a vehicle is owned by or belongs to an individual who is not a citizen of the United States, who does not permanently reside in the United States, and who is entitled to diplomatic immunity;

(3) subsequent investigation results in a determination that there was no violation of this code or the Texas Motor Vehicle Laws or that the arrested person did not commit a criminal offense; or

(4) a vehicle is owned by or belongs to the victim of a violent crime and was taken into custody for evidentiary purposes.

(e) If a vehicle was towed and stored for an evidentiary or examination purpose, the chief of police or a designated representative shall release the vehicle without payment of towage and storage fees when required to do so under Article 18.23 of the Texas Code of Criminal Procedure, as amended.

(f) A person commits an offense if he removes or attempts to remove a vehicle from a city pound location without first paying the towage, notification, impoundment, and storage fees that have accrued on the vehicle.

(g) As a consequence of the fees to be charged for vehicles stored at city pound locations and for purposes of state law, the city council hereby designates all city pound locations as storage facilities operated for commercial purposes.”

SECTION 6. That Section 28-5.1, “Authority to Immobilize Vehicles; Redemption; Fees,” of Article I, “In General,” of Chapter 28, “Motor Vehicles and Traffic,” is amended to read as follows:

“SEC. 28-5.1. AUTHORITY TO IMMOBILIZE VEHICLES; REDEMPTION; FEES.

(a) A peace [~~police~~] officer or a parking enforcement officer [~~traffic and parking controller~~] is authorized to immobilize or cause the immobilization of any vehicle that is the subject of a hearing officer’s order for a parking violation when the placement of a boot on the vehicle is authorized by Section 28-130.10 of this chapter.

(b) During the first 24 hours after a vehicle has been immobilized under this section, a peace [~~police~~] officer or a parking enforcement officer [~~traffic and parking controller~~] may leave the vehicle immobilized or remove or cause the removal of the vehicle from the street in accordance with Section 28-4 of this article. After a vehicle has been immobilized for 24 hours, the vehicle must be removed from the street in accordance with Section 28-4 of this article.

(c) The owner of an immobilized vehicle, or the owner’s authorized agent, may apply for redemption of the vehicle in a place and manner designated by the director. The owner or the owner’s authorized agent will be entitled to possession of the vehicle upon payment of:

- (1) an immobilization fee of \$100;
- (2) all unpaid fines, penalties, and costs assessed against the person by a hearing officer for a parking violation; and
- (3) all towage, storage, notification, preservation, and service fees incurred if the vehicle was removed from a street in accordance with Section 28-4 of this article.

(d) A person commits an offense if he:

(1) removes, disables, tampers with, or damages a boot placed on a vehicle pursuant to this section;

(2) tows or moves an immobilized vehicle from the location at which the vehicle was immobilized, unless at the direction of a peace [~~police~~] officer or a parking enforcement officer [~~traffic and parking controller~~]; or

(3) removes or relocates any notice placed on an immobilized vehicle, unless the person was a peace [~~police~~] officer, a parking enforcement officer [~~traffic and parking controller~~], the owner of the vehicle, or the vehicle owner's authorized agent.

(e) An offense under Subsection (d)(1) or (d)(2) of this section is punishable by a fine of \$500. An offense under Subsection (d)(3) is punishable by a fine of not more than \$500."

SECTION 7. That Section 28-19, "Traffic and Parking Controllers," of Article III, "Enforcement and Obedience to Traffic Regulations," of Chapter 28, "Motor Vehicles and Traffic," of the Dallas City Code is amended to read as follows:

"SEC. 28-19. PARKING ENFORCEMENT OFFICERS [~~TRAFFIC AND PARKING CONTROLLERS~~].

(a) There is hereby created in the [~~Dallas police~~] department of transportation, under the direction of the director [~~chief of police~~], a division [~~unit~~] known as parking enforcement and management [~~traffic and parking controllers~~], which will be an organized auxiliary division [~~unit~~] to the [~~Dallas police~~] department of transportation.

(b) A parking enforcement officer [~~traffic and parking controller~~] is authorized[, in the same manner as a police officer,] to:

(1) issue citations for any [~~traffic or~~] parking violation within the city;

(2) impound any vehicle that is:

(A) in violation of a parking or fire lane regulation; or

(B) the subject of a hearing officer's order for a parking violation when impoundment of the vehicle is authorized by Section 28-130.10 of this chapter; and

(3) immobilize any vehicle that is the subject of a hearing officer's order for a parking violation when the placement of a boot on the vehicle is authorized by Section 28-130.10 of this chapter.

(c) It is the duty of a parking enforcement officer [~~traffic and parking controller~~] to direct and guide motor vehicles and pedestrian traffic in the city as directed by the director [~~chief of police~~].

(d) A parking enforcement officer [~~traffic and parking controller~~] is authorized to direct traffic by voice, hand, or signal, in conformance with traffic laws; provided, that in the event of a fire or other emergency, to expedite traffic, or to protect pedestrians, a parking enforcement officer [~~traffic and parking controller~~] may direct traffic as conditions require notwithstanding the provisions of the traffic laws.

(e) A parking enforcement officer [~~traffic and parking controller~~] is not eligible for membership in the Firemen, Policemen and Fire Alarm Operators Pension Fund created pursuant to Article 6243a, Vernon's Texas Civil Statutes, but is eligible for membership in the employee's retirement fund of the city of Dallas.

~~(f) [A traffic and parking controller is deemed to be a member of an organized police auxiliary unit with power to make arrests, for the purpose of qualifying for survivors' assistance benefits under the provisions of Article 6228f, Vernon's Texas Civil Statutes. A traffic and parking controller is not a regular member of the police department within the meaning of state laws governing regular police personnel.]~~

~~(g)~~ A parking enforcement officer [~~traffic and parking controller~~], while in the performance of official duties, is deemed to be engaged in the performance of a governmental function.

~~(g[h])~~ A parking enforcement officer [~~traffic and parking controller~~] may not be armed with firearms."

SECTION 8. That Section 28-76.2, "Illegally Stopped Vehicles; May Be Required To Move," of Division 1, "Generally," of Article XI, "Stopping, Standing, and Parking Generally," of Chapter 28, "Motor Vehicles and Traffic," of the Dallas City Code is amended to read as follows:

"SEC. 28-76.2. ILLEGALLY STOPPED VEHICLES; MAY BE REQUIRED TO MOVE.

When a police officer or parking enforcement officer [~~traffic and parking controller~~] finds a vehicle standing upon a street or highway in violation of a provision of this article, the police officer or parking enforcement officer [~~traffic and parking controller~~] is authorized to move the vehicle, or to require the driver or other person in charge of the vehicle to move the vehicle, to a location off the paved or main part of the street or highway."

SECTION 9. That Subsection (a) of Section 28-81.1, “Stopping, Standing, or Parking Prohibited in Specified Places,” of Division 1, “Generally,” of Article XI, “Stopping, Standing, and Parking Generally,” of Chapter 28, “Motor Vehicles and Traffic,” of the Dallas City Code is amended to read as follows:

“(a) Except when necessary to avoid conflict with other traffic or to be in compliance with the law or the directions of a police officer, city marshal, a parking enforcement officer [~~traffic and parking controller~~], or an official traffic-control device, a person commits an offense if he:

(1) stops, stands, or parks a vehicle:

(A) on the roadway side of any vehicle stopped or parked at the edge or curb of a street;

(B) on a sidewalk;

(C) within an intersection;

(D) on a crosswalk;

(E) between a safety zone and the adjacent curb or within 30 feet of points on the curb immediately opposite the ends of a safety zone, unless a different length is indicated by signs or markings;

(F) alongside or opposite any street excavation or obstruction when stopping, standing, or parking would obstruct traffic;

(G) upon any bridge or other elevated structure upon a highway or within a highway tunnel;

(H) on any railroad track;

(I) on the roadway of any street, when the vehicle constitutes a hazard to itself or to persons or other vehicles; or

(J) in violation of a sign prohibiting the stopping of vehicles;

(K) in designated bike lanes; or

(2) stands or parks a vehicle:

(A) in front of a public or private driveway;

(B) within 15 feet of a fire hydrant;

(C) within 20 feet of a crosswalk at an intersection;

(D) within 30 feet of the approach to any flashing signal, stop sign, yield sign, or traffic-control signal located at the side of a roadway;

(E) when properly posted with signs, within 20 feet of the driveway entrance to any fire station and, on the side of the street opposite the entrance to any fire station, within 75 feet of an entrance;

(F) in violation of a sign prohibiting the standing of vehicles; or

(G) in a fire lane.

SECTION 10. That Section 28-88, “Standing or Parking on One-Way and Two-Way Roadways,” of Division 2, “Prohibited in Specified Spaces,” of Article XI, “Stopping, Standing, and Parking Generally,” of Chapter 28, “Motor Vehicles and Traffic,” of the Dallas City Code is retitled as Section 28-88, “Standing or Parking on One-Way Roadways, Two-Way Roadways, and Cul-de-Sacs.”

SECTION 11. That Section 28-88, “Standing or Parking on One-Way Roadways, Two-Way Roadways, and Cul-de-Sacs,” of Division 2, “Prohibited in Specified Spaces,” of Article XI, “Stopping, Standing, and Parking Generally,” of Chapter 28, “Motor Vehicles and Traffic,” of the Dallas City Code is amended by adding a new Subsection (c) to read as follows:

“(c) A person commits an offense if he stops, stands, or parks a vehicle upon a cul-de-sac:

(1) With the right-hand wheels of the vehicle more than 18 inches from the right-hand curb or edge of the roadway; or

(2) In the center portion of the cul-de-sac unless the center is clearly marked for parking.”

SECTION 12. That Section 28-129, “Parking Violations Made Civil Offenses,” of Division 7, “Administrative Adjudication of Parking Violations,” of Article XI, “Stopping, Standing, and Parking Generally,” of Chapter 28, “Motor Vehicles and Traffic,” of the Dallas City Code is amended to read as follows:

“SEC. 28-129. PARKING VIOLATIONS MADE CIVIL OFFENSES.

Every violation of a provision of this chapter, except for Section 28-121.2, or of Chapter 32 of this code governing the stopping, standing, or parking of a vehicle is a civil offense. In addition to being subject to the criminal penalties and procedures established in Chapter 51A of this code, a violation of Section 51A-4.301(d)(5) governing the parking of a motor vehicle on an unapproved surface may also be adjudicated as a civil offense under this division.”

SECTION 13. That a person violating a provision of this ordinance, upon conviction, is punishable by a fine not to exceed \$500.

SECTION 14. That Chapter 28 of the Dallas City Code shall remain in full force and effect, save and except as amended by this ordinance.

SECTION 15. That any act done or right vested or accrued, or any proceeding, suit, or prosecution had or commenced in any action before the amendment or repeal of any ordinance, or part thereof, shall not be affected or impaired by amendment or repeal of any ordinance, or part thereof, and shall be treated as still remaining in full force and effect for all intents and purposes as if the amended or repealed ordinance, or part thereof, had remained in force.

SECTION 16. That the terms and provisions of this ordinance are severable and are governed by Section 1-4 of Chapter 1 of the Dallas City Code, as amended.

SECTION 17. That this ordinance shall take effect immediately from and after its passage and publication in accordance with the provisions of the Charter of the City of Dallas, and it is accordingly so ordained.

APPROVED AS TO FORM:

TAMMY L. PALOMINO, Interim City Attorney

By _____

Assistant City Attorney

Passed _____