



## Legislation Details (With Text)

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<b>On agenda:</b>	6/14/2023	<b>Final action:</b>			
<b>Title:</b>	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, and 28-129 (1) providing definitions; (2) creating an auxiliary division to the Department of Transportation known as Parking Enforcement and Management; (3) providing a penalty not to exceed \$500.00; (4) providing a saving clause; (5) providing a severability clause; and (6) providing an effective date - Financing: This action has no cost consideration to the City (see Fiscal Information)				
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<b>Attachments:</b>	1. Ordinance				

Date	Ver.	Action By	Action	Result
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**STRATEGIC PRIORITY:** Transportation & Infrastructure

**AGENDA DATE:** June 14, 2023

**COUNCIL DISTRICT(S):** All

**DEPARTMENT:** Department of Transportation

**EXECUTIVE:** Dr. Robert Perez

### SUBJECT

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, and 28-129 **(1)** providing definitions; **(2)** creating an auxiliary division to the Department of Transportation known as Parking Enforcement and Management; **(3)** providing a penalty not to exceed \$500.00; **(4)** providing a saving clause; **(5)** providing a severability clause; and **(6)** providing an effective date - Financing: This action has no cost consideration to the City (see Fiscal Information)

### BACKGROUND

The Parking Enforcement and Management division was moved from the Dallas Police Department to the Dallas Department of Transportation in 2015. Amendments to the Dallas City Code are necessary to authorize parking enforcement officers to enforce provisions within the code to include removing vehicles and issuing citations. ~~Additional revisions are included to provide routine updates and to expand the definition of "streetcar" to include trolleys operating within the public right-of-way.~~

Amendments to the chapter are indicated by the blue underline for additions and ~~red strikethrough~~ for deletions to the sections below. Chapter 28, "Motor Vehicles and Traffic," Sections 28-2, 28-4, 28-5.1, 28-19, 28-76.2, 28-81.1, 28-114.1, 28-129, and 28-193 of the Dallas City Code are amended to read as follows:

## **SEC. 28-2. DEFINITIONS.**

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

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

(A) New Year's Day (January 1);

(B) Martin Luther King Jr.'s Birthday (third Monday in January);

(C) President's Day (third Monday in February);

(D) Memorial Day (last Monday in May);

(E) Juneteenth National Independence Day (June 19);

~~(E)~~ F Independence Day (July 4);

~~(F)~~ G Labor Day/Cesar E. Chavez Day (first Monday in September);

(H) Indigenous Peoples' Day (second Monday in October);

(I) Veterans Day (November 11);

~~(G)~~ J Thanksgiving Day (fourth Thursday in November); and

~~(H)~~ K Christmas Day (December 25).

(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.

(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.

(21) PUBLIC PLACE means any place where the general public has a right to assemble, or to which people commonly resort for purposes of business, amusement, recreation or other lawful purpose.

(22) SERVICE ROAD means an auxiliary roadway adjacent to a freeway, expressway, or arterial that is used by traffic desiring access to abutting property and by traffic seeking ingress to or egress from the adjacent freeway, expressway, or arterial.

(23) STAND or STANDING means the halting of a vehicle, whether occupied or not, otherwise than temporarily for the purpose of and while actually engaged in receiving or discharging passengers.

(24) STOP or STOPPING, when prohibited, means any halting even momentarily of a vehicle, whether occupied or not, except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer or traffic-control sign or signal.

(25) TIME STANDARD (OFFICIAL), for purposes of designating certain hours in this chapter, means central standard time or central daylight-saving time as may be in current use in the city.

(26) TRAFFIC DIVISION means the traffic division of the police department of the city.

(27) TRAFFIC ENGINEER means the person designated by the city manager to perform the functions of traffic engineer or his authorized representative.

(28) VIADUCT means a bridge-like structure to carry a roadway over a valley or ravine, or across another roadway.

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

(a) A ~~police~~ city peace 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, ~~as defined in Section 28-2 of this chapter~~, 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 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) 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 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](#) [https://codelibrary.amlegal.com/codes/dallas/latest/dallas\\_tx/0-0-0-113440](https://codelibrary.amlegal.com/codes/dallas/latest/dallas_tx/0-0-0-113440) 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. (Ord. Nos. 14584; 14686; 15949; 16287; 16477; 17406; 17547; 18411; 19300; 20076; 20448; 20965; 21819; 22906; 22964; 24743; 25384; 26134; 26293; 27189, sec. 28-4(a)(12) eff. 1-1-09)

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

(a) A police peace officer or a traffic and parking controller parking enforcement officer 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 ~~police~~ peace officer or a ~~traffic and parking controller~~ parking enforcement officer 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 ~~police~~ peace officer or a ~~traffic and parking controller~~ parking enforcement officer; or
- (3) removes or relocates any notice placed on an immobilized vehicle, unless the person was a ~~police~~ peace 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. (Ord. Nos. 20965; 21819; 26309)

## **SEC. 28-19. ~~TRAFFIC AND PARKING CONTROLLERS~~ PARKING ENFORCEMENT OFFICERS.**

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

(b) A ~~traffic and parking controller~~ parking enforcement officer 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  [<https://codelibrary.amlegal.com/codes/dallas/latest/dallas\\_tx/0-0-0-113440>](https://codelibrary.amlegal.com/codes/dallas/latest/dallas_tx/0-0-0-113440) 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](#) [https://codelibrary.amlegal.com/codes/dallas/latest/dallas\\_tx/0-0-0-113440](https://codelibrary.amlegal.com/codes/dallas/latest/dallas_tx/0-0-0-113440) of this chapter.

- (c) It is the duty of a ~~traffic and parking controller~~ [parking enforcement officer](#) to direct and guide motor vehicles and pedestrian traffic in the city as directed by the ~~chief of police~~ [director](#).
- (d) A ~~traffic and parking controller~~ [parking enforcement officer](#) 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 ~~traffic and parking controller~~ [parking enforcement officer](#) may direct traffic as conditions require notwithstanding the provisions of the traffic laws.
- (e) A ~~traffic and parking controller~~ [parking enforcement officer](#) 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 parking enforcement officer 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 parking enforcement officer is not a regular member of the police department within the meaning of state laws governing regular police personnel.~~
- ~~(f)~~ (g) A ~~traffic and parking controller~~ [parking enforcement officer](#), while in the performance of official duties, is deemed to be engaged in the performance of a governmental function.
- ~~(g)~~ (h) A ~~traffic and parking controller~~ [parking enforcement officer](#) may not be armed with firearms. (Ord. Nos. 14584; 19579; 20269; 20965; 22026; 27697)

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

When a ~~police~~ [peace](#) 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~~ [peace](#) 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. (Ord. 20012)

## SEC. 28-81.1. STOPPING, STANDING, OR PARKING PROHIBITED IN SPECIFIED PLACES.

- (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 traffic and parking controller~~, [a parking enforcement officer](#), 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; or

(K) in designated bike lanes; or

#### **~~SEC. 28-114.1. ZONES WITHIN THE CENTRAL BUSINESS DISTRICT.~~**

<del>STREET</del>	<del>BLOCK(S)</del>	<del>SIDE(S)</del>	<del>EXTENT</del>
<del>Belleview Street</del>	<del>900-1000</del>	<del>Both</del>	<del>Botham Jean Boulevard Lamar Street to Wall Street</del>
<del>Lamar Street 1400-2000</del>	<del>Both</del>		<del>Belleview Street to Corinth Street</del>
<del>Botham Jean Boulevard</del>			

#### **SEC. 28-129. PARKING VIOLATIONS MADE CIVIL OFFENSES.**

Every violation of a provision of this chapter, [except for section 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. (Ord. Nos. 14584; 20012; 20269; 21612; 22340)

#### **~~SEC. 28-193. DEFINITIONS.~~**

~~(3) STREETCAR means a self-powered vehicle used for transporting persons or property that is operated upon rails within a public right-of-way and can be either self-powered or powered by overhead electrical cables. A trolley is considered a streetcar for the purposes of this chapter.~~

#### **PRIOR ACTION/REVIEW (COUNCIL, BOARDS, COMMISSIONS)**

This item has no prior action.

#### **FISCAL INFORMATION**

This action has no cost consideration to the City. Ordinance enforcement of penalty up to \$500.00 may generate additional revenues to the City.