

ORDINANCE

AN ORDINANCE FOR THE CITY OF BURLESON, TEXAS, AMENDING SECTIONS 78-41 “DEFINITIONS” BY ADDING AND AMENDING DEFINITIONS, 78-42 “STOPPING, STANDING, OR PARKING PROHIBITED IN CERTAIN PLACES” BY MODIFYING THE MAXIMUM PARKING TIME OF CERTAIN VEHICLES IN RESIDENTIAL AND NON-RESIDENTIAL DISTRICTS, 78-46 “STORING MOTOR VEHICLES ON PUBLIC STREETS PROHIBITED” BY MODIFYING THE PROHIBITION OF STORING VEHICLES ON PUBLIC STREETS, 78-47 “UNAUTHORIZED PARKING ON CERTAIN PUBLIC PROPERTY PROHIBITED” BY MAKING GRAMMATICAL EDITS AND 78-51 “CITATION; TOWING; EVIDENCE” BY CLARIFYING THE REMOVAL OF A VEHICLE; PROVIDING A CUMULATIVE CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A PENALTY CLAUSE; PROVIDING FOR PUBLICATION AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Burleson, Texas is a home rule city acting under its charter adopted by the electorate pursuant to Article XI, Section 5 of the Texas Constitution and Chapter 9 of the Local Government Code; and

WHEREAS, the Texas Transportation Code authorizes local authorities to reasonably regulate the stopping, standing, or parking of a vehicle with respect to a highway under its jurisdiction; and

WHEREAS, the City has previously adopted ordinance provisions regulating parking on public streets; and

WHEREAS, the City finds that parking regulations in addition to those provided in the Texas Transportation Code are necessary for the public safety of its citizens; and

WHEREAS, in an effort to maintain current and clear regulations regarding parking on public streets, the City Council now desires to update and amend the City’s ordinance provisions contained in Chapter 78 of the Burleson Code of Ordinances; and

WHEREAS, the City Council hereby finds and determines that the regulations and amendments set forth herein are in the best interest of the public and are adopted in furtherance of the public health, safety, morals, and general welfare.

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

Section 1. Section 78-41 “Definitions” of Division 1 “Public Streets” of Article II “Parking” of Chapter 78 “Traffic and Vehicles” of the City of Burleson Code of Ordinances is hereby amended to read as follows:

“Sec. 78-41. Definitions.

The following words, terms, and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Bicycle lane means a portion of a roadway that has been designated for preferential or exclusive use by bicyclists by pavement markings and, if used, signs.

Commercial equipment means any self-propelled or towable device that is used for profit which carries personal property or moves dirt, sand or gravel or compacts dirt, sand or gravel, and shall include trailers of any shape or design (except recreational vehicles and trailers which are primarily used for recreational purposes).

Motor vehicle means a self-propelled vehicle but does not include an electric bicycle or an electric personal assistive mobility device.

Motorcycle means a motor vehicle, other than a tractor, that is equipped with a rider's saddle and designed to have when propelled not more than three wheels on the ground.

Non-residential district means any area under the comprehensive zoning ordinance that is not a residential district as defined in this Section.

Oversized commercial motor vehicle means any vehicle designated below:

- (1) Tow trucks, dump trucks, truck-tractors, concrete mixing trucks, stake-bed trucks, buses, trailers; or
- (2) Vehicles which are more than:
 - a. Twenty feet in length from end to end; or
 - b. Seven feet in width at their widest point, or
 - c. More than seven feet in height at their highest point.
- (3) *Exclusions*: The term oversize commercial motor vehicle shall exclude:
 - a. A recreational vehicle; or
 - b. A vehicle owned by a public or franchise utility that is located at the residence of an employee of said utility provided the employee is "on call" for emergency response outside normal business hours of 7:30 a.m. to 5:30 p.m.

Passenger car means a motor vehicle, other than a motorcycle, used to transport persons and designed to accommodate ten or fewer passengers, including the operator.

Public infrastructure means the system of public works of the city including but not limited to roads; bridges; water, wastewater and stormwater systems and public utility systems (electric, gas and communications).

Recreational vehicle means a vehicle which is built on a single chassis; 400 square feet or less when measured at the largest horizontal projections; designed to be self-propelled or permanently towable; and designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

Residential district means any area in which residential living is permitted under the comprehensive zoning ordinance.

Right-of-way means the strip of land, dedicated to or owned by the State of Texas, any political subdivision of the State of Texas, or any public authority having jurisdiction, that contains or will contain a street, sidewalk, parkway, median, and/or other public facilities.

Roadway means the portion of a street that is improved, designated for, or ordinarily used for vehicular travel.

Street means any road, street, parkway, boulevard or way, inclusive of its right-of-way, under the jurisdiction of the City of Burleson and open to public travel.

Trailer means a vehicle without motive power designed to be pulled by a motor vehicle and to transport persons or property.

Vehicle means a device that can be used to transport or pull persons or property on a street.”

Section 2. Section 78-42 “Stopping, standing, or parking prohibited in certain places” of Division 1 “Public Streets” of Article II “Parking” of Chapter 78 “Traffic and Vehicles” of the City of Burleson Code of Ordinances is hereby amended to read as follows:

“Sec. 78-42. Stopping, standing, or parking prohibited in certain places.

- (a) *Maximum parking time; non-residential districts.* Except as otherwise provided in this Article, an operator may not stop, stand, or park any vehicle that is unattended on a public street in a non-residential district for a continuous period of time longer than 24 hours.
- (b) *Maximum parking time; residential districts.* An operator may not stop, stand, or park any recreational vehicle or trailer which is primarily used for recreational purposes on a public street or other public right-of-way in a residential district for a continuous period of time longer than 72 hours.
- (c) *Alleys.* An operator may not stop, stand, or park in any dedicated public alley any motor vehicle or trailer, unless it is for the purpose of loading or unloading goods or materials from or to property adjacent to an alley, in which case the motor vehicle or trailer may be stood, stopped, or parked for a time period not to exceed 30 minutes.
- (d) *Parking for certain purposes prohibited.* An operator may not stop, stand, or park on any public street, playground, park, athletic field, or public school property any vehicle, boat, trailer, or any other type of vehicle for the purpose of displaying such vehicle for sale, repairing such vehicle (except repairs necessitated by an emergency), or selling or exhibiting property of any nature.
- (e) *State law.* An operator may not stop, stand, or park in any manner prohibited by V.T.C.A, Transportation Code ch. 545.”

Section 3. Section 78-46 “Storing vehicles on public streets prohibited” of Division 1 “Public Streets” of Article II “Parking” of Chapter 78 “Traffic and Vehicles” of the City of Burleson Code of Ordinances is hereby amended to read as follows:

“Sec. 78-46. Storing vehicles on public streets prohibited.

It shall be unlawful for any person to store or allow the storage of any vehicle, including a trailer, upon the public streets, alleys, sidewalks, or parkways of the city. For purposes of this section, a vehicle other than a trailer shall be considered stored if it (i) manifests one or more of the following characteristics: inoperability, deflated tire or tires, wrecked, dismantled or partially dismantled, no valid license plate affixed thereto, expired license plate affixed thereto, or no registration windshield sticker for the current registration period affixed thereto; and (ii) has remained parked at, or nearly at, the same location for a continuous period of time in excess of 48 hours. For purposes of this section, a trailer shall be considered stored if it has remained parked at, or nearly at, the same location for a continuous period of time in excess of 24 hours and is unattached to a motor vehicle.”

Section 4. Section 78-47 “Unauthorized parking on certain public property prohibited” of Division 1 “Public Streets” of Article II “Parking” of Chapter 78 “Traffic and Vehicles” of the City of Burleson Code of Ordinances is hereby amended to read as follows:

“Sec. 78-47. Unauthorized parking on certain public property prohibited.

- (a) *Unauthorized parking prohibited.* Except as provided in subsection (b), it shall be unlawful for any person to park, stop, stand, a vehicle, whether occupied or unoccupied:
 - (1) In a manner which blocks a public driveway or right-of-way, including sidewalks;
 - (2) For a period longer than four hours on any public parking lot upon which is located signage designating the parking lot for use of the public conducting business as a city facility; or
 - (3) On a public parking lot upon which is located signage designating the parking lot for city employees and/or city officials.
- (b) *Exception:* It is an exception to subsection (a) if a person parks, stops, or stands a vehicle:
 - (1) Temporarily for the purpose of, and while actually conducting the activity of, loading or unloading passengers from such vehicle, or
 - (2) Pursuant to written authorization from the city manager or their designee.”

Section 5. Section 78-51 “Citation; towing; evidence” of Division 1 “Public Streets” of Article II “Parking” of Chapter 78 “Traffic and Vehicles” of the City of Burleson Code of Ordinances is hereby amended to read as follows:

“Sec. 78-51. Citation; towing; evidence.

- (a) The chief of police or any member of the police department designated by the chief of police is hereby authorized to issue parking citations to any person who has violated any portion of this article.

- (b) Any vehicle found stopped or standing or parked in or upon any public street or other public place in violation of any provision of this article shall be deemed to be a nuisance per se, and a traffic hazard, and any such vehicle shall be removed in the manner and to a place as authorized by law. The chief of police or their designee may effectuate the towing or removal of such a vehicle under this article at the expense of the owner of said vehicle and, if towed, may have the vehicle impounded and detained until all towing and storage charges are paid by the owner.
- (c) In a prosecution for an offense under this article or under applicable state law involving the stopping, standing, or parking of an unattended motor vehicle it is presumed that the registered owner of the vehicle is the person who stopped, stood, or parked the vehicle at the time and place the offense occurred.”

Section 6. The findings set forth above in the recitals of this Ordinance are incorporated into the body of this Ordinance as if fully set forth herein.

Section 7. This ordinance shall be cumulative of all provisions of ordinances of the City of Burleson, Texas, except where the provisions of this ordinance are in direct conflict with the provisions of such ordinances, in which event the conflicting provisions of such ordinances are hereby repealed.

Section 8. That the terms and provisions of this ordinance shall be deemed to be severable and that if any section, subsection, sentence, clause, or phrase of this ordinance shall be declared to be invalid or unconstitutional, the same shall not affect the validity of any other section, subsection, sentence, clause, or phrase of this ordinance and the remainder of such ordinance shall continue in full force and effect the same as if such invalid or unconstitutional provision had never been a part hereof.

Section 9. Any complaint, notice, notice of violation, action, cause of action, hearing request, appeal, or claim which prior to the effective date of this Ordinance that has been initiated or arisen under or pursuant to any other ordinance(s) shall continue to be governed by the provision of that ordinance or ordinances, and for that purpose that ordinance or ordinances shall be deemed to remain and shall continue in full force and effect.

Section 10. That it is hereby officially found and determined that the meeting at which this ordinance is passed is open to the public and that public notice of the time, place, and purpose of said meeting was given as required by law.

Section 11. Pursuant to Section 36 of the Charter of the City of Burleson, that this ordinance shall take effect after its passage and publication, and that the City Secretary is hereby directed to give notice of the passage of this ordinance by causing the caption or title and the penalty clause of this ordinance to be published once in a newspaper of general circulation in the city and on the city’s website.

Section 12. Any person, firm, association of persons, company, corporation, or their agents, servants, or employees violating or failing to comply with any of the provisions of this article shall be fined, upon conviction, not less than one dollar (\$1.00) nor more than five hundred dollars

(\$500.00), and each day any violation of noncompliance continues shall constitute a separate and distinct offense. The penalty provided herein shall be cumulative of other remedies provided by State Law.

PASSED AND APPROVED:

First Reading: the _____ day of _____, 20_____.

Final Reading: the _____ day of _____, 20_____.

Chris Fletcher, Mayor
City of Burleson, Texas

ATTEST:

APPROVED AS TO FORM

Amanda Campos, City Secretary

E. Allen Taylor, Jr., City Attorney