

## ***ARTICLE 4. STOPPING, STANDING, PARKING***

### ***DIVISION 1. GENERALLY***

#### **Sec. 82.155. Parking violations made civil offenses; hearing.**

- (a) A violation of a provision of this Code governing stopping or parking of a vehicle is designated as a civil offense.
- (b) A violation of a provision of this Code pertaining to interference with enforcement, immobilization or impoundment is a criminal offense.
- (c) A person charged with violating a stopping or parking ordinance is entitled to an administrative adjudication hearing as provided in this article. This hearing shall take place no later than ten business days following the date upon which a citation is issued.

(Ord. No. 2007-61, § 1, 10-16-07)

#### **Sec. 82.156. Presumptions; liability of vehicle owner and operator; copy of citation; failure to appear.**

- (a) In any administrative adjudication hearing under this article:
  - (1) It is a rebuttable presumption that the registered owner of the motor vehicle is the person who parked or stopped the vehicle at the time and place of the offense charged; and
  - (2) A computer-generated record of the Texas Department of Transportation's files showing the current registered vehicle owner is prima facie evidence of the contents of the record.
- (b) In an administrative adjudication hearing under this article for a charge of parking in a front or side yard or a vacant lot:
  - (1) It is a rebuttable presumption that the real property owner of the property on which the vehicle is parked is the person who allowed the vehicle to remain parked at the time and place of the offense charged; and
  - (2) A computer-generated record of the Hays, Caldwell, Guadalupe or Comal County Tax Assessors' files showing the current real property owner is prima facie evidence of the contents of the record.
- (c) For a citation charging a person with removing a parking ticket from the vehicle of another or placing a ticket from the vehicle of another on the person's vehicle, proof that the parking ticket found on a vehicle contains identifying information for a different vehicle, creates a rebuttable presumption that the person named in the citation removed the ticket from the vehicle of another or placed a ticket from another vehicle on the person's own vehicle.
- (d) For a citation charging use of a prior ticket, proof that the time of issuance on the ticket is more than 24 hours prior to the time the ticket is found, creates a rebuttable presumption that the person named in the citation placed the prior ticket on the vehicle.
- (e) For any parking or stopping citation:

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- (1) The registered owner and the operator of the vehicle, when not the same, are both liable to the city for the parking citation.
  - (2) The registered owner will not be held liable if the registered owner proves that the vehicle was operated without his or her express or implied consent.
  - (3) For a parking on the side or front yard or vacant lot citation the real property owner of the property on which the vehicle is parked may be held liable in addition to the owner or operator of the vehicle.
- (f) The original or any copy of the citation, including an electronic copy, shall be kept as a record in the ordinary course of business of the city and is rebuttable proof of the facts it contains.
- (g) A person who fails to appear at the administrative hearing, or who fails to respond to the citation within ten days, is considered to admit liability to the offense charged.
- (Code 1970, § 29-45; Ord. No. 1999-56, § 1, 7-12-99; Ord. No. 2003-41, § 1, 6-23-03; Ord. No. 2007-61, § 2, 10-16-07)

### **Sec. 82.157. Parking citations; notices.**

- (a) A parking citation serves as summons and notice of the administrative adjudication hearing under this article.
- (b) A parking citation may be issued by a parking technician, a park ranger, a police officer, a code enforcement officer, or any other authorized parking enforcement agent designated by or upon authority of the city.
- (c) If the owner or operator of the vehicle is not present at the time the citation is issued, the person issuing the citation may affix the citation to the vehicle in a conspicuous place.
- (d) The citation shall include:
  - (1) The charged offense;
  - (2) The date, time and location of the violation;
  - (3) The make, model and state license plate number of the vehicle, or if the license plate number is not visible or legible, the VIN number or state inspection number in lieu of the license number;
  - (4) Notice of the recipients right to an instant hearing within ten days, that such right shall be exercised by either requesting a hearing by mail postmarked within ten days of the date of citation or appearing before a hearing officer within ten days of the date of citation, and the hours instant hearings are available; and,
  - (5) Notice that failure to answer the citation or appear within ten days is considered an admission of liability.

(Code 1970, § 29-45; Ord. No. 2007-61, § 3, 10-16-07)

### **Sec. 82.158. Registration of parking regulations.**

All parking regulations established by authority of this chapter shall be recorded in the traffic register.

(Code 1970, § 29-47)

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## **Sec. 82.159. Penalties for parking violations.**

(a) A person who violates this article shall be liable for a civil penalty of not more than \$200.00 but not less than the following (except for disabled parking violations):

(1) *Level one violations*\$20.00

Parked overtime

Parked within 20 feet of crosswalk

Wheels over 18 inches from the curb

Parked on wrong side of the street

Parking within four feet of a residential mailbox during prohibited hours

(2) *Level two violations*30.00

Backed into parking space not designated for back-in parking or parked head-in into a parking space designated for back-in parking

Oversize vehicle in angle parking

Parked for sale or repair

No parking zone

Blocking alley

Blocking crosswalk

Blocking driveway of business or residence

Parked on sidewalk

Double parked

Parked in loading zone

Parked in lane of traffic

Parked in intersection

Large motor vehicle, travel trailer, personal watercraft or boat, either attached or unattached to a motor vehicle on street in a residential area

(3) *Level three violations*50.00

Commercial vehicle, semi-trailer, pole trailer, construction vehicle or farm equipment on street in residential area

Parked in fire zone

Parked within 15 feet of a fire hydrant

Parked in front or side yard or vacant lot

Parked in a bicycle lane

(4) *Level four violations*250.00

Violations regarding disabled parking

(Pursuant to Chapter 681 of the Texas Transportation Code)

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- (b) Any penalty not paid within 15 days of the date due is subject to an additional fee of 50 per cent of the original penalty.
  - (c) In addition to the penalties provided for in subsection (a), a vehicle with three or more unpaid adjudicated parking violations ~~within a calendar year~~ may be ~~either~~ immobilized by the attachment of a vehicle immobilizing device ~~and/or~~ impounded and towed to a vehicle storage facility at the owner's expense in accordance with the provisions of this article.
  - (d) An administrative fee of ~~\$50~~ \$100.00 to defray the city's costs in administering and enforcing orders pursuant to this article will be charged for each vehicle ordered immobilized or impounded.

(Code 1970, § 29-48; Ord. No. 1998-15, § 1, 3-23-98; Ord. No. 2003-41, § 2, 6-23-03; Ord. No. 2006-10, § 3, 3-21-06; Ord. No. 2007-61, § 4, 10-16-07; Ord. No. 2012-49, § 2, 11-7-12; Ord. No. 2013-72, § 2, 12-17-13 ; Ord. No. 2014-05, § 1, 2-18-14 )

### **Sec. 82.160. Parking limited by specific time.**

When signs or markings are placed on a public street or in a public area giving notice thereof, no person shall stop, stand or park a vehicle for a period of time longer than the time indicated on the signs or markings. These areas shall be described by separate ordinance and shall be maintained in the traffic register. A separate violation of this section shall be deemed committed for each period of time, regardless of whether the violations occur on a single day and at the same location.

(Code 1970, § 29-43)

### **Sec. 82.161. Tow-away zones.**

- (a) Notwithstanding any section of this chapter, any street, alley or city-owned property or part thereof may be designated as a no parking tow-away zone by separate ordinance.
- (b) When signs or markings are placed giving notice thereof, no person shall park a vehicle in any area designated as a no parking tow-away zone.
- (c) Any peace officer or parking technician may authorize the removal of a vehicle parked in a no parking tow-away zone. The owner and operator of the vehicle are liable for all reasonable towing and storage fees incurred in the removal and storage of the vehicle.

(Code 1970, § 29-44; Ord. No. 2003-41, § 3, 6-23-03)

### **Sec. 82.162. Backing into spaces.**

- (a) The city manager may designate parking spaces on a public street for back-in parking by placing signs giving notice of such designation.
- (b) It is unlawful for any person to back a vehicle, other than a motorcycle, into a parking space on a public street that is not designated by the city manager for back-in parking or to park head-in into a parking space on a public street designated by the city manager for back-in parking.

(Code 1970, § 29-31; Ord. No. 2013-72, § 1, 12-17-13 )

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**Sec. 82.163. Trailers.**

It is unlawful for any person to stand or park any vehicle having attached thereto a trailer, and the overall length of the vehicle and trailer is 19 feet or more, on any street where angle parking is designated.

(Code 1970, § 29-32)

**Sec. 82.164. Parking in alleys.**

- (a) It is unlawful for a person to park a vehicle and leave it unattended within an alley in any manner or under any condition which leaves available less than ten feet of the width of the alley for the free movement of vehicles, except for the active and expeditious loading and unloading of freight.
- (b) It is unlawful for a person to stop, stand or park a vehicle within an alley in any position which blocks a driveway entrance to any abutting property.

(Code 1970, § 29-33)

**Sec. 82.165. Parking in front of residential mail boxes.**

- (a) It shall be unlawful for any person to park a vehicle on a public street from 8:00 a.m. to 5:00 p.m., Monday through Saturday within four feet of either side of a curbside single-family residential mailbox used for the delivery of mail by the United States Postal Service. The restrictions in this section shall not apply on federal holidays observed by the United States Postal Service or other days when mail is not delivered by the United States Postal Service.
- (b) Nothing in this section shall prohibit a person from temporarily parking a vehicle that remains attended for the purpose of loading or unloading passengers or cargo.
- (c) No citation may be issued for a violation of this section unless a written warning of a violation of this section has been issued for the same vehicle within the 12-month period preceding the date of the violation.

(Ord. No. 2012-49, § 1, 11-7-12)

**Sec. 82.166. Parking for certain purposes prohibited.**

It is unlawful for a person to park a vehicle upon any street for the purpose of:

- (1) Displaying the vehicle for sale; or
- (2) Repairing the vehicle, except repairs necessitated by an emergency.

(Code 1970, § 29-35)

**Sec. 82.167. Parallel and angle parking.**

- (a) The city council shall determine the streets upon which angle parking will be permitted and shall mark or sign the streets, but the angle parking shall not be indicated upon any federal-aid or state highway within this city unless the state highway engineer has determined that the roadway is of sufficient width to permit angle parking without interfering with the free movement of traffic. Angle parking shall not be indicated or permitted at any place where passing traffic would thereby be caused or required to drive upon the left side of the street or upon any railway tracks.

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- (b) Upon those streets that have been signed or marked for angle parking, no person shall park or stand a vehicle other than at the angle to the curb or edge of the roadway indicated by signs or markings.
  - (c) Whenever parking spaces are marked by lines on the pavement, whether for parallel or angle parking, a vehicle must be parked entirely within the lines of the parking space.

(Code 1970, § 29-36)

**Sec. 82.168. Parking near hazardous or congested places; parking or loitering near scene of accident.**

- (a) The traffic engineer is authorized to determine and designate, by signs or markings, places in which the stopping, standing or parking of vehicles would create an especially hazardous condition or would cause unusual delay to traffic.
- (b) When official signs or markings are placed at hazardous or congested places as authorized in subsection (a) of this section, it is unlawful for a person to stop, stand or park a vehicle in these designated places.
- (c) It is unlawful for a person, not involved in the accident, to loiter or remain within 100 feet of any vehicle involved in an accident, except at the request or authorization of a peace officer.
- (d) It is unlawful for a person to park or stand a vehicle within 100 feet of a police or fire line, except at the request or authorization of a police officer or fire official at the scene.
- (e) It is unlawful for a person to drive a vehicle across a police or fire line, except at the request or authorization of a police officer or fire official at the scene.

(Code 1970, § 29-37)

**Sec. 82.169. Curb loading zones.**

- (a) The traffic engineer is authorized to determine the location of curb loading zones and shall place and maintain appropriate signs or markings indicating the zones and stating the hours during which they are applicable.
- (b) No person shall stop, stand or park a vehicle for any purpose or period of time, other than for the expeditious loading or unloading of passengers or freight, in any place officially designated by signs or markings as a curb loading zone during hours when the regulations applicable to the curb loading zone are effective.

(Code 1970, § 29-38)

**Sec. 82.170. Public carrier stops and stands.**

- (a) The traffic engineer is authorized and required to establish bus stops, bus stands, taxicab stands and stands for other public carrier motor vehicles, on public streets, in places and in a number as the engineer determines to be of the greatest benefit and convenience to the public. Every bus stop, bus stand, taxicab stand or other stand shall be designated by appropriate signs or markings.
- (b) The operator of a public carrier shall not stand or park the vehicle upon any street at any place other than a designated stand, except as provided in subsection (c) of this section.
- (c) Where one is provided, the operator of a taxicab or limousine, or a TNC Driver (as defined under section 90.321 of this Code) waiting for a prearranged ride customer shall use a stand designated by subsection (a)

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of this section for the purpose of loading and unloading of passengers. Where a stand is not provided, the operator of a taxicab or limousine, or a TNC Driver waiting for a prearranged ride customer shall not stand or park the vehicle upon any street, except for the purpose of and while actually engaged in the expeditious loading or unloading of passengers.

(Code 1970, § 29-39; Ord. No. 2016-05, § 1, 4-5-16 )

#### **Sec. 82.171. Disabled parking spaces.**

- (a) The traffic engineer is authorized to determine the location for parking spaces for vehicles transporting persons with disabilities, and shall place and maintain appropriate signs and markings indicating these parking spaces. No person shall stand or park a vehicle in a handicapped parking space unless authorized to do so under state law.
- (b) In addition to police officers and appointed parking technicians, other persons meeting the qualifications under V.T.C.A., Transportation Code, § 681.0101, and other qualifications prescribed by the chief of police, may be appointed and trained by the chief of police to enforce state disabled parking provisions on public and private property.

(Code 1970, § 29-40; Ord. No. 2003-41, § 4, 6-23-03; Ord. No. 2005-27, § 1, 4-5-05)

#### **Sec. 82.172. Stopping, standing or parking on street.**

It is unlawful for a person to stop, park or leave standing any vehicle, whether attended or unattended, upon the main-traveled part of a street, in a manner or under any condition which leaves available less than 14 feet of the width of the street for the free movement of vehicles.

(Code 1970, § 29-41)

#### **Sec. 82.173. One-way streets.**

On a one-way street, no person shall stand or park a vehicle upon the lefthand side of the street unless signs are erected under authority granted by ordinance to permit standing or parking.

(Code 1970, § 29-42)

#### **Sec. 82.174. Hearing officer; powers; duties; functions.**

- (a) The municipal court judge and the associate municipal court judge and any other person appointed by the city manager are designated as hearing officers.
- (b) The hearing officer shall have the authority to:
  - (1) Administer oaths;
  - (2) Issue orders enforceable by the municipal court compelling the attendance of witness and the production of documents;
  - (3) Hear and determine contests of parking violations under this Code;
  - (4) Issue orders of immobilization or impoundment of vehicles;
  - (5) Set conditions for the release of vehicles immobilized or impounded under this chapter; and

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- (6) Dismiss parking citations or cases that are unenforceable or that were erroneously issued.  
(Ord. No. 1998-15, § 2, 3-23-98; Ord. No. 2007-61, § 5, 10-16-07)

**Sec. 82.175. Administrative adjudication hearing; notice to city attorney; orders; hearing on immobilization or impoundment.**

- (a) Administrative adjudication hearings before a hearing officer:
- (1) The defendant may admit, admit with an explanation, or deny the allegation.
  - (2) The person who issued the citation is not required to attend the hearing.
  - (3) The city attorney is not required to appear at the hearing. However, if the person charged is represented by legal counsel at the hearing, the hearing officer shall notify the city attorney's office so that the city attorney or the city attorney's designated agent may appear on behalf of the city at the hearing.
  - (4) No formal or sworn complaint shall be necessary. At the hearing, the hearing officer shall examine the contents of the citation and the evidence related to ownership of the vehicle in question, the presumptions and other prima facie evidence established by this article and other applicable state law, and the testimony and evidence presented by the defendant and the city.
  - (5) If the hearing officer determines by a preponderance of the evidence that the defendant committed the violation, he shall find the defendant liable for all fees and fines.
  - (6) At the conclusion of the hearing, the hearing officer shall issue an order stating:
    - a. Whether the person charged with the violation is liable for the violation;
    - b. The amount of any fine, cost, or fee assessed against the person; and
    - c. A statement that the order may be enforced by the methods provided in this article.
  - (7) The order shall be filed with the municipal court clerk and shall be kept in a separate index and file. The order may be recorded using microfilm, microfiche, or any data processing techniques.

~~(b) Hearings on immobilizing or impounding vehicles:~~

- ~~(1) All hearings regarding the immobilizing or impoundment of motor vehicles will be conducted before a municipal court judge or associate judge.~~
- ~~(2) The only issues to be decided at the immobilization or impoundment hearing are whether there are three or more unpaid adjudicated parking violations within a calendar year related to the vehicle and whether a compelling reason exists not to immobilize or impound the motor vehicle.~~

~~(Ord. No. 1998-15, § 2, 3-23-98; Ord. No. 2007-61, § 6, 10-16-07)~~

**Sec. 82.176. Appeal.**

- (a) A person whom the hearing officer determines to be in violation of a vehicle parking or stopping ordinance may appeal the determination by filing a petition with the clerk of the municipal court and paying the costs required by law for municipal court not later than the 30th day after the date on which the order is filed.
- (b) The municipal court clerk shall schedule an appeal hearing and notify the appellant and the city attorney of the date, time, and place of hearing.



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- (c) The appellate hearing shall be a de novo review by whichever of the municipal court judge or the associate municipal court judge that did not preside at the original hearing. The judge hearing the appeal shall use the same criteria as the administrative adjudication hearing. If the judge determines by a preponderance of the evidence that the person committed the parking offense, the judge shall find the defendant liable.

(d) An appeal does not stay enforcement and collection of the judgment unless the person, before appealing, posts bond in the amount of the fine assessed by the municipal court with the municipal court clerk.

(Ord. No. 1998-15, § 2, 3-23-98; Ord. No. 2007-61, § 7, 10-16-07)

### **Sec. 82.177. Enforcement.**

- (a) An order filed pursuant to this article may be enforced by:
- (1) Impounding or immobilizing the vehicle if the offender has committed three or more parking or stopping offenses in the past calendar year; and
  - (2) Imposing an additional fine if the original fine is not paid within a specified time.
- (b) Provided however that no vehicle shall be impounded or immobilized under this article unless ~~written notice is mailed to the last known registered owner, or current owner if that information is contained in the order filed pursuant to [F.S.] 82.175, of the vehicle by certified mail return receipt requested with a ten-day return at least ten business days before the vehicle is impounded or immobilized notifying~~ the registered owner or driver has been notified that the vehicle is subject to impoundment or immobilization under this article and of the right to a hearing regarding same.

(Ord. No. 1998-15, § 2, 3-23-98; Ord. No. 2007-61, § 8, 10-16-07)

### **Sec. 82.178. Orders for impoundment or immobilization.**

- (a) *Procedures for impoundment or immobilization.*
- (1) If a vehicle owner does not request a hearing or pay the penalty as provided by this article, the vehicle may be immobilized or impounded after notice ~~and opportunity for a hearing~~ has been provided. ~~to the last known registered owner of the motor vehicle.~~
  - (2) Written notice shall be affixed to the windshield of or other conspicuous location on the vehicle and be sent by certified mail, return receipt requested, to the last known registered owner of a vehicle subject to a request for an impoundment or immobilization order. The notice shall contain at a minimum the following information.
    - a. The vehicle license plate number;
    - ~~b. The name of the last registered owner of the vehicle;~~
    - c. The date issued ~~fine amounts, costs and fees for all outstanding parking citations;~~
    - d. A statement that a request for a hearing to determine whether or not the motor vehicle will be immobilized or impounded must be made to the municipal court in writing, without requirement of bond, within ten days after the date the notice was ~~mailed;~~ affixed to the vehicle;
    - e. A statement that failure to request a hearing before the expiration of the ten-day period, or failure to appear at a requested hearing will constitute a waiver of the opportunity to oppose the proposed impoundment or immobilization; and

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- f. A statement indicating that the registered owner of the vehicle, in addition to being responsible for all outstanding parking citations, will be responsible for all fees and costs incurred in immobilizing and impounding the vehicle, including storage fees.
- (b) ~~Issuance of immobilizing and impoundment order~~Hearing.
- (1) ~~If a hearing is requested, and the judge determines that a vehicle will be immobilized or impounded, the judge will issue a written order directing any police officer or parking technician of the city to immobilize and impound the vehicle. The municipal court will also charge a hearing fee of \$50.00 that is separate from the immobilization fee. If a hearing is conducted with the vehicle owner present, and the judge determines that a vehicle will be immobilized or impounded, the judge will issue a written order directing any police officer or parking technician of the city to immobilize and impound the vehicle. The municipal court will also charge a hearing fee of \$50.00 that is separate from the immobilization fee.~~
- (2) If the municipal court does not receive a request for a hearing from the owner of the motor vehicle or the owner's representative within ten days from the date the notice required by this section was affixed to the vehicle, any city officer or parking technician may immobilize or impound the vehicle as provided in Section 82.179. ~~mailed, or if~~ If the owner or owner's representative fails to attend a requested hearing, the judge will issue a written order directing the immobilizing and impoundment of the vehicle. If the owner or the owner's representative fails to attend a requested hearing, the municipal court will charge a \$50.00 hearing fee that is separate from the immobilization fee.
- (3) ~~Upon a determination by the judge that a vehicle should be immobilized or impounded, the judge or the clerk of the municipal court will inform the owner or the owner's representative of the determination, in person if they appear at a hearing or by certified mail to the last known registered owner of the vehicle if they do not appear at a hearing. Upon a determination by the judge that a vehicle should be immobilized or impounded, the judge or the clerk of the municipal court will inform the owner or the owner's representative of the determination, in person if they appear at a hearing or by certified mail to the last known registered owner of the vehicle if they do not appear at a hearing.~~

(Ord. No. 1998-15, § 2, 3-23-98; Ord. No. 1999-56, § 1, 7-12-99; Ord. No. 2007-61, § 9, 10-16-07)

## **Sec. 82.179. ~~Execution of i~~Immobilization or impoundment order.**

- (a) Any city officer or parking technician may immobilize a vehicle ~~under a municipal court order~~ under city ordinance by the installation or attachment of a device designed to restrict the normal movement of a vehicle ~~or;~~
- (b) By having a vehicle impounded.
- (b) When a vehicle is immobilized after following the procedures in Section 82.178, the person executing the order will conspicuously attach to the vehicle a written notice on a form provided by the city, worded substantially as follows:
- (1) The vehicle has been immobilized pursuant to City ordinance or order of the municipal court ~~court order~~, and any attempted movement may cause damage to the vehicle;
- (2) It is unlawful for any person to tamper with, deface, damage, or attempt to remove an immobilization device when it has been attached to a vehicle;
- (3) Instructions on having the vehicle released may be obtained by calling the municipal court or ~~the police department;~~ or the City Marshal's office.

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- (4) The vehicle may be towed and impounded if the owner of the vehicle or the owner's representative has not arranged to have the immobilization device removed by the city before 4:00 p.m.; and
  - (5) The owner of the vehicle is responsible for payment of all applicable fees for towing, impoundment and storage of the vehicle, in addition to the fines, costs and fees for any outstanding parking citations.
  - (c) Nothing under this section shall be construed to restrict or limit the authority of police officers to tow and impound vehicles under other applicable law.
  - (d) Any immobilized vehicles ~~will~~ may be impounded by 5:00 p.m. the day of installation or as soon thereafter as is determined feasible by the City if the municipal court clerk has not been contacted for appeal or payment.
- (Ord. No. 1998-15, § 2, 3-23-98; Ord. No. 1999-56, § 1, 7-12-99; Ord. No. 2007-61, § 10, 10-16-07)

### **Sec. 82.180. Reclaiming immobilized or impounded vehicles.**

- (a) The owner or a person with the right to possession of a vehicle which has been immobilized or impounded under this article may reclaim the vehicle by appearing at the municipal court Monday through Friday, between the hours of 8:00 a.m. and 5:00 p.m., ~~and during all other times at the Police Department and~~ meeting the following requirements:
  - (1) Present satisfactory evidence of the person's identity and of the person's ownership or right to possession of the vehicle; and
  - (2) Pay the accumulated amount of fines, costs and fees related to the vehicle.
- (b) Upon compliance with subsection (a), the person will be authorized to reclaim the impounded vehicle or to have the immobilization device removed within business hours.
- (c) The municipal court judge ~~, or the City Marshal~~ the chief of police or their designees, are authorized to issue a written order releasing an impounded vehicle to its owner or to a person determined to have the right to possession of the vehicle. Nothing in the order shall authorize or imply the waiving of costs and fees associated with the impoundment and storage of the vehicle.
- (d) Upon payment of all impoundment and storage fees, presentment of either a signed release from the municipal court judge ~~, or the City Marshal~~ the chief of police or their designees and proof of identity to the person in possession of the vehicle, the impounded vehicle shall be released to the person indicated in the release.

(Ord. No. 1998-15, § 2, 3-23-98; Ord. No. 1999-56, § 1, 7-12-99; Ord. No. 2007-61, § 11, 10-16-07)

### **Sec. 82.181. Interference with enforcement.**

- (a) It is unlawful for any person to obstruct, prevent, hinder or interfere with any person engaged in enforcing the provisions of this article. Unlawful interference may include, but is not limited to such actions as:
  - (1) Obstructing, preventing, hindering or interfering with any person executing an order of immobilization and impoundment; or
  - (2) Tampering with, defacing, or damaging an immobilization device, or attempting to remove the device when it has been installed; or
  - (3) Removing, erasing, tampering with or defacing marks made by parking enforcement officers to note the time or location vehicle was found; or
  - (4) Removing, destroying or defacing a ticket from another vehicle; or

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- (5) Cause or permit placing a ticket from another vehicle on one's vehicle; or,
  - (6) Cause or permit placing a previously issued ticket on one's own or another's vehicle.
- (b) Parking technicians are authorized to issue citations for violations of this section.
- (Ord. No. 2007-61, § 12, 10-16-07)

### **Sec. 82.182. Parking privileges.**

- (a) The owner of a vehicle is exempt from the payment of a fee or penalty imposed by the city for parking in a space with a limitation on the length of time for parking if a valid hospitality tag, issued under section 82.292 of this Code, is hung from the rearview mirror of the vehicle or placed on the vehicle's front dashboard.
  - (b) This section does not permit a vehicle to be parked at a time when or a place where parking is prohibited, or limited to certain vehicles such as loading zones, public carrier stops or handicapped spaces.
- (Ord. No. 1998-46, § 1, 5-18-98; Ord. No. 2007-61, § 12, 10-16-07)

Editor's note(s)—Ord. No. 2007-61, § 13, adopted Oct. 16, 2007, deleted former § 82.182 in its entirety. Former § 82.182 pertained to interference with enforcement prohibited and derived from Ord. No. 2003-41, § 5, adopted June 23, 2003.

## ***DIVISION 2. PARKING IN RESIDENTIAL AREAS***

### **Sec. 82.183. Definitions.**

In this division:

*Boat* means a vessel for use on water propelled by oars, paddles, sail, or power, and includes the trailer upon which it is transported.

*Construction vehicle* means mobile construction equipment, including but not limited to, dump trucks, graders, back-hoes, front-end loaders, skid loaders, and other similar equipment.

*Farm equipment* means tractors and all accessories and instruments associated with farming and ranching.

*Front yard* means:

- (1) For the purposes of an interior lot only, the yard extending across the front of a lot.
- (2) For the purposes of a corner lot only, the yard extending across the front of a lot between the side lot line adjacent to an interior lot or other platted property and the side yard line. A corner lot shall be treated as having two front yards.

*Large motor vehicle* means a motor vehicle as defined in the preceding definition which is more than 22 feet in length and/or more than seven feet in height from ground level. Motor vehicles more than seven feet in height due to adaptations specifically to accommodate disabled persons are exempted. This term includes but is not limited to recreational vehicles.

*Motor vehicle* means any motor driven or propelled vehicle required to be registered under the laws of the State of Texas, and includes trailers, semi trailers and house trailers as those terms are defined in of the Texas Transportation Code.

*Personal watercraft* means any equipment used by one or more individuals for recreational or transportation purposes in or on the water and which is powered by a motor and includes the trailer upon which it is transported.

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*Pole trailer* means every vehicle without motive power designed to be drawn by another vehicle and attached to the towing vehicle by means of a reach, or pole, or by being boomed or otherwise secured to the towing vehicle, and ordinarily used for transporting long or irregularly shaped loads such as poles, pipes, or structural members, capable, generally, of sustaining themselves as beams between the supporting connections.

*Side yard* means any yard which is not a front yard or rear yard and which is behind the front building line.

*Semi-trailer* means every vehicle with or without motive power, other than a pole trailer, designed for carrying persons or property and for being drawn by a motor vehicle and so constructed that some part of its weight and that of its load rests upon or is carried by another vehicle.

*Single-family residential zoning district* means zoning districts SF 11, SF6, SF 4.5, TH, DR, TH, and PH-Z, as designated on the official zoning map of the city, and as described in chapter 4 of the city Land Development Code.

*Trailer* means every vehicle with or without motor power, other than a pole trailer, designed for carrying persons or property and for being drawn by a motor vehicle.

*Travel trailer* means a vehicular, portable structure built on a permanent chassis, designed by the manufacturer to be towed by another vehicle and used as a temporary dwelling or providing temporary living quarters for recreational use.

(Ord. No. 2006-10, § 5, 3-21-06)

#### **Sec. 82.184. Parking prohibited on front and side yards.**

It is unlawful for a person to park or allow to remain parked a motor vehicle, large motor vehicle, farm equipment, construction vehicle, boat, personal watercraft or trailer of any kind at any time in the side or front yard, in any single-family residential zoning district.

(Ord. No. 2006-10, § 5, 3-21-06)

#### **Sec. 82.185. Exceptions.**

- (a) It is an exception to the prohibition in section 82.184 if all wheels of the motor vehicle, large motor vehicle, travel trailer, boat or personal watercraft parked in the front yard are on a permanently maintained parking area extending from the curb, street, or alley in a contiguous course, and constructed of materials permitted under the Development Code.
- (b) The parking area referred to in subsection (a) shall be no greater than the area permitted under the Development Code.
- (c) It is an exception to the prohibition in section 82.184 if the motor vehicle, large motor vehicle, travel trailer, boat or personal watercraft is parked in the side yard and the vehicle is screened from view from the public right-of-way by an opaque fence six feet in height.

(Ord. No. 2006-10, § 5, 3-21-06; Ord. No. 2018-04, § 27, 4-17-18)

#### **Sec. 82.186. Parking prohibited on vacant lots.**

- (a) It is unlawful for a person to park or allow to remain parked at any time on a vacant lot in any single family residential zoning district more than two of the following:
  - (1) A motor vehicle;
  - (2) A large motor vehicle;

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- (3) A travel trailer;
  - (4) A boat or personal watercraft.
  - (b) It is unlawful for a person to park or allow to remain parked a semi-trailer, pole trailer, commercial vehicle, construction vehicle or farm equipment on a vacant lot in any single family residential zoning district.
- (Ord. No. 2006-10, § 5, 3-21-06)

#### **Sec. 82.187. Restricted parking on streets.**

- (a) It is unlawful for a person to leave, stand or park a large motor vehicle, travel trailer, personal watercraft or boat, either attached or unattached to a motor vehicle on a public street in any single family residential zoning district in excess of 24 hours.
- (b) It is unlawful for a person to park a commercial vehicle larger than one-ton capacity, farm equipment or construction vehicle on a street in any single family residential zoning district for a period of more than 30 minutes, except during the process of loading and unloading or active use.

(Ord. No. 2006-10, § 5, 3-21-06)

#### **Sec. 82.188. Enforcement.**

Officers of the marshals department and employees of the environmental health department and planning and development services department are authorized to enforce this division.

(Ord. No. 2006-10, § 5, 3-21-06)

#### **Sec. 82.189. Residential parking program.**

- (a) *Definitions.* As used in this section, the following terms shall have the meanings ascribed in this subsection, unless the context of their usage clearly indicates another meaning:

*Block* means both sides of a street between two intersecting streets.

*Designated permit area* means a contiguous area of a single family residential or commercial use containing not less than ten commercial or single-family residential lots, upon which the city council imposes a requirement for a parking permit under this section. Where there are less than ten commercial or single family residential lots on the entire length of the street, then the entire length of the street may be considered for a designated permit area.

*Guest permit* means a permit issued by the city pursuant to this section to a guest of a resident located within a designated permit area for display on a vehicle owned or used by a guest which is parked or left standing within the designated permit area.

*One-day pass* means a permit issued by the city pursuant to this section to a property owner or resident within a designated permit area for display on a vehicle used by visitors which are parked or left standing within the designated permit area. A one-day pass shall be valid for time specified upon issuance not to exceed one 24-hour period.

*Resident* means a person whose place of residence or property is located in the city as to render him or her eligible for procurement of a parking permit under this section.

*Resident parking program coordinator* means a person designated by the city to oversee the residential parking permit program.

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*Residential parking program guidelines* means operating policies and procedures established by the city.

*Resident permit* means a permit issued by the city pursuant to this section to a resident or property owner within a designated permit area for display on a vehicle owned or used by such resident or property owner which is parked or left standing within the designated permit area.

*Temporary construction permit* means a permit issued under this section for authorized construction activities lasting no more than 45 days.

(b) *Request for designated permit area.* The request for the designated permit area must originate from a resident or property owner whose property abuts the requested designated permit area with the assistance of city staff. The requester must:

- (1) Be considered the requester of record and act as primary contact for the request;
- (2) Be responsible for submission of a signed petition by 60 percent of all single-family houses and four-plex or smaller rental properties located within the designated permit area;
- (3) Provide a description or a map showing the proposed blocks of the designated permit area;
- (4) Include the address of each residential lot within the proposed designated permit area;
- (5) Identify any non-residential properties located within the proposed designated permit area, such as churches, schools, public facilities, or commercial establishments;
- (6) Provide a statement of the proposed parking restrictions desired by the applicants, including days of the week, times of the day, and the length of time for the parking restriction; and
- (7) Submit a signed petition with the following statement affixed:

"We the undersigned are residents and/or property owners of the proposed designated permit area described in this application. We understand that: (i) if this area is designated, certain restrictions will be placed upon on-street parking within the area; (ii) residents and/or property owners of the area will be entitled to obtain a limited number of parking permits exempting their vehicles from such parking restrictions, but if a resident and/or property owner owns a vehicle without having a permit displayed, that vehicle will be subject to the parking restrictions; (iii) parking permits will be issued for a term of one year and require replacement each year; (iv) the cost of the annual parking permits will be paid by the residents and/or property owners. This restriction will be valid for a minimum of one year."

(c) The city traffic engineer will review all applications submitted for a proposed designated parking permit area in accordance with applicable city ordinances.

- (1) Temporary restrictions authorized by applicable city ordinances are permitted under existing applicable standards.
- (2) Where no residential units exist on one side of a street, the area with residential units may be considered for designation as a designated permit area. Requests for single side designated permit areas will be considered based on traffic conditions and flow analysis.

(d) The city council shall conduct a public hearing on the application. Following the conclusion of the public hearing, the council may approve, reject or modify the proposed designated permit area. The council will approve the designated permit area by adopting an ordinance which shall describe each street, or portion of each street, within the area and the specific restrictions applicable to the area.

(e) *Request for designated permit area removal.* Once a designated permit area is established, a removal request may only be submitted no sooner than the first anniversary of the date the ordinance establishing the area was adopted. The request for the removal of the designated permit area must originate from a resident or owner whose residential property abuts the requested street segment. The requester must:

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- (1) Be considered the requester of record and act as primary contact for the request; and
  - (2) Be responsible for submission of a signed petition form, provided by the city, by at least 60 percent of all single-family houses and four-plexes or smaller rental properties within the designated permit area.
- (f) *Commercial or service vehicle exemption.* The display of a permanent sign or marking which identifies a non-resident commercial or service vehicle being used while the operator is conducting commercial or service related activities shall be deemed a parking permit and such vehicle shall be exempt from any parking restriction as established by this section for any designated permit area.
- (g) *Application for permit.* Any individual wishing to receive a parking permit will be required to complete an application. This application will verify each individual lives in a designated parking area or is otherwise eligible for a parking permit under the requirements of this section.
- (h) *Permits.* Resident permits are valid for one year from the date of issuance. One-day passes and temporary construction permits are valid for the time periods designated for each such permit under this section. Guest permits are valid for the period of time stated in such permit.
- (1) Costs:
    - a. Resident permit\$5.00
    - b. Guest permit\$5.00
    - c. One-day pass\$0.10
    - d. Temporary construction permitno cost
  - (2) One guest permit will be issued for each resident permit with a maximum of two guest permits per residence
  - (3) The combined total number of resident permits and/or guest permits for each residence is limited to five permits per year.
  - (4) Temporary construction permits lasting no more than 45 days can be requested for vehicles of workers.
  - (5) Resident permits must be affixed to the window of a motor vehicle to be valid. Any altered or obstructed resident permit will invalidate the permit and be considered a parking violation regardless if it was assigned properly to a particular residence.
  - (6) Guest permits must be hanging, and prominently display information regarding the issuance and certification information. Any altered or obstructed guest permit will invalidate the permit and be considered a parking violation regardless if it was assigned properly to a particular residence.
  - (7) Resident permit holders that sell or trade automobiles for a residence may have the permit replaced at no charge provided the original permit is returned.
  - (8) One-day passes may be issued under the residential parking program guidelines.
- (i) Nothing in this section shall change or alter existing no parking or tow away zones designated under applicable ordinances for purposes of traffic management and control.
- (j) *Parking without valid permit prohibited.* No person shall park and leave standing any vehicle whether attended or unattended in a designated parking area outside of the posted permitted parking times for the designated permit area without a valid parking permit for the designated permit area from the city. Revoked or expired permits are not considered to be valid permits for purposes of this subsection. Parking violations under this section are subject to the level two civil penalty for parking in a no parking zone established under chapter 82, article 4.



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- (k) *Misdemeanor offense.* Any alteration, unauthorized copy, forgery or misrepresentation of any application, form, petition, sticker or permit constitutes a misdemeanor offense and is subject to the penalty provided in section 1.015 of the San Marcos City Code upon conviction of the person committing such offense.
- (1) Any permit issued under this section shall not guarantee or reserve to the holder a parking space. A parking permit is non-transferable. A parking permit shall not authorize the holder to cause to stand or park a vehicle at such places where parking is prohibited or during such times as when the stopping, standing or parking of vehicles is set aside for specified types of vehicles, nor exempt the holder from observance of any traffic regulation other than the specified parking restrictions. A parking permit confers a privilege only, subject to revocation consistent with residential parking program guidelines at any time.
- (m) Officers and employees of the police department and marshal's office as designated by the city manager or his designees are authorized to enforce this section.
- (n) The city manager, residential parking permit program coordinator, and the city traffic engineer may serve as an administrative committee authorized to establish and amend the residential parking program guidelines.
- ( Ord. No. 2014-01, § 1, 1-21-14 )

### ***DIVISION 3. REGULATION OF VEHICLE BOOTING ACTIVITIES***

#### **Sec. 82.190. Definitions.**

In this division:

*Boot* means a lockable road wheel clamp or similar vehicle immobilization device that is designed to immobilize a parked vehicle and prevent its movement until the device is unlocked or removed.

*Booting company* means a person that controls, installs, or directs the installation and removal of one or more boots.

*Boot operator* means an individual who installs or removes a boot on or from a vehicle.

*Parking facility* means public or private property used, wholly or partly, for restricted or paid vehicle parking. The term includes:

- (1) A restricted space on a portion of an otherwise unrestricted parking facility; and
- (2) A commercial parking lot, a parking garage, and a parking area serving or adjacent to a business, church, school, home that charges a fee for parking, apartment complex, property governed by a property owners' association, or government-owned property leased to a private person, including:
  - a. A portion of the right-of-way of a public roadway that is leased by a governmental entity to the parking facility owner; and
  - b. The area between the facility's property line abutting a county or municipal public roadway and the center line of the roadway's drainage way or the curb of the roadway, whichever is farther from the facility's property line.

*Parking facility authorized agent* means an employee or agent of a parking facility owner with the authority to:

- (1) Authorize the removal of a vehicle from the parking facility on behalf of the parking facility owner; and

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- (2) Accept service on behalf of the parking facility owner of a notice of hearing requested under V.T.C.A. Occupations Code Ch. 2308, subch. J, (Rights of Owners and Operators of Stored or Booted Vehicles), regarding whether probable cause existed to immobilize the vehicle.

*Parking facility owner* means:

- (1) An individual, corporation, partnership, limited partnership, limited liability company, association, trust, or other legal entity owning or operating a parking facility;
- (2) A property owners' association having control under a dedicatory instrument, as that term is defined in V.T.C.A. Property Code § 202.001, over assigned or unassigned parking areas; or
- (5) A property owner having an exclusive right under a dedicatory instrument, as that term is defined in V.T.C.A. Property Code § 202.001, to use a parking space.

*Peace officer* means a person who is a peace officer under V.T.C.A. Criminal Procedure Code Ch. 2.12.

*Police chief* means the chief of the San Marcos Police Department, and includes representatives, agents, and department employees designated by the police chief.

*Unauthorized vehicle* means a vehicle parked, stored, or located on a parking facility without the consent of the parking facility owner.

*Vehicle* means a device in, on, or by which a person or property may be transported on a public roadway. The term includes an operable or inoperable automobile, truck, motorcycle, recreational vehicle, or trailer but does not include a device moved by human power or used exclusively on a stationary rail or track.

*Vehicle owner* means a person:

- (1) Named as the purchaser or transferee in the certificate of title issued for the vehicle under V.T.C.A. Transportation Code Ch. 501;
- (2) In whose name the vehicle is registered under V.T.C.A. Transportation Code Ch. 502, or a member of the person's immediate family;
- (3) Who holds the vehicle through a lease agreement;
- (4) Who is an unrecorded lienholder entitled to possess the vehicle under the terms of a chattel mortgage; or
- (5) Who is a lienholder holding an affidavit of repossession and entitled to repossess the vehicle.

(Ord. No. 2018-56 , § 1, 1-15-19)

## **Sec. 82.191. Booting of unauthorized vehicle.**

- (a) A parking facility owner may, without the consent of the owner or operator of an unauthorized vehicle, cause a boot to be installed on the vehicle in the parking facility if the parking facility owner has posted the signs in the parking facility required by V.T.C.A. Occupations Code Ch. 2308, Subch. G (Signs Prohibiting Unauthorized Vehicles and Designating Restricted Areas).
- (b) A boot operator that installs a boot on a vehicle must affix a conspicuous notice to the vehicle's front windshield or driver's side window stating:
  - (1) That the vehicle has been booted and damage may occur if the vehicle is moved;
  - (2) The date and time the boot was installed;
  - (3) The name, address, and telephone number of the booting company;

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- (4) A telephone number that is answered 24 hours a day to enable the owner or operator of the vehicle to arrange for removal of the boot;
  - (5) The amount of the fee for removal of the boot and any associated parking fees;
  - (6) Notice of the right of a vehicle owner or vehicle operator to a hearing under V.T.C.A. Occupations Code Ch. 2308, subch. J, (Rights of Owners and Operators of Stored or Booted Vehicles), regarding whether probable cause existed to immobilize the vehicle.; and
  - (7) Notice of the right to file a complaint with the police chief for violation of this division by a booting company or a boot operator.
- (c) On removal of a boot, the boot operator shall provide a receipt to the vehicle owner or operator stating:
- (1) The name of the person who removed the boot;
  - (2) The date and time the boot was removed;
  - (3) The name of the person to whom the vehicle was released;
  - (4) The amount of fees paid for removal of the boot and any associated parking fees; and
  - (5) The right of the vehicle owner or operator to a hearing under V.T.C.A. Ch. 2308, subch. J, (Rights of Owners and Operators of Stored or Booted Vehicles), regarding whether probable cause existed to immobilize the vehicle.
- (d) The booting company shall maintain a copy of the receipt at its place of business for a period of three years. A peace officer has the right, on request, to inspect and copy the records to determine compliance with the requirements of this section.
- (e) A booting company shall accept payment by cash, electronic check, debit card, or credit card for any fee or charge associated with the removal of a boot. A booting company may not collect a fee for any charge associated with the removal of a boot from a person who offers to pay the charge with an electronic check, debit card, or credit card form of payment that the booting company is not equipped to accept.

(Ord. No. 2018-56 , § 1, 1-15-19)

### **Sec. 82.192. Boot removal.**

- (a) A booting company responsible for the installation of a boot on a vehicle shall remove the boot not later than one hour after the time the owner or operator of the vehicle contacts the company to request removal of the boot.
- (b) A booting company shall waive the amount of the fee for removal of a boot, excluding any associated parking fees, if the company fails to have the boot removed within the time prescribed by subsection (a).
- (c) A booting company responsible for the installation of more than one boot on a vehicle may not charge a total amount for the removal of the boots that is greater than the amount of the fee for the removal of a single boot.

(Ord. No. 2018-56 , § 1, 1-15-19)

### **Sec. 82.193. Maximum fee for boot removal.**

The maximum fee that may be charged for removal of a boot is \$50.00 or such other amount as otherwise approved by the city council from time to time.

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(Ord. No. 2018-56 , § 1, 1-15-19)

**Sec. 82.194. Booting company registration.**

- (a) A booting company may not authorize the installation of a boot on a parked vehicle in a parking facility without first having registered with the police chief under this section.
- (b) To register, a person must complete a form provided by the police chief for that purpose.
- (c) The person completing the form shall indicate the name, address, telephone number and email address of the owner and any authorized officers or agents of the owner having authority with regard to booting of vehicles, all parking facilities for which the booting company may perform vehicle booting activities for a parking facility owner, and the names and cellular telephone numbers of all boot operators who will be carrying out such activities.
- (d) The registration form must be completed and signed by any person who will own, control, or operate or the booting company, or such person's duly authorized agent.
- (e) A booting company on whose behalf a registration form has been completed shall promptly update the form with any changes regarding ownership, business location, contact information, contracted parking facilities or boot operators acting on behalf of the booting company.
- (f) The registration form must include all information required by the form provided by the police chief to be deemed complete.
- (g) The registrant must submit a registration fee in the amount of \$25.00 or such other amount as may be set by the city council from time to time. The fee is non-refundable.

(Ord. No. 2018-56 , § 1, 1-15-19)

**Sec. 82.195. Violation; penalties.**

- (a) A person is prohibited from booting, or causing to be booted, a vehicle in a parking facility except as provided in this division.
- (b) A person commits an offense if the person:
  - (1) Performs an act prohibited by this division;
  - (2) Fails to perform an act required by this division; or
  - (3) Violates a rule adopted under this division.
- (c) A violation of this division is a Class C misdemeanor punishable by a fine not to exceed \$500.00 as provided in section 1.015(b) of the San Marcos City Code.
- (d) Proof of a culpable mental state is not required for the prosecution of a violation of this division.

(Ord. No. 2018-56 , § 1, 1-15-19)

**Sec. 82.196. Exemptions.**

This division does not apply to the booting of a vehicle by:

- (1) A governmental entity; or
- (2) A person exercising a statutory or contractual lien right with regard to the vehicle.

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(Ord. No. 2018-56 , § 1, 1-15-19)

**Secs. 82.197—82.200. Reserved.**