

Chapter 47 - TRAFFIC AND VEHICLES

ARTICLE II. - PARKING DIVISION 1. - GENERALLY

Secs. 47-26—47-67. - Reserved.

Sec. 47.26. - 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^[HJK1] business days following the date upon which a citation is issued.

Sec. 47.27. - 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 Transportations' 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~~ ~~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:
 - (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.

Sec. 47.28. - 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 instanter hearing within ten^[HJK2] 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 instanter hearings are available; and,

(5) Notice that failure to answer the citation or appear within ten days is considered an admission of liability.

Sec. 47.29. - Registration of parking regulations.

All parking regulations established by authority of this chapter shall be recorded in the traffic register^[HJK3].

Sec. 47.30. - 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 three 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)

- (b) Any penalty not paid within 15 days of the date due is subject to an additional fee of 50 percent 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 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 \$50.00 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.

Sec. 47.31. - 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. 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.

Sec. 47.32. - 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.

Sec. 47.33. - Parking in public 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.

Sec. 47.34. - Parking in front of residential mail boxes.

- (a) It shall be unlawful for any person to park a vehicle on a public street from 10:00 a.m. to 3:00 p.m., Monday through Saturday within three 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.

Sec. 47.35. - 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.

Sec. 47.36. - Parallel and angle parking.

- (a) Upon those streets that have been signed or marked for angle parking, it is unlawful for any person to park or stand a vehicle other than at the angle to the curb or edge of the roadway indicated by signs or markings.
- (b) 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.

Sec. 47.37. - Parking or loitering near hazardous or congested places; parking or loitering near scene of accident.

- (a) The city manager or city engineer^[HJK4] 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.
- (f) It is unlawful for a person to loiter near corners, sidewalks, crosswalks or intersections of congested roads for the solicitation of money or the selling or promotion of goods and services.
 - (1) Exceptions to the prohibition included in (f) are city authorized 501 non-profits;
 - (2) emergency services departments with in city limits.

Sec. 47.38. - Curb Loading Zones

- (a) **The city manager or city 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) **The city manager** may designate temporary parking spaces on a public street for loading zone parking by placing signs giving notice of such designation for special events or circumstances.
- (c) 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.

Sec. 47.39. - Disabled parking spaces.

- (a) The city manager or city 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, and the city, may be appointed and trained by the chief of police to enforce state disabled parking provisions on public and private property.

Sec. 47.40. - 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.^[HJK5]

Sec. 47.41. - 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
 - (6) Dismiss parking citations or cases that are unenforceable or that were erroneously issued.

Sec. 47.42. - 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 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.

Sec. 47.43. - 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.

(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.

Sec. 47.44. - 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.] XX.175^[HJK6], 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 that the vehicle is subject to impoundment or immobilization under this article and of the right to a hearing regarding same.

Sec. 47.45. - 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 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;
 - 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
 - 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.
 - (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.
 - (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 mailed, or 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.

Sec. 47.46. - Execution of immobilization order.

- (a) Any city officer or parking technician may immobilize a vehicle under a municipal court order by the installation or attachment of a device designed to restrict the normal movement of a vehicle.
- (b) When a vehicle is immobilized, 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 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;
 - (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.

Sec. 47.47. - 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.
 - (c) The municipal court judge or 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 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.

Sec. 47.48. - 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
 - (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.

DIVISION 2. - PARKING IN RESIDENTIAL AREAS

Sec. 47.49. - Definitions.^[HJK7]

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.

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 as designated on the official zoning map of the city, and as described in the most recent update to the comprehensive plan.

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.

Sec. 47.50. - 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.

Sec. 47.51. - Exceptions.

(a) It is an exception to the prohibition in section 49.50^[HJK8] 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:

- (1) Gravel with barriers or permanent curbing to define the driveway; ^[HJK9]
- (2) Concrete;
- (3) Brick; or
- (4) Asphalt; or
- (5) Pavers.

(b) It is an exception to the prohibition in 49.50^[HJK10]^[HJK11]. 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.

Sec. 47.52. - 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;
- (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, or other trailer, commercial vehicle, construction vehicle or farm equipment on a vacant lot ~~in any single family residential zoning district~~.

Sec. 47.53. - 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^[HJK12], farm equipment or construction vehicle on a street in any single family residential zoning district for a period of more than 60 minutes, except during the process of loading and unloading or active use.

Sec. 47.54. - Enforcement.

Code enforcement officers, parking technicians, city inspectors, and those appointed by the city manager are authorized to enforce this division.