

City of Houston, Texas, Ordinance No. 2009- 59

AN ORDINANCE AMENDING CHAPTER 28 OF THE CODE OF ORDINANCES, HOUSTON, TEXAS, RELATING TO THE PARKING OF VEHICLES ON CERTAIN RESIDENTIAL PROPERTIES; CONTAINING OTHER PROVISIONS RELATING TO THE FOREGOING SUBJECT; PROVIDING A PENALTY; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE; AND DECLARING AN EMERGENCY.

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WHEREAS, the City Council Committee on Regulation, Development and Neighborhood Protection (“Committee”) has held one or more meetings to consider a prohibition against the parking of vehicles on any surface that is not improved in the front or side yards of certain single-family residential properties in the city; and

WHEREAS, the Committee has recommended the adoption of restrictions on the parking of vehicles on any surface that is not improved in the front or side yard of certain residential properties in the city to address concerns of public interest, namely:

1. Diminution of property values in single-family residential areas where the parking of vehicles in specified areas of residential properties in the city is prevalent;
2. The degradation of the aesthetic appearance of single-family residential areas where the parking of vehicles in the front or side yards of residential properties of such is a significant or common practice; and
3. Damage to underground infrastructure caused by the weight of vehicles parked over such infrastructure, resulting in loss of water and other conditions contrary to the public interest.

WHEREAS, the City Council desires to enact regulations to address and mitigate the negative effects set forth in the preceding recitals in affected single-family residential areas resulting from the conduct of those who park vehicles on any surface that is not improved in the front or side yards of residential properties in violation of such regulations; and

WHEREAS, the Committee has voted to recommend to the City Council the passage of regulatory provisions designed to address the practices specified in the foregoing recitals to protect the public health, safety and welfare: **NOW, THEREFORE**

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF HOUSTON, TEXAS:

Section 1. That the findings contained in the preamble of this Ordinance are determined to be true and correct and are hereby adopted as part of this Ordinance.

Section 2. That Chapter 28 of the Code of Ordinances, Houston, Texas, is hereby amended by adding a new Article X, to be entitled "Parking of Vehicles on Residential Properties," to read as follows:

"ARTICLE X. PARKING OF VEHICLES ON RESIDENTIAL PROPERTY

Sec. 28-301. Purpose.

The purpose of this article is to regulate the parking of vehicles or equipment on any surface that is not an improved surface in the front or side yard areas of an improved single-family residential lot to prevent damage to underground infrastructure that would be caused by the weight of vehicles parked over such infrastructure and which would also result in unsightly and permanent damage to such areas, thereby having a negative effect on the aesthetics of single-family residential areas affected by such practices and the property values of residences in those affected areas. This article shall not apply to the parking of any vehicle subject to article XIII of chapter 10 of this Code or Chapter 683 of the Texas Transportation Code.

Sec. 28-302. 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:

Blockface means that portion of a block that abuts a street between two intersecting streets, or between an intersecting street and the termination of the street.

Civic club means an association, whether or not incorporated, that encompasses a residential area and that, by means of action or efforts by such association or its membership, actively seeks to

promote or protect the interests of the area as a separate or identifiable neighborhood or community. At a minimum, a civic club shall have or maintain a name related to or identifying its connection to a residential area, a membership list, a slate of officers, whether paid or volunteers, and a means of communicating with owners of residences in the area on issues or matters of interest to that residential area.

Director means the director of the department of planning and development or his designee.

Front yard means an area extending the full width of an improved single family lot between its side property lines, the front property lot line and a line that is an extension of the front line of the residential structure located on a lot, excluding a driveway. The front yard of a corner lot shall be determined by the street address of the residence located on such lot.

Homeowners association has the meaning ascribed in section 47-601 of this Code.

Improved surface means an area, excluding a driveway, the surface of which is comprised of selected materials constructed to a depth sufficient to distribute the weight of a vehicle or equipment over such area to preclude deterioration and deflection of the area due to vehicle or equipment load, adverse weather, or other conditions. Examples of materials with which an improved surface might be constructed include asphalt, concrete, permeable pavement, or other materials approved by the director of the department of public works and engineering or his designee.

Lot means contiguous land under common ownership, as shown on the most recently approved ad valorem tax rolls of the city, that is used or developed as a unit for residential or nonresidential uses, regardless of whether the land consists of a platted lot or a portion of a platted lot or a combination thereof. Two or more platted lots that have been combined in their entireties as a single building site shall not constitute a single lot for purposes of an application or petition filed pursuant to this article.

Park has the meaning ascribed in section 26-2 of this Code.

Owner means the owner of a single-family residential lot in a residential area that seeks the application of this section to such residential area, as such ownership is reflected in the records of the

Harris County Appraisal District at the time of the filing of an application or petition as defined in this article.

Residential area means an area in which not less than 60% of the lots are developed and used for single-family residential structures and purposes.

Side yard means an area of an improved single-family lot circumscribed by a line parallel to and extending along the side of a residential structure located on the lot which line is joined at right angles by lines parallel to and that extend along the front and rear lines of the residential structure on the lot to the side property line of the lot, excluding a driveway.

Single-family residential has the meaning ascribed in section 42-1 of this Code.

Vehicle or equipment means and includes any house trailer, mobile home, motor vehicle, truck, passenger motor vehicle, motor home, camper cabin, motorcycle, trailer, boat, farm machinery or similar equipment or any truck with more than two axles or any trailer, mobile home or motor home with a length exceeding twenty feet.

Sec. 28-303. Parking of vehicles prohibited in certain residential areas; application and procedures.

(a) *Application of section.* This section shall apply to those residential areas designated by ordinance of the city council in accordance with the procedures outlined in this section.

(b) *Offense.* It shall be an offense for any person to park or to cause, suffer or permit the parking of a vehicle or equipment on any surface that is not an improved surface as defined in this article, within any front or side yard of a single-family residence in a residential area subject to this section. It is presumed that the registered owner of the vehicle or equipment is the person who parked, caused, suffered or permitted the vehicle or equipment to be parked in violation of this article.

(c) *Application; petition; who may file.* A request to apply this section to a residential area shall be initiated by filing with the director a written application or petition as follows:

- (1) An application authorized by the board and signed by the president of an active homeowners association or civic club that encompasses the residential area described in the application; or

- (2) A written petition signed by at least 60% of the owners within the area.

(d) *Application; petition; submittal.* Applications and petitions will be accepted by the director only if submitted no later than 5:00 p.m. on either of the first two business days of each month.

(e) *Written application or petition; information required.* An application or petition shall contain such information as the director shall require, including the following:

- (1) A map of the proposed boundaries of the residential area requested to be made subject to this section. If the residential area is defined by a plat or map duly filed of record, a reference to such plat or map shall be sufficient; and
- (2) If the request is a letter from a homeowners association or civic club, the name, mailing address, telephone number and email address of a person with the homeowners association or civic club or an owner within the area described in item (1) of this subsection who shall be the contact for the request; or
- (3) If the request is in the form of a petition, the name and mailing address, including street number, street name and zip code, of all signers of the petition, one of whom shall be designated in the petition as the contact for the request. Each signer of a petition, by his or her signature, shall be deemed to have affirmed that such person is an owner within the residential area described therein, and a statement to that effect shall appear on the face of the petition.

(f) *Residential area; size and configuration requirements.* The description of a residential area in an application or petition shall include at least five contiguous blockfaces.

(g) *Filing of request; review and action by director.* The application or petition referenced in the preceding subsection shall be filed with the director, and upon receipt, the director shall determine whether such application or petition is complete. An incomplete application or petition shall be returned to the contact person named therein, specifying its deficiencies. Upon being revised to comply with this section, the application or petition may be re-filed with the director at a subsequent filing date.

(h) *Notice required by applicant.* Within ten days after the filing of a complete application or petition, the party filing such application or petition shall provide notice thereof to all owners by:

- (1) The posting of signs on private property at such locations and containing such information as the director shall prescribe; and
- (2) At least one of the following methods:
 - a. An electronic message directed to all owners within the residential area;
 - b. Inclusion in a newsletter or other similar publication customarily used by the neighborhood association or civic club to disseminate information of interest to all owners within the residential area; or
 - c. Any other writing or publication deemed by the party making the request as the most effective means of providing notice of such filing to all owners within the residential area.
- (3) All signs required to be posted by this subsection shall remain in place continuously until either:
 - a. The city council passes an ordinance applying this section to the residential area or acts to deny the application or petition; or
 - b. If the application or petition was been referred to a hearing officer as provided in subsection (l) of this section, the hearing officer determines that the application or petition fails to meet the requirements of this section or any criteria prescribed by the director.
- (4) All costs to prepare, install, maintain and remove the signs required by this subsection shall be borne by the party filing the application or petition required by subsection (c) of this section.

(i) *Notice required by director.* Within ten days after the filing of a complete application or petition, the director shall give written notice thereof to all owners within the residential area. A failure by the director to provide the notice required by this subsection, or failure of any owner to receive such notice, does not affect the validity or finality of decisions reached under this article.

(j) *Protest; deadlines.* An owner may protest an application or petition by timely filing a written protest with the director within 20 days after the date of the director's notice letter.

(k) *Approval by director.* The director shall approve an application or petition and refer the matter to the city council for final action upon determining that:

- (1) The notice provisions of subsection (h) of this section have been fully and timely performed or completed; and
- (2) No protest of such application or petition was filed within the period specified in subsection (j) of this section.

(l) *Public hearing; hearing officer.* Upon the receipt by the director of a timely filed protest to an application or petition, the director shall refer such application or petition to a hearing officer whom he shall appoint to conduct a public hearing to determine whether the application or petition should be recommended to the city council.

(m) *Approval criteria.* The hearing officer shall base his determination on an application or petition by applying the evidence presented at the hearing to the following criteria:

- (1) The application or petition complied with items (1) or (2) of subsection (c) of this section;
- (2) The evidence presented shows that the residential area described in the application or petition contains at least five contiguous blockfaces; and
- (3) The curbside parking spaces or areas within the residential subdivision available to owners for the parking of vehicles or equipment are sufficient to accommodate the number of vehicles or equipment typically parked within the area.

If the evidence presented at the hearing demonstrates to the satisfaction of the hearing officer the likelihood that the parking of vehicles or equipment in the front or side yards of residences in the residential area has caused, or is presently causing, a diminution in the value of the residences in such area, degrades the aesthetic appearance of the neighborhood, or tends to damage underground infrastructures leading to the loss of water or other conditions contrary to the public interest, the hearing officer shall recommend the application or petition favorably to the city council. The hearing officer's determination shall be set forth in writing, copies of which shall be provided to any interested party upon request. In the absence of any such finding, the application or petition shall be denied.

(n) *Public hearing; notice required; final action.*

- (1) The public hearing provided in subsection (l) shall not be held until after the notice requirements of subsections (h) and (i) of this section have been satisfied and the time for filing a protest or opposition to an application or petition, as set forth in subsection (j) of this section, has expired.
- (2) Notice of a public hearing shall be provided by the hearing officer at least 15 days prior thereto and shall contain the date, time and location of such hearing. The notice shall be provided to the contact person listed in an application or petition made pursuant to subsection (c) of this section, and to all persons filing a protest to an application or petition within the period set forth in subsection (j) of this section.
- (3) The hearing officer shall take final action on a request referred to him by the director not later than the sixtieth day following the director's receipt of a written request, unless the hearing date is extended pursuant to subsection (o) of this section.

(o) *Action by hearing officer.* At the conclusion of the public hearing, the hearing officer shall either:

- (1) Recommend that the city council pass an ordinance extending the application of this section to the requesting residential area;
- (2) At his sole discretion, grant one continuance of the public hearing to a date certain in the future to allow for the provision of additional information relating to any issue arising during such hearing; provided, that the continuance shall not extend more than 15 days from the date of the original hearing; or
- (3) Deny the request, which action of the hearing officer shall be final.

(p) *Submission to city council.* If the hearing officer makes the recommendation set forth in item (1) of the preceding subsection, the director shall promptly refer the matter to the city council for final action.

(q) *Action by city council.* Upon consideration of the recommendation of a hearing officer pursuant to subsection (o) of this section, the city council shall either:

- (1) Adopt an ordinance extending the application of this section to the requesting residential area; or

- (2) Deny such recommendation and request, which action shall be final in all respects.

The city secretary shall provide a true and correct copy of any ordinance extending the application of this section to a residential area to the neighborhood protection official and the parking official and shall cause a certified copy of such ordinance to be recorded in the real property records of each county in which the residential area is located.

(r) *Effective date; term of application.* An ordinance extending the application of section 28-303 of this Code to a residential area shall be in force as of its effective date and shall terminate 20 years after such effective date, unless earlier terminated by an ordinance adopted by the city council.

(s) *Re-filing of request.* In the event of a denial of a request under this article by either a hearing officer or the city council, no further request shall be filed for the same neighborhood or residential area, or portion thereof, within the six months following the date of such denial; provided, however, if new information is submitted to the director indicating a material change in off-street parking practices within the residential area sufficient to warrant the filing of a new application or petition, the director may waive the six month limitation.

(t) The director shall be authorized to promulgate rules and procedures for the efficient administration of this section, including provisions for the issuance of temporary permits that allow, on a limited basis and for a limited period, the parking of vehicles or equipment in areas where such conduct is otherwise prohibited by this section.

Sec. 28-304. Enforcement.

The provisions of this article may be enforced by any law enforcement officer, the neighborhood protection official or the parking official.

Sec. 28-305. Penalty.

Any person who violates any provision of this article shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine not to exceed \$150.00. Each day a violation of this article shall continue shall constitute a separate offense.”

Section 3. That, if any provision, section, subsection, sentence, clause, or phrase of this Ordinance, or the application of same to any person or set of circumstances, is for

any reason held to be unconstitutional, void or invalid, the validity of the remaining portions of this Ordinance or their application to other persons or sets of circumstances shall not be affected thereby, it being the intent of the City Council in adopting this Ordinance that no portion hereof or provision or regulation contained herein shall become inoperative or fail by reason of any unconstitutionality, voidness or invalidity of any other portion hereof, and all provisions of this Ordinance are declared to be severable for that purpose.

Section 4. That there exists a public emergency requiring that this Ordinance be passed finally on the date of its introduction as requested in writing by the Mayor; therefore, this Ordinance shall be passed finally on such date and shall take effect at 12:01 a.m. on the forty-fifth day next following the date of its passage and approval by the Mayor.

PASSED AND APPROVED this 28th day of January, 2009.



Mayor of the City of Houston

Prepared by Legal Dept. 
RDC:asw 01/13/2009 Senior Assistant City Attorney
Requested by City Council Committee on Regulation, Development and Neighborhood Protection
L.D. File No. 0180600005001

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