

ORDINANCE NO. 2260

AN ORDINANCE OF THE CITY OF APOPKA, FLORIDA, AMENDING THE APOPKA CODE OF ORDINANCES, PART II, CHAPTER 78 "TRAFFIC AND MOTOR VEHICLES," ARTICLE 11 IN ITS ENTIRETY; PROVIDING FOR DIRECTIONS TO THE CITY CLERK; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, The Constitution of the State of Florida and Chapter 166 of the Florida Statutes empowers the City of Apopka to adopt regulations which furthers a municipal purpose; and

WHEREAS, the City Council of the City of Apopka, Florida has the authority and responsibility to protect the health, safety, and welfare of the citizens of the City of Apopka; and

WHEREAS, Pursuant to F.S. §316.006, chartered municipalities have original jurisdiction over all streets and highways located within their boundaries; and

WHEREAS, the Apopka Police Chief is designated the responsibility to investigate and reduce the incidents of illicit activity within the city limits, including, but not limited to such activities as prostitution, illegal drug transactions and possessions, and transport and possession of stolen goods; and

WHEREAS, the use of vehicles to further and conduct such illicit activities and transport such illicit property is well documented and founded; and

WHEREAS, in order to protect the health, safety, and welfare of the community and the citizens thereof, and to reduce the use of such vehicles in the furtherance of such activities, it is necessary to develop disincentives to conduct such activities; and

WHEREAS, the City Council of the City of Apopka, Florida, has determined that the continued protection of the health, safety, and welfare of its citizens requires that Chapter 78, Article II, of the Apopka Code of Ordinances be amended in its entirety.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF APOPKA, FLORIDA, as follows:

SECTION 1. That Chapter 78, Article II, Divisions 1 and 2, of the Code of Ordinances of the City of Apopka, Florida, is hereby amended and shall be replaced in its entirety by the attached Exhibit "A" which is incorporated herein by reference.

SECTION 2. It is the intention of the City Council that the provisions of this ordinance shall become and be made a part of the Code of Ordinances of the City of Apopka; and the City Clerk is directed to take the necessary steps to effect codification into the Code, and Sections of this ordinance may be numbered or renumbered or lettered or re-lettered and the word "ordinance" may be changed to "chapter", "section", "article", or such other appropriate word or phrase in order to accomplish such codification. Typographical errors which do not affect the intent may be authorized by the Mayor, without need of public hearing, by filing a corrected or re-codified copy of same with the City Clerk.

SECTION 3. That nothing in this ordinance shall be construed to affect any suit or proceeding impending in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing, under any act or ordinance; nor shall any just or legal right or remedy of any character be lost, impaired or affected by this ordinance.

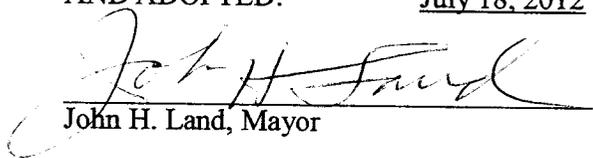
SECTION 4. All ordinances or parts of ordinances in conflict herewith are hereby repealed. Sections, Subsections, and parts not specifically repealed or amended by this Ordinance are held intact in their entirety.

SECTION 5. If any section, subsection, sentence, clause, phrase of this ordinance, or the particular application thereof shall be held invalid by any court, administrative agency, or other body with appropriate jurisdiction, the remaining section, subsection, sentences, clauses or phrases under application shall not be affected thereby.

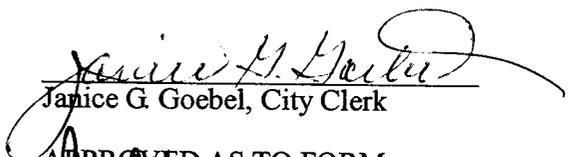
SECTION 6. That this ordinance and the rules, regulations, provisions, requirements, orders and matters established and adopted hereby shall take effect and be in full force and effect immediately upon its passage and adoption.

READ FIRST TIME: June 20, 2012

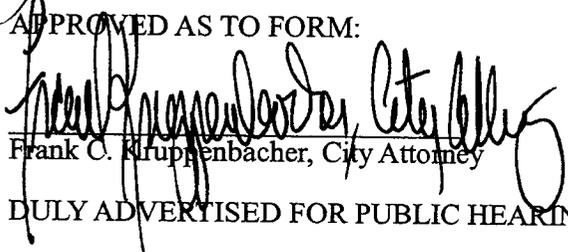
READ SECOND TIME
AND ADOPTED: July 18, 2012


John H. Land, Mayor

ATTEST:


Janice G. Goebel, City Clerk

APPROVED AS TO FORM:


Frank C. Kruppenbacher, City Attorney

DULY ADVERTISED FOR PUBLIC HEARING:

May 25, 2012
July 6, 2012

Key: New text shown as underlines and deleted text shown as ~~strikethrough~~.

CHAPTER 78 – TRAFFIC AND MOTOR VEHICLES

ARTICLE II. - STOPPING, STANDING AND PARKING ^[86]

⁽⁸⁶⁾ Cross reference— Streets, sidewalks and other public places, ch. 70.

DIVISION 1. - GENERALLY

DIVISION 2. - CITATIONS; PENALTIES

DIVISION 1. - GENERALLY

Sec. 78-36 - Authority to designate parking time limits.

Sec. 78-37 - Manner of stopping, standing, or parking.

Sec. 78-38 - Obstructing traffic.

Sec. 78-39 - Stopping, standing and parking prohibited in specified places.

Sec. 78-40 - Stopping, standing, or parking in place where prohibited by sign or markings.

Sec. 78-41 - Parking for certain purposes prohibited.

Sec. 78-42 - Use of loading zones.

Sec. 78-43 - Loading zone permit.

Sec. 78-44 - Removal of illegally parked, abandoned or disabled vehicles.

Sec. 78-45 - Official traffic-control devices.

Sec. 78-46 – Overtime parking in parking zones.

Sec. 78-47 – Operating of vehicles without affixed current and valid registration license plate and validation sticker; removing, impounding, and immobilization of vehicles without affixed current and valid registration license plate and validation sticker.

Sec. 78-48 – Removing, impounding, and immobilization of vehicles for non-payment of fines within this section.

Sec. 78-49 – Protection of pedestrians in and around school zones.

Sec. 78-50 – State statute incorporation

Secs. 78-~~46~~51—78-60. - Reserved.

Sec. 78-36. - Authority to designate parking time limits.

The chief of police may designate time limits for parking on streets and install street signs, as may be necessary, to indicate the parking limit placed on any street or portion of such street.

(Code 1983, § 22-3)

State law reference— Parking restrictions authorized, F.S. § 316.008(1) (a).

Sec. 78-37. - Manner of stopping, standing, or parking.

(a) No person shall stop, stand or park a vehicle in a street other than parallel with the edge of the street, headed in the direction of traffic and with the curbside wheels of the vehicle within 12 inches of the edge of the street, except as follows:

- (1) Upon a street which has been marked or a sign erected for angle parking, a vehicle shall be parked at the angle to the curb indicated by such mark or sign.
- (2) In a place where, and at hours when, stopping for the loading or unloading of merchandise or materials is permitted, a vehicle used for the transportation of merchandise or materials may back into the curb to take on or discharge its load when the owner of such vehicle holds a loading zone permit, Sec. 78-61.a(1), granting him such privilege. Such permit shall be on the rear of the vehicle at the time. It shall be unlawful for any owner or driver to violate any of the special terms or conditions of any such special permit.
- (3) This section shall not apply to the driver or owner of any vehicle which is disabled while on the paved or main-traveled portion of a street in such manner and to such extent that it is impossible to avoid stopping and temporarily leaving the disabled vehicle in such position, or to passenger-carrying buses temporarily parked while loading or discharging passengers, where conditions render such parking off the paved portion of the street hazardous or impractical.
- (4) For the purposes of this chapter "stopping, standing, or parking" is considered the halting, even momentarily, of a vehicle, whether occupied or not, except when necessary to avoid conflict with other traffic or to comply with the directions of a police officer or traffic control sign or signal.

(b) Parking of Trailers, etc., Prohibited. – For the purpose of this section, the term "trailer" shall mean and include any vehicle or device, with or without motorized power, designed for carrying persons or property and for being drawn by a motor vehicle. The term shall include, but not be limited to, vehicles or devices designed, manufactured or used for: transporting or carrying boats, jet skis, or similar watercraft; transporting or carrying motor scooters or motorcycles; transporting or carrying automobiles, trucks, buses or similar motor vehicles; or a dwelling place, living abode or sleeping place (either permanently or temporarily) and equipped for use as a conveyance on streets and highways. This excludes portable signs.

- (1) No person shall park a trailer, except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer or official traffic control device, in any of the following places:

- a. on any sidewalk;
- b. on any public street, highway or street;
- c. on any public right-of-way;
- d. on any bicycle lane or trail; or
- e. on any city park or city recreation facility except where specifically authorized by a police officer, park ranger, or recreation attendant or permitted by an official sign. If so permitted, only for the purpose of, and during the time of, visiting or using the park or recreation facility where such parking is permitted.

(2) Nothing in this section shall apply to a work or utility trailer being used to assist in the performance of such work, on a temporary basis, and with proper maintenance of traffic protocol in place and in a manner not to obstruct the flow of traffic.

(3) On-street parking is prohibited. No person shall park any vehicle, whether motorized or otherwise, upon any street.

(Code 1983, § 22-31)

Sec. 78-38. - Obstructing traffic.

a) No person shall stop, stand or park any vehicle in a street in such a manner or under such conditions as to leave available less than ten feet of the width of any lane of the street for free movement of vehicular traffic, ~~except that a driver may stop momentarily during the actual loading or unloading of passengers or~~ when necessary in obedience to a traffic regulation or a traffic sign or signal or police officer.

b) No person shall stop, park, or leave standing any vehicle, whether attended or unattended, upon the paved or main-traveled part of the street when it is practicable to stop, park, or so leave the vehicle off such part of the street; but in every event, an unobstructed width of the street opposite a standing vehicle shall be left for the free passage of other vehicles, and a clear view of the stopped vehicle shall be available in each direction upon the highway.

c) No person shall stop, park, or leave standing any vehicle, whether attended or unattended in an alley so as to provide free passage for emergency vehicles.

(Code 1983, § 22-34)

Sec. 78-39. - Stopping, standing and parking prohibited in specified places.

No person shall stop, stand or park a vehicle, except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer or traffic control device, in any of the following places:

- (1) Opposite a dead-end or jog street outside of the central business district.
- (2) At any place in such a manner as to block access to commercial refuse containers by the city refuse removal equipment.
- (3) Alongside any curb which has been painted yellow or red, unless otherwise specifically permitted by appropriate signs or devices posted by the city.
- (4) In any parking space specifically designated and marked for the disabled unless such vehicle displays a parking permit as required by state law, or in such a manner as to block or obstruct a wheelchair ramp.

(Code 1983, § 22-33)

Sec. 78-40. – Stopping, standing, or parking in place where prohibited by sign or markings.

No person shall park a vehicle at any place where an official sign or marking prohibits stopping, standing, or parking. However, nothing in this article shall prevent a bona-fide emergency vehicle from stopping, standing, or parking in any area, whether posted or not, during and for the performance of official duties.

(Code 1983, § 22-35)

Sec. 78-41. - Parking for certain purposes prohibited.

~~No person shall stand or park a vehicle:–~~

(a.) No person shall stand or park a vehicle upon a public or private street, public parking lot or any other public property for the principal purpose and intent of displaying such vehicle thereon for sale, hire or rental.

(b.) No person shall stand or park a vehicle pursuant to F.S. § 316.1951.

(1) Prohibitions:

- a. It is unlawful for any person to park a motor vehicle, as defined in F.S. § 320.01, upon a public street or highway, a public parking lot, or other public property, or upon private property where the public has the right to travel by motor vehicle, for the principal purpose and intent of displaying the motor vehicle thereon for sale, hire, or rental unless the sale, hire, or rental of the motor vehicle is specifically authorized on such paved property by city licensing regulations.

1. This provision does not prohibit a person from parking his or her own motor vehicle or his or her other personal property on any private real property which the person owns or leases or on private real property which the person does not own or lease, but for which he or she obtains the permission of the owner, or on the public street immediately adjacent thereto, for the principal purpose and intent of sale, hire, or rental.
2. Nor does this provision prohibit a licensed motor vehicle dealer from displaying for sale or offering for sale motor vehicles at locations other than the dealer's licensed location if the dealer has been issued a supplemental license for off-premises sales, as provided, and has complied with the requirements within this section; however, a vehicle displayed for sale by a licensed dealer at any location other than the dealer's licensed location is subject to immediate removal without warning.
 - i. It is unlawful to offer a vehicle for sale if the vehicle identification number has been destroyed, removed, covered, altered, or defaced, as described in F.S. § 319.33(1)(d). A vehicle found in violation of this subsection is subject to immediate removal without warning.
 - ii. It is unlawful to knowingly attach to any motor vehicle a registration that was not assigned or lawfully transferred to the vehicle pursuant to F.S. § 320.261. A vehicle found in violation of this subsection is subject to immediate removal without warning.
 - iii. It is unlawful to display or offer for sale a vehicle that does not have a valid registration as provided in F.S. § 320.02. A vehicle found in violation of this subsection is subject to immediate removal without warning. This subsection does not apply to vehicles and recreational vehicles being offered for sale through motor vehicle auctions as defined in F.S. § 320.27(1)(c)4.
 - iv. A vehicle is subject to immediate removal without warning if it bears a telephone number that has been displayed on three or more vehicles offered for sale within a 12-month period.
 - v. Any other provision of law to the contrary notwithstanding, a violation of this section shall subject the owner of such motor

vehicle to towing fees reasonably necessitated by removal and storage of the motor vehicle and a fine as required below.

(2) A police officer or code enforcement officer of the city, pursuant to state statute and this ordinance, shall tow and hold upon remittance of the civil penalty, a motor vehicle parked in violation of this section.

a. Any motor vehicle found in violation of this section shall be held by the authorized towing company contracted with the city and assessed a fine of \$100 payable to the City.

b. The vehicle shall not be released from impound before the fine has been paid.

(c) No person shall stand or park a vehicle upon any street for the principal purpose of painting, greasing or repairing such vehicle, except repairs necessitated by an emergency.

(d) No person shall stand or park a vehicle upon any parking lot or in front of any business unless such business is licensed and zoned for such activity.

(e) No person shall stand or park a vehicle upon any street for the principal purpose of washing or polishing such vehicle or any part thereof, when a charge is made for such service. However, bona-fide, temporary car washes conducted with the intent of raising funds for a non-profit entity upon publicly accessed and traveled parking and business lots may be allowed given they are properly authorized by the property owner; last no longer than six (6) hours; and are conducted on Saturdays only.

(f) No person shall stand or park a vehicle upon any street or alley for the principal purpose of displaying advertising.

(g) No person shall stand or park a vehicle upon any street or alley for the principal purpose of selling merchandise from the motor vehicle, except in a duly established marketplace or when so authorized or licensed under the laws of the city.

(Code 1983, §§ 22-4, 22-36)

Sec. 78-42. - Use of loading zones.

(a) No person shall stop, stand or park a vehicle in any place marked as a passenger zone for a period of time longer than the time indicated by signs or other appropriate markings or devices.

(b) No person shall stop, stand or park a vehicle for any purpose or length of time other than for the expeditious unloading and delivery or pickup and loading of materials in any place marked as a loading zone during the hours when the provisions applicable to loading zones are in effect. Such vehicle must have attached in a conspicuous place on the rear of the vehicle a permit issued pursuant

to section 78-43 for such loading and unloading. In no case shall the stop for loading and unloading of materials exceed 30 minutes.

(Code 1983, § 22-37)

Sec. 78-43. - Loading zone permit.

(a) The chief of police or his designee shall issue to applicants ~~therefor~~, as provided in this section, tag permits for the use of loading and unloading zones, which shall be effective ~~August 1 through July 31~~ October 1 through September 30 of the next succeeding year. Such permits shall be issued at a prorated rate as identified in Division 2. "Citations; Penalties" within this article. upon the payment of a fee of \$25.00 for the first permit issued to an applicant and a fee of \$12.50 for each succeeding permit issued to the same applicant. Applicants will be limited to not more than 20 loading and unloading permits. A charge of \$10.00 will be made for replacement of misplaced, lost or stolen permits. The chief of police or his designee is further authorized to establish rules and regulations governing such designated freight loading and unloading zones, and the use thereof.

(b) ~~All applicants for tag permits for the use of loading and unloading zones shall be filed prior to August 1 of each year, and~~ the application for such permit shall contain the following information:

- (1) Whether the applicant is a wholesaler, retailer or common carrier.
- (2) The number of vehicles operated by the applicant.
- (3) The number of vehicles owned by the applicant which will carry loading and unloading permits.
- (4) The average number of stops per day for loading and unloading purposes.
- (5) The name of the business, the type of business, the location of the business, and the mailing address and telephone number of the business.
- (6) The names and driver's license numbers of the employed or contracted drivers doing business within the city.

(c) All applications will be submitted in writing to the chief of police or his designee, and the chief of police or his designee shall have the authority to issue such permits. The applicant shall have the right to appeal to the city council.

(d) Violation of any such terms and conditions shall be grounds for immediate revocation of the permit by the chief of police, who shall give written notice thereof to the holder of the permit. The permit holder may appeal such revocation to the city council, pursuant to Article XII of the Code of Ordinances, by filing a written notice of appeal with the city clerk within seven (7) working days from the date of the revocation notice. Should the permit be revoked, any and all fees paid in advance shall be forfeited and retained by the city, subject to further action by city council in the event of appeal.

(Code 1983, § 22-38)

Sec. 78-44. - Removal of illegally parked, abandoned or disabled vehicles.

Members of the police department of the city are hereby authorized, but are not required, to have immediately removed any vehicle from any street or alley or other public place within the city by the city's authorized towing service ~~to a public garage or other place of safety~~ under the following circumstances:

- (1) When any vehicle is left unattended:
 - a. on a sidewalk;
 - b. in front of a public or private driveway;
 - c. within 15 feet of a fire hydrant or in a fire lane;
 - d. within an intersection;
 - e. on a crosswalk;
 - f. in a space designated for emergency vehicles only;
 - g. bicycle trail or lane;
 - h. within 20 feet of a driveway entrance to a fire station, and, if prohibited by a sign, on the side of a street opposite such station;
 - i. alongside or opposite any street excavation or obstruction when stopping, standing or parking would obstruct traffic and is prohibited by sign;
 - j. at any place where official signs prohibit parking, stopping or standing and the vehicle is obstructing traffic or otherwise creating a safety hazard;
 - k. between a safety zone and the nearest curb or within thirty (30) feet of points on the curb immediately opposite the ends of a safety zone, unless the city engineer has indicated a different length;
 - l. in a city off-street parking facility or parking meter zone for any period of time longer than twenty-four (24) hours or upon any particular street for a period of time longer than seventy-two (72) consecutive hours, unless during the seventy-two (72) hour period the vehicle has been removed from the particular street for a period of at least twelve (12) consecutive hours;
 - m. upon any bridge, elevated structure, viaduct, or causeway, where such vehicle is obstructing traffic or otherwise creating a safety hazard;
 - n. in any space which has been officially reserved by a sign so indicating; or
 - p. in a metered parking space which has been reserved by an official sign or covered by a bag placed thereon by the city and indicating "No Public Parking."

- (2) When a vehicle upon a street or alley is:
- a. disabled or when the person in charge of the vehicle is by reason of physical injury or condition incapacitated to such an extent as to be unable to provide for its custody or removal and the vehicle is obstructing traffic or otherwise creating a safety hazard; or
 - b. disabled, abandoned, or otherwise left in a manner obstructing traffic or otherwise creating a safety hazard.
- (3) When any vehicle is parked on any municipal parking facility or area designated or used in connection with city hall, the police station or other municipal property facilities of the city in violation of the posted signs and the permitted uses.
- (4) When any motor vehicle remains stopped or parked on any property owned or controlled by the city not designated for parking for a period longer than twelve (12) hours; longer than allowable posted times; overnight; or in a manner endangering the safety and security of the facility. If the towing is due to a security concern, and such concern is ultimately determined to be unfounded, the chief of police reserves the right to waive any tow fee.
- (5) Storage, cost and removal of impounded vehicles:
- a. When a vehicle is removed under this chapter, notice of storage and costs shall be sent to the vehicle owner within seven (7) days via certified mail, return receipt requested, pursuant to the provisions of F.S. § 713.78.
 - b. Owner responsibility. The cost of towing, booting, or removing a vehicle impounded or immobilized under this section and the cost of storing the same or removing the immobilization device, shall be chargeable against the vehicle owner and a lien shall be placed upon the vehicle. Before the release of the vehicle, the owner of the vehicle shall pay these charges and any outstanding parking tickets, administrative delinquency or collection fees owed. The vehicle shall be stored in a private place and the towing and/or storage charges shall be set by the private towing company. All of such charges shall be the responsibility of the vehicle owner.
 - c. Notice to vehicle owner. Upon taking possession of any vehicle, as provided in this section, the towing company shall follow guidelines set forth in F.S. § 715.05 regarding notification of owner, upon towing or removing a motor vehicle. Notification shall be by certified mail, return receipt requested, and shall notify the owner and all lien holders of the location of the vehicle and the fact that is it unclaimed. Notice shall be given within seven (7) days excluding Saturday and Sunday, from the date of storage and shall be complete upon mailing. If the state of registration is unknown, a good faith best effort to notify the owner shall

be made, and such notice shall be given within a reasonable period of time from the date of storage.

- d. Recovery. The registered owner of a towed, impounded or immobilized vehicle shall be entitled to recover such vehicle only after making payment for the charges and expenses for the cost of towing or immobilizing such vehicle, plus the cost of storage and any outstanding parking tickets, administrative delinquency or collection fees owed on such vehicle herein specified. The registered owner of such vehicle shall be responsible for paying the charges and fine(s) as herein provided whether or not such registered owner was the person who unlawfully parked or left standing such vehicle and in each instance the police department shall require payment of the sums herein provided for before restoring possession of such vehicle to the registered owner.
- e. Sale of unredeemed vehicle(s). If an impounded vehicle is not claimed and all charges paid within thirty (30) days after the city has taken possession of such vehicle, an action may be commenced in the court having jurisdiction by legal counsel representing the city in the name of the city, as plaintiff, and against the name of the owner, as defendant, for the amount of the charges due, plus attorney's fees and costs incurred in the action. Upon judgment being obtained in favor of the city, the vehicle may be levied upon and sold for the purpose of satisfying the judgment.

(Code 1983, § 22-39)

Sec. 78-45. - Official traffic-control devices.

The location and existence of all official traffic-control devices which are in place or in existence on all streets and highways, except state roads, within the boundaries of the city on the effective date of this ordinance [Ordinance No. 724] are hereby ratified and confirmed and shall be considered to have been authorized by the city council. The city council hereby delegates its authority to place official traffic-control devices on all streets and highways, except state roads, within the boundaries of the city to the chief of police, who shall hereafter be responsible for determining the need for placement of official traffic-control devices.

(Ord. No. 724, § 1, 7-15-92)

Sec. 78-46. – Overtime parking in parking zones.

- (a) It shall be unlawful for any person to cause, allow, permit, or suffer any vehicle to be parked overtime or beyond the period of legal parking time, and any vehicle in any parking zone longer than the time limit fixed for such zone by sign or ordinance shall be considered to be illegally parked.
- (b) It shall be unlawful to relocate a vehicle from one parking space within the same parking zone or to relocate a vehicle temporarily from the same parking space unless the vehicle has left the parking zone for an amount of time equal to or greater than the legal time limit for parking fixed for such zone.

(c) It shall be unlawful to roll the tires of a vehicle to remove or obscure or attempt to remove or obscure the markings made by parking enforcement personnel prior to removing the vehicle from the parking zone.

Sec. 78-47. – Parking of vehicles without affixed current and valid registration license plate and validation sticker; removing, impounding, or immobilization of vehicles without affixed current and valid registration license plate and validation sticker.

(a) No person shall stop, stand, or park a vehicle upon any street, in any off-street parking facility in the city, or upon any property owned and controlled by the city unless such vehicle has affixed to it a current and valid registration license plate and validation sticker.

(b) Any motor vehicle without a current and valid license plate and validation sticker affixed to it found parked at any time upon any street, in any off-street parking facility in the city, or upon any property owned and controlled by the city may, in addition to the issuance of a parking violation notice, be immediately immobilized by or under the direction of a police officer, parking enforcement specialist, or code enforcement officer in such a manner as to prevent its operation. No such vehicle shall be immobilized by any means other than the use of a device or other mechanism which will cause no damage to such vehicle unless it is moved while such device or mechanism is in place.

(c) It shall be the duty of the police officer, parking enforcement specialist, or code enforcement officer immobilizing such motor vehicle, or under whose direction such vehicle is immobilized, to post on such vehicle, in a conspicuous place, notice sufficient to inform the owner or operator of the vehicle that:

- (1) Such vehicle has been immobilized pursuant to and by the authority of this Section of the Apopka Code of Ordinances; and
- (2) The owner of such immobilized vehicle, or other duly authorized person, shall be permitted to repossess or to secure the release of the vehicle upon payment to the police department the fine prescribed in Division 2 of this Article for the offense of parking a vehicle without a current and valid registration license plate and validation sticker affixed to it.

(d) It shall be unlawful for anyone, except those persons authorized by the police department, to remove or attempt to remove, tamper with, or in any way damage or alter the immobilization device.

(e) If the owner of the immobilized vehicle, or other duly authorized person, does not make arrangements for removal of the immobilization device in accordance with the foregoing provisions within twenty-four (24) hours of the time such motor vehicle was immobilized, a police officer, parking enforcement specialist, or code enforcement officer of the city is hereby authorized to have such vehicle towed by the city's authorized towing company.

- (1) The owner of the vehicle shall be responsible for any and all towing and storage charges along with the civil penalty identified in Division 2.
- (2) The penalty must be remitted prior to the release of the vehicle.

Sec. 78-48. – Removing, impounding, and immobilization of vehicles for non-payment of fines within the section.

(a) Any motor vehicle found to have three or more outstanding municipal parking violations that is parked at any time upon any street, in any off-street parking facility in the city, or upon any property owned and controlled by the city may, in addition to the issuance of a parking violation notice, be immediately immobilized by or under the direction of a police officer, parking enforcement specialist, or code enforcement officer in such a manner as to prevent its operation. No such vehicle shall be immobilized by any means other than by the use of a device or other mechanism which will cause no damage to such vehicle unless it is moved while such device or mechanism is in place.

(b) It shall be the duty of the police officer, parking enforcement specialist, or code enforcement officer immobilizing such motor vehicle, or under whose direction such vehicle is immobilized, to post on such vehicle, in a conspicuous place, notice sufficient to inform the owner or operator of the vehicle that:

- (1) Such vehicle has been immobilized pursuant to and by the authority of this Section of the Apopka Code of Ordinances.
- (2) The owner of such immobilized vehicle, or other duly authorized person, shall be permitted to repossess or to secure the release of the vehicle upon payment to the police department the fine prescribed in Division 2 or this Article for the offense of parking a vehicle without a current and valid registration license plate and validation sticker affixed to it.

(c) It shall be unlawful for anyone, except those persons authorized by the police department to remove or attempt to remove, tamper with, or in any way damage or alter the immobilization device.

(d) If the owner of the immobilized vehicle, or other duly authorized person, does not make arrangements for removal of the immobilization device in accordance with the foregoing provisions within twenty-four (24) hours of the time such motor vehicle was immobilized, a police officer, parking enforcement specialist, or code enforcement officer of the city is hereby authorized to have such vehicle towed by the city's authorized towing company.

- (1) The owner of the vehicle shall be responsible for any and all towing and storage charges along with the civil penalty identified in Division 2.
- (2) The penalty must be remitted prior to the release of the vehicle.

Sec. 78-49. – Protection of pedestrians in and around school zones.

(a) In order to protect drivers and pedestrians around the Orange County Public Schools within the municipal limits of the city, no person shall load or unload passengers seventeen (17) years of age or younger into or from a vehicle within one-fourth (¼) mile around such school, on the streets, alleyways, cul-de-sacs, right-of-ways, or other such areas, unless on the campus proper of the school, within designated loading or unloading areas provided for such purpose, or under the direction of a police officer or school official.

(b) A notice of such prohibition is not required in all areas within one-fourth (¼) mile around such schools in order to enforce the provisions of this section.

Sec. 78-50 – State statute incorporation

Adoption of state statutes by reference includes statutes both in existence at the time and those later adopted by the state legislature.

Secs. 78-4651.—78-60. - Reserved.

DIVISION 2. - CITATIONS; PENALTIES

Sec. 78-61.- Schedule of civil penalties; court appearance.

Sec. 78-62.- Liability for payment of penalties.

Sec. 78-63.- Failure to obey violation notice; alteration or destruction of violation notice.

Sec. 78-64. - Procedure upon noncompliance with violation notice.

Sec. 78-65. - Withholding of issuance of license plates and stickers by state.

Sec. 78-66.- Procedure for referring cases involving the violation of a municipal parking ordinance to a hearing officer

Secs. 78-667. - 78-80. - Reserved.

Sec. 78-61. - Schedule of civil penalties; court appearance.

(a) ~~There is hereby adopted the following schedule of civil penalties for parking violations occurring within the city, for which payment may be made at the parking fines unit:—~~

	Violation	Amount of Civil Penalty
(1)	No parking any time	\$25.00*
(2)	No parking, stopping or standing	25.00*
(3)	No parking—Here to corner	25.00*
(4)	No parking—Between signs	25.00*
(5)	No parking—This side	25.00*
(6)	No parking—Emergency	25.00*
(7)	No parking—On streets after 2:00 a.m. in certain areas	25.00*
(8)	No parking—Parking for assigned personnel only	25.00*
(9)	No parking—Official vehicles only	25.00*
(10)	No parking—Law enforcement vehicles only	25.00*
(11)	No parking—Police duty car only	25.00*
(12)	No parking—Yellow or red curb (not a sign)	25.00*
(13)	No parking—On sidewalk	25.00*
(14)	No parking—On crosswalk	25.00*
(15)	No parking—Blocking driveway	25.00*
(16)	No parking—Blocking dumpster	25.00*
(17)	No parking—Blocking wheelchair ramp	25.00*
(18)	No parking—Within 30 feet of official traffic control device	25.00*

(19)	No parking—Within 30 feet of nearest rail at railroad crossing	25.00*
(20)	Improper parking—Obstructing traffic	25.00*
(21)	Improper parking—Left wheels to curb (on two-way street)	25.00*
(22)	Improper parking—Backing	25.00*
(23)	Improper parking—Wrong way on one-way street (parked facing opposite flow of traffic)	25.00*
(24)	Parking in fire lane	50.00*
(25)	Blocking fire hydrant	50.00*
(26)	Parking by disabled permit only	100.00*
(27)	Parking overtime (limit authorized in zone)	4.00**
(28)	Meter violation overtime	4.00**
(29)	Parking over line	4.00**

(a) Schedule of Charges and Penalties:

- (1) Fines: Any person cited for violation of the regulations set forth in this chapter who submits payment within five (5) working days of the issuance of the citation shall be fined as follows:

<u>Violation</u>	<u>Fine</u>
<u>Sec. 78-37 – Manner of stopping, standing, or parking</u>	<u>\$30.00</u>
<u>Sec. 78-38 – Obstructing traffic</u>	<u>\$30.00</u>
<u>Sec. 78-39(1-3) – Stopping, standing or parking prohibited in specified places</u>	<u>\$30.00</u>
<u>Section 78-39 (4) – Stopping, standing or parking prohibited in designated handicap parking places</u>	<u>\$100.00</u>
<u>Section 78-40 – Stopping, standing, or parking where prohibited by sign or markings</u>	<u>\$30.00</u>
<u>Sec. 78-41 – Parking for certain purposes prohibited</u>	<u>\$30.00</u>
<u>Sec. 78-42 – Use of loading zones</u>	<u>\$30.00</u>
<u>Sec. 78-43 – Loading zone permit</u>	<u>\$50.00</u>
<u>Sec. 78-44 – Removal of illegally parked, abandoned, or disabled vehicles</u>	<u>\$30.00</u>
<u>Sec. 78-46 – Overtime parking in parking zones</u>	<u>\$30.00</u>
<u>Sec. 78-47 – Parking of vehicles without current and valid registration, et. Al.</u>	<u>\$30.00</u>
<u>Sec. 78-48 – Protection of pedestrians in and around school zones</u>	<u>\$30.00</u>

(2) Penalties

- i. Provided the penalty is paid within five (5) working days of the date of issuance of the parking violation notice, by either hand delivery to the parking fines unit or by mailing the penalty in the envelope provided with the notice. If such

penalty is not paid within five (5) working days as provided in this subsection, the amount of the civil penalty shall be ~~\$2.00~~ \$10.00 greater than the amount specified for the parking violation as provided in the schedule of penalties above.

ii. Any person receiving a parking violation notice shall, within five (5) working days, pay the civil penalty as prescribed ~~in subsection (a) of this section above~~ or request a hearing ~~before a judge of the county court~~. Any person electing to appear before the designated judge hearing officer shall be deemed to have waived his right to pay the civil penalty as set forth ~~in subsection (a) of this section above~~. The hearing will be governed in accordance with Section 78-66, of the code. ~~The judge, after a hearing, shall make a determination as to whether a violation has been committed. If the commission of a violation has been proven, the judge may impose a fine not to exceed \$100.00 plus court costs.~~

(3) Surcharges on parking fines.

- a. A surcharge in the amount of ~~\$5.00~~ \$10.00 is imposed on all parking fines for parking violations occurring within the city, for the sole purpose of funding school crossing guard programs pursuant to authority of F.S. §.318.12(11).
- b. This surcharge shall be placed in the school crossing guard trust fund and funds collected from this surcharge shall be distributed to fund school crossing programs. However, the city may set aside funds from this surcharge to pay for startup costs and recurring administrative costs related to printing new tickets or other means of implementing the school crossing guard program.
- c. Funds collected from this surcharge must be distributed quarterly to fund the school crossing guard programs.

(Code 1983, § 22-50; Ord. No. 853, § 2, 9-21-94; Ord. No. 1160, § I, 5-20-98)

(4) Administrative charges.

- a. In addition to the assessment pursuant to section 78-61 herein, administrative charges in the amount of the city's actual costs may be assessed in the event of an unsuccessful appeal under Section 78-66 or the necessity to institute collection procedures.

(5) Collection of fines. The city may establish procedures for the collection of a penalty imposed herein, and may enforce such penalty by civil action in the nature of debt.

a. Schedule of fees:

1. Section 78-43, "Loading Zone Permit"

- (a) Such permit fees shall be \$30.00 for the initial applicant vehicle and \$20.00 for each additional vehicle under the same application. Each additional vehicle must either be registered to

the applicant or applicant's organization or in the name of an employee of the applicant or applicant organization. The chief of police reserves the right to revoke any application or permit for errors, omissions, or false statement.

(b) A charge of \$10.00 shall be required for any lost, stolen, or misplaced permits. Permits are not transferrable between and among vehicles.

(c) Any permit issued after April 1 of the fiscal year, October 1st through September 30th, shall be prorated by 50% of the above fee.

Sec. 78-62. - Liability for payment of penalties.

~~Under authority of F.S. ch. 316, the owner of a vehicle is responsible and liable for payment of any parking violation penalty under this chapter unless the owner can furnish evidence that the vehicle was, at the time of the parking violation, in the care, custody or control of another person. In such instances, the owner of the vehicle is required, within a reasonable time after notification of the parking violation, to furnish to the chief of police or his designated assistant the name and address of the person who leased, rented or otherwise had the care, custody or control of the vehicle. The owner of a vehicle is not responsible for parking violations if the vehicle involved was, at the time, stolen, or in the care, custody or control of some person who did not have permission of the owner to use the vehicle. Prima facie evidence that the vehicle involved was, at the time, stolen, or in the care, custody or control of some person who did not have permission of the owner to use the vehicle, shall be in the form of a report from the appropriate law enforcement official that the vehicle was not under the care, custody or control of the owner of the vehicle.~~

(a) Pursuant to F.S. §316.1967, the owner of a vehicle is responsible and liable for payment of any parking ticket violation unless the owner can furnish evidence, when required by this section, that the vehicle was, at the time of the parking violation, in the care, custody, or control of another person. In such instances, the owner of the vehicle is required, within five (5) working days after notification of the parking violation, to furnish to the records unit of the police department an affidavit setting forth the name, address, and driver's license number of the person who leased, rented, or otherwise had the care, custody, or control of the vehicle.

(b) The affidavit submitted under this section is admissible in a proceeding charging a parking ticket violation and raises the rebuttable presumption that the person identified in the affidavit is responsible for payment of the parking ticket violation.

(c) The owner of a vehicle is not responsible for a parking ticket violation if the vehicle involved was, at the time, stolen or in the care, custody, or control of some person who did not have permission of the owner to use the vehicle. The owner of a leased vehicle is not responsible for a parking ticket violation and is not required to submit an affidavit or the other evidence specified in this section, if the vehicle is registered in the name of the person who leased the vehicle.

(Code 1983, § 22-51)

Sec. 78-63. - Failure to obey violation notice; alteration or destruction of violation notice.

(a) It shall be unlawful for the responsible party as defined in section 78-62 to neglect to answer to the charge set forth in a parking violation notice affixed to a motor vehicle by an authorized member of the city. ~~police officer or parking enforcement specialist.~~

(b) The notice referred to in subsection (a) of this section is and shall remain the property of the city before and after the serving, delivery or affixing thereof. All persons receiving any such notice in writing, whether by personal service or by affixing the notice to a motor vehicle, shall be and are hereby required to preserve such notice and to bring and present or otherwise transmit the notice to the police department parking fines section when answering the charge set forth in such notice.

(c) No person, whether the recipient thereof or otherwise, shall willfully throw away, alter, mar, mutilate, destroy or discard the parking violation notice of the city. Any person violating this section shall be subject to the penalty provided in section 78-64

(Code 1983, §§ 22-53, 22-54)

Sec. 78-64. - Procedure upon noncompliance with violation notice.

(a) If any person summoned by a parking violation notice affixed on a motor vehicle does not respond to such notice within the time period specified on such notice, the ~~parking fines unit~~ police department shall assess the appropriate delinquent fee per violation against the registered owner of the motor vehicle. In addition, a notice of summons shall be sent, by certified mail, to the registered owner of the motor vehicle which was cited, informing such owner of the parking violation notice and the failure to comply therewith. Such notice shall direct the recipient to respond within ten calendar days; otherwise, a ~~summons will~~ separate citation may be issued for failure to comply in violation of section 78-63(a). Costs in the amount of \$5.00 shall be assessed incident to ~~this~~ each notification process. A violation of section 78-63(a) shall be deemed a separate and distinct violation and shall not be construed to be merged with or a part of the original parking violation.

~~(b) If a response is not made within the time period specified in the notice of summons, a summons will be issued commanding an appearance before a judge of the county court and a service of process charge of \$10.00 per summons shall be assessed.~~

~~(c) After issuance of the summons, a hearing on the charge of failure to comply shall be scheduled and such charge prosecuted by the city prosecutor in the county court.~~

~~(d) Any person who fails to respond to the original parking violation notice within the time period specified on such notice shall have deemed to have waived the right to contest the merits of such parking violation and may, if found guilty, be fined up to \$100.00 for each parking violation notice for which there has been no compliance.~~

~~(e) A violation of section 78-63(a) shall be deemed a separate and distinct violation and shall not be construed to be merged with or a part of the original parking violation.~~

(Code 1983, § 22-52)

Sec. 78-65. - Withholding of issuance of license plates and stickers by state.

(a) The city police department may prepare and supply to the county clerk's office, ~~traffic violations bureau~~, a list of persons who have three or more outstanding parking violations. ~~The county clerk's office will forward the list of the named persons to the state department of highway safety and motor vehicles~~ on a magnetically encoded computer reel or cartridge which is machine readable by the installed computer system at the department, listing persons who have three or more outstanding parking violations which occurred within the city.

(b) If a person's name appears on the list referred to in subsection (a) of this section, the tax collector shall, in accordance with F.S. § 315.1967 and 320.03, not issue a license plate or revalidation sticker to such person until such person's name no longer appears on the list or until the person presents a receipt showing that such parking fines and all applicable late charges or other related charges have been paid, and also pays an administrative service charge ~~\$2.50 for~~ to the tax collector.

(c) Pursuant to the authority granted in F.S. §§ 316.1967 and 320.03, this section shall be applicable throughout the city; providing, however, that the police department responsible for enforcement of parking violations in the city shall be responsible for preparing and supplying the applicable list of persons who have three or more outstanding parking violations ~~within the person's respective jurisdiction~~.

(Code 1983, § 22-55)

Sec. 78-66. – Procedure for referring cases involving the violation of a municipal parking ordinance to a hearing officer.

(a) Guiding Statute:

- (1) Pursuant to F.S. §318.325, any municipality may adopt an ordinance that allows the municipality to refer cases involving the violation of a municipal parking ordinance to a hearing officer.
 - a. Notwithstanding the provisions of F.S. §318.14 and 775.08(3), any parking violation shall be deemed to be an infraction as defined in §318.13(3); however, the violation must be enforced and disposed of in accordance with the provisions of general law applicable to parking violations and in accordance with this code where the violation occurred.
 - b. The police department records unit shall be responsible for collecting and distributing the fines, forfeitures, and court costs assessed under this section.
- (2) Pursuant to F.S. §316.1967, any person who elects to appear before the city's hearing officer to present evidence, waives his or her right to pay the civil penalty provisions

of the ticket. The hearing officer, after a hearing, shall make a determination as to whether a parking violation has been committed and may impose a civil penalty not to exceed \$100.00 or the fine amount designated by ordinance, plus court costs. Any person who fails to pay the civil penalty within the time allowed by the hearing officer is deemed to have been convicted of a parking ticket violation, and the city may take appropriate measures to enforce collection of the fine.

(b) Appeal to hearing officer.

(1) Request for appeal:

a. The city's code enforcement hearing officer is authorized to consider appeals under this chapter. The responsible party as defined in section 78-62, shall, within five (5) business days of the date of the notice of infraction, file an appeal with the city. Such request for appeal shall be in writing, or on a form provided and approved by the chief of police, and delivered to the police department records unit. A hearing on the appeal shall be scheduled.

b. Upon receipt of the appeal, the city shall schedule a hearing before the hearing officer to occur not later than sixty (60) days after the city receives the appeal request. Notice of hearing shall be provided to the responsible party as defined in section 78-62 no less than ten (10) days prior to the hearing, and shall be delivered via certified mail, return receipt requested, to the address provided on the request for appeal.

(2) The following shall be permissible grounds for an appeal:

a. At the time of the infraction, the vehicle was not under the care, custody, or control of the vehicle owner or an individual with vehicle owner's consent, established pursuant to affidavit as provided in section 78-62;

b. The motor vehicle driver was issued a uniform traffic citation by a police officer, which was separate and distinct from the citation issued under this section, for the same offense cited within the parking violation;

c. Any other reason the hearing officer deems appropriate. The member issuing the contested citation shall be available and may testify at the appeal; or

d. the vehicle owner, or his or her representative, may also present testimony and evidence.

(3) Unless an affidavit is provided pursuant to section 78-62, it is presumed the person registered as the vehicle owner with the Florida Department of Motor Vehicles or any other state vehicle registration office, or an individual having the owner's consent, was operating the vehicle at the time of the infraction.

Secs. 78-667—78-80. - Reserved.