

Parking Ordinance



south **Burlington**
VERMONT

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06-03-2019 DRAFT

The Council of the City of South Burlington hereby ordains:

1. Purpose and Authority

This Parking Ordinance is enacted by the City Council to promote the public health, safety and welfare of City residents under the authority it is granted to regulate parking of motor vehicles as set forth in 4 V.S.A. section 32, 19 V.S.A. section 304, 20 V.S.A. section 2904, 23 V.S.A. sections 1008 and 1753, 24 V.S.A. section 2291, and Sections 103 and 104 of the South Burlington City Charter. This Ordinance shall constitute a civil ordinance within the meaning of 24 V.S.A. chapter 59. Parking any motor vehicle in violation of this Ordinance is hereby declared to be a public nuisance.

2. Definitions

- (A) The definitions set forth in 23 V.S.A. section 4, as amended from time to time, are incorporated herein by reference.
- (B) "Recreation path" means a public path, or any portion thereof, used by the general public for recreation; the South Burlington Recreation Path.

3. Parking Prohibitions

Except when necessary to avoid conflict with other traffic, or in compliance with law or the directions of a law enforcement officer or official traffic-control device, no person shall stop or park a motor vehicle:

- (A) On the roadway side of any motor vehicle stopped or parked at the edge or curb of a street;
- (B) On a sidewalk or so as to interfere with pedestrian use or maintenance of a sidewalk;
- (C) On a recreation path or so as to interfere with authorized uses or maintenance of a recreation path;
- (D) Within fifty (50) feet of an intersection;
- (E) On any crosswalk;
- (F) Alongside or opposite any road excavation when parking would obstruct traffic;
- (G) Upon any bridge or other elevated structure;
- (H) Upon any railroad tracks or within fifty (50) feet of the nearest rail of a railroad crossing;
- (I) Within fifteen (15) feet of a fire hydrant;
- (J) Within thirty (30) feet upon the approach to any flashing signal, stop sign, or traffic control light located at the side of a roadway;
- (K) In front of a public or private driveway;

- (L) In any space specified as reserved for a bus stop;
- (M) Within twenty (20) feet of the driveway entrance to any fire station and on the side of a public road or highway opposite and within seventy-five (75) feet of the entrance to any fire station;
- (N) On any public road or highway, or portion thereof, designated by order of the Director of Public Works as a place where parking is temporarily prohibited because of road or highway construction, repair or maintenance;
- (O) On any public road or highway, or portion thereof, the City Council designates by resolution as a place where parking is prohibited and indicated as such by "No Parking" signs;
- (P) On any public road or highway for the purpose of selling or renting the same or for the purpose of displaying or advertising the same for sale or rent;
- (Q) So as to interfere with the plowing or removal of snow;
- (R) On any public road or highway between 12 o'clock midnight and 8 o'clock a.m. each day during the four (4)-month period starting December 1 of each year and continuing through March 31 of the following year;
- (S) In a space designated as parking for persons with disabilities except when the motor vehicle is equipped with a valid handicapped registration plates or properly displayed handicap permit from the Vermont Department of Motor vehicles in accordance with 23 V.S.A. section 304a, or as otherwise provided by the law of the State in which the motor vehicle is registered, and an occupant is a person with a disability.

4. Unregistered Motor Vehicles and Unattached Trailers

In addition to the prohibitions set forth in Section 3 of this Ordinance, no person shall stop or park on any public road or highway for a period that exceeds twelve (12) consecutive hours:

- (A) Any unregistered motor vehicle;
- (B) Any trailer, semi-trailer or trailer coach that is not attached to a motor vehicle. For the purposes of this Ordinance, trailer or semi-trailer includes, without limitation, trailers for boats.

5. Parking Tickets; Penalties

Any City law enforcement officer may issue a parking ticket for any motor vehicle parked in violation of Sections 3 or 4 of this Ordinance, which shall set forth the penalty to be paid for such violation. Parking ticket penalties shall be paid to the South Burlington Police Department. The Police Department shall maintain copies of all issued parking tickets. From time to time, the City Council shall establish by appropriate resolution penalties for violations of any provision of Sections 3 or 4 of this Ordinance. Offenses shall be counted on a calendar year basis.

6. Administrative Appeal and Enforcement of Parking Tickets

Within fifteen (15) calendar days of the date a parking ticket is issued, a person receiving a parking ticket may appeal the violation by submitting a written statement of appeal to the Chief of Police. The written statement shall state the facts supporting the appeal and an explanation of why such ticket is believed to be unlawful. Within fifteen (15) calendar days of the date s/he received a written statement of appeal, the Chief of Police, or his or her designee, will review the statement and shall issue by mailing to the address provided in the written statement a brief written decision on the appeal, which shall be final.

If, after exhausting this administrative appeal process, the violator has not paid any penalty assessed for violation of this Ordinance, the City Attorney, at the direction of the City Council, may institute an action on behalf of the City against the violator in accordance with Rule 80.9 of the Vermont Rules of Civil Procedure.

7. Removal of Unlawfully Parked Motor Vehicles

(A) Removal. In addition to issuance of a parking ticket under Section 5 of this Ordinance, City law enforcement officers are authorized to remove motor vehicles parked in violation of Sections 3 or 4 this Ordinance at the expense of the owner of the motor vehicle.

(B) Record of Removed Motor Vehicles. The Police Department and the owner of any garage to which a motor vehicle is removed shall keep a record of each motor vehicle so removed by manufacturer's trade name or make, registration number or motor vehicle Identification Number, registered owner if the motor vehicle bears a Vermont registration, such other descriptive matter as may be necessary to identify the motor vehicle, and the name and address of any claimant thereof. In addition, the Police Department shall keep a record showing the date of such removal, the place to which the motor vehicle is removed, and reason for such removal. All such records shall be open to public inspection pursuant to the Vermont Public Records Act.

(C) Notice of Removal. If a removed motor vehicle is not reclaimed within ten (10) calendar days of the date of removal, the Police Department shall send written notice by certified mail, return receipt requested, to the last known address of the registered owner of such motor vehicle, if such motor vehicle is registered. If the motor vehicle is not registered, the Police Department shall cause the notice to be published in a newspaper of general circulation in the City within twenty (20) calendar days of the date of removal. The notice required by this section shall contain the following:

- (1) A description of the motor vehicle;
- (2) Statement of the circumstances requiring removal;
- (3) Statement of the procedure to reclaim the motor vehicle; and,
- (4) Statement of appeal rights.

(D) **Appeal of Removal.** Prior to, or within three (3) calendar days of reclaiming a motor vehicle, the owner of a motor vehicle removed pursuant this Ordinance may make a written request for a hearing before the Chief of Police. The written request shall contain a statement of the facts supporting the appeal and an explanation of why such removal is believed to be unlawful. The Chief of Police, or his/her designee, shall conduct a summary hearing at which the motor vehicle owner may present relevant evidence. Within twenty-four (24) hours of the conclusion of the hearing, the Chief of Police, or his/her designee, shall issue by mailing to the address provided in the written statement a brief written decision on the appeal, which shall be final.

(E) **Recovery of Motor Vehicle.** Before the owner of a motor vehicle removed pursuant to this Ordinance shall be permitted to reclaim the motor vehicle, the owner shall:

- (1) Furnish satisfactory evidence to the Police Department or the owner or person in charge of the garage of his/her identity and of his/her ownership of the motor vehicle;
- (2) Pay to the Police Department all charges for violation of this Ordinance and all charges for mailing and/or publication of the required notice;
- (3) Pay to the owner or person in charge of the garage all charges for removing said motor vehicle and all charges for the storing and parking thereof;
- (4) Sign a written receipt acknowledging delivery of said motor vehicle.

(F) **Charges for Removal.** From time to time, the City Council shall establish by appropriate resolution reasonable charges for the towing and storing of motor vehicles removed pursuant to Section 7 of this Ordinance.

(G) **Lien on Motor Vehicle.** All charges for towing and storage of motor vehicles imposed pursuant to Section 7 of this Ordinance shall become a lien upon the motor vehicle removed and such lien may be foreclosed in accordance with the procedure provided in the law for foreclosure of artisan's liens.

(H) **Charges not a Penalty.** No charges made or incurred under Section 7 of this Ordinance shall be considered a fine, penalty or forfeiture. The removal and storage of any motor vehicle under this Ordinance shall not be a bar to the institution and prosecution of civil action against the owner or operator of such motor vehicle.

8. Severability

In the event that any section, subsection or portion of this Ordinance shall be declared by any competent court to be invalid for any reason, such decision shall not be deemed to affect the validity of any other section, subsection or portion of this Ordinance.

9. Repeal

The Motor Vehicle and Traffic Regulation Ordinance of the City of South Burlington adopted April 28, 1958 and as amended from time to time thereafter, is hereby repealed.

Adopted at South Burlington, Vermont, this ____ day of _____ 2019.

SOUTH BURLINGTON CITY COUNCIL

Helen Riehle, Chair

Thomas Chittenden

Meaghan Emery, Vice-Chair

Dave Kaufman

Tim Barritt, Clerk

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