

ORDINANCE NO. 597-2021

AN ORDINANCE ESTABLISHING PARKING REGULATIONS IN THE CITY OF SPANISH FORT, ALABAMA

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SPANISH FORT, ALABAMA, AS FOLLOWS:

SECTION 1. Stopping, Standing, or Parking Prohibited in Specified Places Generally.

- 1.1 Except when necessary to avoid conflict with other traffic, or in compliance with law or the directions of a police officer or official traffic-control device, no person shall:
 - a. Stop, stand or park a vehicle:
 1. On the roadway side of any vehicle parked at the edge or curb of a street;
 2. On a sidewalk;
 3. Within an intersection;
 4. On a crosswalk;
 5. Between a safety zone and the adjacent curb or within 30 feet of points on the curb immediately opposite the ends of a safety zone, unless a different length is indicated by signs or markings;
 6. Alongside or opposite any street excavation or obstruction when stopping, standing, or parking would obstruct traffic;
 7. Upon any bridge or other elevated structure upon a highway or within a highway underpass or tunnel;
 8. At any place where official signs prohibit stopping;
 9. In a fire lane.
 - b. Stand or park a vehicle, whether occupied or not, except momentarily to pick up or discharge a passenger or passengers:
 1. In front of a public or private driveway;
 2. Within 15 feet of a crosswalk at an intersection;
 3. Within 15 feet of a fire hydrant;
 4. Within 30 feet upon the approach to any flashing beacon, stop sign, or traffic control signal located at the side of a roadway;
 5. In a fire lane;
 6. Within 500 feet of fire apparatus that has stopped to answer an emergency call;
 7. Between the hours of 11:00 p.m. and 5:30 a.m. at any City park unless authorized by the City;
 8. Park in such a way as to interfere with the normal functioning of emergency and public service vehicles in the normal operation of such vehicles in providing emergency and City services;
 9. On the premises of another having been warned not to do so by word of mouth or sign or otherwise, provided, that this section shall not apply to employees of the City in the discharge of their official duties. The presence of an unattended automobile or other motor vehicle on the premises of one who is not the owner or in control thereof shall raise a prima facie presumption that the registered owner of such automobile or other motor vehicle parked or left, or caused to be parked or left, such automobile or other motor vehicle

on the premises, and the burden of proof shall be upon the registered owner to show otherwise;

10. At any place where official signs prohibit parking.

1.2. The Owner of any such vehicle in violation of this section shall be cited as required by Rule 19 of the Alabama Rules of Judicial Administration.

SECTION 2. Commercial Vehicle Parking; Parking or Leaving Unattended Prohibited.

It shall be unlawful for any person to park, or leave unattended, any commercial motor vehicle or trailer, or combination thereof, on any private or public lot in the City, regardless of whether a sign is posted, or on any property within the public right of way within the City, or in any City park or City facility, unless the lot is properly zoned and the parking places properly striped for commercial motor vehicle parking, or the owner, tenant, occupant or person in possession of such lot or premises has given consent, express or implied. "Commercial motor vehicle" means a motor vehicle or combination of motor vehicles, semi-trailers, or truck tractors, used to transport passengers or property when the motor vehicle: 1) has a gross vehicle weight of more than 26,000 pounds; or 2) has a towed unit with a gross vehicle weight of more than 10,000 pounds; or 3) the combination of vehicles has a combined weight of more than 26,000 pounds. Nothing herein shall prevent the owner or proprietor of the premises to utilize trailers for temporary or seasonal onsite storage if otherwise allowed by law or ordinance.

SECTION 3. Moving/Impoundment of Offending Property.

3.1 Any commercial motor vehicle or trailer, or combination thereof, parked in violation of Section 2 of this Ordinance shall be moved by the owner or operator, or, if unavailable or unable to be located after reasonable attempts, impounded immediately and without delay on order of any police officer of the City.

3.2 Owner responsible for Moving/Impoundment Costs.

All costs associated with the moving or impoundment of any commercial motor vehicle or trailer, or combination thereof, pursuant to this Ordinance shall be paid by the registered owner of said vehicle and/or the person or persons in possession or having control thereof prior to the release of said vehicle from impound, including, but not limited to, any wrecker service fees, inspection fees, and storage charges.

SECTION 4. Parking of Certain Vehicles on Roadway Prohibited.

4.1 It shall be unlawful for any person to park a commercial motor vehicle, boat, recreational vehicle, trailer, semitrailer, or similar vehicle upon any street, alley, or public way of the City, except for repairs necessitated by an emergency and for loading and unloading.

4.2 It shall be unlawful for any person to park overnight and occupy a recreational vehicle, motor home, house car, travel trailer, pickup camper, van or other motor vehicle having sleeping quarters upon any street, alley, or other public way of the City.

4.3 For the purposes of this section, the following definitions shall apply:

- a. A commercial motor vehicle is defined as set forth in Alabama Code §32-9A-1(2).
- b. A recreational vehicle is a vehicle equipped to be lived in or for human habitation.
- c. A house car is a motor vehicle original designed, or permanently altered, and equipped for human habitation or to which a camper has been permanently attached.

SECTION 5. Parking in Private Alleys or on Private Property- Generally.

5.1 It shall be unlawful (1) for any person to park any vehicle in any private alley without the consent, express or implied, of the owner thereof or (2) for any person lawfully entitled to the use of a private alley to park any vehicle therein in such manner or with such effect as to unreasonably obstruct the passage of any other vehicle entitled to use such alley.

5.2 It shall be unlawful for any person to park any vehicle upon the lot or private premises of another without the consent, express or implied, of the owner, tenant, occupant or person in lawful possession of such lot or premises.

SECTION 6. Parking in Areas Designated as Handicapped Parking.

6.1 It shall be unlawful for any persons, other than individuals with a long-term disability or an individual with a temporary disability as defined in § 32-6-230, *Code of Alabama* (1975), whose vehicle bears license plate decals and placards validly issued under the provisions of § 36-6-231, *Code of Alabama* (1975), to park vehicles in parking zones designated for handicapped persons within the City.

6.2 Any person found guilty of a violation of this section shall be punished by a fine of one hundred dollars (\$100.00), which may be paid in advance of trial to the court magistrate, subject to Rule 19 of the Alabama Rules of Judicial Administration.

SECTION 7. Removal of Vehicles by Police.

7.1 Removal by Police-Obstructions.

Any motor vehicle, trailer or semitrailer and any "special mobile equipment" as defined in § 32-1-1.1, *Code of Alabama* (1975), parked upon a public street or way of the City at a place, in a manner or for a length of time, prohibited by law is, if unoccupied, hereby declared to be an obstruction in such street or way and a public nuisance, and any police officer of the City is hereby authorized to cause the same to be removed to, and impounded in, the garage designated by the City.

7.2 Whenever any police officer of the City shall find upon any public street or way of the City any vehicle which he or she has reasonable cause to believe to be lost, stolen, or abandoned as defined in § 32-13-1, *Code of Alabama* (1975), or any vehicle which is, or is likely to become, an obstruction on a public way, or to be without proper protection by reason of the person in charge or control thereof having been arrested and incarcerated, such officer shall have the authority to immediately cause the same to be removed to, and impounded in, the garage designated by the City.

7.3 Removal of Vehicles Pursuant to *Code of Alabama* (1975) § 32-13-2.

a. Subject to and in accordance with the provisions of *Code of Alabama* (1975) § 32-13-2, a police officer of the City may cause a motor vehicle to be removed to the nearest garage or other place of safety under any of the following circumstances:

(1). The motor vehicle is left unattended on a public street, road, or highway or other property for a period of at least 48 hours.

(2). The motor vehicle is left unattended because the driver of the vehicle has been arrested or is impaired by an accident or for any other reason which causes the need for the vehicle to be immediately removed as determined necessary by a law enforcement officer.

(3). The motor vehicle is subject to an impoundment order for outstanding traffic or parking violations.

b. Liability and Lien on Vehicles Removed

(1). A law enforcement officer, parking enforcement officer, or traffic enforcement officer who, pursuant to this section, causes any motor vehicle to be removed to a garage or other place of safety shall be liable for gross negligence only.

(2). A person removing a motor vehicle or other property at the direction of an owner or owner's authorized agent, a lessee of real property or the lessee's authorized agent, or a law enforcement officer, parking enforcement officer, or traffic enforcement officer in accordance with this section shall have a lien on the motor vehicle for a reasonable fee for the removal and for the storage of the motor vehicle.

c. A law enforcement officer, parking enforcement officer, or traffic enforcement officer who causes the removal of any motor vehicle to a garage or other place of safety pursuant to this section, within five calendar days, shall give written notice of the removal.

The notice shall include a complete description of the motor vehicle identification number and license number thereof, provided the information is available, to the Secretary of the Alabama State Law Enforcement Agency.

d. An owner or owner's authorized agent, or a lessee of real property or the lessee's authorized agent, upon which a motor vehicle has become unclaimed, as provided for in *Code of Alabama* (1975) § 32-8-84, may cause the motor vehicle to be removed to a secure place. Any person or entity removing the vehicle at the direction of the owner or lessee of real property or his or her agent pursuant to this section shall have a lien on the motor vehicle for a reasonable fee for the removal and for storage of the motor vehicle.

e. An owner or lessee or agent of the real property owner and the towing agent or wrecker service employed shall be liable to the owner or lienholder of record for action taken under this section only for gross negligence.

7.4 Claiming Impounded Vehicle.

Any owner or person entitled to possession of a vehicle impounded under this Ordinance may claim the same at any time before the sale thereof by filing a written claim thereto with the Chief of Police or designee, upon a form to be provided by the City, and if said chief or designee is satisfied that the claimant is the owner or entitled to possession of such vehicle, he/she shall notify the holder of such vehicle to cause the same to be released to the claimant upon payment of proper charges. Upon receipt of such notification, the holder of such vehicle shall cause same to be released to the claimant upon payment of such charges.

7.5 Lien on Vehicle.

The garage designated by the City to remove such vehicles shall have a lien upon each impounded vehicle for a reasonable fee as established in Ordinance No. 585-2021, as amended, for the period of time such vehicle remains impounded in the designated garage to cover the cost of hauling to the said garage, storage of the vehicle therein and overhead; and, except as provided herein, no vehicle shall be released to any claimant prior to the sale thereof, unless such proper charge is paid.

7.6 Sale of Vehicle.

When any vehicle impounded under this Ordinance shall have remained in the garage for as long as forty-five (45) days from the date of its reception therein and no claim for such vehicle shall have been made within said period of time, the vehicle may be sold and the proceeds thereof distributed as provided in § 32-13-1, *Code of Alabama* (1975) et seq.

7.7 Owner's Duty to Locate Vehicle.

It shall be the duty of every person who may not know the whereabouts of a vehicle owned by him or her, or to which such person may have the right of possession, to take notice that such vehicle may be in the custody of the City pursuant to the provisions of this Ordinance and that he or she may inquire of the Chief of Police or designee whether it is in such custody. Any such person who may thus, or otherwise, ascertain that such vehicle is in such custody, and who may believe that it has been impounded for a cause not authorized by the provisions of this Ordinance, may, if he desires to escape payment of the aforesaid charges, present a complaint, in duplicate, to the municipal judge at any time prior to the sale of said vehicle, averring that he is the owner or entitled to the possession of said vehicle, describing it, that it is in the custody of the City and that the same has been impounded for a cause not authorized by the provisions of this Ordinance or state law. Upon presentation of such complaint, in duplicate, the municipal judge shall immediately set the same down for hearing on the court date following the receipt of such complaint and shall cause one of said duplicates, with the time of the hearing noted thereon, to be delivered to the Chief of Police or designee. The judge may continue the hearing from time to time as may be proper. If, upon the hearing, the complaint should be sustained, the judge shall render judgment that the vehicle be forthwith released to the complainant without payment of any impounding, storage or other charges and that the City clerk or designee shall cause such vehicle to be so released. If, on the other hand, the complaint should not be sustained, the judge shall enter judgment dismissing the same and assessing costs of court against the complainant, to be collected before release of said vehicle to the complainant in addition to all other charges prescribed in this Ordinance.

SECTION 8. Other penalties.

The payment of any charges prescribed in this Ordinance shall not have the effect of relieving the owner or operator of the vehicle of any penalty prescribed by any other ordinance of the City for violating ordinances of the City regulating parking of vehicles.

SECTION 9. Complaint in Municipal Court.

In addition to the right of removal of any vehicle found to be parked in violation of this Section, any police officer of the City is hereby further authorized to cause a complaint to be filed in the municipal court of the City, alleging a violation of Section 7 of this Ordinance, against the owner or operator of said vehicle if he can be found or is known to said officer, which complaint shall be heard and tried in said municipal court in the same manner as other violations of City ordinances are heard and tried.

SECTION 10. Penalties.

Any person unlawfully parking any motor vehicle, commercial motor vehicle or trailer, or combination thereof, within the City limits of the City of Spanish Fort, Alabama shall be fined not less than twenty-five dollars (\$25.00) for a first violation, not less than fifty dollars (\$50.00) for a second violation within twenty-four (24) months of the first violation, and not less than one hundred dollars (\$100.00) for each subsequent violation within twenty-four (24) months of any repeat violation, together with costs of court, and may be sentenced to no more than 30 days in the municipal jail which may be suspended in the discretion of the municipal judge.

SECTION 11. Severability Clause.

If any part, section or subdivision of this Ordinance shall be held unconstitutional invalid for any reason, such holding should not be construed to invalidate or impair the remainder of this Ordinance, which shall continue in full force and effect notwithstanding such holding.

SECTION 12. Repealer Clause.

Any ordinance heretofore adopted by the City Council of the City of Spanish Fort, Alabama, which is in conflict with this Ordinance is hereby repealed to the extent of such conflict.

SECTION 13. Effective Date.

This Ordinance shall become effective upon its adoption or as otherwise required by state law.

ADOPTED and APPROVED this 6th day of December, 2021.

Michael M. McMillan
Mayor

Attest:

Rebecca A. Gaines
City Clerk