

**CITY OF EL PASO, TEXAS
AGENDA ITEM
DEPARTMENT HEAD'S SUMMARY FORM**

AGENDA DATE: 11/09/21

PUBLIC HEARING DATE: 11/23/2021

CONTACT PERSON(S) NAME AND PHONE NUMBER: Assistant Chief Victor Zarur 915-212-4307

DISTRICT(S) AFFECTED: All

STRATEGIC GOAL: 2-Set the Standard for a Safe and Secure City

SUBGOAL: 2.1-Maintain standing as one of the nation's top safest cities.

SUBJECT:

An ordinance amending Title 12 (Vehicles and Traffic), Chapter 12.08 (Administration and Enforcement), Section 12.08.220 (Impounding Vehicles) of the city code, in its entirety, to allow an employee designated by the city to request the removal and storage of illegally parked and abandoned vehicles.

BACKGROUND / DISCUSSION:

HB 914 recently passed in the State Legislature and went into effect on September 1, 2021. This bill authorizes municipalities to broaden who can tow illegally parked vehicles from the El Paso Police Department to the broader category of municipal employees.

PRIOR COUNCIL ACTION:

N/A

AMOUNT AND SOURCE OF FUNDING:

N/A

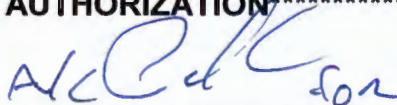
HAVE ALL AFFECTED DEPARTMENTS BEEN NOTIFIED? YES NO

PRIMARY DEPARTMENT: Police

SECONDARY DEPARTMENT:

*****REQUIRED AUTHORIZATION*****

DEPARTMENT HEAD: Chief Gregory K. Allen



(If Department Head Summary Form is initiated by Purchasing, client department should sign also)

ORDINANCE NO. _____

AN ORDINANCE AMENDING TITLE 12 (VEHICLES AND TRAFFIC), CHAPTER 12.08 (ADMINISTRATION AND ENFORCEMENT), SECTION 12.08.220 (IMPOUNDING VEHICLES) OF THE CITY CODE, IN ITS ENTIRETY, TO ALLOW AN EMPLOYEE DESIGNATED BY THE CITY TO REQUEST THE REMOVAL AND STORAGE OF ILLEGALLY PARKED AND ABANDONED VEHICLES.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF EL PASO:

SECTION 1. That Title 12 (Vehicles and Traffic), Chapter 12.08 (Administration and Enforcement), Section 12.08.220 (Impounding Vehicles), is hereby amended, in its entirety, as follows:

Section 12.08.220 - Impounding Vehicles.

A. Members of the police department, the fire chief or his designee, or an employee designated by the City Manager are authorized to remove or impound vehicles from any street, highway, alley, public or private ground, or public rights-of-way to the nearest garage, vehicle storage facility, or other place of safety, or to a garage or storage facility designated or maintained by the city under the circumstances herein enumerated:

1. When a vehicle is illegally parked in any zone or within any area where parking is prohibited or restricted by official signs or curb markings, or is parked in such a manner as to obstruct or partially obstruct any crosswalk, sidewalk or driveway;
2. When a vehicle is so parked as to obstruct the movement of any railroad train, railroad car or locomotive;
3. When a vehicle is parked on public or private property under or next to any fire escape or fire exit at a location such that the parked vehicle would obstruct or interfere with the operation or use of the fire escape or fire exits as a means of exit from the building;
4. When a vehicle is parked on public or private property next to any standpipe or sprinkler connection used by the fire department at a location such that the parked vehicle would obstruct or interfere with the operation of use of such connection;
5. When a vehicle is illegally parked in a zone designated by the city engineer under Section 12.44.180 of this code and such zone is marked as a tow-away zone by a sign;
6. When a vehicle other than a commercial vehicle is parked in a loading zone designated for commercial vehicles only and such zone is marked by a sign as a tow-away zone;

7. When a vehicle is parked on city-owned property in violation of official signs or curb-markings established in accordance with Section 12.44.170 of this code;
 8. When a vehicle is left parked or standing on any portion of a limited-access or controlled-access highway for a continuous period of time in excess of ten hours;
 9. When a vehicle is left parked or standing on city-owned property that is not held open or provided for vehicular traffic or public parking, and the property is so marked by a sign;
 10. When a vehicle remains parked in violation of no parking signs posted regarding street construction in accordance with the provisions in Section 12.44.220 of this code.
 11. When a vehicle is parked legally on public property; and has been unattended for more than 48 hours; and there is reasonable grounds to believe the vehicle is abandoned.
- B. Members of the police department and the fire chief or his designee are authorized to remove or impound vehicles from any street, highway, alley, public or private ground, or public rights-of-way to the nearest garage, vehicle storage facility, or other place of safety, or to a garage or storage facility designated or maintained by the city under the circumstances herein enumerated:
1. When a vehicle is left unattended upon any bridge, viaduct or causeway, or in any tube or tunnel where such vehicle constitutes an obstruction to traffic;
 2. When the police department is authorized or directed to remove obstructions, including vehicles and personal property, from any right-of-way or any other portion of the roadway in accordance with the provisions in Section 545.3051, Transportation Code;
 3. When a vehicle upon a street or highway is so disabled as to constitute an obstruction to traffic and the person or persons in charge of such vehicle are absent or are unable to provide for its custody or removal;
 4. When a vehicle is stored in the streets, alleys or other rights-of-way in violation of Section 12.80.150 of this code;
 5. When a vehicle is left unattended upon a street where such vehicle constitutes a hazard or obstruction to the normal movement of traffic;
 6. When a vehicle has been involved in an accident and by reason of damage or incapacity of the driver cannot be driven or is unsafe to drive;
 7. When a vehicle constitutes a traffic hazard because of defective lights, brakes or steering apparatus;

8. When a vehicle is being used to transport hazardous materials in violation of Title 9 of this code;
 9. When the police department is authorized to take an abandoned motor vehicle, watercraft or outboard motor found on public or private property into custody pursuant to Section 683.011, Texas Transportation Code;
 10. When a vehicle is offered or exposed for sale in violation of Section 13.20.040 of this code and removed and stored in accordance with the provisions of that section;
 11. When a vehicle is stopped by a police officer for an alleged traffic law violation; and the vehicle's owner or operator fails to show evidence of financial responsibility as required under Chapter 601 of the Texas Transportation Code, as amended.
- C. Officers and other authorized employees may use city equipment or the services of an independent contractor of the city to remove or impound a vehicle and store it as authorized in this section, or to transfer or seize, impound and store a vehicle.
- D. Whenever an officer or other authorized employee removes or impounds a vehicle utilizing city equipment, or when a peace officer seizes a vehicle utilizing city equipment, the city shall take the necessary steps to ascertain the registered owner and lienholders of record if any thereof, and shall give or cause to be given notice in writing, in accordance with Chapter 683 of the Texas Transportation Code, to such registered owner and lienholders of record if any of the fact of such removal, the police or fire department case number and the location of the place where the vehicle is located.
- E. There is established a towing fee and a storage fee which shall be charged in the respective established fee amounts per day for vehicles twenty-five feet in length or less and for vehicles over twenty-five feet in length for each calendar day, or part thereof, for each vehicle that is removed or impounded hereunder or transferred or seized by peace officer when it is towed by city equipment or stored in a city storage facility. All the charges assessed shall be a lien against the vehicle.

The registered owner, lienholder of record or person authorized or entitled to possession of a vehicle must comply with the requirements of the Texas Transportation Code and pay the city's towing and storage fees as authorized by this section and if applicable, any fees assessed against the vehicle under the authority in Chapter 12.85 of this code or post a bond as may be provided for in this code prior to redeeming the vehicle. Additionally, if the vehicle was towed by an independent contractor of the city or transferred to a city lot from a garage or vehicle storage facility, the registered owner, lienholder of record or person authorized or entitled to possession of a vehicle must also pay those outstanding towing, storage and other related fees or post a bond as may be provided for in this code prior to redeeming the vehicle.

Fees must be paid in accordance with the procedures established by the police department and the comptroller's office.

Information as to these procedures shall be made available to persons seeking to reclaim a vehicle. Vehicles will be released from the storage facility during the hours the facility is open to the public on presentment of proof that payment has been made. A person reclaiming a vehicle must remove it from the city's storage facility within twenty-four hours after paying the towing and storage charges, or he will be assessed additional storage charges. Vehicles not reclaimed within the time allowed under the Texas Transportation Code will be disposed of in accordance with that code.

- F. Whenever a vehicle is removed, impounded, or seized under the authority of this section utilizing the services of an independent contractor of the city, the independent contractor shall comply with all notice and redemption of vehicle provisions required by the Texas Transportation Code.
- G. Whenever a vehicle is removed, impounded, or seized under the authority of this section utilizing the services of an independent contractor, the independent contractor shall be entitled to charge and receive from the registered owner, lienholders of record if any or other person authorized or entitled to reclaim the vehicle all charges and fees authorized in its contract with the city. All the charges assessed shall be a lien against the vehicle. Vehicles not reclaimed within the time allowed under the Texas Transportation Code will be disposed of in accordance with that code.
- H. The term "vehicle" as used in this section shall be deemed to include bicycles. Any bicycle that remains unclaimed for a period of thirty days shall be disposed of in accordance with Article 18.17, Texas Code of Criminal Procedure.
- I. Members of the police department are authorized to remove or impound from any public or private property to a city storage facility, other vehicle storage facility, or other location of an auction, by means of city-owned and operated wrecker equipment, or by utilizing the services of an independent contractor of the city, all motor vehicles that at the time of removal are abandoned motor vehicles under the Texas Transportation Code. The registered owner or person entitled to possession of a vehicle must comply with the Texas Transportation Code and pay all towing, storage and other fees as authorized by this section prior to redeeming the vehicle. All vehicles must be redeemed in accordance with the provisions of this section.
- J. A registered owner or other person whose vehicle has been removed or impounded under the authority of this section may, within ten days of the day the vehicle was removed or impounded, request a post-deprivation hearing. At the time of the request, the registered owner or other person shall post a bond, sufficient to cover the cost of all outstanding tickets and towing and storage fees accrued, and shall provide the case number used by the police or fire department in making the report pertaining to the removal or impoundment of the vehicle. Such bond shall be posted at the municipal court bond office. Such person's vehicle will be released from the storage facility on presentment of proof that the requisite bond has been posted.

The hearing shall be held before a judge of the El Paso municipal court. A judge shall, as soon as practicable, hear the matter, after giving reasonable notice to the police chief or fire marshal, as applicable. The party requesting the hearing and the police chief or fire marshal or their designated representatives shall have the opportunity to present evidence and make argument on their behalf. The formal rules of evidence do not apply to a hearing under this section.

The judge hearing the case shall make his or her ruling on the basis of substantial evidence presented at the hearing. The judge shall uphold or overrule the decision to remove or impound the vehicle. In the event that the decision is upheld, the bond shall be forfeited to the city. In the event that the decision is overruled, the amount of the bond shall be returned to the person who posted it. The decision of the judge is final.

SECTION 2. Except as herein amended, Title 12 (Vehicles and Traffic), Chapter 12.08 (Administration and Enforcement) of the City Code remains in full force and effect.

ADOPTED this ____ day of _____, 2021.

CITY OF EL PASO:

Oscar Leeser
Mayor

ATTEST:

Laura D. Prine
City Clerk

APPROVED AS TO FORM:



Eric Gutierrez
Assistant City Attorney

APPROVED AS TO CONTENT:



Chief Gregory Allen
El Paso Police Department