

ORDINANCE NO. 01-02-24

AN ORDINANCE OF THE CITY OF COOPER, TEXAS, ESTABLISHING PROVISIONS FOR CREATION OF PARKING SPACES FOR DISABLED PERSONS; PROVIDING DEFINITIONS FOR GENERAL WORDS AND PHRASES; PROVIDING FOR FINES UP TO \$1,000 PLUS COMMUNITY SERVICE FOR VIOLATORS; PROVIDING A SAVINGS CLAUSE; AND SETTING AN EFFECTIVE DATE.

NOW THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF COOPER, TEXAS:

PRIVILEGED PARKING

- § 1 Definitions
- § 2 Disabled Parking Placard
- § 3 Enforcement
- § 4 Offenses; Presumption
- § 5 Seizure and Revocation of Placard
- § 6 Penalty

§ 1. Definitions

The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning.

- (1) "Department" means the Texas Department of Transportation.
- (2) "Disability" means a condition in which a person has:
 - (A) mobility problems that substantially impair the person's ability to ambulate;
 - (B) visual acuity of 20/200 or less in the better eye with correcting lenses;
or
 - (C) visual acuity of more than 20/200 but with a limited field of vision in which the widest diameter of the visual field subtends an angle of 20 degrees or less.
- (3) "Disabled parking placard" means a placard issued under Section 681.002.

- (4) "International symbol of access" means the symbol adopted by Rehabilitation International in 1969 at its Eleventh World Congress on Rehabilitation of the Disabled.
- (5) "Mobility problem that substantially impairs a person's ability to ambulate" means that the person:
- (A) cannot walk 200 feet without stopping to rest;
 - (B) cannot walk without the use of or assistance from an assistance device, including a brace, a cane, a crutch, another person, or a prosthetic device;
 - (C) cannot ambulate without a wheelchair or similar device;
 - (D) is restricted by lung disease to the extent that the person's forced respiratory expiratory volume for one second, measured by spirometry, is less than one liter, or the arterial oxygen tension is less than 60 millimeters of mercury on room air at rest;
 - (E) uses portable oxygen;
 - (F) has a cardiac condition to the extent that the person's functional limitations are classified in severity as Class III or Class IV according to standards set by the American Heart Association;
 - (G) is severely limited in the ability to walk because of an arthritic, neurological, or orthopedic condition;
 - (H) has a disorder of the foot that, in the opinion of a person licensed to practice podiatry in this state or in a state adjacent to this state, limits or impairs the person's ability to walk; or
 - (I) has another debilitating condition that, in the opinion of a physician licensed to practice medicine in this state or a state adjacent to this state, or authorized by applicable law to practice medicine in a hospital or other health facility of the Veterans Administration, limits or impairs the person's ability to walk.
- (6) "Podiatry" has the meaning assigned by Section 202.001, Occupations Code.

§ 2. Disabled Parking Placard

- (a) The department shall provide for the issuance of a disabled parking placard to a person with a disability.
- (b) A disabled parking placard must be two-sided and hooked and include on each side:

(1) the international symbol of access, which must be at least three inches in height, be centered on the placard, and be:

(A) white on a blue shield for a placard issued to a person with a mobility disability described by Section 1(5)(B) or (C) above; or

(B) white on a red shield for a placard issued to a person with any other permanent or temporary disability;

(2) an identification number;

(3) an expiration date at least three inches in height; and

(4) the seal or other identification of the department.

(c) The department shall furnish the disabled parking placards to each county assessor-collector.

(d) A disabled parking placard must bear a hologram designed to prevent the reproduction of the placard or the production of a counterfeit placard.

(e) In addition to the expiration date included on a disabled parking placard under Subsection (b), the expiration date must be indicated on the placard by a month and year hole-punch system.

§ 3. Enforcement

(a) A peace officer or a person designated by a political subdivision to enforce parking regulations may file a charge against a person who commits an offense under this chapter at a parking space or area designated as provided by Section 681.009, Texas Transportation Code.

(b) A security officer commissioned under Chapter 1702, Occupations Code, and employed by the owner of private property may file a charge against a person who commits an offense under this chapter at a parking space or area designated by the owner of the property as provided by Section 681.009, Texas Transportation Code.

§ 4. Offenses; Presumption

(a) A person commits an offense if:

(1) the person parks a vehicle on which are displayed license plates issued under Section 502.253 or 502.254, Texas Transportation Code, or a disabled parking placard in a parking space or area designated specifically for persons with disabilities by:

(A) a political subdivision; or

(B) a person who owns or controls private property used for parking as to which a political subdivision has provided for the application of this section under Subsection (f); and

(2) the parking of the vehicle in that parking space or area is not authorized by Section 681.006, 681.007, or 681.008, Texas Transportation Code.

(b) A person commits an offense if the person:

(1) parks a vehicle on which license plates issued under Section 502.253 or 502.254, Texas Transportation Code, are not displayed and a disabled parking placard is not displayed in a parking space or area designated specifically for individuals with disabilities by:

(A) a political subdivision; or

(B) a person who owns or controls private property used for parking as to which a political subdivision has provided for the application of this section under this Subsection (f); or

(2) parks a vehicle displaying a white on red shield disabled parking placard or license plates issued under Section 502.253, Texas Transportation Code, in a space designated for the exclusive use of vehicles displaying a white on blue shield disabled parking placard.

(c) A person commits an offense if the person parks a vehicle so that the vehicle blocks an architectural improvement designed to aid persons with disabilities, including an access or curb ramp.

(d) A person commits an offense if the person lends a disabled parking placard issued to the person to a person who uses the placard in violation of this section.

(e) In a prosecution under this section, it is presumed that the registered owner of the motor vehicle is the person who parked the vehicle at the time and place the offense occurred.

(f) A political subdivision may provide that this section applies to a parking space or area for persons with disabilities on private property that is designated in compliance with the identification requirements referred to in Section 681.009(b), Texas Transportation Code,.

(g) A person commits an offense if the person:

(1) parks a vehicle on which are displayed license plates issued under Section 502.253, Texas Transportation Code, or a disabled parking placard in a parking space or area for which this chapter creates an exemption from payment of a fee or penalty imposed by a governmental unit;

(2) does not have a disability;

(3) is not transporting a person with disability; and

(4) does not pay any applicable fee related to parking in the space or area imposed by a governmental unit or exceeds a limitation on the length of time for parking in the space or area.

§ 5. Seizure and Revocation of Placard

(a) A law enforcement officer who believes that an offense under Subsection 4 (a) or (d) hereof has occurred in the officer's presence shall seize any disabled parking placard involved in the offense. Not later than 48 hours after the seizure, the officer shall determine whether probable cause existed to believe that the offense was committed. If the officer does not find that probable cause existed, the officer shall promptly return each placard to the person from whom it was seized. If the officer finds that probable cause existed, the officer, not later than the fifth day after the date of the seizure, shall submit each seized placard to the department.

(b) On submission to the department under Subsection (a), a placard is revoked. On request of the person from whom the placard was seized, the department shall conduct a hearing and determine whether the revocation should continue or the placard should be returned to the person and the revocation rescinded.

§ 6. Penalty

(a) Except as provided by Subsections (b)-(e) hereof, an offense under this ordinance is a misdemeanor punishable by a fine of not less than \$250 or more than \$500.

(b) If it is shown on the trial of an offense under this section that the person has been previously convicted one time of an offense under this section, the offense is punishable by a fine of not less than \$300 or more than \$600.

(c) If it is shown on the trial of an offense under this section that the person has been previously convicted two times of an offense under this section, the offense is punishable by:

(1) a fine of not less than \$300 or more than \$600; and

(2) not less than 10 or more than 20 hours of community service.

(d) If it is shown on the trial of an offense under this section that the person has been previously convicted three times of an offense under this section, the offense is punishable by:

- (1) a fine of not less than \$500 or more than \$1,000; and
- (2) not less than 20 or more than 50 hours community service.

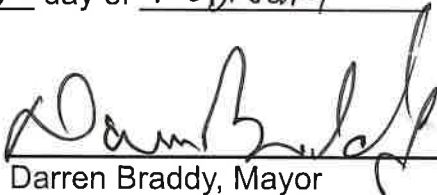
(e) If it is shown on the trial of an offense under this section that the person has been previously convicted four times of an offense under this section, the offense is punishable by a fine of \$1,000 and 50 hours of community service.

SECTION 2. That if any section, provision, subsection, paragraph, sentence, clause, phrase or word in this Ordinance or application thereof to any person or circumstance is held invalid by any court of competent jurisdiction, such holdings shall not affect the validity of the remaining portions of this Ordinance, and the City Council of the City of Cooper, Texas hereby declares it would have enacted such remaining portions, despite such invalidity.

SECTION 3. That all ordinances or parts of ordinances in conflict herewith be and the same are hereby expressly repealed.

SECTION 4. This Ordinance shall be in full force and effect thirty (30) days after its publication in the official newspaper of the City of Cooper.

PASSED AND APPROVED, this the 12 day of February 2024.



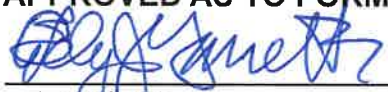
Darren Braddy, Mayor

ATTEST:



Emily Howse, City Secretary

APPROVED AS TO FORM:



Edgar J. Garrett, Jr., City Attorney