

ORDINANCE NUMBER 1361

AN ORDINANCE PROVIDING FOR REGULATION OF PARKING AND REPEALING ORDINANCES 1021 SECTIONS 4, 10, 17, 53; 1160, AND 1217.

THE CITY OF MILWAUKIE DOES ORDAIN AS FOLLOWS:

Section 1. Definitions. As used in this ordinance, unless the context requires otherwise:

- (1) "Abandoned" means left unoccupied and unclaimed, or in a damaged or dismantled condition upon the streets or alleys of a city.
- (2) "Alley" means a narrow passageway through the interior of a block or from the interior to the street.
- (3) "Ambulance" means any privately or publicly owned motor vehicle that is regularly provided or offered to be provided for the emergency transportation of person suffering from illness, injury or disability. Police, fire, funeral home and other vehicles which serve a dual purpose, one of which meets the definition of "ambulance", when actually used for ambulance purposes, are ambulances.
- (4) "Bicycle" means every device propelled by human power upon which any person may ride, having two tandem wheels either of which is more than 14 inches in diameter, or having three wheels all of which are more than 14 inches in diameter.
- (5) "Bus loading zone" means the space adjacent to the curb reserved for the exclusive use of motor busses, trolley busses and taxicabs in the loading and unloading of passengers and merchandise and designated by official signs or markings.
- (6) "Business district" means the territory contiguous to a street or highway where fifty percent or more of the frontage thereon for a distance of six hundred feet or more on one side, or three hundred feet or more on both sides is occupied by buildings in use for business.
- (7) "City" means the City of Milwaukie.
- (8) "Commercial vehicle" means:
 - (a) A vehicle of over 8,000 pounds gross weight that is designed and being used to transport merchandise, or a vehicle of less than 8,000 pounds gross weight with the business name of the user permanently exhibited on one or both of its sides that is designed and being used to transport merchandise;
 - (b) A station wagon with the business name of the user permanently exhibited on one or both of its sides, when used for transporting merchandise.
- (9) "Construction zone" means the space adjacent to the curb and in immediate proximity to the premises where construction, alteration, remodeling,

repairing, or similar work is in progress, and designated by official signs or markings.

- (10) "Controlled access highway" means every highway, street or roadway in respect to which owners or occupants of abutting lands and other persons have no legal right of access to or from the same except at such points only and in such manner as may be determined by the public authority having jurisdiction over such highway, street or roadway.
- (11) "Crosswalk" means that portion of a roadway at an intersection included within the connections of the lateral lines of the sidewalks on opposite sides of the street or highway measured from the curbs or, in the absence of curbs, from the edges of the traveled roadway to the property lines, or the prolongation of the lateral lines of a sidewalk, to the sidewalk on the opposite side of the street except when such prolongation would not meet such sidewalk on the opposite side of the street, or any portion of a roadway at an intersection or elsewhere distinctly indicated for pedestrian crossing by lines or other markings on the surface of such roadway conforming in design to standards prescribed by the State Highway Commission; provided, however, that whenever marked crosswalks have been indicated, such crosswalks and no other shall be deemed lawful across such roadway at that intersection.
- (12) "Curb" means any raised margin along lines established by ordinance as curb lines, defining the space in the street devoted to vehicular traffic; or if there are no raised margins, the extreme edge or shoulder of the roadway.
- (13) "Driver" means any person in actual control of a vehicle.
- (14) "Emergency vehicles" mean vehicles of the fire department, fire patrol, police vehicles, emergency vehicles of municipal departments of public service corporations and ambulances while being used for emergency purposes and displaying the required lights and sounding a siren or other audible warning.
- (15) "Emergency zones" mean places designated with official signs, barricades or other markings by the department of public works or bureau of police where during emergencies or because of contingent emergencies no parking shall be allowed.
- (16) "Highway", "road" or "street" means every public way, thoroughfare and place, including bridges, viaducts and other structures within the boundaries of this municipality, used or intended for the use of the general public for vehicles except that:
 - (a) The terms do not include any way, thoroughfare or place owned by a district formed under ORS chapters 545, 547 and 551 or a corporation formed under ORS chapter 554; and
 - (b) As used in those provisions relating to size and weight restrictions vehicles, the terms do not include any road or thoroughfare or property in private ownership or any road or thoroughfare, other than

a state highway or county road, used pursuant to any agreement with any agency of the United States or with a licensee of such agency, or both.

- (17) "Holiday" as used in this ordinance or on signs or other devices erected in accordance with this ordinance, the term shall include Sundays, New Years, either Independence Day, either Labor Day, Thanksgiving, Christmas and all other legal holidays.
- (18) "Intersection" means the area embraced within the prolongation or connection of the lateral curb lines or, if none, then of the lateral boundary lines of two or more streets or highways which join another at an angle, whether or not one street or highway crosses the other.
- (19) "Loading zone" means the space adjacent to the curb reserved for the exclusive use of vehicles actually engaged in the loading or unloading of passengers, goods, wares, merchandise or materials, and designated by official signs or markings.
- (20) "Motor vehicle" means any vehicle which is self-propelled, including but not limited to tractors, fork-lift trucks, motorcycles, road building equipment, street cleaning equipment, and any other vehicle capable of moving under its own power, notwithstanding that the vehicle may be exempt from licensing under the motor vehicle laws of Oregon.
- (21) "Motorcycle" means every motor vehicle, except tractors, designed to travel on not more than three wheels in contact with the ground.
- (22) "Official car zone" means the space adjacent to the curb reserved for the exclusive use of official cars and designated by official signs or markings.
- (23) "Operator" means any person who is in actual physical control of a motor vehicle upon the highways or streets of this city.
- (24) "Owner" means the person having all the incidents of ownership in a vehicle or where the incidents of ownership are in different persons, the person, other than a security interest holder or lessor, entitled to possession of a vehicle under a security agreement, or a lease for a term of ten or more successive days.
- (25) "Park, parking or parked" means the stopping or standing of any vehicle upon any street or highway within the city, whether such vehicle is occupied or not, otherwise than temporarily for the purpose of and while actually engaged in loading or unloading passengers or freight, or in obedience to traffic regulations or traffic signs or signals.
- (26) "Parkway" means that portion of the street not used as a roadway or sidewalk.
- (27) "Pedestrian" means a person afoot; a person operating a pushcart, a person riding on, or pulling a coaster wagon, sled, scooter, tricycle, sidewalk bicycle, or a similar conveyance, or on roller skates; a baby in a carriage, or a person confined to a wheelchair or similar apparatus.

- (28) "Playground zone" means the space adjacent to or in the immediate proximity of any public playground and designated by official signs or markings.
- (29) "Person" means any natural person, firm, partnership, association or corporation.
- (30) "Private road or driveway" means every way or place in private ownership and used for vehicular travel by the owner and those having express or implied permission from the owner, but not by other persons.
- (31) "Right of way" means the right of one vehicle or pedestrian to proceed in a lawful manner in preference to another vehicle or pedestrian approaching under such circumstances of direction, speed and proximity as to give rise to danger of collision unless one grants precedence to the other.
- (32) "School bus" means every motor vehicle owned by a public or governmental agency and operated for the transportation of children to or from school, or privately owned and operated for compensation for the transportation of children to or from school. The term "school bus" does not include vehicles commonly known and used as private passenger vehicles and not operated for compensation except in the transportation of children to or from school.
- (33) "School zone" means the space adjacent to or in the proximity of a school building or the grounds thereof, or a school crossing and designated by official signs or markings.
- (34) "Shoulder" means that portion of the highway, whether paved or unpaved, contiguous to the roadway primarily for use by pedestrians, for the accommodation of stopped vehicles, for emergency use and for lateral support of base and surface courses.
- (35) "Sidewalk" means that portion of a street between the curb lines, or the lateral lines of a roadway, and the adjacent property line intended for the use of pedestrians.
- (36) "Street or highway" means the entire width between the boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular traffic.
- (37) "Stop" when required means a complete cessation of movement. When prohibited, means any halting even momentarily of a vehicle, whether occupied or not, except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer or traffic control sign or signal.
- (38) "Taxicab" means every motor vehicle equipped with a taximeter which is used as a basis for determining rates.
- (39) "Taxicab zone" means the space adjacent to the curb reserved for the exclusive use of taxicabs, and designated by official signs or markings.

- (40) "Tow away zone" means the space adjacent to the curb on any street or avenue, or portion thereof, on which stopping or parking has been prohibited for specific hours of the day, or otherwise, and which is designated as a tow away zone by official signs or markings.
- (41) "Traffic control signal" means any device, whether manually, electrically or mechanically operated, by which traffic is directed.
- (42) "Traffic lane" means that area of the roadway used for the movement of a single line of traffic.
- (43) "Truck" as used in this ordinance shall mean and apply to any vehicle licensed as a motor truck, or any vehicle 72" or more in width, or any vehicle, including but not limited to a motor truck trailer, designed or operated for the transportation of property, or any piece of movable equipment operable on the city streets of Milwaukie, and whose body weight or whose combined body and load weight exceeds 6,000 pounds. The term "truck" shall not, for the purpose of this ordinance, be applied to automobile passenger vehicles nor to that form of truck commonly referred to as a "pick-up", nor to those vehicles commonly referred to as recreation vehicles.
- (44) "Vehicle" means every device in, upon, or by which any person or property is or may be transported or drawn upon any public street or highway, except devices moved by human power, or used exclusively upon stationary rails or tracks.

Section 2. Powers of the City Council

- (1) After approval by the state highway commission where such approval is required by the Motor Vehicle Laws of Oregon and for the best use of the streets in the public interest, the council shall designate by resolution the following traffic controls which shall become effective upon installation of appropriate traffic signs, signals, markings or devices:
 - (a) Through streets.
 - (b) One-way streets.
 - (c) Truck routes.
 - (d) Streets where trucks, machinery or any other large or heavy vehicles exceeding specified weights are prohibited, except for delivering or picking up materials or merchandise but then only by entering such streets at the intersection nearest the destination of the vehicle and leaving by the shortest route.
- (2) Except when contrary to state law, if it appears that public safety or welfare does not require the installation or maintenance of a traffic sign, signal, marking or device, or is better served by the removal or alteration thereof, the council may, by resolution, forbid the installation or order the removal or alteration of any traffic sign, signal, marking or device that is proposed or installed under Section 3 of this

ordinance. Such traffic controls shall become inoperative only when removed or altered.

- (3) The City Council shall by resolution determine and set fees for parking.

Section 3. Adoption of Traffic Regulations; Powers of the City Manager.

- (1) In making the best use of streets and sidewalks for vehicle traffic and parking and pedestrian traffic, the city manager is authorized to provide appropriate and reasonable regulation of the classes of traffic signs, signals, markings and devices described in subsection (2) of this section for the streets, sidewalks, and other public property of the city as are found appropriate for public safety, convenience and welfare. Subject to approval by the State Highway Commission where such approval is required by the Motor Vehicle Laws of Oregon, the city manager shall base his determinations upon:
- (a) traffic engineering principles and traffic investigations;
 - (b) standards, limitations and rules promulgated by the State Highway Commission, and
 - (c) other recognized traffic control standards;
 - (d) required needs.
- (2) Pursuant to subsection (1) of this section, the city manager may establish, maintain, remove or alter the following classes of traffic controls:
- (a) Street areas and city-owned or leased land upon which parking may be entirely prohibited or prohibited during certain hours and the angle of such parking.
 - (b) The location and the time of operation of traffic control signals.
 - (c) Bus loading zones, taxicab zones and zones for other passenger common carrier vehicles.
 - (d) The location of passenger loading zones for use in connection with a hotel, auditorium, theater, church, school or public building.
 - (e) Loading zones for commercial purposes.
 - (f) Intersections or areas where drivers of vehicles shall not make right, left or U-turns and the time when the prohibition applies.
 - (g) Crosswalks, safety zones, parking spaces, traffic lanes and other symbols.
 - (h) Traffic control signs.

- 3) displaying advertising from the vehicle.
 - 4) selling merchandise from the vehicle except in an established market.
 - 5) storing the vehicle, or as junkage or dead storage in violation of Milwaukie Ordinance 1359 .
- (d) upon any parkway except where specifically authorized;
 - (e) without the permission of the owner, lessee or person, firm or corporation in lawful possession of any private property used for motor vehicle parking, leave, or park any motor vehicle thereon, if there is in plain view on such private property a sign prohibiting public parking thereon or restricting parking thereon. Violation of this section may result in impoundment of the vehicle as provided in Milwaukie Ordinance 1359 ;
 - (f) within an intersection, on a crosswalk, on a parking strip, on the roadway side of any vehicle stopped or parked at the edge of a street or highway;
 - (g) at any place where official signs, curb paint, or markings have been installed prohibiting standing, stopping, or parking; provided, however, driver attended private passenger motor vehicles and taxicabs may stop for not to exceed thirty seconds in such tow away zone, for the sole purpose of loading or unloading passengers;
 - (h) in violation of the Abandoned Vehicles Ordinance 1359 ;
 - (i) in any emergency zone;
 - (j) in any truck loading zone except as to a commercial vehicle when actually engaged in loading or unloading goods, wares, merchandise, or materials, for a period not exceeding twenty minutes; and as to taxicabs when loading or unloading passengers or merchandise, for a period of time not exceeding two minutes;
 - (k) in any bus loading zone except a motor bus, trolley bus, or taxicab actually engaged in loading or unloading passengers or merchandise for a period not exceeding two minutes. Taxicabs using any bus loading zone shall use only the entrance end of the zone and shall not use such zones between the hours of 7:30AM and 9:00AM;
 - (l) in any construction zone, except by vehicles actually necessary to the construction being carried on;
 - (m) on city owned or city operated property designated for use for motor vehicle parking by authorized city personnel only, without the consent of the city, if there is in plain view on such property a sign prohibiting public parking or restricting parking thereon.

(n) on any street in a direction opposite to that which the traffic in the adjacent lane is required to travel.

- (3) It shall be unlawful for the driver or any person owning or in control of a truck to leave said truck standing or parked upon the streets of the City of Milwaukie continuously for more than two hours of any day, except by specific permission of the City Manager.

Section 6. Special Parking Permits

- (1) The city manager may issue without charge a special parking permit for any vehicle. This permit shall allow parking without charge in any area.
- (2) All special parking permits issued under this section shall expire on the last day of the calendar year in which issued. A new permit may be issued for ensuing years by the City Manager if a new application is filed and approved in the same manner as was the original application.
- (3) These permits may be revoked by the City Manager and will in no event be valid for longer than one year's time.

Section 7. Parking Citations and Owner Responsibility

- (1) Whenever a vehicle without an operator is found parked in violation of a restriction imposed by this ordinance or state law, the officer finding the vehicle shall conspicuously affix to the vehicle a traffic citation instructing the operator to answer to the charge against him or pay the penalty imposed within five days during the hours and at a place specified in the citation.
- (2) If the operator does not respond to a traffic citation affixed to a vehicle within a period of seven days, a certified letter may be sent to the owner of the vehicle to which the traffic citation was affixed, return receipt requested, informing the owner of the violation and warning that in the event that the letter is disregarded for a period of seven days, a warrant for the arrest of the owner will be issued.
- (3) The owner of a vehicle parked in violation of a parking restriction shall be responsible for the offense, except when the use of the vehicle was secured by the operator without the owner's consent.
- (4) In a prosecution of a vehicle owner charging a violation of a restriction on parking, proof that the vehicle at the time of the violation was registered to the defendant shall constitute a presumption that the defendant was then the owner in fact.

Section 8. Miscellaneous

- (1) No lights need be displayed upon a vehicle that is parked in accordance with this ordinance upon a street where there is sufficient light to reveal a person or object at a distance of at least 500 feet from the vehicle.

- (7) Where parallel parking is permitted a driver shall position his car within 12 inches of the curb or if more as close as possible to the edge of the shoulder. Parking shall be in the same direction as the traffic flow in the adjacent lane.
- (8) Parallel parking in residential areas shall also be in the same direction as the traffic flow in the adjacent lane and as close as practicable to the shoulder of the road or within 12 inches of any curb.

Section 5. Prohibited Parking

- (1) Use of streets in lieu of off street parking or storage prohibited.
 - (a) It is unlawful for the person in charge of a public parking business or an auto sales or repair business to permit a vehicle to be parked on a public street in excess of any time limits while that vehicle is in the custody of the business for the purpose of being parked, offered for sale or repaired. As used in this section, "person in charge" means an owner, operator or employee who is physically present and actually supervising operation of the business; "public parking business" means a business offering public off-street parking as a service; and "auto sales or repair business" means a business offering new or used vehicles for sale or offering vehicle repair service.
 - (b) If a vehicle is parked on the street while in the custody or possession of a public parking business or an auto sales or repair business for the purpose of being parked, offered for sale or repaired, it is prima facie evidence that the person in charge permitted the vehicle to be parked on the street.
 - (c) Violation of this section may be cause for impoundment of the vehicles as provided for by Milwaukie Ordinance 1359.
- (2) In addition to provisions of the Motor Vehicle Laws of Oregon prohibiting parking, no person shall park a vehicle:
 - (a) upon a bridge, viaduct, or other elevated structure used as a street, unless otherwise indicated by lawfully installed signs.
 - (b) in an alley except to load or unload persons or materials not to exceed 20 minutes for loading or unloading.
 - (c) upon a street for the principal purpose of:
 - 1) displaying the vehicle for sale.
 - 2) Servicing or repairing the vehicle except repairs necessitated by an emergency. Emergency for the purpose of this section shall allow only minor repairs necessary to remove the vehicle from the street. If repairs necessary to make the vehicle operable require more than 2 hours to complete they shall not be considered minor.

- (i) All other signs, signals, markings and devices required to implement traffic and parking controls enacted by the council or required by state law or regulation.
- (3) Pursuant to subsection (1) of this section, the city manager may provide for the experimental or emergency traffic regulation of a temporary nature that shall not remain in effect more than 30 days. No experimental or emergency regulation is effective until adequate traffic signs, signals, markings or devices are erected clearly indicating the regulation.
- (4) The city manager shall not remove or alter a traffic sign, signal, marking or device if his act would be contrary to state law or ordinance. If a traffic sign, signal, marking or device is installed under authority of a resolution of the council, the council shall first approve any change or alteration by the city manager.

Section 4. Method of Parking

- (1) Where parking space markings are placed on a street, no person shall stand or park a vehicle other than in the indicated direction and, unless the size or shape of the vehicle makes compliance impossible, within a single marked space. For purposes of this section, vehicle shall include a bicycle and other non self-propelled vehicle.
- (2) The operator who first begins maneuvering a motor vehicle into a vacant parking space on a street shall have priority to park in that space, and no other vehicle operator shall attempt to interfere.
- (3) Whenever the operator of a vehicle discovers the vehicle is parked close to a building to which the fire department has been summoned, the operator shall immediately remove the vehicle from the area, unless otherwise directed by police or fire officers.
- (4) No person shall permit a vehicle in his charge to remain backed to the curb of any street except while engaged in actually loading or unloading the same, and then only when it is absolutely necessary due to the size or weight of the object being loaded or unloaded.
- (5) No person, whether in a vehicle or not, shall intrude himself nor park his vehicle upon a street, or premises, where a fire is in progress in such manner as to interfere with the fire department in its efforts to extinguish a fire, and no persons shall congregate in the vicinity of a fire in such a manner as to hinder or interfere with the fire department in its efforts to extinguish a fire.
- (6) It is unlawful for the owner, driver or person in charge of a motor vehicle, commercial vehicles excepted, to park or permit such vehicle to be parked on a public parking lot or highway within the limits of the city without first stopping the motor, locking the ignition, removing the ignition key and locking the vehicle.

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- (2) It is unlawful for any person to park or stop any vehicle for a longer period of time than designated by official signs, except on Sundays, New Year's Day, Memorial Day, Fourth of July, Labor Day, Veteran's Day, Thanksgiving Day and Christmas Day. Such parking time limits shall be effective only between the hours of 8 A.M. and 5 P.M., unless designated "No Parking At Anytime," or otherwise designated by official signs or markings.
- (3) Where maximum parking time limits are designated by sign, movement of a vehicle within a block shall not extend the time limits for parking.
- (4) Any vehicle which because of its size or shape cannot be parked as provided by Milwaukie Ordinance may be parked outside the restricted or limited parking area in a manner which will not impede or interfere with vehicular traffic.
- (5) The driver of a bus or taxicab shall not stand or park such vehicle upon any street in any business district at any place other than at a bus stand or taxicab stand, respectively, except that this provision shall not prevent the driver of any taxicab from temporarily stopping for the purpose of and while actually engaged in the loading or unloading of passengers.
- (6) Except as provided by this ordinance, no person shall letter, mark, or paint in any manner any letters, marks, or signs on any sidewalk, curb, or other portion of any street, or post anything designed or intended to prohibit or restrict parking on any street.
- (7) It shall be unlawful for any person to deface, injure, tamper with, wilfully break, destroy or impair any traffic-regulating sign.
- (8) Whenever a police officer shall find a motor vehicle parked or standing unattended with the ignition key in the vehicle, the officer is authorized to remove the key from the vehicle. After removing the key, the officer shall make a routine investigation to discover the owner. If upon completion of this investigation, the owner cannot be located, the officer may deliver the key to the chief of police or his designated appointee. Notification of the location of the keys shall be posted upon such vehicle. The notification shall state the location of the keys and the procedures for reclaiming the keys.

Section 9. Penalties. Violation of this ordinance shall be punishable by fine, or impoundment as provided in Milwaukie Ordinance 1359, or both. Fines shall be levied as fixed by the City Council.

Section 10. All ordinances or parts thereof conflicting or inconsistent with the provisions of this ordinance are hereby repealed; specifically Milwaukie Ordinances 1043 and 1160.

Section 11. Severability clause. If any portion of this ordinance is for any reason held to be invalid, such decision shall not affect validity of the remaining portions of this ordinance.

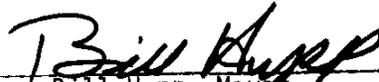
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Section 12. Saving clause. The repeal of any ordinance by Section 10 shall not preclude any action against any person who violated the ordinance prior to the effective date of this ordinance.

Read the first time this 7th day of March, 1977.

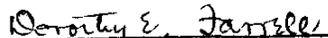
Read the second time and passed by unanimous vote of the Council
this 7th day of March, 1977.

Signed by the Mayor this 7th day of March, 1977.



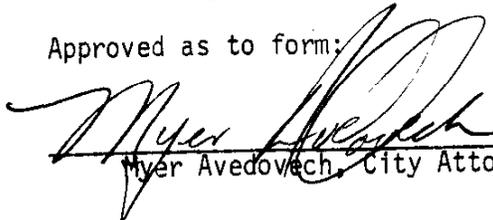
Bill Hupp, Mayor

ATTEST:



Dorothy Farrell, Recorder

Approved as to form:



Myer Avedovech, City Attorney