

CITY OF LA VISTA
MAYOR AND CITY COUNCIL REPORT
SEPTEMBER 7, 2010 AGENDA

Subject:	Type:	Submitted By:
AMEND THE TRAFFIC CODE; DEFINITIONS, ABATEMENT OF PARKING VIOLATIONS, PARKING AFTER SNOW, PARKING VIOLATIONS BUREAU, ADMINISTRATIVE FEES	RESOLUTION ORDINANCE ◆ RECEIVE/FILE	BOB LAUSTEN POLICE CHIEF

SYNOPSIS

Council discussion is requested prior to formal action on a an ordinance to amend sections 70 and 72, Traffic Code, of the La Vista Municipal Code to provide specific provisions for citation definitions, abatement of parking violations, parking after snow, parking violations bureau and administrative fees.

FISCAL IMPACT

N/A

RECOMMENDATION

Discussion only

BACKGROUND

A review of the Traffic Code has revealed that changes need to be made in order to improve the Police Department's ability to enforce parking regulations within the City. Specific recommendations include:

Section §70.090, Definitions, would specifically not include a "parking violation notice" in the definition of citation as used in the subchapter.

Section §70.111, Abatement of Parking Violation, would add the Code Enforcement Officer into the ordinance giving the position the ability to abate parking violations.

Section §72.21, Parking After Snow, would delete the "two or more inches of snow, ice and/or sleet" provision and the ordinance would be enforceable after the Mayor or his/her designee has declared a snow emergency. Current language relies on snow estimates of "two or ..." "or when the Mayor or his/her designee shall declare a snow emergency" for the parking prohibition to take effect. Many times the police officers and more importantly the public is unaware if the ordinance is applicable unless a snow emergency has been declared.

Section §72.58, Parking Violations Bureau, deletes the specific parking violation penalty and refers the penalty to what is set forth in the Master Fee Ordinance. Additionally, proposed changes allow for a petition procedure for contesting a parking violation notice as opposed to a court appearance. Another change allows the Chief of Police to assign persons (such as the Code Enforcement Officer) to issue parking violation notices.

Section §72.59, Administrative Fees, removes the specific parking violation penalty and refers the penalty to what is set forth in the Master Fee Ordinance.

CITATIONS

§ 70.090 DEFINITION.

As used in this subchapter, "citation" shall mean any citation issued by any officer of the city police to any person for any offense which is a traffic infraction, or other infraction, or for any violation or alleged violation of any ordinance of the city or any statute of the state of Nebraska, and any copy thereof. The term does not include parking violations or the City Police Department file copy of a citation which has previously been forwarded to the County Attorney, which file copy may be disposed of in such manner as the Chief of Police may determine when he or she determines that retention of such file copy is no longer necessary.

('79 Code, § 5-440) (Ord. 356, passed 12-20-83)

Statutory reference:

Regulation of highways authorized, see Neb. RS 60-680

§ 70.111 ABATEMENT OF PARKING VIOLATION.

If any vehicle found to be parked in violation of any applicable provision of this code, state law or city ordinance, rule or regulation is not described in § 70.110(A), (B) or (C) above, a police officer **or code enforcement officer** of the city shall affix to such vehicle a **parking violation** complaint and notice of a public nuisance and misdemeanor, and order to abate such nuisance within the time stated therein. The Police Department shall develop and apply a uniform schedule of time for abating nuisances based on the violation giving rise to the nuisance. The owner or person in possession of such vehicle shall, within the time specified in such order, abate such nuisance. Each separate period of time that a vehicle is found to be parked in violation of any applicable provision of this code, state law or city ordinance, rule or regulation shall constitute a separate and distinct nuisance and misdemeanor and a separate and distinct complaint, notice and order of abatement shall be affixed to such vehicle for each such period of time.

(Ord. 924, passed 1-20-94)

§ 72.21 PARKING AFTER SNOW.

Whenever there may have fallen two or more inches of snow, ice and/or sleet on the streets of the city, or when the Mayor or his/her designee shall declare a snow emergency, with notice thereof to the news media, it shall be unlawful for any automobile to be parked on any public street within the city for 24 hours or until after such accumulated snow shall have been removed by snow removers provided by the city-whichever is later. Any automobile left parked in violation of this section may be ordered removed by the Chief of Police and such illegal parking shall constitute appointment of the Chief of Police as agent of the owner and any mortgagee thereof to contact with any other party to remove said automobile and grant a lien to such remover of said automobile of his or her charges for removal and storage thereof. If such unlawfully parked automobile is not removed, and by reason of its presence any part of the streets of the city are impossible to plow clear the snow, the person in violation of this section shall be civilly liable to the city for any added plowing expense necessarily incurred as a result of such unlawful parking, unless the violator shall promptly clean such unplowed area himself or herself.

('79 Code, § 5-708) (Am. Ord. 539, passed 11-5-91) Penalty, see § 70.999

§ 72.58 Parking Violations Bureau.

(A) *Establishment.* There is hereby established the **Parking** Violations Bureau which shall function as a part of the office of the City Clerk, under the direction of the City Clerk of the City Clerk's lawful designee.

(B) *Duties.* The **Parking** Violations Bureau shall collect and account for all moneys paid in accordance with the provisions of this section, issue receipts therefor and keep records of all payments, showing the names, time and date of payment. It shall be the duty of the City Clerk to credit to the city such amounts as shall be collected for the payment of administrative costs. The City Clerk shall fix the days and the hours during which the office of the **Parking** Violations Bureau shall be open to the public for the transaction of business coming under the provisions of this section.

(C) *Waiver of appearance; penalties and costs.* Whenever any person is alleged to have violated any of the provisions of this title, such person may, under such conditions as are herein prescribed, execute a waiver of appearance, enter a plea of guilty and make payment of penalty and administrative fees as follows:

(1) If paid within seven days of the date of the violation, a penalty in the sum of \$5 as set forth by the Master Fee Ordinance, plus administrative fees;

(2) If paid after seven days of the date of the violation, but within 30 days a penalty in the sum of \$10 as set forth by the Master Fee Ordinance, plus administrative fees;

(3) If paid after 30 days of the date of the violation, but prior to the filing of a complaint, a penalty in the sum of \$20 as set forth by the Master Fee Ordinance, plus administrative fees; or

(4) If a complaint has been filed, a penalty in the sum of \$20 and such other penalty as the court, in its discretion, may impose pursuant to the penalty provisions of §§ 72.43 or 70.999, plus court costs.

(D) *Issuance of warrant and complaint.* Whenever any person refuses, neglects or fails to pay any such penalty and administrative fees within 30 days of the date of the violation or otherwise refuses, neglects or fails to comply with any of the provisions of this section, a complaint charging such violation shall be filed in Sarpy County court and a warrant issued for the arrest of such person; provided, however, that the complaint for a handicapped parking infraction must be issued and filed at least 24 hours before the time set for the appearance of the cited person or such person shall be released from the obligation to appear as specified.

(E) *Notice.* At the time of issuance of a citation for the alleged violation coming under the provisions of this section, the accused shall be served with a printed notice advising the accused:

_____ (1) That a waiver of appearance may be executed, a plea of guilty entered and the payment of such penalty and administrative fees made as provided by this section;

_____ (2) That upon the neglect, refusal or failure of the accused to pay such penalty and administrative fees as provided by this section or upon the failure, refusal or neglect of the accused to otherwise comply with the provisions of this section, a complaint be filed and a warrant issued for the arrest of the accused;

_____ (3) Of the violation or violations charged as defined by this section;

_____ (4) Of the form of waiver which the accused shall be required to execute and present to the Parking Violations Bureau in order to comply with this section;

_____ (5) Of the amount of penalty and administrative fees which the accused shall be required to pay in order to comply with this section.

(D) Petition procedure for parking violations. An informal notice of dispute may be filed with the city within seven (7) days of the occurrence of the violation. Receipt of this notice of dispute within seven (7) days means that only the lowest fine for each violation as indicated in § 72.58 (C) of the Code of Ordinances shall be imposed if payment is made within seven (7) days of the date of a notice to the defendant that the notice of dispute is not justified. If full payment is not received within seven (7) days, the fines shall increase as indicated in section § 72.58 (C) of the Code of Ordinances as though the notice of dispute was never received. Notices of dispute must be written and filed with the La Vista City Clerk at 8110 Park View Blvd., La Vista, Nebraska.

_____ (1) Informal notices of dispute will be evaluated and the decision will be made whether or not to dismiss this violation.

_____ (a) A determination that a violation should be dismissed is a final determination of non-liability. If the determination is to dismiss the violation, the parking violator shall be notified and the parking fine refunded by mail sent to his or her last known address

_____ (b) If the determination is to not dismiss the violation, the parking violator shall be notified by mail sent to his or her last known address.

_____ (2) If neither full payment nor a notice of dispute is received within seven (7) days following the violation and no other action has been taken by the parking violator, the fine imposed upon the parking violator shall increase pursuant to § 72.58 (C).

_____ (3) If neither full payment nor a notice of dispute is received within thirty (30) days after the occurrence of the violation, a second notice of the violation shall be sent to the last known address of the parking violator.

(4) If neither full payment nor a notice of dispute is received within forty-five (45) days after the occurrence of the violation, the vehicle in violation shall be declared a public nuisance pursuant to § 70.109 and impounded pursuant to §70.110 (A.2) until such time as full payment is made. The owner of such vehicle shall be responsible for all costs of removal and storage pursuant to § 70-113.

(E) *Administrative fees.* The administrative fee, as provided in § 72.59, for each violation citation paid through the **Parking** Violations Bureau shall be collected by the City Clerk in addition to the penalty provided herein and such administrative fee shall be deposited in the General Fund of the city. The administrative fee shall be uniform for all parking violations citations without regard to the amount of the penalty assessed and shall represent the cost to the city for the operation of the **Parking** Violations Bureau which may include the wages and fringe benefits of operating personnel; the cost of printing citations and forms; postage; office supplies; office equipment, maintenance and repair; and necessary overhead, including heating and air conditioning, lights, rents, telephone expense and data processing expenses.

(G) *Parking violation issuance.* The Chief of Police is hereby authorized to assign persons to exercise to authority to issue a parking violation notice for any parking infractions set out in the code of ordinances.

(F) *Nonexclusive penalty.* The penalties and administrative fees provided herein shall not preclude the assessment or collection of additional amounts. Such penalties and administrative fees shall be in addition to any other applicable fees, penalties, costs or towing charges.

('79 Code, § 5-719) (Ord. 513, passed 11-20-90; Am. Ord. 680, passed 7-1-97)

Statutory reference:

Prevention and abatement of nuisances, see Neb. RS 18-1720

§ 72.59 ADMINISTRATIVE FEES

An administrative fee is hereby established in an amount of \$10 **as set forth in the Master Fee Ordinance** which represents the actual cost to the city of the operation of the **Parking** Violations Bureau and which shall be assessed pursuant to § 72.58. Such administrative fee shall be uniform for all citation without regard to the amount of penalty assessed and shall be collected by the city in addition to such penalty as provided in § 72.58 and in addition to any other applicable fees, costs or penalties.

('79 Code, § 5-720) (Ord. 513, passed 11-20-90; Am. Ord. 960, passed 9-16-97)

§ 72.15 TIME LIMIT

It is unlawful to park any vehicle at one location on any street for longer than 72 **48** hours.

('79 Code, § 5-702) (Am. Ord. 235, passed 10-17-78) Penalty, see § 70.999

Statutory reference:

*Parking regulations authorized, see Neb. RS 60-680, Similar provisions, see
Neb. RS 60-1901*

LA VISTA POLICE DEPARTMENT CONTESTED PARKING CITATIONS

PARKING CITATION REVIEW

A Parking Citation Review may be requested in writing only. Forms are available at La Vista City Hall, the La Vista Police Station, online @ www.cityoflavista.org, or by calling (402) 331-1582. All fees associated with the violation must be submitted with the review request. If the citation is dismissed the fee shall be refunded.

The review must be requested within 7 days of the issuance of the citation. This review will be the responsibility of the City Clerk. Results of the review will be returned by U.S. mail.

DO NOT SEND THE CITATION WITH THE REQUEST FOR REVIEW.

**CITY OF LA VISTA
PARKING CITATION REVIEW**

A Parking Citation Review may be requested in writing only. Please be specific when explaining why you feel the citation should be dismissed. All fees associated with the violation must be submitted with the review request. If the citation is dismissed the fee shall be refunded.

DO NOT SEND THE CITATION WITH THE REQUEST FOR REVIEW.

A decision will be mailed to the address listed on the envelope.

Citation Number

Name _____

Violation

Address

Vehicle License #

Date/Time Citation Issued

Home Phone ()

Work Phone ()

Statement of Facts:

(If more room is needed, please attach a separate sheet of paper.)

Signature _____

Date _____

RETURN OR MAIL TO: CITY OF LA VISTA
Parking Citation Review
8116 Park View Blvd.
La Vista, NE 68128

WARNING: If you wish to pursue this matter further, see the attached instructions. Failure to respond in a timely manner may prevent you from contesting this citation.

*****City Review Section Only*****

Reviewed By: _____ Date _____



Citation Dismissed



Citation Valid

Comments:

Date Determination Mailed: