

ORDINANCE NO. 2020-06-001

AN ORDINANCE OF THE CITY OF ANAHUAC AMENDING TITLE VII TRAFFIC CODE OF THE CITY OF ANAHUAC MUNICIPAL CODE (AS AMENDED) CHANGING THE CAPTION FOR CHAPTER 71 FROM "71. PARKING" TO "71. PARKING - TEMPORARY PROHIBITION" AND ADDING CHAPTER 72. STOPPING, STANDING OR PARKING PROHIBITED ALONG CERTAIN CITY STREETS OR ROADWAYS; PROVIDING FOR TOWING AND REMOVAL OF UNLAWFULLY PARKED VEHICLES AT THE VEHICLE OWNER'S OR OPERATOR'S EXPENSE; PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE OF ALL PRIOR ORDINANCES AND REPEALING CONFLICTING ORDINANCES; PROVIDING A SEVERABILITY & SAVINGS CLAUSES; PROVIDING A PENALTY CLAUSE; PROVIDING FOR PUBLICATION; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Anahuac (the City) is a Type A general-law municipality located in Chambers County, Texas created in accordance with the provisions of the Texas Revised Civil Statutes of 1925 (as amended) or Chapter 6 of the Texas Local Government Code (as amended), and operating pursuant to the enabling legislation of the State of Texas (as amended).

WHEREAS, the City Council of the City of Anahuac (the City Council), as the City's governing body, is authorized to provide for the public safety under the City Council's general police power authority for good government, peace, order, trade and commerce, as is necessary or proper for the government, interest, welfare, or good order of the City as a body politic, not inconsistent with state law.

WHEREAS, it is well-established that the principal purpose of a city street or roadway is to furnish a place or way for public passage of traffic on foot or in vehicle transporting persons or moving property, and as incident thereto, the right to load and unload passengers, merchandise and other commodities;

WHEREAS, pursuant to said discretionary authority, the City Council finds and declares that there is a need based upon considerations of safety, health, or the protection of property for the establishment of certain enforceable No Stopping, Standing or Parking Zones within the City, and that this ordinance is within the City Council's general police power authority for good government, peace, order, trade and commerce, as is necessary or proper for the government, interest, welfare, or good order of the municipality as a body politic, and not inconsistent with state law.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ANAHUAC THAT:

I.

Title VII of the Traffic Code of the City of Anahuac Municipal Code is amended so that the caption for Chapter 71 is changed from "71. Parking" to "71. Parking - Temporary Prohibition" and adding Chapter 72, captioned as "Chapter 72. Stopping, Standing or Parking Prohibited

along Certain City Streets or Roadways” and said Chapter 72 is added to read as follows.

§72.001. Definitions. In this chapter:

(1) “Motor vehicle” means a self-propelled vehicle or a vehicle that is propelled by electric power from overhead trolley wires. The term does not include an electric bicycle or an electric personal assistive mobility device, as defined by Texas Transportation Code Section 551.201 (as amended).

(2) “Official traffic-control device” means a sign, signal, marking, or device that is: (a) consistent with this subtitle; (b) placed or erected by a public body or officer having jurisdiction; and (c) used to regulate, warn, or guide traffic.

(3) “Operator” means, as used in reference to a vehicle, a person who drives or has physical control of a vehicle.

(4) “Park or parking” means to stand an occupied or unoccupied vehicle, other than temporarily while loading or unloading merchandise or passengers.

(5) “Stand or standing” means to halt an occupied or unoccupied vehicle, other than temporarily while receiving or discharging passengers.

(6) “Stop or stopping” means: (a) when required, to completely cease movement; and (b) when prohibited, to halt, including momentarily halting, an occupied or unoccupied vehicle, unless necessary to avoid conflict with other traffic or to comply with the directions of a police officer or a traffic-control sign or signal.

(7) “Vehicle” means a device that can be used to transport or draw persons or property on a highway. The term does not include: (a) a device exclusively used on stationary rails or tracks; or (b) manufactured housing as that term is defined by Chapter 1201, Texas Occupations Code (as amended).

(8) “Street” or “Avenue” have the same meaning in describing the name of a city street or roadway in the municipal boundaries of the City of Anahuac, Texas unless expressed otherwise.

(9) “No Stopping, Standing or Parking Zone” means the following segments of the following city streets or roadways in the municipal boundaries of the City of Anahuac, Texas:

a) on Willcox Street between the intersections of:

- 1) State Highway FM 563 (also known as Ross Sterling) and Willcox Street; and
- 2) Willcox Street and South Galveston Street;

b) on South Galveston Street between the intersections of:

- 1) Willcox Street and South Galveston Street; and
- 2) South Galveston Street and Stowell Street;

c) on Stowell Street between the intersections of:

- 1) South Galveston Street and Stowell Street; and
- 2) Stowell Street and State Highway FM 563 (also known as Ross Sterling);

d) on Cummings Street between the intersections of:

- 1) State Highway FM 563 (also known as Ross Sterling) and Cummings Street; and
- 2) Cummings Street and South Texas Street;

e) on Park Street between the intersections of:

- 1) State Highway FM 563 (also known as Ross Sterling) and Park Street; and
- 2) Park Street and South Texas Street;

f) on South Texas Street between the intersections of:

- 1) South Texas Street and Willcox Street; and
- 2) South Texas Street and Stowell Street; and

g) on South Kansas Street between the intersections of:

- 1) South Kansas Street and Willcox Street; and
- 2) South Kansas Street and Stowell Street.

§72.002. No Stopping, Standing or Parking a Vehicle in a No Stopping, Standing or Parking Zone. Except momentarily to pick up or discharge a passenger, or if the operator is complying with the law or the directions of a peace officer or official traffic-control device, an operator of a vehicle may not stop, stand or park an occupied or unoccupied vehicle on or in any part of, or on the shoulder of, a No Stopping, Standing or Parking Zone.

§72.003. No Standing a Vehicle. Except momentarily to pick up or discharge a passenger, or if the operator is complying with the law or the directions of a peace officer or official traffic-control device, an operator of a vehicle may not stand an occupied or unoccupied vehicle on or in any part of, or on the shoulder of, a city street or roadway where an official sign prohibits standing.

§72.004. No Parking a Vehicle. Except momentarily to pick up or discharge a passenger, or if

the operator is complying with the law or the directions of a peace officer or official traffic-control device, an operator of a vehicle may not park an occupied or unoccupied vehicle on in, on any part of, or on the shoulder of, a city street or roadway where an official sign prohibits parking.

§72.005. Evidentiary Presumption. In a prosecution for an offense under this chapter involving the stopping, standing, or parking of an unattended motor vehicle, it is presumed that the registered owner of the vehicle is the person who stopped, stood, or parked the vehicle at the time and place the offense occurred; and that the Texas Department of Motor Vehicle's computer generated record of the registered vehicle owner is *prima facie* evidence of the contents of the record.

§72.006. Inchoate offense. A person who attempts to commit or conspires to commit an act declared by this chapter to be an offense is guilty of the offense. A person who falsely, fraudulently, or wilfully permits another to violate this chapter is guilty of the violation.

§72.007. Culpable Mental State Not Required Unless Expressly Stated. Neither allegation nor evidence of a culpable mental state is required for the proof of an offense defined by this chapter unless the offense expressly includes a mental state. No mental element is part of the conduct or definition of a violation of this chapter. This chapter dispenses with any mental element to establish a violation of this chapter or the commission of an offense under this chapter unless the mental element is expressly included to establish a violation of this chapter or the commission of an offense under this chapter.

§72.008. Offense & Defense. A person commits an offense if he stops, stands or parks a vehicle in violation of this chapter. It shall be a defense to prosecution under this chapter that the person was expeditiously loading or unloading passengers or property, was in the performance of official duties as a law enforcement officer, government employee, contractor or utility company employee or contract, or was operating an authorized emergency vehicle in the performance of official duties.

§72.009. Governmental function; Non-Liability. All of the regulations provided in this chapter are hereby declared to be a governmental function and for the public safety, health, safety and welfare of the general public. Any member of the City Council or any city official or employee charged with the duty of enforcement of this chapter, acting for the City in the discharge of his or her duties, shall not thereby render himself or herself personally liable; and he or she is hereby relieved from all personal liability for any damage that might accrue to persons or property as a result of any act required or permitted in the discharge of his or her duties.

§72.010. Injunctive Relief. Any violation of this chapter can be enjoined by a suit filed in the name of the City in a court of competent jurisdiction, and this remedy shall be in addition to any penal provision in this chapter or the City Code.

§72.011. Penalty. A violation of this ordinance or a provision of this chapter is a Class C misdemeanor punishable by a fine not to exceed five hundred dollars (\$500).

§72.012. Separate Offense Each Day; No Election of Remedies. Each day a violation occurs or is allowed to continue shall constitute a separate offense punishable hereunder. Nothing herein contained shall require the City to elect remedies or shall prevent the City from taking such other lawful action as is necessary to prevent or remedy any violation of this chapter.

§72.013. Non-Consent Towing at Vehicle Owner's or Operator's Expense.

(A) An unauthorized vehicle violating a provision of this Chapter may be towed (also called a "non-consent tow") if there is a warning sign about no stopping, standing or parking in the No Stopping, Standing or Parking Zone and each sign prohibiting such unauthorized vehicles (1) is made of weather-resistant material, (2) is at least 18 inches wide and 24 inches tall, (3) contains the international symbol for towing vehicles; (4) contains a statement that the area as a No Stopping, Standing or Parking Zone; and (5) on the same sign or an additional sign bearing the words "Unauthorized Vehicles Will Be Towed at Owner's or Operator's Expense."

(B) The owner or operator of the vehicle subject to the non-consent tow or booting is liable for payment of the fees for the towing, booting or storage of the vehicle as a result of the towing or booting; however, such fees shall be authorized by the Texas Commission of Licensing and Regulation and shall not exceed the maximum amount authorized by Commission rule.

(C) To aid in the enforcement of this Chapter, and the ordinance enacting this Chapter, the City Code Enforcement Officer, or any peace officer authorized to enforce the City's municipal codes or this Chapter, is authorized to (1) remove an immobilized vehicle from a public roadway in the municipality in violation of this Chapter, and (2) obtain the services of a licensed towing company to assist in removing the vehicle, and storage of the vehicle pursuant to removal, at the expense of the owner or operator of the vehicle.

II.

Cumulative; Repeal of Conflicting Provisions. This ordinance and chapter shall be cumulative of all provisions of ordinances and of the City Code, as amended, except where the provisions of this ordinance and chapter are in direct conflict with the provisions of such ordinances and such code, in which event the conflicting provisions of such other ordinances and other code are hereby repealed so that this ordinance and chapter shall survive and prevail.

III.

Severability. It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs, and sections of this ordinance are severable, and if any phrase, clause, sentence, paragraph or section of this ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality or

invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this ordinance, since the same would have been enacted by the City Council without the incorporation in this ordinance of any such unconstitutional or invalid phrase, clause, sentence, paragraph or section. If any section, subsection or provision of this ordinance is held invalid, the remainder shall not be affected by such unconstitutionality or invalidity.

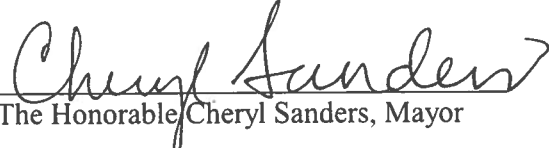
IV.

Effective Date. This ordinance and chapter shall be in full force and effect from and after its passage and publication as required by law, and it is so ordained.

IT IS SO ORDAINED. This Ordinance PASSED, APPROVED and ADOPTED this **8th** day of **June, 2020** A.D.

CITY OF ANAHUAC

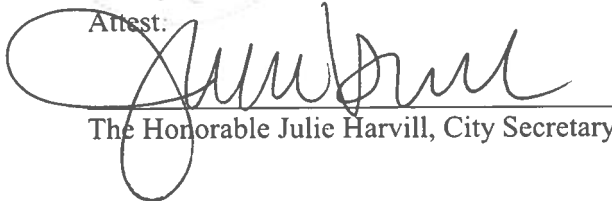
By:


The Honorable Cheryl Sanders, Mayor



[City Seal]

Attest:


The Honorable Julie Harvill, City Secretary