

Ordinance No. 27-05

ORDINANCE:

To amend Chapter 23 "Traffic," Division 2, "Permit Parking for Residents," of the Rockville City Code so as to provide for the division of the City into permit parking zones and to modify the provisions and procedures for the designation of permit parking areas within said permit parking zones, to raise the fine for parking in violation of the provisions of Division 2, and to modify the provisions pertaining to the unlawful use of a visitor permit by a resident

BE IT ORDAINED BY THE MAYOR AND COUNCIL OF ROCKVILLE, that Chapter 23, Division 2, "Permit Parking For Residents" of the Rockville City Code be, and hereby is, amended by amending section 23-44, "Designation of areas," section 23-46, "Violations and penalty," and section 23-49, "Use of visitor's permit by resident declared misdemeanor" to read as follows:

DIVISION 2. PERMIT PARKING FOR RESIDENTS

Sec. 23-41. Legislative findings.

The Council finds that the health, safety and welfare of many residents of the City are adversely affected by the burden that is placed on the residents by virtue of nearby public and private facilities. Frequently, the use of streets within residential areas for parking of vehicles by persons using adjacent commercial, industrial, education, and transit areas or facilities, results in hazardous traffic conditions, the overburdening of existing streets, roads and other facilities, air and noise pollution, and the inability of residents of certain areas to obtain adequate parking adjacent or close by their places of

residence and to secure ease of access to their places of residence. In order to reduce to the lowest extent possible the aforementioned conditions, to foster the use of mass transit facilities and to promote the safety, peace, good order, comfort, convenience, health and welfare of the residents of the City, the Council deems it essential that the parking permit authorization provided for in this division be enacted.

Sec. 23-42. Division supplemental.

The provisions of this division shall be supplemental to all other parking ordinances.

Sec. 23-43. Effect on metered parking.

Whenever metered parking is in effect in any portion of the City that becomes subject to a permit parking restriction under this division, the parking spaces controlled by meters shall be excepted from the provisions of this division as long as the parking spaces continue to be controlled by meters.

Sec. 23-44. Creation of permit parking zones and [Designation] designation of permit parking areas.

(a) The City Manager shall divide the entire geographical area of the City into five or more permit parking zones, each with logical boundaries. One or more permit parking areas may be designated in each zone. The designation of permit parking areas and the revocation of such designation shall be made in accordance with the procedures set forth in this section.

[(a)] (b) [The Council shall consider the institution of a parking permit system upon] A request for a permit parking area designation or revocation, or a change in the

hours parking permit restrictions are in effect, may be made by a petition filed with the City Clerk [of] signed by at least fifty-one (51) percent of the households of [a] the specific area [requesting that such specific area be established or removed as a parking permit area] for which the request is made. A household shall be deemed to have executed the petition if one (1) or more residents of such household sign the petition. The Council may [consider the institution] designate or revoke [of] a parking permit [system in a given] area or change parking restriction hours on its own motion without the filing of a petition by the residents of the area, provided that the and Council shall provide the notice and hold a public hearing consistent with the requirements of subsection (e)(1). The decision of the Council shall be rendered by resolution within sixty (60) days of the date of the close of the record.

(c) Subject to the notice and hearing requirements set forth in this section:

(1) A request for the designation or revocation of a permit parking area encompassing more than 15 households (including the addition to or deletion from an existing permit parking area) shall be considered and decided by the Traffic and Transportation Commission, or such other entity so authorized by resolution of the Council.

(2) A request for designation or revocation of a permit parking area encompassing 15 households or less (including the addition to or deletion from an existing permit parking area) shall be deemed to be a minor permit parking area designation or revocation and shall be considered and decided by the City Manager or the City's Manager's designee.

(3) A request for a change in the hours parking permit restrictions are in effect shall be deemed a minor permit parking area modification and shall be considered and decided by the City Manager or the City's Manager's designee.

[(b)] (d) The designation or revocation of a parking permit area (including the addition to or deletion from an existing permit parking area) shall take into account, among other things:

(1) The effect on the safety of residents of the area under consideration from intensive use by nonresidents for parking of vehicles;

(2) The need of residents of the area to obtain adequate on-street parking adjacent to or close by their places of residence;

(3) The difficulty or inability of residents of the area to secure adequate on-street parking adjacent to or close by their places of residence because of widespread use of the available parking spaces by nonresidents and transient motorists;

(4) The impact of major public facilities and programs on the health, safety and welfare of the residents of the area, and any unreasonable burdens placed on those residents in securing adequate on-street parking and gaining access to their places of residence by virtue of such facilities and programs;

(5) The likelihood of alleviating, by use of a parking permit system, any problem of unavailability of residential parking spaces;

(6) The desire of the residents in the area for the institution of a parking permit system;

(7) The fact that the residents of [a contemplated parking permit] the area have contributed to the cost of construction and/or improvement of streets and roads

in such area either by a direct assessment of costs or indirectly to the extent that the costs are reflected in purchase or rental prices paid by those residents;

(8) The need for some parking spaces to be available in the area under consideration for use by visitors and the general public;

(9) Such other factors as [the Council] shall be [deem] deemed relevant in order to ensure the health, safety and welfare of the residents in the affected areas.

[(c)] (e) (1) [Except for minor modifications to a parking permit area described in subsection (2) hereof, prior] Prior to [the designation of a particular area as a parking permit area, or prior to the withdrawal of such designation once it has been established, the Mayor and Council] designating or revoking a permit parking area encompassing more than fifteen households, the Traffic and Transportation Commission shall conduct a public hearing at which time any interested person shall be entitled to appear and be heard. Such hearing shall be held only after notice has been published in a newspaper of general circulation in the City. The notice shall state the purpose of the hearing and location and boundaries of the parking permit area under consideration for designation or revocation [or, in the case of the withdrawal of the designation of a parking permit area, the location and boundaries of the area to be withdrawn]. In addition to the published notice, [the Mayor and Council shall send] a written copy of such notice shall be sent by ordinary mail to the residents and owners of all real property located within, adjoining, or adjacent to the area under consideration [proposed to be designated as a parking permit area or prior to the withdrawal of such designation].

(2) [A request which either proposes the addition or deletion of fifteen (15) or fewer households to a previously approved parking permit area or a change in the

hours that parking permit area restrictions are in effect, shall be deemed a minor modification.] The City Manager may approve [A] minor permit parking area designations or revocations, and/or modifications [modification to an existing parking permit area may be approved by the City Manager] without a public hearing, provided that written notice of the proposed designation, revocation, or [changes] modification is [are] sent by ordinary mail to the residents and owners of real property as hereinafter described. In the case of a minor permit parking area designation or revocation [modification to an existing parking permit area which enlarges or diminishes the parking permit area as defined herein], written notice shall be sent to the residents and owners of [the fifteen (15) or fewer households] the property located within, adjoining, or adjacent to the permit parking [permit] area proposed to be designated or revoked [changed as well as the residents and owners of real property contiguous or adjacent to the area proposed to be changed, whether or not such persons are inside or outside of the existing parking permit area]. In the case of a minor permit parking area modification [which seeks to change the hours that the parking permit area restrictions are in effect], written notice shall be sent to the residents and owners of all real property within the existing parking permit area. All notices must be mailed [The City Manager may make a minor modification to an existing parking permit area provided that such minor modification shall not be made until] at least fifteen (15) days [days' written notice has been mailed to the affected residents and property owners described above] prior to the decision of the City Manager in order to afford such residents and property owners an opportunity to provide their comments to the City Manager concerning the proposed [change] designation, revocation, or modification.

[(d)] (f). [The decision of the Council on any petition under this section shall be rendered within sixty (60) days of the date of the close of the record.] Decisions of the City Manager under this section shall be made in writing within sixty (60) days from the receipt of the petition. Unless a decision of the City Manager is appealed to the Traffic and Transportation Commission pursuant to subsection (i) of this section, the decision of the City Manager shall become effective on the 16th day after the City Manager's decision.

(g) Decisions of the Traffic and Transportation Commission under this section shall be made in writing and filed with the City Clerk within thirty (30) days of the close of the record of the public hearing. The City Clerk shall provide each member of the Council with written notification of the Commission's decision. Within thirty (30) business days of the City Clerk's notification, the Council may rescind or modify the decision of the Commission by resolution, based on the record before the Commission, in which case the decision of the Commission will be null and void. If within thirty (30) business days of the City Clerk's notification the Council takes no action to rescind or modify the decision of the Commission, the decision of the Traffic and Transportation Commission shall become effective on the thirty-first business day following such notification. Notwithstanding the foregoing, the Council by motion may approve the Commission's decision within thirty (30) business days of the Clerk's notification, in which case the Commission's decision will become effective as of the date of the Council's approval of the Commission's decision.

(h) Copies of decisions made under this section shall be mailed by regular mail to all households within, adjoining, or adjacent to the area under consideration and to all persons who presented testimony or submitted comments on the matter.

[(e)] (i) [In the event that the Council designates a certain area as a parking permit area or withdraws the designation of a certain area as a parking permit area, such action shall be done by resolution.] If a parking permit area is[established] designated, the [resolution] decision shall designate the roads, streets and other areas within the City in which the parking of vehicles is restricted and the times, locations and conditions under which parking shall be by permit only. If a permit parking area is deleted or the parking restriction hours are modified, the decision shall describe those roads, streets and other areas for which the permit parking area is deleted or parking restriction hours are changed.

(j) Any person aggrieved by a decision of the City Manager may appeal such decision to the Traffic and Transportation Commission by filing a notice thereof with the Director of Public Works within fifteen (15) days of such decision. The Traffic and Transportation Commission shall hear such appeal *de novo*. Any person aggrieved by a decision of the Traffic and Transportation Commission that is not rescinded or modified by the Council, or by a decision of the Council, may appeal such decision to the Circuit Court for Montgomery County in accordance with Title 7, Chapter 200 of the Maryland Rules. For purposes of filing any appeal, the date of the decision of the Traffic and Transportation Commission shall be the effective date of its decision and, in the case of a Council decision, the effective date of the resolution of the Council.

Sec. 23-45. Rules and regulations.

The City Manager may establish written regulations to implement the provisions of this division.

Sec. 23-46. Violations and penalty.

(a) Every duly authorized police officer of the City or the County or parking enforcement officer of the City who discovers a vehicle parked in violation of this division shall deliver a citation to the driver, or if the vehicle is unattended, attach a citation to the vehicle in a conspicuous place. The officer shall keep a copy of the citation bearing his certification under the penalty of perjury that the facts stated in the citation are true.

(b) In the absence of the driver, the registered owner of the vehicle is presumed to be the person receiving the citation.

(c) The person receiving a citation under this section shall pay [twenty-five] forty dollars [~~(\$25.00)~~] (\$40.00) for each parking violation directly to the City, or such person may elect to stand trial for the violation as provided in section 26-303 of the Transportation Article of the Annotated Code of Maryland presently existing and as it may hereafter be amended.

Sec. 23-47. Permit issuance, fee, term, etc.

(a) Following the designation of a parking permit area, the City Manager or his designee shall issue appropriate parking permits and shall cause parking signs to be posted in the area, indicating the times, location and conditions under which parking shall be by permit only. Permits shall be issued only to persons residing on the property immediately adjacent to a street or road within the parking permit area. A permit shall

remain valid for such time as the holder thereof continues to reside in the area for which the permit is issued.

(b) The City Manager shall recommend to the Council the fee for a parking permit to be issued under this section and the Council shall establish, by resolution, the fee for a permit.

Sec. 23-48. Parking without permit.

(a) A person may not park a vehicle in an area designated in accordance with this division as a permit parking area during times or under the conditions when such permits are required without a permit issued under this division.

(b) Subsection (a) does not apply to service or delivery vehicles that are being used to provide services or make deliveries to dwellings in the area.

Sec. 23-49. Use of visitor's parking permit [by resident declared misdemeanor].

(a) A nonresident of a permit parking area may use a visitor's parking permit only while either (i) visiting a household to which the visitor permit was issued, or (ii) attending a function off-site with an individual of a household to which the visitor permit was issued.

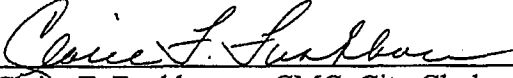
(b) The use of a visitor's parking permit by any resident of a parking permit area [shall be a misdemeanor] is prohibited. In the event that a person is found guilty of three (3) offenses, such person, in addition to any citations issued, shall not be permitted to have or use a parking permit for a period of one (1) full year, and any parking permit previously issued shall be revoked. The unlawful use of a parking permit that has been revoked is a separate violation of this Division 2 of this Chapter for which a separate citation may be issued.

Sec. 23-50. Use of a resident parking permit by a nonresident prohibited.

It shall be a violation of this Division 2 of this Chapter for a nonresident to use a resident parking permit and for a resident to allow use of the resident's parking permit by a nonresident. Where a resident parking permit is improperly used by a nonresident, the resident and the nonresident may each be issued a citation under Section 23-46.

NOTE: [Brackets] indicate material deleted
Underlining indicates material added.

I hereby certify that the foregoing is a true and correct copy of an ordinance adopted by the Mayor and Council at its meeting of December 19, 2005.



Claire F. Funkhouser, CMC, City Clerk