

980949

Memorandum

CITY OF GAINESVILLE  
Office of the City Attorney

Phone: 334-5011/Fax 334-2229

TO: Mayor and City Commissioners

DATE: March 8, 1999

FROM: City Attorney

SECOND READING

SUBJECT: Ordinance No. 0-99-32

An ordinance of the City of Gainesville, Florida, amending Chapter 26, Article III, Division 4 of the Code of Ordinances relating to controlled vehicular parking, allowing areas to be designated based on future as well as current conditions, allowing areas to be designated in the central city district, allowing areas to be designated by the city commission; allowing parking in designated areas to be by decal/permit or by paying a parking meter fee, clarifying and simplifying the permit/decal process; and reorganizing the sections for readability; amending section 26-46, updating references to articles and sections; amending Appendix A of the Code of Ordinances to set fees for parking decals and permits; providing directions to the codifier; providing a severability clause; providing a repealing clause; and providing an immediate effective date.

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Recommendation: The City Commission adopt the proposed ordinance, as amended.

The City Commission at its meeting of January 11, 1999, authorized the City Attorney to draft and the Clerk of the Commission to advertise an ordinance amending the parking code, to allow flexibility in the parking decal program. These changes include expanding the program to non-residential areas and allow the use of parking decals in metered spaces.

Since first reading the Treasury Manager has suggested including in the ordinance a provision allowing parking permits for law enforcement officers and inspectors during the course of their work in the area. The proposed revisions for second reading are shown by double underlines.

Prepared by:



Patricia M. Carter,  
Sr. Assistant City Attorney

Approved and  
Submitted by:



Marion J. Radson  
City Attorney

MJR:sw

PASSED ON FIRST READING BY A VOTE OF 5-0.

Ordinance No. \_\_\_\_\_  
0-99-32

An ordinance of the City of Gainesville, Florida, amending Chapter 26, Article III, Division 4 of the Code of Ordinances relating to controlled vehicular parking, allowing areas to be designated based on future as well as current conditions, allowing areas to be designated in the central city district, allowing areas to be designated by the city commission; allowing parking in designated areas to be by decal/permit or by paying a parking meter fee, clarifying and simplifying the permit/decal process; and reorganizing the sections for readability; making it unlawful to sell, convey or transfer a decal/permit; providing procedure for revocation of decal/permit; amending section 26-46, updating references to articles and sections; amending Appendix A of the Code of Ordinances to set fees for parking decals and permits; providing directions to the codifier; providing a severability clause; providing a repealing clause; and providing an immediate effective date.

WHEREAS, at least 10 days notice has been given once by publication in a newspaper of general circulation notifying the public of this proposed ordinance and of a Public Hearing in the City Commission Auditorium in City Hall, City of Gainesville; and

WHEREAS, a Public Hearing was held pursuant to the published notice described at which hearing the parties in interest and all others had an opportunity to be and were, in fact, heard;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF GAINESVILLE, FLORIDA:

Section 1. Division 4 of Article III of Chapter 26 is amended to read as follows:

DIVISION 4. CONTROLLED VEHICULAR PARKING

~~IN RESIDENTIAL AREAS~~

**Sec. 26-115. Purpose and exercise of authority.**

The city commission hereby finds and declares that it is in the best interest of the City of Gainesville to reduce vehicular congestion on designated city streets and to facilitate the efficient movement of traffic by providing for parking preference during certain hours of the day

and certain days of the week within designated areas that meet the criteria hereinafter set forth; that controlled vehicular decal/permit parking regulation is necessary to promote the health, safety and welfare of the residents of the City of Gainesville.

While providing adequate parking spaces adjacent to or close by residences in the affected area, it is in the public interest to reduce hazardous traffic conditions resulting from the use of streets located within congested areas for the parking of vehicles by persons using such residential and mixed residential/commercial areas to gain access to other places; to protect those areas from excessive noise; to protect the residents of those areas from unreasonable burdens in gaining access to their residences; to preserve the character of those areas; to promote efficiency in the maintenance of those streets in a clean and safe condition; to preserve the value of the property in those areas; to preserve the safety of children and other pedestrians; and to promote traffic safety, clean air and the comfort, health, convenience and welfare of the inhabitants of the city.

**Sec. 26-116. Definitions.**

Whenever in this article the following words are used they shall, unless the context requires otherwise, be deemed to have the following meanings:

(a) *Controlled vehicular parking area* shall mean an area containing streets or parts thereof primarily abutting by property which has a specific residential, office, business, industrial, mixed use, central city district and/or special use district zone designation on the official zoning map book and described in section 30-41 et seq. of the Code of Ordinances. The city commission designates controlled vehicular parking areas pursuant to criteria and procedures established herein.

(b) *Property owner* shall consist of residents, offices, businesses, industrial or other designations that can provide proof of property ownership in the controlled vehicular parking area or be in possession of an occupational tax receipt in the controlled vehicular parking area

pursuant to Chapter 26, Article III, Division 4, section 26-125(b) of the City Code of Ordinances.

(c) *Controlled vehicular parking zones* are geographical areas within the controlled vehicular parking area. Any controlled vehicular parking area may have more than one parking zone.

(d) *Controlled vehicular parking area decal* is a decal issued for the purpose of parking on a city street in a designated controlled vehicular parking area. The decal shall be permanently affixed to the inside left front window of the vehicle.

(e) *Controlled vehicular parking area permit* is a permit issued for the purpose of parking on a city street in a designated controlled vehicular parking area. The permit shall be displayed on the left front dashboard of the vehicle.

~~(f) *Commuter vehicle* shall mean a motor vehicle parked in a controlled vehicular parking area by a person who is not a resident and/or property owner in the designated controlled vehicular parking area and who has not obtained a decal/permit for the particular motor vehicle that is so parked.~~

~~(f) Immediate family shall mean mother, father, sister, brother, stepfather, stepmother, stepsister, stepbrother, half-sister or half-brother.~~

(g) *Program year* shall be a period established by the city manager in which controlled vehicular parking decal/permits are valid.

**Sec. 26-117. Findings.**

The city commission hereby finds and declares that it is in the best interest of the city to reduce vehicular congestion on residential and mixed residential/commercial city streets and to facilitate the efficient movement of traffic by providing for residential and nearby commercial parking preference during certain hours of the day and days of the week within certain areas

meeting the criteria set forth in this division; that residential and nearby commercial permit parking regulation is necessary to promote the health, safety and welfare of the residents and businesses of the city by providing adequate parking spaces adjacent to or close by their places of residence or business; that it is in the public interest to reduce hazardous traffic conditions resulting from the use of streets located within congested residential and residential/commercial areas for the parking of vehicles by persons using such ~~residential~~ areas to gain access to other places; to protect those areas from excessive noise; to protect the residents of those areas from unreasonable burdens in gaining access to their residences; to preserve the character of those areas as residential districts; to promote efficiency in the maintenance of those streets in a clean and safe condition; to preserve the value of the property in those areas; to preserve the safety of children and other pedestrians and to promote traffic safety, clean air and the comfort, health, convenience and welfare of the inhabitants of the city.

**Sec. 26-118. ~~Designation of controlled vehicular parking areas:~~**

~~All controlled parking areas and/or zones in existence prior to the effective date of Ordinance Number 3720 as indicated on the city map on file in the office of the traffic engineering department are grandfathered in under Ordinance Number 3720.~~

~~After following the procedures hereinafter set out, the city commission may designate controlled vehicular parking areas and the recording thereof on an appropriate city map. Vehicles may be restricted from parking on public streets at certain times during the day and on designated weekdays, unless bearing a valid parking decal/permit issued pursuant to this section. This authority shall be in addition to any other authority the city commission may have to regulate times and conditions of motor vehicle parking on public streets.~~

**Sec. 26-119. Criteria and procedures for establishing controlled vehicular parking areas.**

The following procedures shall be used to designate a controlled vehicular parking area:

(a) Upon petition from a majority of the property owners/residents in a proposed area, or upon city manager determination, the city manager or designee shall conduct a study to

determine if the proposed area meets at least one of the following criteria:

(1) The number of vehicles parked or standing, legally or illegally, on the city street(s) in the proposed area during a designated time period and days of the week is equal to 50 percent or more of the legal on-street parking capacity of the area.

(2) Proposed development/redevelopment within the area is predicted to utilize 50 percent or more of the legal on-street parking capacity of the area during the designated time period and days of the week.

(b) The city commission, after a public hearing, may designate an area that meets the requirements listed in subsection (a) as a controlled vehicular parking area. In reaching its decision, the city commission shall consider the findings of the study of the proposed area, the recommendation of the city manager, the results of a vote of the property owners in the proposed area as identified on the Alachua County tax rolls conducted by mail ballot by the city manager or designee, and any other information the city commission finds relevant.

(c) The city manager or designee shall indicate an approved designation upon an appropriate map in the public works department.

(d) The city manager or designee shall install parking signs along the public streets in the designated area, indicating when, where and how parking is restricted to decal/permit only or decal/permit/meter.

(e) The detailed operational guidelines for a controlled vehicular parking area shall be established and approved by the city manager and be on file in the public works department.

(f) The city commission may remove the designation of a controlled vehicular parking area

upon finding, after a public hearing, that the area no longer meets the criteria listed above or that it is in the best interest of the city to remove the designation.

~~An area shall be eligible for designation as a controlled vehicular parking area based upon the following criteria and procedures:~~

~~(a) In an area that does not currently have a controlled vehicular parking program, the city commission may request or the city manager may conduct, upon his/her own initiative or upon receipt of a petition from a majority of the property owners in such a proposed area, a study to determine if the proposed area meets the criteria hereby established. Following the study, and upon the approval by the city commission, the area under consideration may be designated as a controlled vehicular parking area.~~

~~(b) In order for an area to be designated as a controlled vehicular parking area, the following conditions must be met:~~

~~(1) During any designated time period, weekdays and/or weekends, except appropriate holidays, the number of vehicles parked (or standing), legally or illegally, on the city streets in the proposed controlled vehicular parking area is equal to 50 percent or more of the legal on-street parking capacity of the area.~~

~~(2) The results of a vote of the property owners in the proposed controlled parking area shows that more than 50 percent of the property owners have requested the establishment of a controlled vehicular parking program. The vote will be conducted by the city manager. Each property listed on the Alachua County tax rolls in the proposed controlled parking area will be entitled to one vote.~~

~~(c) Following the approval of the designation of a controlled vehicular parking area, the city manager shall cause the designation to be recorded upon an appropriate map and retained permanently in the office of the traffic engineering department. In addition, the city manager~~

~~shall cause parking signs to be erected upon the public streets in the area, indicating the times, locations and conditions upon which parking shall be by decal/permit only. When an area has been approved, designated and posted as a controlled vehicular parking area, it shall be unlawful and a violation of this article to park a commuter vehicle in an area restricted to decal/permit parking without displaying a valid parking decal/permit.~~

(d) ~~The city manager can designate an area adjacent to an existing controlled vehicular parking area as included in that existing controlled vehicular parking area provided the new area does not exceed the existing program area in size by 25 percent; and provided, further, the new area meets the criteria set forth in subsection (b) above.~~

(e) ~~The designation of a controlled vehicular parking area may be removed only by the city commission.~~

**Sec. 26-120. Issuance of controlled vehicular parking decals.**

(a) Upon designation of a controlled vehicular parking area, the city shall issue the appropriate parking decals. A fee set by the city commission shall be imposed to help recover the cost of administering the controlled vehicular parking. Upon application, a decal shall be issued only to the owner or operator of a motor vehicle who resides or owns property in a controlled vehicular parking area. The application for a decal shall contain the name of the owner or operator of the motor vehicle, residential address, the motor vehicle's make, model, registration and tag number. A current motor vehicle registration shall be required and presented at the time of making said application in order to verify the information given ~~contents thereof~~. If the vehicle is registered at an address other than in the controlled vehicular parking area ~~the local residence~~, the applicant must provide other sufficient proof acceptable to the city showing residency within the controlled vehicular parking area. ~~If the name on the registration is different than the applicant~~ If the applicant is not the registered owner of the vehicle, the applicant must



provide either proof that the vehicle is owned by a member of the applicant's immediate family, or a notarized letter must be obtained from the owner of the vehicle stating under oath that the applicant is the primary operator of the vehicle establishing permission to use the vehicle. In the case of university students this will apply to family members only. The decal will normally be valid for a program year ~~as hereinafter defined~~ and shall be renewed for each successive program year, as long as proof of residency can be provided. However, an applicant who submits proof of home ownership in the controlled vehicular parking area may apply for a decal valid for a three-year period.

(b) A temporary decal/permit will be given to an applicant who qualifies for a regular parking decal, but who is temporarily unable to get or use the regular decal. The city manager or designee shall determine the length of time up to two weeks the temporary decal/permit will extend based on the reason for needing the decal.

**Sec. 26-121. ~~Recording of area upon map; erection of signs; violation.~~**

(a) ~~Following the approval by the city manager of the designation of a controlled parking residential area, the department of traffic engineering shall cause the regulation to be recorded upon an appropriate map or plat and retained permanently in the office of the city clerk. In addition, the department of traffic engineering shall cause parking signs to be erected upon public streets in the area, indicating the times, locations and conditions upon which parking shall be by permit only.~~

(b) ~~When an area has been approved, designated and posted as a controlled parking residential area, it shall be unlawful and a violation of this division to park a commuter vehicle in an area restricted to decal parking only without having a valid residential parking permit affixed inside of the left rear window of the vehicle.~~

**Sec. 26-122. Issuance of controlled vehicular parking permits.**

~~Upon designation of a controlled vehicle parking area, parking permits meeting criteria hereinafter described shall be issued to residents, property owners, visitors and/or persons doing business in the controlled vehicular parking area for an extended period of time not to exceed six months. The requirements for obtaining controlled vehicular parking permits shall be as follows:~~  
In addition to decals, the city shall issue controlled vehicular parking permits using the following criteria:

(a) Commercial permits shall be ~~are~~ issued to office, business, institutional or other special designations within the controlled vehicular parking area. The applicant shall present a ~~A~~ current occupational tax receipt, if applicable, shall be required to provide as proof of current business address in the decal/permit area. The maximum number of commercial permits available to an applicant will be set by the city manager in the operational guidelines for each controlled vehicular parking area. ~~Each business shall be issued no more than five permits for their business.~~ Commercial permits shall be valid ~~are obtained~~ for a program year beginning October 1 and ending September 30 of the following year and are issued through the city. A fee set by the city commission shall be imposed to help recover the cost of administering the controlled vehicular parking.

(b) Special visitor parking permits may be ~~are~~ issued upon request to residents, property owners, or businesses in the controlled vehicular parking area for use by visitors to the property coming from outside the controlled vehicular parking area based on need shown by the applicant at the discretion on the city manager or designee. They are issued for periods up to six months depending on the need for the permit. The time limit and the number of permits to be issued will be determined by the city manager/designee.

(c) Special parking permits may be issued upon request to federal, state or local law enforcement or inspection officers for the time period needed for the officers to perform their law enforcement or inspection duties in the controlled vehicular parking area.

**Sec. 26-123. Privileges and restrictions on controlled parking area decal/permits.**

(a) The holder of a controlled vehicular decal/permit shall be permitted to stand or park a motor vehicle displaying the decal/permit and operated by him/her in ~~the any~~ designated controlled vehicular parking area and designated zone for which the decal/permit was issued during such times and places as the parking of motor vehicles therein is permitted. ~~While a vehicle for which a parking decal/permit has been issued is so parked, t~~ The vehicle must have the decal ~~shall be~~ permanently affixed on the inside of the left front window of the vehicle or ~~and~~ the permit ~~shall be~~ placed on the left side of the dashboard when so parked.

(b) A controlled vehicular parking area decal/permit shall not authorize the holder thereof to stand or park a motor vehicle in such places or during such times as the stopping, standing or parking of a motor vehicle is prohibited or set aside for specified types of vehicles, nor exempt the holder from the observance of any traffic regulation within the controlled parking area.

(c) No person other than the decal/permit holder shall use the ~~residential~~ parking decal/permit or display it on a vehicle operated or parked, and any such use or display by a person other than the decal/permit holder shall constitute a violation of this article by the decal/permit holder and by the person who so used or displayed the parking decal permit.

(d) It shall constitute a violation of this article for any person to falsely represent himself/herself as eligible for a controlled vehicular parking decal/permit or to furnish any false information in an application to the city in order to obtain a controlled vehicular parking area decal/permit.

(e) It shall be unlawful, and a violation of this chapter, to park a motor vehicle in an area

and at a time restricted to decal/permit parking only without displaying a valid parking decal or permit. It shall be unlawful, and a violation of this chapter, to park a motor vehicle in an area and at a time restricted to decal/permit or metered parking without displaying a valid parking decal or permit or paying the meter fee.

(f) It shall be unlawful, and a violation of this Article, for a holder of a decal/permit to sell, transfer or convey the decal/permit.

(e) ~~The traffic engineering department is authorized to revoke the controlled area parking decal/permit of any decal/permit holder found to be in violation of this article and, upon written notification thereof, the decal/permit holder shall surrender such decal/permit to the aforementioned. Failure, when so requested, to surrender a residential parking decal/permit shall constitute a violation of this article.~~

#### **Sec. 26-124. Issuance of sorority/fraternity member permits**

Upon application and proof of membership in a fraternity or sorority, a permit shall be issued to a member of a sorority or fraternity located in the controlled vehicular parking area who does not reside there, but who eats meals there. The permit will be valid during regular meal hours as determined each program year by the city manager or designee in cooperation with the affected fraternities and sororities. The permit will be valid Monday through Friday and shall extend to the end of the semester. A fee set by the city commission shall be imposed to help recover the cost of administering the controlled vehicular parking.

#### **Section 26-125. Revocation of decal/permit.**

(a) The city manager or designee is authorized to revoke the controlled area parking decal/permit of any decal/permit holder based upon evidence that the decal/permit holder has violated the provisions of this article. The holder shall be served notice by certified mail or hand delivery of the proposed revocation; and upon request shall have an opportunity to present to the

city manager or designee evidence as to why the decal/permit should not be revoked. The decal/permit holder must request such a hearing within 10 days after mailing or hand delivery of the notice of proposed revocation. The holder of a revoked decal/permit must return the decal/permit to the city manager or designee, and shall not be allowed to obtain another decal/permit for one year following the revocation.

(b) Revocation under subsection (a) is in addition to any other available remedy provided by this Code for violations of this article.

**Sec. 26-124. Temporary permits:**

~~The city manager is authorized to make provisions for the issuance of temporary parking permits to bona fide visitors of residents of a designated controlled parking area and persons eating at but not residing in a sorority or fraternity house in a controlled parking residential area. A fee shall be imposed for the issuance of the temporary permit in an amount approved by the city commission, to recover costs related to the parking program.~~

**Sec. 26-125. Commercial permits:**

(a) ~~The department of financial services, division of occupational licenses and collections is authorized to make provisions for the issuance of commercial permits to qualified businesses located within the controlled vehicular parking area upon application and the payment of a fee approved by the city commission to recover costs related to the parking program.~~

(b) ~~The application for a commercial permit shall contain the name of the business and the business address. If applicable, proof of a current occupational license must be provided. The permit shall be valid for a fiscal year, beginning October 1 and ending September 30.~~

(c) ~~Each qualified business shall be allowed not more than five (5) commercial permits. Duplication of permits shall, upon such conviction, be punished as provided by section 1-9.~~

**Sec. 26-126. Violations; penalty:**

~~Unless otherwise specifically provided by another section of this chapter, or by F.S. Ch. 316, any person convicted of violating any of the provisions of this chapter shall, upon conviction, be punished as provided in section 1-9.~~

**Sec. 26-127. Guidelines.**

~~The detailed operational guidelines for a controlled vehicular parking area shall be established and approved by the city manager and be on file in the traffic engineering department.~~

**Section 2.** Section 26-46(a) is amended to read as follows:

**Sec. 26-46. Owner's liability for illegal parking.**

(a) Any and all violations of the following sections of this article relating to the parking of vehicles are hereby declared to be a public nuisance and trespass.

- (1) Parking, etc., Generally, section 26-47 through 26-52.
- (2) Parking Meters and Parking Lots, section 26-71 through ~~26-81~~ 26-80.
- (3) Curb Loading Zones, etc., section 26-95 through 26-101; and
- (4) Controlled Vehicular Parking ~~in Residential Areas~~, section 26-116 through ~~26-127-26-124~~.

**Section 3.** The following fees are set and added to Appendix A of the Code of Ordinances:

CONTROLLED VEHICULAR PARKING DECALS/PERMITS

(1) Residential decal (§ 26-120(a))

a. Annual

First car 15.00

Additional car (same owner) 5.00

b. 3-year (owner-occupied only)

First car 45.00

Additional car (same owner) 15.00

- |     |   |                  |
|-----|---|------------------|
| (2) | <u>Temporary decal/permit (§ 26-120(b))</u>   | <u>no charge</u> |
| (3) | <u>Commercial permit (§ 26-122(a))</u>        | <u>15.00</u>     |
| (4) | <u>Special visitor permit (§ 26-122(b))</u>   | <u>no charge</u> |
| (5) | <u>Fraternity/sorority permit (§ 26-124))</u> | <u>15.00</u>     |

**Section 4.** It is the intention of the City Commission that the provisions of Sections 1 through 3 of this Ordinance shall become and be made a part of the Code of Ordinances of the City of Gainesville, Florida, and that the Sections and Paragraphs of this Ordinance may be renumbered or relettered in order to accomplish such intentions.

**Section 5.** If any court of competent jurisdiction finds any section, sentence, clause or phrase of this ordinance is held to be invalid or unconstitutional, said holding shall in no way affect the validity of the remaining portions of this ordinance.

**Section 6.** All ordinances or parts of ordinances, in conflict herewith are to the extent of such conflict hereby repealed.

**Section 7.** This ordinance shall be effective immediately upon its adoption.

PASSED AND ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, 1999.

\_\_\_\_\_  
 PAULA M. DeLANEY  
 MAYOR

ATTEST: Approved as to form and legality

\_\_\_\_\_  
 KURT M. LANNON  
 CLERK OF THE COMMISSION

\_\_\_\_\_  
 MARION J. RADSON  
 CITY ATTORNEY

This Ordinance passed on first reading this \_\_\_\_\_ day of \_\_\_\_\_, 1999.

This Ordinance passed on second reading this \_\_\_\_\_ day of \_\_\_\_\_, 1999.

carter:ordinances:0-99-32 controlled vehicular parking

CODE: Words ~~stricken~~ are deleted; words underlined are added; words double-underlined are proposed additions since first reading.

