



ORDINANCE NO. 2013 - 03

AN ORDINANCE REGARDING HANDICAPPED PARKING

BE IT ORDAINED, by the City Council of the City of Clay, Alabama as follows:

Section 1. Reserved parking for physically handicapped individuals.

- (a) The Mayor of the City is hereby authorized to designate and mark parking spaces on public property for the exclusive parking of motor vehicles operated or occupied by physically handicapped persons.
- (b) The Mayor of the City is hereby authorized to designate and mark parking spaces on public property for the exclusive parking of emergency motor vehicles.
- (c) On private property, the designation of exclusive parking spaces for motor vehicles operated or occupied by physically handicapped persons shall be the responsibility of the property owner or lessee.
- (d) On private property, the designation of exclusive parking spaces for emergency motor vehicles shall be the responsibility of the property owner or lessee.
- (e) Sections 32-6-233 and 32-6-233.1 of the *Code of Alabama*, as last amended, are adopted such that the violation of either or both of the same constitute the violation of a municipal ordinance, or a municipal offense against the City. In such cases, it shall be presumed that the operator of the vehicle is the offender; if the operator of the vehicle cannot be identified, or if there is any dispute as to the identity of the operator, it shall be conclusively presumed that the offender is the registered title holder of the offending vehicle, and that the title holder parked the vehicle, if there is more than one (1) registered title holder, the fine and/or penalty may be levied against any one (1) of the title holders determined by the court to be the appropriate offender in his discretion; any penalty imposed against a corporation shall consist of a fine.
- (f) This ordinance may be enforced by law enforcement officers, any of whom are authorized to go onto private property to enforce this section.
- (g) The fine to be imposed for the first violation of this ordinance shall be fifty dollars (\$50.00). The fine to be imposed for the second violation of this ordinance shall be two hundred dollars (\$200.00). The fine to be imposed for the third or additional violation of this ordinance shall be five hundred dollars (\$500.00).

Section 2. Removal of vehicles in violation.

Any law enforcement officer authorized to enforce the laws of the City who find any vehicle in violation of any handicapped parking regulation contained in this ordinance or state law is hereby authorized to remove, or cause to be removed, by towing or other means, and to impound such vehicle. The expense of removal and storage shall be the responsibility of the owner of such vehicle and shall be charged and collected prior to the release of such vehicle. Expenses for removal and storage shall be in addition to any fine which may be levied.

Section 3. Signage and Markings.

Except as otherwise expressly provided herein, all signage and markings related to handicapped parking places shall conform to the Manual on Uniform Traffic Control Devices, as revised.

Section 4. Administrative Process for Parking Tickets.

- (a) The Mayor (or his/her designee) and any law enforcement officer authorized to enforce the ordinances of the City of Clay, Alabama may enforce this Ordinance, in addition to any other lawful measure, by attaching a written ticket (i.e., a parking summons and complaint) to an offending vehicle in a form authorized by the Mayor. Additionally, the Fire Marshals (as may be identified by City Resolution) and/or their designees are authorized to enforce the parking ordinance set forth in Section 1(b) and Section 1(d) in the same manner.
- (b) With respect to the municipal offenses discussed in Section 1 of this Ordinance, the Mayor or his/her designee is hereby appointed as the city official to accept payment for parking tickets and to act as an administrative hearing officer to determine parking offense disputes.
- (c) If a person cited with a violation hereunder fails to pay the fine for the same or request an administrative hearing within fourteen (14) days from the date of citation, then the fine for such offense shall be increased by fifteen dollars (\$15.00).
- (d) Remittance of the applicable fine stated herein shall constitute a guilty plea and waiver of hearing.
- (e) Where a person requests an administrative proceeding, such proceeding shall be conducted informally. Although due process shall be afforded each person requesting an administrative adjudication, strict rules of evidence shall not apply.
- (f) After such hearing, the Mayor or his/her designee shall be authorized and shall have the discretion to summarily dismiss any charged parking offense hereunder when no probable cause is found for the charge or when reasonable excuse of justification for the offense is shown. When fines are imposed, the Mayor or his/her designee is authorized to impose only the fines provided by ordinance.
- (g) The Mayor or his/her designee shall maintain a list of all tickets by number which were issued, and shall record the disposition of each. Where tickets are summarily dismissed, there will be a brief notation of the reasons for such disposition.
- (h) Any person aggrieved by the administrative decision may appeal as provided by state law or rule.

Section 5. Summons and Complaint Procedure in Courts of Jefferson County, Alabama.

- (a) Except as otherwise set forth herein, if
 - i. A person is cited with a violation of the parking ordinances, as described in Section 1 hereof; and
 - ii. After the expiration of fourteen (14) days following the date of the offense, such person fails to pay the fine for the same and fails to timely request an administrative hearing, or the person cited fails to abide by any orders issued by the City Manager following an administrative hearingThen the City's law enforcement officers may, within one year from the date of the offense, appear before a Judge or Magistrate of the District Court of Jefferson County and set forth essential facts constituting the violation of the municipal parking ordinance and alleging that the person cited committed the offense. Upon the Judge or Magistrate's issuance of a summons and complaint to the person charged (hereinafter referred to as the "Defendant") with violating the municipal

parking ordinance, in addition to all other means allowed by law, the city's law enforcement officers are authorized to initiate and complete the above summons and complaint process in lieu of placing Defendants in violation of the City's municipal parking ordinances under custodial arrest.

- (b) A defendant summoned under this Ordinance is expressly exempt from being commanded to report to a designated place to be photographed and fingerprinted prior to appearance in response to the summons.
- (c) The summons may be served by any law enforcement officer in the same manner as a summons in a civil action, except that service may not be by publication. At the law enforcement officer's discretion, a summons may be served by certified mail, requiring a signed receipt or some equivalent thereof. Return of the receipt signed by the Defendant shall be prima facie evidence of service. The law enforcement officer serving the summons shall make return of the summons in the same manner as provided for making return of an arrest warrant.

Section 6. Schedule of Fines for Municipal Parking Offenders in Courts of Jefferson County.

- (a) The fine for violations of the City of Clay's Parking Ordinances prosecuted in the Courts of Jefferson County shall be as follows: \$75.00 for each offense.
- (b) This Schedule of Fines shall be posted in a place conspicuous to the public within the Jefferson County District Court Clerk's office and at the offices of the law enforcement officers of the City of Clay.

Section 7. Guilty Pleas for Municipal Parking Offenders in Courts of Jefferson County

Any Defendant electing to plead guilty to violations of the Parking Ordinance prosecuted in the Courts of Jefferson County prior to the scheduled court date as listed on the issued summons and complaint, must, not later than 72 hours prior to the scheduled court date as listed on the issued summons and complaint or at any other time at the discretion of the magistrate, comply with one of the following enumerated requirements:

- (a) Appear in person before a magistrate, sign under the "Plea of Guilty/Waiver of Rights" section on the back of, or accompanying, the summons and complaint, and pay the fine and costs in a method approved by the clerk or magistrate. In such a case, the magistrate should retain a copy of the summons and complaint or other such forms in either a paper or approved electronic format;
- (b) Sign under the "Plea of Guilty/Waiver of Rights" section on the back of, or accompanying, the summons and complaint, and mail the summons and complaint along with the "Plea of Guilty/Waiver of Rights" and the amount of the fine and costs in a method approved by the magistrate to the clerk of the court. Remittance by mail of the fines and costs constitutes a guilty plea and waiver of trial, whether or not the "Plea of Guilty/Waiver of Rights" section on the back of, or accompanying, the summons and complaint is by the defendant. Should the amount tendered be insufficient, such money received by the magistrate or clerk shall be considered to be a partial payment of the lawful penalty, applied by the clerk to the fines and costs, and disbursed as required by law. The clerk may give notice of such insufficiency by first class mail to the defendant at the address contained on the ticket, and a supplemental summons or warrant of arrest may be issued for the offender's arrest, and a judgment should be entered by the magistrate of court for the balance of the penalty due; or

- (c) Pay the amount of the fine and costs by credit card or bank transfer to the clerk of the court, magistrate or to any repository for payment approved by the magistrate or clerk. Remittance of the fines and costs by credit card payment or bank transfer constitutes a guilty plea and waiver of trial, whether or not the "Plea of Guilty/Waiver of Rights" is signed by the defendant. Should the amount tendered be insufficient, such money received by the magistrate, clerk, or other designated office shall be considered to be a partial payment of the lawful penalty, applied by the clerk to the fines and costs, and disbursed as required by law. The clerk may give notice of such insufficiency by first class mail to the defendant at the address contained on the ticket, and a supplemental summons or warrant of arrest may be issued for the offender's arrest, and a judgment shall be entered by the magistrate of court for the balance of the penalty due.

Section 8. Failure to Appear as Specified in the Summons and Complaint Concerning Municipal Parking Offenders in Courts of Jefferson County

If, in a proceeding concerning violations of one or more of the Parking Ordinances, the Defendant fails to appear as specified in the summons and complaint, the judge or magistrate having jurisdiction of the offense may issue a warrant for his arrest commanding that he or she be brought before the court to answer the charge contained on the summons and complaint.

Section 9. Repeal of conflicting provisions.

Any ordinance heretofore adopted by the City Council of the City of Clay, Alabama, which is in conflict with this ordinance is hereby repealed to the extent of such conflict.

Section 10. Severance Clause.

If any part, section or subdivision of this ordinance shall be held unconstitutional or invalid for any reason, such holding shall not be construed to invalidate or impair the remainder of this ordinance, which shall continue in full force and effect notwithstanding such holding.

Section 11. Date ordinance to take effect.

This ordinance shall become effective upon its adoption.

ADOPTED AND APPROVED this 18th Day of February, 2013.

Charles K. Webster
Mayor

ATTEST: _____
Ronnie Dixon
City Manager



CITY OF CLAY, ALABAMA ORDINANCE 2013 - 03

CERTIFICATION:

I, Ronnie Dixon, as City Manager of the City of Clay, Alabama, hereby Certify that the above and foregoing copy of one (1) **Ordinance 2013-03** is a true and correct copy of such Ordinance that was duly adopted by the City Council of the City of Clay, Alabama, on the 18th Day of February 2013, as same appears in the official records of said City.

Posted at City Hall, Chalkville Regions Bank, Seniors Centers, and the United States Post Office all being in the City of Clay this the 19th Day of February 2013.

Ronnie Dixon
City Manager