

Parking Issues for Municipalities 2022

Municipalities can enforce various parking offenses within its city limits. Some of these offenses are municipal ordinance rules regarding parking and other offenses are state misdemeanor charges. The municipal ordinance violations can be heard at a city level either through a city court or a parking authority appeal board. The State misdemeanor charges are sent to the general sessions court.

For most cities, that would be the county general sessions courts. For city courts that exercise concurrent general sessions jurisdiction, those courts can hear those misdemeanor charges like any other Misdemeanor A or B charges. The fines for these general sessions cases are adjudicated the same manner as all other misdemeanor cases.

Municipal Ordinance Parking Violations

MTAS drafted sample municipal codes for Private Act, General Law, and Home Rule charters. Here is the link to the MTAS website for these sample municipal codes.
<https://www.mtas.tennessee.edu/codes>

All three sample municipal codes use the same language for parking ordinances. These are found in Title 15, Motor Vehicles, Traffic, and Parking, Chapter 6, Parking, Sections 15-601 through 15-612.

- 15-601. Generally.
- 15-602. Angle parking.
- 15-603. Occupancy of more than one space.
- 15-604. Where prohibited.
- 15-605. Loading and unloading zones.
- 15-606. Regulation by parking meters.
- 15-607. Lawful parking in parking meter spaces.
- 15-608. Unlawful parking in parking meter spaces.
- 15-609. Unlawful to occupy more than one parking meter space.
- 15-610. Unlawful to deface or tamper with meters.
- 15-611. Unlawful to deposit slugs in meters.
- 15-612. Presumption with respect to illegal parking

Additionally, Title 15, Chapter 7, Sections 703 and 704 also discuss parking and enforcement.

- 15-703 – Illegal parking – authority to write a citation
- 15-704 – Impounding vehicle – if blocking traffic or security of vehicle

Citations for these violations can be written by police or other city personnel, such as parking enforcement. While most parking violations do not end up in city court, it is still a city ordinance violation subject to the same \$50 fine limit as any other city ordinance violation.

STATE LAW PARKING VIOLATIONS

Handicapped or Disabled Parking

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Any person without the appropriate license plate or placard who parks in a parking space designated with the wheelchair-disabled sign may be punished in a court with state law jurisdiction by a \$200 fine, which cannot be waived, and up to five hours of community service work assisting disabled people. T.C.A. § 55-21-108, T.C.A. § 55-8-160(a)(15). In addition to the fine, the vehicle may be towed. Signs designating handicapped parking must indicate that improperly parked vehicles may be towed and the driver fined \$200. The signs also must provide the name and number of the property owner, lessee, or agent in control of the property. T.C.A. § 55-21-108(a).

It is also a violation for a person to park a motor vehicle so that a portion of the vehicle encroaches into a disabled parking space in a manner that restricts, or reasonably could restrict, a person confined to a wheelchair from exiting or entering a motor vehicle properly parked within the disabled parking space. TCA 55-21-108(a)(3).

A person is "disabled" for purposes of handicapped parking if he or she is a paraplegic or amputee, cannot walk 200 feet without stopping to rest, or has not less than 20/200 vision with corrective lenses. T.C.A. § 55-21-102.

A disabled veteran or physically handicapped person displaying a certificate or special license plate is relieved "from liability for any violations with respect to parking" except parking in a designated fire lane or a lane required for morning or afternoon rush-hour traffic. T.C.A. § 55-21-106.

T.C.A. § 55-21-105 purports to regulate the number of accessible and van accessible disabled parking spaces that must be provided, along with certain dimensions for van accessible spots.

Any municipality, county, or metropolitan government may establish a special unit to enforce disabled parking laws and ordinances. Any person age 21 or older, regardless of disability status, may be appointed as a volunteer to enforce parking laws for the disabled. Members of the special enforcement unit must wear a distinctive piece of clothing, law enforcement insignia, and a badge while on duty. These provisions apply only in municipalities, counties, and metropolitan governments that adopt them by a two-thirds vote. T.C.A. § 55-21-110.

City Police Officers can write violations for handicap parking violations on either public property (city owned property) or private property (retail stores, businesses). See TCA 55-21-108(b). If the ticket is seeking the \$200 fine, that ticket should be written for general sessions jurisdiction as the fine will exceed the \$50 fine cap for municipal court as stated in the Tennessee Constitution.

Fees Prohibited For Disabled Parkers

T.C.A. § 55-21-105 prohibits a state, city, or county entity, or governmental agencies, from charging a parking fee for a vehicle who displays the handicapped placard or license plate when the disabled person is the driver or a passenger. This includes parking meters and government owned parking lots and parking garages.

It is important to note that this statute only exempts cities from charging fees for parking when the driver displays a handicap placard. Handicap placards do not exempt drivers from fines for illegal

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parking where no one should park. This includes loading zones, fire lanes, parking the wrong way on a street, or blocking intersections.

While the TCA 55-21-105(a) clearly says cities cannot charge fees for parking, when a person parks illegally, the city is well within its rights to charge fines. Fines are punitive measures to deter and punish improper behavior. Fees are charges assessed in cases for legal and permitted parking. Vehicles displaying handicap placards must still abide by the laws and ordinances governing parking.

Likewise, a disabled driver does not automatically get to park for free in a privately owned parking garage that charges all drivers a fee to park. These privately owned parking garages are commonly found in downtown Nashville, Memphis, Knoxville, and Chattanooga. These private garages are required to provide disabled parking spaces in compliance with the Americans with Disabilities Act, but the driver must still pay for these parking fees to the private company.

Stopping or Parking on Roadways

TCA 55-8-158 governs stopping and parking on roadways. This statute is a Class C Misdemeanor that is included in the Rules of the Road. City police can issue these violations within the jurisdiction of a municipal court.

No person should not stop, park, or leave a vehicle standing unattended or attended on a highway outside of a business or residential district, when it is practicable to stop, park, or leave vehicle off the highway, but in every event an unobstructed width of the highway opposite a standing vehicle of not less than eighteen feet (18') shall be left for the free passage of other vehicles, and a clear view of the stopped vehicle shall be available from a distance of two hundred feet (200') in each direction upon such highway. TCA 55-8-158(a).

There are exceptions in the statute where the vehicle is disabled, and it is impossible to avoid stopping and temporarily leaving the disabled vehicle in such a position. TCA 55-8-158(b)(1). Other exemptions include vehicles operating as a carrier of passengers for hire (like buses or limousines), solid waste vehicles and recycling vehicles. TCA 55-8-158(b)(2)-(4).

Lastly, no person shall stop, park or leave a vehicle upon any paved or unpaved entrance or exit ramp of a highway. There are exemptions if the vehicle is disabled on the entrance or exit ramp of a highway. But generally, you cannot park your vehicle on an entrance or exit ramp on a highway. TCA 55-8-158(c).

Authority of Police Department to Tow Vehicles Stopped or Parked on Roadway

Whenever a vehicle is stopped or parked on a roadway in violation of TCA 55-8-158, a police officer is authorized to move the vehicle, or require the driver or the other person in charge of the vehicle to move it, to a position off the paved or main traveled part of the highway. TCA 55-8-159(a).

If the police officer finds the vehicle unattended upon a bridge or causeway or in any tunnel, or on a highway, where the vehicle constitutes an obstruction to traffic, the officer is authorized to

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provide for the removal of that vehicle to the nearest garage or other place of safety, at the expense of the owner. TCA 55-8-159(b).

County and State parking rules and fire hydrants in city limits

TCA 55-8-160 details various parking regulations that apply “outside the limits of an incorporated municipality.” This “outside the limits of an incorporated municipality” allows for sheriff’s deputies and THP officers to enforce state parking laws where a county may or may not have any county specific rules governing parking.

As a result, most of TCA 55-8-160 does not apply to cities except for TCA 55-8-160(a)(4) which allows municipalities the authority to prohibit parking within 7.5 – 15 feet of a fire hydrant. Cities can incorporate this regulation into its code of ordinances and hear these violations in city court or other parking authority hearing. TCA 55-8-160(e) states violating this statute is a Class C Misdemeanor, giving cities authority to adopt this statute into its city code and allowing its city court proper jurisdiction.

Parking on both right and left side curbs and angled parking

Under TCA 55-8-161(a), the default rule is that cars parking near a curb must park on the right side of the street. This is to allow easier flow of traffic without the unnecessary risk of parking on the left side of the street and driving into on-coming traffic from the beginning.

However, many streets are one way and parking on both the left and right curbs is both safe and permitted. TCA 55-8-161(b) allows cities to pass an ordinance permitting the parking of vehicles with the left-hand wheels adjacent to and within eighteen inches (18”) of the left-hand curb of a one-way roadway. You will see this more commonly in larger, more densely populated cities, but the statute applies to all cities.

Additionally, TCA 55-8-161(c) allows cities to pass an ordinance permitting angled parking except that angle parking shall not be permitted on any federal aid or state highway, unless the department of transportation has determined that the roadway is of sufficient width to permit angle parking without interfering with the free movement of traffic. This type of parking is typically found in the downtown city centers.

Illegal parking; rented or leased vehicles

TCA 55-8-186 states that if a person rents or leases a vehicle and the driver parks that vehicle illegally, the owner of the vehicle (such as the rental car company) will not be liable if owner can furnish sworn evidence that the vehicle was, at the time of the parking violation, leased or rented to another person.

Subsequently, the owner of the vehicle shall, within thirty (30) days after notification of the parking violation, furnish to the appropriate court or law enforcement agency, the name, address, and driver license number of the person or company who leased or rented the vehicle. If the owner fails to provide the information within the thirty-day period, then the owner shall become personally liable for the violation.

Collections Agencies

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Cities are permitted to utilize collection agencies to collect unpaid parking tickets, but there are several steps involved.

TCA 6-54-513 requires the city to send a notification to the ticketed vehicle's owner of record informing the owner that it intends to turn these unpaid tickets over a collection agency.

The notification shall be sent by postal mail to the owner of record of such motor vehicle that such action will occur unless the owner pays the unpaid tickets within thirty (30) days from the date the letter is mailed to the owner. The municipality shall also include in the notification a statement that, if the ticket is forwarded to a collection agency for collection, the agency may notify the credit bureau or credit agency of such fact, which could affect the owner's credit rating.

Litigation tax on public parking violations

When a person pays a parking ticket to a city for improper parking on a city owned parking space, there is a \$1 state litigation tax on parking levied against the defendant. See TCA 16-18-305(b). This \$1 litigation tax is collected in lieu of the more common \$13.75 state litigation tax. It is important to note that for violations of municipal ordinances on parking, you collect the additional \$1 litigation tax, but not both litigation taxes.

If a driver illegally parks in a handicap space on private property (grocery store, shopping center, retail stores) those are state law violations under TCA 55-21-108. As such those citations will be handled in general sessions court and the general sessions court will apply the appropriate litigation tax, but that offense will not be a municipal ordinance violation heard in your court.

Towing vehicles illegally parked or prolonged immobility

TCA 55-16-104(a) allows a police department to "take into custody any motor vehicle found abandoned, immobile, unattended, or used in curbstoning on public or private property; provided, that any motor vehicle used in curbstoning on residential property may not be taken into custody unless the police department provides notice on the motor vehicle at least forty-eight (48) hours prior to the seizure.

TCA 55-16-104(b) states "a police department may employ its own personnel, equipment, and facilities or hire persons, equipment, and facilities for the purpose of removing, preserving, and storing motor vehicles that have been abandoned, immobile, unattended, or used in curbstoning."

TCA 55-16-111 states that a vehicle may not be towed without authorization by the owner of the vehicle until twelve (12) hours have elapsed since it was first observed to be immobile or unattended unless the vehicle is creating a hazard, blocking access to public or private property, or parked illegally.

While this paragraph applies to all public and private persons and entities, police officers can use this statute as authority to tow a vehicle if it is immobile.

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Traffic school for Commercial Drivers License holders; parking exemption

Generally speaking, CDL holders are not eligible for traffic school for moving vehicle violations. However, under TCA 55-10-301(c) and (d), the prohibition on traffic school does not apply for parking violations.

Use of Wheel Immobilizers

A municipality is authorized to regulate the commercial use of wheel immobilizers on motor vehicles. T.C.A. § 6-54-132. This is commonly referred to as “booting the car.”

Parking Authorities

In counties with a population of more than 50,000, a public corporation (designated a "Parking Authority") may be formed by the county or a city to construct and operate off-street parking facilities. The authority is under the control of a board of not fewer than five directors appointed by the mayor or county executive with the governing body's approval. A governing body may amend the certificate of incorporation by resolution. If bonds extend beyond an authority's duration, the municipality shall assume their obligations. Revenue bonds with up to 40-year terms may be issued and additionally secured by mortgages on facilities and on-street parking meter revenues. This act is not applicable in counties with a metropolitan form of government. T.C.A. §§ 7-65-101–124.