



CITY of NOVI CITY COUNCIL

Agenda Item E
August 11, 2008

SUBJECT: Consideration of Ordinance No. 08-90.02, an amendment to the Novi Code of Ordinances, Chapter 33, "Traffic and Motor Vehicles", Section 33-636, "Definitions", Section 33-637, "Spaces for Physically Limited Persons", in order to update language and definitions; and Section 33-638, "Courtesy in the Parking of a Vehicle", Section 33-639, "Free Parking in Metered Space or in Publicly Owned Parking Structure", Section 33-640, "Display Requirements", Section 33-641, "Misuse of Handicapped Parking Privileges", and Section 33-642, "Penalties", in order to be consistent with existing State Law. Second Reading

SUBMITTING DEPARTMENT: Police Department *DEM*

CITY MANAGER APPROVAL: *OK*

BACKGROUND INFORMATION:

Attached for City Council consideration is the proposed ordinance amending Chapter 33 of the City of Novi Code to be consistent with existing State Law. The City has requested that regulations be updated to more closely track the State Law provisions.

The Ordinance amends Chapter 33, Division 3, to parallel the State regulations regarding handicapped person parking as follows:

Section 33-636, "Definitions", is amended to amend the definition of "handicapped person", to change the terminology and to adopt by reference the State Law definition. The "parking area" definition is broadened to include more than just shopping centers. The definition of "special registration plates" also adopts by reference the State Law definition. The definition of "shopping center" is deleted.

Section 33-637, "Spaces for Physically Limited Persons", is amended to revise the terminology.

Section 33-638, "Courtesy in the Parking of a Vehicle", adopts the State Law courtesy to handicapped persons of exempting them from most parking regulations except for regulations designed to create a fire lane or to provide for traffic flow. The exemption also applies to persons transporting a handicapped person.

Section 33-639, "Free Parking in Metered Space or in Publicly Owned Parking Structure", is added to provide the free parking provisions of the State Law.

Section 33-640, "Display Requirements", is added to provide the display regulations of the State Law.

Section 33-641, "Misuse of Handicapped Parking Privileges" is added to provide the misdemeanor penalties for certain violations for misusing parking privileges reserved for handicapped persons. The maximum penalty is a \$500.00 fine and/or 30 days in jail.

Section 33-642, "Penalties", is added to provide civil infraction penalties for violations and provides confiscation remedies.

With the amendments and added provisions, the City's code will now reflect the State Law regulations related to handicapped person parking regulations. The Amendment was approved for the First Reading by City Council on July 28, 2008.

RECOMMENDED ACTION: Consideration of Ordinance No. 08-90.02, an amendment to the Novi Code of Ordinances, Chapter 33, "Traffic and Motor Vehicles", Section 33-636, "Definitions", Section 33-637, "Spaces for Physically Limited Persons", in order to update language and definitions; and Section 33-638, "Courtesy in the Parking of a Vehicle", Section 33-639, "Free Parking in Metered Space or in Publicly Owned Parking Structure", Section 33-640, "Display Requirements", Section 33-641, "Misuse of Handicapped Parking Privileges", and Section 33-642, "Penalties", in order to be consistent with existing State Law. Second Reading

	1	2	Y	N
Mayor Landry				
Mayor Pro Tem Capello				
Council Member Crawford				
Council Member Gatt				

	1	2	Y	N
Council Member Margolis				
Council Member Mutch				
Council Member Staudt				

Attorney's Letter



July 16, 2008

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Mayor Landry and City Council
City of Novi
45175 W. Ten Mile Road
Novi, MI 48375

Mark S. Roberts
Direct: 248-539-2815
mroberts@secretwardle.com

Re: *Revisions to Handicapped Person Parking Regulations*
Our File No. 55142 NOV

Dear Mayor and Council:

Attached are drafts of proposed ordinances to amend the current regulations related to handicapped person parking and parking permit regulations. The City had requested the regulations be updated to more closely track the state law provisions. The attached Ordinance 08-8.02 amends Chapter 22, "Offenses", Section 22-257, "Traffic Control Devices" and section 22-258, "Stopping, Standing, Parking Motor Vehicles". Ordinance 08-81.23 amends Chapter 33, "Traffic and Motor Vehicles", Section 33-42, "Handicapped Person" and Section 33-490, "Parking Prohibited in Specified Places". Finally, Ordinance 08-90.02 amends Chapter 33, Division 3, Section 33-636, "Definitions", Section 33-637, "Spaces for Physically Limited Persons", Section 33-638, "Courtesy in the Parking of a Vehicle", Section 33-639, "Free Parking in Metered Space or in Publicly Owned Parking Structure", Section 33-640, "Display Requirements", Section 33-641, "Misuse of Handicapped Parking Privileges" and Section 33-642, "Penalties". These ordinances address the instructions from the City, as explained below.

The amendment to Chapter 22 set forth in Ordinance 08-8.02 addresses a change in terminology. The existing ordinance uses the term "handicapper" in Section 22-257(a)(2) and Section 22-258(2). The amendment replaces this term with the term "handicapped person". No other changes were made to these sections.

The amendment to Chapter 33 in Ordinance 08-81.23 is a similar terminology change. The term "handicapper" is changed to "handicapped person" in Section 33-490(a)(19). An additional change is made in Article II, Division 1, "Words and Phrases Defined", Section 33-42, "Handicapped". Rather than defining the term, the section is amended to merely adopt by reference the definition found in the state statute, MCL §257.19a.

The amendments found in Ordinance 08-90.02 are more extensive. The Ordinance amends Chapter 33, Division 3, to parallel the state regulations regarding handicapped person parking. The amendments are as follows:

Section 33-636, "Definitions", is amended to amend the definitions of "handicapped persons" to change the terminology and to adopt by reference the state law definition. The "parking area" definition is broadened to include more than just shopping centers. The definition of "special registration plates" also adopts by reference the state law definition. The definition of "shopping center" is deleted.

Section 33-637, "Spaces for Physically Limited Persons", is amended to revise the terminology.

Section 33-638, "Courtesy in the Parking of a Vehicle", adopts the state law courtesy to handicapped persons of exempting them from most parking regulations except for regulations designed to create a fire lane or to provide for traffic flow. The exemption also applies to persons transporting a handicapped person.

Section 33-639, "Free Parking in Metered Space or in Publicly Owned Parking Structure", is added to provide the free parking provisions of the state law.

Section 33-640, "Display Requirements", is added to provide the display regulations of the state law.

Section 33-641, "Misuse of Handicapped Parking Privileges" is added to provide the misdemeanor penalties for certain violations for misusing parking privileges reserved for handicapped persons. The maximum penalty is a \$500.00 fine and/or 30 days in jail.

Section 33-642, "Penalties", is added to provide civil infraction penalties for violations and provides confiscation remedies.

With the amendments and added provisions, the City's code will now reflect the state law regulations related to handicapped person parking regulations.

We look forward to discussing the issue with Council. If you have any questions regarding the above, please do not hesitate to contact me.

Very truly yours,



Mark S. Roberts

MSR

Enclosure

cc: Clay Pearson, City Manager
Marianne Cornelius, City Clerk
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Strike-out Version

STATE OF MICHIGAN
COUNTY OF OAKLAND
CITY OF NOVI
ORDINANCE NO. 08-90.02

AN ORDINANCE TO AMEND THE CITY OF NOVI CODE OF ORDINANCES, CHAPTER 33, "TRAFFIC AND MOTOR VEHICLES", SECTION 33-636, "DEFINITIONS", SECTION 33-637, "SPACES FOR PHYSICALLY LIMITED PERSONS", IN ORDER TO UPDATE LANGUAGE AND DEFINITIONS; AND SECTION 33-638, "COURTESY IN THE PARKING OF A VEHICLE", SECTION 33-639, "FREE PARKING IN METERED SPACE OR IN PUBLICLY OWNED PARKING STRUCTURE", SECTION 33-640, "DISPLAY REQUIREMENTS", SECTION 33-641, "MISUSE OF HANCAPPED PARKING PRIVILEGES", AND SECTION 33-642, "PENALTIES", IN ORDER TO BE CONSISTENT WITH EXISTING STATE LAW.

THE CITY OF NOVI ORDAINS:

PART I

DIVISION 3. HANDICAPPED PERSON HANDICAPPERS PARKING

Sec. 33-636. Definitions.

The following words and phrases, when used in this division, shall, for the purposes of this division, have the meanings respectively ascribed to them in this section, except where the context clearly indicates a different meaning:

~~Handicapper~~ Handicapped person means a person who qualifies as a disabled person under Michigan Compiled Law (MCL) 257.19a. ~~has a physical characteristic categorized as a handicap, which limits ambulation or necessitates the use of a wheelchair for mobility, or a person who is blind.~~

Parking area shall mean all areas used for the parking of motor vehicles. ~~an area used by the public as a means of access to and egress from and for the parking of motor vehicles by patrons of a shopping center.~~

Special registration plates means a registration plate bearing the official international wheelchair symbol or a reasonable facsimile of the symbol and special identification numbers issued by the Secretary of State pursuant to MCL §257.803d or .803f.

~~Shopping center~~ shall mean ~~any parcel of land on which there is located one (1) or more stores or business establishments and where there is provided a parking area.~~

Sec. 33-637. Spaces for physically limited persons.

(a) No individual, copartnership, association, or corporation, or their lessees, trustees, agents, or assigns, shall operate or maintain a parking area unless said parking area provides spaces specifically designated for handicapped persons ~~handicappers~~ in compliance with the State Construction Code, promulgated pursuant to Act No. 230 of the Public Acts of 1972, being MCLA 125.1501, et seq. MSA 5.2949(1) et seq., as required by Section 2 of Act No. 1 of the Public Acts of 1966, as amended, being MCLA 125.1352;

MSA 3.447(122). This division is adopted pursuant to Act No. 235 of the Public Acts of 1969, as amended, being MCLA 257.942a; MSA 9.2642(1).

(b) Any existing parking area which does not conform to the requirements of subsection 33-637(a) shall be brought into compliance within thirty (30) days following the effective date of this division.

Sec. 33-638. Courtesy in the parking of a vehicle. ~~Violation as civil infraction; penalties~~

(a) A handicapped person with a certificate of identification, windshield placard, special registration plates issued, a certificate of identification or windshield placard from another state, or special registration plates from another state issued for persons with disabilities is entitled to courtesy in the parking of a vehicle. The courtesy shall relieve the handicapped person or the person transporting the handicapped person from liability for a violation with respect to parking, other than in areas that prohibit parking on a street or highway to create a fire lane or to provide for the accommodation of heavy traffic during morning and afternoon rush hours, the privileges extending to veterans and physically handicapped persons under this subsection do not supersede these parking regulations.

(b) A certificate or placard described in this section may be used by a person other than the handicapped person for the sole purpose of transporting the handicapped person. An organization that provides specialized services to handicapped persons may apply for and receive a permanent windshield placard to be used in any motor vehicle actually transporting a handicapped person. If the organization ceases to transport handicapped persons, the placard shall be returned to the secretary of state for cancellation and destruction.

~~A person who violates any provision of this division is responsible for a civil infraction. Such civil infraction shall be processed in accordance with the procedures set forth in Section 741 to 750, Michigan Vehicle Code, Act No. 300 of the Public Acts of Michigan of 1949. Every person found to have committed a civil infraction under this division shall be ordered to pay a civil fine of not more than one hundred dollars (\$100.00) and costs, in accordance with Section 907 of the Michigan Vehicle Code.~~

Sec. 33-639. Free parking in metered space or in publicly owned parking structure.

(a) To be entitled to free parking in a metered space or in a publicly owned parking structure or area, a vehicle must properly display 1 of the following:

- (1) A windshield placard bearing a free parking sticker issued pursuant to this act;
- (2) A valid certificate of identification issued before October 1, 1994;
- (3) A valid windshield placard issued by another state;
- (4) A certificate of identification issued by another state;
- (5) A license plate for persons with disabilities issued by another state;
- (6) A special registration plate with a tab for persons with disabilities attached issued by another state.

(b) A vehicle that does not properly display 1 of the items listed in subsection (a) is not entitled to free parking in a metered parking space or in a publicly owned parking area or structure and the handicapped person or vehicle operator shall pay all parking fees.

Sec. 33-640. Display requirements.

(a) A windshield placard issued under this section shall be displayed on the interior rearview mirror of the vehicle or, if there is no interior rearview mirror, on the lower left

corner of the dashboard while the vehicle is parked or being parked by or under the direction of a handicapped person pursuant to this section. A certificate of identification issued before February 11, 1992 shall be displayed on the lower left corner of the dashboard of the parked vehicle.

(b) A windshield placard issued to a handicapped person shall bear the first letter and the last 3 digits of the disabled person's driver's or chauffeur's license number or the first letter and the last 4 digits of the number on his or her official state personal identification card issued under 1972 PA 222, MCL 28.291 to 28.300.

Sec. 33-641. Misuse of handicapped parking privileges.

A person who commits or attempts to commit a deception or fraud by 1 or more of the following methods is guilty of a misdemeanor punishable by a fine of not more than \$500.00 or imprisonment for not more than 30 days or both:

(a) Using a certificate of identification, windshield placard or free parking sticker issued under this section or by another state to provide transportation to a handicapped person, when the person is not providing transportation to a handicapped person;

(b) Altering, modifying or selling a certificate of identification, windshield placard or free parking sticker issued under this section or by another state;

(c) Copying or forging a certificate of identification, windshield placard or free parking sticker described in this section or selling a copied or forged certificate, placard or sticker described in this section. In the case of a violation of this subdivision, the fine described in this subsection shall be not less than \$250.00;

(d) Using a copied or forged certificate of identification, windshield placard or free parking sticker described in this section;

(e) Knowingly using or displaying a certificate, placard or sticker described in this section that has been canceled by the Secretary of State.

Sec. 33-642. Penalties.

(a) Except as otherwise provided in Section 33-641, a person who violates this section is responsible for a civil infraction. Such civil infraction shall be processed in accordance with the procedures set forth in Section 741 to 750, Michigan Vehicle Code, Act No. 300 of the Public Acts of Michigan of 1949. Every person found to have committed a civil infraction under this division shall be ordered to pay a civil fine of not more than one hundred dollars (\$100.00) and costs, in accordance with Section 907 of the Michigan Vehicle Code.

(b) Upon conviction of an offense involving a violation of the special privileges conferred upon a holder of a certificate of identification, windshield placard or free parking sticker, a magistrate or judge trying the case, as a part of any penalty imposed, may confiscate the serially numbered certificate of identification, windshield placard or free parking sticker and return the confiscated item or items to the Secretary of State together with a certified copy of the sentence imposed. Upon receipt of a certificate of identification, windshield placard or free parking sticker from a judge or magistrate, the Secretary of State shall cancel and destroy the certificate, placard or sticker and the handicapped person to whom it was issued shall not receive another certificate, placard, or sticker until he or she submits a completed application and presents a current medical statement attesting to his or her condition.

(c) A law enforcement officer who observes a misuse of a certificate of identification, windshield placard or free parking sticker may immediately confiscate the certificate, placard or sticker and forward it with a copy of his or her report to the Secretary of State.

Secs. 33-643--33-655. Reserved.

PART II

Severability. Should any section, subdivision, clause, or phrase of this Ordinance be declared by the courts to be invalid, the validity of the Ordinance as a whole, or in part, shall not be affected other than the part invalidated.

PART III

Savings Clause. The amendment of the Novi Code of Ordinances set forth in this Ordinance does not affect or impair any act done, offense committed, or right accruing, accrued, or acquired or liability, penalty, forfeiture or punishment, pending or incurred prior to the amendment of the Novi Code of Ordinances set forth in this Ordinance.

PART IV

Repealer. All other Ordinances or parts of Ordinances in conflict herewith are hereby repealed only to the extent necessary to give this Ordinance full force and effect.

PART V

Effective Date: Publication. The provisions of this Ordinance shall become effective fifteen (15) days after its adoption and shall be published within 15 days of its adoption by publication of a brief notice in a newspaper circulated in the City, stating the date of enactment and the effective date of the ordinance, a brief statement as to the subject matter of this Ordinance and such other facts as the Clerk shall deem pertinent, and that a copy of the Ordinance is available for public use and inspection at the office of the City Clerk.

Made, Passed and Adopted by the Novi City Council this ___ day of ____, 2008.

David B. Landry, Mayor

Maryanne Cornelius, City Clerk

Certificate of Adoption

I hereby certify that the foregoing is a true and complete copy of the ordinance adopted at the regular meeting of the Novi City Council held on the ___ day of ____, 2008.

Maryanne Cornelius, City Clerk

Adopted:
Published:
Effective:

Clean Version

STATE OF MICHIGAN
COUNTY OF OAKLAND
CITY OF NOVI
ORDINANCE NO. 08-90.02

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(b) Any existing parking area which does not conform to the requirements of subsection 33-637(a) shall be brought into compliance within thirty (30) days following the effective date of this division.

Sec. 33-638. Courtesy in the parking of a vehicle.

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(b) A certificate or placard described in this section may be used by a person other than the handicapped person for the sole purpose of transporting the handicapped person. An organization that provides specialized services to handicapped persons may apply for and receive a permanent windshield placard to be used in any motor vehicle actually transporting a handicapped person. If the organization ceases to transport handicapped persons, the placard shall be returned to the Secretary of State for cancellation and destruction.

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- (4) A certificate of identification issued by another state;
- (5) A license plate for persons with disabilities issued by another state;
- (6) A special registration plate with a tab for persons with disabilities attached issued by another state.

(b) A vehicle that does not properly display 1 of the items listed in subsection (a) is not entitled to free parking in a metered parking space or in a publicly owned parking area or structure and the handicapped person or vehicle operator shall pay all parking fees.

Sec. 33-640. Display requirements.

(a) A windshield placard issued under this section shall be displayed on the interior rearview mirror of the vehicle or if there is no interior rearview mirror, on the lower left corner of the dashboard while the vehicle is parked or being parked by or under the direction of a handicapped person pursuant to this section. A certificate of identification issued before February 11, 1992 shall be displayed on the lower left corner of the dashboard of the parked vehicle.

(b) A windshield placard issued to a handicapped person shall bear the first letter and the last 3 digits of the disabled person's driver's or chauffeur's license number or the first letter and the last 4 digits of the number on his or her official state personal identification card issued under 1972 PA 222, MCL 28.291 to 28.300.

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A person who commits or attempts to commit a deception or fraud by 1 or more of the following methods is guilty of a misdemeanor punishable by a fine of not more than \$500.00 or imprisonment for not more than 30 days, or both:

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- person, when the person is not providing transportation to a handicapped person;
- (b) Altering, modifying or selling a certificate of identification, windshield placard or free parking sticker issued under this section or by another state;
 - (c) Copying or forging a certificate of identification, windshield placard or free parking sticker described in this section or selling a copied or forged certificate, placard or sticker described in this section. In the case of a violation of this subdivision, the fine described in this subsection shall be not less than \$250.00;
 - (d) Using a copied or forged certificate of identification, windshield placard or free parking sticker described in this section;
 - (e) Knowingly using or displaying a certificate, placard or sticker described in this section that has been canceled by the Secretary of State.

Sec. 33-642. Penalties.

- (a) Except as otherwise provided in Section 33-641, a person who violates this section is responsible for a civil infraction. Such civil infraction shall be processed in accordance with the procedures set forth in Section 741 to 750, Michigan Vehicle Code, Act No. 300 of the Public Acts of Michigan of 1949. Every person found to have committed a civil infraction under this division shall be ordered to pay a civil fine of not more than one hundred dollars (\$100.00) and costs, in accordance with Section 907 of the Michigan Vehicle Code.
- (b) Upon conviction of an offense involving a violation of the special privileges conferred upon a holder of a certificate of identification, windshield placard or free parking sticker, a magistrate or judge trying the case, as a part of any penalty imposed, may confiscate the serially numbered certificate of identification, windshield placard or free parking sticker and return the confiscated item or items to the Secretary of State together with a certified copy of the sentence imposed. Upon receipt of a certificate of identification, windshield placard or free parking sticker from a judge or magistrate, the Secretary of State shall cancel and destroy the certificate, placard or sticker and the handicapped person to whom it was issued shall not receive another certificate, placard or sticker until he or she submits a completed application and presents a current medical statement attesting to his or her condition.
- (c) A law enforcement officer who observes a misuse of a certificate of identification, windshield placard or free parking sticker may immediately confiscate the certificate, placard or sticker and forward it with a copy of his or her report to the Secretary of State.

Secs. 33-643--33-655. Reserved.

PART II

Severability. Should any section, subdivision, clause, or phrase of this Ordinance be declared by the courts to be invalid, the validity of the Ordinance as a whole, or in part, shall not be affected other than the part invalidated.

PART III

Savings Clause. The amendment of the Novi Code of Ordinances set forth in this Ordinance does not affect or impair any act done, offense committed, or right accruing, accrued, or acquired or liability, penalty, forfeiture or punishment, pending or incurred prior to the amendment of the Novi Code of Ordinances set forth in this Ordinance.

PART IV

Repealer. All other Ordinances or parts of Ordinances in conflict herewith are hereby repealed only to the extent necessary to give this Ordinance full force and effect.

PART V

Effective Date: Publication. The provisions of this Ordinance shall become effective fifteen (15) days after its adoption and shall be published within 15 days of its adoption by publication of a brief notice in a newspaper circulated in the City, stating the date of enactment and the effective date of the ordinance, a brief statement as to the subject matter of this Ordinance and such other facts as the Clerk shall deem pertinent, and that a copy of the Ordinance is available for public use and inspection at the office of the City Clerk.

Made, Passed and Adopted by the Novi City Council this ____ day of ____, 2008.

David B. Landry, Mayor

Maryanne Cornelius, City Clerk

Certificate of Adoption

I hereby certify that the foregoing is a true and complete copy of the ordinance adopted at the regular meeting of the Novi City Council held on the ____ day of ____, 2008.

Maryanne Cornelius, City Clerk

Adopted:
Published:
Effective: