

MEMO

TO: GREGG GUETSCHOW, CITY MANAGER

FROM: THOMAS M. HITCH, CITY ATTORNEY

RE: PEDESTRIANS IN CROSSWALKS NOT LOCATED AT INTERSECTIONS

DATE: June 4, 2019

The purpose of this memorandum is to review state law and propose a local ordinance relative to enhancing pedestrian safety and convenience by providing for crosswalks on various streets within the City of Charlotte. The DDA has sought an ordinance change to provide for pedestrian crosswalks at locations other than intersections to promote the “walkability” within the downtown development area. This memo will set out the requirements to enable the establishment of such pedestrian crosswalks and set forth the procedure for implementing a proposed ordinance.

I. STATE LAW

The traffic regulations of the state are set forth in the Michigan Motor Vehicle Code and the Uniform Traffic Code. In Michigan, local jurisdictions that choose to have their own ordinance can maintain a separate ordinance if that ordinance is substantially identical to the Michigan Motor Vehicle Code. Local communities are free to adopt those portions of the Uniform Traffic Code as they so desire.

The Michigan Motor Vehicle Code sets forth several sections that bear directly upon the issues relating to the establishment of nonintersection crosswalks. At MCL 257.608, the State Transportation Department and the Department of State Police are obligated to adopt a manual of specifications for a uniform system of traffic control devices consistent with the provisions of Michigan law, and shall correlate within and so far as possible conform to the manual as approved by the United States Department of Transportation. As it relates to the placement of traffic control devices by local authorities, MCL 257.610 provides in pertinent part:

“Sec. 610. (1) Local authorities and county road commissions in their respective jurisdictions shall place and maintain the traffic control devices upon highways under their jurisdiction that they consider necessary to indicate and to carry out the provisions of this chapter or local traffic ordinances or to regulate, warn, or guide traffic. All traffic control devices shall conform to the Michigan manual on uniform traffic control devices.”

Under the aforementioned statute, the City is obligated to conform with the Michigan manual on uniform traffic control devices.

The Michigan Motor Vehicle Code makes it unlawful to disobey traffic control devices. At MCL 257.611, it is provided, in part:

“Sec. 611. (1) The driver of a vehicle or operator of a streetcar shall not disobey the instructions of a traffic control device placed in accordance with this chapter unless at the time otherwise directed by a police officer.”

Finally, for purposes of this memo, state law requires that when placing traffic control devices along state trunk lines, approval from the State of Michigan must first be obtained. At MCL 257.609, it is provided in pertinent part:

“Sec. 609. (2) A local authority shall not place or maintain a traffic control device upon a trunk line highway under the jurisdiction of the state transportation department, except by the latter’s permission, or upon a county road without the permission of the county road commission having jurisdiction over that road...”

The City is without authority to place a traffic control device, such as pedestrian crosswalk signage, without the prior approval of the State Transportation Department. It is my understanding that the City intends to have these pedestrian crosswalks on Cochran and Lawrence, as well as other local roads. No permission is required from the State of Michigan as to any of the local streets of the City. We must, however, obtain permission for Cochran and Lawrence nonintersection crosswalks.

II. MICHIGAN MANUAL ON UNIFORM TRAFFIC CONTROL DEVICES

Attached to this memo are the relevant provisions of the Michigan manual on uniform traffic control devices for pedestrian crosswalks. This provides the requirements regarding the placement and utilization for the unsignalized pedestrian crosswalks. As can be seen, this provides the signs that the DDA has been reviewing. There are several standards and supplemental explanations. It does indicate that the in-street pedestrian crossing signs and overhead pedestrian crossing signs may be used in the same crosswalk. I was unsure whether the DDA had obtained copies of this set of provisions as it related to these pedestrian crosswalk signs. I have confirmed that these are the latest additions and include any changes made in 2017 by the State of Michigan, the last year in which changes were made. The last edition prepared by the US Department of Transportation was in 2009.

III. TRAFFIC CONTROL ORDER AND PROPOSED ORDINANCE

As part of its ordinances, the City has adopted the Uniform Traffic Code. The Chief of Police is designated, by default, as the traffic engineer for the City. I am sure the Chief is well aware of the form of traffic orders so I will not belabor that point. As noted above, before proceeding, the traffic order needs to be approved by the State Highway Department as it relates to those pedestrian crosswalks on Cochran and Lawrence. I have not contacted the Department of Transportation regarding this issue. I am sure there is a process and certain requirements, such as setting up the exact location for the crosswalks and information regarding the proposed signage. Please advise if you would like me to take further steps in contacting the State Highway Department regarding this issue.

As it relates to an ordinance, attached to this memo is a proposed ordinance. I have reviewed samples, in addition to the sample that you provided from the City of Kalamazoo. It is my recommendation that the changes be set forth in Section 66-102, *Changes in Code*, which are the local changes of the City of Charlotte to the Uniform Traffic Code. These clarifications make it clear that the pedestrian has the right-of-way for any marked crosswalk, or unmarked crosswalk at an intersection. The proposed sections are 28.1702, 28.1706 and 28.1708, located at pages 15 and 16 of the proposed ordinance.

You should also note that I have included bicyclists in the proposed new sections. Bicyclists were included in the ordinance from Kalamazoo that Bryan Myrkle sent me and I believe that it is within the "spirit" of walkability.

With this information, hopefully the DDA can move forward with this proposal, which would trigger the request by the Chief of Police to establish traffic control orders on all local streets, and begin the process as it relates to the crosswalks on Cochran and Lawrence.

TMH:ddy
Enc.

Introduced:
Adopted:
Effective:

CITY OF CHARLOTTE

ORDINANCE NO. ____

AN ORDINANCE TO AMEND SECTION 66-102, CHANGES IN CODE BY AMENDING R28.1702, R28.1706 AND R28.1708 OF THE UNIFORM TRAFFIC CODE WITHIN THE CITY OF CHARLOTTE.

Councilmember _____ moved the following:

THE CITY OF CHARLOTTE ORDAINS:

1. Section 66-102, *Changes in Code*, shall be amended by revising R28.1702, Rule 702, R28.1706, Rule 706, and R28.1708, Rule 708, which code sections shall read as follows:

§ 66-102 CHANGES IN CODE.

The following sections and subsections of the Uniform Traffic Code adopted in this article are hereby amended or deleted as set forth in this section, and additional sections and subsections are added as indicated. Subsequent section numbers used in this article shall refer to the like-numbered section of the Uniform Traffic Code.

Section 28.1103 is added to read as follows:

Sec. 28.1103. Authority of firefighters directing traffic. Members of the fire department, when at the scene of a fire or in the immediate vicinity thereof, or in the immediate vicinity of the fire station, may direct or assist police in directing traffic.

Section 28.1160 is added to read as follows:

Sec. 28.1160. Reports of stolen and recovered vehicles. A police agency, upon receiving reliable information that any vehicle registered under this act has been stolen, shall immediately report the theft through the law enforcement information network. Upon receiving information that a vehicle previously reported as stolen has been recovered, the police agency shall immediately report the fact of the recovery through the law enforcement information network.

Section 28.1160a is added to read as follows:

Sec. 28.1160a. Abandoned vehicle procedures.

(1) As used in this section, "abandoned vehicle" means a vehicle which has remained on public property or private property for a period of 48 hours after a police agency or other governmental agency designated by the police agency has affixed a written notice to the vehicle.

(2) If a vehicle has remained on public or private property for a period of time so that it appears to the police agency to be abandoned, the police agency shall do all of the following:

(a) Determine if the vehicle has been reported stolen.

(b) Affix a written notice to the vehicle. The written notice shall contain the following information:

(i) The date and time the notice was affixed.

(ii) The name and address of the police agency taking the action.

(iii) The name and badge number of the police officer affixing the notice.

(iv) The date and time the vehicle may be taken into custody and stored at the owner's expense or scrapped if the vehicle is not removed.

(v) The year, make, and vehicle identification number of the vehicle, if available.

(3) If the vehicle is not removed within 48 hours after the date the notice was affixed, the vehicle is deemed abandoned and the police agency may have the vehicle taken into custody.

(4) A police agency which has a vehicle taken into custody shall do all of the following:

(a) Recheck to determine if the vehicle has been reported stolen.

(b) Within 24 hours after taking the vehicle into custody, enter the vehicle as abandoned into the law enforcement information network.

(c) Within seven days after taking the vehicle into custody, send to the registered owner and secured party, as shown by the records of the secretary of state, by first class mail or personal service, notice that the vehicle has been deemed abandoned. The form for the notice shall be furnished by the secretary of state. Each notice form shall contain the following information:

(i) The year, make, and vehicle identification number of the vehicle if available.

(ii) The location from which the vehicle was taken into custody.

(iii) The date on which the vehicle was taken into custody.

(iv) The name and address of the police agency which had the vehicle taken into custody.

(v) The business address of the custodian of the vehicle.

(vi) The procedure to redeem the vehicle.

(vii) The procedure to contest the fact that the vehicle has been deemed abandoned or the reasonableness of the towing fees and daily storage fees.

(viii) A form petition which the owner may file in person or by mail with the specified court which requests a hearing on the police agency's action.

(ix) A warning that the failure to redeem the vehicle or to request a hearing, within 20 days after the date of the notice, may result in the sale of the vehicle and the termination of all rights of the owner and the secured party to the vehicle or the proceeds of the sale.

(5) The registered owner may contest the fact that the vehicle has been deemed abandoned or the reasonableness of the towing fees and daily storage fees by requesting a hearing. A request for a hearing shall be made by filing a petition with the court specified in the notice within 20 days after the date of the notice.

If the owner requests a hearing, the matter shall be resolved after a hearing conducted pursuant to sections 28.1160e and 28.1160f. An owner who requests a hearing may obtain release of the vehicle by posting a towing and storage bond in an amount equal to the accrued towing and storage fees with the court. The owner of a vehicle who requests a hearing may obtain release of the vehicle by paying the towing and storage fees instead of posting the towing and storage bond. If the court finds that the vehicle was not properly deemed abandoned, the police agency shall reimburse the owner of the vehicle for the accrued towing and storage fees.

(6) If the owner does not request a hearing, he or she may obtain the release of the vehicle by paying the accrued charges to the custodian of the vehicle.

(7) If the owner does not redeem the vehicle or request a hearing within 20 days after the date of the notice, the secured party may obtain the release of the vehicle by paying the accrued charges to the custodian of the vehicle and the police agency for its accrued costs.

(8) Not less than 20 days after the disposition of the hearing described in subsection (5) or, if a hearing is not requested, not less than 20 days after the date of the notice, the police agency shall offer the vehicle for sale at a public sale pursuant to section 28.1160g.

(9) If the ownership of a vehicle which has been deemed abandoned under this section cannot be determined, either because of the condition of the vehicle identification numbers or because a check with the records of the secretary of state does not reveal ownership, the police agency may sell the vehicle at public sale pursuant to section 28.1160g, not less than 30 days after public notice of the sale has been published.

Section 28.1160b is added to read as follows:

Sec. 28.1160b. Abandoned scrap vehicle procedures.

(1) As used in this section:

(a) "Registered abandoned scrap vehicle" means a vehicle which meets all of the following

requirements:

(i) Is on public or private property.

(ii) Is seven or more years old.

(iii) Is apparently inoperable or is extensively damaged, to the extent that the cost of repairing the vehicle so that it is operational and safe, as required by section 683, would exceed the fair market value of that vehicle.

(iv) Is currently registered in the State of Michigan or displays current year registration plates from another state.

(v) Is not removed within 48 hours after a written notice, as described in section 28.1160a(2)(h), is affixed to the vehicle.

(b) "Unregistered abandoned scrap vehicle" means a vehicle which meets all of the following requirements:

(i) Is on public or private property.

(ii) Is seven or more years old.

(iii) Is apparently inoperable or is extensively damaged, to the extent that the cost of repairing the vehicle so that it is operational and safe, as required by section 683, would exceed the fair market value of that vehicle.

(iv) Is not currently registered in this state and does not display current year registration plates from another state.

(v) Is not removed within 48 hours after a written notice, as described in section 28.1160a(2)(b), is affixed to the vehicle.

(2) A police agency may have an unregistered abandoned scrap vehicle taken into custody, in which case the police agency shall do all of the following:

(a) Determine if the vehicle has been reported stolen.

(b) Take two photographs of the vehicle.

(c) Make a report to substantiate the vehicle as an unregistered abandoned scrap vehicle. The report shall contain the following information:

(i) The year, make, and vehicle identification number if available.

(ii) The date of abandonment.

(iii) The location of abandonment.

(iv) A detailed listing of the damage or the missing equipment.

(v) The reporting officer's name and title.

(vi) The location where the vehicle is being held.

(d) Within 24 hours after taking the vehicle into custody, enter the vehicle into the law enforcement information network.

(3) Within 24 hours, excluding Saturday, Sunday, and legal holidays, after taking the vehicle into custody, the police agency shall complete a release form and release the vehicle to the towing service or a used vehicle parts dealer or vehicle scrap metal processor, who shall then transmit that release form to the secretary of state and apply for a certificate of the title or a certificate of scrapping. Upon receipt of the release form and application, the secretary of state shall issue a certificate of title or a certificate of scrapping.

(4) The release form described in subsection (3) shall be furnished by the secretary of state and shall include a certification executed by the applicable police agency when the abandoned scrap vehicle is released. The certification shall state that the police agency has complied with all the requirements of subsection (2)(b) and (c).

(5) The secretary of state shall retain the records relating to an abandoned scrap vehicle for not less than two years. The two photographs taken pursuant to subsection (2)(b) shall be retained by the police agency for not less than two years. After the certificate of scrapping has been issued, a certificate of title for the vehicle shall not be issued again.

(6) A police agency may have a registered abandoned scrap vehicle taken into custody, in which case the police agency shall do all of the following:

(a) Determine if the vehicle has been stolen.

(b) Take two photographs of the vehicle.

(c) Make a report to substantiate the vehicle as a registered abandoned scrap vehicle. The report shall contain the following information:

(i) The year, make, and vehicle identification number if available.

(ii) The date of abandonment.

(iii) The location of abandonment.

(iv) A detailed listing of the damage or the missing equipment.

(v) The reporting officer's name and title.

(vi) The location where the vehicle is being held.

(d) Within 24 hours after taking the vehicle into custody, enter the vehicle into the law enforcement information network.

(e) Within seven days after taking the vehicle into custody, send to the registered owner and secured party, as shown by the records of the secretary of state, by first class mail or personal service, notice that the vehicle has been deemed abandoned. The form for the notice shall be furnished by the secretary of state. Each notice form shall contain the following information:

(i) The year, make, and vehicle identification number of the vehicle if available.

(ii) The location from which the vehicle was taken into custody.

(iii) The date on which the vehicle was taken into custody.

(iv) The name and address of the police agency which had the vehicle taken into custody.

(v) The business address of the custodian of the vehicle.

(vi) The procedure to redeem the vehicle.

(vii) The procedure to contest the fact that the vehicle has been deemed abandoned or the reasonableness of the towing fees and daily storage fees.

(viii) A form petition which the owner may file in person or by mail with the specified court which requests a hearing on the police agency's action.

(ix) A warning that the failure to redeem the vehicle or to request a hearing, within 20 days after the date of the notice, may result in the termination of all rights of the owner and the secured party to the vehicle.

(7) The registered owner of a registered abandoned scrap vehicle may contest the fact that the vehicle has been deemed abandoned or the reasonableness of the towing fees and daily storage fees by requesting a hearing. A request for a hearing shall be made by filing a petition, with the court specified in the notice, within 20 days after the date of the notice. If the owner requests a hearing, the matter shall be resolved after a hearing conducted pursuant to sections 28.1160e and 28.1160f. An owner who requests a hearing may obtain release of the vehicle by posting a towing and storage bond with the court, in an amount as determined by the court. The owner of a vehicle who requests a hearing may obtain release of the vehicle by paying the towing and storage fees instead of posting the towing and storage bond. If the court finds that the vehicle was not properly deemed abandoned, the police agency shall reimburse the owner of the vehicle for the accrued towing and storage fees.

(8) If the owner does not request a hearing, he or she may obtain the release of the vehicle by paying the accrued charges to the custodian of the vehicle.

(9) If the owner does not redeem the vehicle or request a hearing within 20 days after the date of the notice, the secured party may obtain the release of the vehicle by paying the accrued charges

to the custodian of the vehicle.

(10) Not less than 20 days after the disposition of the hearing described in subsection (7), or if a hearing is not requested, not less than 20 days after the date of the notice described in subsection (6)(e), the police agency shall follow the procedures established in subsections (3) to (5).

Section 28.1160c is added to read as follows:

Sec. 28.1160c. Vehicle removed from private property.

(1) When a vehicle is removed from private property at the direction of a person other than the registered owner of the vehicle or a police agency, the custodian of the vehicle immediately shall notify the police agency from whose jurisdiction the vehicle was towed. The custodian shall supply that information which is necessary for the police agency to enter the vehicle into the law enforcement information network.

(2) Upon receipt of the notification described in subsection (1), the police agency immediately shall do all of the following:

(a) Determine if the vehicle has been reported stolen.

(b) Enter the vehicle into the law enforcement information network.

(3) The owner of the vehicle removed as described in subsection (1) may obtain release of the vehicle by paying the accrued towing and storage fees to the custodian of the vehicle. Upon release of the vehicle, the custodian shall notify the police agency of the disposition of the vehicle.

(4) If the vehicle described in subsection (1) is not claimed by the owner within seven days after the police agency has been notified by the custodian that it has been taken into custody, the vehicle is deemed abandoned and the procedures prescribed in section 28.1160a(4)(c) to (9) shall apply.

Section 28.1160d is added to read as follows:

Sec. 28.1160d. Vehicle removed by police.

(1) A police agency or a governmental agency designated by the police agency may provide for the immediate removal of a vehicle from public or private property to a place of safekeeping, at the expense of the registered owner of the vehicle, in any of the following circumstances:

(a) If the vehicle is in such a condition that the continued operation of the vehicle upon the highway would constitute an immediate hazard to the public.

(b) If the vehicle is parked or standing upon the highway in such a manner as to create an immediate public hazard or an obstruction of traffic.

(c) If a vehicle is parked in a posted towaway zone.

- (d) If there is reasonable cause to believe that the vehicle or any part of the vehicle is stolen.
 - (e) If the vehicle must be seized to preserve evidence of a crime, or when there is reasonable cause to believe that the vehicle was used in the commission of a crime.
 - (f) If removal is necessary in the interest of public safety because of fire, flood, storm, snow, natural or manmade disaster, or other emergency.
 - (g) If the vehicle is hampering the use of private property by the owner or person in charge of that property or is parked in a manner which impedes the movement of another vehicle.
 - (h) If the vehicle is stopped, standing, or parked in a space designated for handicapped parking and is not permitted by law to be stopped, standing, or parked in a space designated for handicapped parking.
 - (i) If the owner of a vehicle or trailer has received and failed to answer six or more parking notices or citations, the vehicle may be impounded or immobilized and not released to owner until all fines, costs and towing charges associated with the parking violation have been paid.
- (2) A police agency which authorizes the removal of a vehicle under subsection (1) shall do all of the following:
- (a) Check to determine if the vehicle has been reported stolen.
 - (b) Within 24 hours after removing the vehicle, enter the vehicle into the law enforcement information network if the vehicle has not been redeemed. This subsection does not apply to a vehicle that is removed from the scene of a motor vehicle traffic accident.
 - (c) If the vehicle has not been redeemed within ten days after moving the vehicle, send to the registered owner and the secured party, as shown by the records of the secretary of state, by first class mail or personal service, a notice that the vehicle has been removed; however, if the police agency informs the owner or operator of the vehicle of the removal and the location of the vehicle within 24 hours after the removal, and if the vehicle has not been redeemed within 30 days and upon complaint from the towing service, the police agency shall send the notice within 30 days after the removal. The notice shall be by a form furnished by the secretary of state. The notice form shall contain the following information:
 - (i) The year, make, and vehicle identification number of the vehicle.
 - (ii) The location from which the vehicle was taken into custody.
 - (iii) The date on which the vehicle was taken into custody.
 - (iv) The name and address of the police agency which had the vehicle taken into custody.
 - (v) The location where the vehicle is being held.
 - (vi) The procedure vehicle.

(vii) The procedure to contest the fact that the vehicle was properly removed or the reasonableness of the towing and daily storage fees.

(viii) A form petition which the owner may file in person or by mail with the specified court which requests a hearing on the police agency's action.

(ix) A warning that the failure to redeem the vehicle or to request a hearing, within 20 days after the date of the notice, may result in the sale of the vehicle and the termination of all rights of the owner and the secured party to the vehicle or the proceeds of the sale, or to both the vehicle and the proceeds.

(3) The registered owner may contest the fact that the vehicle was properly removed or the reasonableness of the towing fees and daily storage fees by requesting a hearing. A request for a hearing shall be made by filing a petition, with the court specified in the notice, within 20 days after the date of the notice. If the owner requests a hearing, the matter shall be resolved after a hearing conducted pursuant to sections 28.1160e and 28.1160f. An owner who requests a hearing may obtain release of the vehicle by posting a towing and storage bond with the court in an amount equal to the accrued towing and storage fees. The owner of a vehicle who requests a hearing may obtain release of the vehicle by paying the towing and storage fees instead of posting the towing and storage bond. If the court finds that the vehicle was not properly removed, the police agency shall reimburse the owner of the vehicle for the accrued towing and storage fees.

(4) If the owner does not request a hearing, he or she may obtain the release of the vehicle by paying the accrued charges to the custodian of the vehicle.

(5) If the owner does not redeem the vehicle or request a hearing within 20 days, the secured party may obtain the release of the vehicle by paying the accrued charges to the custodian of the vehicle prior to the date of the sale.

(6) Not less than 20 days after the disposition of the hearing described in subsection (3), or if a hearing is not requested, not less than 20 days after the date of the notice described in subsection (2)(c), the police agency shall offer the vehicle for sale at a public sale unless the vehicle is redeemed. The public sale shall be held pursuant to section 28.1160g.

(7) If the ownership of a vehicle which has been removed under this section cannot be determined, either because of the condition of the vehicle identification numbers or because a check with the records of the secretary of state does not reveal ownership, the police agency may sell the vehicle at public sale pursuant to section 28.1160g, not less than 30 days after public notice of the sale has been published.

Section 28.1160e is added to read as follows:

Sec. 28.1160e. Abandoned vehicle, jurisdiction of court.

(1) The following courts shall have jurisdiction to determine if a police agency has acted properly

in processing a vehicle under section 28.1160a, 28.1160b(6) to (10), 28.1160c, or 28.1160d:

(a) The district court.

(b) A municipal court.

(c) The common pleas court of the City of Detroit.

(2) The court specified in the notice prescribed in section 28.1160a(4)(c), 28.1160b(6), 28.1160c(4), or 28.1160d(2)(c) shall be the court which has territorial jurisdiction at the location from where the vehicle was removed or deemed abandoned.

(3) If the owner fails to pay the accrued towing and storage fees, the towing and storage bond posted with the court to secure release of the vehicle under section 28.1160a, 28.1160b, 28.1160c, or 28.1160d shall be used to pay the towing and storage fees.

Section 28.1160f is added to read as follows:

Sec. 28.1160f Abandoned vehicle, duties of court.

(1) Upon receipt of a petition prescribed in section 28.1160a, 28.1160b, 28.1160c, or 28.1160d, signed by the owner of the vehicle which has been taken into custody, the court shall do both of the following:

(a) Schedule a hearing within 30 days for the purpose of determining whether the police agency acted properly.

(b) Notify the owner and the police agency of the time and place of the hearing.

(2) At the hearing specified in subsection (1), the police agency shall have the burden of showing by a preponderance of the evidence that it has complied with the requirements of this act in processing the abandoned vehicle or vehicle removed pursuant to section 28.1160d.

(3) After the hearing, the court shall make a decision which shall include one or more of the following:

(a) A finding that the police agency complied with the procedures established for the processing of an abandoned vehicle or a vehicle removed under section 28.1160d, and an order providing a period of 20 days after the decision for the owner to redeem the vehicle. If the owner does not redeem the vehicle within 20 days, the police agency shall dispose of the vehicle pursuant to section 28.1160b or 28.1160g.

(b) A finding that the police agency did not comply with the procedures established for the processing of an abandoned vehicle or a vehicle removed pursuant to section 28.1160d. After making such a finding, the court shall issue an order directing that the vehicle immediately be released to the owner, and that the police agency is responsible for the accrued towing and storage charges.

(c) A finding that the towing and daily storage fees were reasonable.

(d) A finding that the towing and daily storage fees were unreasonable, and issue an order directing an appropriate reduction.

Section 28.1160g is added to read as follows:

Sec. 28.1160g. Abandoned vehicle, public sale.

(1) A public sale for a vehicle which has been deemed abandoned under section 28.1160a or 28.1160c, or removed under section 28.1160d, shall be conducted in the following manner:

(a) It shall be under the control of the police agency or agent of the police agency.

(b) It shall be open to the public and consist of open auction bidding or bidding by sealed bids. If sealed bids are received, the person submitting the bid shall receive a receipt for the bid from the police agency or agent of the police agency.

(c) Except as provided by sections 28.1160a(9) and 28.1160d(7), it shall be held not less than five days after public notice of the sale has been published.

(d) The public notice shall be published at least once in a newspaper having a general circulation within the county in which the vehicle was abandoned. The public notice shall give a description of the vehicle for sale and shall state the time, date, and location of the sale.

(2) The money received from the public sale of the vehicle shall be applied in the following order of priority:

(a) Towing and storage charges.

(b) Expenses incurred by the police agency.

(c) To the secured party, if any, in the amount of the debt outstanding on the vehicle.

(d) Remainder to the owner. A reasonable attempt shall be made to mail the remainder to the registered owner. If delivery of the remainder cannot be accomplished, the remainder shall become the property of the unit of government that the police agency represents.

(3) If there are no bidders on the vehicle, the police agency may do one of the following:

(a) Turn the vehicle over to the towing firm to satisfy charges against the vehicle.

(b) Obtain title to the vehicle for the police agency or the unit of government the police agency represents, by doing the following:

(i) Paying the towing and storage charges.

(ii) Applying for title to the vehicle.

(c) Hold another public sale pursuant to subsection (1).

(4) A person who acquires ownership of a vehicle under subsection (1) or (3), which vehicle has been designated as a distressed vehicle, shall make application for a salvage certificate of title within 15 days after obtaining the vehicle.

(5) Upon disposition of the vehicle, the police agency shall cancel the entry into the law enforcement information network.

Section 28.1161 is added to read as follows:

Sec. 28.1161. Current regulations. All intersection stops and yield right-of-way requirements; regulations on stopping, standing or parking; one-way streets, roadways and alleys; crosswalks; restricted turns; through streets; play streets; angle parking zones; all- night parking restrictions; curb loading zones; public carrier stands; parking meter zones and spaces; weight restrictions; no passing zones; speed limits and traffic-control devices heretofore established and effective on the effective date of this Code shall be deemed established hereunder, and shall remain effective until rescinded or modified as herein provided.

Section 28.1162 is added to read as follows:

Sec. 28.1162. Safety belt required; enforcement.

(1) This section shall not apply to a driver or passenger of:

(a) A motor vehicle manufactured before January 1, 1965.

(b) A bus.

(c) A motorcycle.

(d) A moped.

(e) A motor vehicle, if the driver or passenger possesses a written verification from a physician that the driver or passenger is unable to wear a safety belt for physical or medical reasons.

(f) A motor vehicle which is not required to be equipped with safety belts under federal law.

(g) A commercial or United States Postal Service vehicle which makes frequent stops for the purpose of pickup or delivery of goods or services.

(h) A motor vehicle operated by a rural carrier of the United States Postal Service while serving his or her rural postal route.

(2) This section shall not apply to a passenger of a school bus.

(3) Each driver and front seat passenger of a motor vehicle operated on a street or highway in this state shall wear a properly adjusted and fastened safety belt, except that a child less than four

years of age shall be protected as required in MCL257.710d, MSA9.2410(4).

(4) Each driver of a motor vehicle transporting a child four years of age or more, but less than 16 years of age, in a motor vehicle shall secure the child in a properly adjusted and fastened safety belt. If the motor vehicle is transporting more children than there are safety belts available for use, all safety belts available in the motor vehicle are being utilized in compliance with this section, and the driver and all front seat passengers comply with subsection (3), then the driver of a motor vehicle transporting a child four years of age or more, but less than 16 years of age, for which there is not an available safety belt is in compliance with this subsection, if that child is seated in other than the front seat of the motor vehicle. However, if that motor vehicle is a pickup truck without an extended cab or jump seats, and all safety belts in the front seat are being used, the driver may transport such a child in the front seat without a safety belt.

(5) Enforcement of this section by state or local law enforcement agencies shall be accomplished only as a secondary action, when a driver of a motor vehicle has been detained for a suspected violation of another section of this act.

(6) Failure to wear a safety belt in violation of this section may be considered evidence of negligence and may reduce the recovery for damages arising out of the ownership, maintenance, or operation of a motor vehicle. However, such negligence shall not reduce the recovery for damages by more than five percent.

(7) A person who violates this section is responsible for a civil infraction.

Section 28.1163 is added to read as follows:

Sec. 28.1163. Automobile parking system.

(a) Supervision of system. The automobile parking system of the city shall be under the supervision and direction of the police department.

(b) Rates and time limits. The rates and time limits for parking in off-street parking lots and structures, operated as a part of the automobile parking system, shall be established by resolution of the city council from time to time, upon recommendation of the city manager. Such rates and time limits need not be uniform throughout the system, but shall be based upon demand for parking in the area which the lot or structure serves and such other considerations as the city manager and the council shall deem pertinent. No person shall park any vehicle for a period of time longer than permitted by the regulation pertaining to the lot where such vehicle is parked.

(c) Park in designated spaces. No person shall park any motor vehicle in any parking lot or structure other than within the boundaries of the space designated as allocated for the parking of a single meter vehicle, by appropriate lines or other markings. Any person parking any motor vehicle in any parking lot or structure otherwise than as prescribed in this subsection shall be guilty of a violation of this section, and, in parking structures and in parking lots other than metered parking lots, any person who shall park a motor vehicle so as to occupy or encroach upon more than one designated parking space shall pay the full rate or charge for each parking

space occupied or encroached upon, in addition to being guilty of a violation of this section.

(d) Vehicle abandonment. Any motor vehicle parked for over 48 hours in any parking lot of the system shall be deemed abandoned, and may be removed by the city and impounded. Any motor vehicle otherwise parked in violation of this section may be removed by the city from the parking lot or structure in which it is parked and impounded. Any vehicle so impounded by the city shall not be released to the owner until all parking charges, storing and towing charges shall have been paid by the owner. MCL257.252 et seq., MSA9.1952 et seq., shall be followed for the disposition of the vehicle if not claimed within the time allowed.

(e) Presumption from ownership. In any proceeding for violation of the provisions of this section relative to parking, the registration plate displayed on the motor vehicle parked in violation of this section shall constitute in evidence a prima facie presumption that the owner of such vehicle was the person who parked or placed such motor vehicle at the point where such violation occurred.

Section 28.1202 is added to read as follows:

Sec. 28.1202. Obedience to police and fire department officials. No person shall willfully fail or refuse to comply with any lawful order or direction of any police officer or member of the fire department, at the scene or in the immediate vicinity of a fire or in the immediate vicinity of the fire station, who is vested with authority under this code to direct, control or regulate traffic.

Section 28.1304 is amended to read as follows:

Sec. 28.1304. Steady red indication.

(1) Vehicular traffic facing a steady red signal alone shall stop before entering the crosswalk on the near side of the intersection, or at a limit line when marked, or if none, then before entering the intersection, and shall remain standing until a green indication is shown, except as provided in subsection (c)(2).

(2) Vehicular traffic facing a steady red signal, after stopping before entering the crosswalk on the near side of the intersection, or at a limit line when marked, or if none, then before entering the intersection, shall be privileged to make a right turn from a one-way or two-way street into a two-way street or into a one-way street carrying traffic in the direction of the right turn; or a left turn from a one-way or two-way street into a one-way street carrying traffic in the direction of the left turn, unless prohibited by sign, signal, marking, light, or other traffic-control device. The vehicular traffic shall yield the right-of-way to pedestrians lawfully within an adjacent crosswalk and to other traffic lawfully using the intersection.

Section 28.1500 is added to read as follows:

Sec. 28.1500. Mandatory child restraints.

(1) Except as provided in this section, or as otherwise provided by law, a rule promulgated pursuant to the administrative procedures act of 1969, Act No. 306 of the Public Acts of

Michigan of 1969 (MCL 24.201 et seq., MSA 3.560(101) et seq.), as amended, or federal regulation, each driver transporting a child in a motor vehicle shall properly secure each child in a child restraint system as follows:

(a) Any child less than one year of age in a child restraint system which meets the standards prescribed in 49 CFR 571.213, except as provided in subsection (6).

(b) Any child one year of age or more but less than four years of age, when transported in the front seat, in a child restraint system which meets the standards prescribed in 49 CFR 571.213, except as provided in subsection (6).

(c) Any child one year of age or more but less than four years of age, when transported in the rear seat, in a child restraint system which meets the standards prescribed in 49 CFR 571.213, unless the child is secured by a safety belt provided in the motor vehicle, except as provided in subsection (6).

(2) This section does not apply to any child being nursed.

(3) This section does not apply if the motor vehicle being driven is a bus, school bus, taxicab, moped, motorcycle, or other motor vehicle not required to be equipped with safety belts under federal law or regulations.

(4) A person who violates this section is responsible for a civil infraction.

(5) Points shall not be assessed for a violation of this section.

(6) The secretary of state may exempt by rules a class of children from the requirements of this section, if the secretary of state determines that the use of the child restraint system required under subsection (1) is impractical because of physical unfitness, a medical problem, or body size. The secretary of state may specify alternate means of protection for children exempted under this subsection.

Section 28.1702 is added to read as follows:

Sec. 28.1702. Pedestrian or bicyclist; right-of-way in crosswalks; violation as a civil infraction.

(1) When traffic control signals are not in place or not in operation, the driver of a vehicle shall stop and yield the right-of-way to every pedestrian or bicyclist within a marked crosswalk.

(2) When traffic control signals are not in place or not in operation, the driver of a vehicle shall yield the right-of-way, slowing down or stopping if need be to so yield, to every pedestrian or bicyclist within an unmarked crosswalk at an intersection. A "crosswalk" is defined as set forth at the Uniform Motor Vehicle Code, Section 27.10.

(3) A pedestrian or bicyclist shall not suddenly leave a curb or other place of safety and walk, run or ride into the path of a vehicle that is so close that it is impossible for the driver to yield.

(4) A person who violates this rule is responsible for a civil infraction.

Section 28.1706 is added to read as follows:

Sec. 28.1706. Pedestrians or bicyclists yielding right-of-way: violation as a civil infraction.

(1) Every pedestrian or bicyclist crossing a roadway at any point other than within a marked or unmarked crosswalk at an intersection shall yield the right-of-way to all vehicles on the roadway.

(2) A person who violates this rule is responsible for a civil infraction.

Section 28.1708 is added to read as follows:

Sec. 28.1708. Pedestrians and bicyclists; yielding right-of-way to emergency vehicles; violation of civil infraction.

(1) Any pedestrian or bicyclist crossing a roadway shall yield the right-of-way to an authorized emergency vehicle sounding an audible signal, unless engaging in an emergency run in which silence is required and displaying a flashing, oscillating or rotating red or blue light.

(2) A person who violates this rule is responsible for a civil infraction.

Section 28.1825 is added to read as follows:

Sec. 28.1825. All-night parking prohibited. It shall be unlawful for any person, firm or corporation to stop, stand or park a vehicle, or to cause or to permit a vehicle to be parked or left unattended, between the hours of 2:00 a.m. and 5:00 a.m. of any day on any of the streets or highways of the city or on any of the city parking lots.

Section 28.1826 is added to read as follows:

Sec. 28.1826. Parking on parkways. It shall be unlawful for any person to park any motor vehicle or trailer in any parkway of any street within the city without permission of the city council. The term "parkway" shall mean that area between the curb, or curblines in the absence of a curb, in the inside sidewalk line. "Motor vehicle" shall have the meaning as defined in the Uniform Traffic Code. "Trailer" includes housetrailers, trailers and semitrailers.

Section 28.1827 is added to read as follows:

Sec. 28.1827. Yard parking; violation as civil infraction.

(a) No motor vehicle shall be parked in any yard, as defined by § 82-4 of the Charlotte City Code, except entirely upon a driveway or parking space designated and constructed according to the standards of Chapter 52 of the Charlotte City Code.

(b) A person who violates this section is responsible for a civil infraction. A parking violation notice charging a violation of this section may be issued by a police officer, including a limited duty or parking enforcement officer, also by any city housing, building, or zoning director or building official, in the form and manner provided by MCL 257.742(6),(7), and (8).

Section 28.1906 is added to read as follows:

Sec. 28.1906. Parking violations bureau. Pursuant to section 8:395 of the Revised Judicature Act, State of Michigan, as added by Act No. 154 of the Public Acts of Michigan of 1968 (MCL 600.8395, MSA 27A.8395), as amended, a parking violations bureau, for the purpose of handling alleged parking violations within the city, is hereby established. The parking violations bureau shall be under the supervision and control of the city treasurer.

Section 28.1907 is added to read as follows:

Sec. 28.1907. Location, employees, rules. The city treasurer shall, subject to the approval of the city council, establish a convenient location for the parking violations bureau, appoint qualified city employees to administer the bureau, and adopt rules and regulations for the operation thereof.

Section 28.1908 is added to read as follows:

Sec. 28.1908. Violation handled. No violation not scheduled in section 28.1911 shall be disposed of by the parking violations bureau. The fact that a particular violation is scheduled shall not entitle the alleged violator to disposition of the violation at the bureau, and in any case the person in charge of such bureau may refuse to dispose of such violation, in which case any person having knowledge of the facts may make a sworn complaint before any court having jurisdiction of the offense as provided by law.

Section 28.1909 is added to read as follows:

Sec. 28.1909. Jurisdiction. No violation may be settled at the parking violations bureau except at the specific request of the alleged violator. No penalty for any violation shall be accepted from any person who denies having committed the offense, and in no case shall the person who is in charge of the bureau determine, or attempt to determine, the truth or falsity of any fact or matter relating to such alleged violation. No person shall be required to dispose of a parking violation at the parking violations bureau, and all persons shall be entitled to have any such violation processed before a court having jurisdiction thereof if they so desire. The unwillingness of any person to dispose of any violation at the parking violations bureau shall not prejudice him or in any way diminish the rights, privileges and protection accorded to him by law.

Section 28.1910 is added to read as follows:

Sec. 28.1910. Parking tickets. The issuance of a traffic ticket or notice of violation by a police officer of the city shall be deemed an allegation of a parking violation. Such traffic ticket or notice of violation shall indicate the length of time in which the person to whom the ticket or notice was issued must respond before the parking violations bureau. It shall also indicate the address of the bureau, the hours during which the bureau is open, the amount of the penalty scheduled for the offense for which the ticket was issued, and advise that a warrant for the arrest of the person to whom the ticket was issued will be sought if such person fails to respond within the time limited.

Section 28.1911 is added to read as follows:

Sec. 28.1911. Schedule.

Uniform Traffic Code Violations

(a) Fine schedule. Fines shall be paid in accordance with a schedule to be adopted by resolution of the city council.

(b) All fines provided in this section will double if not paid within 72 hours of the date and time issued.

(1993 Code, § 66-33) (Ord. passed 4-27-1992; Ord. passed 8-24-1998; Ord. passed 7-4-1999; Ord. passed 7-12-1999; Ord. passed 12-13-1999; Ord. passed 12-27-1999; Ord. passed 2-14-2000(2); Ord. passed 6-12-2000(2); Ord. passed 6-10-2002; Ord. passed 8-14-2006; Ord. passed 4-14-2008)

2. Severability. If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, said portion shall be deemed a separate, distinct and independent provision and such hold shall not affect the validity of the remaining portions of this ordinance.

3. Effective Date. This ordinance shall become effective as provided by law.

Second, _____ () Yeas. () Nays.

Dated: _____

Timothy M. Lewis, Mayor

Ginger Terpstra, Clerk