

AN ORDINANCE TO AMEND CHAPTER 37 OF THE CITY CODE TO ENSURE PRIVATELY OWNED OFFICIAL TRAFFIC CONTROL DEVICES ARE REMOVED WITHIN A REASONABLE TIME AFTER THE COMPLETION OF A CONSTRUCTION PROJECT

#0098 WHEREAS, Chapter 36, Article VI of the City Code sets forth the City's laws

Sponsor: concerning "Offenses Involving Public Administration"; and

Council Member N. Field WHEREAS, § 36-191 deems it unlawful for "any person to hinder or obstruct the making or repairing of any public improvement or work"; and

Co-sponsor: WHEREAS, § 36-192 requires the Department of Public Works to "erect and maintain appropriate signs to give notice thereof" when the "use of any street by certain types of vehicles is prohibited"; and
Council Member Oliver

WHEREAS, Chapter 37 of the City Code sets forth the City's laws concerning "Motor Vehicles and Traffic"; and

WHEREAS, § 37-1 defines "Official traffic control device" as "all signs, signals, markings and devices placed or erected by authority of the department of public works, for the purpose of regulating, warning or guiding traffic in accordance with this chapter"; and

WHEREAS, § 37-92 requires drivers and pedestrians to "obey the instructions of any official traffic control device"; and

WHEREAS, § 37-93 deems it unlawful for any person to interfere with official traffic control devices without lawful authority; and

WHEREAS, § 37-429 deems it unlawful for "any person to set out cones, chairs or any other object on any city street for the express purpose of blocking on-street parking spaces and preventing others from lawfully parking in such spaces"; and

WHEREAS, a private construction contractor ("Contractor") can be authorized by the City to perform construction work in the City and lawfully obstruct traffic or parking spaces

in the City with official traffic control devices supplied and owned by the Contractor; and

WHEREAS, at times, Contractors fail to remove their privately owned official traffic control devices after all construction work is completed in a timely manner; and

WHEREAS, City residents have complained that these privately owned official traffic control devices remain after all construction work is completed and prevent the residents from parking in otherwise lawful City parking spaces; and

WHEREAS, after all construction work is completed, these privately owned official traffic control devices do unlawfully obstruct traffic or prevent City residents from lawfully parking; and

WHEREAS, this Ordinance does not prevent the Department of Public Works from completing its work in accordance with § 36-192 or where official traffic control devices are required for emergency situations; and

WHEREAS, this Ordinance does not prevent the City from granting a Contractor an extension of time to complete a construction project; and

WHEREAS, in light of the foregoing, City Council deems it necessary and appropriate to amend Chapter 37 of the City Code to ensure privately owned official traffic control devices are removed within a reasonable time after the completion of a construction project.

**NOW, THEREFORE, THE COUNCIL OF THE CITY OF WILMINGTON
HEREBY ORDAINS:**

SECTION 1. Section 37-429 of the City Code is hereby amended by removing the stricken language and adding the underlined language to read as follows:

Sec. 37-249. - Prohibited blocking of parking spaces.

(a) It shall be unlawful for any person to set out cones, chairs or any other object on any city street for the express purpose of blocking on-street parking spaces and preventing others from lawfully parking in such spaces. These items shall be considered to be trash and debris.

(b) It shall be unlawful for a properly authorized private construction contractor to not remove the contractor's lawfully erected "No Parking" official traffic control devices ("No Parking" devices) within three (3) days after all authorized construction work is completed. Work shall be deemed completed based on the timeframe indicated by signage on the "No Parking" devices as well as the Department of Public Work's Traffic and Travel Advisory database.

On the fourth day after all construction work is completed, the "No Parking" devices shall be deemed abandoned and City residents may contact the City's Department of Public Works to collect the "No Parking" devices.

Subsection (b) shall not apply to "No Parking" devices placed by the Department of Public Works in accordance with § 36-192 or for emergency situations. This subsection also does not prevent the City from granting a private construction contractor an extension of time to complete a construction project.

~~(b)~~(c) Any person who is found responsible for a violation of this section, unless some other penalty is specifically mandated, shall be subject to and liable for a civil penalty of not less than that established at Level 7 for the first offense and of not less than that established at Level 11 for each subsequent violation.

~~(e)~~(d) At the discretion of the chief of police, or his designee, enforcement of this ordinance may be waived in writing and in advance for yearly neighborhood special events and snow.

SECTION 2. This Ordinance shall become effective upon its passage by City Council and approval by the Mayor.

First Reading.....October 7, 2021
Second Reading.....October 7, 2021
Third Reading.....

Passed by City Council,

President of City Council

ATTEST: _____
City Clerk

Approved this ____ day of _____, 2021.

Mayor

SYNOPSIS: This Ordinance amends Chapter 37 of the City Code to ensure privately owned official traffic control devices are removed within a reasonable time after the completion of a construction project.

FISCAL IMPACT STATEMENT: This Ordinance has no anticipated fiscal impact.