

A RESOLUTION

25-348

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

November 7, 2023

To declare the existence of an emergency with respect to the need to amend Chapter 26 of Title 18 of the District of Columbia Municipal Regulations to reduce the fines for driving and parking in a bus lane from \$200 to \$100.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Clear Lanes Bus Priority Enforcement Regulation Emergency Declaration Resolution of 2023”.

Sec. 2. (a) On May 2, 2023, the Council approved the Contract No. DCKA-2022-C-0071 with American Traffic Solutions, Inc d/b/a Verra Mobility Emergency Approval Resolution of 2023, effective May 2, 2023 (Res. 25-129; 70 DCR 6797) (“Emergency Contract Resolution”). Contract No. DCKA-2022-C-0071 included automated enforcement, that is enforcement by camera, of, among other violations, “bus-arm violations,” which the Council understood to mean that the District Department of Transportation (“DDOT”) would provide Washington Metropolitan Area Transit Authority (“WMATA”) busses with cameras to identify vehicles blocking bus lanes and issue citations. This collaboration between DDOT and WMATA is referred to as the “Clear Lanes Project”.

(b) The Emergency Contract Resolution was introduced at the request of the Mayor, and the accompanying emergency declaration resolution, also drafted by and introduced at the request of the Mayor, noted that “[a]pproval [of the Emergency Contract Resolution was] necessary to allow the District to receive the benefit of this vital service in a timely manner”.

(c) On its website describing the Clear Lanes Project, WMATA notes that dedicated bus lanes “speed up bus service and enhance reliability” but that “[w]hen vehicles block bus lanes, this slows down everyone”. On its Clear Lanes Project website, DDOT says that the Clear Lanes Project “aims to improve bus travel times and enhance bus stop safety”. This is why it was important to start “this vital service in a timely manner”.

(d) On July 24, 2023, DDOT began issuing warning citations to vehicles that the cameras purchased through Contract No. DCKA-2022-C-0071 recorded driving or parking in a bus lane. DDOT and WMATA had announced that only warning citations would be given until September 18, 2023, consistent with the District’s policy for new automated parking or traffic enforcement. For example, section 302a(c) of the District of Columbia Traffic Adjudication Act of 1978,

effective August 15, 2008 (D.C. Law 17-217; D.C. Official Code § 50-2303.02a(c)), provides that warning citations may only be issued during the first 45 days of the enforcement on a street sweeper route.

(e) On September 18, 2023, Councilmembers and the general public learned via the online application referred to as “X” that WMATA and DDOT would be delaying enforcement indefinitely. WMATA released a statement that day claiming that “the additional warning period will give us all more time to educate drivers” about the citations.

(f) On September 22, 2023, Councilmember Charles Allen, as Chair of the Committee on Transportation and the Environment, sent a letter to DDOT and WMATA requesting additional explanation for the delay, noting that both DDOT and WMATA had done extensive outreach about the Clear Lanes Project, including maintaining websites with information about the Clear Lanes Project and noting the planned 45-day warning period, and that bus lanes are typically painted red with signs indicating the prohibition on blocking a bus lane. Councilmember Allen requested a response by September 29, 2023.

(g) On November 1, 2023, DDOT sent Councilmember Allen a response to his September 22, 2023, letter, asserting that the \$200 fine for driving or parking in a bus lane is inequitable and noting that DDOT can begin issuing fines once the amount of the fine is reduced to \$100. The DDOT letter noted that a rulemaking changing the amount of the fine would require a 45-day passive review period by the Council before the new rules can take effect, and DDOT suggested that if the Council were to expedite the review of DDOT regulations, DDOT could begin enforcement of driving or parking in a bus lane by January 2, 2024. The letter also states that DDOT will begin using the cameras already installed to enforce separate violations that include parking or stopping in a bus *stop* on November 15, 2023, because that fine is already set at \$100.

(h) DDOT believes it cannot adopt an emergency rule to change the fine for bus lane violations to \$100, because section 105(a)(1) of the District of Columbia Traffic Adjudication Act of 1978, effective September 12, 1978 (D.C. Law 2-104; D.C. Official Code § 50-2301.05(a)(1)), requires that proposed rules to amend the schedule of fines must be submitted to the Council for a 45-day period of review. Therefore, the additional delay to January 2, 2024, includes time for DDOT to publish a permanent rulemaking and provide a 30-day public comment period for the rule change.

(i) However, in addition to approving a rulemaking initiated by an agency, the Council can also directly amend regulations by statute. To support DDOT’s interest in quickly beginning enforcement of driving and parking in a bus lane, the Council will make the change to the fine amount by emergency legislation on November 7, 2023, giving DDOT an opportunity to begin issuing \$100 fines for bus *lane* violations on November 15, 2023, alongside the planned enforcement of parking in a bus *stop*, if the Mayor signs the emergency measure in time.

(j) The Council will also begin the process of approving identical temporary legislation on November 7, 2023, which will be in effect for 225 after its effective date, in addition to the 90 days that the emergency legislation would be effective. In combination, the emergency and

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temporary measures would give DDOT nearly one year to complete the rulemaking process that would permanently change the amount of the fine for driving and parking in a bus lane, while also enabling DDOT to enforce bus lane violations in the meantime.

Sec. 3. The Council determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the Clear Lanes Bus Priority Enforcement Regulation Emergency Amendment Act of 2023 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.