

**Office of
The City Attorney
City of San Diego**

**MEMORANDUM
MS 59**

(619) 533-5800

DATE: March 11, 2013
TO: Council President Pro Tem Sherri S. Lightner
FROM: City Attorney
SUBJECT: San Diego Municipal Code Provisions Related to Angle Parking

INTRODUCTION

On December 4, 2012, the City Council considered Item 109, which designated reverse angle parking on 25th Street between Broadway and B Street. During that City Council hearing you asked whether section 86.02 of the San Diego Municipal Code (SDMC), which states that “[n]o person shall park, stand or stop any vehicle unless both right wheels are within eighteen inches (18”) of the curb or edge of the street,” applies to persons parking in an angle parking space. That analysis is provided below.

QUESTION PRESENTED

Does SDMC section 86.02 prohibit angle parking?

SHORT ANSWER

No, SDMC section 86.02 does not prohibit angle parking because angle parking is expressly permitted by SDMC 86.03, as long as it is approved by Council resolution.

ANALYSIS

SDMC section 86.02 addresses parking in general. It states, “[n]o person shall park, stand or stop any vehicle unless both right wheels are within eighteen inches (18”) of the curb or edge of the street, subject, however, to the provisions of sections 86.02.1 and 86.02.2.” The exceptions in those two sections include one-way street parking which permits parking of vehicles adjacent to and within eighteen inches of the left hand curb of a one-way street, and reasonable parking variations by duly licensed commercial passenger buses while loading and unloading passengers, respectively.

SDMC section 86.03 specifically addresses angle parking. It authorizes the City Council to permit angle parking on any street by resolution. Reading both parking provisions together, an apparent conflict arises as persons parking in an angle parking space cannot meet the parking requirement that both right wheels be within eighteen inches of the curb or edge of the street. SDMC § 86.02.¹

In determining whether a conflict exists between two ordinances, we look to the rules of statutory interpretation. *People v. Weatherill*, 215 Cal. App.3d 1569, 1577-78 (1989). It is a general rule of statutory interpretation that a specific provision will control over a general provision. *Id.* Section 86.03 explicitly addresses angle parking and is the more specific provision. Therefore, it governs over the general parking provision in Section 86.02. “[A] general provision is controlled by one that is special, the latter being treated as an exception to the former. A specific provision relating to a particular subject will govern in respect to that subject, as against a general provision, although the latter, standing alone, would be broad enough to include the subject to which the more particular provision relates.” *San Francisco Taxpayers Assn. v. Board of Supervisors*, 2 Cal. 4th 571, 577 (1992). Read according to its plain meaning, SDMC section 86.03 on angle parking creates an exception to SDMC section 86.02 and is not in conflict with it. The general parking requirement that both right wheels be within eighteen inches of the curb or edge of the street does not apply to the specific provision allowing a person to park in an angle parking space, when angle parking has been approved by Council resolution.

CONCLUSION

The specific parking provision contained in SDMC section 86.03 authorizing the City Council to establish angle parking on any street by resolution controls over the general parking provision contained in SDMC section 86.02. The requirement that both right wheels be within eighteen inches of the curb or edge of the street does not apply to persons parking in a duly authorized angle parking space.

JAN I. GOLDSMITH, City Attorney

By /s/Katherine Anne Malcolm
Katherine Ann Malcolm
Deputy City Attorney

KAM:mb
Doc.No:528011
MS-2013-6

¹ The parking exceptions governed by SDMC sections 86.02.1 and 86.02.2 also do not provide for the logistics associated with angle parking.