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State of Louisiana  
DEPARTMENT OF JUSTICE  
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July 17, 2015  
**OPINION 15-0029**

Mr. Val Vanney, Jr.  
Councilman, District D  
City of Slidell  
2045 Second Street  
Suite 318  
Slidell, LA 70459

71-1-B      MUNICIPALITIES – Home Rule Charter  
174      ZONING

La. Const. art. VI, §§ 5 and 17; R.S. 33:4721-4723; La.  
Atty. Gen. Op. No. 82-480

Zoning regulations governing off-street parking must  
be adopted in accordance with La. R.S. 33:4721 *et*  
*seq.* and must be applied uniformly to each class or  
kind of land and structure within each district created  
by the governing authority.

Dear Mr. Vanney:

You have requested an opinion from this office related to the Slidell City Council's exercise of legislative powers with respect to the enactment of localized city ordinances regulating off-street parking of vehicles, recreational vehicles, trailers, and boats. Specifically, you have asked: (1) whether different parking ordinances can be applied to different subdivisions; (2) whether different parking ordinances can be applied to each council district or whether one ordinance has to be applied to the entire city; and, (3) whether the restrictions of a newly passed ordinance will apply to future homeowners of any affected properties.

As an initial matter, it is important to note that the City of Slidell operates under a Home Rule Charter, made effective after the 1974 Louisiana Constitution, and has the authority described in La. Const. art. VI, §5, which states:

A home rule charter adopted under this Section shall provide the structure and organization, powers, and functions of the government of the local governmental subdivision, which may include the exercise of any power and performance of any function necessary, requisite, or proper for the management of its affairs, not denied by general law or inconsistent with this constitution.

Additionally, local governments are provided broad powers to adopt regulations for land use, zoning, and historic preservation.<sup>1</sup> Louisiana law also confers upon local governments the authority to enact municipal zoning regulations or ordinances.<sup>2</sup> Louisiana Revised Statute 33:4721 specifically provides:

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<sup>1</sup> La. Const. art. VI, § 17.

<sup>2</sup> La. R.S. 33:4721 *et seq.*

For the purpose of promoting health, safety, morals, or the general welfare of the community, the governing authority of all municipalities may regulate and restrict the height, number of stories, and size of structures, the percentage of lot that may be occupied, the size of yards, courts, and other open spaces, the density of population, and the location and use of the buildings, structures, and land for trade, industry, residence, or other purposes....

Any adoption of zoning ordinances, including amendments thereto, must be enacted pursuant to La. R.S. 33:4721 – 4735. If properly adopted, “municipal zoning ordinances enacted pursuant to police powers vested in a municipality are presumed valid.”<sup>3</sup> Further, courts will not interfere in a municipality’s legislative authority in the exercise of its police powers “unless their action is palpably erroneous and without any substantial relation to the public health, safety or general welfare.”<sup>4</sup>

Louisiana Revised Statute 33:4722 governs your questions regarding whether one off-street parking ordinance must be written for the entire city or whether different ordinances can be applied to accommodate each council district or each individual subdivision. This provision states:

A. For any and all of the purposes set forth in R.S. 33:4721 the governing authority of any municipality may divide the municipality into districts of such number, shape, and area as may be deemed best suited to carry out the purposes; and within the districts so created, the governing authority may regulate and restrict the erection, construction, alteration, or use of buildings, structures or land.

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C. (1) All such regulations shall be uniform for each class or kind of land and structure throughout each district, but the regulations of one district may differ from those in other districts.

Pursuant to this statute, it is the opinion of this office that one off-street zoning ordinance does not have to be written for the entire city. Rather, the City Council is authorized to divide the City into districts and apply a different off-street parking ordinance to each district as long as each ordinance is enacted to promote the health, safety, morals, or the general welfare of the district as required by La. R.S. 33:4721. However, subsection (C) of La. R.S. 33:4722

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<sup>3</sup> La. Atty. Gen. Op. No. 82-480, p.1; see also *City of Crowley Firemen v. City of Crowley*, 264 So.2d 368 (La. App. 3 Cir. 5/26/72).

<sup>4</sup> *King v. Caddo Parish Commission*, 719 So.2d 410 (La. 1995), citing *Four States Realty Co., Inc. v. City of Baton Rouge*, 309 So.2d 659 (La. 1974).

specifically requires regulations within each district to be uniform to each class or kind of land and structure. For purposes of an off-street parking ordinance, this provision would require the ordinance to apply uniformly to each subdivision of the same class or kind within each individual district. Therefore, it is further the opinion of this office that adopting a different ordinance for each individual subdivision is, generally, not authorized by La. R.S. 33:4722(C). Nonetheless, it may be possible for subdivisions of different classes within the same district to have different ordinances (e.g. if the class is based on density of population within the neighborhood) as long as each class created is rationally related to the promotion of public health, safety, and welfare.<sup>5</sup> A determination of what constitutes a class or kind of land and structure of the same kind is a factual question that should be determined on a case by case basis and is outside of the scope of this opinion.

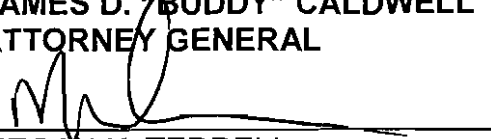
Finally, because a zoning regulation should apply uniformly for each class or kind of property within each district, generally, the ordinance would also have to apply to each future homeowner as well. Any exception to the ordinance should be made pursuant to any and all applicable zoning laws contained in the City of Slidell Code of Ordinances, including variances as may be authorized therein.

We hope this sufficiently answers your inquiry; however, if we may be of further assistance please do not hesitate to contact our office.

Sincerely yours,

**JAMES D. "BUDDY" CALDWELL**  
**ATTORNEY GENERAL**

By:

  
**MEGAN K. TERRELL**  
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JDC/MKT/lis

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<sup>5</sup> See also La. R.S. 33:4723 (providing that the purpose of the regulation must be "to lessen congestion in the public streets, secure safety from fire, promote health and the general welfare, provide adequate light and air, avoid undue concentration of population, and facilitate adequate transportation, water supply, sewerage, schools, parks, and other requirements....").