

ORDINANCE No. 16-05

AN ORDINANCE AMENDING THE TOWN OF FORT MYERS BEACH CODE OF ORDINANCES SECTION 2-49 PERTAINING TO ENFORCEMENT OF ORDINANCES; AND, CHAPTER 28 PERTAINING TO TRAFFIC AND VEHICLES; AMENDING AND RESTATING ARTICLE II PERTAINING TO THE PARKING OR STOPPING OF VEHICLES WITHIN THE TOWN RIGHTS-OF-WAY; PROVIDING FOR THE ISSUANCE OF CITATIONS FOR PARKING VIOLATIONS; COLLECTION OF FINES IMPOSED FOR PARKING VIOLATIONS; PROVIDING FOR METERED PARKING SPACES AND SUBSCRIPTION PARKING; PROVIDING FOR SEVERABILITY; CONFLICTS OF LAW; CODIFICATION, SCRIVENER'S ERRORS; AND AN EFFECTIVE DATE.

WHEREAS, the Town of Fort Myers Beach has authority pursuant to Fort Myers Beach Charter Section 3.01 to enact and amend ordinances and regulations necessary to the proper functioning of the Town; and

WHEREAS, the Town Council has adopted Code of Ordinances, Town of Fort Myers, Beach, Florida (Code) Chapter 28 pertaining to traffic and vehicles; and

WHEREAS, the Town Council considered the proposed ordinance at public hearings held on September 8, October 3, and November 21, 2016; and

WHEREAS, the Town Council finds it is appropriate to update and amend these provisions as set forth in this Ordinance.

NOW, THEREFORE, IT IS HEREBY ORDAINED BY THE TOWN OF FORT MYERS BEACH AS FOLLOWS:

SECTION 1: AMENDMENT OF CODE OF ORDINANCES SECTION 2-49.

Code Ordinances, Fort Myers Beach, Florida, Section 2-49 is hereby amended as follows, with strike through indicating deleted text and underlining indicating additional text.

Sec. 2-49. Ordinance Parking enforcement specialist or officer.

The ordinance Parking enforcement specialist or officer shall be is responsible for the enforcement of parking violations and violations occurring on public property of the following town ordinances:

- (1) Chapter 4, article IV, open containers.
- (2) Chapter 6, animals.
- (3) Chapter 14, article III, littering.
- (4) Chapter 18, article II, park regulations.
- (5) Chapter 20, article II, recyclable materials.

- (6) Chapter 28, article II, stopping, standing and parking.
- (7) Chapter 32, article III, live shellfish.
- (8) Chapter 32, article IV, night sleeping on the beach.
- (9) LDC Chapter 14, article I, beach and dune management.

SECTION 2. AMENDMENT TO CODE OF ORDINANCES CHAPTER 28.

Town of Fort Myers Beach, Code of Ordinances, Chapter 28 is here by amended as follows with strike through identifying deleted text and underlying identifying additional text.

CHAPTER 28

TRAFFIC AND VEHICLES

Article II. Stopping, Standing and Parking

Division 1. Generally

Sec. 28-19. Definitions.

For the purpose of this article, the following terms, phrases, words and their derivations shall have the meaning given herein:

Angle parking means the act of parking of vehicle on an angle, consistent with LDC s. 34-2016.

Citation means the ticket form used by the town or Sheriff.

~~Department~~ means the town manager or the manager's designee.

Fire lane means the 12-foot-wide strip of pavement immediately adjacent to the building of a business center together with a 12-foot-wide strip of pavement providing ingress and egress from public roads to the buildings of a business center, which is appropriately marked as a fire lane.

MUTCD means the Manual on Uniform Traffic Control Devices for Streets and Highways as amended.

Not a legal space means anywhere on Town property or County right-of-way that is not designated as a parking space.

Officer means the town parking enforcement specialist or Lee County Sheriff's department law enforcement officer or parking enforcement specialist of the county sheriff's department designated by the town as the inspecting authority to enforce parking regulations and issue ~~summons~~ citations.

Operator means and includes every individual who shall operates a vehicle as the owner thereof, or as the agent, employee, or permittee of the owner, or is in actual physical control of the vehicle.

Overnight parking means parking any vehicle on Town owned or maintained property, between the hours of 4:00 A.M. and 6:00 A.M.

Owner means the individual to whom such a vehicle is registered with the state department of highway safety and motor vehicles.

Parallel parking means the act of parking a vehicle along or parallel to the side of the road, rather than facing into the side of the road.

~~*Park, parking, stopping or standing* means the standing of~~ allowing a vehicle to remain at a standstill upon a street, whether occupied or not, otherwise than ~~For purposes of this article, this definition does not include a temporary stop for the purpose of, and while actually engaged in, receiving or discharging passengers, or loading or unloading merchandise, or in obedience to traffic regulations, signs or signals, or an involuntary stopping of the vehicle by reason of~~ due to causes beyond the control of the vehicle operator of the vehicle.

Parking Meter means a coin or credit card-operated device that registers the purchase of parking time for a motor vehicle based upon the predetermined fee for a specific period of time as established by Town Council.

Paystation means a device that accepts payment for a designated parking space based upon the predetermined fee for a specified period of time as determined by Town Council.

Person means any individual, firm, copartnership, association, or corporation, ~~and shall include~~ the owner and/or operator of the vehicle.

Right-of-Way means and generally refers to a strip of land, property, or other interest, including the surface, airspace over the surface, and area below the surface, which is typically acquired for or devoted to a highway, road, roadway, street, bridge, alley, drainage swale, bay access, beach access, or public utility easement, over which the Town exercises authority, jurisdiction or control and may lawfully grant access and use pursuant to applicable laws, rules, and regulations.

Safety zone means the area or space officially set apart within a roadway or parking lot for the exclusive use of pedestrians. A safety zone is a protected area marked by adequate signs or authorized pavement markings allowing the area to be plainly visible at all times while set apart as a safety zone.

Street or roadway means any public right-of-way, or any public park including beach accesses, located in the town and established intended for the use of by the public for purposes of to accommodate vehicular traffic. The term "street" or "roadway" may be used interchangeably.

Subscription parking means permission to park on Town property pursuant to a written agreement duly executed by the Town.

~~Summons~~ means the ticket form used by the town.

Vehicle means any device in, upon, or by which any person or property is or may be transported upon a highway or roadway, except a bicycle or a device ~~which~~ that is operated upon rails or tracks.

Sec. 28-20. Vehicular uses ~~P~~rohibited in specified places.

Except when necessary to avoid conflict with other traffic or in compliance with law or the directions of a parking enforcement specialist or official traffic control device, no person shall may:

- (1) Drive a vehicle more than ~~twenty five (25)~~ tons (GVW), has more than three axles or more than 50 feet long on Old San Carlos Boulevard.
- (2) Stop, stand or park a vehicle:
 - a. On the roadway side of any vehicle stopped or parked at the edge or curb of a street.
 - b. On a sidewalk.
 - c. Within an intersection.
 - d. On a crosswalk.
 - e. Between a safety zone and the adjacent curb or within 30 feet of points on the curb immediately opposite the ends of a safety zone.
 - f. Alongside or opposite any street excavation or obstruction when stopping, standing or parking would obstruct traffic.
 - g. Upon any bridge or other elevated structure upon a roadway.
 - h. At any place prohibited by ~~official~~ signs authorized by town.
 - i. In any area where the curb is visibly painted with yellow paint.
 - j. Within an alley for over 15 minutes unless ~~there is left available~~ not less than nine feet of the adjacent roadway ~~width of the roadway~~ remains available for the free movement of vehicular traffic.
 - k. Where signs are erected upon approach to hazardous or congested places.
 - l. Within any parking space specifically designated and marked for disabled or handicapped persons, except those persons ~~so~~ authorized under F.S. §§ 316.1955 and 316.1956 to use these designated parking spaces and exhibiting proper authorization.
 - m. Upon those streets ~~which have been~~ marked or signed for parallel parking, other than parallel with the edge of the roadway headed in the direction of the traffic flow, and with the curbside wheels of the vehicle within 12 inches of the edge of the roadway.
 - n. In ~~such a manner as to~~ that obstructs the free use of the streets by other vehicles, ~~or in such manner as to~~ impedes proper parking by any other vehicle, ~~or to~~ impedes traffic flow on the streets.

- o. Of more than seven tons (GVW) or more than 30 feet long on Old San Carlos Boulevard except in the two designated loading zone areas between the hours of 2 a.m. and 9 a.m. and then only if the truck is less than 25 tons (GVW) and, no more than three axles and less than 50 feet long.
 - p. In any area designated as a fire lane, except for the purpose of loading or unloading handicapped passengers.
 - q. On public property for unloading and delivery or pickup and loading of materials, other than a place marked as a loading zone, unless it is a commercial delivery vehicle, which may park at any legal space, including a metered space, for a maximum of 15 minutes.
 - r. At a location that is not designated as a legal parking space and is not marked with signs or lines, including locations within the right-of-way or public utility easement.
 - s. Overnight, within in any beach access, designated town parking space or upon town owned or maintained property unless it is a town owned vehicle.
- (3) Stand or park a vehicle, whether occupied or not, except momentarily to pick up or discharge a passenger:
- a. Within 15 feet of a fire hydrant.
 - b. Within 20 feet of the driveway entrance to any fire station, and on the side of a street opposite the entrance to any fire station, within 75 feet of such entrance (when properly sign posted).
 - c. At any place where official signs prohibit standing.
 - d. The driver of a bus may not stand or park a vehicle upon any street in any business district at any place other than a bus stop.
 - e. No person shall ~~may~~ stop, stand or park a vehicle other than a bus in a bus stop, when any such stop has been officially designated and appropriately signed.
- (4) Park a vehicle, whether occupied or not, except temporarily for the purpose of, and while actually engaged in, loading or unloading merchandise or passengers at any place where official signs prohibit parking, so long as the required curb distance is maintained and nearby parking spaces are not obstructed and, no person may move a vehicle not lawfully under his control into any such prohibited area or away from a curb such a distance as is unlawful.
- (5) Landscape and construction vehicles must be off the roadway to the extent reasonably possible, with bright cones indicating they are immobile, and must not impede the sight triangle.

Sec. 28-21. Parallel and angle parking regulations.

- (a) *Parallel parking.* Except as otherwise provided in this section, every vehicle stopped or parked upon:

- (1) A two-way roadway ~~shall~~ must be so stopped or parked with the righthand wheels parallel to and within 12 inches of the righthand curb or edge of the roadway;
- (2) A one-way roadway ~~shall~~ must be so stopped or parked consistent with the following:
 - a. Parallel to the curb or edge of the roadway;
 - b. In the direction of authorized traffic movement; and
 - c. With its righthand wheels within 12 inches of the righthand curb or edge of the roadway, or its lefthand wheels within 12 inches of the lefthand curb or edge of the roadway.

(b) *Angle parking.* Angle parking may be permitted on streets and/or roadways within the town provided that a proper and documented traffic engineering study is performed, either by the ~~department~~ Town or by a private consultant, and approved by the ~~department~~ Town pursuant to the applicable administrative code. Permitted angled parking will be properly marked as angled parking.

Sec. 28-22. Parking for certain purposes prohibited.

(a) It is unlawful for any person to park a motor vehicle, as defined in F.S. §320.01, for a continuous period in excess of 24 hours, after written notice, upon a public street or highway, upon a public parking lot, or other public property, or upon private property where the public has the right to travel by motor vehicle, for the principal purpose and intent of displaying the motor vehicle thereon for sale, hire, or rental unless the sale, hire or rental of the motor vehicle is specifically authorized on such property by a town regulation and the person is duly licensed as a motor vehicle dealer in accordance with F.S. §320.27, and the person is in compliance with all town licensing regulations.

(b) The provisions of subsection (a) ~~of this section~~ do not prohibit a person from the parking his own of a motor vehicle or his other personal property on any on any private property, or right-of-way that adjoins the private residential property, which he the vehicle owner owns or leases, or otherwise any private property for which he obtains the permission of the residential property owner for the principal purpose of parking a vehicle, so long as it does not impede the sight triangle. and intent of sale, hire or rental.

(c) A law enforcement officer or parking enforcement specialist may cause to be removed, at the owner's expense, any motor vehicle found, in violation of sec. 28-22(a), upon a public street, public parking lot, other public property, or private property, where the public has the right to travel by motor vehicle, ~~which is in violation of subsection (a) of this section.~~ Every written notice issued pursuant to this section ~~shall~~ will be affixed in a conspicuous place upon a the vehicle by a law enforcement officer or parking enforcement specialist.

(d) Any other provision of law to the contrary notwithstanding, a violation of subsection (a) of this section ~~shall~~ will subject the owner of the motor vehicle to owing the

applicable agency the fees reasonably incurred by removal and storage of the motor vehicle.

Sec. 28-23. Disabled persons' parking.

(a) *Governmental agencies.* It ~~shall be a~~ is violation of this article for any person to park in properly marked parking spaces for disabled persons, provided for by governmental agencies, except as permitted by law.

- (1) The town having jurisdiction over street parking and/or publicly owned and operated facilities, ~~shall~~ will provide a minimum of specially designed and marked motor vehicle parking spaces in accordance with F.S. § 316.1955, for the exclusive use of those severely, physically disabled individuals with permanent mobility problems ~~which~~ that substantially impair their ability to ambulate and who have been issued an exemption parking permit pursuant to the provisions of F.S. §§ 316.1958 or 320.0848, or a license plate pursuant to F.S. §§ 320.084, 320.0842, 320.0843, or 320.0845.
- (2) Each such parking space ~~shall~~ will be prominently outlined with pavement markings and posted with a permanent sign of a color and design approved by the director bearing the internationally accepted wheelchair symbol and the caption "Parking By Disabled Permit Only".
- (3) It is unlawful for any person to stop, stand, or park a vehicle within ~~any such~~ a specially designated and marked parking space provided in accordance with this section, unless ~~such~~ the vehicle displays a parking permit issued pursuant to F.S. §§ 316.1958 or 320.0848, and ~~such vehicle~~ is transporting a person eligible for the parking permit. Whenever a law enforcement officer or a parking enforcement specialist finds a vehicle in violation of this subsection, that officer ~~shall~~ may:
 - a. Have the vehicle in violation removed to ~~any~~ lawful parking space or facility, or require the operator or other person in charge of the vehicle to immediately remove the unauthorized vehicle from the parking space. Whenever a vehicle is removed by a law enforcement officer, or parking enforcement specialist to a storage lot, garage, or other safe parking space, the cost of such removal, storage, and parking ~~shall~~ may be the basis of a lien against the vehicle.
 - b. Charge the owner or operator in charge of the vehicle in violation with a noncriminal traffic infraction. Any person ~~who is in violation of this subsection~~ violating sec. 28-23(a)(3) ~~shall~~ will be punished as provided for in this article.

(b) *Nongovernmental agencies.* It ~~shall be~~ is a violation for any person to park in properly marked parking spaces for disabled persons, as provided for by nongovernmental entities for certain disabled persons, except as permitted by law.

- (1) Any commercial real estate property owner offering parking for the general public shall must provide specially designed and marked motor vehicle parking spaces for the exclusive use of physically disabled persons who were issued parking permits pursuant to F.S. §§ 316.1958 or 320.0848 or a license plate pursuant to F.S. §§ 320.084, 320.0842, 320.0843 or 320.0845.
- (2) Any person who parks a vehicle in any parking space designated with the internationally accepted wheelchair symbol and the caption "Parking By Disabled Permit Only" is guilty of a traffic infraction, unless ~~such~~ the vehicle displays a parking permit issued pursuant to F.S. § 320.0848, and ~~such~~ the vehicle is transporting a person eligible for ~~such~~ the parking permit. However, any person who is chauffeuring a disabled person shall may be allowed, without need for an identification parking permit, momentary parking in any such parking space for the purpose of loading or unloading a disabled person. No penalty shall will be imposed upon the driver for such momentary parking. Any person who is in violation of this subsection shall will be punished as provided for in this article.

Sec. 28-24. Posting of no parking signs.

It shall be is the responsibility of the ~~department~~ town to post official no parking signs conforming with the Manual of Uniform Traffic Control Devices (MUTCD), on streets in certain designated areas prohibiting stopping, standing, and ~~or~~ parking in the town.

Sec. 28-25. Issuance of tickets; penalty for violations.

(a) A law enforcement officer or town ~~representative~~ parking enforcement specialist who discovers a vehicle parked in violation of any of the provisions of this article shall may:

- (1) Issue a ticket, as used by the town, to the driver; or
- (2) If the vehicle is unattended, attach such ticket to the vehicle in a conspicuous place.

(b) Any person violating, permitting, suffering, allowing or assisting anyone to violate any of the provisions of this article shall will be subject to the following fines contained within the fee schedule, as amended by Town Council.:

- (1) ~~For each notice of violation at metered or unmetered parking spaces:~~
 - a. ~~\$25.00 for each, if paid within 72 hours of the violation;~~
 - b. ~~\$40.00 for each, if paid after 72 hours but within ten days; or~~
 - c. ~~\$60.00, if paid after ten days.~~
- (2) ~~For each notice of violation in fire lanes, loading zones, yellow curb, facing wrong way, etc.:~~
 - a. ~~\$50.00, if paid within 72 hours of the violation;~~

- b. ~~\$60.00, if paid after 72 hours but within ten days; or~~
- c. ~~\$75.00, if paid after ten days.~~
- (3) ~~For each notice of violation at parking spaces designated for disabled persons:~~
 - a. ~~\$200.00, if paid within 72 of the violation;~~
 - b. ~~\$225.00, if paid after 72 hours of the violation but within ten days; or~~
 - c. ~~\$250.00, after a summons has been issued.~~
- (4) ~~If there continues to be an ignoring of the various notices, additional fines or imprisonment may be fixed by the court according to the law or laws applicable.~~

(c) If a person receives a notice of violation at a parking space designed for disabled persons who subsequently provides information that substantiates the fact that the vehicle was properly parked but the operator failed to properly display the required disability decal; the fine may be reduced to \$10.00 per instance.

(ed) A law enforcement officer or town representative parking enforcement specialist who observes a violation of any ordinance listed in section 2-497 shall will issue a ticket citation, as used by the town, to the violator and any person violating, permitting, suffering, allowing or assisting anyone to violate any of such ordinance shall the provisions of this chapter 28 will be subject to a fine as listed in the fee schedule. of \$32.00 for each notice of violation issued.

(de) Any person who elects electing to appear before the special magistrate to present evidence shall will be deemed to have waived his the right to pay the civil penalty provisions of the ticket citation. The special magistrate, after a hearing, shall will make a determination as to whether a parking violation has been committed and may impose a civil penalty not to exceed \$100.00 \$500.00, plus costs. Any person who failing to pay the civil penalty within the time allowed by the special magistrate, shall will be deemed to have been convicted of a parking ticket be in violation, and the special magistrate shall will take appropriate measures to enforce the collection of the fine.

(f) Repetitive violation of the provisions of this article, coupled with failure to pay the fines imposed, by the same person or entity may result in immobilization or impounding of the vehicle in accordance with s. 28-30.

(g) A person failing to pay the fine issued in accordance with this article, or comply with an order of the magistrate as a result of a contest hearing, will be subject to action by the Town to obtain payment through collections activity or any other available legal means.

(h) Pursuant to the provisions of FS s. 316.1967, any vehicle (as determined using the vehicle license plate) with three or more unpaid parking citations will be reported to the Department of Highway Safety and Division Motor Vehicles. Based upon this report the Department will place the vehicle license plate on a registration hold list. Placement on this list will prevent the issuance of a new or renewal license plate until the parking fines are paid to the Town. The vehicle owner will be required to pay all fines due,

including any additional fees charged by the division for placement on the hold list, before the Town will provide notice to the Department that the parking fines have been paid and release from the hold list is appropriate.

Sec. 28-26. Exercise of police power.

This entire article shall will be deemed and construed to be an exercise of the police power of the town for the preservation and protection of public safety and all of its provisions shall may be liberally construed with a view to the effectuation of such purpose.

Sec. 28-27. Criteria in issuance of summons citation.

(a) Any officer enforcing the provisions of this article may issue a summons citation to any person or operator of a vehicle for such a nonmoving offense in violation of this provisions of this article, and shall consist substantially of the following information:

TOWN OF FORT MYERS BEACH SUMMONS

For parking Violation ___ Ord. No. _____
Officer's Copy Ticket No. _____
Day of Week _____ Month-Day-Year _____ Time _____
Name _____
Street _____
City _____ State _____
Vehicle Make _____ Year _____
Tag No. _____ State _____
Date of: _____
Birth _____ Month-Day-Year _____ Race _____ Sex _____
Height _____
Offense(s) _____

Name of Officer _____

Instruction: You must pay a civil penalty (or forfeit bond) in the amount of \$32.00, or appear in Traffic Court at the Lee County Courthouse at _____ on the day of _____, 20_____. If you elect to pay the penalty, it must be paid before the court date. To: _____

Mailing Address:

Note: You must enclose your copy of the summons if you mail payment. Payment should be in the form of a money order or cashier's check.

(b) A citation issued by a law enforcement officer or parking enforcement specialist must be in a form prescribed by the town and contain the following:

- (1) Date and time of issuance.
- (2) Name and address of the person to whom the citation is issued, if knowable.

- (3) Make of vehicle.
- (4) Tag number, and state of tag issuance.
- (5) Code section violated.
- (6) Name of code enforcement specialist.
- (7) Procedure for the person to pay the fine or contest the citation.
- (8) Amount of fine if person elects to contest the citation.
- (9) Amount of fine if person elects not to contest the citation.
- (10) A conspicuous statement indicating that if the fine is not paid within the time allowed, or the person fails to appear to contest the citation, the right to contest the citation will be deemed waived, and the town will have the right to seek an order for up to the maximum civil penalty.

(c) Citations under this article may be contested before the special magistrate in accordance with the procedures set forth in LDC ch. 2, article V.

Sec. 28-28. Parking permits—Designation of areas; issuance; license therefor.

The ~~town manager and town council are~~ is hereby authorized to designate such property owned by the town as they deem appropriate for subscription parking; and, may grant to ~~any person~~ abutting property owners an exclusive permit license to park one or more motor vehicles in designated spaces on such property upon the execution of a license agreement and payment of fees as set forth in the Town fee schedule. ~~by such persons of the amount, from time to time, determined by the town manager and council for such license or permit.~~

Sec. 28-29. ~~Same~~— Parking without permit in area designated for subscription parking.

Any motor vehicle ~~which is~~ parked in any space designated by the town manager and town council as subscription parking without the owner or operator ~~thereof of the vehicle, or the commercial establishment allowing use the parking spaces to support their business,~~ having first obtained a permit therefor as prescribed in section 28-28 shall will be deemed illegally parked and the owner or operator of ~~such the illegally parked~~ motor vehicle ~~shall will~~ be subject to ~~such~~ fines and penalties as ~~are~~ provided by this chapter including, but not limited to, the impoundment of ~~such the~~ vehicle as provided in section 28-30.

Sec. 28-30. Immobilization and impounding of illegally parked vehicles.

(a) The town is authorized to attach a device that is capable of immobilizing a motor vehicle so that it cannot be moved under its own power or have the vehicle towed at the owner's expense whenever such a vehicle is found upon a public street or highway, a public parking lot or other public property in the town or parked overnight on public property, provided there are five unpaid and outstanding parking tickets or one unpaid and outstanding disability violation issued to the vehicle.

(b) The immobilizing device ~~shall~~ will be attached to the motor vehicle at the location where the vehicle is parked, except that no motor vehicle ~~shall~~ will be immobilized within the traveled portion of a street or on a portion of a street when immobilization at such location will create a hazard to the public or traffic on the street. At the time the immobilizing device is attached to a motor vehicle, a notice ~~shall~~ will be affixed to the windshield, the driver side window, or other prominent place on the motor vehicle, where the operator of the vehicle would reasonably be expected to observe it, stating the following:

- (1) The immobilizing device has been so attached, that the operator should not attempt to operate the motor vehicle while the immobilizing device is attached;
- (2) The total amount of fines and charges due for illegal parking and immobilization; and
- (3) Where the operator may pay the fines to have the immobilizing device removed from the motor vehicle.

Any attempt to remove or otherwise tamper with the immobilization device, or any attempt to threaten or otherwise harass a town representative ~~shall~~ will constitute an offense against the town.

(c) The immobilizing device ~~shall~~ will be removed from the motor vehicle upon payment of the total fines due to the town. The town may also approve the removal of the immobilizing device upon obtaining a satisfactory arrangement for payment of the fines due. Written proof of the owner or operator's arrangement for payment must be shown to the town before the immobilization device may be removed. If the owner or operator has failed to pay or make a satisfactory arrangement for payment by the end of the next immediate business day after the date of the immobilization, then the immobilized vehicle will be referred to the county sheriff. The vehicle will then be towed by a designated town towing company and placed into the impound yard. The ~~ordinance~~ parking enforcement specialist on duty at the time of tow will ensure that the immobilization device is removed in order for the towing agency to safely remove the vehicle. If the immobilization device is damaged or tampered with by anyone other than the parking enforcement specialist, the owner of the vehicle is liable for any damage to the immobilization device or the vehicle. If the device is damaged beyond repair, the owner of the vehicle must replace the device.

(d) The town is hereby vested with authority, and it ~~shall~~ will be their duty, to impound any unoccupied vehicle parked in violation of any of the parking regulations of the town and to move or cause to be moved any ~~such~~ illegally parked vehicle by wrecker or otherwise. As an alternative to immobilizing a motor vehicle as provided herein, the

town may immediately cause ~~to be towed~~ any illegally parked motor vehicle to be towed in accordance with this section. All expenses for towing and impoundment ~~shall~~ will be the responsibility of the owner of the vehicle. All towing and impoundment hereunder ~~shall~~ must be accomplished in accordance with this section and applicable state and federal law.

(e) Upon being impounded, the towing company can only release the towed vehicle after full payment, excluding the amount of any ticket issued concurrently with the immobilization device, provided the owner or operator wishes to contest the newly-issued ticket, has been received by the town and a receipt of that payment is presented to the towing company.

(f) Parking ordinance enforcement personnel ~~shall~~ must not accept any payments for violations, ~~all required payments must be made to the town.~~

DIVISION 2. METERED PARKING

Sec. 28-49. Authorization to purchase, install, and maintain.

- (a) The town is hereby vested with power and authority:
- (1) To enter into a contract in the manner, as ~~sub~~prescribed by law, for the purchase and installation of parking meters;
 - (2) To provide payment for ~~such~~ the meters and installation exclusively from the receipts, funds and revenues obtained by the town from the operation of ~~such~~ the parking meters without in ~~anywise personally~~ any way obligating the town to pay for same from any other source; and
 - (3) To enter into a contract for repairs and the purchase of ~~such~~ parts ~~of~~ for the parking meters ~~as may be~~ necessary to maintain the same in good operating condition, and pay for ~~such~~ repairs and parts exclusively from the receipts, funds and revenues received from the operation of ~~such~~ the parking meters.

~~In the event the town should at any time determine to pay the purchase price for parking meters and the installation thereof exclusively from the receipts, funds and revenues received from the operation of such parking meters, it shall may, in at the discretion of the council, set aside all such receipts, or such part thereof as may be necessary, to pay for same and such receipts, when so set aside, shall will constitute a fund that may be used for paying for such parking meters and the installation thereof. Like power is hereby granted to the town to set aside a part of such receipts from the operation of parking meters to constitute a separate fund that may be used for repairs and supply parts therefor.~~

(b) Nothing in this section ~~shall~~ may be construed as an attempt to limit or restrict the power and authority of the town to contract for parking meters and the installation thereof and for repairs and supply parts ~~therefor~~ in the manner ~~as now~~

~~otherwise provided by law, but the means of payment herein authorized and provided shall may be in addition to any other method which may now be in force and effect. However, it is the town's intent to look first to the parking meter revenues to facilitate the purchase and maintenance of the parking meters.~~

Sec. 28-50. installation, regulation, control and operation.

(a) The town manager and town council are hereby authorized to install and/or place parking meters in such areas of the town as in their discretion they may determine to be appropriate areas for such parking meters from the standpoint of parking regulation and town revenue. Such parking meters ~~shall~~ will be placed upon the curb alongside or next to individual parking places to be designated as hereinafter provided. Each parking meter ~~shall~~ will be set so as to show or display a signal that the parking space alongside of it is or is not in use.

(b) The town manager, Town Parking Enforcement Specialist, or any official or employee designated by the town manager, ~~shall~~ will provide for the installation, regulation, control, operation and use of the parking meters provided for in this division and ~~shall~~ will maintain ~~such~~ the meters in good workable condition. Each parking meter ~~shall~~ will be so set as to display a signal showing legal parking upon the swiping of a credit card or deposit of United States nickel, dime, quarter or dollar coinage ~~a coin of the United States~~ therein for a period of time conforming to the parking limit now or hereafter provided by the law enforcement regulation of the town for the part of the street upon which such meter is placed. Each meter ~~shall by its device~~ will clearly set out ~~and continue in operation from the remaining time of depositing such coin and will allow the addition of time through United States coinage coin or credit card~~ until the expiration of the time as posted on the meter or paystation fixed by law enforcement regulation as the parking limit for the part of the street upon which such meter or paystation is placed. Each meter ~~shall~~ will ~~provide also be so arranged that upon the expiration of the parking limit, it will indicate by a mechanical operation and the dropping of proper signal that the lawful parking period as fixed by law enforcement regulations of the town has expired. Each paystation will accept a credit card, or United States paper currency, for a period of time conforming to the parking limit now or hereafter provided by the regulations of the town for the part of the street upon which the paystation is placed. Each user of a paystation will be provided with a receipt that indicates the time limit.~~

Sec. 28-51. Deposit required, time limits.

(a) *Metered space.* When any vehicle ~~shall be~~ is parked in any space alongside of or next to ~~which there is located,~~ a parking meter, the owner, operator, manager or driver of ~~such~~ the vehicle ~~shall~~ must, upon entering the parking space, immediately deposit ~~a coin, or coins of the United States, or a credit card, as directed, of the United States in the parking meter alongside of or next to such parking space as directed by the instructions affixed thereto~~ the parking meter; and the parking space may then be used by ~~such~~ the vehicle during the parking time limit posted for the part of the street or lot in which ~~such~~ the parking space is located. If ~~such~~ a vehicle ~~shall~~ remains parked in any

~~such a~~ parking space beyond the parking limit fixed for ~~such the~~ parking space, the parking meter ~~shall will~~ display an indication showing illegal parking and ~~such the~~ vehicle ~~shall will~~ be parked overtime. It ~~shall be~~ is unlawful for any ~~such~~ person to cause, allow, permit or suffer any ~~such-vehicle~~ registered in his name to be parked overtime. Each hour or portion of an hour beyond the first hour of overtime parking that a vehicle ~~shall~~ remains parked overtime ~~shall will~~ be considered a separate offense and subject to a separate and distinct penalty.

(b) *Space restricted by sign.* When any vehicle ~~shall be~~ is parked in any space where parking time limitations are restricted by a sign or signs, the owner, operator, manager or driver ~~shall must~~ move the vehicle prior to the restriction running out. If any vehicle ~~shall~~ remains parked in ~~any-such a~~ parking space beyond the parking limit fixed for ~~such the~~ parking space, as shown by the sign or signs, ~~such the~~ vehicle ~~shall will~~ be parked overtime. It ~~shall be~~ is unlawful for any person to cause, allow, permit or suffer any ~~such-vehicle~~ registered in his name to be parked overtime. Each hour or portion of an hour beyond the first hour of overtime parking that a vehicle ~~shall~~ remains parked overtime ~~shall will~~ be considered a separate offense and subject to a separate and distinct penalty.

(c) *Exception.* Any commercial vehicle ~~which that~~ is required to be parked adjacent to the work site of the owner or operator may be allowed to park for extended periods where parking is controlled by parking meters or signs, provided the owner or operator can show ~~that~~ such extended parking is necessary and subject to the following:

- (1) The owner or operator ~~shall must~~ apply to the parking violations clerk for a parking permit bag. The parking permit bag issued must clearly indicate the following ~~which shall~~:
 - a. ~~Show~~ The date of issue;
 - b. The period ~~for which such the~~ permit is valid;
 - c. ~~To whom~~ The entity or person issued; the permit;
 - d. The parking space number; and
 - e. Location.
- (2) Each parking permit bag will be subject to a cost of ~~\$4.00~~ \$6.00 per day per space. Regular rates still apply to the space.

Sec. 28-52. Extension of time beyond legal time prohibited.

It ~~shall be~~ is unlawful for any person to deposit or cause to be deposited in a parking meter a coin or coins for the purpose of extending the parking time beyond the time as fixed bylaw enforcement regulation or as determined by the town manager, with approval of council, for parking in the parking space alongside of or next to which ~~such a~~ parking meter is placed.

Sec. 28-53. Violations; notice report.

~~(a) It shall be the duty of each law enforcement officer or ordinance enforcement specialist to take the number of any metered space or space where parking restrictions are provided by a sign or signs at which any vehicle is parked overtime as provided in this article and to take the state vehicle tag number of such vehicle and place a notice of violation on the vehicle as provided by this section. Notices of violation for vehicles parked overtime will be issued by law enforcement officers or parking enforcement specialists. The notice of violation will be placed on the violating vehicle and indicate the metered space number, and the vehicle tag number, and the amount of overtime parking covered by the notice of violation.~~

(b) Each hour or portion of an hour beyond the first hour of overtime parking shall ~~will~~ be considered as ~~constituting~~ constitute a separate and distinct violation; and, a law enforcement officer or ordinance parking enforcement specialist shall will place on ~~such~~ the vehicle parking overtime a notice of violation for every hour or portion of every hour ~~such~~ the vehicle remains parked overtime.

Sec. 28-54. Manner of parking.

Any vehicle parked in any parking meter space shall must be parked with the front of ~~such~~ the vehicle alongside of or next to the parking meter, or sign indicating space number alongside of such parking space in parallel parking spaces, and with the front of ~~such~~ the vehicle directed at the meter in other parking spaces, and in either event shall must be parked within the lines marked for ~~such~~ the parking space.

Sec. 28-55. Establishing spaces.

The town manager, or his delegate ~~such other officer or employee of the town as the town manager shall select,~~ shall will place lines, signage or marks about or alongside of each parking meter to designate the parking space for which ~~such~~ the meter is to be used and each vehicle parking alongside of or next to any parking meter shall must park within the lines or marking so established.

Sec. 28-56. Slugs in meters prohibited.

It ~~shall be~~ is unlawful and an offense to deposit or cause to be deposited in any parking meter, any slug, device or metallic substitute for a coin of the United States.

Sec. 28-57. Damaging meters.

It ~~shall be~~ is unlawful and an offense for any person to deface, injure, tamper with, open or willfully break, destroy or impair the usefulness of any parking meter installed under the terms of this division.

Sec. 28-58. Use of fees.

The ~~coins~~ parking fees required to be deposited as in this division under this article are hereby levied as law enforcement regulation and inspection fees to cover the costs

~~of inspection and regulation~~ involved in the inspection, installation, operation, control and use of the parking spaces and parking meters ~~described herein~~ as in this article and involved in checking up and regulating the parking of vehicles in parking meters spaces and for such other purposes as the council shall designates.

SECTION 3: SEVERABILITY.

If any one of the provisions of this ordinance should be held contrary to any express provision of law or contrary to the policy of express law, although not expressly prohibited, or against public policy, or for any reason whatsoever beheld invalid, then such provision will be null and void and will be deemed separate from the remaining provisions of this ordinance, and in no way affect the validity of all other provisions of this ordinance.

SECTION 4: CONFLICTS OF LAW.

Whenever the requirements or provisions of this ordinance are in conflict with the requirements or provisions of any other lawfully adopted ordinance or statute, the most restrictive requirements will apply.

SECTION 5: CODIFICATION AND SCRIVENER'S ERRORS.

The Town Council intends that this ordinance will be made part of the Fort Myers beach Code of ordinances; and that sections of this ordinance can be renumbered or relettered and the word "ordinance" can be changed to "section", "article" or some other appropriate word or phrase to accomplish codification, and regardless of whether this ordinance is ever codified, the ordinance can be renumbered or relettered and typographical errors that do not affect the intent can be corrected with the authorization of the Town Manager or designee, without the need for a public hearing.

SECTION 6: EFFECTIVE DATE.

This ordinance becomes effective immediately upon its adoption.

[Balance of page intentionally left blank.]

THE FOREGOING ORDINANCE was enacted by the Town Council upon a motion by Council Member Hosafros and seconded by Council Member Cereceda and, upon being put to a vote, the result was as follows:

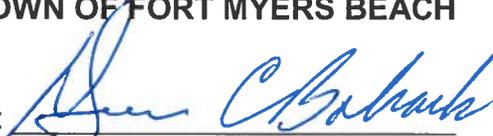
Dennis Boback	Aye
Summer Stockton	Nay
Tracey Gore	Nay
Rexann Hosafros	Aye
Anita Cereceda	Aye

DULY PASSED AND ENACTED this 21st day of November, 2016.

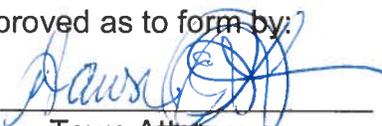
ATTEST:

TOWN OF FORT MYERS BEACH

By: 
Michelle Mayher, Town Clerk

By: 
Dennis C. Boback, Mayor

Approved as to form by:

By: 
Town Attorney