

ORDINANCE No. 03-05

AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, TO BE KNOWN AS THE TOWN OF FORT MYERS BEACH PARKING OF VEHICLES AND ORDINANCE VIOLATION ORDINANCE; PROVIDING AUTHORITY; TITLE AND CITATION; PROHIBITED IN SPECIFIED PLACES; METERED PARKING PURCHASE, INSTALLATION, MAINTENANCE AUTHORIZED; METERED PARKING INSTALLATION, REGULATION, CONTROL AND OPERATION; METERED PARKING DEPOSIT REQUIRED, TIME FOR PARKING LIMITS; METERED PARKING EXTENSION OF PARKING TIME BEYOND LEGAL TIME PROHIBITED; METERED PARKING VIOLATIONS; NOTICE REPORT; METERED PARKING MANNER OF PARKING; METERED PARKING ESTABLISHING SPACES; METERED PARKING SLUGS IN METERS PROHIBITED; METERED PARKING DAMAGING METERS; METERED PARKING USE OF FEES; ISSUANCE OF TICKETS; PENALTY FOR VIOLATIONS; PARKING PERMITS DESIGNATION OF AREAS, ISSUANCE OF PERMIT, LICENSE THEREFOR; PARKING PERMITS PARKING WITHOUT PERMIT IN AREA DESIGNATED FOR SUBSCRIPTION PARKING; IMMOBILIZATION AND IMPOUNDING OF ILLEGALLY PARKED VEHICLES; ORDINANCE ENFORCEMENT SPECIALIST; SEVERABILITY AND EFFECTIVE DATE.

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

SECTION 1. AUTHORITY. This Ordinance is enacted pursuant to the provisions of Chapter 95-494, Laws of Florida, Chapter 166, Florida Statutes, and other applicable provisions of law.

SECTION 2. TITLE AND CITATION. This Ordinance shall be known and may be cited as the Town of Fort Myers Beach Parking of Vehicles and Ordinance Violation Ordinance.

SECTION 3. PROHIBITED IN SPECIFIED PLACES.

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

(1) Drive a vehicle more than twenty five (25) tons (GVW); more than three (3) axles or more than fifty (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 thirty (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.
 - i. In any area where the curb is visibly painted with yellow paint.
 - j. Within an alley for over fifteen (15) minutes unless there is left available not less than nine (9) feet of the width of the roadway 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.
 - 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 twelve (12) inches of the edge of the roadway.
 - n. In such manner as to obstruct the free use of the streets by other vehicles or in such manner as to impede proper parking by any other vehicle or to impede traffic on the streets.
 - o. of more than seven (7) tons (GVW) or more than thirty (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 twenty five (25) tons (GVW); no more than three (3) axles and less than fifty (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.
- (3) Stand or park a vehicle, whether occupied or not, except momentarily to pick up or discharge a passenger:
- a. Within fifteen (15) feet of a fire hydrant.
 - b. Within twenty (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 seventy-five (75) feet of such entrance (when properly sign posted).
 - c. At any place where official signs prohibit standing.

d. The driver of a bus shall 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 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 and no person shall move a vehicle not lawfully under his control into any such prohibited area or away from a curb such a distance as is lawful.

SECTION 4. METERED PARKING PURCHASE, INSTALLATION, MAINTENANCE AUTHORIZED.

(a) The town is hereby vested with power and authority to enter into a contract in the manner as subscribed by law for the purchase and installation of parking meters; and to provide payment for such meters and installation exclusively from the receipts, funds and revenues obtained by the town from the operation of such parking meters without in anywise personally obligating the town to pay for same from any other source. The town is further hereby authorized and empowered to enter into a contract or contracts for repairs and such parts of such 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 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, in 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 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 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 be in addition to any other method which may now be in force and effect.

SECTION 5. METERED PARKING 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 be placed upon the curb alongside or next to individual parking places to be designated as hereinafter provided. Each parking meter shall 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 Operator, or any official or employee designated by the town manager, shall provide for the installation, regulation, control, operation and use of the parking meters provided for in this division and shall maintain such meters in good workable condition. Each parking meter shall be so set as to display a signal showing legal parking upon the deposit of 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 clearly set out and continue in operation from the time of depositing such coin until the expiration of the time fixed by law enforcement regulation as the parking limit for the part of the street upon which such meter is placed. Each meter shall 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.

SECTION 6. METERED PARKING DEPOSIT REQUIRED, TIME FOR PARKING LIMITS.

(a) Metered space. When any vehicle shall be parked in any space alongside of or next to which there is located, a parking meter, the owner, operator, manager or driver of such vehicle shall, upon entering the parking space, immediately deposit a coin or coins, 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, and the parking space may then be used by such vehicle during the parking time limit posted for the part of the street or lot in which such parking space is located. If such vehicle shall remain parked in any such parking space beyond the parking limit fixed for such parking space, the parking meter shall display an indication showing illegal parking and such vehicle shall be parked overtime. It shall be 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 remain parked overtime shall be considered a separate offense and subject to a separate and distinct penalty.

(b) Space restricted by sign. When any vehicle shall be parked in any space where parking time limitations are restricted by a sign or signs, the owner, operator, manager or driver shall move the vehicle prior to the restriction running out. If any vehicle shall remain parked in any such parking space beyond the parking limit fixed for such parking space, as shown by the sign or signs, such vehicle shall be parked overtime. It shall be 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 hour beyond the first hour of overtime parking that a vehicle shall remain parked overtime shall be considered a separate offense and subject to a separate and distinct penalty.

(c) Exception. Any commercial vehicle which 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: The owner or operator shall apply to the parking violations clerk for a parking permit bag which shall show the date of issue, the period for which such permit is valid, to whom issued, the parking space number and location. Each parking permit bag will be subject to a cost of one dollar (\$1.00) per day per space.

SECTION 7. METERED PARKING EXTENSION OF PARKING TIME BEYOND LEGAL TIME PROHIBITED. It shall be 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 parking meter is placed.

SECTION 8. METERED PARKING 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.

(b) Each hour or portion of an hour beyond the first hour of overtime parking shall be considered as constituting a separate and distinct violation and a law enforcement officer or

ordinance enforcement specialist shall place on such vehicle parking overtime a notice of violation for every hour or portion of every hour such vehicle remains parked overtime.

SECTION 9. METERED PARKING MANNER OF PARKING. Any vehicle parked in any parking meter space shall be parked with the front of such vehicle alongside of or next to the parking meter alongside of such parking space in parallel parking spaces, and with the front of such vehicle directed at the meter in other parking spaces, and in either event shall be parked within the lines marked for such parking space.

SECTION 10. METERED PARKING ESTABLISHING SPACES. The town manager, or such other officer or employee of the town as the town manager shall select, shall place lines or marks about or alongside of each parking meter to designate the parking space for which such meter is to be used and each vehicle parking alongside of or next to any parking meter shall park within the lines or marking so established.

SECTION 11. METERED PARKING SLUGS IN METERS PROHIBITED. It shall be 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.

SECTION 12. METERED PARKING DAMAGING METERS. It shall be 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.

SECTION 13. METERED PARKING USE OF FEES. The coins required to be deposited as in this division are hereby levied as law enforcement regulation and inspection fees to cover the cost of inspection and regulation involved in the inspection, installation, operation, control and use of the parking spaces and parking meters described herein and involved in checking up and regulating the parking of vehicles in parking meters spaces and for such other purposes as the council shall designate.

SECTION 14. ISSUANCE OF TICKETS; PENALTY FOR VIOLATIONS.

(a) A law enforcement officer or ordinance enforcement specialist who discovers a vehicle parked in violation of any of the provisions of this section shall:

- (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 ordinance shall be subject to the following fines:

(1) Thirty two dollars (\$32.00) for each notice of violation at metered or unmetered parking spaces if paid within seventy-two (72) hours of the violation; a fine of forty dollars (\$40.00) per notice of violation at metered or unmetered parking spaces if paid after seventy-two (72) hours but within ten (10) days; or a fine of sixty dollars (\$60.00) if paid after ten (10) days;

(2) Fifty dollars (\$50.00) for each notice of violation in fire lanes, loading zones, yellow curb, facing wrong way, etc., if paid within seventy-two (72) hours of the violation; a fine of sixty dollars (\$60.00) per violation if paid after seventy-two (72) hours but within ten (10) days; or a fine of seventy-five dollars (\$75.00) if paid after ten (10) days;

(3) Two hundred dollars (\$200.00) for each notice of violation at parking spaces designated handicapped if paid within seventy-two hours (72) of the violation; a fine of two hundred twenty-five dollars (\$225.00) if paid after seventy-two (72) hours of the violation but within ten (10) days; or a fine of two hundred fifty dollars (\$250.00) after a summons has been issued. If a person receives a notice of violation at a parking space designed handicapped who subsequently provides information that substantiates the fact that the vehicle was properly parked but the operator failed to properly display required handicap decal or decals; the fine shall be reduced to ten dollars (\$10.00).

(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) A law enforcement officer or ordinance enforcement specialist who observes a violation of any ordinance listed in Section 18 of this ordinance shall issue a ticket, as used by the town, to the violator and person violating, permitting, suffering, allowing or assisting anyone to violate any of such ordinance shall be subject to a fine of thirty two dollars (\$32.00) for each notice of violation issued.

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

SECTION 15. PARKING PERMITS DESIGNATION OF AREAS, ISSUANCE OF PERMIT, LICENSE THEREFOR. The town manager and town council are hereby authorized to designate such property owned by the town as they deem appropriate for subscription parking and may grant to any person an exclusive permit to park one (1) or more motor vehicles in designated spaces on such property upon the payment by such persons the amount from time to time determined by the town manager and council for such license or permit.

SECTION 16. PARKING PERMITS 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 having first obtained a permit therefor as prescribed in section 15 shall be deemed illegally parked and the owner or operator of such motor vehicles shall be subject to such fines and penalties as are provided by this chapter including but not limited to the impoundment of such vehicle as provided in Sec. 17.

SECTION 17. IMMOBILIZATION AND IMPOUNDING OF ILLEGALLY PARKED VEHICLES.

(a) The Town Parking Operator is authorized to attach a device that is capable of immobilizing a motor vehicle so that it cannot be moved under its own power whenever such a vehicle is found upon a public street or highway, upon a public parking lot, or other public property in the town, provided there are five (5) unpaid and outstanding parking tickets or one (1) unpaid and outstanding handicap violation issued to the vehicle.

(b) The immobilizing device shall be attached to the motor vehicle at the location where the vehicle is parked, except that no motor vehicle shall 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 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: The immobilizing device has been so attached; that the operator should not attempt to operate the motor vehicle while the immobilizing device is attached; the total amount of fines and charges due for illegal parking and immobilization; and 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 Parking Operator shall constitute an offense against the town.

(c) The immobilizing device shall be removed from the motor vehicle upon payment of the total fines due to the Town Parking Operator. The Town Parking Operator 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 Parking Operator 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 Lee County Sheriff. The vehicle will then be towed by a designated town towing company and placed into the impound yard. The ordinance 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.

(d) The Town Parking Operator is hereby vested with authority, and it shall 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 Parking Operator may immediately cause to be towed any illegally parked motor vehicle in accordance with this section. All expenses for towing and impoundment shall be the responsibility of the owner of the vehicle. All towing and impoundment hereunder shall 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 Town Parking Operator and a receipt of that payment is presented to the towing company.

(f) Ordinance enforcement specialists shall not accept any payments for violations, all required payments must be made to the Town Parking Operator.

SECTION 18. ORDINANCE ENFORCEMENT SPECIALIST. The ordinance enforcement specialist shall be responsible for the enforcement of parking violations and violations occurring on public property of the following town ordinances:

1. 96-05 OPEN ALCOHOLIC BEVERAGES

2. 96-08 ANIMAL CONTROL
3. 96-11 TAKING OF RECYCLABLE MATERIALS
4. 96-15 TWO WHEELED MOTOR DRIVEN VEHICLES
5. 96-16 PARKING VEHICLES
6. 96-17 NIGHT SLEEPING ON BEACH
7. 97-05 PARKS AND RECREATION
8. 97-11 REMOVAL OF NUISANCE
9. 99-07 ANTI-LITTERING
10. 00-10 BEACH AND DUNE MANAGEMENT
11. 00-17 REGULATIONS ON LIVE SHELLING
12. 03-04 BICYCLE SAFETY ORDINANCE

19. 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 shall for any reason whatsoever be held invalid, then such provision shall be null and void and shall 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 20. EFFECTIVE DATE. This ordinance shall become effective immediately upon its adoption.

The foregoing ordinance was enacted by the Town Council upon a motion by Council Member Rynearson and seconded by Council Member Cain and, upon being put to a vote, the result was as follows:

Howard Rynearson	<u>aye</u>
Daniel Hughes	<u>aye</u>
Bill Thomas	<u>aye</u>
W. H. "Bill" Van Duzer	<u>aye</u>
Terry Cain	<u>aye</u>

DULY PASSED AND ENACTED this 19th day of May, 2003.

ATTEST:

By: Marsha Segal George
Marsha Segal George, Town Clerk

TOWN OF FORT MYERS BEACH

By: Daniel Hughes
Daniel Hughes, Mayor

Approved as to form by:

Richard V.S. Roosa
Richard V.S. Roosa, Town Attorney