



ORDINANCE NO. 2019-02

1
2
3 AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF
4 HILLSBORO BEACH, FLORIDA, AMENDING THE TOWN'S CODE OF
5 ORDINANCES BY AMENDING CHAPTER 7 ENTITLED ~~THE~~ "OFFENSES AND
6 MISCELLANEOUS PROVISIONS," BY AMENDING ARTICLE II ENTITLED
7 "PARKING OR STORAGE OF VEHICLES; SPECIFICALLY AMENDING
8 SECTION 7-16 ENTITLED "DEFINITIONS;" CREATING SECTION 7-20
9 ENTITLED "ADOPTION OF FLORIDA UNIFORM TRAFFIC CONTROL LAW,"
10 SECTION 7-21 ENTITLED "PARKING RESTRICTIONS," SECTION 7-22
11 ENTITLED "ENFORCEMENT OF TRAFFIC AND PARKING REGULATIONS,"
12 SECTION 7-23 ENTITLED "MOTOR VEHICLE IMMOBILIZING DEVICES;
13 TOWING," SECTION 7-24 ENTITLED "SPECIAL MAGISTRATE," SECTION 7-
14 25 ENTITLED "REQUEST FOR HEARING; NOTICE OF HEARING," SECTION
15 7-26 ENTITLED "HEARING PROCEDURES", SECTION 7-27 ENTITLED
16 "CONTEST BY MAIL," SECTION 7-28 ENTITLED "ORDERS AND
17 JUDGMENTS OF SPECIAL MAGISTRATE," TO PROVIDE FOR PARKING
18 RESTRICTIONS TO REGULATE PUBLIC PARKING AT TOWN HALL BY
19 PROHIBITING PARKING AFTER BUSINESS HOURS; PROVIDING FOR
20 CODIFICATION; PROVIDING FOR SEVERABILITY; PROVIDING FOR
21 CONFLICTS; PROVIDING FOR AN EFFECTIVE DATE.

22
23 WHEREAS, the Town Commission has determined that it is in the Town's best interest to have
24 parking restrictions to regulate public parking at Town Hall by prohibiting parking after business hours;

25
26 NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE TOWN
27 OF HILLSBORO BEACH, FLORIDA THAT:

28 Section 1. The foregoing "Whereas" clause is hereby ratified and confirmed as being true and
29 correct and is hereby made a part of this Ordinance.

30
31 Section 2. Chapter 7-16 of the Code of Ordinances entitled "Definitions; regulations;
32 restrictions; exceptions" is hereby amended as follows:

33
34 **Sec. 7-16 – Definitions; regulations; restrictions; exceptions.**

35
36
37
38 *Motor vehicle.*

- 39
40 (a) Any self-propelled vehicle, including an automobile, motorcycle, truck, trailer,
41 semi-trailer, truck tractor and semitrailer combination, or any other vehicle
42 operated on the roads of this state, used to transport persons or property, and
43 propelled by power other than muscular power, ~~but the term does not include~~

1 ~~traction engines, road rollers, such vehicles as run only upon a track or guideway,~~
2 ~~bicycles, motorized scooter, electric personal assistive mobility device, or mopeds.~~

- 3 (b) A recreational vehicle-type unit primarily designed as temporary living quarters
4 for recreational, camping or travel use, which either has its own motive power or
5 is mounted on or drawn by another vehicle.

6
7 ...

8
9 Overnight parking means parking between the hours of 5:00pm and 8:00am.

10
11 ...

12
13 Recreational vehicle. Any vehicle, bus, camper, truck with a camper mounted, chassis
14 camper, motor home or swamp-buggy as defined herein, or portable structure, or any
15 similar motor vehicle or trailer designed primarily to provide temporary living quarters for
16 recreational, camping or travel use; either a vehicular structure mounted on wheels, self-
17 powered or designed to be pulled by another vehicle or a structure designed to be mounted
18 upon and carried by another vehicle. This definition includes, but is not limited to, any
19 vehicle as may be further defined by reference to Florida Statutes as a travel trailer,
20 camping trailer, camp bus or house bus, truck camper, motor home, mobile home, motor
21 coach, or fifth-wheel trailer.

22
23 ...

24
25
26 **Section 3.** Section 7-20 of the Code of Ordinances is hereby created to read as follows:

27
28 **Sec. 7-20 - Adoption of Florida Uniform Traffic Control Law.**

29 There is hereby adopted by reference the Florida Uniform Traffic Control Law, F.S. ch.
30 316, as amended, which law shall be in full force and effect in the Town as if fully set forth herein,
31 and shall be considered as part of this Code.

32
33 **Section 4.** Section 7-21 of the Code of Ordinances is hereby created to read as follows:

34
35 **Section 7-21- Parking Restrictions.**

36
37 (a) It shall be prohibited to park any motor vehicle or recreational vehicle in a parking
38 space located at Town Hall after 5pm and before 8am for every day of the week unless authorized
39 by the Town Manager. Violations of this section are enforceable by issuance of a notice to appear
40 for violation of a Town Ordinance, in which case, the penalty for a violation shall be as follows:

- 41
42 (1) First violation ... \$100.00
43 (2) Second violation within 12 months of adjudication of first violation...\$250.00
44 (3) Third violation within 18 months of adjudication of first
45 violation...Immobilization of Vehicle
46

1 (b) Each day a violation occurs shall be considered a separate violation for purposes
2 of citation and enforcement.

3
4 (c) The Town Manager shall designate which Town Hall parking spaces may be used
5 for employee or commission member parking.

6
7 **Section 6.** Section 7-22 of the Code of Ordinances is hereby created to read as follows:

8
9 **Sec. 7-22. - Enforcement of traffic and parking regulations.**

10
11 (a) Enforcement.

12
13 (1) Violations pertaining to the improper parking of a motor vehicle or recreational
14 vehicle shall be in conformity with the provisions of the Florida Uniform Traffic
15 Laws as provided in Florida Statutes;

16 (2) A violation(s) of this section shall be prosecuted in accordance with F.S. ch. 162,
17 or through any other supplemental municipal code or ordinance enforcement
18 procedures available to the Town under the Florida Statutes, this Code, or both;

19 (3) Parking violations are to be paid within twenty-one (21) calendar days from the
20 date of issuance of a citation;

21 (4) Parking violation fines for which full payment is not received within twenty-one
22 (21) calendar days from the date of issuance will be subject to a \$15.00 penalty in
23 addition to the citation fine for each citation issued;

24 (5) Parking violation fines and penalties for which full payment is not received within
25 forty-five (45) calendar days from the date of issuance will be subject to an
26 additional ~~\$20.00~~ ~~\$85.00~~ penalty, for a total penalty of ~~\$35.00~~ ~~\$100.00~~, in addition
27 to the citation fine for each citation issued;

28 (6) Pursuant to F.S. § 938.35, parking violation fines and penalties for which full
29 payment is not received within ninety (90) calendar days from the date of issuance
30 will also be subject to an additional collection fee if the account is referred to a
31 private attorney or a collection agent registered pursuant to F.S. ch. 559, either
32 retained by the Town to pursue the collection of such unpaid financial obligations.
33 The amount of such collection fee shall be equal to the actual costs of collection
34 charged the Town by an attorney or other collection agency. In no event shall such
35 collection costs exceed 40 percent of the amount owed by the violator at the time
36 the account is referred to the attorney or agents for collection.;

37 (7) In the case of overpayment of a parking violation fine and penalty, no refund shall
38 be made if payment of any other delinquent citation is due and ~~owed~~ ~~ing~~ on any
39 vehicle owned by the same registered owner of the vehicle. The Town shall apply
40 such credit balance to the oldest outstanding delinquent citation first.

41 (8) The Town of Hillsboro Beach shall periodically supply the Florida Department of
42 Safety and Motor Vehicles, or any successor department performing substantially
43 the same duties, with a list of individuals who have three (3) or more unpaid
44 parking violations with the intent that no license plate or revalidation sticker shall
45 be issued by the department or the tax collector to such persons until the registered
46 owner presents a receipt showing that such parking fines have been paid. The
47 information may be supplied to the Florida Department of Highway Safety and
48 Motor Vehicles in any communication format approved by it or State statute.

1
2 **Section 7.** Section 7-23 of the Code of Ordinances is hereby created to read as follows:
3

4 **Sec. 7-23. - Motor vehicle immobilizing devices; towing.**
5

6 (a) The Town Manager or his/her designee is hereby authorized to attach an
7 immobilization "boot" device, which prevents a vehicle from being moved under its own power, to
8 a motor vehicle under the following conditions:
9

10 (1) The motor vehicle or recreational vehicle has, on at least three (3) prior occasions,
11 been found stopped, standing or parked on Town Hall after 5:00pm and before
12 8:00am in violation of a state law or Town ordinance for which parking tickets
13 have been issued and to which the registered owner has failed or refused to respond
14 by requesting an administrative appeals hearing as provided herein, to contest the
15 parking tickets or by paying the civil penalties indicated upon the parking tickets
16 or imposed by a hearing officer or court order; and

17 (2) The registered owner of the motor vehicle or recreational vehicle has been given
18 written notice by mail or otherwise that the provisions of this section will be
19 enforced against the motor vehicle unless, not more than five (5) calendar days
20 from the date of receipt of the notice, the owner shall pay the Town, in cash or by
21 credit card, the civil fines and penalties for all such outstanding parking tickets;
22 and (3) The registered owner of the motor vehicle has failed or refused to respond
23 to the notice by paying such civil fines and penalties.
24

25 (b) The Town Manager or his/her designee shall maintain a current list of all motor
26 vehicles or recreational vehicles to which an immobilizing device may be attached pursuant to this
27 section.
28

29 (c) The immobilizing device shall be attached to the motor vehicle in any Town Hall
30 parking space where the motor vehicle may be found.
31

32 (d) At the time that an immobilizing device is attached to a motor vehicle or
33 recreational vehicle, a notice shall be affixed to the windshield or to the left front window stating
34 that the immobilizing device has been attached and cautioning the operator not to attempt to operate
35 the motor vehicle or recreational vehicle or to attempt to remove the immobilizing device. The
36 notice shall inform the owner or operator of the motor vehicle of the total amount of civil fines and
37 penalties assessed under the citations for which the motor vehicle is immobilized, plus the removal
38 charge for removal of the immobilizing device, and the location to which the owner or operator
39 must go in order to pay the civil fines and penalties and removal charge and have the immobilizing
40 device removed from the motor vehicle. Within twenty-four (24) hours of an immobilization device
41 being attached to the vehicle, the owner or operator of the vehicle may also follow the instructions
42 appearing on the affixed notice to contact the referenced Town police department for removal of
43 the immobilization device after business hours, provided that the owner or operator complies with
44 subsection (e) below.
45

46 (e) Except as provided in subsection (f) below, the immobilizing device shall be
47 removed from the motor vehicle or recreational vehicle only upon payment of the civil fines and

1 penalties assessed under the citations for which the motor vehicle has been immobilized, plus the
2 removal charges, and upon the authorization of the director or his/her designee.

3
4 (f) Upon payment of all civil penalties not otherwise appealed by an owner or operator
5 pursuant to Section 7-28, the owner or operator of a motor vehicle or recreational vehicle which
6 has been immobilized with an immobilizing device shall have the right to request the Town
7 Manager or his/her designee to schedule an administrative hearing for the purpose of determining
8 whether such vehicle was properly immobilized in accordance with the terms of this section. The
9 owner or operator has the option of paying the removal charge to have the immobilizing device
10 removed subject to the administrative hearing being held in accordance with this section.
11 Otherwise, the immobilized vehicle is subject to towing as provided in subsection (h). Any request
12 for an administrative hearing under this section must be made to the Town Manager or his or her
13 designee no later than 10:00 a.m. on the next business day after the vehicle was immobilized. The
14 hearing shall be held prior to the end of the following working day or as soon thereafter after such
15 request is made. The owner or operator requesting the hearing shall receive notice of the hearing
16 date, time and place at the time the request is made. If, upon the conclusion of the hearing, the
17 Special Magistrate determines that the vehicle was properly immobilized in accordance with the
18 terms of this section, all civil penalties and removal charges shall be retained by the Town. If the
19 Special Magistrate determines that the vehicle was not properly immobilized in accordance with
20 this section, the immobilizing device shall be removed immediately, and the removal charge will
21 be returned to the owner or operator. All civil penalties not otherwise pending appeal shall be
22 retained by the town.

23
24 (g) The removal charge for the authorized removal of an immobilizing device is
25 hereby established equal to the actual cost of removal of such device by the designee of the Town,
26 as may be modified from time to time.

27
28 (h) As an additional remedy, if an immobilizing device remains on a motor vehicle or
29 recreational vehicle for more than twenty-four (24) hours, any motor vehicle or recreational vehicle
30 described in subsection (a) may be towed from the location where it may be found within the Town,
31 and shall be impounded until the registered owner pays all outstanding civil penalties, the removal
32 charge and the costs of towing and impoundment.

33
34 (i) This section shall be applied retrospectively so that any outstanding citation or
35 summons shall be includable in determining whether the requirements of paragraph (a) (1) have
36 been met.

37
38 **Section 8.** Section 7-24 of the Code of Ordinances is hereby created to read as follows:

39
40 **Sec. 7-24 - Special Magistrate.**

41
42 The Special Magistrate appointed by the Town Commission shall also have jurisdiction to
43 adjudicate violations of the Town's parking ordinances.

44
45 **Section 9.** Section 7-25 of the Code of Ordinances is hereby created to read as follows:

46
47 **Sec. 7-25 - Request for hearing; notice of hearing.**

1 (a) Any person who receives a parking citation issued pursuant to this chapter may
2 contest such citation by delivering to the Town Clerk by mail within ten (10) calendar days,
3 including Saturdays, Sundays and legal holidays, of the date of the citation a written request for a
4 hearing or by hand-delivering such written request and the citation to the Town Clerk's Office
5 between the hours of 9:00 a.m. and 4:00 p.m., Monday through Friday, excluding legal holidays.
6 The request for hearing shall be on a form approved by the Town and available from the Town
7 Clerk's Office.

8
9 (b) The Town Clerk shall notify the Town Manager immediately of each request for
10 hearing received by the Town Clerk.

11
12 (c) The Town Clerk shall set the hearing for a date which would be within sixty (60)
13 calendar days of the date that the notice of contest was received by the Town Clerk; and shall give
14 the person issued the citation at least seven (7) calendar days' advance written notice, excluding
15 Saturdays, Sundays, and legal holidays, of the scheduled date, time and place for the hearing.

16
17 (d) Said notice shall be sent by mail to the address of the registered owner of the
18 vehicle, as per the issued citation ~~or, in the event that the driver (violation) of the vehicle is not the~~
19 ~~owner, to the driver's address.~~

20
21 **Section 10.** Section 7-26 of the Code of Ordinances is hereby created to read as follows:

22
23 **Sec. 7-26 - Hearing procedures.**

24
25 (a) Hearings before the Special Magistrate for violations of this chapter shall be
26 conducted in accordance with the provisions of this Code and F.S. ch. 162 as may be amended from
27 time to time.

28
29 (b) The information contained in the parking citation shall be presumed correct in the
30 absence of contrary evidence and no testimony shall be necessary to support the presumption of
31 correctness.

32
33 **Section 11.** Section 7-27 of the Code of Ordinances is hereby created to read as follows:

34
35 **Sec. 7-27 - Contest by mail.**

36
37 (a) Those persons who receive a parking citation but who do not reside in Palm Beach,
38 Broward or Dade County, Florida may contest the citation in writing delivered to the Clerk, thus
39 avoiding the necessity of appearing for a hearing.

40
41 (b) Such person must submit to the Town Clerk his/her written request to contest the
42 citation by mail, along with all evidence in support of such contest, within ten days of the date that
43 the citation was issued.

44
45 (c) The evidence shall be presented to the Special Magistrate, at a hearing to be held
46 within sixty (60) calendar days of the date that written request to contest the citation was received
47 by the Town Clerk. Notwithstanding that the violator has requested to contest the issuance of the

1 citation by mail, such violator will nevertheless be notified (written notice) by the Town Clerk of
2 the scheduled date, time and place of the hearing.

3
4 (d) The evidence presented must include a sworn statement by the person cited. The
5 statement must identify the citation at issue by its number and date of issuance. It must set forth the
6 name and current address of the person cited. The statement may contain argument in opposition
7 to the citation. The Special Magistrate will not consider unsworn statements.

8 (e) The evidence submitted may include sworn statements of witnesses. Such
9 statements must include the name and address of the witness, as well as the basis of the witness'
10 knowledge about the facts asserted in the statement.

11
12 (f) The evidence submitted may also include such documents as are relevant and
13 material to the disposition of the citation.

14
15 **Section 12.** Section 7-28 of the Code of Ordinances is hereby renumbered and a new Section 7-28
16 created to read as follows:

17
18 **Sec. 7-28. - Orders and judgments of Special Magistrate.**

19
20 (a) Pursuant to the provisions of F.S. § 316.1967, any person who elects to appear
21 before the Special Magistrate or to contest a citation by mail shall ~~result in a waiver of be deemed~~
22 to have waived his or her right to pay the civil penalty amount set forth on the citation.

23
24 (b) After a hearing, or following consideration of any mailed-in admissible evidence,
25 as applicable, the Special Magistrate shall make a determination based on the greater weight of the
26 evidence as to whether a parking violation has been committed and shall issue a judgment imposing
27 (1) a civil penalty not to exceed \$500.00 for violations of all other Town parking ordinances, and
28 (2) hearing costs. The Special Magistrate may, in his/her discretion, grant additional time to pay
29 the civil penalty amount. All judgments shall be in writing signed and dated by the Special
30 Magistrate and shall contain findings of fact supporting the judgment and conclusions of law.

31
32 (c) If, at the conclusion of a hearing, or following consideration of mailed-in,
33 admissible evidence, the Special Magistrate orders a dismissal of the citation and finds no violation,
34 the Special Magistrate shall so state and issue his/her order of dismissal in writing signed and dated
35 by the Special Magistrate and shall set forth findings of fact supporting the order of dismissal.

36
37 (d) Hearings shall be scheduled to be held within sixty (60) calendar days of request
38 and decided within thirty (30) calendar days following such hearing. The decision of the Special
39 Magistrate may be appealed by any party receiving an adverse ruling by the filing of a petition for
40 writ of certiorari in the Circuit Court of the Seventeenth Judicial Circuit in and for Broward County,
41 Florida; provided that such written request shall be delivered to the Clerk within thirty (30) calendar
42 days of the date of the Special Magistrate's decision, including Saturdays, Sundays and legal
43 holidays.

44
45 **Section 13.** It is the intention of the Town Commission of the Town of Hillsboro Beach, that
46 the provisions of this Ordinance shall become and be made a part of the Code of Ordinances of Town of
47 Hillsboro Beach, Florida, and the Sections of this ordinance may be renumbered, re-lettered and the word

1 "Ordinance" may be changed to "Section," "Article," or such other word or phrase in order to accomplish
2 such intention.

3
4 **Section 14.** That all ordinances or parts of ordinances and all resolutions or parts of resolutions
5 in conflict with this Ordinance are repealed to the extent of such conflict.

6
7 **Section 15.** If any section, subsection, sentence, clause or provision of this Ordinance is held
8 invalid, the remainder of this Ordinance shall not be affected by such invalidity.

9
10 **Section 6.** This Ordinance shall be effective fifteen (15) days after its passage and adoption
11 by the Town Commission of the Town of Hillsboro Beach.

12
13 PASSED AND ADOPTED BY THE TOWN COMMISSION OF THE TOWN OF HILLSBORO
14 BEACH, FLORIDA, ON FIRST READING, THIS 5th DAY OF FEBRUARY, 2019.

PASSED ADOPTED BY THE TOWN COMMISSION OF THE TOWN OF HILLSBORO BEACH,
FLORIDA, ON SECOND AND FINAL READING, THIS 5th DAY OF MARCH 2019.

15
16
17
18 By: Deborah L. Tarrant
19 Deborah L. Tarrant, Mayor

20
21 ATTEST: Sherry D. Henderson
22 Sherry D. Henderson, CMC Town Clerk
23
24



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27
28
29 APPROVED AS TO FORM:
30 Donald J. Doody
31 Donald J. Doody, Town Attorney
32
33

RECORD OF TOWN COMMISSION VOTE:

MAYOR TARRANT	<u>Yes</u>
VICE MAYOR KIRDAHY	<u>Yes</u> seconds
COMMISSIONER FEAMAN	<u>Yes</u>
COMMISSIONER BALDASARRE	<u>Yes</u> Motion
COMMISSIONER BROWN	<u>Yes</u>