

ORDINANCE NO. O2019-20

AN ORDINANCE OF THE CITY OF WILDWOOD, FLORIDA, AMENDING, REPEALING AND REPLACING CERTAIN SECTIONS WITHIN CHAPTER 12 - MOTOR VEHICLES AND TRAFFIC, ARTICLE IV. - STOPPING, STANDING AND PARKING OF THE CITY OF WILDWOOD CODE OF ORDINANCES; PROVIDING FOR CODIFICATION; PROVIDING FOR CONFLICT AND SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City of Wildwood has identified changes necessary to the provisions of Chapter 12 of the City Code of Ordinances "Motor Vehicles and Traffic"; and,

WHEREAS, the City Commission of the City of Wildwood, Florida, after the appropriate publication of notice of its intention to consider this Ordinance, has determined that in consideration of the health, safety, and welfare of its citizens, it is in the best interest of the City of Wildwood, Florida to approve this Ordinance;

NOW, THEREFORE, BE IT ORDAINED by the City Commission of the City of Wildwood, Florida, as follows:

SECTION 1. PURPOSE. The purpose of this Ordinance is to Amend, Repeal, and Replace the City of Wildwood Code of Ordinances: Chapter 12 (Motor Vehicles and Traffic), specifically Repealing sections 12-86 through 12-96, and Amending and Replacing said sections as shown in "EXHIBIT A" attached hereto.

SECTION 2. AUTHORITY. Pursuant to Article VIII, Section II of the Florida Constitution and Section 166.021 of the Florida Statutes, the City Commission of the City of Wildwood, Florida has all powers of local self-government to perform municipality functions, and render services and facilities, except when prohibited by law, including the authority to amend its Code of Ordinances.

SECTION 3. CODIFICATION. It is the intention of the City Commission of the City of Wildwood, Florida, and it is hereby ordained, that the provisions of this ordinance shall become and be made a part of the Code of Ordinances of the City of Wildwood, Florida.

SECTION 4. CONFLICT. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

SECTION 5. SEVERABILITY. If any section, subsection, sentence, clause, phrase of this ordinance, or any particular application thereof shall be held invalid by any court, administrative agency, or other body with appropriate jurisdiction, the remaining section, subsection, sentences, clauses, or phrases under application shall not be affected thereby.

SECTION 6. EFFECTIVE DATE. This ordinance shall take effect upon its final approval by the City Commission of the City of Wildwood, Florida.

DONE AND ORDAINED this ____ day of _____, 2019, by the City Commission of the City of Wildwood, Florida.

CITY COMMISSION
CITY OF WILDWOOD, FLORIDA

S E A L

Ed Wolf, Mayor

ATTEST: _____
Cassandra Smith, City Clerk

First reading: _____

Second Reading: _____

Approved as to form:

Ashley Hunt, City Attorney

“EXHIBIT A”

ARTICLE IV. – STOPPING, STANDING, AND PARKING

DIVISION 1. – GENERALLY

Sec. 12-86. – Ownership as evidence of committing violation.

In any prosecution charging violation of any provision of this article, proof that the particular vehicle described in the parking ticket was stopped, standing, parked, or operated in violation of this article, together with proof that the defendant named in the parking ticket was, at the time of the stopping, standing, parking, or operating, the registered owner of the vehicle shall constitute prima facie evidence that the registered owner of the vehicle was the person who stopped, stood, parked, or operated the vehicle at the point where and for the time which the violation occurred. However, nothing contained herein shall preclude the issuance of a “John Doe” parking ticket and subsequent identification of the registered owner at the time of the violation.

Sec. 12-87. – Authority to impound vehicles.

- (a) Whenever any law enforcement officer finds a vehicle standing upon a street, highway, alley, private property as described herein, or right-of-way in violation of this section such officer is authorized to move such vehicle or require the driver or person in charge of the vehicle to move the vehicle, so as to correct the violation. Law enforcement officers shall only be empowered to tow vehicles in accordance with subsection (b) of this section.
- (b) Law enforcement officers are authorized to remove and impound a vehicle from a street, highway, alley, private property described herein, or right-of-way to the city-contracted tow service storage facility, or other place of safety, or to a garage designated or maintained by the City, under the following circumstances:
 - (1) When any vehicle is left unattended and constitutes an obstruction to traffic.
 - (2) When the owner or person in charge of the vehicle is, by reason of physical injury, incapacitated to such an extent as to be unable to provide for its custody and removal.
 - (3) When any vehicle is left unattended and is so parked illegally as to constitute a definite hazard or obstruction to the normal movement of traffic, in violation of this part.

- (4) When any vehicle is left unattended continuously for more than forty-eight (48) hours and may be presumed to be abandoned.
 - (5) When the driver of such vehicle is taken into custody by law enforcement and such vehicle would thereby be left unattended.
 - (6) When removal is necessary in the interest of public safety because of fire, flood, storm, or other emergency.
 - (7) When a vehicle is found to have parts, components, or equipment which is so defective that the vehicle is unsafe or improper to drive.
 - (8) When a vehicle is subject to seizure under the state Contraband Forfeiture Act.
 - (9) When the vehicle is one which is illegal to drive.
- (c) No vehicle impounded as provided in this section shall be released therefrom until:
- (1) The charges for towing such vehicle into the garage and storage charges have been paid;
 - (2) Proper proof of ownership has been exhibited; and
 - (3) Any hold which has been placed upon the vehicle by law enforcement has been removed by law enforcement.
- (d) Whenever a law enforcement officer moves a vehicle in accordance with this section, and the officer knows or is able to ascertain the name and address of the owner thereof, such officer shall make a reasonable effort to notify, or cause notification to be given to, such owner of the fact of such removal and the reasons therefore and of the place to which such vehicle has been moved. The owner of a vehicle is responsible and liable for payment of any parking ticket violations unless the owner can furnish evidence that the vehicle was, at the time of the parking violation, in the care, custody, or control of another person. In such instances, the owner of the vehicle is required, no later than fourteen (14) days after the date that the certified notice of the parking violation is mailed, the owner of the vehicle is to furnish to the appropriate law enforcement authority issuing the ticket, the name and address of the person or company who leased, rented, or otherwise has the care, custody, or control of the vehicle. The owner of a vehicle is not responsible for parking ticket violations if the vehicle involved, was, at the time, stolen or in the care, custody, or control of some person who did not have permission of the owner to use the vehicle.

Sec.12-88. Removal or immobilization of vehicles.

The chief of police or any police officer of the city is authorized to remove, or cause to be removed to a place designated by such chief or officer, any vehicle parked in violation of any provision of this article and is authorized and empowered to keep the same in such place so designated until all fines and charges assessed for towing and storage against the owner and the

vehicle have been paid for satisfactory bond arranged. In addition, the chief of police or any police officer of the city is authorized to immobilize, by use of a lock-up device, any vehicle parked in violation of any provision of this article until the prescribed fine is paid or a hearing is scheduled.

DIVISION 2. – CITY OF WILDWOOD FLORIDA PARKING ORDINANCE

Sec. 12-89. – Short title.

This division shall be known as the City of Wildwood Florida Parking Ordinance.

Sec. 12-90. – Definitions.

The following words and phrases, when used in this division, shall have the meaning ascribed to them in this section, except where the context otherwise requires:

- (a) *City Clerk*: The City Clerk of the City of Wildwood and any member of the City's finance department designated by the City Clerk.
- (b) *City Commissioners*: The City Commissioners of the City of Wildwood, Florida.
- (c) *Clerk of Court*: The clerk of the circuit and county courts of Sumter County, Florida.
- (d) *City*: The City of Wildwood, Florida.
- (e) *Designated public parking space*: Any public parking space marked in accordance with and conforming to the minimum requirements of Section 316.1955, Florida Statute.
- (f) *Fire lane*: Any area adjacent to a structure, whether said area is on public or private property, which has been designated by the appropriate officials as a fire lane pursuant to the Standard Fire Protection Code of 1988 as adopted by the board of county commissioners of Sumter County, Florida and as amended from time to time, and which is clearly marked as such.
- (g) *Intersection*:
 - (1) The area embraced within the prolongation or connection of the lateral curb lines; or, if none, then the lateral boundary lines of the roadways of two (2) highways which join one another at, or approximately at, right angles; or the area within which vehicles traveling upon different highways joining at any other angle might come in conflict.
 - (2) Where the highway includes two (2) roadways thirty-nine (39) feet or more apart, then every crossing of each roadway of such divided highway by an intersecting highway shall be regarded as a separate intersection. In the event such intersecting

highway also includes two (2) roadways thirty (30) feet or more apart, then every crossing of two (2) roadways of such highways shall be regarded as a separate intersection.

- (h) *Law enforcement officer*: The chief of police of the City of Wildwood, Florida or any police officer of the City of Wildwood, Florida, the sheriff of Sumter County, Florida or his deputy, the Florida Highway Patrol, and any other law enforcement officer authorized to issue traffic citations.
- (i) *Official traffic control device*: All signs, signals, markings, and devices placed or erected by authority of a public body or official having jurisdiction for the purpose of regulating, warning, or guiding traffic.
- (j) *Official traffic control signal*: Any device, whether manually, electrically, or mechanically operated, by which traffic is alternately directed to stop and permitted to proceed.
- (k) *Owner*: A person who holds the legal title of a vehicle, or, in the event a vehicle is the subject of an agreement for the conditional sale or lease thereof with the right of purchase upon performance of the conditions stated in the agreement and which an immediate right of possession vested in the conditional vendee or lessee, or in the event a mortgagor of the vehicle is entitled to possession, then such conditional vendee, or lessee, or mortgagor shall be deemed the owner, for purposes of this division.
- (l) *Park or parking*: The standing of a vehicle, whether occupied or not, otherwise than temporarily for the purpose of and which is actually engaged in loading or unloading of merchandise or passengers as may be permitted by law under this division.
- (m) *Parking ticket*: Official form used by the chief to notify the owner of a vehicle that said vehicle is parked, stopped, or standing in violation of the terms of this division.
- (n) *Person*: Any natural person, firm, copartnership, association, or corporation.
- (o) *Private road or driveway*: Any privately owned way or place for vehicular travel by the owner and not open to travel by the public.
- (p) *Public parking space*: Any parking space which the owner, lessee, or person in control of such property provides for use of members of the public other than employees of such owner, lessee, or person, including, but not limited to, parking spaces at shopping centers, stores, offices, motels, malls, restaurants, and marinas.
- (q) *Right-of-way*: The area of a street or road adjacent to the roadway including drainage swales and areas, clear zones and all lands owned by or under the control of the City.
- (r) *Roadway*: That portion of a highway improved, designed, or ordinarily used for vehicular travel, exclusive of berm or shoulder. In the event a highway includes two (2) or more separate roadways, the term "roadway" as used herein shall refer to any such roadway separately, but not to all such roadways collectively.

- (s) *Sidewalk*: That portion of a street between the curb lines, or the lateral line, of a roadway and the adjacent property lines, intended for use of pedestrians.
- (t) *Stand or standing*: The halting of a vehicle, whether occupied or not, other than temporarily, for the purpose of, and while actually engaged in, receiving or discharging passengers, as may be permitted by law under this division.
- (u) *Street or highway*: The entire width between the boundary lines of every way or place of whatever nature when any part thereof is open to the use of the public for purposes of vehicular traffic.
- (v) *Traffic*: Pedestrians, ridden or herded animals, and vehicles, and other conveyances either singly or together while using any street or highway for the purposes of travel.
- (w) *Vehicle*: Any device, in, upon, or by which any person or property is or may be transported or drawn upon a highway, except devices moved by human power or used exclusively upon stationary rails or tracks.

Sec. 12-91. – Stopping, standing, or parking.

Within the boundaries of the City of Wildwood, Florida, except when necessary to avoid conflict with other traffic, or in compliance with applicable law or other directions of the chief of police or any law enforcement officer or official traffic control device, no person shall,

- (1) Stop a vehicle, stand a vehicle, or park a vehicle in any of the following places:
 - a. On the roadway side of any vehicle stopped or parked at the edge or curb of a street (i.e., double parked);
 - b. On a sidewalk;
 - c. Within an intersection;
 - d. On a crosswalk;
 - e. Alongside or opposite any street excavation or obstruction when stopping, standing, or parking would obstruct traffic;
 - f. Upon any bridge or other elevated structure upon a highway or within a highway tunnel;
 - g. On any railroad tracks;
 - h. On any bicycle path;
 - i. At any place where official signs prohibit stopping;
 - j. In any area containing the raised or painted separator or median;

- k. In or on any city road or street right-of-way within the boundary of the City of Wildwood, Florida.
- (2) Stand or park a vehicle, whether occupied or not, except momentarily to pick up or discharge a passenger or passengers:
- a. In front of a public or private driveway;
 - b. Within fifteen (15) feet of a fire hydrant;
 - c. Within twenty (20) feet of a crosswalk at an intersection;
 - d. Within thirty (30) feet upon the approach to any flashing signal, stop sign, or official traffic control signal located at the side of a roadway;
 - e. Within twenty (20) feet of the driveway entrance to any fire station and on the side of a street opposite the entrances to any fire station within seventy-five (75) feet of said entrances (when sign is properly posted);
 - f. In or on any city road, street, or right-of-way within the boundaries of the City of Wildwood, Florida;
 - g. On an exclusive bicycle lane.
- (3) Park a vehicle, whether occupied or not, except temporarily for the purpose of and while actually engaged in loading and unloading merchandise or passengers:
- a. Within fifty (50) feet of the nearest rail of railroad crossing;
 - b. At any place where official signs prohibit parking;
 - c. In or on any city road, public parking lot, public or private property where the public has the right to travel by motor vehicle where the parking is not marked as a parking space or otherwise impedes the orderly progression of traffic within such lot, street, right-of-way, or property within the boundaries of the City of Wildwood, Florida.
 - d. At any public or private place that is designated as a handicapped parking place for handicapped persons, unless and except when said vehicle is duly permitted for parking therein by virtue of the fact that there is a handicapped occupant.
 - e. At any public or private place where the official traffic control devices prohibit stopping, standing, parking by signage, or would otherwise impede the drive aisle or access to handicapped ramps, and pedestrian accessways.
 - f. The provisions in subsections (3)(a), (b), and (d) above shall not apply to delivery vehicles, utility company vehicles, service vehicles, or other vehicles temporarily parked or stopped in the areas mentioned above in connection with bona fide deliveries, construction, maintenance, or other

duties normally associated with the duties and responsibilities of the drives thereof, provided, however, if a law enforcement officer determines that such vehicle is posing an immediate danger to the safety and welfare of the public, the driver or other person responsible for the vehicle shall move the vehicle upon request by the law enforcement officer. Failure to comply with any such order shall constitute a violation of this division.

(4) Additional parking regulations:

- a. Except as otherwise provided in this division, every vehicle stopped or parked upon a one-way street or highway shall be so stopped or parked parallel to the curb or edge of the roadway, in the direction of the authorized traffic movement, with its right-hand wheel within twelve (12) inches of the right-hand curb or edge of the roadway, or its left-hand wheel within twelve (12) inches of the left-hand curb or edge of the roadway.
- b. Except as otherwise provided in this division, every vehicle stopped or parked upon a two-way street or highway shall be so stopped and parked with the right-hand wheels parallel to and within twelve (12) inches of the right-hand curb or edge of the street or highway.
- c. The provisions of Section 12-91 are not applicable to a person stopping a vehicle to render aid to an injured person or assistance to a disabled vehicle or other emergency. However, if a law enforcement officer determines that such vehicle is posing an immediate danger to the safety and welfare of the public, the person rendering aid or assistance shall move the vehicle upon a request by the law enforcement officer.

Sec. 12-92. – Parking in fire lanes.

No person shall park a vehicle in a fire lane except for a police, emergency, rescue, and/or firefighting vehicle or piece of equipment.

Sec. 12-93. – Regulation of parking in parking areas located on property owned or leased by the City of Wildwood, Florida.

The City Commission of the City of Wildwood, Florida shall have jurisdiction to regulate parking by resolution of the Commission and the erection of signs conforming to the manual and

specifications of the Department of Transportation, in all parking areas located within the boundaries of the City of Wildwood, Florida.

Sec. 12-94. – Civil Penalties

- (a) Any person who stops, parks, or stands a vehicle in violation of the terms of this division shall be deemed to be charged with a noncriminal violation and violations of said sections shall be assessed a civil penalty of twenty-five dollars (\$25.00) unless specified otherwise.
- (b) The following civil penalties shall be assessed for the violations specified:
 - (1) Handicap parking \$250.00
 - (2) Fire hydrant and fire lane/zone violations \$35.00
 - (3) Late payment \$10.00
- (c) The above civil penalties, and any additional fines for specific violations, may be amended from time to time by ordinance adopted by the City Commissioners of the City of Wildwood, Florida.
- (d) Each day any violation occurs or continues to occur shall be a separate violation which shall be assessed each day as a separate violation and ticketed as a separate offense designated on the parking ticket, as established by the schedule set forth above in subsections (a) and (b) of this section.
- (e) A late payment charge of ten dollars (\$10.00) may be assessed as provided in section 12-96(d).

Sec. 12-95. – Violations and enforcement

- (a) The chief of police or any law enforcement officer, who has probable cause to believe that a person has committed an act in violation of this division or section 12-94, violations and enforcement, may issue a parking ticket, therefor. A law enforcement officer who discovers a vehicle parked in violation of this division shall issue a parking ticket approved for use by the City Commissioners of the City of Wildwood, Florida, and shall attach such ticket to the vehicle in a conspicuous place. The law enforcement officer shall determine the registered owner of the vehicle for which a parking ticket has been issued and shall complete the parking ticket form. The original copy of the parking ticket form shall be forwarded to the City Clerk when completed for processing.
- (b) Parking tickets issued pursuant to this section shall include the following information:

- (1) Date, time, and location of issuance;
- (2) Vehicle license number and state;
- (3) Vehicle make and color;
- (4) Violation charged;
- (5) Amount of fine;
- (6) Department case number;
- (7) Issuing officer's signature;
- (8) Name and address of issuing agency;
- (9) Number of days allowed to pay the fine;
- (10) Instructions for contesting the parking ticket; and
- (11) Instructions for paying the fine and failure to pay fine.

Sec. 12-96. – Procedures governing payment of civil penalties and proceedings to enforce payment for city parking violations.

(a) Any person issued a city parking ticket, pursuant to section 12-94 shall answer the ticket by either of the following procedures within a ten-day (10) period which begins to run on the day immediately following the day said ticket was issued.

(1) Payment of the civil penalty indicated on the parking ticket may be remitted to the City Clerk, pursuant to the directions of such ticket, which civil penalty is subject to increase pursuant to the terms of this division.

(2) A hearing may be requested by the person receiving such parking ticket or the cited vehicle's registered owner for the purpose of presenting evidence before a county judge concerning a parking violation. Any person requesting a hearing shall execute a statement on a form prepared by the Clerk of Court indicating his or her willingness to appear at such hearing at a time and place specified thereon.

(b) Payments made pursuant to subsection (a)(1) above, which are postmarked and mailed to the City Clerk within the ten (10) day period shall be considered timely.

(c) Any person electing to contest the parking ticket pursuant to subsection (a)(2) above, and choosing to appear in county court shall be deemed to have waived any limitation on the civil penalty specified in Section 12-94(a). The court, after a hearing, shall make a determination as to

whether an infraction has been committed. If the commission of a violation has been proven, the court may impose a civil penalty not to exceed one hundred dollars (\$100.00), plus court costs.

(d) Failure to answer the parking ticket by either of the procedures described in subsection (a) above, within ten (10) days of receiving the parking ticket shall result in having a late payment charge of ten dollars (\$10.00) imposed and be deemed to have waived any right to contest the parking ticket.

Sec. 12-97

(a) Upon receipt of a complete parking ticket submitted by a law enforcement officer pursuant to section 12-94, the City Clerk shall notify the registered owner first listed on such ticket of its issuance if there has been no response pursuant to subsection (a) of section 12-96. Such notice shall be sent by regular mail and shall inform said registered owner concerning the nature and location of the parking violation and direct compliance with either of the alternatives specified in paragraph (a) of section 12-96 within a fourteen-day (14) time period which begins to run on the day immediately following the day that said notice is mailed, according to the records maintained by the City Clerk.

(2) If the owner does not pay the fine and the late payment charge within the prescribed 24 day time limit, the parking ticket may be forwarded to the Clerk of Court for placement upon the county court docket. Notice of the hearing date shall be promptly provided by the Clerk of Court to the owner of the vehicle in question by certified mail, return receipt requested.

Sec. 12-98

(a) The Clerk of Court shall submit to the State Department of Safety and Motor Vehicles a list of all owners who have three or more outstanding municipal citations issued by the city, for which fines have not been paid directly to the city or through the county court. Upon receipt of this list, the State Department of Safety and Motor Vehicles shall make the appropriate annotations to the records of the owner in question so as to prevent the owner from receiving a driver's license or vehicle registration until the fines for the parking tickets are paid.

(b) Any person issued a parking ticket for a violation of Section 12-94(a)(1) above may provide proof that they have a valid parking permit or license plate issued pursuant to a F.S. §§ 316.1958, 320.0842, 320.0845, or 320.0848, and present a signed affidavit from the owner of the disabled parking permit stating that the owner of the disabled parking permit was present at the time the violation occurred, and such parking permit or license plate was valid at the time the violation occurred. Upon provision of proof of such a valid parking permit or license plate and payment of a five-dollar (\$5.00) administrative dismissal fee, the violation shall be dismissed.

Sec. 12-99. – Disbursement of proceeds of civil penalties.

The proceeds of each civil penalty received by either the City Clerk or Clerk of Court hereunder shall be disbursed as follows: Two dollars (\$2.00) to the City Clerk or Clerk of Court to defray his or her costs of administration hereunder, and the remainder into the general fund of the City Commissioners of the City of Wildwood, Florida.

Sec. 12-100. – Altering parking tickets.

No person, whether the recipient or otherwise, shall willfully throw away, alter, mar, mutilate, destroy or discard the parking violation notice of the city. Any person violating this section shall be subject to the penalty as provided in section 1-7 of this Code.

Sec. 12-101. – Jurisdiction.

The terms of this division shall be applicable within the boundaries of the City of Wildwood, Florida.

Sec. 12-102. – Promulgation of administrative orders.

The City Commission of the City of Wildwood, Florida recognizes that the county court may adopt administrative orders to further effectuate the purpose and intent of this division.

Secs. 12-103 – 12-110. – Reserved.