

ORDINANCE NO. __-2024

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COCOA, BREVARD COUNTY, FLORIDA, AMENDING CHAPTER 20, ARTICLE III, DIVISION 2, OF THE CITY CODE REGARDING VEHICLE IMPOUNDMENT; PROVIDING FOR THE REPEAL OF PRIOR INCONSISTENT ORDINANCES AND RESOLUTIONS, INCORPORATION INTO THE CODE, SEVERABILITY, AND AN EFFECTIVE DATE.

WHEREAS, the City of Cocoa is granted the authority, under Section 2(b), Art. VIII, of the State Constitution, to exercise any power for municipal purposes, except when expressly prohibited by law; and

WHEREAS, regulating traffic and parking are valid exercises of a municipality's home rule powers. *Gate City Garage, Inc. v. City of Jacksonville*, 66 So. 2d 653 (Fla. 1953); *Chase v. City of Sanford*, 54 So. 2d 370 (Fla. 1951) (off-street and on-street parking facilities maintained by a municipality may be regarded as part of a general scheme, in the exercise of police power, to control and regulate traffic therein); and

WHEREAS, Chapter 20, *Traffic*, Article III, *Stopping, Standing and Parking*, Division 2, *Vehicle Impoundment*, regulates the circumstances under which the police department is authorized to remove a vehicle from the street and impound said vehicle; and

WHEREAS, the City desires to modify Chapter 20, Traffic, Article III, Stopping, Standing and Parking, Division 2, Vehicle Impoundment, to provide for additional circumstances under which the police department is authorized to remove vehicles from public property; and

WHEREAS, the City Council of the City of Cocoa, Florida, hereby finds this Ordinance to be in the best interests of the public health, safety, and welfare of the citizens of the City of Cocoa.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF COCOA HEREBY ORDAINS, AS FOLLOWS:

Section 1. Recitals. The foregoing recitals are hereby fully incorporated herein by reference as legislative findings of the City Council of Council.

Section 2. Text Amendment. The City of Cocoa Code of Ordinances, Chapter 20, Article III, Division 2, is hereby amended as follows: (underlined type indicates additions and ~~strikeout~~ type indicates deletions, while asterisks (* * *) indicate a deletion from the Ordinance of text existing in Chapter 20, Article III, Division 2. It is intended that the text in Chapter 20, Article III, Division 2, denoted by the asterisks and set forth in this Ordinance shall remain unchanged from the language existing prior to the adoption of this Ordinance):

Chapter 20 – TRAFFIC

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ARTICLE III. – STOPPING, STANDING AND PARKING

* * *

DIVISION 2. – VEHICLE IMPOUNDMENT

Sec. 20-79. – When vehicle may be impounded.

Any law enforcement officer ~~Members of the police department are~~ is hereby authorized to cause remove a vehicle from the street any vehicle or vessel (as those terms are defined by s. 715.07, Fla. Stat., and hereinafter together referred to as “vehicle”) to be impounded and removed from any street or other public property within the City to a place of safety or designated storage facility by use of the next obtainable towing company ~~rotation wrecker service~~, or in extreme circumstances, the quickest reasonable means available under the following circumstances:

- (1) When a vehicle is left unattended upon any bridge, causeway tunnel or viaduct, or in any subway, where such vehicle constitutes an obstruction to traffic.
- (2) When a vehicle upon a street is so disabled as to constitute an obstruction to traffic, or the 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 a vehicle is found being operated upon the streets and is not in proper condition.
- (4) When any vehicle is left unattended upon a street and is so parked illegally as to constitute a definite hazard or obstruction to the normal flow or movement of traffic.
- (5) When any vehicle is left unattended upon a street continuously for more than twenty-four (24) hours and may be presumed to be abandoned.
- (6) When the driver of such vehicle is taken into custody by the police department and such vehicle would thereby be left unattended upon a street.
- (7) When removal is necessary in the interest of public safety because of fire, flood, storm or other emergency reason.
- (8) When any vehicle is parked on a street or public property that has been temporarily closed by the city due to a special event, parade, or any other circumstance.
- (9) When any vehicle remains parked on a public street when such parking is prohibited by law or in violation of an official sign or an official traffic control device authorized to be installed or posted on the public street by the traffic engineer.
- (10) When any vehicle remains parked on public property during times when such parking is prohibited by an official sign or official traffic control device authorized to be installed or posted on the public property by the traffic engineer. The sign required by this subsection must be prominently placed at each driveway access or curb cut allowing vehicular access to the property. If there are no curb cuts or

access barriers, the signs must be posted not fewer than one sign for each 25 feet of lot frontage. The notice must clearly indicate the applicable parking restriction, and in not fewer than 2-inch high, light-reflective letters on a contrasting background, that unauthorized vehicles will be towed away at the owner's expense. The words "tow-away zone" must be included on the sign in not fewer than 4-inch high letters. The sign must also provide the name and current telephone number of the person or firm towing or removing the vehicle, or provide a statement that the vehicle impoundment location can be obtained by contacting the Cocoa Police Department at a current telephone number stated on the sign.

- (11) When any law enforcement officer reasonably believes that an unoccupied vehicle parked on a public street or public property is subject to five (5) or more unpaid recorded parking citations.
- (12) When any law enforcement officer determines a vehicle is abandoned as that term is defined by F.S., chapter 705, and located on public property may be impounded by a law enforcement officer in accordance with the procedures established by F.S., chapter 705.
- (13) When any vehicle parked on a public street or public property does not display a current valid license tag required by law for the particular vehicle.

Sec. 20-80. - Impounding, storage charges prerequisite to release of impounded vehicle.

~~No vehicle impounded under this division in an authorized garage as herein provided shall be released therefrom until the charges for towing such vehicle to the place of safety or designated storage facility into the garage, and storage charges have been paid. The charge for towing or impoundment and removal of any such vehicle and storage charges shall be fixed established by contractual arrangements between the City and private business firms for the towing and storage of impounded vehicles. The contracts and fees charged by such firms for the towing and storage of impounded vehicles shall be approved by the city manager. the police chief and shall be posted for public inspection in the office of the police department and in any authorized garage.~~

Sec. 20-81. - Notice of vehicle impounding.

~~When an a law enforcement officer impounds and removes a vehicle from the street or public property as authorized in section 20-79, and the registered owner's name and address is known, the officer will make a good faith effort to notify the registered owner as to the whereabouts of the vehicle and the circumstances under which it was towed. In any event, the officer will justify the necessity in a written report, documenting the vehicle contents (if accessible) on a tow/inventory report. The notice shall be given to the registered owner by mail within a reasonable time. Officers will follow policy set forth by the city police department regarding towed and impounded vehicles.~~

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Section 3. Incorporation Into Code. This Ordinance shall be incorporated into the City Code of the City of Cocoa and any section or paragraph, number or letter, and any heading may be changed or modified as necessary to effectuate the foregoing. Grammatical, typographical,

and like errors may be corrected and additions, alterations, and omissions not affecting the construction or meaning of this Ordinance and the City Code may be freely made.

Section 4. Repeal of Prior Inconsistent Ordinances and Resolutions. All prior inconsistent Ordinances and Resolutions adopted by the City Council, or parts of prior Ordinances and Resolutions in conflict herewith, are hereby repealed to the extent of the conflict.

Section 5. Severability. If any section, subsection, sentence, clause, phrase, word, or provision of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, whether for substantive, procedural, or any other reason, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions of this ordinance.

Section 6. Effective Date. This Ordinance shall become effective immediately upon adoption by the City Council of the City of Cocoa, Florida.

ADOPTED by the City Council of the City of Cocoa, Florida, in a regular meeting assembled on the ____ day of _____, 2024.

Michael C. Blake, Mayor

ATTEST:

Monica Arsenault, Assistant City Clerk

First Reading: _____
Legal Ad Published: _____
Effective Date: _____