

**CITY OF MARCO ISLAND
ORDINANCE NO. 04 - 12**

AN ORDINANCE RELATING TO STOPPING, STANDING OR OTHERWISE PARKING OF A VEHICLE; INCLUDING BUT NOT LIMITED TO; ALL NIGHT PARKING; ANGLE PARKING; PARKING ON ONE-WAY STREETS; PARKING IN HAZARDOUS PLACES; CURB LOADING ZONES; BUS STOPS AND TAXI STANDS; PROHIBITED PARKING; LIMITED PARKING; DETERMINED AND DESIGNATED PARKING ZONES; AND TOW AWAY ZONES; PROVIDING FOR INCORPORATION, CONFLICT, AND SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Article VIII of the State Constitution and Chapter 166 of the Florida Statutes provide that municipalities shall have the governmental, corporate, and proprietary powers to enable them to conduct municipal government, perform municipal functions, and render municipal services, and may exercise any power for municipal purposes, except when expressly prohibited by law; and

WHEREAS, Section 1.01 of the Marco Island City Charter empowers the City to adopt, amend, or repeal ordinances, resolutions and codes as may be required for the good governing of the City; and

WHEREAS, The City of Marco Island has determined that improper and non-regulated parking is detrimental to the health, safety and welfare of the citizens of Marco Island and thus constitutes a public nuisance;

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Marco Island, Florida that:

Section 1. Findings and Purpose.

The City Council of Marco Island does hereby find the following facts:

1. The improper and non-regulated parking is detrimental to the health, safety and welfare of the citizens of Marco Island.
2. The maintenance and control of access to buildings, both public and private, for handicapped persons is important to citizens of Marco Island.
3. The clear passage of public roadways and streets, including parking lots, business access, city and county parks, and all other facilities is vital to the citizens of Marco Island.

4. The protection of the quality of life and economy for the City of Marco Island, its businesses and its citizens can be accomplished by controlling parking and access to facilities.

Section 2. Title and Citation.

This ordinance shall be known as and may be cited as the "City of Marco Island Parking Control Ordinance."

Section 3. Applicability.

This ordinance shall apply to and be enforced within the corporate limits of the City of Marco Island.

Section 4. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Bicycle means any device propelled by human power, or any moped propelled by a pedal-activated helper motor with a manufacturer's certified maximum rating of 1 ½ brake horsepower, upon which any person may ride, having two tandem wheels, either of which is 20 inches or more in diameter, and including any device generally recognized as a bicycle though equipped with two front or two rear wheels.

Bus means any motor vehicle designed for carrying more than ten passengers and used for the transportation of persons, and any motor vehicle, other than a taxicab, designed and used for the transportation of persons for compensation.

Business district means the territory contiguous to, and including, a roadway when 50 percent or more of the frontage thereon, for a distance of 300 feet or more is occupied by buildings and used for business.

City road right of way means any strip of land granted, dedicated or deeded to the public occupied or intended to be occupied by a road, sidewalk, utility, storm drainage pipes, swales, green space, landscaping, etc.

Crosswalk means:

- (1) That part of a roadway at an intersection included within the connections of the lateral lines of the sidewalks on opposite sides of

the highway, measured from the curbs or, in the absence of curbs, from the edges of the traversable roadway;

- (2) Any portion of a roadway at an intersection or elsewhere distinctly indicated for pedestrian crossings by lines or other markings on the surface.

Curb loading zone means a space adjacent to a curb reserved for the exclusive use of vehicles during the loading or unloading of passengers or materials.

Department means the state department of highway safety and motor vehicles.

Designated parking space means any parking space posted with a sign bearing the internationally accepted wheelchair symbol and the caption "PARKING BY DISABLED PERMIT ONLY."

Driver means any person who drives or is in actual physical control of a vehicle on a highway, or who is exercising control of a vehicle or steering a vehicle being towed by a motor vehicle.

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.

Handicapped person means any person with permanent mobility problems who has been issued an exemption entitlement parking permit pursuant to F.S. § 320.0848.

Intersection means 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 highways which join one another at, or approximately at, right angles; or the area within which vehicles travel upon different highways joining at any other angle may come in conflict.

Motor vehicle means any vehicle which is self-propelled but not operated upon rails, but not including any bicycle or moped.

Official traffic control devices means 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.

Official traffic control signal means any device, whether manually, electrically, or mechanically operated, by which traffic is alternately directed to stop and permitted to proceed.

Operator means any person who is in actual physical control of a motor vehicle upon the highway, or who is exercising control over or steering a vehicle being towed by a motor vehicle.

Owner means 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 with an immediate right of possession as vested in the conditional vendee, or lessee, or mortgagor, shall be deemed the owner, for the purposes of this definition.

Park or parking means the standing of a vehicle, whether occupied or not, otherwise and temporarily for the purpose of and while actually engaged in loading or unloading merchandise or passengers as may be permitted by law under this article.

Parking Enforcement Officer includes the Police Chief, and any City Police Officer, any designee of the Police Chief, any City Code Compliance Personnel, the Sheriff and any Deputy Sheriff of Collier County, and any State Law Enforcement Officer.

Pedestrian means any person afoot.

Person means any natural person, firm, co-partnership, association, or corporation.

Public parking space means any parking space on city-owned/leased property or on private property which the owner, lessee, or person in control of such property provides for use by 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.

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

Served by rules of civil procedure means when served by certified mail or sheriff's service.

Sidewalk means that a portion of a street between the curblin, or the lateral line, or a roadway and the adjacent property lines, intended for use by pedestrians.

Standing means the temporary stopping of a passenger vehicle for the purpose of and while actually engaged in picking up and discharging persons.

Stop or stopping means when prohibited, means any stopping of a vehicle whether occupied or not, except when necessary to avoid conflict with other traffic, or in compliance with the directions of a law enforcement officer, traffic control sign, or signal.

Street or highway means 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.

Swale means an open drainage feature along a roadway used for stormwater conveyance. The swale area is the area between the edge of the pavement of a roadway, or curb, and the inside edge of sidewalk (or right-of-way boundary if no sidewalk is present.)

Trailer means any vehicle designed for carrying persons or property and for being drawn by a motor vehicle.

Traffic means pedestrians, ridden or herded animals, and vehicles, and other conveyances wither singly or together while using any street or highway for purposes of travel.

Vehicle means every device, in, upon, or by which any person or property is or may be transported or drawn upon a roadway, street, or highway, except devices moved by human power.

Section 5. Jurisdiction.

The provisions of this article prohibiting the stopping, standing or parking of a vehicle shall be in effect upon all streets and highways within the incorporated area of the City of Marco Island and shall apply at all times or as indicated on official signs, except when it is necessary to stop a vehicle to avoid conflict with other traffic or is in compliance with the directions of a law enforcement officer or traffic-control device.

Section 6. Placement of Official Signs.

The City Manager or his designee shall investigate changes concerning parking restrictions to be placed upon streets and highways in the incorporated area of the City. The City Manager may make changes which shall be in accordance with the

terms of this ordinance in an effort to clearly inform the public and to aid in compliance with the conditions set forth.

These Changes shall include, but are not limited to:

- (1) All night parking;
- (2) Angle Parking;
- (3) Parking on the left side of one way streets or highways;
- (4) Parking on one way streets;
- (5) Parking in hazardous places;
- (6) Curb loading zones;
- (7) Bus stops, taxi stands, etc.;
- (8) Prohibited parking;
- (9) Limited parking;
- (10) Determined and designated meter parking zones; and
- (11) Tow-away zone.

Upon the order of the City Manager enacting restrictions or prohibiting parking, standing, or stopping in certain areas along City streets or alleys, such streets or alleys may be posted with signs specifying the restrictions or prohibitions of parking, standing, or stopping.

Section 7. Prohibited Parking.

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

- (1) Stop, stand or park a vehicle:
 - a. Upon a street in such a manner or under such conditions as to obstruct or interfere with the free movement of traffic;
 - b. On the roadway side of any vehicle stopped or parked at the edge or curb of a street;

- c. On a sidewalk, bike path, or bike lane; if any portion of a vehicle obstructs or projects over the edge of the sidewalk, bike path, or bike lane, the vehicle is in violation of this section;
 - d. Within an intersection;
 - e. On a crosswalk;
 - f. Alongside or opposite any street, or obstruction when stopping, standing or parking would obstruct traffic;
 - g. Upon any bridge or other elevated structure upon a highway, where parking is not provided for;
 - h. Within any appropriately signed or marked fire lane;
 - i. 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, unless the City Manager or the state department of transportation indicates a different length by signs or marking;
 - j. Within 20 feet of a driveway entrance to any fire station and on the side of a street or highway opposite the entrance to any fire station within 75 feet of said entrance;
 - k. In the median area between traffic lanes;
 - l. At any place where official signs prohibit standing;
- (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 15 feet of a fire hydrant;
 - c. Within 20 feet of a crosswalk at an intersection;
 - d. Within 30 feet upon the approach to any flashing signal, stop sign or traffic control signal located at the side of a roadway;
 - e. Within 100 feet of intersecting road right-of-way;
 - f. On any roadway pavement maintained by the City on other than duly designated parking lanes;

- g. At any place where official signs prohibit or restrict parking, or in excess of time periods authorized by such signs;
 - h. Along or adjacent to any curb painted red or yellow, or across the delineated boundaries of a public parking place;
 - i. Seaward of the coastal construction setback line.
- (3) Stand or park a vehicle on a swale, or in a swale area, whether the vehicle is occupied or not, except momentarily to pick up or discharge a passenger, or passengers, or property, under the following circumstances:
- a. Between the hours of 2:00 a.m. and 6:00 a.m.;
 - b. When prohibited by an official sign;
 - c. On any curbed swale;
 - d. At any time within 500' of the entrance to Resident's Beach;
 - e. At any time within 500' of the entrance to the South Beach pedestrian access;
 - f. At any time within 500' of the entrance to the Tigertail Beach;
 - g. If the vehicle is a trailer; parking is prohibited at any time except when attached to a vehicle and being used in conjunction with an on-going maintenance or repair operation such as utility repairs, public works and landscape maintenance;
- (4) It is unlawful for any person or persons to willfully obstruct the free, convenient, and normal use of any public street, highway or road, by impeding, hindering, stifling, retarding or restraining traffic or passage thereon, or by endangering the safe movement of vehicles or pedestrians travelling thereon:
- a. No person shall stop, stand or park a vehicle within an alley in a business district except for the expeditious loading or unloading of material, and in no event for a period of more than 20 minutes, and no person shall stop, stand or park a vehicle in any other alley in such a manner as to obstruct the free movement of vehicular traffic;
 - b. No person shall stop, stand or park a vehicle within an alley in such position as to block the driveway or entrance to any abutting property.

Section 8. Handicapped parking.

- (1) No person shall park any vehicle or bicycle in any public parking space located on City owned or leased property or private property within the incorporated areas of the City when such public parking space has been designated for the use of handicapped persons, unless such person is a handicapped person or unless such person is momentarily parking in such parking place for the purpose of unloading or loading a handicapped person. All parking spaces provided for the physically disabled after August 26, 1991 must be marked by the owner of the parking facility in accordance with state statutes and a sign must be posted stating that there is a \$250.00 fine for illegally parking in the space. However, failure on the owner's part to post the fine for illegally parking in a handicapped space shall not release the violator of their obligation to pay the fine.
- (2) Whenever any Parking Enforcement Officer finds a vehicle in violation of F.S § 316.1955, the officer shall:
 - (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 immediately to remove the unauthorized vehicle from the parking space. Whenever any vehicle is removed by a Parking Enforcement Officer or agency to a storage lot, garage, or other safe parking space, the cost of such removal and parking shall be a lien against the vehicle. **OR**
 - (b) Charge the operator or other person in charge of the vehicle in violation with a non-criminal traffic infraction, punishable as provided in section 9.
- (3) Violation of F.S. § 316.1955 shall be punishable as provided in section 9.

Section 9. Violations

- (1) Pursuant to F.S. § 318.14, any person cited for a violation of section 7 and 8 of this article shall be deemed to be charged with a non-criminal violation and shall be assessed a civil penalty according to the following schedule:
 - (a) Handicapped parking: \$250.00 for each uncontested violation of section 8 of this article or, as determined by the county judge, up to \$250.00 for a contested violation of section 8 of this article. Pursuant to subsection 318.18(6), Florida Statutes, the clerk of courts shall dismiss the handicapped parking citation if the following items of proof are presented to the clerk; (a) proof that the person committing the violation had a valid handicapped parking permit or handicapped license plate for the cited vehicle on the issuance date of the citation,

(b) a signed affidavit in accord with subsection 318.18(6), Florida Statutes, and (c) a \$5.00 dismissal fee.

- (b) Thirty dollars (\$30.00) for a violation of any provision of section 7 of this article. Fines and late payment penalty for violations of section 7 are to be distributed as follows:
- (2) Each day any violation occurs or continues shall be a separate offense. For parking in excess of the time authorized in a public parking space, each succeeding equal time period beyond that authorized as the maximum time period for said parking place shall constitute a separate offense.
- (3) The amount of any penalty specified in this section shall be increased by an additional fifty (50) percent of the specified amount if payment is not received by the clerk prior to notice being mailed to the registered owner pursuant to section 10(c).

Section 10. Issuance of city parking citations.

- (1) When any Parking Enforcement Officer finds a vehicle in violation of the provisions of this article or signs erected pursuant to the provisions of this article, he shall issue a parking citation to the vehicle by placing said citation in a conspicuous place on the vehicle. Such parking citation form shall contain language providing notice of the following:
- (a) The type of violation and amount of penalty imposed by this article.
- (b) The procedures to be followed in either paying said penalty or electing not to pay such penalty and requesting a hearing before a county judge concerning the parking violation.
- (c) The penalty for failure to comply with directions contained on the citation.
- (2) The Parking Enforcement Officer shall determine the registered owner of the vehicle for which a citation was issued and shall complete the citation form. The original copy of the citation form shall be forwarded to the city Police Department when completed for processing.

Section 11. Payment of civil penalties and proceedings to enforce payment violations.

- (1) Any person issued a City parking citation, pursuant to section 7 or 8, shall answer the citation by either of the following procedures within ten days after the date of issuance of the citation.

- (a) Payment of the penalty indicated on the citation may be remitted to the Police Department, pursuant to the directions on such citation; or
- (b) A hearing may be requested by the person receiving such citation 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 hearing request form indicating his/her willingness to appear at such hearing at a time and place specified thereon. This hearing request will be filed with the Police Department, who will schedule a hearing through the Clerk of the Courts.

Any person who requests a hearing and does not appear in accordance with said statement shall be subject to contempt proceedings or to other such penalties as the court may, in its discretion, impose to require compliance with this article.

- (2) Pursuant to the provisions of F.S. § 316.1967, an election to request a hearing constitutes a waiver of the right to pay the penalty indicated on the parking citation, and a county judge after said hearing may impose a fine not to exceed \$100.00, plus court costs for each parking violation. However, an election to request a hearing pertaining to a handicap parking violation constitutes a waiver of the right to pay the penalty indicated on the parking citation, and a county judge after said hearing may impose a \$250.00 fine, plus court costs per violation.
- (3) Upon receipt of a complete parking citation submitted by a Parking Enforcement Officer, pursuant to sections 7 and 8, the Police Department shall notify the registered owner first listed on such citation of its issuance if there has been no response to the citation pursuant to subsection (a) of this section. Such notice shall be sent by regular mail and shall inform said registered owner concerning the nature and location of the parking violation and shall require payment of the fine or attendance at a hearing at a time and place specified in such notice. Pursuant to the provisions of F.S. § 316.1967, a county judge after said hearing should make a determination as to whether a parking violation has been committed and may impose a fine not to exceed \$100.00, plus court costs, except for handicap parking violations, for which a fine of up to \$250.00 may be imposed, plus costs. Any person upon which service is obtained, pursuant to this section who does not appear at a hearing as directed by the notice shall be subject to contempt proceedings or to such other penalties as the court may, in its discretion, impose to require compliance with said notice.

Section 12. Owner's liability for parking violations.

- (1) The owner of a vehicle is responsible and liable for payment of any parking ticket violation 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, within a reasonable time after notification of the parking violation, to furnish to the appropriate law enforcement authorities the name and address of the person or company who leased, rented or otherwise had the care, custody or control of the vehicle. The owner of a vehicle is not responsible for parking ticket violations if the vehicle 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.
- (2) At any hearing of the case involving illegal parking in which the owner of said vehicle is being tried under this article, it shall be sufficient evidence upon which the court may rely to establish the name of the registered owner of such vehicle if a law enforcement officer shall state under oath that he has made inquiry of the department of highway safety and motor vehicles or office of the county tax collector and has been advised by them of the identity of such registered owner. Otherwise, the court may defer the final determination of such case until a certified record or appropriate certificate can be obtained from the office of the department of highway safety and motor vehicles or the county tax collector's office indicating the registered owner of the vehicle on the date in question.

Section 13. Disposition of fines and forfeitures for parking violations; authorized costs.

Except as otherwise provided in this section, all moneys received by the clerk of the county court as a result of parking citation issued by a municipality shall be paid to that municipality as provided by Florida State Statute.

Section 14. Impoundment.

- (1) The Police Chief or any Police Officer is authorized to provide for the removal of a vehicle to a vehicle storage lot (or other place designated by the Police Chief) when such vehicle is found unattended on a city road right of way or other city property in the following instances:
 - (a) Where such vehicle is parked in a posted tow away zone;
 - (b) Where such vehicle constitutes an obstruction of traffic;
 - (c) Where such vehicle has been parked or stored without moving for a period exceeding 24 hours;

- (d) Where such vehicle has been involved in an accident and the driver is unable to remove the vehicle;
 - (e) Where such vehicle is wrecked, dismantled, inoperative or in an obvious state of disrepair;
 - (f) When the driver of a vehicle is taken into custody by the police department and the vehicle would thereby be left unattended upon a street;
 - (g) When removal is necessary in the interest of public safety because of fire, flood, storm or other emergency reason; and
- (2) If a vehicle is removed pursuant to this section, the registered owner will be notified in writing that the vehicle was towed and the location of the storage area. An inventory receipt will be suitable for this purpose. The notification will be sent to the address on record with the state department of highway safety and motor vehicles.
- (3) The police department will provide the state department of highway safety and motor vehicles with a full description of the towed vehicle within 24 hours of impoundment. This information will be made available to the applicable storage area upon their request.
- (4) No vehicle impounded in an authorized storage area pursuant to this section shall be released therefrom until the charges for towing the vehicle into the storage area and storage charges have been paid. The charge for the towing or removal of any impounded vehicle and storage charges shall be fixed by the city manager, which charges are to be based upon the actual cost of the removal and storage of the vehicle, as may be set forth in the city's contract with the authorized towing service.

Section 15. Amount of parking fees.

All municipal parking violation fees shall be \$30.00 if paid within 10 days with the exception of handicap fees which will be \$250.00.

Section 16. Incorporation, Conflict and Severability

- (1) It is the intention of the City Council 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 Marco Island, Florida, and that the sections of this Ordinance may be renumbered or re-lettered and that the word "ordinance" may be changed to "section", "article" or other appropriate word.

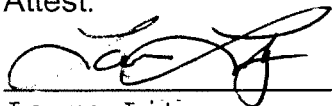
- (2) All sections or parts of sections of the Marco Island City Code of Ordinances, all City of Marco Island resolutions or parts of resolutions made applicable by City Charter in conflict herewith are hereby repealed to the extent of such conflict.
- (3) If any word, phrase, clause, subsection or section of this Ordinance is for any reason held unconstitutional or invalid by any court of competent jurisdiction, the invalidity thereof shall not affect the validity of any remaining portions of this Ordinance.

Section 17. Effective Date.

This Ordinance shall take effect immediately, after adoption by the Marco Island City Council.


Passed in open and regular session through roll call vote by the City Council of the City of Marco Island, Florida, this 7th day of September 2004.

Attest:



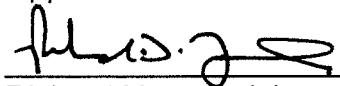
Laura Litzan
City Clerk

CITY OF MARCO ISLAND, FLORIDA

BY: 

Terri DiSciullo, Chairwoman

Approved as to form and legal:



Richard Yovanovich
City Attorney