

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45

CITY OF MARCO ISLAND

ORDINANCE NO. 12-08

**AN ORDINANCE OF THE CITY OF MARCO ISLAND,
FLORIDA AMENDING THE CODE OF ORDINANCES,
CHAPTER 50: ARTICLE II, STOPPING, STANDING
AND PARKING, TO REVISE SECTIONS 50-34; 50-37;
50-39; 50-41; 50-43; 50-44; 50-45; AND ADDING
SECTION 50-46; PROVIDING FOR DEFINITIONS,
STANDARDS, REPEAL OF CONFLICTING
PROVISIONS AND AN EFFECTIVE DATE.**

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

WHEREAS, Section 1.02 of the Marco Island City Charter empowers the City to adopt, amend, or repeal ordinances, resolutions and codes as may be required for the benefit of residents and governance of the City; and

WHEREAS, the City Council further finds that adoption of this Ordinance is in the best interest of the residents of the City of Marco Island.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MARCO ISLAND, FLORIDA:

SECTION 1. Recitals.

The foregoing “WHEREAS” clauses are hereby ratified and confirmed as being true, correct and reflective of the legislative intent underlying this Ordinance and are hereby made a specific part of this Ordinance.

SECTION 2. Amendment and Adoption.

The amendments to the Code of Ordinances contained in this Ordinance are hereby amended or created and adopted as follows:

46 Sec. 50-34. - Definitions.

47
48 *****

49
50 *Parking enforcement officer* includes the Police Chief, and any City Police Officer, any designee of
51 the Police Chief, any Community Service Officer, any City Code Compliance Personnel, the Sheriff
52 and any Deputy Sheriff of Collier County, and any state law enforcement officer.

53
54 *****

55
56 Sec. 50-37. - Prohibited parking.

57
58 Except when necessary to avoid conflict with other traffic, or in compliance with law or the
59 direction of a law enforcement officer or official traffic control device, no person shall:

60 (1) Stop, stand or park a vehicle:

- 61 (a) Upon a street in such a manner or under such conditions as to obstruct or interfere with
62 the free movement of traffic;
- 63 (b) On the roadway side of any vehicle stopped or parked at the edge or curb of a street;
- 64 (c) On a sidewalk, bike path, or bike lane; if any portion of a vehicle obstructs or projects
65 over the edge of the sidewalk, bike path, or bike lane, the vehicle is in violation of this
66 section;
- 67 (d) Within an intersection;
- 68 (e) On a crosswalk;
- 69 (f) Alongside or opposite any street, or obstruction when stopping, standing or parking
70 would obstruct traffic;
- 71 (g) Upon any bridge or other elevated structure upon a highway, where parking is not
72 provided for;
- 73 (h) Within any appropriately signed or marked fire lane;
- 74 (i) Between a safety zone and the adjacent curb or within 30 feet of points on the curb
75 immediately opposite the ends of a safety zone, unless the city manager or the state
76 department of transportation indicates a different length by signs or marking;
- 77 (j) Within ~~20~~ 50 feet of a driveway entrance to any fire station and on the side of a street or
78 highway opposite the entrance to any fire station within 75 feet of said entrance;
- 79 (k) In the median area between traffic lanes;
- 80 (l) At any place where official signs prohibit standing-;
- 81 (m) On any improved surface adjacent to a roadway designed and marked for parking for a
82 period longer than 72 consecutive hours;
- 83 (n) On any improved surface in a city parking lot designed and marked for parking for a
84 period longer than 72 consecutive hours;
- 85 (o) On any improved surface meeting the criteria of (m) and (n) of this section: outside of
86 the marked parking space;
- 87 (p) Excluding on private property, next to a curb line painted yellow designating a no
88 parking zone;
- 89 (q) With expired or unregistered license plates on any street, street right-of-way, swale or
90 public access parking area, except as provided for in Sec. 30-1007.
- 91

92 *****

93
94 (3) Stand or park a vehicle on a swale, or in a swale area, whether the vehicle is occupied or not,
95 except momentarily to pick up or discharge a passenger, or passengers, or property, under the
96 following circumstances:

97 (a) Between the hours of 2:00 a.m. and 6:00 a.m.;

98 (b) When prohibited by an official sign;

99 (c) On any curbed swale;

100 (d) At any time within 500 feet of the entrance to Resident's Beach;

101 (e) At any time within 500 feet of the entrance to the South Beach pedestrian access;

102 (f) At any time within 500 feet of the entrance to the Tigertail Beach;

103 (g) ~~If the vehicle is a trailer; parking is prohibited at any time except when attached to a~~
104 ~~vehicle and being used in conjunction with an ongoing maintenance or repair operation such~~
105 ~~as utility repairs, public works and landscape maintenance. At any time within 500 feet of~~
106 ~~the entrance to the Madeira beach access path;~~

107 (h) At any time within 500 feet of the entrance to the Marriott's Crystal Shores beach access
108 path;

109 (i) Facing against the direction or flow of traffic for that side of the roadway;

110 (j) Angled parking unless posted as authorized;

111 ~~(k) If the vehicle is a trailer; parking is prohibited at any time except when attached to a~~
112 ~~vehicle and being used in conjunction with an ongoing maintenance or repair operation such~~
113 ~~as utility repairs, public works and landscape maintenance.~~

114
115 *****

116
117 Sec. 50-39. – Violations

118
119 (1) Pursuant to ~~F.S. §~~ Section 318.14, FLA.STATS, any person cited for a violation of sections 50-
120 37 and 50-38 of this article shall be deemed to be charged with a noncriminal violation and shall be
121 assessed a civil penalty according to the following schedule:

122 (a) Handicapped parking: \$250.00 for each uncontested violation of section 50-38 of this
123 article or, as determined by the county judge, up to \$250.00 for a contested violation of
124 section 50-38 of this article. Pursuant to ~~F.S. §~~ Section 318.18(6), FLA.STATS, the clerk of
125 courts shall dismiss the handicapped parking citation if the following items of proof are
126 presented to the clerk; (a) proof that the person committing the violation had a valid
127 handicapped parking permit or handicapped license plate for the cited vehicle on the
128 issuance date of the citation, (b) a signed affidavit in accord with ~~F.S. §~~ Section 318.18(6),
129 FLA.STATS, and (c) a \$5.00 dismissal fee.

130 (b) ~~Thirty~~ Ninety-five dollars for a violation of any provision of section 50-37 of this article.
131 Fines and late payment penalty for violations of section 50-37 are to be distributed as
132 follows.

133 (2) Each day any violation occurs or continues shall be a separate offense. For parking in excess of
134 the time authorized in a public parking space, each succeeding equal time period beyond that
135 authorized as the maximum time period for said parking place shall constitute a separate offense.

136 (3) The amount of any penalty specified in this section shall be increased by an additional 50
137 percent of the specified amount if payment is not received by the clerk prior to notice being mailed
138 to the registered owner pursuant to section ~~50-40(e)~~ 41(3).

139

140 *****

141
142 Sec. 50-41. - Payment of civil penalties and proceedings to enforce payment violations.
143

144 (1) Any person issued a city parking citation, pursuant to sections 50-37 or 50-38, shall answer the
145 citation by either of the following procedures within ten days after the date of issuance of the
146 citation.

147 (a) Payment of the penalty indicated on the citation may be remitted to the ~~police department~~
148 City of Marco Island, pursuant to the directions on such citation; or

149 (b) A hearing may be requested by the person receiving such citation or the cited vehicle's
150 registered owner for the purpose of presenting evidence before a county judge concerning a
151 parking violation. Any person requesting a hearing shall execute a statement on a hearing
152 request form indicating his/her willingness to appear at such hearing at a time and place
153 specified thereon. This hearing request will be filed with the police department, who will
154 schedule a hearing through the clerk of the courts.

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

158 (2) Pursuant to the provisions of F.S. § Section 316.1967 FLA.STATS, an election to request a
159 hearing constitutes a waiver of the right to pay the penalty indicated on the parking citation, and a
160 county judge after said hearing may impose a fine not to exceed \$100.00, plus court costs for each
161 parking violation. However, an election to request a hearing pertaining to a handicap parking
162 violation constitutes a waiver of the right to pay the penalty indicated on the parking citation, and a
163 county judge after said hearing may impose a \$250.00 fine, plus court costs per violation.

164 (3) Upon receipt of a complete parking citation submitted by a parking enforcement officer,
165 pursuant to sections 50-37 and 50-38, the police department shall notify the registered owner first
166 listed on such citation of its issuance if there has been no response to the citation pursuant to
167 subsection (1)(a) of this section. Such notice shall be sent by regular mail on the fourteenth day
168 after the citation was issued and shall inform said registered owner concerning the nature and
169 location of the parking violation and shall require payment of the fine or attendance at a hearing at a
170 time and place specified in such notice. Pursuant to the provisions of F.S. § Section 316.1967
171 FLA.STATS, a county judge after said hearing should make a determination as to whether a parking
172 violation has been committed and may impose a fine not to exceed \$100.00, plus court costs, except
173 for handicap parking violations, for which a fine of up to \$250.00 may be imposed, plus costs. Any
174 person upon which service is obtained, pursuant to this section who does not appear at a hearing as
175 directed by the notice shall be subject to contempt proceedings or to such other penalties as the
176 court may, in its discretion, impose to require compliance with said notice.

177
178 *****

179
180 Sec. 50-43. - Disposition of fines and forfeitures for parking violations; authorized costs.

181
182 Except as otherwise provided in this section, all moneys received by the clerk of the county court as
183 a result of parking citation issued by a municipality shall be paid to that municipality as provided by
184 Florida State Statute.
185

186 ***** ***** *****

187
88 Sec. 50-44. - Impoundment.

189
190 (1) The police chief or any police officer is authorized to provide for the removal of a vehicle to a
191 vehicle storage lot (or other place designated by the police chief) ~~when such vehicle is found~~
192 ~~unattended on a city road right-of-way or other city property in the following instances:~~

- 193 (a) Where such vehicle is parked in a posted tow away zone;
- 194 (b) Where such vehicle constitutes an obstruction of traffic;
- 195 (c) Where such vehicle has been parked or stored without moving for a period exceeding 24
196 hours;
- 197 (d) Where such vehicle has been involved in an accident and the driver is unable to remove
198 the vehicle;
- 199 (e) Where such vehicle is wrecked, dismantled, inoperative or in an obvious state of
200 disrepair;
- 201 (f) When the driver of a vehicle is taken into custody by the police department and the
202 vehicle would thereby be left unattended upon a street;
- 203 (g) When removal is necessary in the interest of public safety because of fire, flood, storm or
204 other emergency reason;
- 205 (h) When any vehicle has been stolen or operated without the consent of the owner and
206 located on public or private property;
- 207 (i) When any vehicle displays illegal license plates or fails to display the current lawfully
208 required plates and is located upon any public street or other property open to the public for
209 the purpose of vehicular travel or parking;
- 210 (j) When any vehicle has been operated by a person, known or otherwise, who has failed to
211 stop in the case of a vehicle crash involving personal injury, impaired driving, or property
212 damage in excess of \$1,000;
- 213 (k) When the vehicle's owner is found to have three or more unpaid parking or traffic
214 citations and is located upon any public street or other property open to the public for the
215 purpose of vehicular travel or parking;
- 216 (l) When the vehicle is parked continuously in the same place for more than the permitted
217 amount of time as defined in section 50-37 and the vehicle remains in place for twelve
218 consecutive hours after issuance of a parking citation describing said violation;
- 219 (m) The vehicle is parked upon any public street or other property open to the public for the
220 purpose of vehicular travel or parking which has been declared a temporary or no parking
221 zone due to a state of the emergency proclamation issued by the City of Marco Island;
- 222 (n) Where such vehicle is parked in a fire lane;
- 223 ~~(2)~~ (o) If a vehicle is removed pursuant to this section, the registered owner will be notified
224 in writing within 5 business days that the vehicle was towed and the procedure for
225 reclaiming the vehicle the location of the storage area. An inventory receipt will be suitable
226 for this purpose. The notification will be sent to the address on record with the state
227 department of highway safety and motor vehicles.
- 228 ~~(3)~~ (p) The police department will provide the state department of highway safety and motor
229 vehicles Collier County Communications Center with a full description of the towed vehicle
230 within 24 12 hours of impoundment. This information will be made available to the
231 applicable storage area upon their request.
- 232 ~~(4)~~ (q) No vehicle impounded in an authorized storage area pursuant to this section shall be
233 released there from until the charges for towing the vehicle into the storage area and storage

234 and administrative charges have been paid. The charge for the towing or removal of any
235 impounded vehicle and storage charges shall be fixed set by the city manager, which charges
236 are to be based upon the actual cost of the removal and storage of the vehicle, as may be set
237 forth in the city's contract with the authorized towing service, as well as an administrative
238 fee set by the city manager.

239 (r) Any person seeking to release an impounded vehicle shall appear at the police
240 department to furnish satisfactory evidence of identity and ownership or right to possess.
241 Proof of current insurance status must also be shown. No vehicle may be released if there is
242 an administrative, evidentiary or judicial hold placed on said vehicle.

243 (s) No owner or operator shall remove an impounded vehicle from the place of storage
244 without complying with the above procedures. Possession of the vehicle which has been
245 impounded and unlawfully taken from the place of storage, by the owner or operator, shall
246 constitute prima-facie evidence that it was removed by the owner or operator.

247 (t) No vehicle storage facility may release an impounded vehicle without written
248 authorization by the Marco Island police department to do so.

249
250 (2) The administrative fees to be charged by the municipality relative to the impoundment of
251 vehicles as authorized by this section are to be set by the city manager.

252 253 254 255 **SECTION 3. Inclusion in the Code of Ordinances.**

256
257 It is the intention of the City Council and it is hereby ordained that the amendments
258 to the City of Marco Island Code of Ordinances made by this Ordinance shall become part of the
259 City of Marco Island Code of Ordinances, that the sections of this Ordinance may be renumbered
260 and relettered as necessary, and that the word "Ordinance" may be changed to "Section, "Article" or
261 other appropriate word.

262 263 **SECTION 4. Conflicts.**

264
265 All ordinances or parts of ordinances and all resolutions or parts of resolutions in
266 conflict with the provisions of this Ordinance are hereby repealed.

267 268 **SECTION 5. Severability.**

269
270 If any section, clause, sentence or phrase of this Ordinance is for any reason held
271 invalid or unconstitutional by a court of competent jurisdiction, the holding shall not affect the
272 validity of the remaining portions of this Ordinance.
273

274
275
276
277
278
279
280
281
282
283
284
285
286
287
288
289
290
291
292
293
294
295
296
297
298
299

SECTION 6. Effective Date.

This Ordinance shall be effective immediately upon adoption by the City Council on second reading.

ADOPTED BY THE CITY COUNCIL OF THE CITY OF MARCO ISLAND this 17th day of September, 2012. Attest:

CITY OF MARCO ISLAND FLORIDA

By: 


Laura M. Litzan, City Clerk

By: 

Larry Magel, Chairman

(SEAL)

Reviewed for legal sufficiency:

By: 

Burt L. Saunders, City Attorney

