

**L O N G B O A T   K E Y   P O L I C E   D E P A R T M E N T**

**M E M O R A N D U M**

**DATE:** NOVEMBER 19, 2014

**TO:** Mr. Dave Bullock, Town Manager  
**FROM:** Frank Rubino, Deputy Chief  
**SUBJECT:** Vehicle Towing and Parking Ordinances

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A review of the Town's current towing and parking ordinances, Chapters 70 and 72, revealed the need for updates.

With regard to the Town's towing ordinances contained in Chapter 70, the Town's current Code permits the towing of an improperly parked vehicle to either a garage or Town owned property. If a vehicle is towed to Town property, the owner of such vehicle shall pay the actual expenses for the towing and \$5.00 per day for storage. The Town does not currently have an area designated for "towed" vehicle storage and has not had occasion to use this particular provision in the existing ordinance in recent years. If used, the Town would be assuming responsibility and liability for any vehicles towed to Town property. Accordingly, it is our recommendation that this section of the Code relative to Town vehicle storage be deleted, and the Town continue the use of a private third party towing service provider for towing and storage services when circumstances necessitate such action.

With regard to the parking penalties and citation fine schedule provided for in Chapter 72, some of the penalties for parking violations currently set forth in the Code may not be enforceable under applicable Florida law. Accordingly, we recommend that any such unenforceable penalties be removed from the Code. Additionally, we have also re-evaluated the schedule of parking fines currently included in the Code in Section 72.99 and compared the Town's fine schedule to the fines assessed by surrounding municipalities in Sarasota and Manatee Counties. Based upon a review of neighboring jurisdiction's schedules, we recommend that the fine for improper parking in a parking spaces designated for use by disabled persons be increased to \$250.00.

We also had in depth discussions with the parking enforcement administrators in neighboring municipal jurisdictions to compare their ticketing and fine collection protocols with those currently used by the Town's Police Department. Several municipalities utilize processes provided for by Florida Statutes § 316.1967, that permits municipalities to forward the names of persons who have at least 3 unpaid parking violations or unpaid parking violations for parking in spaces designated for use by disabled persons to the Department of

Highway Safety and Motor Vehicles (DHSMV). Under the state statute, the DHSMV has the ability to require payment of such outstanding municipal parking fines as a condition of license plate or revalidation sticker issuance. Currently, the Town's Code does not have a mechanism to place a license registration stop on vehicles for failing to pay the municipal parking fine. Utilizing this state authorized process assists many of our neighboring jurisdictions in the collection of parking fines. Accordingly, we recommend incorporating this process into the Town Code.

In addition to the above described recommendations, the Police Department has also re-evaluated the following:

- Whether the Town's current parking citation should be updated to include a procedure for contesting the citation through the court system (pending approval of ordinance revision);
- Whether parking violators should be provided more than 48 hours to pay their fine;
- Whether there is a more user friendly way for parking violators to pay fines;
- Whether the current parking fines should be increased to be more consistent with other surrounding municipalities' fine schedules;
- Whether an outside vendor should be utilized to collect fines like some other surrounding municipalities (not cost effective for LBK due to amount of citations generated); and
- Whether the Town should transmit a letter to parking violators as part of the fine collection process (two surrounding cities employ this method).

Many of the above considerations involve support assistance from other Town Departments. Accordingly, the Police Department has discussed many of the above issues with the Town Attorney, IT Director, Finance Director and Public Works Director for input. As a result of discussions with other Town Departments, revisions to Chapter 72 of the Town Code are being forwarded to the Town Commission for consideration in the proposed draft Ordinance 2014-30.

Upon Commission approval of Ordinance 2014-30, the Police Department is prepared to have new parking ticket citations printed with the proper ordinance and verbiage required by the State and Clerks of Court. All required computer tracking systems are ready to be implemented along with changing the Police Department's tracking system.

This item was considered at the November 12, 2014 Regular Workshop Meeting and a consensus was reached to forward to the December 1, 2014 Regular Meeting for first reading. At the November Workshop, Commissioner Younger requested that the Town Attorney and Deputy Chief explore the possibility of an accruing delinquency fee to impose on vehicle owners in an amount of \$1.00/per day for individuals who fail to timely pay their parking citations. The

determination on whether to include a delinquency fee is a policy decision that rests within the discretion of the Town Commission. Should the Town Commission desire to enact a delinquency fee, it was recommended that a maximum amount for such fees be included in the Code so there is an upper limit on the amount that can be charged by the Town. Based upon the direction of the Town Commission at the November workshop, a graduated delinquency fee of \$1.00 per day was included in Ordinance 2014-30 for consideration by the Town Commission on first reading on December 1, 2014.

At the first reading of Ordinance 2014-30 on December 1, 2014, the Town Commission reconsidered the graduated incremental \$1.00/day delinquency fee for non-payment of parking fines as proposed. The Town Commission discussed the potential difficulty in administering a daily, continually accruing delinquency fee and decided that for administrative reasons they would prefer a delinquency fee that increased by increments of \$30.00 on the 15th day, 45<sup>th</sup> day and 75<sup>th</sup> day after parking citation issuance. The Town Commission indicated that they wanted to continue to have an upper limit for the delinquency fee in an amount of \$90.00. Accordingly, the following highlighted language relating to the delinquency fee has been added to Ordinance 2014-30, in section 72.11(D), for your consideration:

(D) In the event the owner of a vehicle fails to pay the applicable parking violation monetary fine within 14 days of issuance of the citation, or otherwise contest the citation as provided for in this chapter, the Town may assess an additional graduated delinquency fee. To the extent applicable, a delinquency fee will be assessed in accordance with the following schedule: (1) payments made between 15 days and 44 days from the date of citation issuance will be assessed an additional amount of \$30.00; (2) payments made between 45 days and 74 days from the date of citation issuance will be assessed an additional amount of \$60.00; and (3) payments made 75 days or more after the date of citation issuance will be assessed an additional amount of \$90.00. Notwithstanding the foregoing, the maximum delinquency fee the Town may impose against a vehicle owner shall be \$90.00.

Pending second reading and public hearing, I recommend adoption.

# Summary of proposed changes as of 12/22/14

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## **Section 2:**

Updated Ordinance by eliminating Town property as a storage option and utilizing a towing business for towing and storage of vehicles.

In addition, the following circumstances are to be considered for change.

- Delete towing a vehicle for failing to meet State inspection requirements. Florida no longer has mandatory inspections.
- Delete tow charges for storing vehicles on Town property.
- Deleted requirement that vehicle be presumed abandoned when vehicles left unattended for over 24 hours on the street.

## **Section 3:**

- Updated to comply with Florida Statutes.
- Eliminated specific locations and added the verbiage “designated shopping areas.”
- Added the verbiage to allow parking enforcement any place where official signs prohibit parking.
- Cross references Chapter 70 of the Code when authorizing the removal of vehicles that obstruct traffic
- Cross references Chapter 74 of the Code that prohibits parking on certain designated streets within the Town.
- Change amount of time violator has to submit fine to Town from 48 hours to fourteen (14) days.
- Penalty- Eliminate all other fines and imprisonment and replace one set fee for all parking fines at \$30.00 with the exception of Disabled Parking violations which change from \$100.00 to \$250.00.
- Penalty – Include a late fee accruing charge of \$30.00 on the 15<sup>th</sup> day, 45<sup>th</sup> day and 75<sup>th</sup> day after parking citation issuance. Total late fees that can be assessed will be capped at \$90.00.
- Establish certain minimum information to be included in a Town issued parking citation.
- Modification made to comply with the Department of Highway Safety and Motor Vehicle in order to place a stop notice on a violator’s vehicle who failed to pay their fine.

## **Sections 4 and 5:**

- Change “Cross reference” citation to the Penalty provision of the Code to reflect the newly renumbered Penalty subsection provision contained in Section 72.11.

## ORDINANCE 2014-30

**AN ORDINANCE OF THE TOWN OF LONGBOAT KEY, FLORIDA, AMENDING THE CODE OF ORDINANCES CHAPTER 70, GENERAL PROVISIONS; AMENDING SECTION 70.02, IMPOUNDMENT OF VEHICLES; AMENDING CHAPTER 72, STOPPING, STANDING AND PARKING; AMENDING SECTION 72.01 PARKING PROHIBITED IN CERTAIN PLACES; AMENDING SECTION 72.08, REMOVAL AND IMPOUNDMENT; AMENDING AND RENUMBERING SECTION 72.99, PENALTY, TO SECTION 72.11, PENALTY; AMENDING AND RENUMBERING CROSS REFERENCE PENALTY CITATION REFERENCES IN SECTIONS 72.02, 72.03, 72.04, 72.05, 72.06, AND 72.07 FROM PENALTY § 72.99 TO PENALTY § 72.11; ADDING A CROSS REFERENCE PENALTY CITATION REFERENCE IN SECTION 72.10, PARKING OF COMMERCIAL VEHICLES IN RESIDENTIAL DISTRICTS; ESTABLISHING SECTION 72.12, PARKING CITATIONS; ESTABLISHING SECTION 72.13, NOTICE TO DEPARTMENT OF HIGHWAY SAFETY AND MOTOR VEHICLES; AMENDING CHAPTER 74, SCHEDULE I: PROHIBITED PARKING AND SCHEDULE II: RESTRICTED PARKING BY AMENDING AND RENUMBERING CROSS REFERENCE PENALTY CITATION FROM PENALTY § 72.99 TO PENALTY § 72.11; PROVIDING FOR REPEAL OF ALL ORDINANCES IN CONFLICT HEREWITH; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the Town Commission has evaluated certain provisions within the Code of Ordinances relating motor vehicle parking, parking restrictions and impoundment, and determined that several of such provisions should be updated; and

**WHEREAS**, the Town Commission desires to amend Chapter 70 of the Code of Ordinances to update and clarify the process for vehicles to be impounded under certain circumstances within the Town; and

**WHEREAS**, the Town Commission desires to amend Chapter 72 of the Code of Ordinances to update and clarify the Town's motor vehicle parking prohibitions and restrictions, vehicle removal and impoundment process for certain violations, parking penalty schedule, parking citation, and enforcement mechanisms for violations of the Town's parking restrictions; and

**WHEREAS**, the Town Commission also desires to clarify that the penalties for parking violations contained in renumbered Section 72.11 of the Code of Ordinances shall be applicable to certain parking violations contained in chapters 72 and 74 of the Town's Code of Ordinances.

**NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COMMISSION OF THE TOWN OF LONGBOAT KEY, FLORIDA, THAT:**

SECTION 1. The Whereas clauses above are ratified and confirmed as true and correct.

SECTION 2. Section 70.02 Impoundment of vehicles, of the Town Code is hereby amended as follows:

**70.02 Impoundment of vehicles.**

- (A) Members of the police department are hereby authorized to contact a towing business to request the removal of ~~remove~~ a vehicle from a street ~~to the nearest garage or other place of safety, or to a garage or parking area designated or maintained by the police department or by this town,~~ under the following circumstances:
- (1) When any vehicle is left unattended on any bridge, causeway, or viaduct where the vehicle constitutes an obstruction to traffic.
  - (2) When a vehicle on 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 on the streets and is not in proper condition according to state inspection requirements.~~
  - (4 ~~3~~) When any vehicle is left unattended on a street and is parked illegally so as to constitute a definite hazard or obstruction to the normal movement of traffic.
  - ~~(5~~ 4) When any vehicle is left unattended upon a street continuously for more than 24 hours ~~and may be presumed to be abandoned.~~
  - ~~(6~~ 5) When the driver of a vehicle is taken into custody by the police department and the vehicle would thereby be left unattended on a street.
  - ~~(7~~ 6) When removal is necessary in the interest of public safety because of fire, flood, storm, or other emergency reason.
  - ~~(8~~ 7) When removal is authorized under state law.
- (B) No vehicle impounded in an authorized garage or parking area as herein provided shall be released therefrom until the charges for towing the vehicle into the garage and storage charges have been paid. The charge for towing or removal of any vehicle and storage charges shall be the actual expenses ~~and \$5.00 per day when stored on town property~~ charged by the towing business.
- (C) Whenever an officer requests the removal of ~~removes~~ a vehicle from a street, as authorized in subsection (A) above, and the officer knows or is reasonably able to ascertain the name, ~~and address,~~ or contact information of the owner thereof, the officer shall immediately take reasonable steps to give or cause to be given notice ~~in writing~~ to the owner of the fact of the removal, the reasons therefore, and of the place to which the vehicle has been removed. ~~In the event any vehicle is stored in an authorized garage, a copy of the notice shall be given to the proprietor of the garage.~~
- (D) Whenever any police officer finds a vehicle standing on a street or alley in violation of any of the provisions of this section, the officer is hereby authorized to move the vehicle or require the driver or person in charge of the vehicle to move it to a position off the paved or improved or main-traveled part of the street or alley. Whenever any police officer finds a vehicle unattended on any

street, bridge, or causeway within this town where the vehicle constitutes an obstruction to traffic, the officer is hereby authorized to provide for the removal of the vehicle in accordance with the provisions of this section.

- (E) Nothing herein shall impair the ability of the town's police department from conducting criminal investigations involving motor vehicles, or the police department's ability to tow and impound vehicles to town-owned property when necessary in the course of such investigations. Any costs associated with such towing and impoundment shall be borne by the owner of the motor vehicle.

SECTION 3. Chapter 72, Stopping, Standing, and Parking, is hereby amended as follows:

### **72.01 Parking prohibited in certain places.**

No person shall stop, stand, or park a vehicle, except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer or traffic-control device, in any of the following places:

- (A) *Generally.*
- (1) On a sidewalk and easements.
  - (2) In front of a public or private driveway.
  - (3) At an intersection.
  - (4) Within 15 feet of a fire hydrant.
  - (5) Within 20 feet of a crosswalk.
  - (6) Within 30 feet upon the approach to any flashing signal, stop sign, or traffic control signal located at the side of a roadway.
  - (7) Within 75 feet of the driveway entrance of any fire station.
  - (8) At any place where official signs prohibit or restrict parking, or in excess of time periods authorized by such signs.
  - (9) On specific streets or areas designated within chapter 74 of this Code, as may be amended from time to time.
- (B) *In fire lanes and other designated emergency vehicle access areas.*
- (1) Adjacent to sidewalks located around designated shopping areas Publix, Eckerd's, and other shops in Bay Isles Shopping Center.
  - (2) Other areas determined by the fire chief and police chief that the parking of vehicles does or will interfere with ready access by the fire department or other emergency vehicles to the property, and the such designated area fire lane is conspicuously furnished with signs or markers designating the area as either a fire lane or other emergency vehicle access area.
- (C) Any person who violates or fails to comply with the provisions of this section shall be subject to fines as provided for in section 72.11 of this Code.  
**Cross reference-** Penalty, § 72.9911

### **72.02 Unattended vehicle.**

**Cross reference-** Penalty, § 72.9911

### **72.03 Obstruction of traffic prohibited.**

**Cross reference-** Penalty, § 72.9911

**72.04 All-night parking.**

**Cross reference-** Penalty, § 72.9911

**72.05 Parking for certain purposes prohibited.**

**Cross reference-** Penalty, § 72.9911

**72.06 Restriction on parking and use of portable storage units, recreational camping vehicles, and trailers.**

**Cross reference-** Penalty, § 72.9911

**72.07 Restricted parking zones.**

**Cross reference-** Penalty, § 72.9911

**72.08 Removal; impoundment.**

Whenever any police officer finds a vehicle standing on a street or alley in violation of any of the provisions of this chapter, the officer is hereby authorized to have the vehicle moved in the manner provided for in chapter 70 of this Code ~~the vehicle~~ or require the driver or person in charge of the vehicle to move the vehicle to a position off the paved or improved or main-traveled part of the street or alley. Whenever any police officer finds a vehicle unattended or unlawfully parked on any street, bridge, or causeway within the town, where that vehicle constitutes an obstruction to traffic, the officer is authorized to provide for the removal of the vehicle in the manner provided for in chapter 70 of this Code.

**Cross reference-** Penalty, § 72.9911; authority of police to impound certain vehicles; procedure for impoundment of vehicles, § 70.02.

**72.10 - Parking of commercial vehicles in residential districts.**

**Cross reference-** Penalty, § 72.11

**72.9911 Penalty.**

(A) The provisions of this chapter ~~include the following~~ shall be applicable to all parking violations within the town, and the monetary fines payable in each instances are as set forth opposite each listed violation:

~~(1) Overtime parking .....\$ 15.00~~

(~~2~~ 1) Parking in time restricted area (except ~~handicapped~~ parking spaces designated for use by disabled persons), unlawful parking, or parking where parking is prohibited \$30.00

(~~3~~ 2) Parking, stopping, or standing a vehicle within any specially designated and marked ~~handicapped~~ parking space for use by disabled persons in violation of F.S. § 316.1955 ~~400.00~~ \$250.00

~~(B) Any person found guilty of violating any other provision of this chapter or any~~

~~order issued pursuant thereto shall, upon conviction thereof, be punished by a fine not exceeding \$500.00 or by imprisonment for a term not exceeding 60 days.~~

- ~~(B) Any monetary fines imposed for parking violations shall be paid by the owner of the vehicle no later than fourteen (14) days from the date of issuance of the parking citation.~~
- ~~(C) Any person, firm, company, corporation, or association, or the managing agent of any person, firm, company, corporation, or association who violates any of the provisions of section 72.06 shall, upon conviction thereof, be fined in a sum of not more than \$50.00, or be imprisoned for not more than three days, with each day of the violation constituting a separate offense.~~
- (C) The owner of a vehicle is responsible and liable for payment of any monetary fine for a parking violation imposed with respect to such vehicle unless the owner can furnish evidence that the vehicle was, at the time of the violation, in the care, custody, or control of another person. In this regard, the owner of the motor vehicle may, within fourteen (14) days of citation issuance, furnish to the town's police department an affidavit setting forth the name, address, and driver's license number of the person who leased, rented, or otherwise had the care, custody, or control of the vehicle. The affidavit shall raise a rebuttable presumption that the person identified in the affidavit is responsible for payment of the prescribed penalty. The owner of a vehicle is not responsible for a parking citation violation 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. The owner of a leased vehicle is not responsible for a parking violation and is not required to submit an affidavit or the other evidence specified in this section, if the vehicle is registered in the name of the person who leased the vehicle.
- (D) In the event the owner of a vehicle fails to pay the applicable parking violation monetary fine within 14 days of issuance of the citation, or otherwise contest the citation as provided for in this chapter, the Town may assess an additional graduated delinquency fee. To the extent applicable, a delinquency fee will be assessed in accordance with the following schedule: (1) payments made between 15 days and 44 days from the date of citation issuance will be assessed an additional amount of \$30.00; (2) payments made between 45 days and 74 days from the date of citation issuance will be assessed an additional amount of \$60.00; and (3) payments made 75 days or more after the date of citation issuance will be assessed an additional amount of \$90.00. Notwithstanding the foregoing, the maximum delinquency fee the Town may impose against a vehicle owner shall be \$90.00.
- ~~(D) Alternatively, any person, firm, company, corporation, or association who violates any provision of this chapter may be prosecuted before the code enforcement board pursuant to chapter 33 of this Code and state Law.~~
- (E) The Town may elect to pursue the collection of monetary penalties and any delinquency fees for parking violations from the vehicle owner responsible for such parking violations. In the event such collections are pursued, the Town may seek recovery of its fees and costs associated with such collection activities in the manner permitted by applicable law.
- (F) Any person who is issued a parking citation by a town police officer is deemed to be charged with a noncriminal violation and shall comply with the directions

on the citation.

(G) Nothing herein shall be construed to limit the town's ability to remove and impound vehicles in the manner provided for by this Code.

**Cross reference-** Parking citations, § 72.12; Impoundment of vehicles, § 70.02.

### **72.12 Parking Citations.**

When a town police officer finds a vehicle in violation of the provisions of the town's parking restrictions or prohibitions, a parking citation may be issued to the vehicle by placing said citation in a conspicuous place on the vehicle. Such parking citation form shall, at a minimum, contain information relating to the following:

- (A) The type of violation and amount of penalty imposed.
- (B) The procedures to be followed for either paying said penalty or requesting a hearing on such citation for the purpose of presenting evidence before a county judge or magistrate concerning the parking violation.
- (C) The location of the vehicle at the time of the parking violation for purposes of determining whether a hearing is subject to the jurisdiction of a Sarasota or Manatee county judge or magistrate.
- (D) The penalty for failure to comply with directions contained on the parking citation.

**Cross references-** Penalty, § 72.11; Notice to Department of Highway Safety and Motor Vehicles, § 72.13.

### **72.13 Notice to Department of Highway Safety and Motor Vehicles.**

Pursuant to F.S. § 316.1967, the applicable clerk of the court for Sarasota or Manatee County, or the town's police department, shall supply the State of Florida's Department of Highway Safety and Motor Vehicles ("DHSMV") with a magnetically encoded computer tape reel or cartridge or send by other electronic means data which is machine readable by the installed computer system at the DHSMV, listing persons who have three or more outstanding parking violations, and persons who have violated F.S. § 316.1955. The DHSMV shall mark the appropriate registration records of persons who are so reported. If at any time the DHSMV requires such list be furnished in any different format or additional formats, the town's police department, shall have the authority to comply with such request. F.S. § 320.03(8) applies to each person whose name appears on the list. A license plate or revalidation sticker may not be issued until that person's name no longer appears on the list or until the person presents a receipt from the town showing that the outstanding parking fines have been paid.

SECTION 4. Chapter 74, Parking Schedules, Schedule I: Prohibited Parking, is hereby amended, as follows:

**Cross reference-** Penalty, § 72.9911

SECTION 5. Chapter 74, Parking Schedules, Schedule II: Restricted Parking, is hereby amended, as follows:

**Note Cross reference-** Penalty, ~~see~~ § 72.9911

SECTION 6. If any section, subsection, sentence, clause or provision of this Ordinance is held invalid, the remainder of the Ordinance shall not be affected.

SECTION 7. All ordinances or parts of ordinances in conflict herewith shall be and the same are hereby repealed.

SECTION 8. This Ordinance shall take effect upon second reading in accordance with law and the Charter of the Town of Longboat Key.

Passed on first reading the 1<sup>st</sup> day of December, 2014.

Adopted on second reading and public hearing the \_\_\_\_ day of \_\_\_\_\_, 2014.

ATTEST:

\_\_\_\_\_  
James L. Brown, Mayor

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Trish Granger, Town Clerk



**End of Agenda Item**