

M E M O R A N D U M

TO: Tom Harmer, Town Manager

FROM: Allen Parsons, AICP
Director, Planning, Zoning and Building Department

DATE: April 26, 2019

SUBJECT: Ordinance 2019-03, Amending Chapter 71, Traffic Rules and Chapter 74, Parking Schedules

Recommended Action

Forward Ordinance 2019-03 to the June 3, 2019, Regular Meeting for second reading and public hearing.

Background

Ordinance 2019-03 follows from Commission discussion and direction at their April 15, 2019, Regular Workshop meeting to address concerns expressed by property owners in Longbeach Village relating to parking, traffic safety, and congestion along the streets in their neighborhood.

At that meeting, the Commission provided direction to draft an Ordinance to establish the following:

1. **Reduce the speed limit on Broadway Street to 20 miles per hour (mph):**
Ordinance 2019-03 amends Chapter 71, Town Speed Limits, to have a consistent 20 mph speed limit on all local streets. Broadway Street was the only local street in the Town with a 25 mph speed limit, which may be due to the street design, including its width, which allows for slightly higher speeds.
2. **Prohibit parking within 50 feet of intersections on Broadway Street:**
Ordinance 2019-03 amends Chapter 74, Parking Schedules, Schedule I- Prohibited Parking, to prohibit parking within 50 ft. of intersections on Broadway between Palm Drive and Bayside Drive.
3. **Restrict parking on Poinsettia Avenue, between Broadway and Linley Streets:**
Ordinance 2019-03 amends Chapter 74, Parking Schedules, Schedule I- Prohibited Parking, to restrict parking on Poinsettia Ave (between Broadway and Linley Streets) to both sides of the street. Note: The potential for a one-sided restriction was discussed with the Commission at their April 15, 2019, Regular Workshop. However, subsequent feedback from neighbors, on that segment of Poinsettia Avenue, indicated a safety concern with on-street parking and included a request to have no parking on both sides of the street. Staff reviewed their request and support the restriction on this segment of road, which would similar to restrictions on Longboat Drive South, in the same segment (from Broadway to Linley Streets).
4. **Restrict parking on Russell Street, between Poinsettia Avenue and Bayside Drive:**
Ordinance 2019-03 amends Chapter 74, Parking Schedules, Schedule I- Prohibited Parking, to restrict parking on the south side of Russell Street, between Poinsettia Avenue and Bayside Drive. Note: The previous staff recommendation presented at the April 15, 2019, Regular Workshop was to restrict parking on the north side of Russell Street. The issue of the more typical traffic circulation pattern was discussed

with the Commission indicating that it would be better to restrict parking on the south side.

5. Prohibit parking on all Town streets between the hours of 11:00 p.m. and 5:00 a.m.:

Ordinance 2019-03 amends Chapter 74, Parking Schedules, Schedule II- Restricted Parking, to prohibit parking on all Town streets between 11:00 p.m. and 5:00 a.m. A Town-wide assessment of impacts associated with an overnight parking restriction has not been conducted. Note: The Commission also directed to amend the Town Code to prohibit on-street parking of vehicles for more than 3 days in the same location. However, the overnight parking restriction would make a 3-day prohibition unnecessary.

6. Prohibit use of public parking spaces by private valet operators:

Ordinance 2019-03 amends Chapter 74, Parking Schedules, by establishing a new Schedule III, titled, Use of Public Property for Valet Operations, which would prohibit the use of public parking spaces on any Town right-of-way or on any Town-owned property, unless such usage is approved via a Special Event Permit or Concessionaire Agreement, as provided for in Town Code.

As noted above, these specifically directed amendments are in response to on-going citizen concerns with regard to parking and safety in the Longbeach Village area, along with Commission consideration at their last several meetings including:

- i. discussion at their February 19, 2019, Regular Workshop Meeting;
- ii. extensive Open to the Public input at the March 4, 2019, Regular Meeting;
- iii. discussion and consideration of various options at their March 19, 2019, Regular Workshop Meeting; and
- iv. discussion and consideration of potential options at the April 15, 2019, Regular Workshop meeting. Staff has preliminary concerns with widespread implementation of a resident-only parking permit program and would need time for further investigation, if the Commission wanted to consider the residents' recommendations.

Longbeach Village residents continue to advocate for the establishment of a resident-only parking permit program throughout the entirety of the neighborhood. Staff recommends implementation of the Commission directed changes above, with follow-up coordination with Longbeach Village residents and restaurant owners during the upcoming busier winter season to see the impact of these measures. Potential consideration of a resident-only parking permit program or other additional incremental changes may continue to be evaluated as impacts from the proposed changes are assessed and as such a program remains a priority for residents.

The Commission additionally requested the Town Attorney to provide an opinion on questions regarding the Town's authority to regulate valet parking on public and private property. These questions are responded to in an attached memorandum from the Town Attorney.

Staff Recommendation

Forward Ordinance 2019-03 to the June 3, 2019, Regular Meeting for second reading and public hearing.

Attachments

Ordinance 2019-03;

Longbeach Village Current and Proposed Parking Schedule Maps; and

Memorandum from the Town Attorney Re: Applicable Law on the Regulation of Valet Parking, dated April 30, 2019.

Attachment A
 Longbeach Village Current Parking Schedule Map



Attachment B
 Longbeach Village Proposed Parking Schedule Map

Longbeach Village Proposed Parking Schedule



Proposed Parking Schedule

- Parking Allowed
- Restricted (No Parking 11PM-5AM)
- No Parking
- - - Alley
- Sidewalk
- No parking within 50' of stop sign

Town of
 Longboat Key
 Florida

Prepared by
 Department of Planning,
 Zoning, & Building
 Town of Longboat Key
 501 Bay Isles Road
 (941) 316-1966



April 2019



ORDINANCE 2019-03

AN ORDINANCE OF THE TOWN OF LONGBOAT KEY, FLORIDA, AMENDING CHAPTER 71, TRAFFIC RULES, OF THE CODE OF ORDINANCES; AMENDING SECTION 71.02, TOWN SPEED LIMITS; AND AMENDING CHAPTER 74, PARKING SCHEDULES, OF THE CODE OF ORDINANCES; AMENDING SCHEDULE I: PROHIBITED PARKING, AMENDING PROHIBITED PARKING ALONG CERTAIN SECTIONS OF ROADWAYS IN LONGBEACH VILLAGE; AMENDING SCHEDULE II: RESTRICTED PARKING, AMENDING RESTRICTED PARKING BETWEEN THE HOURS OF 11:00 P.M. AND 5:00 A.M. ON TOWN STREETS; ESTABLISHING SCHEDULE III: USE OF PUBLIC PROPERTY FOR VALET OPERATIONS; PROVIDING FOR REPEAL OF ALL ORDINANCES IN CONFLICT HEREWITH; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE.

WHEREAS, property owners in Longbeach Village have expressed concerns relating to parking and traffic congestion along the streets in their neighborhood and requested the adoption of additional parking and speed restrictions along certain roadways within their neighborhood to address such congestion; and

WHEREAS, the Town Commission desires to amend the parking schedules for Longbeach Village to enhance public safety and to limit impacts from vehicular parking congestion within that residential neighborhoods; and

WHEREAS, the Town Commission desires to amend the Town's traffic rules to lower the vehicular speed limits on Town owned roads to protect the Town's pedestrians from vehicular traffic; and

WHEREAS, the regulation of vehicular speed, traffic, and parking congestion on and along the Town's streets is a public safety concern and constitutes a public purpose; and

WHEREAS, the Town Commission, after public hearing finds that the proposed amendments are in the best interest of the health, safety, and welfare of the citizens of Longboat Key.

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 and are incorporated fully herein by reference.

SECTION 2. Chapter 71, Traffic Rules, Section 71.02: Town Speed Limits is hereby amended, as follows:

71.02 - TOWN SPEED LIMITS

It shall be unlawful to drive any motor vehicle on any street, road, or road right-of way

not under the jurisdiction of the state, within the Town, at a speed in excess of 20 miles per hour.

SECTION 3. Chapter 74, Parking Schedules, Schedule I: Prohibited Parking is hereby amended, as follows:

SCHEDULE I: PROHIBITED PARKING

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

Street	Between	Side
Bay Isles Road	Except as otherwise noted herein: 55 feet to the west and 30 feet to the east of the entrance driveway at 501 Bay Isles Road (Town Hall). Additional restrictions may be enacted at the discretion of the town manager or his designee, to ensure public safety	North
Bayside Drive		South
Bayside Drive	Linley and Cedar	Both
Bayside Drive	Russell Street and Broadway Street	Both
Binnacle Point Drive		South
Broadway Street	Palm Drive to Bayside Drive	North
Broadway Street	Gulf of Mexico Drive and Firehouse Road	North
Broadway Street	Within 50 Feet of Intersecting Streets from Palm Drive to Bayside Drive	South
Cedar Street	Gulf of Mexico Drive and Palm Drive, except 100 feet west of Palm Drive	North
Coral Avenue	Firehouse Road and waters of Gulf of Mexico	Both
Firehouse Court	Gulf of Mexico Drive and Joy Street	Both
Firehouse Road	Coral Avenue and 7043 Firehouse Road Fire Station and Broadway Street	West

Gulfbay Road	Gulf of Mexico Drive and a point 425 feet easterly of Gulf of Mexico Drive	Both
Gulf of Mexico Drive	Along its entire length, except for lawfully nonconforming parking spaces	Both
Gulfside Road	Entire length, Gulf of Mexico Drive to Gulf of Mexico Drive	Both, except northerly side of southerly leg commencing at a point 30 feet from Gulf of Mexico Drive thence extending 94 feet
Hibiscus	Shell Street and a point 50 feet easterly	Southerly
Hibiscus Way	Entire length	Northwest
Joy Street	Firehouse Court and North Shore Road, and North Shore Road and waters of Longboat Pass	Both
Jungle Queen Way	Gulf of Mexico Drive and a point 525 feet easterly of Gulf of Mexico Drive	Both
Linley Street	Entire length, Longboat Drive South to Lois Avenue	North
Lois Avenue	Broadway Street and Russell Street	East
Longboat Drive North	Broadway Street and Russell Street	Both
Longboat Drive South	Broadway Street and Linley Street	Both
Lyons Lane	Entire length	Both
North Shore Road	Gulf of Mexico Drive to Joy Street	Both
	Joy Street and waters of Gulf of Mexico	South
Palm Drive	Cedar Street and Broadway Street, and Broadway Street and dead end	Both
Palmetto Avenue	Firehouse Road and waters of Gulf of Mexico	Both
Poinsettia Avenue	Broadway Street and Russell Street	East
Poinsettia Avenue	Broadway Street and Linley Street	Both

Russell Street	Poinsettia Avenue and Bayside Drive	North
St. Judes Drive	Gulf of Mexico Drive and a point 400 feet easterly of Gulf of Mexico Drive	Both
Seabreeze Avenue	Broadway Street and waters of Gulf of Mexico	Both
Shell	Hibiscus and a point 50 feet southerly	Westerly
Tarawitt Drive	Gulf of Mexico Drive and a point 400 feet easterly of Gulf of Mexico Drive	Both

SECTION 4. Chapter 74, Parking Schedules, Schedule II: Restricted Parking, is hereby amended, as follows:

SCHEDULE II: RESTRICTED PARKING

(C) No person shall park a vehicle on any of the Town’s streets between the hours of 11:00 p.m. and 5:00 a.m.

(D) No person shall park a vehicle on any of the following streets or portions thereof when marked to prohibit parking between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday:

Street	Portion	Side
Bay Isles Road	From a point beginning at the northernmost boundary of the United States Post Office, extending southward to the intersection of Bay Isles Road and Bay Isles Parkway	Both

(E) During the month of March in conjunction with early voting dates and on the general election date, as established by the Town Commission, no person shall park on the north side of Bay Isles Road within 55 feet to the west and 30 feet to the east of the entrance driveway at 501 Bay Isles Road (Town Hall).

SECTION 5. Chapter 74, Parking Schedules, is hereby established to create a new, Schedule III: Use of Public Property for Valet Operations, as follows:

SCHEDULE III - USE OF PUBLIC PROPERTY FOR VALET OPERATIONS.

(A) Public parking spaces in any Town right-of-way or on any Town-owned property shall not be used by private valet operators for use as staging or parking storage areas, unless such usage is approved via a Special Event Permit or Concessionaire Agreement, as provided for in the Town Code.

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.

SECTION 9. This Ordinance shall be codified and made a part of the official Code of Ordinances of the Town of Longboat Key upon adoption.

Passed on first reading the ____ day of _____, 2019.

Adopted on second reading and public hearing the ____ day of _____, 2019.

George L. Spoll, Mayor

ATTEST:

Trish Shinkle, Town Clerk



Ordinance 2019-03 Amending Ch. 71 Traffic Rules and Ch. 74, Parking Schedules

**Town Commission Regular Meeting
May 6, 2019**



Recent History

- Town Commission discussed parking & traffic safety concerns, in the Longbeach Village neighborhood public parking spaces at February 19, 2019, Regular Workshop, March 4, 2019, Regular Meeting and March 19, 2019, Regular Workshop.
- At their April 15, 2019, Regular Workshop the Town Commission provided direction to amend the Town Code with specific sections including Town Speed Limits and Parking Schedules provisions.



Commission Direction- Speed on Broadway St.



Reduce the Speed Limit on Broadway St. to 20 MPH

- Town Code Sec. 71.02 - TOWN SPEED LIMITS
- It shall be unlawful to drive any motor vehicle on any street, road, or road right-of way not under the jurisdiction of the state, within the Town, at a speed in excess of 20 miles per hour.



Commission Direction- Intersection Visibility

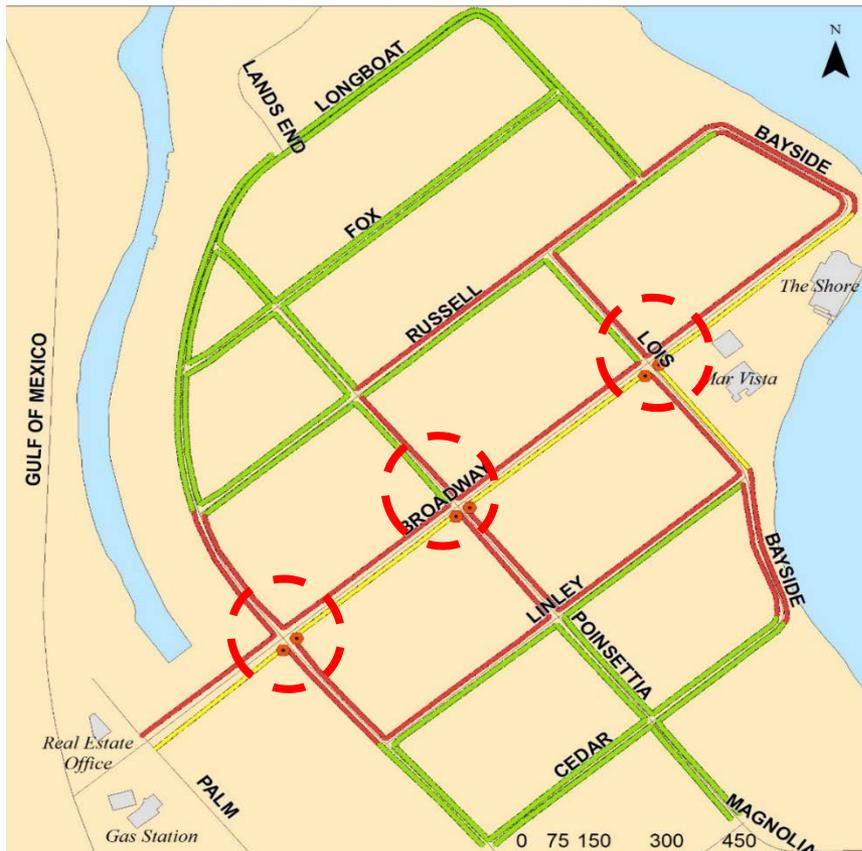


Prohibit Parking Within 50 Ft. of Intersections on Broadway St.

- Town Code Sec. 74 – PROHIBITED PARKING
- No person shall stop, stand, or park a vehicle, except when necessary to avoid a conflict with other traffic or in compliance with the direction of a police officer or traffic-control device, in any of the following places:
- Broadway Street: Within 50 ft. of Intersecting Streets from Palm Dr. to Bayside Dr. on the South side.



Commission Direction- Intersection Visibility.



Prohibit Parking Within 50 Ft. of Intersections on Broadway St.

- Town Code Sec. 74 – PROHIBITED PARKING
- No person shall stop, stand, or park a vehicle, except when necessary to avoid a conflict with other traffic or in compliance with the direction of a police officer or traffic-control device, in any of the following places:
- Broadway Street: Within 50 ft. of Intersecting Streets from Palm Dr. to Bayside Dr. on the South side.



Commission Direction- Parking on Poinsettia Ave

Ave



Restrict Parking on Poinsettia Ave, between Broadway and Linley Streets.

- Town Code Sec. 74 – PROHIBITED PARKING
- No person shall stop, stand, or park a vehicle, except when necessary to avoid a conflict with other traffic or in compliance with the direction of a police officer or traffic-control device, in any of the following places:
- Poinsettia Avenue: Broadway and Linley Streets on both sides of the street.



Commission Direction- Parking on Poinsettia Ave.

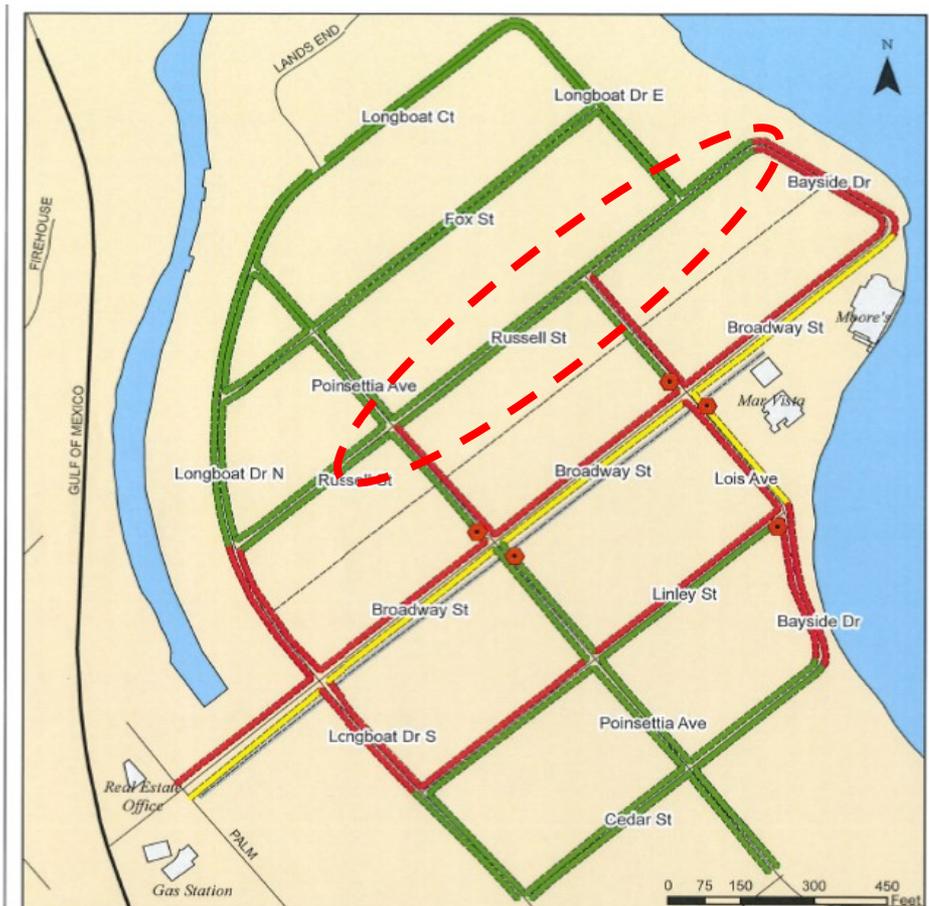


Restrict Parking on Poinsettia Ave, between Broadway and Linley Streets.

- Town Code Sec. 74 – PROHIBITED PARKING
- No person shall stop, stand, or park a vehicle, except when necessary to avoid a conflict with other traffic or in compliance with the direction of a police officer or traffic-control device, in any of the following places:
- Poinsettia Avenue: Broadway and Linley Streets on both sides of the street.



Commission Direction- Parking on Russell St

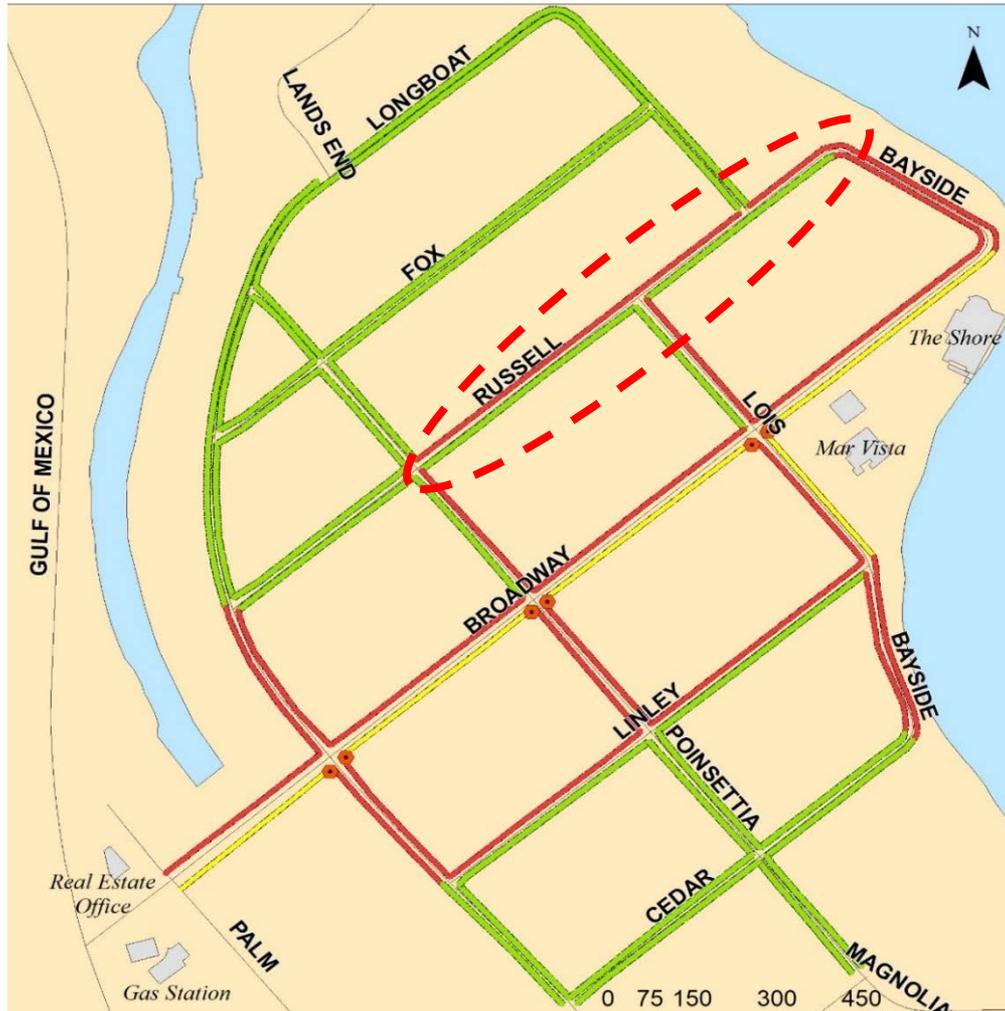


Restrict Parking on Russell St, between Poinsettia Ave and Bayside Dr.

- Town Code Sec. 74 – PROHIBITED PARKING
- No person shall stop, stand, or park a vehicle, except when necessary to avoid a conflict with other traffic or in compliance with the direction of a police officer or traffic-control device, in any of the following places:
- Russell St: Poinsettia Ave and Bayside Dr. on the north side of the street.



Commission Direction- Parking on Russell St.

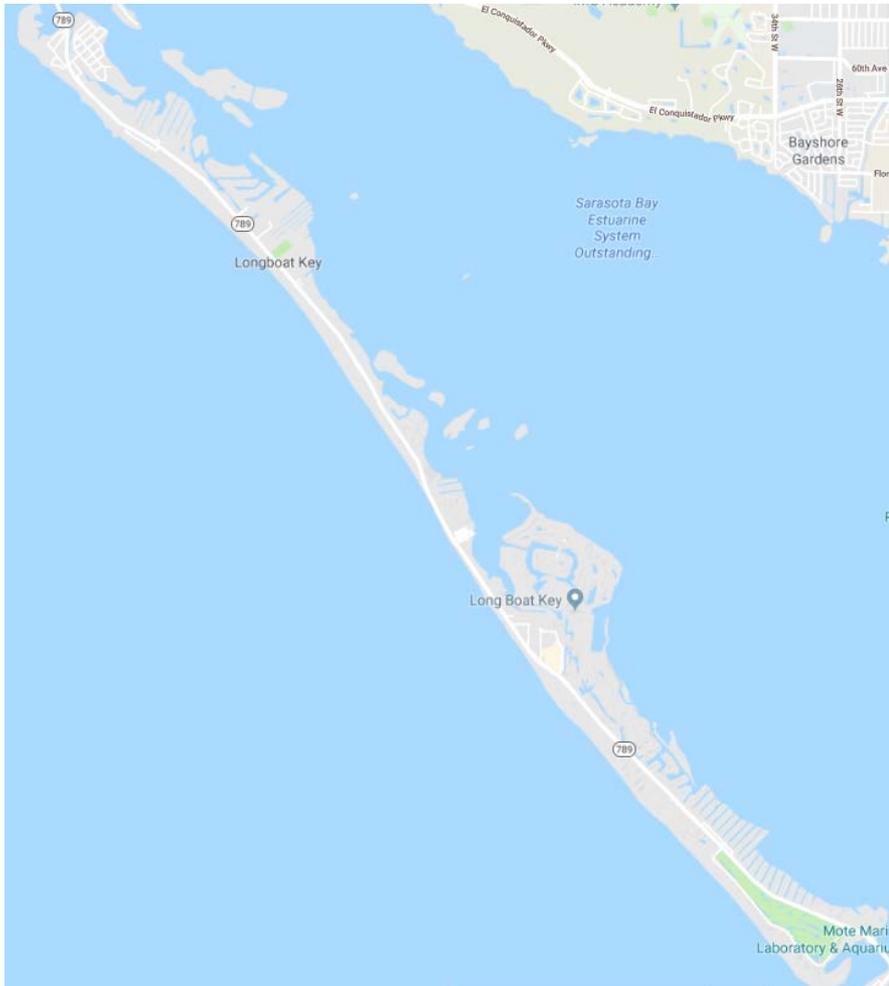


Restrict Parking on Russell St, between Poinsettia Ave and Bayside Dr.

- Town Code Sec. 74 – PROHIBITED PARKING
- No person shall stop, stand, or park a vehicle, except when necessary to avoid a conflict with other traffic or in compliance with the direction of a police officer or traffic-control device, in any of the following places:
- Russell St: Poinsettia Ave and Bayside Dr. on the north side of the street.



Commission Direction- Prohibit Overnight Parking

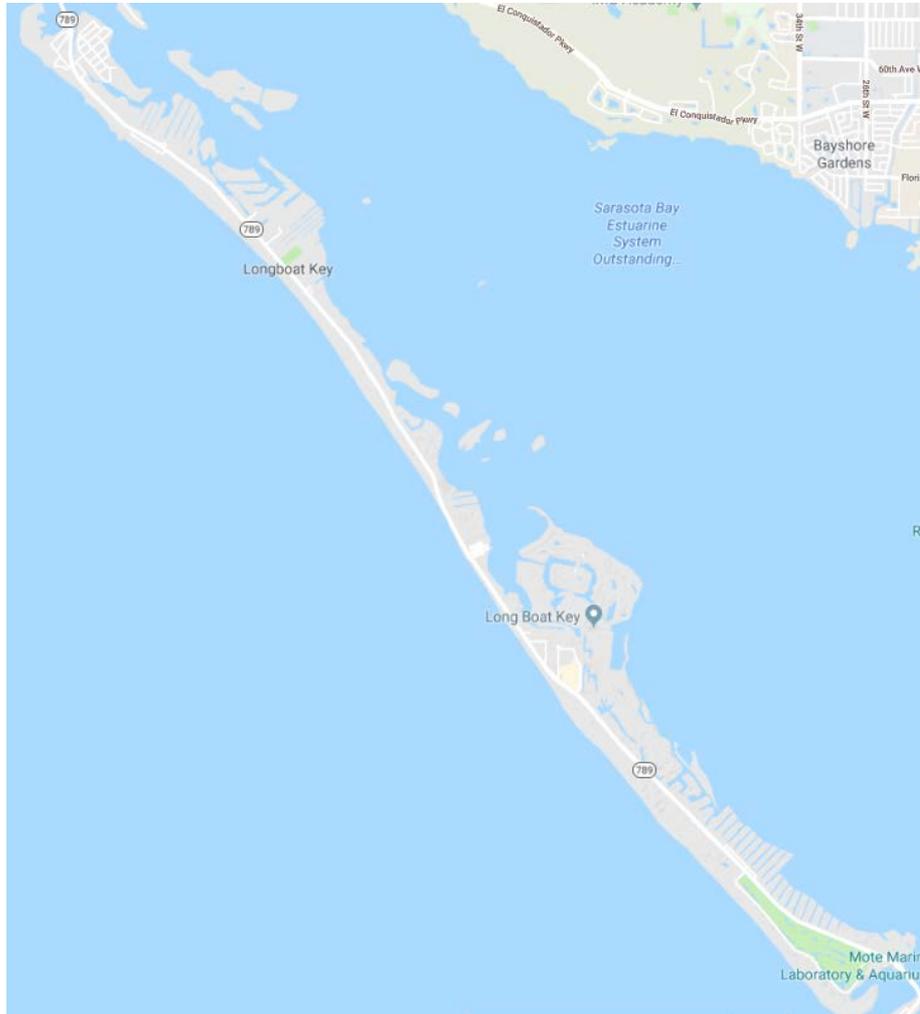


Prohibit Overnight Parking – Town-wide

- Town Code Sec. 74 – RESTRICTED PARKING
- No person shall park a vehicle on any of the Town's streets between the hours of 11:00 p.m. and 5:00 a.m.



Commission Direction- Valet Parking on Public Property



Limit Private Valet Parking on Town R-O-W's & Town-owned Property

- Town Code Sec. 74 – new Schedule III- USE OF PUBLIC PROPERTY FOR VALET OPERATIONS
- Public parking spaces in any Town right-of-way or on any Town-owned property shall not be used by private valet operators for use as staging or parking storage areas, unless such usage is approved via a Special Event Permit or Concessionaire Agreement, as provided for in the Town Code.



Recommendation

Forward Ordinance 2019-03 to the June 3, 2019, Regular Meeting for second reading and public hearing.



PERSSON, COHEN & MOONEY, P.A.
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** Of Counsel

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Reply to: Lakewood Ranch

MEMORANDUM

TO: Town Commission

FROM: Maggie Mooney, Town Attorney
Regina Kardash, Assistant Town Attorney

DATE: April 30, 2019

RE: Applicable Law on the Regulation of Valet Parking

The purpose of this Memorandum is to respond to questions that were raised at the April 15, 2019, Town Commission Workshop on the Town's authority to regulate valet parking on public and private property.

Pursuant to the Florida Constitution and Florida Statutes, municipal home rule authority allows municipalities to legislate on matters when the subject matter serves a public purpose and the subject is not expressly preempted by the state. See, *Boca Raton v. Gidman*, 440 So. 2d 1277 (Fla. 1983); Sec. 2(b), Art. VII, Fla. Const.; Fla. Stat. § 166.0211; Fla. Att'y Gen. Op. 2009-12. The regulation of traffic and parking on city streets, the elimination of congestion and hazards to life and property, the safety and convenience of travelling in public have been construed by the Florida courts to constitute a valid municipal public purpose. See, *Gate City Garage v. Jacksonville*, 66 So. 2d 653 (Fla. 1953); *Boschen v. City of*

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6853 Energy Court
Lakewood Ranch, Florida 34240

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236 Pedro Street
Venice, Florida 34285

Clearwater, 777 So. 2d 958 (Fla. 2001) (stating that courts have recognized the health and safety concerns inherent in regulating traffic congestion); *Miami v. Girtman*, 104 So. 2d 62 (Fla. 3rd DCA 1958)(finding that access to parking lot was a valid public safety concern). Additionally, Florida Statutes specifically acknowledges the ability of municipalities to control and regulate parking on certain roadways within a municipal jurisdiction through the adoption of ordinances. See, e.g., Fla. Stat. § 316.195 (authorizing local jurisdictions the authority to regulate one-way roadway parking, parallel parking and angle parking on certain roadways within a municipality). There does not appear to be any pre-emptive state legislation that limits or otherwise prevents a municipality from regulating valet parking within existing statutes. The existing case law and Florida Statutes combined indicate that there is a municipal interest and public purpose in controlling orderly parking on public roads, as well as ingress and egress to public spaces. Accordingly, there is legal authority and precedent for the Town to adopt an ordinance regulating valet parking usage *on public roads* within the municipality.

The more complicated question arises when the Town seeks to regulate valet parking on private property (rather than on the Town's public roadways). While we were unable to find a Florida case on the subject, like the analysis above, if there is a public purpose and an absence of a state pre-emption on the subject matter, then the subject may be regulated by a local municipality. However, when regulating private property it is advisable to consider the limits of municipal police powers under Florida law and the federal constitution. In general, if a regulation is necessary for the welfare of the public and is not physically invasive or confiscatory of some existing property right, it is probably within the government's 'police power' to enact it. See, e.g., *Lee County v. Sunbelt Equities, II, Ltd. Partnership*, 619 So. 2d 996 at 1006 (Fla. 2d DCA 1993); *Dragomirecky v. Town of Ponce Inlet*, 882 So. 2d 495 (Fla. 5th DCA 2004) (regulations duly enacted pursuant to lawful authority that relate to the public health, safety, morals, or general welfare are presumptively valid). The form of police power chosen by the local government must be reasonably related to the public purpose. See, *Fla. Cannery Ass'n v. State*, 371 So. 2d 503 (Fla. 2d DCA 1979).

As mentioned above, there is nothing pre-empting the subject of valet parking regulation under applicable state law. To the extent that regulating valet parking and usage *on private property* within the Town serves a valid public purpose (i.e., prevents traffic, lessens road congestion, provides enhances pedestrian safety, etc.) then the subject matter can qualify as a municipal purpose. For legislation to be effective, in addition to being advanced for a public purpose, such legislation must also be reasonable, nondiscriminatory and equally applicable. See, Fla. Att'ny Gen. Op. 2002-81 (stating under Florida and federal law, all statutory classifications that treat one person or group differently than others must appear to be based on a rational distinction having a just and reasonable relation to a legitimate state objective). For local regulations to be valid and avoid a constitutional

challenge, the regulation can not be unreasonable, arbitrary, or capricious, and the means employed by the legislative body must have a real and substantial relation to the object sought to be attained. See *State v. Leicht*, 402 So. 2d 1153 (Fla. 1981), *cert. denied*, 102 S.Ct. 1611, 455 U.S. 989, 71 L.Ed 2d 848 (1982); *Rainey v. Nelson*, 257 So. 2d 538 (Fla. 1972); *Iacovone v. State*, 639 So. 2d 1108 (2d DCA Fla. 1994), *affirmed*, 660 So. 2d 1371 (Fla. 1995); *City of Panama City v. Head*, 797 So. 2d 1265 (1st DCA Fla. 2001).

Based upon the above, it appears that the Town is not prevented under state law from adopting an ordinance that regulates valet parking on public or private property as long as the Town's regulation has a public purpose and is reasonably (and not arbitrarily) designed to accomplish a purpose for the protection of the public. Should the Town choose to proceed with regulating valet parking on private property, in particular, the regulation must be carefully developed to avoid being arbitrary, capricious, or unreasonable as to the parties regulated, and should be equally and uniformly applied to all similarly conditioned properties. For example, by regulating the operation of valet parking on all tourism zoned properties throughout the Town could ensure a safe, practical, and efficient method to alleviate traffic congestion caused by onsite and off-site parking issues. If the Commission desires to explore the option of a Town-wide valet parking ordinance and objective criteria to implement such regulations, we will work the Town's Planning and Zoning staff to bring back examples of business regulations and site plan requirements applicable to valet parking operations.

If there are questions or comments regarding this Memorandum, please do not hesitate to contact either of us.

End of Agenda Item