

ORDINANCE NO. C-08-

AN ORDINANCE OF THE CITY OF FORT LAUDERDALE RELATING TO PARKING; AMENDING CHAPTER 26 OF THE CODE OF ORDINANCES OF THE CITY OF FORT LAUDERDALE, FLORIDA, ENTITLED "TRAFFIC" BY AMENDING SECTION 26-91 "SCHEDULE OF FINES" TO PROVIDE FOR AN INCREASE IN PENALTIES FOR DELINQUENT PARKING FINES, TO PROVIDE FOR PAYMENT OF THE COST OF COLLECTION FOR DELINQUENT PARKING FINES AND PENALTIES, AND TO PROVIDE FOR THE APPLICATION OF CREDIT BALANCES FOR OVERPAYMENT OF PARKING FINES AND PENALTIES TO OTHER DELINQUENT PARKING CITATIONS; AMENDING SECTION 26-114 "MOTOR VEHICLE IMMOBILIZING DEVICES; TOWING", TO REDUCE THE NUMBER OF DELINQUENT PARKING CITATIONS NEEDED TO PLACE AN IMMOBILIZATION "BOOT" ON A VEHICLE; PROVIDING FOR SEVERABILITY PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, an increase in penalties for nonpayment of parking citations will encourage compliance with the City's parking regulations and prompt payment for violation of said regulations, and

WHEREAS, F.S. § 938.35 authorizes a municipality to pursue the collection of parking fines and penalties and to add the collection fee of an attorney or collection agent to the balance owed in an amount not to exceed forty percent of the amount owed at the time the account is referred to the attorney or agents for collection; and

WHEREAS, it is in the City's interest to apply overpayment of parking fines and penalties to other existing delinquent citations of the registered owner of the vehicle; and

WHEREAS, decreasing the number of delinquent citations from four (4) to three (3) after which an immobilization "boot" device may be placed on a vehicle will encourage compliance with parking regulations and prompt payment for the violation of said regulations; and

WHEREAS, the above actions act as an incentive to a violator to pay citations in the first thirty (30) days after the citation is issued and will increase revenue collection while reducing delinquent collection costs to protect the health, safety and welfare of the citizens of the City of Fort Lauderdale;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF FORT LAUDERDALE, FLORIDA:

SECTION 1. That Section 26-91. Schedule of fines, of the Code of Ordinances of the City of Fort Lauderdale, Florida, is hereby amended to read as follows:

(a) A schedule of fines for parking violations within the city is hereby established as follows:

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(b) Parking violations are to be paid within thirty (30) calendar days from the date of issuance of a citation.

- (1) Parking violation fines for which full payment is not received within thirty (30) calendar days from the date of issuance will be subject to a ~~ten~~ fifteen dollar (~~\$10~~15.00) penalty in addition to the citation fine for each citation issued.
- (2) Parking violation fines and penalties for which full payment is not received within forty-five (45) calendar days from the date of issuance will be subject to an additional ~~ten~~ twenty dollar (~~\$10~~20.00) penalty, for a total of ~~twenty~~ thirty-five dollars (~~\$20~~35.00) penalty in addition to the citation fine for each citation issued.
- (3) Pursuant to F.S. § 938.35, parking violation fines and penalties for which full payment is not received within ninety (90) calendar days from the date of issuance will also be subject to an additional collection fee if the account is referred to a private attorney who is a member in good standing of the Florida Bar or to a collection agent who is registered and in good standing pursuant to F.S. chapter 559, each retained by the city pursuant to its applicable procurement practices to pursue the collection of such unpaid financial obligations. The amount of such collection fee shall not exceed forty percent (40%) of the amount owed at the time the account is referred to the attorney or agents for collection, or in the actual amount charged by such private attorney or agents for collection, whichever is less.
- (4) In the case of overpayment of a parking violation fine and penalty, no refund shall be made if payment of any other delinquent citation is due and owing on any vehicle owned by the same registered owner of the vehicle.

and if such citation is not under appeal. The city shall apply such credit balance to the oldest outstanding delinquent citation first.

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SECTION 2. That Section 26-114. Motor vehicle immobilizing devices; towing., of the Code of Ordinances of the City of Fort Lauderdale, Florida, is hereby amended to read as follows:

(a) The city's director of parking services or his/her designee is hereby authorized to attach an immobilization "boot" device, which prevents a vehicle from being moved under its own power, to a motor vehicle under the following conditions:

- (1) The motor vehicle has, on at least ~~four~~ three (4-3) prior occasions, been found stopped, standing or parked on any street, alley, thoroughfare, parking lot or garage within the city in violation of a state law or city ordinance for which parking tickets have been issued and to which the registered owner has failed or refused to respond by requesting an administrative appeals hearing as provided in section 26-113, to contest the parking tickets or by paying the civil penalties indicated upon the parking tickets or imposed by a hearing officer or court order; and
- (2) The registered owner of the motor vehicle has been given written notice by mail or otherwise that the provisions of this section will be enforced against the motor vehicle unless, not more than five (5) calendar days from the date of receipt of the notice, the owner shall pay ~~or make arrangements with the city's parking customer service office or designee to pay, in cash or by credit card,~~ the civil fines and penalties for all such outstanding parking tickets; and
- (3) The registered owner of the motor vehicle has failed or refused to respond to the notice described in paragraph (a)(2) above by paying ~~or making arrangements for the payment of such civil~~ fines and penalties.

(b) The director of parking services or his/her designee shall maintain a current list of all motor vehicles to which an immobilizing device may be attached pursuant to this section.

(c) The immobilizing device shall be attached to the motor vehicle at any location within the city where the motor vehicle may be found, if the location is in a right-of-way or a place where the public is invited to travel, except that no motor vehicle shall be

immobilized within the traveled portion of any street or in any portion of any street when immobilization at such place would create a hazard to the public or to traffic.

(d) At the time that an immobilizing device is attached to a motor vehicle, a notice shall be affixed to the windshield ~~and~~ or to the left front window stating that the immobilizing device has been attached and cautioning the operator not to attempt to operate the motor vehicle or to attempt to remove the immobilizing device. The notice shall inform the owner or operator of the motor vehicle of the total amount of civil fin~~es~~ and penalties assessed under the citations for which the motor vehicle is immobilized, plus the removal charge for removal of the immobilizing device, and the location to which the owner or operator must go in order to pay the civil fin~~es~~ and penalties and removal charge and have the immobilizing device removed from the motor vehicle. Within twenty-four (24) hours of an immobilization device being attached to the vehicle ~~by the city parking and fleet services department~~, the owner or operator of the vehicle may also follow the instructions appearing on the affixed notice to contact the referenced city department for removal of the immobilization device after business hours, provided that the owner or operator complies with subsection (e) below.

(e) Except as provided in subsection (f) below, the immobilizing device shall be removed from the motor vehicle only upon payment of the civil fin~~es~~ and penalties assessed under the citations for which the motor vehicle has been immobilized, plus the removal charges, and upon the authorization of the director of parking services of the city or his/her designee.

(f) Upon payment of all civil penalties not otherwise appealed by an owner or operator pursuant to section 26-113, the owner or operator of a vehicle which has been immobilized with an immobilizing device shall have the right to request the director of parking services or his/her designee to conduct an administrative hearing for the purpose of determining whether such vehicle was properly immobilized in accordance with the terms of this section. The owner or operator has the option of paying the removal charge to have the immobilizing device removed subject to the administrative hearing being held in accordance with this section. Otherwise, the immobilized vehicle is subject to towing as provided in subsection (h). Any request for an administrative hearing under this section must be made to the city's parking customer service office no later than 10:00 a.m. on the next business day after the vehicle was immobilized. The hearing shall be held prior to the end of the following working day after such request is made. The owner or operator requesting the hearing shall receive notice of the hearing date, time and place at the time the request is made. If, upon the conclusion of the hearing, the director of parking services determines that the vehicle was properly immobilized in accordance with the terms of this section, all civil penalties and removal charges shall be retained by the city. If the director of parking services determines that the vehicle was not properly

immobilized in accordance with this section, the immobilizing device shall be removed immediately, and the removal charge will be returned to the owner or operator. All civil penalties not otherwise pending appeal under section 26-113 shall be retained by the city.

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SECTION 3. That if any clause, section or other part of this Ordinance shall be held invalid or unconstitutional by any court of competent jurisdiction, the remainder of this Ordinance shall not be affected thereby, but shall remain in full force and effect.

SECTION 4. That all ordinances or parts of ordinances in conflict herewith, be and the same are hereby repealed.

SECTION 5. That this Ordinance shall be in full force and effect ten days from the date of final passage.

PASSED FIRST READING this the _____ day of _____, 2008.
PASSED SECOND READING this the _____ day of _____, 2008.

Mayor
JIM NAUGLE

ATTEST:

City Clerk
JONDA K. JOSEPH