

CHAPTER 20

TRAFFIC

- Article I. In General, SS 20-1--20-10
Article II. Uniform Traffic Control Law, SS 20-11

ARTICLE I. GENERAL

SECTION 20-1. DEFINITIONS. The following words and phrases when used in this article shall have the meanings respectively ascribed to them in this section, except where the context otherwise requires.

- (1) *Bicycle.* Shall mean any device propelled by human power upon which any person may ride, having tandem wheels, either of which is twenty (20) inches or more in diameter, including any device generally recognized as a "bicycle," though equipped with two (2) front or two (2) rear wheels.
- (2) *Clerk.* Shall mean the Clerk of the Circuit and County Courts of Brevard County, Florida.
- (3) *County.* Shall mean Brevard County, Florida.
- (4) *Crosswalk,* shall mean:
- (a) That part of a roadway at an intersection included within the connections of the lateral lines of the sidewalks or pavement edges where there are no sidewalks on opposite sides of the highway, measured from the curbs or, in the absences of curbs, from the edges of the traversable roadway.
 - (b) Any portion of roadway at an intersection or elsewhere distinctly indicated for pedestrian crossing by lines of other markings on the surface.
- (5) *Designated Parking Space.* Shall mean any parking space posted with a sign bearing the internationally accepted wheelchair symbol and the Caption "parking by disabled permit only", or other wording as may be designated by State Statute as appropriate for marking parking spaces reserved for handicapped persons.
- (6) *Handicapped Person.* Shall mean any person with permanent mobility problems who has been issued an exemption entitlement parking permit pursuant to Florida Statutes, bearing the international symbol of accessibility.

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(7) *Intersection*, shall mean:

(a) The area embraced with the prolongation or connection at the lateral curblines or, if none, then the lateral boundary lines of the roadways of two (2) highways which join one another at, or approximately at, right angles; or the area within which vehicles traveling upon different highways joining at any other angle may come in conflict;

(b) Where a highway includes two (2) roadways thirty (30) feet or more apart, then every crossing of each roadway of such divided highway by an intersecting highway shall be regarded as a separate intersection. In the event such intersecting highway also includes two (2) roadways thirty (30) feet or more apart, then every crossing of two (2) roadways shall be regarded as a separate intersection.

(8) *Motor Vehicle*. Shall mean any vehicle which is self-propelled by any means whatsoever.

(9) *Official Signs*. Shall mean any sign which is placed or erected by, or caused to be erected by, or designated by the authority of a public body or official having jurisdiction for the purpose of regulating, warning or guiding traffic or parking.

(10) *Official Traffic-Control Devices*. Shall mean all signs, signals, markings and devices, placed or erected by, or designated by authority of a public body or official having jurisdiction for the purposes of regulating, warning or guiding traffic.

(11) *Operate*. Shall mean the exercise of actual physical control of a vehicle or the exercise over or steering of a vehicle in tow.

(12) *Operator*. Shall mean any person who is in actual physical control of a vehicle.

(13) *Owner*. Shall mean 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 to purchase upon performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditional vendee or lessee, or in the event a mortgagor of a vehicle is entitled to possession, then such conditional vendee, or lessee, or mortgagor shall be deemed the owner, for the purpose of this article.

(14) *Park or Parking*. Shall mean the standing of a vehicle, whether occupied or not, otherwise than temporarily for the purpose of and while actually engaged in loading or unloading merchandise or passengers as may be permitted under this article.

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(15) *Parks or Parkways.* Shall mean any area designated in the plan of Melbourne Village as a park or parkway, or any area which has been dedicated by any person or corporation as a park or parkway for the use of the residents of the Town of Melbourne Village and/or the general use of the public.

(16) *Pedestrian.* Shall mean any person afoot.

(17) *Person.* Shall mean any natural person, firm, copartnership, association or corporation.

(18) *Police Officer.* Shall mean a police officer of the Melbourne Village Police Department.

(19) *Private Road or Driveway.* Shall mean any privately owned way or place used for vehicular travel by the owner and those having express or implied permission from the owner, but not by other persons.

(20) *Public Parking Space.* Shall mean any parking space 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 and restaurants.

(21) *Public Works Department.* Shall mean the Town Public Works Department.

(22) *Safety Zone.* Shall mean the area or space officially set apart within a roadway for the 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.

(23) *Sidewalk.* Shall mean that portion of a street between the curblin, or the lateral line, or a roadway and the adjacent property lines, intended for use by pedestrians.

(24) *Stand or Standing.* Shall mean the waiting of a vehicle, whether occupied or not, other than temporarily for the purpose of and while actually engaged in receiving or discharging passengers, as may be permitted by this article.

(25) *Stop or Stopping.* Shall mean when prohibited, any halting, even momentarily, of a vehicle, whether occupied or not, except when necessary to avoid conflict with other traffic or to comply with the directions of a law enforcement officer or traffic-control sign or signs.

(26) *Street or Highway.* Shall mean 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 the purposes of vehicular traffic.

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(27) *Traffic.* Shall mean pedestrians, ridden or herded animals, and vehicles, and other conveyances either singly or together while using any street or highway for purposes of travel.

(28) *Town.* Shall mean the Town of Melbourne Village.

(29) *Vehicle.* Shall mean any device, upon or by which any person or property is, or may be, transported or drawn upon a highway or street, except bicycles, as defined in this section.

SECTION 20-2 OPERATING, STOPPING, STANDING OR PARKING PROHIBITED IN CERTAIN AREAS OR SPACES.

(a) Within the incorporated areas of the Town, except when necessary to avoid conflict with other traffic, or in compliance with law, or the directions of a Melbourne Village police officer, parking enforcement specialist, other law enforcement officer, or official traffic-control device, no person shall:

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

(a) On the roadway side of any vehicle stopped or parked at the edge or curb of a street;

(b) On a sidewalk, bike path or bike lane;

(c) Within an intersection;

(d) On a crosswalk;

(e) Between a safety zone and the adjacent curb or within thirty (30) feet of points on the curb immediately opposite the ends of a safety zone, unless the public works department or the Florida Department of Transportation indicates a different length by signs or markings;

(f) Alongside or opposite any street excavation or obstruction when stopping, standing, or parking would obstruct traffic;

(g) Upon any bridge or other elevated structure upon a street or highway;

(h) Upon any park or parkway;

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(i) At any place where official signs prohibit stopping;

(j) In such manner as to block a traffic lane or to interfere with the orderly flow of traffic so as to constitute a hazard to the passage of emergency vehicles.

(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 fifteen (15) feet of a fire hydrant;

(c) Within twenty (20) feet of a crosswalk at an intersection;

(d) Within thirty (30) feet upon the approach to any flashing signal, stop sign or traffic-control signal located at the side of a roadway.

(e) Within twenty (20) feet of the driveway entrance of any fire station and on the side of a street opposite the entrance to any fire station within seventy-five (75) feet of said entrance;

(f) At any place where official signs prohibit or restrict parking, or in excess of time period authorized by such signs;

(g) Along or adjacent to any curb painted red or yellow or across the delineated boundaries of a public parking place;

(h) In, on or along the street right-of-way within the Town, at any time, except as follows;

(1) Where there is insufficient space on the private property to accommodate all vehicles which are present; provided, that such vehicles which are parked along the street right-of-way shall only be parked on the right side of the street facing in the direction of authorized traffic movement; and provided, further, that all such motor vehicles shall park on or as close to berm of the street as possible.

(2) Where commercial vehicles are standing or stopping for short periods of time; provided, that such commercial vehicles shall always stand or stop on the right side of the street facing in the direction of

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authorized traffic movement, unless such vehicle is in the process of loading or unloading.

(3) Operate any vehicle upon any park, parkway, bicycle way, or path within the incorporated areas of the Town of Melbourne Village.

SECTION 20-3. PENALTIES.

(a) Any person cited for a violation of Section 20-2 of this article shall be assessed a civil penalty according to the following schedule:

(1) Twenty-five dollars (\$25.00) for a violation of subsection (a) (1) (a) through (j) and (a) (2) (e) of section 20-2 of this article.

(b) Ten dollars (\$10.00) for a violation of subsections (a) (2) (a) through (d) and (f) through (h) of section 20-2 of this article.

(1) 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.

(2) The amount of any penalty specified in this section shall be increased by five dollars (\$5.00) if payment is not received by the Clerk of the Court, prior to notice being mailed to the registered owner by regular mail pursuant to subsection (e) of section 20-8 of this article.

(c) Violation of 20-2(a)(3) shall be a misdemeanor and penalty shall be as provided by Florida State Statute.

SECTION 20-5. PUBLIC PARKING SPACES DESIGNATED FOR CERTAIN HANDICAPPED PERSONS.

No person shall park any vehicle or bicycle in any designated parking space located on Town-owned or leased property or private property within the incorporated areas of the town unless such person is a handicapped person as defined in this article or unless such person is momentarily parking in such parking place for the purpose of unloading or loading a handicapped as defined herein.

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Any individual who violates the provisions of Section 316.1955 or 316.1956, Florida Statutes shall be subject to a fine of one hundred dollars (\$100.00) for the first and subsequent violations. S.S. 316.008 (4)).

SECTION 20-7. ISSUANCE OF TOWN PARKING CITATIONS.

(a) When any Melbourne Village police officer of parking enforcement specialist employed by the Melbourne Village police department 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. Said parking citation form shall be on prenumbered forms as required and approved by the clerk and shall contain the following information:

- (1) Date, time and location of violation.
- (2) Vehicle tag number, decal number, model and color.
- (3) Name and address of registered owner or owners.
- (4) Owner of owners date(s) of birth.
- (5) Name and signature of issuing officer or parking enforcement specialist.
- (6) Descriptions of violations and amounts of penalties.
- (7) Directions as to payment of penalty or request for hearing.
- (8) Statement as to effect of election to request hearing and failure to comply with citation pursuant to Section 316.1967, Florida Statutes, as amended by chapter 79-403, Laws of Florida, 1979.
- (9) Blanks for names and mailing addresses of person receiving citation.

(b) The Melbourne Village police officer of parking enforcement specialist 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 Clerk of the Court, or designee, when completed for processing pursuant to section 20-8 of this article.

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SECTION 20-8. PROCEDURES GOVERNING PAYMENT OF CIVIL PENALTIES AND PROCEEDINGS TO ENFORCE PAYMENT FOR TOWN PARKING VIOLATIONS.

(a) Any person issued a Town parking citation, pursuant to section 20-7 of this article, shall answer the citation by either of the following procedures within ten (10) days after the date of issuance of the citation:

(1) Payment of the penalty indicated on the citation may be remitted to the Clerk of the Court, or designee, pursuant to the directions on such citation, or

(2) A hearing may be requested by the registered owner or operator of the vehicle receiving such citation for the propose of presenting evidence before a county judge concerning a parking violation. Any person requesting a hearing shall execute a statement on a form prepared by the clerk, or designee indicating his or her willingness to appear at such hearing at a time and place specified thereon. Any person who requests a hearing and does not appear in accordance with the 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.

(b) Pursuant to the provisions of chapter 79-403, Law of Florida (1979), 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 one hundred dollars (\$100.00) plus court costs for each parking violation.

(c) Upon receipt of a completed parking citation submitted by a Melbourne Village police officer or parking enforcement specialist, pursuant to section 20-7 of this article, the clerk, or designee, shall notify the registered owner first listed on the citation of its issuance if there has been not 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 direct compliance with either of the alternatives specified in subsection (a) of this section within fourteen (14) days after the date said notice is mailed, according to the records maintained by the clerk, or designee.

(d) The clerk shall process parking violations submitted by the Town which have complied with the request of subsection (a) of this section upon receipt of such citation and any accompanying documents required by subsection (c) of this section. Within a reasonable time after receiving a citation and accompanying documentation required, pursuant to subsection (a) of this section, the clerk shall notify the registered owner first listed on such citation, by regular mail of the issuance of the citation and direct compliance with either of the alternatives specified in subsection (a) of section 20-08 within fourteen (14) days after the date said notice

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is mailed according to the records maintained by the clerk. Said notice shall also contain a statement informing the registered owner of the increased penalty required pursuant to subsection (b) of this section.

(e) If payment of the penalty is not received or a hearing requested within the fourteen-day period specified herein, the clerk shall cause the registered owner first listed on the parking citation to be serviced in accordance with the Florida Rules of Civil Procedure with a court order requiring payment or attendance at a hearing at a time and place specified in such order. Pursuant to the provisions of chapter 79-403, Laws of Florida (1979), a county judge after said hearing shall make a determination as to whether a parking violation has been committed and may impose a fine not to exceed one hundred dollar (\$100.00), plus court costs. Any person upon which service is obtained pursuant to this section who does not appear at a hearing as directed by a court order shall be subject to contempt proceedings or to such other penalties as the court may, in its discretion, impose to require compliance with said order.

SECTION 20-09. OWNER'S LIABILITY FOR PARKING; VIOLATION.

(a) 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 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.

(b) 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 police officer or parking enforcement specialist 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's office indicating the registered owner of the vehicle on the date of question.

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SECTION 20-10. DISPOSITION OF FINES AND FORFEITURES FOR PARKING VIOLATION; AUTHORIZED COSTS.

- (a) Except as otherwise provided in this section, all monies received by the clerk as a result of the parking citations issued by the Town shall be paid to the Town.
- (b) The clerk shall deduct his costs of two dollars (\$2.00) from the penalty imposed. In those instances in which a hearing is held court costs up to ten dollars (\$10.00) may be assessed in addition to the penalty imposed, and five (\$5.00) of the assessment shall be paid to the clerk.

SECTION 20-11. MOTOR VEHICLE LIENS; TOWING. The provisions of this article shall be supplementary to and shall not in anyway preclude the Town from utilizing the procedures specified in chapter 712 and 715, Florida statutes, as amended by chapter 79-206 and 79-410, Laws of Florida (1979), governing the towing, storage and liens for the removal and storage of motor vehicles when such vehicles are parked on real property without the property owner's consent. (Ord. 93-3, S 1, 24 Nov. 1992)

Editor's note. Ordinance 93-3, dated November 24, 1992, deleted Article I. in its entirety and replaced it with a new Article I. New Article I included Section 20-1 through 20-11. Thus, during Codification, Article II. Section 20-11 was changed to Section 20-12.

ARTICLE II. UNIFORM TRAFFIC CONTROL LAW

Editor's note--Ord. No. 79, S 1, adopted July 23, 1974, was included herein as superseding former S 20-11 which adopted the Florida Model Traffic Ordinance and was derived from Ord. No. 33, S 1.

SECTION 20-12. ADOPTED BY REFERENCE. There is hereby adopted by reference and incorporated herein as completely as though set out at length herein Chapter 316, Florida Statutes, Florida Uniform Traffic Control Law. (Ord. No. 79, S 1, 7-23-74)