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ORDINANCE NO. 2021-05

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF WINDERMERE, FLORIDA PERTAINING TO PARKING VIOLATIONS; AMENDING DIVISION 1 OF ARTICLE II OF CHAPTER 20 AND ADDING A NEW DIVISION 3 TO ARTICLE II OF CHAPTER 20 OF THE TOWN'S CODE OF ORDINANCES TO BE TITLED "PARKING VIOLATIONS"; PROVIDING DESCRIPTIONS OF PARKING VIOLATIONS, ADOPTING A SCHEDULE OF CIVIL PENALTIES FOR PARKING VIOLATIONS AND THE PROCEDURE TO APPEAL THE VIOLATIONS; PROVIDING THE TOWN'S SPECIAL MAGISTRATE WITH THE AUTHORITY AND POWER TO HEAR APPEALS FOR PARKING VIOLATIONS; PROVIDING FOR SEVERABILITY, CODIFICATION AND AN EFFECTIVE DATE.

BE IT ENACTED BY THE PEOPLE OF THE TOWN OF WINDERMERE:

Section 1. Legislative Findings.

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1. Chapter 20 of the Town's Code of Ordinances pertains to motor vehicles and traffic.
 2. Section 318.18 of the Florida Statute authorizes the amount of civil penalties which can be assessed by the Town for moving and nonmoving traffic infractions.
 3. The Town Council desires to amend Chapter 20 of the Town's Code of Ordinances to provide the Town with the ability to issue civil citations for parking violations.

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Section 2. Division 1 of Article II of Chapter 20 is hereby amended as follows (words that are underlined are additions; words that are ~~stricken~~ are deletions):

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Sec. 20-31. - General restrictions.

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- (a) No person shall stand or park a vehicle in a roadway other than parallel with the edge of the roadway, headed in the direction of traffic and with the right-hand wheels of the vehicle within 12 inches of the edge of the roadway, except as provided in this subsection. Upon a street which has been marked or a sign erected for angle parking, a vehicle shall be parked at the angle to the curb indicated by such mark or sign.
 - (b) 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:
 - (1) On the roadway side of any vehicle stopped or parked at the edge or curb of a street.
 - (2) On a sidewalk.
 - (3) Within an intersection.
 - (4) On a crosswalk.
 - (5) Between a safety zone and the adjacent curb or within 30 feet of points on the curb immediately opposite the ends of a safety zone, unless the state department of transportation indicates a different length by signs or markings.

- 45 (6) Alongside or opposite any street excavation or obstruction when stopping,
46 standing, or parking would obstruct traffic.
- 47 (7) Upon any bridge or other elevated structure upon a highway or within a highway
48 tunnel.
- 49 (8) On any railroad tracks.
- 50 (9) On a bicycle path.
- 51 (10) At any place where official traffic control devices prohibit stopping.
- 52 (11) On the roadway or shoulder of a limited access facility, except as provided by
53 regulation of the state department of transportation, or on the paved portion of a
54 connecting ramp; except that a vehicle which is disabled or in a condition
55 improper to be driven as a result of mechanical failure or crash may be parked on
56 such shoulder for a period not to exceed six hours. This provision is not
57 applicable to a person stopping a vehicle to render aid to an injured person or
58 assistance to a disabled vehicle in obedience to the directions of a law
59 enforcement officer or to a person stopping a vehicle in compliance with
60 applicable traffic laws.
- 61 (12) For the purpose of loading or unloading a passenger on the paved roadway or
62 shoulder of a limited access facility or on the paved portion of any connecting
63 ramp. This provision is not applicable to a person stopping a vehicle to render aid
64 to an injured person or assistance to a disabled vehicle.
- 65 (13) At any place in such a manner so as to block access to commercial refuse
66 containers.
- 67 (14) Alongside any curb which has been painted yellow or red, unless otherwise
68 specifically permitted by appropriate signs or devices posted by the town.
- 69 (15) In any parking space specifically designated and marked for the disabled unless
70 such vehicle displays a parking permit as required by state law; or in such manner
71 to block or obstruct a wheelchair ramp.
- 72 (16) In any parking space marked as being designated for the use of specific
73 individuals or vehicles, other than disabled.
- 74 (17) In a designated bus-stop, taxicab or rideshare location unless the vehicle is a bus,
75 taxicab or rideshare.
- 76 (18) In an area designated as a fire lane.
- 77 (19) On any property owned or controlled by the town not designated for parking,
78 unless otherwise approved by the town council or authorized by the town
79 manager.
- 80 (20) In painted safety zones on roadways within the town, except for emergency
81 purposes. Any vehicles parked in such a roadway for more than two hours will be
82 towed at the owner's expense.
- 83 (21) Outside the designated boundaries of any parking space, the limits of which are
84 indicated by painted lines or other means, or at an angle that is not in
85 conformance with the markings.
- 86 (c) No person shall stand or park a vehicle, whether occupied or not, except momentarily
87 to pick up or discharge a passenger or passengers:
- 88 (1) In front of a public or private driveway.
- 89 (2) Within 15 feet of a fire hydrant.
- 90 (3) Within 20 feet of a crosswalk at an intersection.

- 91 (4) Within 30 feet upon the approach to any flashing signal, stop sign, or traffic
 92 control signal located at the side of a roadway.
- 93 (5) Within 20 feet of the driveway entrance to any fire station and on the side of a
 94 street opposite the entrance to any fire station within 75 feet of such entrance
 95 (when property signposted).
- 96 (6) On an exclusive bicycle lane.
- 97 (7) At any place where official traffic control devices prohibit standing.
- 98 (d) No person shall park a vehicle, whether occupied or not, except temporarily for the
 99 purpose of, and while actually engaged in, loading or unloading merchandise or
 100 passengers:
- 101 (1) Within 50 feet of the nearest rail of a railroad crossing unless the state department
 102 of transportation establishes a different distance due to unusual circumstances.
- 103 (2) At any place where official signs prohibit parking.
- 104 (e) No person shall move a vehicle not lawfully under his control into any such prohibited
 105 area or away from a curb such a distance as is unlawful.
- 106 (f) A law enforcement officer or parking enforcement specialist who discovers a vehicle
 107 parked in violation of this section or a municipal or county ordinance may:
- 108 (1) Issue a ticket form as may be used by a political subdivision or municipality to the
 109 driver; or
- 110 (2) If the vehicle is unattended, attach such ticket to the vehicle in a conspicuous
 111 place, except that the uniform traffic citation prepared by the department pursuant
 112 to F.S. § 316.650 may not be issued by being attached to an unattended vehicle.
- 113 The uniform traffic citation prepared by the state department of highway safety and
 114 motor vehicles pursuant to F.S. § 316.650 may not be issued for violation of a municipal
 115 parking ordinance.
- 116 (g) A violation of this section is a noncriminal traffic infraction, punishable as a
 117 nonmoving violation as provided in F.S. ch. 318.
- 118 (h) When a sign prohibiting parking is erected upon the approach to a hazardous or
 119 congested place, no person shall stop, stand or park a vehicle in any such designated
 120 place.
- 121 (i) It shall be unlawful for the responsible person as defined in F.S. § 316.1967(1) to
 122 neglect to answer the charge set forth in a parking violation notice affixed to a motor
 123 vehicle by a police officer or parking enforcement officer.
- 124 (j) A violation of subsection (i) of this section shall be deemed a separate and distinct
 125 violation and shall not be construed to be merged with or a part of the original parking
 126 violation.

127
 128 **Sec. 20-32. – Unattended motor vehicles.**

129 No person driving or in charge of a motor vehicle shall permit it to stand unattended with the
 130 ignition key in the vehicle, whether or not the motor is in use.

131
 132 **Sec. 20-33. – Places where parking prohibited by sign.**

133 No person shall park a vehicle at any place where an official sign or marking prohibits
 134 parking.

135
 136 **Sec. 20-34. - Prohibited at all times on certain designated streets.**

137 When a sign is erected giving notice thereof, no person shall park a vehicle at any time upon
138 any of the streets or portions of streets as designated by the town.

139
140 **Sec. 20-35. - Certain purposes prohibited.**

141 No person shall stand or park a vehicle upon a public or private street, public parking lot or
142 any other public property for the purpose of:

- 143 (1) Displaying such vehicle thereon for sale, hire or rental.
- 144 (2) Painting, greasing or repairing such vehicle, except repairs necessitated by an
145 emergency.
- 146 (3) Washing or polishing such vehicle or any part thereof.
- 147 (4) Displaying advertising.
- 148 (5) Selling merchandise from the motor vehicle, except in a duly established marketplace
149 or when so authorized under the laws of the town.

150
151 **Sec. 20-36. - Buses, taxicabs and ride-share.**

152 The driver of a bus, taxicab or ride-share vehicle shall not stand or park upon any street at
153 any place other than at a designated bus stop, taxicab or ride-share stand are, respectively,
154 except that this section shall not prevent the driver or any such vehicle from temporarily
155 stopping in accordance with the other stopping or parking regulations at any place for the
156 purpose of and while actually engaged in loading or unloading passengers.

157
158 **Sec. 20-3237. - Sixth Avenue.**

159 It shall be unlawful for any person to park any motor vehicle or trailer on the south side of
160 the right-of-way of Sixth Avenue between the county boat ramp and Lake Street.

161
162 **Sec. 20-3338. - Highway 439.**

163 It shall be unlawful for any person to park a motor vehicle on the north side of the right-of-
164 way of Highway 439 between the public boat ramp on the south side of Lake Down and Lake
165 Street.

166
167 **Section 3. Amendments to the Town's Code of Ordinances.** A new Division 3 is hereby
168 added to Article II of Chapter 20 to read as follows:

169 **DIVISION 3. - PARKING VIOLATIONS**

170
171 **Sec. 20-60. - Liability for payment of parking ticket violations.** Pursuant to Chapter
172 316 of the Florida Statutes, the owner of a vehicle is the "responsible party" and liable for
173 payment of any parking violation under this chapter unless the owner can furnish
174 evidence that the vehicle was, at the time of the parking violation, in the care, custody or
175 control of another person. In such instance, the owner of the vehicle is required, within a
176 reasonable time after notification of the parking violation, to furnish the Chief of Police
177 or his designee (for purposes of this Division, all references to the Chief of Police include
178 the Chief of Police's designee) an affidavit setting forth the name, address and driver's
179 license number of the person or company who leased, rented, or otherwise had the care,
180 custody or control of the vehicle. The affidavit submitted under this section is admissible
181 in a proceeding charging a parking ticket violation and raises the rebuttable presumption

182 that the person identified in the affidavit is responsible for payment of the parking ticket
183 violation. The owner of a vehicle is not responsible for the vehicle if it is stolen or in the
184 care, custody, or control of some person who did not have permission of the owner to use
185 the vehicle. Prima facie evidence that the vehicle involved was at the time stolen or in the
186 care, custody or control of some person who did not have permission of the owner to use
187 the vehicle shall be in the form of a report from the appropriate law enforcement official
188 that the vehicle was not under the care, custody or control of the owner of the vehicle.
189

190 **Sec. 20-61. - Schedule of civil penalties for parking violations and the procedure to**
191 **appeal violations.**

192 (a) The following schedule of civil penalties is adopted for parking violations occurring
193 within the Town for which payment must be made within fourteen calendar days of
194 the issuance of the ticket.

- 195 (1) No parking anytime\$ 30.00
- 196 (2) No parking, stopping or standing30.00
- 197 (3) No parking here to corner30.00
- 198 (4) No parking between signs30.00
- 199 (5) No parking this side30.00
- 200 (6) No parking, emergency30.00
- 201 (7) No parking except as permitted or prohibited during specific times as posted
202 on signs30.00
- 203 (8) No parking except for passenger loading30.00
- 204 (9) No parking, bus space30.00
- 205 (10) No parking, taxi stand30.00
- 206 (11) No parking, ride-share area30.00
- 207 (12) No parking anytime, freight loading zone30.00
- 208 (13) No parking, space is designated for a specific individuals or vehicles other
209 than disabled30.00
- 210 (14) No parking, yellow or red curb (not a sign)30.00
- 211 (15) No parking on sidewalk30.00
- 212 (16) No parking blocking driveway30.00
- 213 (17) No parking blocking dumpster30.00
- 214 (18) No parking blocking wheelchair ramp30.00
- 215 (19) No parking within 30 feet of official traffic control device30.00
- 216 (20) Improper parking, obstructing traffic30.00
- 217 (21) Improper parking, left wheels to curb (on two-way street)30.00
- 218 (22) Improper parking, wrong way on one-way street (parked facing opposite flow
219 of traffic)30.00
- 220 (23) Blocking fire hydrant30.00
- 221 (24) Keys left in unattended vehicle30.00
- 222 (25) Parking by disabled permit only250.00
- 223

- 224 (26) Parking overtime (limit authorized in zone)30.00
- 225 (27) Parking over line or not in compliance with markings30.00
- 226 (28) Designated fire lane30.00
- 227 (29) Prohibited parking30.00

228
229 (b) The penalty in subsection (a) of this section must be paid within fourteen calendar
230 days of the date of issuance of the parking violation notice. Payment may be made
231 in-person at the Town of Windermere administration office or may be mailed in the
232 envelope provided, or the person receiving the citation may elect to contest the
233 citation by following the procedures outlined in subsection (c) below.

234
235 (c) Any person receiving a parking violation notice shall, within fourteen calendar days,
236 pay the civil penalty as prescribed in subsection (b) of this section or elect to contest
237 the citation by completing and filing the “Contesting Affidavit” together with a filing
238 fee in the amount of \$20.00 with the Chief of Police. The filing fee shall be
239 nonrefundable unless the Chief of Police determines that a parking violation did not
240 occur as provided below or the special magistrate determines that the parking
241 violation did not occur. Any person who fails to pay the civil penalty prescribed on
242 the citation or deliver the Contesting Affidavit as set forth herein within 14 days from
243 the date of issuance of the parking violation shall incur a delinquent fee of \$15.00 and
244 be deemed to have waived his or her right to contest the merits of such citation. Any
245 person electing to contest a citation pursuant to this paragraph shall be deemed to
246 have waived his/her right to pay the civil penalty prescribed on the citation and may
247 be subject to additional fines and fees if same are imposed by the special magistrate
248 pursuant to section 20-65 of this Division.

249
250 (d) Upon receipt of a Contesting Affidavit, the Chief of Police shall review the
251 Contesting Affidavit and, based upon the evidence presented in such Contesting
252 Affidavit and any other relevant information, determine whether there is probable
253 cause to demonstrate that a parking violation has occurred. If the Chief of Police
254 finds no probable cause to demonstrate that a parking violation has occurred, then the
255 Chief of Police shall void the citation, provide written notice of same to the person
256 who submitted the Contesting Affidavit and refund the filing fee. If the Chief of
257 Police determines that there is probable cause to demonstrate that a parking violation
258 has occurred, then the Chief of Police shall request a hearing before the special
259 magistrate to consider the contested citation.

260
261 **Sec. 20-62. - Procedures upon noncompliance with parking violation notice.**

262 (a) Payment of civil penalties for parking violations will be accepted by the Town and a
263 receipt shall be issued.

264
265 (b) If any person summoned by a parking violation notice affixed on a motor vehicle
266 does not respond to such notice with the time specified on such notice, the Town will
267 assess the appropriate delinquent fee per violation against the registered owner of the
268 motor vehicle. In addition, a notice of summons shall be sent, by mail, to the

269 registered owner, of the parking violation notice and the failure to comply therewith.
270 Such notice shall direct the recipient to respond within ten calendar days; otherwise, a
271 summons will be issued for failure to comply in violation of subsection 20-63(a).
272 Costs in the amount of \$5.00 shall be assessed incident to this notification process.
273

274 (c) Any person who fails to respond to the original parking violation notice within the
275 time specified on such notice shall be deemed to have waived the right to contest the
276 merits of such parking violation and may, if found guilty, be fined up to \$100.00 for
277 each parking violation notice for which there has been no compliance.
278

279 (d) A violation of subsection 20-63(a) shall be deemed a separate and distinct violation
280 and shall not be construed to be merged with or a part of the original parking
281 violation.
282

283 **Sec. 20-63. - Failure to obey notice; alteration or destruction of notice.**
284

285 (a) It shall be unlawful for the responsible party, as defined in section 20-60 to neglect to
286 answer to the charge set forth in a violation notice affixed to a motor vehicle by a
287 police officer.
288

289 (b) The notice referred to in subsection (a) of this section is and shall remain the property
290 of the Town before and after serving, delivery or affixing thereof. All persons
291 receiving any such notice in writing, whether by personal service or by affixing the
292 notice to a motor vehicle, shall be required to preserve such notice and to bring and
293 present it or otherwise transmit the notice to the Chief of Police when answering the
294 charge set forth in such notice.
295

296 **Sec. 20-64. - Altering parking tickets.** No person, whether the recipient thereof or
297 otherwise, shall willfully throw away, alter, mar, mutilate, destroy or discard the violation
298 notice issued pursuant to this division.
299

300 **Sec. 20-65. - Special Magistrate duties and powers for parking violation appeals.**
301

302 (a) The town's Special Magistrate will hear appeals for parking violations. The Special
303 Magistrate has the following powers and duties:
304

- 305 (1) To hear contests to parking citations issued by the town and receive and
306 evaluate evidence in connection therewith.
- 307 (2) To make a determination, based upon the preponderance of the evidence, as to
308 whether the parking violation(s) listed in a citation were committed.
- 309 (3) To impose fines and fees, including late fees and administrative charges,
310 consistent with this chapter.
311

312 (b) With respect to parking citations issued for violations of chapter 20 of the Town
313 Code, if the Special Magistrate determines that the parking violation(s) listed in the
314 contested parking citation were in fact committed, the Special Magistrate may impose

315 a fine of up to \$50.00 for each violation or \$250.00 for each disabled parking
316 violation, plus hearing costs for the issuing officer's attendance.

317
318 (c) If the Special Magistrate determines the parking violation(s) listed in the Contesting
319 Affidavit were not committed, then the contested parking violation shall be dismissed
320 and the filing fee shall be refunded.

321
322 (d) Formal rules of evidence shall not apply at the hearing on the appeal and any relevant
323 evidence may be admitted. Hearsay evidence may be admitted, but shall not form the
324 sole basis upon which the Special Magistrate's decision is made. Irrelevant and
325 unduly repetitious evidence may be excluded. The hearing shall be conducted in a
326 manner to ensure that procedural and substantive due process is afforded the person
327 filing the appeal.

328
329 (e) The decision of the Special Magistrate shall be the final action by the town.

330
331 (f) This Division provides supplemental authority to the town for the enforcement of
332 parking requirements, and the town, in its discretion, may pursue any and all other
333 available mechanisms for the enforcement of applicable parking requirements and
334 regulations.

335 **Section 4. Codification.** Sections 2 and 3 of this Ordinance shall be codified and made part of
336 the Town of Windermere Code of Ordinances.

337 **Section 5. Conflicts.** In the event of a conflict or conflicts between this ordinance and other
338 ordinances, this ordinance controls to the extent of the conflict.

339 **Section 6. Severability.** The provisions of this Ordinance are declared to be separable and if
340 any section, paragraph, sentence or word of this Ordinance or the application thereto any person
341 or circumstance is held invalid, that invalidity shall not affect other sections or words or
342 applications of this Ordinance. If any part of this Ordinance is found to be preempted or
343 otherwise superseded, the remainder shall nevertheless be given full force and effect to the extent
344 permitted by the severance of such preempted or superseded part.

345 **Section 7. Effective Date.** This Ordinance shall become effective upon adoption at its second
346 reading.

347 ENACTED this 14th day of December, 2021, at a regular meeting of the Town
348 Council of the Town of Windermere, Florida.

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Town of Windermere, Florida
by: Town Council

by: 
Jim O'Brien, Mayor

Attest:


Dorothy Burkhalter, MMC, FCRM
Town Clerk

First reading: *November 9, 2021*
Second reading: *December 14, 2021*
Advertised: *December 2, 2021*



Serial Number
21-04548W

WEST ORANGE Times

West Orange Times
Published Weekly
Winter Garden , Orange County, Florida

COUNTY OF ORANGE

STATE OF FLORIDA

Before the undersigned authority personally appeared Lindsey Padgett who on oath says that he/she is Publisher's Representative of the West Orange Times a weekly newspaper published at Winter Garden , Orange County, Florida; that the attached copy of advertisement,

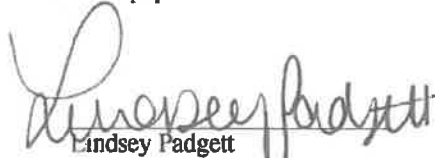
being a Notice of Public Hearing

in the matter of Public Hearing on December 14, 2021
Ordinance 2021-05

in the Court, was published in said newspaper in the issues of 12/2/2021

Affiant further says that the said West Orange Times is a newspaper published at Winter Garden , Orange County, Florida, and that said newspaper has heretofore been continuously published and has been entered as periodicals matter at the Post Office in Winter Garden in said Orange County, Florida, for a period of one year next preceding the first publication of the attached copy of advertisement; and affiant further says that he/she has neither paid nor promised any person, firm or corporation any discount, rebate, commission or refund for the purpose of securing this advertisement for publication in said newspaper.

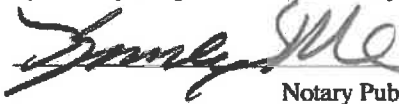
*This Notice was placed on the newspaper's website and floridapublicnotices.com on the same day the notice appeared in the newspaper.



Lindsey Padgett

Sworn to and subscribed, and personally appeared by physical presence before me,
2nd day of December, 2021 A.D.

by Lindsey Padgett who is personally known to me.



Notary Public, State of Florida
(SEAL)



Kimberly S. Martin
COMMISSION # GC232798
EXPIRES: July 23, 2022
Bonded thru Aaron Hickey

NOTICE OF PUBLIC HEARING TO ADOPT ORDINANCE 2021-05
The Town of Windermere, Florida, proposes to adopt Ordinance 2021-05. The Town Council of Windermere, Florida, will hold a public hearing at the Town Hall located at 520 Main Street, Windermere, Florida, on Tuesday, December 14, 2021 at 6:00 P.M. (or as soon thereafter as the matter may be considered) to hold a public hearing on and to consider passage of the proposed Ordinance 2021-05, the title of which reads as follows:

ORDINANCE NO. 2021-05

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF WINDERMERE, FLORIDA PERTAINING TO PARKING VIOLATIONS; AMENDING DIVISION 1 OF ARTICLE II OF CHAPTER 20 AND ADDING A NEW DIVISION 3 TO ARTICLE II OF CHAPTER 20 OF THE TOWN'S CODE OF ORDINANCES TO BE TITLED "PARKING VIOLATIONS"; PROVIDING DESCRIPTIONS OF PARKING VIOLATIONS; ADOPTING A SCHEDULE OF CIVIL PENALTIES FOR PARKING VIOLATIONS AND THE PROCEDURE TO APPEAL THE VIOLATIONS; PROVIDING THE TOWN'S SPECIAL MAGISTRATE WITH THE AUTHORITY AND POWER TO HEAR APPEALS FOR PARKING VIOLATIONS; PROVIDING FOR SEVERABILITY, CODIFICATION AND AN EFFECTIVE DATE.

Interested parties may appear at the meeting and be heard with respect to the proposed annexation.

This ordinance is available at the Town Clerk's Office, 501 Forest Street, Windermere, Florida, for inspection. Due to Covid-19, in person appointments are required. Please contact Dorothy Burkhalter, Town Clerk, Town of Windermere, at 407-876-2569, ext. 23 for an appointment or if there are any questions/concerns.

Persons with disabilities needing assistance to participate in this proceeding should contact the Town Clerk at least 48 hours before the meeting.

Persons are advised, pursuant to Section 286.0105 of the Florida Statutes, that, if they decide to appeal any decision made by the Town Council at this public hearing, they may need to ensure that a verbatim record of the proceeding is made, which record should include testimony and evidence upon which an appeal is based.

Dorothy Burkhalter, MMC, FCRM
Town Clerk

December 2, 2021

21-04548W