

ORDINANCE NO. 2014 -0009

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF WILTON MANORS, FLORIDA AMENDING CHAPTER 19 OF THE CITY'S CODE OF ORDINANCES ENTITLED "TRAFFIC AND VEHICLES", BY CREATING SECTION 19-3.1 ENTITLED "AUTHORITY OF PARKING ENFORCEMENT SPECIALISTS", SPECIFICALLY AMENDING SECTION 19-9 ENTITLED "CITATION APPEAL PROCESS; FAILURE TO PAY PARKING VIOLATION CITATION", SECTION 19-30 ENTITLED "ENFORCEMENT", SECTION 19-31 ENTITLED "FINES FOR VIOLATIONS", SECTION 19-42 ENTITLED "PROHIBITED IN SPECIFIED PLACES", SECTION 19-55 ENTITLED "PUBLIC PARKING; PARKING IN THE BUSINESS AND ARTS AND ENTERTAINMENT OVERLAY ZONING DISTRICTS", SECTION 19-55.1 ENTITLED "PARKING FEES, ON-STREET METERED/PAY STATION AND OFF-STREET PAY STATION", SECTION 19-55.2 "FAILURE TO PAY FOR PARKING IN CITY PAY PARKING AREAS", SECTION 19-57 ENTITLED "FINES AND REMOVAL", AND SECTION 19-60 ENTITLED "REGULATION OF CONTROLLED PARKING IN RESIDENTIAL AREAS", REPEALING SECTION 19-55.3 ENTITLED "ADMINISTRATIVE APPEAL" IN ITS ENTIRETY; PROVIDING FOR CODIFICATION; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, City Staff periodically reviews its Ordinances and makes recommendations to the City Commission to revise its Ordinances; and

WHEREAS, the City Staff recommends that the City Commission amend the City's Parking Code, as more specifically set forth hereinafter; and

WHEREAS, the City Commission of the City of Wilton Manors, Florida has concluded that it is in the best interest of the City to amend the Code of Ordinances as set forth herein.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION

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1 **OF THE CITY OF WILTON MANORS, FLORIDA, THAT:**

2 **Section 1:** The foregoing “WHEREAS” clauses are hereby ratified as being
3 true and correct and are incorporated herein by this reference.

4 **Section 2:** Section 19-3.1 of the City Code of Ordinances Entitled “Authority
5 of Parking Enforcement Specialists” is hereby created as follows:

6 **19-3.1. Authority of Parking Enforcement Specialists.**

7 In addition to Wilton Manors police officers and code enforcement officers, certified
8 parking enforcement specialists employed by the City, including but not limited to the
9 City’s parking consultant, shall enforce the provisions of this article. This shall not
10 preclude other law enforcement agencies or regulatory bodies from any action as
11 necessary to ensure compliance with this article and all applicable laws. For any
12 violation of a provision of this article the officer shall issue a notice of violation/citation
13 to the permittee/operator. The notice shall state the nature of the violation, amount of
14 fine, instructions and due date for paying the fine, notice that the violation may be
15 appealed by filing an appeal hearing request form within ten (10) business days after
16 service of the notice and that failure to appeal the violation within the ten (10) business
17 days, shall constitute an admission of the violation and a waiver of the right to appeal.

18
19 **Section 3:** Section 19-9 of the City Code of Ordinances Entitled “Citation
20 Appeal Process; Failure to Pay Parking Violation Citation” is amended as follows:

21 **19-9. Citation Appeal Process; Failure to Pay Parking Violation Citation.**

22 (a) It shall be a separate violation of this section to fail to pay any citation issued for
23 the violation of an ordinance contained in this chapter relating to the parking of
24 vehicles within the city.

25
26 (b) ~~(4)Any person who receives a parking citation issued pursuant to any city~~
27 ~~parking ordinance may contest such citation as follows: by giving written~~
28 ~~request for an administrative hearing to the Clerk of Court for Broward County~~
29 ~~within ten (10) business days of the date the citation was issued. All citations not~~
30 ~~paid within ten (10) business days of the date the citation was issued or a request~~
31 ~~for an administrative hearing filed with the Clerk of Court of Broward County~~
32 ~~within said ten (10) business days shall result in a twelve dollar (\$12.00) late fee~~
33 ~~being charged and collected by the clerk of the court. The clerk shall set the~~
34 ~~hearing within thirty (30) days of the date the citation was issued, giving the~~
35 ~~person issued the citation at least seven (7) days notice excluding Saturdays,~~
36 ~~Sundays, and legal holidays.~~

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1 (1) For defective meters: If a person who has received a citation for overtime
2 parking believes the meter for the parking space is defective or
3 malfunctioning, such person shall notify the city's parking customer
4 service office of possible defect or malfunction no later than twenty-four
5 (24) hours after issuance of the citation the following business day via:

- 6
7 a. Telephone call to the city's parking customer service office
8 to report such meter defect or malfunction; or
9 b. Personally appearing at such office to make such report.

10
11 If such a citation is issued at any time during which the office is closed,
12 such report must be made by 5:00 p.m. on the next business day the office
13 is opened. The city's parking consultant, or such other designee approved
14 by the city commission or city manager, shall then be dispatched to check
15 the operation of such meter. The person who received the citation shall be
16 notified by telephone or regular mail of the results of the investigation
17 into the operation of said meter. If the meter is found to be defective or
18 malfunctioning, the citation will be excused. If the meter is found to be
19 functioning properly, the violator will be notified by the office as
20 provided above and the time limits specified in section 19-55.1 shall then
21 begin to run anew, as if the citation was just issued.

22
23 (2) For any other parking violation:

24 a. By giving written request for an administrative hearing to the Wilton
25 Manors parking customer service office or the Clerk of Court for
26 Broward County within ten (10) business days of the date the citation was
27 issued. Formal appeals of citations issued by the Wilton Manors police
28 department, city code enforcement officers or certified parking
29 enforcement specialists are processed solely by the Broward County
30 Clerk of Court. If an administrative hearing is requested, the clerk shall
31 set the hearing within thirty (30) days of the date the appeal hearing
32 request form was received by the Clerk, giving the person issued the
33 citation at least seven (7) days notice.

34
35 (2) b. Said notice shall be sent by mail to the address of the registered owner
36 of the vehicle as per issued citation or, in the event that the driver of the
37 vehicle is not the owner, to the driver's address if he or she requests a
38 hearing.

39
40 ~~(c)(1)~~c. The person issued the citation may:

- 41 ~~a.~~1. Be represented by counsel;
42 ~~b.~~2. Call and examine witnesses;

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1 e3. Introduce exhibits;

2 d4. Examine opposing witnesses on any relevant matter, even though the
3 matter was not covered under direct examination;

4 e5. Impeach any witness, regardless of which party first called him or her
5 to testify.

6
7 (2)d. All hearings shall be conducted insofar as practical in accordance with the
8 Florida Rules of Civil Procedure and the Florida Evidence Code. However, the
9 general nature of the hearing shall be conducted in an informal manner.

10
11 (3)e. All irrelevant, immaterial, or unduly repetitious evidence shall be excluded;
12 but all other evidence of a type commonly relied upon by reasonable prudent
13 persons in the conduct of their affairs shall be admissible whether or not such
14 evidence would be admissible in a trial in the courts of Florida. Any part of the
15 evidence may be received in written form and all testimony of parties and
16 witnesses shall be made under oath. Hearsay evidence may be used for the
17 purpose of supplementing or explaining other evidence but it shall not be
18 sufficient in itself to support a finding unless it would be admissible over
19 objection in civil actions.

20
21 (4) f. Any interested party or person may make application and upon good cause
22 shown may be allowed by the hearing officer in his or her discretion to intervene
23 and appear in a proceeding pending before the hearing officer.

24
25 (d)(1) g. 1. Those persons who receive a parking citation but who do not reside in
26 Palm Beach, Broward, or Dade County, Florida, may contest the citation in
27 writing by filing an appeal hearing request form, thus avoiding the necessity of
28 appearing for a hearing.

29
30 (2) 2. Such person must submit his or her written request to contest the
31 citation by mail, along with all evidence within ~~ten (10)~~ twenty (20) business
32 days of the date the citation was issued.

33
34 (3) 3. The written request to contest the citation by mail and evidence must
35 be sent to the Broward County Clerk of Courts. The clerk shall present the
36 evidence to the hearing officer within thirty (30) days of the date the citation was
37 issued.

38
39 (4) 4. The evidence presented must include a sworn statement by the person
40 cited. The statement must identify the citation at issue by its number and date of
41 issuance. It must set forth the name and current address of the person cited. The

statement may contain argument in defense against the citation. The hearing officer will not consider unsworn statements.

~~(5)~~ 5. The evidence submitted may include sworn statements of witnesses. Such statements must include the name and address of the witness as well as the basis of the witness's knowledge about the facts asserted in the statement. The evidence submitted may also include such documents as are relevant and material to the disposition of the citation. All evidence submitted is subject to the evidentiary rules set forth above.

~~(e)(1)-h~~ 1. Pursuant to F.S. § 316.1967, any person who elects to appear before the hearing officer or to contest a citation by mail shall be deemed to have waived his right to pay the civil penalty amount set forth on the citation.

~~(2)~~ 2. After a hearing or consideration of mailed-in admissible evidence, the hearing officer shall make a determination based on the greater weight of the evidence as to whether a parking violation has been committed and shall issue an order imposing a civil penalty, if appropriate. The hearing officer may, in his or her discretion, grant additional time to pay the civil penalty amount. All orders shall be in writing, signed and dated by the hearing officer, and shall contain findings of fact supporting the order and conclusions of law.

~~(3)~~ 3. If, at the conclusion of a hearing or consideration of mailed-in admissible evidence, the hearing officer orders a dismissal of the citation and finds no violation, the hearing officer shall so state and issue his or her order of dismissal in writing, signed and dated by the hearing officer and containing findings of fact supporting the order. Hearings shall be scheduled within thirty (30) days of request and decided within thirty (30) days thereafter. An order, decision or opinion of the hearing officer may be appealed by the filing of a Petition for Writ of Certiorari in the Circuit Court of the Seventh Judicial Circuit in and for Broward County, Florida, within thirty (30) calendar days from the date the order was issued, by any party receiving an adverse ruling.

Section 4: Section 19-30 of the City Code of Ordinances Entitled “Enforcement” is amended as follows:

19.30. Enforcement.

The officers of the police department, or code officers or code inspectors of the city, or certified parking enforcement specialists shall enforce the provisions of this chapter, unless otherwise provided for herein.

Section 5: Section 19-31 of the City Code of Ordinances Entitled “Fines for

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Violations” is amended as follows:

19.31. Fines for Violations.

There is hereby established the following schedule of fines for commonly encountered violations of this chapter within the city. The schedule of fines includes the five dollar (\$5.00) surcharge for the program set forth in subsection 19-8(b), the teen court fee (of two dollars (\$2.00) for handicapped violations). However, this schedule is not intended to be all-inclusive; if a particular section of this article contains a separate fine and/or penalty provision, then the fine and/or penalty provision set forth therein shall apply to a violation of that section and shall supersede the following schedule of fines:

- a. Parking overtime, sign posted~~\$35.00~~25.00
- b. Failure to pay for parking in city pay parking areas~~\$35.00~~25.00
- c. Parking within fifteen (15) feet of fire hydrant\$94.00
- d. Parking within a fire lane zone\$94.00
- e. Parking within twenty (20) feet of traffic-control device\$35.00
- f. Parking on private property\$35.00
- g. Parking on crosswalk\$35.00
- h. Parking in loading zone\$35.00
- i. Parking in prohibited area\$35.00
- j. Parking on sidewalk\$35.00
- k. Blocking driveway\$35.00
- l. Blocking alley\$35.00
- m. Double parking\$35.00
- n. Blocking lane of traffic\$35.00
- o. Parking in handicapped space~~\$252.50~~\$250.00
- p. Other parking violations not listed above or otherwise provided for in the this Code\$35.00

Such fines shall be payable to the county clerk of court or the City of Wilton Manors parking office, as agent for the city.

Section 6: Section 19-42 of the City Code of Ordinances Entitled “Prohibited in Specified Places” is amended as follows:

19-42. Prohibited in Specified Places.

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

- (1) It shall be unlawful for any person to park in or upon any private alley, drive, driveway, parking area or other privately owned property without the consent of the owner of the property or person in charge thereof whether such property is used exclusively by the owner or by customers or guests.

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(2) In all areas of the city which are zoned so as to permit the operation of new and used car lots, it shall be unlawful for any person, as owner or operator of the lot, to park or display any automobiles, trucks, trailers or other automotive equipment, closer to the street or sidewalk than the established building setback line. The area between the street or sidewalk and the established building setback line shall not be paved or improved except for the purposes of ingress and egress to such car lot.

(3) Other than on the right-hand side of any two-way street. Vehicles must be parked in the direction of authorized traffic movement in accordance with F.S. §316.195 (2)).

(b) No person shall move a vehicle not owned by or in the charge of such person into any such prohibited area or away from a curb such distance as is unlawful.

Section 7: Section 19-55 of the City Code of Ordinances Entitled “Public Parking; ~~Parking in the Business and Arts and Entertainment Overlay Zoning Districts~~” is amended as follows:

19-55. Public Parking; ~~Parking in the Business and Arts and Entertainment Overlay Zoning Districts.~~

~~Certified parking enforcement specialists employed by the city, including but not limited to the city's parking consultant, shall have jurisdiction limited solely to enforcing the provisions of this section in the arts and entertainment overlay district.~~

- (a) Designation of each public parking space. Each public parking space for the parking of a motor vehicle in the business zoning districts of the city shall be clearly designated as such by markings on the pavement.
- (b) Designation of restricted four-hour parking areas. A four-hour parking restriction shall be in effect Monday through Sunday, inclusive, from the hours of 5:00 a.m. to 8:00 p.m. for each motor vehicle parked in a designated parking space anywhere in a business zoning district of the city. It shall constitute a violation of this section for a motor vehicle operator, who has parked in the arts and entertainment overlay district, for four (4) hours on any given day, to move the same vehicle to another space within the district and on the same day in order to take advantage of another consecutive four (4) hours of parking.
- (c) Using more than one public parking space prohibited. A motor vehicle is prohibited from using more than one designated public parking space per motor vehicle with the exception of emergency vehicles and motor vehicles actively performing authorized work, deliveries, returns or loading and unloading of goods or passengers. Only one motor vehicle shall be permitted to park in each parking space. Notwithstanding anything contained herein to the contrary, up to

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three (3) motorcycles may be parked within one parking space. For purposes of this chapter, "motorcycle" means any motor vehicle having a seat or saddle for the use of the rider and designed to travel on not more than three (3) wheels in contact with the ground, but excluding a tractor.

(d) ~~Penalty. The penalty for each violation of any provision of this section shall be as follows:~~

- (1) ~~Failure to pay for parking in city pay parking areas\$25.00~~
- (2) ~~Parking within fifteen (15) feet of fire hydrant\$94.00~~
- (3) ~~Parking within a fire lane zone\$94.00~~
- (4) ~~Parking within twenty (20) feet of traffic control device\$35.00~~
- (5) ~~Parking on private property\$35.00~~
- (6) ~~Parking on crosswalk\$35.00~~
- (7) ~~Parking in loading zone\$35.00~~
- (8) ~~Parking in prohibited area\$35.00~~
- (9) ~~Parking on sidewalk\$35.00~~
- (10) ~~Blocking driveway\$35.00~~
- (11) ~~Blocking alley\$35.00~~
- (12) ~~Double parking\$35.00~~
- (13) ~~Blocking lane of traffic\$35.00~~
- (14) ~~Parking in handicapped space\$252.50~~
- (15) ~~Other parking violations not listed above or otherwise provided for in this Code\$35.00~~

~~Failure to pay within twenty (20) ten (10) calendar days of the issuance of the citation shall result in collection efforts including, but not limited to, towing and impoundment to the extent permitted by law.~~

(e) Providing for waiver. The city commission may waive the parking restrictions set forth in this section in any area for a particular function, activity, or event, by ~~resolution~~ motion of the city commission for a period of time not to exceed seventy-two (72) hours.

(f) ~~In the arts and entertainment overlay district, p~~Parking violations are to be paid within ~~seven (7) ten (10) business calendar~~ days from the date of issuance of a citation. Parking violation fines for which full payment is not received within ~~seven (7) ten (10) business calendar~~ days from the date of issuance will be subject to a ten dollar (\$10.00) penalty in addition to the citation fine for each citation issued.

(g) ~~In the arts and entertainment overlay district, p~~Parking violation fines and penalties for which full payment is not received within ~~fourteen fifteen (1415) calendar business~~ days from the date of issuance will be subject to an additional twenty dollars (\$20.00) penalty, for a total of thirty dollars (\$30.00) penalty in addition to the citation fine for each citation issued.

(h) ~~In the arts and entertainment overlay district, p~~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

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1 collection fee if the account is referred to a private attorney who is a member in
2 good standing of the Florida Bar or to a collection agent who is registered and in
3 good standing pursuant to F.S. ch. 559, each retained by the city pursuant to its
4 applicable procurement practices to pursue the collection of such unpaid
5 financial obligations. The amount of such collection fee shall not exceed forty
6 (40) percent of the amount owed at the time the account is referred to the
7 attorney or agents for collection, or in the actual amount charged by such private
8 attorney or agents for collection, whichever is less.

- 9 (i) In the case of overpayment of a parking violation fine and penalty, no refund
10 shall be made if payment of any other delinquent citation is due and owing on
11 any vehicle owned by the same registered owner of the vehicle, and if such
12 citation is not under appeal. The city shall apply such credit balance to the oldest
13 outstanding delinquent citation first.
- 14 (j) ~~In the arts and entertainment overlay district, t~~The city manager or his/her
15 designee may dismiss parking citations under certain extenuating circumstances.
16 These circumstances may include, but are not limited to, an improperly displayed
17 permit or meter receipt when a valid permit or receipt is later produced, disabled
18 vehicle, verified official city business, ambulance transport, police department
19 undercover vehicles, utility service providers, or verified meter malfunction.
- 20 (k) The fines established hereunder may be amended by resolution of the city
21 commission.
22

23 **Section 8:** Section 19-55.1 of the City Code of Ordinances Entitled "Parking
24 Fees, On-Street Metered/Pay Station and Off-Street Pay Station" is amended as follows:

25 **19-55.1. Parking Fees, On-Street Metered/Pay Station and Off-Street Pay Station.**

- 26 (a) Parking fees associated with on-street parking meters or pay stations are set at
27 one dollar (\$1.00) per hour. Violations of this section, resulting from failure to
28 pay the meter or pay station, to include failure to pay an expired meter or pay
29 station, will result in a fine of twenty-five dollars (\$25.00). If the fine is not paid
30 within ~~seven (7)~~ ten (10) business calendar days of citation issuance, the fine will
31 increase to thirty-five dollars (\$35.00). If the fine is not paid within ~~fourteen~~
32 fifteen (15) business calendar days of citation issuance, the fine will increase
33 to fifty-five dollars (\$55.00).
- 34 (b) Parking for off-street surface lots owned or controlled by the city, ~~which lots are~~
35 ~~located outside the boundaries of the arts and entertainment overlay district, or~~
36 which are otherwise designated as "overflow parking lots" are available at no
37 charge, except during special events or other occasions designated by the city
38 manager.
- 39 (c) Parking fees for other off-street surface lots owned or controlled by the city are
40 set per the following schedule:
- 41 (1) Between the hours of 3:00 a.m. and 5:59 p.m. parking is available at
42 no charge.

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- 1 (2) Between the hours of 6:00 p.m. and 2:59 a.m. there is an hourly charge
2 of one dollar (\$1.00) per hour, up to a maximum charge of seven
3 dollars (\$7.00) during this time period.
- 4 (d) Notwithstanding anything contained herein to the contrary, there shall be no
5 parking fee charged during legal holidays observed by the city.
- 6 (e) Parking fees shall be suspended at the parking lot adjacent to a city building
7 where a publicly noticed meeting is conducted, from one-half hour before
8 through and including one-half hour after the conclusion of the meeting.
- 9 (f) The city shall establish a program to charge residents a nominal fee for parking
10 during their use of the recreational facilities at Hagen Park.
- 11 (g) The fines and fees and hours of enforcement, established hereunder may be
12 amended by resolution of the city commission.
13

14 **Section 9:** Section 19-55.2 of the City Code of Ordinances Entitled "Failure
15 to Pay for Parking in City Pay Parking Areas" is amended as follows:

16 **19-55.2. Failure to Pay for Parking in City Pay Parking Areas.**

- 17 (a) *Payment of fee required.* It is unlawful for any person to stop, stand, or park a
18 vehicle or motorcycle within any parking space of any city-owned and/or
19 operated public parking facility without having first paid the applicable fee,
20 as established from time to time by resolution of the city commission.
- 21 (b) *Citation of illegally parked vehicles.* Whenever any vehicle or motorcycle,
22 with or without driver or operator, is found to be parked, standing, or stopped
23 in violation of the provision of this section, a certified parking enforcement
24 specialist or police officer shall conspicuously affix to such vehicle or
25 motorcycle a written citation on an appropriate form. This section shall not
26 be construed to prohibit the issuance of a citation in any other appropriate
27 circumstance; and an enforcement officer shall also have the authority to
28 issue a citation to a vehicle or motorcycle that is parked, standing, or stopped
29 in violation of any other provisions of any ordinance or statute. "Citation"
30 shall include a "notice of violation" and any other written notification of a
31 violation of this section issued by an enforcement officer.
- 32 (c) *Enforcement.* The enforcement of this section, and any amendments to this
33 section, ~~within the arts and entertainment overlay district,~~ is vested in such
34 certified parking enforcement specialists designated by the city manager, or
35 his designee; and otherwise in the city chief of police and each of his or her
36 law enforcement officers, and other enforcement officers and persons as may
37 be lawfully authorized, by the city.
- 38 (d) *Liability for payment of parking violations.* The owner of a vehicle or
39 motorcycle shall be responsible and liable for payment of any parking
40 citation violation to the extent imposed by F.S. § 316.1967.

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(e) *Providing for waiver.* The city commission may, by resolution, waive or modify the pay parking requirements set forth in this section in any area for a particular function, activity or event.

Section 10: Section 19-55.3 of the City Code of Ordinances Entitled “Administrative Appeal” is hereby repealed in its entirety:

19-55.3. Administrative Appeal.

~~Any person wishing to contest a parking citation issued hereunder in the arts and entertainment overlay district may appeal to the city's parking consultant or such other designee approved by the city commission or city manager as follows:~~

~~(1) *For defective meters:* If a person who has received a citation for overtime parking believes the meter for the parking space is defective or malfunctioning, such person shall notify the city's parking customer service office of possible defect or malfunction no later than twenty-four (24) hours after issuance of the citation the following working day via:~~

- ~~a. Telephone call to the city's parking customer service office to report such meter defect or malfunction; or~~
- ~~b. Personally appearing at such office to make such report.~~

~~If such a citation is issued at any time during which the office is closed, such report must be made by 5:00 p.m. on the next working day the office is opened. The city's parking consultant, or such other designee approved by the city commission or city manager, shall then be dispatched to check the operation of such meter. The person who received the citation shall be notified by telephone or regular mail of the results of the investigation into the operation of said meter. If the meter is found to be defective or malfunctioning, the citation will be excused. If the meter is found to be functioning properly, the violator will be notified by the office as provided above and the time limits specified in section 19-55.1 shall then begin to run anew, as if the citation was just issued.~~

~~(2) *For any other parking violation:*~~

- ~~a. Any person wishing to contest a parking may appeal and contest such citation by contacting the office of the city's parking consultant, or such other designee approved by the city commission or city manager, as provided in subsections (1)a. and (1)b. above, within ten (10) working days from the date the citation was issued and requesting an administrative appeals hearing. The office of the city's parking consultant, or such other designee approved by the city commission or city manager will provide to the appellant an appeals hearing request form which is to~~

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1 be completed and returned to the office of the city's parking consultant, or
2 such other designee approved by the city commission or city manager
3 within ten (10) working days of the date the citation was issued. The
4 office of the city's parking consultant, or such other designee approved by
5 the city commission or city manager will then forward the completed
6 appeals hearing request forms, which were received within the time
7 specified above, to the Clerk of Court of Broward County, Florida, within
8 ten (10) working days of receipt.

9 b. ~~The clerk of court shall set the hearing within sixty(60) calendar days~~
10 ~~from the date the appeals hearing request form was received by the clerk~~
11 ~~of court, and shall provide the person issued the citation at least seven (7)~~
12 ~~working days' advance notice of the date of the hearing. The notice shall~~
13 ~~be sent by regular mail to the address of the registered owner of the~~
14 ~~vehicle or, in the event that the driver of the vehicle is not the owner, to~~
15 ~~the driver's address if the driver has requested an administrative appeals~~
16 ~~hearing and provided his or her address to the office of the city's parking~~
17 ~~consultant, or such other designee approved by the city commission or~~
18 ~~city manager when making a request for an administrative appeals~~
19 ~~hearing.~~

20 c. ~~The person issued the citation may:~~

- 21
- 22 1. ~~Be represented by counsel;~~
- 23 2. ~~Call and examine witnesses;~~
- 24 3. ~~Introduce exhibits;~~
- 25 4. ~~Examine opposing witnesses on any relevant matter; and~~
- 26 5. ~~Impeach any witness.~~
- 27

28 d. ~~All hearings shall be conducted insofar as practical in accordance with~~
29 ~~the Florida Rules of Civil Procedure and the Florida Evidence Code.~~
30 ~~However, the general nature of the hearing shall be conducted in an~~
31 ~~informal manner. All irrelevant, immaterial or unduly repetitious~~
32 ~~evidence shall be excluded, but all other evidence of a type commonly~~
33 ~~relied upon by reasonable and prudent persons in the conduct of their~~
34 ~~affairs shall be admissible whether or not such evidence would be~~
35 ~~admissible in a trial in the courts of Florida. Any part of the evidence may~~
36 ~~be received in written form and all testimony of parties and witnesses~~
37 ~~shall be made under oath. Hearsay evidence may be used for the purpose~~
38 ~~of supplementing or explaining other evidence but shall not be sufficient~~
39 ~~in itself to support a finding unless it would be admissible over objection~~
40 ~~in civil actions. Any interested party or person may make application and~~
41 ~~upon good cause shown may be allowed by the hearing officer, in the~~
42 ~~reasonable exercise of such officer's discretion, to intervene in a pending~~
43 ~~proceeding.~~

44 e. ~~Any person who receives a parking citation but who does not reside in~~
45 ~~Palm Beach, Broward or Miami Dade County, Florida, may contest the~~
46 ~~citation in writing by contacting, as provided in subsections (1)a. and~~

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1 (1)b. above, office of the city's parking consultant, or such other designee
2 approved by the city commission or city manager office within ten (10)
3 business days from the date of citation issuance and requesting an appeals
4 hearing request form which is to be completed and returned to the city's
5 parking customer service office, accompanied by all evidence upon which
6 the person relies, within twenty (20) working days of the date the citation
7 was issued. The completed appeals hearing request form and
8 accompanying evidence, which were received within the time specified
9 above, will then be sent by the office of the city's parking consultant, or
10 such other designee approved by the city commission or city manager to
11 the clerk of courts within ten (10) working days of receipt. The clerk shall
12 present the case to a hearing officer within sixty (60) calendar days of the
13 date the appeals hearing request form and accompanying evidence was
14 received by the clerk of courts. The evidence presented must include a
15 notarized statement by the person receiving the citation, which statement
16 shall identify the citation at issue by its number and date of issuance, shall
17 set forth the name and current address of the person cited, and may
18 contain argument in defense against the citation. The hearing officer will
19 not consider any statement that is not notarized. The evidence submitted
20 may include notarized statements of witnesses. Such statements must
21 include the name and address of each witness as well as the basis of the
22 witness' knowledge about the facts asserted in the statement. The
23 evidence submitted may also include such documents that are relevant
24 and material to the disposition of the citation. All evidence submitted is
25 subject to the evidentiary rules and procedures set forth in this section.

26 f. Pursuant to Florida law, any person who elects to appear before a hearing
27 officer or to contest a citation by mail, shall be deemed to have waived
28 the right to pay the civil penalty amount set forth on the citation. The
29 hearing or consideration of mailed-in admissible evidence will be decided
30 within thirty (30) calendar days after the request for hearing was made or
31 the evidence to be considered was received. After a hearing or
32 consideration of mailed-in admissible evidence, the hearing officer shall
33 make a determination based on the greater weight of the evidence as to
34 whether a parking violation has been committed and shall issue an order
35 imposing a civil penalty as set forth in section 19-55.1, as amended, of
36 this Code, in addition to applicable late fees. The hearing officer may
37 grant additional time to pay the civil penalty amount and late fees;
38 otherwise such fines are due and payable within ten (10) working days
39 from the date the order of the hearing officer was issued. All orders shall
40 be in writing and shall be signed and dated by the hearing officer. If, at
41 the conclusion of the hearing or consideration of mailed-in admissible
42 evidence, the hearing officer orders a dismissal of the citation because no
43 violation was found, the hearing officer shall so state and issue an order
44 of dismissal in writing, signed and dated by the hearing officer which
45 shall contain findings of the facts supporting the order. A copy of such

1 order will be forwarded to the person receiving the citation and to the
2 city's parking customer service office.
3 ~~g. An order of the hearing officer may be appealed by any party receiving an~~
4 ~~adverse ruling by filing a petition for writ of certiorari in the Circuit~~
5 ~~Court of the Seventeenth Judicial Circuit in and for Broward County,~~
6 ~~Florida, within thirty (30) calendar days from the date the order was~~
7 ~~issued.~~

8
9 **Section 11:** Section 19-57 of the City Code of Ordinances Entitled “Fines and
10 Removal” is amended as follows:

11 **19-57. Fines and Removal.**

12 (a) Violation of the disabled parking regulation is unlawful, and any person violating
13 this section or F.S. § 316.1955(1), shall be subject to a fine, as set forth in section
14 19-31, for each such occurrence; however, no person shall be subject to such fine
15 where:

16
17 (1) The person provides proof to the clerk of the circuit court or City of Wilton
18 Manors parking office that the person committing the violation has a parking
19 permit or license plate issued pursuant to F.S. §§ 316.1958, 320.0842,
20 320.0843, 320.0845, or 320.0848; and

21 (2) The person provides to the clerk of the circuit court or City of Wilton Manors
22 parking office a signed affidavit that the owner of the disabled parking permit
23 was present at the time the violation occurred, and such parking permit or
24 licenses plate was valid at the time the violation occurred. Upon provision of
25 proof of such a valid parking permit or licenses plate and payment of a
26 dismissal fee authorized by law (currently ~~seven dollars and fifty cents~~ five
27 dollars (\$7.50)) to the clerk of the circuit court or City of Wilton Manors
28 parking office, the clerk shall dismiss the citation.

29
30 (b) Any unattended vehicle parked in violation of this section or F.S. § 316.1955(1),
31 may, in addition to the fines provided for herein, be removed and the expense of
32 the removal be charged to the owner of the vehicle.

33
34 **Section 12:** Section 19-60 of the City Code of Ordinances Entitled
35 “Regulation of Controlled Parking in Residential Areas” is amended as follows:

36 **19-60. Regulation of Controlled Parking in Residential Areas.**

37 (a) *Purpose.* The city commission hereby declares that:

38
39 (1) It is in the best interests of the City of Wilton Manors to reduce
40 vehicular congestion on residential streets and to facilitate the efficient
41 movement of traffic by providing for residential parking preference
42 during certain hours of the day and days of the week within certain
43 areas meeting the criteria hereinafter set forth;

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- 1 (2) That residential permit parking regulation is necessary to promote the
2 health, safety and welfare of the residents of Wilton Manors by
3 providing adequate parking spaces for residents adjacent to or close by
4 their place of residence and by separating parking for commercial uses
5 from residential parking;
6 (3) It is in the public interest to reduce hazardous traffic conditions
7 resulting from the use of streets located within congested residential
8 areas for the parking of vehicles by persons using such residential
9 areas to gain access to other places; to protect those areas from
10 unreasonable burdens in gaining access to their residences; to preserve
11 the character of those areas as residential districts; to promote
12 efficiency in the maintenance of those streets in a clean and safe
13 condition; to preserve the value of the property in those areas; to
14 preserve the safety of children and other pedestrians and to promote
15 traffic safety, clean air, and the comfort, health, convenience and
16 welfare of the inhabitants of the city.
- 17 (b) *Designation of areas.* The city commission may designate controlled parking
18 in residential areas based on the following minimum criteria as determined in
19 a study by the city manager or his/her designee or the city's parking
20 consultant at no cost or expense to the city.
21
- 22 (1) The area is contiguous or nearly contiguous area containing streets or
23 parts thereof primarily abutted by property which is zoned residential
24 on the official zoning maps of the city; and
25 (2) For any time period during the week proposed for regulation
26 hereunder, the number of vehicles parked or standing legally or
27 illegally, on the streets in the area is equal to seventy (70) percent or
28 more of the legal on-street parking capacity of the area with twenty-
29 five (25) percent or more of the vehicles parked or standing on the
30 streets in the area being registered in the name of persons not residing
31 in the area; or
32 (3) During any period as described in subsection (b)(2) above, any
33 nonresident vehicles utilize the parking to patronize commercial
34 establishments in adjacent areas; and
35 (4) The residents of the area have difficulty or are unable to secure
36 adequate on-street parking adjacent to or close by their places of
37 residence because of widespread use of available parking spaces in that
38 area by nonresident transient motorists or the effects of the nonresident
39 parking are detrimental to the residential character of the area; and
40 (5) The residents of the area desire the institution of a parking permit
41 system.
- 42 (c) *Parking regulations in permit areas.* Following the designation of a
43 controlled parking residential area by the city commission the area shall be
44 posted with signs or other traffic control devices indicating the times,
45 locations and conditions under which parking shall be by permit only. No
46 person shall park any vehicle in a designated controlled parking residential

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1 area during the hours set forth in the ordinance designating the controlled
2 parking area, unless the vehicle displays a current parking permit for such
3 residential area issued in accordance with this section.

4 (d) *Issuance of residential parking permits.* Following the designation of a
5 controlled parking residential area, the city manager or his/her designee shall
6 issue appropriate residential parking permits. A resident of a controlled
7 parking residential area is eligible to receive one (1) resident parking permit
8 for each vehicle which is principally operated by the resident and one (1)
9 additional resident parking permit per household. The city manager or his/her
10 designee shall verify the residence address of persons obtaining such permits
11 and shall record on the face of the permit the letter designation of the
12 controlled parking residential area for which issued. As proof of residency,
13 the city manager may require utility bills, notarized affidavits of the landlord,
14 auto registration cards and other documentation deemed necessary naming
15 the permittee and showing an address within the controlled parking area. The
16 permit shall be valid for a calendar year and shall be renewed for each
17 successive calendar year.

18 (e) *Privileges and restrictions on residential parking permits.*

19 (1) The holder of a residential parking permit shall be permitted to stand
20 or park a motor vehicle displaying the permit and operated by him in
21 any designated residential controlled parking area during such times
22 and places as the parking of motor vehicles is permitted. A residential
23 parking permit shall not guarantee or reserve to the holder a parking
24 space within a designated controlled parking residential area.

25 (2) A residential parking permit shall not authorize the holder thereof to
26 stand or park a motor vehicle in such places or during such times as
27 the stopping, standing or parking the motor vehicle is prohibited or set
28 aside for specific types of vehicles, nor exempt the holder from the
29 observance of any traffic regulation other than the limitation on
30 parking within the controlled parking residential area.

31 (3) It shall constitute a violation of this section for any person to falsely
32 represent himself as eligible for a residential parking permit or to
33 furnish any false information in an application to the city manager or
34 his/her designee in order to obtain a residential parking permit.

35 (4) The city manager or his/her designee is authorized to revoke the
36 residential parking permit of any permittee found to be in violation of
37 this section; and, upon written notification thereof, the permittee shall
38 surrender such permit to the city manager or his/her designee. Failure,
39 when so requested, to surrender a residential parking permit so
40 revoked shall constitute a violation of this section.

41 (5) *Prohibition.* No person shall stop, stand or park a motor vehicle on any
42 restricted street within a RPPD area during the times provided in the
43 designation resolution, and as the signs posted on such restricted street
44 state that parking is not permitted unless the motor vehicle displays a
45 valid residential parking permit or guest permit as provided by this
46 division.

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- 1 a. No person other than the permittee shall use or display the
2 residential parking permit or guest permit on a motor vehicle
3 other than that for which the permit is issued, and any such
4 use or display by a person other than the permittee or guest on
5 a motor vehicle for which the permit is issued shall constitute
6 a violation of this division by the permittee and by the person
7 who so used or displayed such residential parking permit.
8 b. It shall be a violation of this division for any person to falsely
9 represent himself as eligible for a residential parking permit or
10 to furnish any false information in an application in order to
11 obtain a residential parking permit.
12 c. The city manager, or his/her designee is authorized to revoke
13 the residential parking permit of any permittee found to be in
14 violation of this division and, upon written notification
15 thereof, the permittee shall surrender such permit to the city.
16 Failure, when so required, to surrender a residential parking
17 permit so revoked shall constitute a violation of this division.
18 Once a permit is revoked, it will not be re-issued to that
19 applicant for a one-year period and only upon a new
20 application being filed.
21 (6) *Penalty*. The penalty for a violation of this section shall be by issuance
22 of a parking citation and the fine shall be thirty dollars (\$30.00) per
23 violation. If the fine is not paid within ~~seven (7)~~ ten (10) calendar days
24 of citation issuance, the fine will increase to forty dollars (\$40.00). If
25 the fine is not paid within ~~fourteen (14)~~ fifteen (15) calendar days of
26 citation issuance, the fine will increase to fifty dollars (\$50.00).
27 (7) Certified ~~P~~parking enforcement specialists, including but not limited to
28 the city's parking consultant shall have jurisdiction to enforce the
29 provisions of this section.
30 (8) Administrative appeals shall be in accordance with section 19-55.3 of
31 this article.
32

33 **Section 13:** It is the intention of the City Commission, and it is hereby ordained
34 that the provisions of this Ordinance shall become and be made a part of the Code of
35 Ordinances of the City of Wilton Manors, Florida.

36 **Section 14:** That all ordinances and resolutions or parts of ordinances and
37 resolutions in conflict herewith, be and the same are hereby repealed, to the extent of
38 such conflict.

39 **Section 15:** That if any clause, section or other part of this Ordinance shall be

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1 held invalid or unconstitutional by any court of competent jurisdiction, the remainder of
2 this Ordinance shall not be affected thereby, but shall remain in full force and effect.

3 **Section 16:** That this Ordinance shall become effective upon adoption.

4 **PASSED ON FIRST READING BY THE CITY COMMISSION OF THE CITY OF**
5 **WILTON MANORS, FLORIDA, THIS ____ DAY OF _____ 2014.**

6 **PASSED AND ADOPTED ON SECOND AND FINAL READING BY THE CITY**
7 **COMMISSION OF THE CITY OF WILTON MANORS, FLORIDA THIS ____**
8 **DAY OF _____, 2014.**

9
10 CITY OF WILTON MANORS, FLORIDA

11
12
13 By: _____
14 GARY RESNICK, MAYOR

15
16
17 ATTEST: RECORD OF COMMISSION VOTE

18
19
20 _____ MAYOR RESNICK AYE
21 KATHRYN SIMS VICE MAYOR CARSON AYE
22 CITY CLERK COMMISSIONER GALATIS AYE
23 COMMISSIONER GREEN AYE
24 COMMISSIONER NEWTON AYE

25 I HEREBY CERTIFY that I have
26 approved the form of this Ordinance.

27
28 _____
29 KERRY L. EZROL
30 CITY ATTORNEY
31