

ORDINANCE NO. C-22-01

AN ORDINANCE OF THE CITY OF FORT LAUDERDALE, FLORIDA, AMENDING DIVISION 2. – “ADMINISTRATION AND ENFORCEMENT,” OF ARTICLE IV. ENTITLED, “PARKING, STOPPING AND STANDING,” OF CHAPTER 26, ENTITLED, “TRAFFIC AND PARKING,” OF THE CODE OF ORDINANCES OF THE CITY OF FORT LAUDERDALE, FLORIDA, TO REVISE THE PARKING CITATION ADMINISTRATIVE APPEAL PROCESS AND TO ADD A CITATION ADMINISTRATIVE APPEAL PROCESS RELATED TO DEFECTIVE PARKING METERS AND PROVIDING FOR SEVERABILITY, REPEAL OF CONFLICTING ORDINANCE PROVISIONS, AND AN EFFECTIVE DATE.

WHEREAS, Chapter 26 of the Code of Ordinances of the City of Fort Lauderdale, Florida, provides for the issuance of parking citations for violations of the City of Fort Lauderdale’s ordinances; and

WHEREAS, Chapter 26 of the Code of Ordinances of the City of Fort Lauderdale, Florida, provides for a process to contest parking citations; and

WHEREAS, the Transportation and Mobility Department of the City of Fort Lauderdale wishes to update the administrative appeal process related to parking citations and defective parking meters; and

WHEREAS, updating the administrative appeal process provides staff with the ability to streamline, and centralize a timely review and processing of parking citation appeals;

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

SECTION 1. That Division 2. of Article IV. of Chapter 26 of the Code of Ordinances of the City of Fort Lauderdale, Florida is hereby amended to provide as follows:

Sec. 26-111. – Notice on illegally parked vehicle.

Whenever any motor vehicle without driver is found parked, stopped, or standing in violation of any of the restrictions imposed by ordinance of this city, the enforcement personnel finding such vehicle shall take its registration number and may take any other information displayed on the

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vehicle which may identify its user and shall conspicuously affix to such vehicle a traffic citation or notice in writing, on a form provided by the transportation and mobility department.

Sec. 26-112. – ~~Reserved.~~ Defective Parking Meters.

- a. If a parking meter is defective or malfunctioning, the user shall notify the City of Fort Lauderdale of the possible defect or malfunction at the time the malfunction or defect is experienced. Such notification shall be by:
- (1) Telephone call to the city's 24/7 customer service office; or
 - (2) The City of Fort Lauderdale Lauderserv Mobile App.

In such case, the person who received the citation, or the vehicle's registered owner, shall submit a tier-one appeal form, as set forth in section 26-113, to request an administrative appeal.

- b. A parking meter is deemed defective if no payment options are available.

Sec. 26-113. – Administrative appeal.

~~Any person wishing to contest a parking citation may appeal to the director or his/her designee, 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 10:00 a.m. 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 received on a Saturday, Sunday or holiday, during which the office is closed, such report must be made within two (2) hours on the next working day the office is opened. City personnel shall then be dispatched to check the operation of such meter. The person who~~

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~~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 26-91(b) shall then begin to run anew, as if the citation was just issued.~~

(4) ~~For any other parking violation:~~

- a. ~~Any person wishing to contest a parking citation may appeal and contest such citation by contacting the city's customer service office, as provided in paragraphs (1)a. and (1)b. above, within three (3) working days from the date the citation was issued and requesting an administrative appeals hearing. The city's parking customer service office will provide to the appellant an appeals hearing request form which is to be completed and returned to the city's parking customer service office within ten (10) working days of the date the citation was issued. The city's parking customer service office will then forward the completed appeals hearing request forms, which were received within the time specified above, to the Clerk of Court of Broward County, Florida, within ten (10) working days of receipt.~~
- b. ~~The clerk of court shall set the hearing within sixty (60) calendar days from the date the appeals hearing request form was received by the clerk of court, and shall provide the person issued the citation at least seven (7) working days' advance notice of the date of the hearing. The notice shall be sent by regular mail to the address of the registered owner of the vehicle or, in the event that the driver of the vehicle is not the owner, to the driver's address if the driver has requested an administrative appeals hearing and provided his or her address to the city's parking customer service office when making a request for an administrative appeals hearing.~~

The City of Fort Lauderdale's parking citation administrative appeal is a two-tiered process.

(1) Tier-One Appeal

Any person wishing to contest a parking citation may appeal and contest such citation by completing a tier-one appeal form within ten (10) calendar days from the date the citation was issued. Appeal forms may be electronically completed on the City of Fort Lauderdale's website or in the City of Fort Lauderdale's Transportation and Mobility Parking Services office. Within

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thirty (30) calendar days after receipt of the appeal form, the director shall:

- a. Accept the appeal request and dismiss the citation pursuant to section 26-91(d); or
- b. Deny the appeal request and uphold the citation issuance.

If the director's decision is pursuant to subsection (1)b., the Transportation and Mobility Department will provide written notification of the director's decision to the violator and the original schedule of fines set forth in section 26-91(a) and payment requirements set forth in 26-91(b) shall then begin to run anew, as if the citation was just issued.

The violator may appeal the director's tier-one decision by requesting a tier-two appeal pursuant to subsection (2). Any such appeal is voluntary, and in the absence of taking such appeal, the decision of the director shall be deemed to be final. If an appeal is taken, however, the decision of the director is no longer deemed to be final, but instead the time is tolled pending the appeal upon receipt of the two-tier appeal form. The appellant shall exhaust the tier- one appeal process prior to proceeding to a tier- two appeal.

(2) Tier-Two Appeal:

- a. A tier-two appeal form must be completed through the City of Fort Lauderdale's Transportation and Mobility parking services office and returned to the office within ten (10) calendar days from the date that the tier-one administrative appeal decision was issued. The city's parking services office will forward the completed appeals hearing request forms, to the Clerk of Court of Broward County Florida. The clerk of court shall set the hearing within sixty (60) calendar days from the date the appeals hearing request form was received by the clerk of court and shall provide the person issued the citation or registered vehicle owner at least seven (7) working days' advance notice of the date of the hearing. The notice shall be sent by regular mail to the address of the registered owner of the vehicle or, in the event that the driver of the vehicle is not the owner, to the driver's address if the driver has requested an administrative appeals hearing and provided his or her address to the city's parking services office when making a request for an administrative appeals hearing. The hearing shall be conducted as permitted by Florida Statutes.

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- eb. The person issued the citation or the vehicle's registered owner may:
1. Be represented by counsel;
 2. Call and examine witnesses;
 3. Introduce exhibits;
 4. Examine opposing witnesses on any relevant matter; and
 5. Impeach any witness.
- ec. All hearings shall be conducted insofar as practical in accordance with the Florida Rules of Civil Procedure and the Florida Evidence Code. However, the general nature of the hearing shall be conducted in an informal manner. All irrelevant, immaterial or unduly repetitious evidence shall be excluded, but all other evidence of a type commonly relied upon by reasonable and prudent persons in the conduct of their affairs shall be admissible whether or not such evidence would be admissible in a trial in the courts of Florida. Any part of the evidence may be received in written form and all testimony of parties and witnesses shall be made under oath. Hearsay evidence may be used for the purpose of supplementing or explaining other evidence but shall not be sufficient in itself to support a finding unless it would be admissible over objection in civil actions. Any interested party or person may make application and upon good cause shown may be allowed by the hearing officer, in the reasonable exercise of such officer's discretion, to intervene in a pending proceeding.
- ~~e.~~ ~~Any person who receives a parking citation but who does not reside in Palm Beach, Broward or Miami Dade County, Florida, may contest the citation in writing by contacting, as provided in paragraphs (1)a. and (1)b. above, city's parking customer service office within three (3) days from the date of citation issuance and requesting an appeals hearing request form which is to be completed and returned to the city's parking customer service office, accompanied by all evidence upon which the person relies, within twenty (20) working days of the date the citation was issued. The completed appeals hearing request form and accompanying evidence, which were received within the time specified above, will then be sent by the city's parking customer service office to the clerk of courts within ten (10) working days of receipt.~~

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~~The clerk shall present the case to a hearing officer within sixty (60) calendar days of the date the appeals hearing request form and accompanying evidence was received by the clerk of courts. The evidence presented must include a notarized statement by the person receiving the citation, which statement shall identify the citation at issue by its number and date of issuance, shall set forth the name and current address of the person cited, and may contain argument in defense against the citation. The hearing officer will not consider any statement that is not notarized. The evidence submitted may include notarized statements of witnesses. Such statements must include the name and address of each witness as well as the basis of the witness' knowledge about the facts asserted in the statement. The evidence submitted may also include such documents that are relevant and material to the disposition of the citation. All evidence submitted is subject to the evidentiary rules and procedures set forth in this section.~~

- fd. Pursuant to Florida law, any person who elects to appear before a hearing officer or to contest a citation by mail, shall be deemed to have waived the right to pay the civil penalty amount set forth on the citation. The hearing or consideration of mailed-in admissible evidence will be decided within thirty (30) calendar days after the request for hearing was made or the evidence to be considered was received. 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 as set forth in section 26-91, as amended, of this code, in addition to applicable late fees. The hearing officer may grant additional time to pay the civil penalty amount and late fees; otherwise such fines are due and payable within ten (10) working days from the date the order of the hearing officer was issued. All orders shall be in writing and shall be signed and dated by the hearing officer. If, at the conclusion of the hearing or consideration of mailed-in admissible evidence, the hearing officer orders a dismissal of the citation because no violation was found, the hearing officer shall so state and issue an order of dismissal in writing, signed and dated by the hearing officer which shall contain findings of the facts supporting the order. A copy of such order will be forwarded to the person receiving the citation and to the city's parking customer service office.

~~ge.~~ An order of the hearing officer may be appealed by any party receiving an adverse ruling by filing a Petition for Writ of Certiorari in the Circuit Court of the Seventeenth Judicial Circuit in and for Broward County, Florida, within thirty (30) calendar days from the date the order was issued.

SECTION 2. That if any clause, section, or other part of this Ordinance shall be held invalid or unconstitutional by any court of competent jurisdiction, the remainder of this Ordinance shall not be affected thereby, but shall remain in full force and effect.

SECTION 3. That all ordinance or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

SECTION 4. That this Ordinance shall be in full force and effect, February 1, 2022.

PASSED FIRST READING this 5th day of January, 2022.

PASSED SECOND READING this _____ day of _____, 2022.

Mayor
DEAN J. TRANTALIS

ATTEST:

City Clerk
JEFFREY A. MODARELLI

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