

SPONSORED BY:
MAYOR BROWN



ORDINANCE NO. 2021-01

A BILL TO BE ENTITLED

AN ORDINANCE OF THE CITY OF NEPTUNE BEACH, FLORIDA, AMENDING CHAPTER 22 OF THE CODE OF ORDINANCES, TRAFFIC AND MOTOR VEHICLES, BY AMENDING SECTION 22-46, PENALTIES; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of Neptune Beach, adopted Ordinance No. 2019-07, establishing controlled and metered parking within certain designated zones within the City; and

WHEREAS, Ordinance No. 2019-07 established Section 22-46, which outlines penalties for violations of Chapter 22, Article IV of the Code; and

WHEREAS, Chapter 22 provides for penalties in the form of immobilization or towing of vehicles in violation of its provisions; and

WHEREAS, in enforcing the provisions of the Code, the City has determined that alternative penalties would facilitate more efficient administration of the terms of Chapter 22 and provide clarity to users of parking within the controlled and/or metered parking zones within the City; and

WHEREAS, the City has determined that a process designed to facilitate collection of fines, utilized in conjunction with immobilization and towing, will provide for such efficient administration; and

WHEREAS, the City also desires to implement a procedure for the appeal of parking tickets under Chapter 22; and

WHEREAS, the City Council of the City of Neptune Beach finds that these revisions to the City of Neptune Beach's Code will preserve, promote, and protect the health, safety, and welfare of its citizens.

NOW, THEREFORE, BE IT ENACTED BY THE CITY COUNCIL ON BEHALF OF THE PEOPLE OF THE CITY OF NEPTUNE BEACH, FLORIDA that:

SECTION 1. Chapter 22-46, of the Code of Ordinances of the City of Neptune Beach, Florida is hereby amended as follows:

Sec. 22-46. – Penalties.

- (a) Any person convicted of violating any section of this article shall be punished as provided in chapter 22, Traffic and Motor Vehicles.
- (b) Alternative Procedure. In addition to any other penalties authorized by this Chapter, the city adopts the following procedure, which may be used at the election of the district parking officer, but shall not be construed to be mandatory.
 - 1. At least thirty (30) days following a motor vehicle's third (3rd) outstanding parking ticket, the district parking operator may deliver a first notice of outstanding fines to the address on file for the owner of the motor vehicle with the Department of Motor Vehicles, Neptune Beach Police Department, or other government agency. In the event such records are unavailable to the City, the district parking operator may send such notice to any address reasonably believed by the district parking operator to be affiliated with the owner of the motor vehicle.
 - 2. At least thirty days following a first notice, the district parking operator may deliver a second notice of outstanding fines to the address used for the first notice or such other address as the district parking operator has determined to be more likely that of the owner of the motor vehicle since delivery of the first notice.
 - 3. At least thirty days following a second notice, the district parking operator may cause to be scheduled a hearing before the special magistrate regarding such outstanding parking tickets. Notice of such hearing shall be delivered to the address used for the first or second notice or such other address as the district parking operator has determined to be more likely that of the owner of the motor vehicle since delivery of the first or second notice. The hearing before the special magistrate shall occur no sooner than ten (10) days after the notice of hearing is sent by the district parking operator.
 - 4. In the event a hearing is scheduled before the special magistrate, such hearing shall be conducted as provided in Chapter 2, Article VII, Division 2 of the Code. In addition to assessing the fines contained on the face of each parking ticket, the special magistrate shall also have the authority to assess their fees and costs, the City's legal fees and costs and costs of complying with the notice provisions of this section, and any other costs associated with the hearing against the owner of the motor vehicle, as well as to assess additional fines as follows:
 - i. For owners of motor vehicles appearing for outstanding parking tickets before the special magistrate for the first time, daily

finest from the date of the parking ticket in the amount of up to ten dollars (\$10.00) per day.

- ii. For owners of motor vehicles who have previously appeared for outstanding parking tickets before the special, daily fines from the date of the parking ticket in the amount of up to twenty dollars (\$20.00) per day.

5. Any notice delivered pursuant to this section shall be deemed valid and delivered if made in the manner described in Section 2-446.
6. The city shall have the right to utilize any available method to obtain collection of any amounts awarded by the special magistrate under this section. The city shall also be authorized to obtain the assistance of the courts to collect such award. Any judicial remedies to be sought by this section are in addition to any other power of the city regarding parking enforcement. In the event it is necessary for the city to utilize the services of legal counsel in any collection procedures that utilize the assistance of the courts, the city shall be entitled to recover its reasonable attorney's fees and costs incurred in that action.

- (c) Appeals. In the event any person believes they have received a parking ticket or other fine in error or otherwise contrary to the terms and provisions of this Article, they may appeal such parking ticket or other fine as follows:

1. Within ten (10) business days of the issuance of the ticket or fine, the owner of such motor vehicle may submit a written appeal to the district parking operator through the city's website established for the controlled and/or metered parking within the city or alternative procedure adopted in writing by the district parking operator. Such written appeal shall include an email or mailing address for such appellant. If no appeal is filed within such time period or no email or mailing address is provided for such appellant, the validity of the ticket or fine shall be deemed admitted.
2. Within ten (10) business days of receipt of a written appeal, the district parking operator shall determine whether to enforce, reduce, or waive the ticket or fine and shall provide notice to the appellant of such decision.
3. Within ten (10) business days of receipt of the determination of the district parking operator, the appellant may appeal such decision to the special magistrate.
4. The special magistrate shall hear such appeal at their next scheduled hearing, which shall be conducted as provided in Chapter 2, Article VII, Division 2 of the Code.

5. In the event the the special magistrate upholds all or any of the ticket or fine as determined by the district parking operator, the appellant shall be responsible for all fees and costs associated with the hearing, including those of the special magistrate and the legal fees and costs of the city. In the event the special magistrate overturns the decision of the district parking operator and waives the ticket or fine, the city shall bear the costs of the special magistrate and its own legal fees and costs.

SECTION 2. Conflict. All ordinances, resolutions, official determinations or parts thereof previously adopted or entered by the City or any of its officials and in conflict with this ordinance are repealed to the extent inconsistent herewith.

SECTION 3. Severability. If a Court of competent jurisdiction at any time finds any provision of this Ordinance to be unlawful, illegal, or unenforceable, the offending provision shall be deemed severable and removed from the remaining provisions of this Ordinance which shall remain in full force and intact.

SECTION 4. Effective Date. This ordinance shall take effect upon final reading and approval.

VOTE RESULTS OF FIRST READING:

Mayor Elaine Brown	YES
Vice Mayor Fred Jones	YES
Councilor Kerry Chin	YES
Councilor Lauren Key	YES
Councilor Josh Messinger	YES

Passed on First Reading this 1st day of March, 2021.

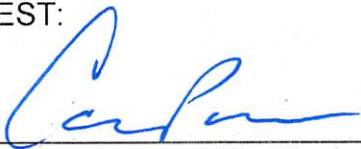
VOTE RESULTS OF SECOND AND FINAL READING:

Mayor Elaine Brown	YES
Vice Mayor Fred Jones	YES
Councilor Kerry Chin	YES
Councilor Lauren Key	ABSENT
Councilor Josh Messinger	YES

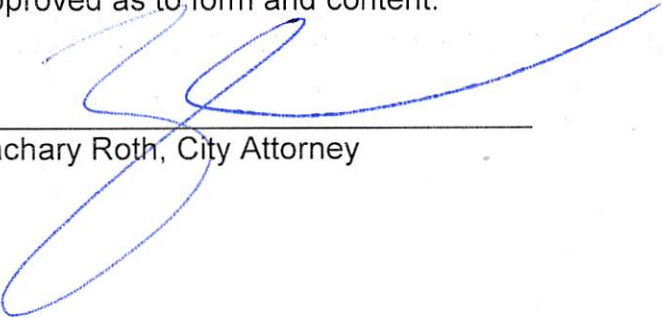
Passed on Second and Final Reading this 5th day of April, 2021.


Elaine Brown, Mayor

ATTEST:


Catherine Ponson, City Clerk

Approved as to form and content:


Zachary Roth, City Attorney

