

CITY OF CORAL GABLES, FLORIDA

ORDINANCE NO. 2016-17

AN ORDINANCE OF THE CITY COMMISSION OF CORAL GABLES, FLORIDA, REGULATING THE TOWING AND BOOTING OF VEHICLES IN PRIVATELY-OWNED, METERED, SURFACE LOTS; PROVIDING FOR ENFORCEMENT; PROVIDING FOR SEVERABILITY, REPEALER, CODIFICATION, AND AN EFFECTIVE DATE.

WHEREAS, it has come to the attention of the City of Coral Gables City Commission that numerous residents and visitors have parked in privately-owned lots under the impression that the lots are City-owned; and

WHEREAS, based on this belief, residents and visitors often pay at the City's parking stations, rather than of the private parking stations resulting in the booting or towing of their vehicle; and

WHEREAS, booting and towing often cause harm, stress and expense to patrons of these lots; and

WHEREAS, the amounts charged for the removal of boots and retrieval of vehicles from tow yards is often excessive and unjust, especially when the booting or towing is done as a result of an expired meter or payment to a City meter instead of a private one; and

WHEREAS, the City wishes to insure that its residents and visitors are free from these types of abuses and well-informed as to whether they are parking on City-owned lots or privately-owned lots;

NOW, THEREFORE, BE IT ORDAINED BY THE COMMISSION OF THE CITY OF CORAL GABLES:

SECTION 1. That the foregoing recitals are hereby ratified and confirmed as being true and correct and are hereby made a specific part of this ordinance upon adoption hereof.

SECTION 2. That Secs. 74-141 – 74-143 be added to Chapter 74 of the Code of the City of Coral Gables, Florida, be hereby created to read as follows:

CHAPTER 74. TRAFFIC AND VEHICLES

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Article III. STOPPING, STANDING AND PARKING

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Division 2. – PARKING METERS AND PARKING AREAS

Sec. 74-141. Signage and other requirements

- (a) All pay stations and signage at privately-owned, metered surface parking lots shall be noticeably different in color, shape and markings than City pay stations.
- (b) All privately-owned, metered surface parking lots shall prominently display signs explaining that the lot is privately owned and citing Sec. 74-142 and 74-143 of the City Code.
- (c) The parking rate and hours of operation for the surface parking lot must be prominently displayed on signs clearly visible at the parking lot entrance and pay station. Signs must also include a phone number to contact the parking lot operator.

Sec. 74-142. Towing of vehicles in privately-owned, metered surface parking lots.

- (a) No vehicle parked in a privately-owned, metered surface parking lot, shall be towed unless the vehicle is parked in a way that blocks the ability of another parked vehicle to exit its designated space or blocks the entrance or exit to the surface parking lot.
- (b) A violation of subsection (a) will result in the following fines assessed against the lot's management company:
 - 1. \$500 fine for the 1st violation;
 - 2. \$1,000 fine for the 2nd violation;

A 3rd violation may result in the revocation of the operator's business license, effectively disallowing the operation of the parking lot until the license is reinstated by the City Manager. Such reinstatement may include the imposition of conditions.

Along with the prescribed fines, the operator shall also reimburse the patron for the cost of recovering the vehicle and any cost incurred by the patron in vehicle rental, taxicab service, ride-sharing service or public transportation, as a result of having his/her vehicle towed.

Sec. 74-143. Booting of vehicles in privately-owned, metered surface parking lots.

- (a) Booting is only permitted when a vehicle has been stationed in a space for 60 minutes or more after the paid time has expired.
- (b) The operator or its agent shall respond within ten (10) minutes to remove the boot from the booted vehicle.

- (c) The maximum amount that an operator may charge for the removal of a boot is twenty-five (\$25.00) dollars.
- (d) Any lot that engages in booting shall provide the non-emergency police dispatch number on the signage required under Sec. 74-141(b) and provide the City's Parking and Police Department with the ability to remove the boot if the operator or its agent fails to respond within ten (10) minutes.
- (e) A violation of any of the above subsections will result in the following fines assessed against the lot's management company:
 - 1. \$500 fine for the 1st violation;
 - 2. \$1,000 fine for the 2nd violation;

A 3rd violation may result in the revocation of the operator's business license, effectively disallowing the operation of the parking lot until the license is reinstated by the City Manager. Such reinstatement may include the imposition of conditions.

Sec. 74-144. Waiver

The City Commission may waive Secs. 74-141 - 143 of the Code and enter into a separate agreement delineating specific rules and regulations with a private party.

SECTION 3. SEVERABILITY.

If any section, sentence, clause, or phrase of this Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this Ordinance.

SECTION 4. REPEALER.

All ordinances or parts of ordinances in conflict herewith, are hereby repealed.

SECTION 5. CODIFICATION.

It is the intention of the Commission of the City of Coral Gables, Florida, that the provisions of this Ordinance shall become and be made a part of the City of Coral Gables Code of Ordinances; and that the sections of this ordinance may be renumbered or relettered to accomplish such intention, and the word "ordinance" may be changed to "section", "article", or such other appropriate word or phrase in order to accomplish such intentions.

SECTION 6. EFFECTIVE DATE.

This ordinance shall become effective upon its passage and adoption herein.

PASSED AND ADOPTED THIS FIFTEENTH DAY OF MARCH, A.D., 2016.
(Moved: Lago / Seconded: Quesada)
(Yeas: Keon, Lago, Quesada, Slesnick, Cason)
(Unanimous: 5-0 Vote)
(Agenda Item: E-4)

APPROVED:



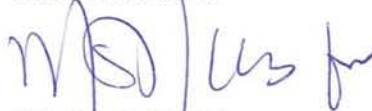
JIM CASON
MAYOR

ATTEST:



WALTER J. FOEMAN
CITY CLERK

APPROVED AS TO FORM AND LEGAL
SUFFICIENCY:



CRAIG E. LEEN
CITY ATTORNEY

CITY OF CORAL GABLES
CITY ATTORNEY'S OFFICE

M E M O R A N D U M

TO: Craig Leen, City Attorney
Miriam Ramos, Deputy City Attorney

FROM: Yaneris Figueroa, Assistant City Attorney

RE: Deletion of Chapter 38, Article II, "Noises," as Superseded, pursuant to City Code Section 2-201(e)(9).

DATE: February 16, 2016

Craig,

Presently, the City Code contains two provisions addressing noise within the City, specifically, Chapter 34, Article V, entitled "Noise," enacted in 2006 and Chapter 38, Article II, also entitled "Noise," enacted in 1958. Of these two provisions, the provisions in Chapter 38 were superseded and repealed by the enactment of Chapter 34. Accordingly, pursuant to your authority under City Code Section 2-201(e)(9), Chapter 38, Article II, should be deleted from the City Code.

Specifically, Chapter 38, Article II, was expressly repealed through the passage of Chapter 34, enacted through Ordinance Number 2006-04 (the "Ordinance"), passed and adopted on the twenty-eighth day of March 2006. Indeed, the Ordinance, in Section 2, stated that "the Code of the City of Coral Gables, Chapter 16, Article V, entitled 'Noises,' is hereby repealed and a new ordinance is created."¹ Therefore, Chapter 38, which was Chapter 16 at the time the Ordinance passed, was expressly repealed and should, therefore, be deleted from the City Code.

Moreover, Chapter 38, Article II, should be deleted because it was superseded by the Ordinance. Indeed, Chapter 38, Article II was encoded in 1958 while Chapter 34, Article V was encoded in 2006. Additionally, Chapter 34, Article V, fully incorporated the provisions of Chapter 38, and, therefore, rendered Chapter 38 superseded.

¹ Historically, Chapter 38, Article II, was encoded under Chapter 16, as evidenced by the editorial notes contained in the City Code.

Accordingly, based on the foregoing, and pursuant to your authority under City Code Section 2-201(e)(9), which expressly grants the City Attorney the authority to “to delete provisions that have been superseded,” it is my opinion that Chapter 38, Article II, “Noise” should be deleted from the City Code.