

**PROPOSED**

## ORDINANCE NO. 2021-

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF BROWARD COUNTY, FLORIDA, PERTAINING TO PRIVATE PARKING TICKETS AND PRIVATE ENFORCEMENT OF PARKING TICKETS; CREATING SECTION 20-164.2 OF THE BROWARD COUNTY CODE OF ORDINANCES ("CODE"); PROHIBITING THE ISSUANCE OF PRIVATE PARKING TICKETS AND PRIVATE ENFORCEMENT OF PARKING TICKETS; AMENDING SECTION 8½-16 OF THE CODE TO PROVIDE FOR FINES; AND PROVIDING FOR SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE.

(Sponsored by Commissioner Mark D. Bogen)

WHEREAS, certain private parking facilities or their agents issue private parking tickets to motor vehicles for violating the parking rules of the applicable facility;

WHEREAS, these tickets often resemble local government parking citations and create the misimpression that failure to pay the ticket or remedy the violation may subject the ticketed motorists to civil or criminal penalties;

WHEREAS, these private parking tickets are not issued by law enforcement, but mimic the form and appearance of official law enforcement parking tickets;

WHEREAS, unsuspecting motorists may pay the ticketed fines or fees under the mistaken belief that the fines and fees are imposed by law enforcement;

WHEREAS, certain private parking facilities also apply restraint devices, such as "boots," to motor vehicles for violating the parking rules of the applicable facility or failure to pay private parking tickets;

WHEREAS, these misleading private tickets and restraint devices cause fear, confusion, and inconvenience for the ticketed motorists; and

1 WHEREAS, the Board of County Commissioners of Broward County finds it is in  
2 the best interest of citizens and visitors of Broward County to prohibit the practice of  
3 issuing private parking tickets and private enforcement of private parking tickets,  
4

5 BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF  
6 BROWARD COUNTY, FLORIDA:  
7

8 Section 1. Section 20-164.2 of the Broward County Code of Ordinances is  
9 hereby created to read as follows:

10 [Underlining omitted]

11 **Sec. 20-164.2. Private parking tickets and violations prohibited.**

12 (a) *Definitions.*

13 *Agent* means any person or entity engaged by a private parking facility to monitor  
14 or enforce parking at the private parking facility, including, without limitation, by  
15 issuing private tickets or applying immobilization devices. Agent includes any  
16 entity providing lot-monitoring services as defined in Section 20-176.12 of the  
17 Code.

18 *Division* means the Broward County Environmental and Consumer Protection  
19 Division or its successor agency.

20 *Immobilization device* means any device installed or affixed to the wheel or tire of  
21 a motor vehicle so as to prevent its usual manner of movement.

22 *Private parking facility* means any real property or building that is owned or  
23 operated for the benefit of an entity other than a governmental entity or special  
24 district and that allows for parking of motor vehicles by members of the public.

Coding: Words in ~~struck-through~~ type are deletions from existing text. Words in  
underscoring type are additions.

1        *Private parking facility operator* means an entity, other than a governmental entity  
2        or special district, that owns or operates a private parking facility.

3        *Private ticket* means a citation, ticket, notice of violation, or other instrument issued  
4        by a nongovernmental entity for a parking violation that seeks to impose a  
5        monetary penalty or fine.

6        (b)    *Private tickets prohibited.* It shall be unlawful for any person, including any  
7        private parking facility operator or agent to issue a private ticket to a motor vehicle parked  
8        in a private parking facility or to the owner of any such vehicle. Any private parking ticket  
9        is hereby declared null, void, and unenforceable.

10       (c)    *Private enforcement prohibited.* It shall be unlawful for any private parking  
11       facility operator or agent to apply an immobilization device to a motor vehicle or tow a  
12       vehicle parked in a private parking facility, unless such operator or agent is licensed in  
13       accordance with Section 20-176.13 of the Code and is operating in strict compliance with  
14       the applicable requirements of Chapter 20, Article VII, Division 2, Towing and  
15       Immobilization Regulation, of the Code, including, without limitation, Section 20-176.19  
16       and Section 20-176.21 therein.

17       (d)    *Penalties.* Any person that violates any provision of this section shall be  
18       subject to the civil penalties described in Section 8½-16(b). The placement of a private  
19       ticket or immobilization device on a motor vehicle in a private parking facility, or electronic  
20       issuance of a private ticket against the vehicle or the owner of the vehicle, shall be  
21       prima facie evidence of a violation of this section.

1 (e) *Enforcement.*

2 (1) The issuance of a private ticket or immobilization device in violation of this  
3 section is hereby declared to be transient in nature and constitutes  
4 irreparable harm.

5 (2) Complaints regarding violations of this section may be filed with the  
6 Division. The complaint should include a copy of the private ticket, where  
7 applicable, the date, time, location of the action(s) in violation of this section,  
8 and identity of the private parking facility operator or agent at issue, if  
9 known.

10 (3) Enforcement procedures shall be as provided in Chapter 8½ of this Code.  
11 For purposes of Chapter 8½, personnel designated by the Division are  
12 “code inspectors,” and a code inspector’s examination of the complaint and  
13 any other documentation provided by the complainant constitutes “personal  
14 investigation.”

15 (4) If a code inspector determines that the complaint fails to allege a violation  
16 of this section, the code inspector shall notify the complainant, specifying  
17 the defects in the complaint. If a code inspector determines the complainant  
18 has sufficiently alleged a violation of this section, the code inspector shall  
19 issue a citation as provided in Section 8½-10 of the Code to the private  
20 parking facility and/or agent at issue.

21 (5) Upon hearing of a citation by a hearing officer, if a violation is found, the  
22 hearing officer shall assess the fines stated in Section 8½-16. In addition,  
23 the hearing office may assess additional civil penalties in the amount of any  
24 unrefunded costs collected by the private parking facility or agent, which

amounts, if collected by the County, shall be paid to the complainant upon receipt by the County.

(6) Nothing in this Section 20-164.2 shall prohibit any otherwise lawful action by law enforcement or a governmental entity, or the periodic invoicing of parking fees to patrons who rent or lease space in a parking facility on a weekly, monthly, or other longer basis, provided the parking invoices do not falsely state or misleadingly imply the invoicing entity is affiliated with law enforcement or a governmental entity. Nothing in this section shall prohibit issuance of a private ticket or application of an immobilization device if such issuance or application is pursuant to a contract between the applicable entities that was entered into before the effective date of this section.

Section 2. Section 8½-16 of the Broward County Code of Ordinances is hereby amended to read as follows:

**Sec. 8½-16. Schedule of civil penalties.**

...

(b) *Violations of Towing and Immobilization Regulations:*

<i>Violation</i>	<i>Fine</i>	
	<i>First Violation</i>	<i>Repeat Violation</i>

...

(35) <u>Issuing a private ticket or applying an immobilization device in violation of Sec. 20-164.2</u>	<u>250.00</u>	<u>500.00</u>
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2  
3 Section 3. Severability.

4 If any portion of this Ordinance is determined by any court to be invalid, the invalid  
5 portion will be stricken, and such striking will not affect the validity of the remainder of this  
6 Ordinance. If any court determines that this Ordinance, in whole or in part, cannot be  
7 legally applied to any individual, group, entity, property, or circumstance, such  
8 determination will not affect the applicability of this Ordinance to any other individual,  
9 group, entity, property, or circumstance.

10  
11 Section 4. Inclusion in the Broward County Code of Ordinances.

12 It is the intention of the Board of County Commissioners that the provisions of this  
13 Ordinance become part of the Broward County Code of Ordinances as of the effective  
14 date. The sections of this Ordinance may be renumbered or relettered and the word  
15 "ordinance" may be changed to "section," "article," or such other appropriate word or  
16 phrase to the extent necessary in order to accomplish such intention.

Section 5. Effective Date.

This Ordinance is effective as of the date provided by law.

ENACTED

**PROPOSED**

FILED WITH THE DEPARTMENT OF STATE

EFFECTIVE

Approved as to form and legal sufficiency:  
Andrew J. Meyers, County Attorney

By /s/ Scott Andron 08/26/2021  
Scott Andron (date)  
Assistant County Attorney

By /s/ René D. Harrod 08/26/2021  
René D. Harrod (date)  
Chief Deputy County Attorney

SA/jc  
Private Tickets Ord  
08/26/2021  
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