

CITY OF BONITA SPRINGS, FLORIDA

BONITA SPRINGS ORDINANCE NO. 08-20

AN ORDINANCE OF THE CITY OF BONITA SPRINGS, FLORIDA, AMENDING AND RESTATING BONITA SPRINGS ORDINANCE NO. 07-23, THE RESIDENTIAL PARKING ORDINANCE; RELATING TO CRITERIA FOR SIZE TO ACCOMMODATE DRIVEWAY FLARES; REQUIRING SUBMITTAL OF A DRIVEWAY PERMIT APPLICATION AT THE TIME OF FILING A BUILDING PERMIT APPLICATION; PROVIDING FOR EXEMPTIONS; PROVIDING FOR CONFLICT, SEVERABILITY, CODIFICATION, INCLUSION IN CODE AND SCRIVENER'S ERRORS; AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, Chapter 166, Florida Statutes, authorizes City Council acting for the City of Bonita Springs, Florida, to adopt Ordinances and Resolutions necessary for the exercise of its powers and to prescribe fines and penalties for the violation of Ordinances in accordance with law; and

WHEREAS, City Council previously enacted Ordinance No. 05-16, the Bonita Springs Residential Parking Ordinance, as part of the City of Bonita Springs' Land Development Code; and

WHEREAS, City Council subsequently amended its Residential Parking Ordinance, by adopting Ordinance No. 07-23; and

WHEREAS, City Council now finds it necessary to further amend its Residential Parking Ordinance to assist in the elimination of nuisances, by amending and restating Bonita Springs Ordinance No. 07-23, with strike-through identifying deleted language and underline identifying additional language.

THE CITY OF BONITA SPRINGS HEREBY ORDAINS:

SECTION ONE: TITLE AND CITATION

This Ordinance shall be part of the City of Bonita Springs Land Development Code, and shall be known and cited as the "Bonita Springs Residential Parking Ordinance".

SECTION TWO: SCOPE AND PURPOSE

The purpose of this Ordinance is to protect the comfort, health, repose, safety, and general welfare of residents of the City of Bonita Springs by establishing maximum parking areas in residential neighborhoods within the City

of Bonita Springs. The criteria for the size and dimension of residential parking areas contained herein shall apply to all residential areas, including both city and privately maintained streets and roadways within such residential areas, except where a development order has been issued under Land Development Code Chapter 3 that contains parking space size requirements more restrictive than those contained herein. The standards which constitute a nuisance under this ordinance shall apply to all residential parking, regardless of the date the parking area or building was originally constructed, or whether a development order or building permit was issued or required.

The requirements of this ordinance are supplemental to standards that are found in other portions of the Bonita Springs Land Development Code and in other ordinances adopted by the City of Bonita Springs, including but not limited to regulations relating to the parking of Recreational Vehicles, Mobile Homes and Commercial Vehicles in Residential Areas.

SECTION THREE: CRITERIA FOR SIZE AND DIMENSION OF RESIDENTIAL PARKING AREA FOR DRIVEWAYS PERMITTED AFTER OCTOBER 1, 2005 ~~OR USED FOR RENTAL UNITS~~

1. For properties used for residential purposes and are permitted after October 1, 2005 ~~or are used for rental units~~, parking is limited to the driveway parking area meeting the dimensional requirements described below and leading from the permitted driveway connection to an enclosed parking area such as a garage or carport. If there is no garage or carport, the driveway parking area must meet the dimensional requirements below and be intended to provide parking and ingress and egress of vehicles.
2. The maximum width of the driveway parking area shall be eighteen (18') feet where the driveway enters the street right of way, ~~or and~~ the driveway parking area shall be limited to no more than thirty (30%) percent of the total front yard area, whichever is greater. The intent is to limit the area and retain at least seventy (70%) percent of the total front yard area to remain unpaved open greenspace (unless the eighteen foot entrance creates less open space), and such greenspace shall not be used for the parking of any vehicles. In order to expedite vehicle ingress and egress to and from the street and the driveway, the driveway width at the point where it connects to the street pavement, may be an additional three (3') feet wider on each side of the driveway, than it is at the street right-of-way line, and such additional areas shall not be included in the calculation for the driveway parking areas.
3. Circular driveway parking areas may be no more than forty percent (40%) of front yard open space provided the necessary driveway connections are allowed and that the circular drive extends to the right-of-way. The intent is to limit the area and retain at least sixty (60%) percent of the total front

yard area to remain unpaved open greenspace (unless the eighteen foot entrances create less open space), and such greenspace shall not be used for the parking of any vehicles. In order to expedite vehicle ingress and egress to and from the street and the driveway, the driveway width at the point where it connects to the street pavement, may be an additional three (3') feet wider on each side of the driveway, than it is at the street right-of-way line, and such additional areas shall not be included in the calculation for the driveway parking areas.

4. All unpaved parking areas and driveways must be graveled or covered with other erosion preventing material clearly defining the driveway and parking area, and have side borders of plants, landscape ties, pressure treated wood, brick or concrete or similar border materials. A minimum four (4') feet width of hard surface material, such as concrete, asphalt or paver bricks, must be installed along paved city streets as a driveway apron adjacent to the street pavement.
5. Any driveway that was built prior to October 1, 2005, that is used for as an owner occupied residential use (not also being used for a rental unit) or is otherwise exempted from the Bonita Springs Rental Permit Ordinance No. 07-22-05-14, as amended or by Section Four of this Ordinance, is hereby deemed to be a valid non-conforming use, subject to abandonment as defined in Bonita Springs Land Development Code §34-3222, as may be amended from time to time. In no event shall a driveway which is deemed a non-conforming use be extended or enlarged.
6. Any new Building Permit applications submitted for single family or duplex residential properties located within the city limits of the City of Bonita Springs, after the effective date of this ordinance shall, together with all building plans and other requirements, also require submittal of an application for a residential Driveway Permit, to include the location and dimensions of such driveway, and calculations showing that the proposed driveway and driveway parking areas will not exceed the permissible dimensional limitations set forth in paragraphs 2. and 3. above.
7. Any Building Permit applications submitted for single family or duplex residential properties which have already been applied for and filed with the City of Bonita Springs as of the effective date of this ordinance, but where Building Permits have not yet been issued, shall, upon written notification by the city to the owner, also be subject to the above requirements, and such application for a residential Driveway Permit shall be filed within thirty (30) days after the effective date of this ordinance.

SECTION FOUR: EXEMPTIONS AND COMPLIANCE REQUIREMENTS FOR RENTAL PROPERTY

1. The City Manager or his designee may exempt any property from the driveway and driveway parking area limitations if all of the following conditions exist:
 - a. The driveway and driveway parking area is are clearly defined; AND
 - b. The driveway and driveway parking area is are maintained in a safe, sanitary, neat condition; AND
 - c. The driveway and driveway parking area does not contribute to soil erosion; AND
 - d. The requirements of this ordinance would impose an inordinate burden to the property owner due to topographical road configuration constraints or other design constraints.

Any decision of the City Manager may be appealed to the City Council of Bonita Springs by filing a written request within fifteen (15) days after the decision has been made. In reviewing such an appeal, City Council will consider only information submitted for the City Manager to base his or her decision, the facts presented, and the standards above. No additional evidence will be considered by City Council. Prior to filing any claims under the Bert J. Harris, Jr., Private Property Rights Protection Act, an applicant must apply for an exemption to consider having exhausted his or her administrative remedies under this section before a cause of action or "action of a governmental entity" will accrue or be deemed ripe. Such exhaustion shall not include a filing for an appeal or a Petition for Writ of Certiorari in Circuit Court.

2. Non-owner occupied residential rental units or dwellings with driveways built after October 1, 2005, must come into compliance with Section Three of this Ordinance prior to the issuance of a Rental Permit, as required under the Bonita Springs Rental Permit Ordinance, No. 07-22 05-44, as amended.
3. Owners of non-owner occupied rental units or dwellings in the City's residential areas (excluding any properties with more than six dwelling units that are regulated under Florida Statutes Ch. 718, Condominiums or Florida Statutes Ch. 719, Homeowners Associations) must submit a parking plan as part of the application for a rental permit, and must come into compliance prior to the issuance of such Rental Permit, for any driveways built after October 1, 2005. Properties not requiring a rental permit may be required by the City to submit a parking plan if the City has reason to believe the property is not in compliance with this section.

SECTION FIVE: PUBLIC NUISANCES BY PARKING

The existence of any of the following conditions or conduct on residential property is hereby declared to constitute a public nuisance:

1. No parking area for residential use may be leased, rented or otherwise provided for consideration to someone not residing on the property.
2. Parking is prohibited on any grassy area, or on any portion of the premises other than the driveway parking area (excluding any unpaved parking areas as explained in paragraph 4 below).
3. Access to all driveway parking areas must be from an approved or existing legal driveway connection.
4. All unpaved parking areas must be graveled or covered with other erosion preventing material clearly defining the driveway parking area, and have side borders of plants, landscape ties, pressure treated wood, brick or concrete or similar border materials.
5. It is a Ffailure to comply or maintain the criteria for size and dimension of residential parking area, as set forth in Section Three of this Ordinance.
6. Parking of any motor vehicle, recreational vehicle, mobile home, commercial vehicle, trailer, boat or vessel is prohibited on any right of way.

SECTION SIX: DESIGNATION OF INVESTIGATING AND ENFORCING AUTHORITY

The City of Bonita Springs Code Enforcement Officers are hereby authorized to enforce the provisions of this Ordinance. The City Manager, or his designees, is hereby designated to assist with the investigation and enforcement of the provisions, directed and empowered to receive all complaints of violations of this Ordinance, shall be responsible for providing all notices to affected property owners as may be required by this Ordinance or the Bonita Springs Land Development Code, and to take other action as is reasonably necessary to accomplish the purposes of this Ordinance.

SECTION SEVEN: CRIMINAL AND CIVIL REMEDIES

1. Violations of this Ordinance shall constitute and be deemed a nuisance applicable to residential property, pursuant to Section Six of the Bonita Springs Property Maintenance Code (Ordinance No. 05-01). Persons violating any provisions of this Ordinance shall be guilty of a misdemeanor of the second degree, punishments provided in Florida Statutes §775.082 or §775.083. The City Council may institute in any Court, or before any

Administrative Board or Special Master of competent jurisdiction, an action to prevent, restrain, correct or abate any violation of this ordinance or of any order or regulation made in connection with its administration or enforcement, and the Court, Administrative Board or Special Master shall adjudge to the City such relief by way of injunction or any other remedy allowed by law or otherwise, to include mandatory injunction, as may be proper under all of the facts and circumstances of the case in order to fully effectuate the regulations adopted in orders and rulings made pursuant thereto. Each separate occurrence of a violation of this Ordinance shall constitute a separate offense, and shall be punishable as such hereunder.

2. The City of Bonita Springs may, alternatively, bring violations before the Code Enforcement Hearing Examiner, in accordance with all of the provisions of, and pursuant to the enforcement procedures established under, City of Bonita Springs Ordinance No. 03-10. Each separate occurrence of a violation of this Ordinance shall constitute a separate violation, and shall be punishable as such.

SECTION EIGHT: CONFLICTS OF LAW

Whenever the requirements or provisions of this Ordinance are in conflict with the requirements or provisions of any other lawfully adopted City of Bonita Springs Ordinance or Florida Statutes, the more restrictive shall apply.

SECTION NINE: SEVERABILITY

The provisions of this Ordinance are severable, and it is the intention to confer the whole or any part of the powers herein provided for. If any Court of competent jurisdiction shall hold any of the provisions of this Ordinance unconstitutional, the decision of such Court shall not affect or impair any remaining provisions of this Ordinance. It is hereby declared to be the legislative intent of the City Council for the City of Bonita Springs that this Ordinance would be adopted had such unconstitutional provision not been included herein.

SECTION TEN: CODIFICATION, INCLUSION IN CODE AND SCRIVENER'S ERRORS

It is the intention of the City Council for the City of Bonita Springs that the provisions of this ordinance shall become and be made a part of the Bonita Springs City Code; and that sections of this ordinance may be renumbered or re-lettered and that the word "ordinance" may be changed to "section", "article", or such other appropriate word or phrase in order to accomplish such intention; and regardless of whether such inclusion in the code is accomplished, sections of this ordinance may be renumbered or re-lettered and typographical errors which do


not affect the intent may be authorized by the City Manager, or the City Manager's designee, without need of public hearing, by filing a corrected or re-codified copy of same with the City Clerk.

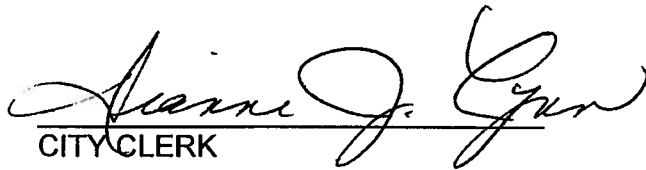
SECTION ELEVEN: EFFECTIVE DATE

The effective date of this ordinance shall be thirty (30) days from its adoption date.

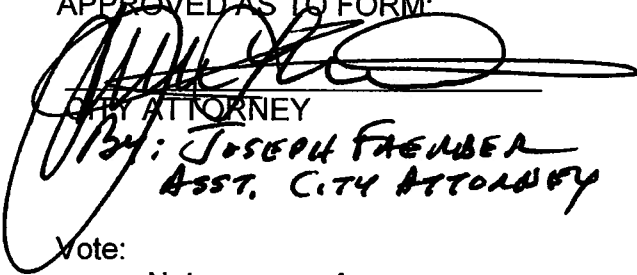
DULY PASSED AND ENACTED by the City Council of the City of Bonita Springs, Florida this 15th day of October, 2008.

AUTHENTICATION:


MAYOR


CITY CLERK

APPROVED AS TO FORM:


CITY ATTORNEY
By: JOSEPH FRAEMER
ASST. CITY ATTORNEY

Vote:

Nelson	Aye	Spear	Aye
Ferreira	Aye	Simons	Aye
Martin	Aye	Lonkart	Aye
McCourt	Aye		

Date filed with City Clerk: 10-23-08