

ORDINANCE #12-10

AN ORDINANCE OF THE OSCEOLA COUNTY BOARD OF COUNTY COMMISSIONERS REGULATING THE PARKING OF VEHICLES WITHIN THE INDIAN RIDGE SUBDIVISION; PROVIDING A PURPOSE AND INTENT; PROVIDING A PETITION FOR ADOPTION; PROVIDING FOR DEFINITIONS OF TERMS; PROVIDING FOR DUAL REAR WHEEL VEHICLE PARKING; PROVIDING A REQUIREMENT FOR THE EXISTENCE OF A HOMEOWNER'S ASSOCIATION, ISSUANCE OF PARKING PERMITS; PROVIDING FOR EXEMPTIONS; PROVIDING FOR PARKING OF ALL VEHICLES, WHERE PROHIBITED, WHERE PERMITTED; PROVIDING FOR PAVING, DRIVEWAY RESTRICTIONS; PROVIDING FOR RESPONSIBILITY; PROVIDING FOR ENFORCEMENT; PROVIDING FOR SUPPLEMENTAL ENFORCEMENT, CIVIL PENALTY; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICT; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the County Commission has been requested by the Indian Ridge Homeowner's Association to adopt certain parking regulations which would address numerous parking issues impacting the subdivision; and

WHEREAS, the County Commission finds that the Indian Ridge subdivision has a proliferation of recreational vehicles, including boats, trailers and camper type vehicles permanently parked in the subdivision; and

WHEREAS, the County Commission finds that a large percentage of property owners in the Indian Ridge subdivision are not permanent residents of the subdivision and utilize their dwelling in the subdivision for short-term rentals; and

WHEREAS, County Commission finds that the high number of short-term rentals in the Indian Ridge subdivision combined with the large number of non-resident dwelling owners has led to excessive rental vehicles parked on the public right of ways throughout the subdivision as well as untagged and/or inoperable vehicles being parked in the subdivision; and

WHEREAS, the County Commission finds that numerous vehicles are being parked in the front yard grass area of dwellings as well as on the public rights of way within the Indian Ridge subdivision, which is aesthetically incompatible with a residential subdivision and creates pedestrian safety hazards; and

WHEREAS, it is hereby determined that the parking of vehicles, in front of the dwelling, on the grass and/or outside of certain approved parking areas within the Indian Ridge subdivision constitutes a nuisance in that it presents an unsightly condition, and;

WHEREAS, such unsightly occurrences diminish property values and generally degrade the quality of life for the residents of said neighborhoods; and

WHEREAS, the County Commission finds that the enactment of this ordinance will promote the public health safety and welfare; and

WHEREAS, the prohibitions contained within this ordinance are legislatively deemed to be reasonable and the least restrictive measure to control and regulate such unsightly situations and are intended to come within the meaning and purview of *City of Coral Gables v. Wood*, 305 So.2d 261 (Ha. 3d DCA 1974) and *Henley v. City of Cape Coral*, 292 So.2d 410 (Ha. 2d DCA 1974).

NOW, THEREFORE BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF OSCEOLA COUNTY, FLORIDA:

Section 1. Purpose and Intent.

The purpose and intent of this Ordinance is to adopt provisions regulating the parking of vehicles on private property located within the Indian Ridge subdivision, Units 1-5, inclusive, in order to ameliorate nuisance conditions caused by improperly parked vehicles.

Section 2. Definitions of Terms.

The following definitions of terms shall apply for the purpose of this Ordinance:

- A. "Back Yard" means the back yard as defined by Zoning and Code regulations applicable to the particular private property.
- B. "Dual rear wheel vehicle" means motor trucks, trailers, semi-trailers, tractor trailer combinations, and all other vehicles used, intended for use, or designed for use as a means of transporting persons or property and propelled by power other than muscular power which have more than or are designed to have more than four (4) weight-bearing wheels, but not including dual rear wheel pickup trucks with a one ton or less load capacity.
- C. "Front Yard" means the front yard as defined by Zoning and Code regulations applicable to the particular private property.

- D. “Parked” means the standing of a vehicle, whether occupied or not otherwise than temporarily for the purpose of and while actually engaged in loading or unloading merchandise or embarking or disembarking passengers.
- E. “Person” means any individual, firm, sole proprietorship, partnership, corporation, or unincorporated association.
- F. “Right of Way” means land in which the County owns or has an easement devoted to, planned, proposed, or required for use as, or in conjunction with, a public road.
- G. “Side Yard” means the side yard as defined by Zoning and Code regulations applicable to the particular private property.
- H. “Substantially Shielded from Public View” means that the vehicle may not be parked in front of the fence and it must be parked behind opaque fencing or other lawfully permitted visual barrier unless on the authorized and approved paved parking area.
- I. “Vehicle” means every device capable of traveling or being moved upon a public highway or public waterway and in, upon, or by which any person or property may be transported or drawn upon a public highway or public waterway, including, but not limited to cars, trucks, motorcycles, and other similar devices.

Section 3. Dual Rear Wheel Vehicle Parking; Exemptions.

- A. Within the Indian Ridge subdivision (units 1-5, inclusive), no person shall park or suffer, cause, or permit the parking of a dual rear wheel vehicle unless such vehicle is parked within the confines of a garage or other structure (as may be permitted by applicable codes, ordinances, and regulations) in such a fashion as to be fully shielded from public view, except temporarily while actually engaged in loading or unloading passengers or property.
- B. Notwithstanding the parking restrictions of this Section 3, “recreational vehicle- type units” as defined by Florida Statute 320.01 which are dual rear wheel vehicles having been parked upon a residential lot accessory to a residential dwelling on September 23, 2010, may continue to be parked on that lot, notwithstanding the “fully shielded from public view” requirement, as a non-conforming use provided that upon the owner’s transfer of title and removal from the lot the restrictions of this Section 3 become fully applicable to the lot. Units qualifying as nonconforming uses pursuant hereto must be parked within rear yards or behind the fence along side yards (no part may be in the front yard) and must be substantially shielded from public view by opaque fencing or other lawfully permitted visual barrier.

- C. Notwithstanding the parking restrictions of this Section 3, dual rear wheel vehicles which fall within the purview of the following types of vehicles may be allowed as a conditional use pursuant to the standards and procedures of the Osceola County Zoning Regulations and/or Land Development Regulations:
1. Authorized Emergency Vehicles as defined by Florida Statute 316.003(1) when parked on a lot accommodating the dwelling unit within which the vehicle operator resides on a 24-hour call to duty basis.
 2. Tow Trucks meeting the standards of Chapter 15B-9, Florida Administrative Code, which are owned or maintained by a wrecker operator approved by the Division of Florida Highway Patrol for inclusion on the wrecker rotation list for the wrecker rotation zone(s) serving Osceola County pursuant to Florida Statute 321.051 and Chapter 15B-9, Florida Administrative Code, when parked on a lot accommodating the dwelling unit within which its operator resides on a 24-hour call basis for towing services to the public.

Section 4. Parking All Vehicles; Where prohibited.

- A. The parking of any vehicle shall be prohibited in the following areas:
1. In front of the dwelling or in the front yard unless on the authorized and approved paved parking area.
 2. In any unpaved areas, unless allowed pursuant to Section 3 of this ordinance.
 3. On any vacant lot.
 4. Within the Osceola County right of way.
 5. Along the side yard in front of the approved fence, unless on the authorized and approved paved parking area.

Section 5. Parking All Vehicles; Where Permitted.

- A. The parking of any vehicle shall be permitted in the following areas:
1. Upon the authorized and approved, paved parking area.

2. Within any enclosed accessory structure.
3. As allowed for by section 3 of this Ordinance.
4. On-street right of way parking is allowed, provided a permit is obtained by the HOA, pursuant to the HOA guidelines, and said permit is properly displayed in the windshield of the parked vehicle. Permits are limited to an eight vehicle, maximum, per residential unit.
5. The HOA guidelines for on-street right of way parking permits are attached hereto and incorporated herein by reference as Exhibit "A".

Section 6. Paving, Driveway Restrictions

- A. Residential driveways shall not exceed twenty four (24) *feet* in width unless approved by conditional use.
- B. Residential driveway construction or widening shall be authorized by the issuance of a driveway permit by Osceola County.

Section 7. Responsibility.

The owner, tenant, occupant, lessee or person otherwise in charge, control and/or possession of the private property upon which a violation of this ordinance occurs, and the owner of vehicle parked in violation of this ordinance shall be jointly and individually responsible for not complying with this ordinance.

Section 8. Enforcement

The Code Enforcement Board shall have jurisdiction to hear and decide violations of this Article. Any person who violates any of the provisions of this Article, shall upon Code Enforcement action, be punished as provided in Osceola County Code Chapter 7 and its Amendments. The jurisdiction of the Code Enforcement Board shall not be exclusive. Any alleged violation of any of the provisions of this Article may pursue by appropriate remedy, whether by injunctive, declaratory, or other civil or criminal sanction, in court, at the option of the County. The provisions of this ordinance may be additionally enforced as a non-criminal infraction by the sheriff; deputy sheriff, and any other authorized law enforcement officer.

Section 9. Supplemental Enforcement; Civil Penalty.

This Ordinance may be enforced pursuant to the supplemental procedures contained in Chapter 7 of the Osceola County Code of Ordinances. The civil penalty for violation of this ordinance shall be \$100.00 per violation.

Section 10. Severability.

It is declared to be the intent of the Board of County Commissioners that, if any section, subsection, sentence, clause, phrase, or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions hereof

Section 11. Conflict.

Any Ordinance or part thereof in conflict with this Ordinance or any part hereof is hereby repealed to the extent of the conflict.

Section 12. Inclusion Into The Code.

The provisions of this Ordinance shall be included and incorporated within the Code of Ordinances of Osceola County, Florida, and maybe re-numbered or re-lettered to accommodate such inclusion.

Section 13. Effective Date.

This Ordinance shall be filed with the Department of State and become effective one hundred and twenty (120) days after the date of its adoption.

ATTEST:

BOARD OF COUNTY COMMISSIONERS
OF OSCEOLA COUNTY, FLORIDA

BY: _____
Chairman/Vice-Chairman

OSCEOLA COUNTY CLERK OF THE BOARD

BY: _____
Clerk/Deputy Clerk of the Board

On _____

By _____