

CITY OF BONITA SPRINGS, FLORIDA

Ordinance No. 05- 16

AN ORDINANCE OF THE CITY OF BONITA SPRINGS CREATING THE BONITA SPRINGS RESIDENTIAL PARKING ORDINANCE; AMENDING ITS LAND DEVELOPMENT CODE; PROVIDING TITLE AND CITATION; PROVIDING FOR SCOPE AND PURPOSE; SPECIFYING CRITERIA FOR SIZE AND DIMENSION OF RESIDENTIAL PARKING AREA FOR DRIVEWAYS PERMITTED AFTER OCTOBER 1, 2005 OR USED FOR RENTAL UNITS; PROVIDING FOR EXEMPTIONS AND COMPLIANCE REQUIREMENTS FOR RENTAL PROPERTY; CREATING STANDARDS TO DETERMINE PUBLIC NUISANCES BY PARKING; DESIGNATION OF THE CODE ENFORCEMENT OFFICER AS THE INVESTIGATING AND ENFORCING AUTHORITY; PROVIDING FOR CRIMINAL AND CIVIL REMEDIES; PROVIDING FOR CONFLICT, SEVERABILITY, CODIFICATION, INCLUSION IN CODE AND SCRIVENER'S ERRORS; AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, the City Council is the governing body in and for the City of Bonita Springs, a municipal corporation in the State of Florida; and

WHEREAS, Bonita Springs City Council has adopted the Bonita Springs Land Development Code which contains regulations applicable to the development of land in the City of Bonita Springs, and

WHEREAS, the City of Bonita Springs finds itself in a situation where cars in residential neighborhoods are parked outside of designated parking areas creating a nuisance in those neighborhoods; and

WHEREAS, Bonita Springs City Council finds that rental property in Bonita Springs is causing a blight in residential neighborhoods where overcrowding leads not only to uninhabitable conditions within, but the vehicles of tenants parking occurs not only upon driveways but throughout the yard of the residential dwelling and extending throughout the neighborhood; and

WHEREAS, City Council further seeks to limit the size of future driveways to a percentage of the front yard open space so as to make the front yard not only aesthetically pleasing, but also environmentally friendly; and

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 finds it necessary to adopt a residential parking area ordinance to assist in the elimination of nuisances caused by both owner and non-owner occupied rental dwellings in single-family neighborhoods.

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, 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, or 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.

3. Circular driveway parking areas may be no more that 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.
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. Any driveway that was built prior to October 1, 2005, that is used 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. 05-14 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.

SECTION FOUR: EXEMPTIONS AND COMPLIANCE REQUIREMENTS FOR RENTAL PROPERTY

1. The City Manager or his designee may exempt any property from the driveway parking area limitations if all of the following conditions exist:
 - a. The driveway parking area is clearly defined; AND
 - b. The driveway parking area is maintained in a safe, sanitary, neat condition; AND
 - c. The 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 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. 05-14.
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. 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. Overnight parking is prohibited on any right of way, 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. Failure to comply or maintain the criteria for size and dimension of residential parking area, as set forth in Section Three of this Ordinance

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 7th day of September, 2005.

AUTHENTICATION:

MAYOR

CITY CLERK

APPROVED AS TO FORM:

CITY ATTORNEY

Vote:

Arend	Aye	Nelson	Aye
Edsall	Aye	Piper	Aye
Grantt	Aye	Wagner	Aye
Joyce	Aye		

Date filed with City Clerk: _____