



STAFF REPORT

LAND DEVELOPMENT DIVISION

120 Malabar Road SE • Palm Bay, FL 32907 • Telephone: (321) 733-3042
Landdevelopmentweb@palmbayflorida.org

Prepared by

Patrick J. Murphy, Assistant Growth Management Director

CASE NUMBER

T-7-2020

PLANNING & ZONING BOARD HEARING DATE

May 20, 2020

PROPERTY OWNER & APPLICANT

City of Palm Bay; Growth Management
Department

PROPERTY LOCATION/ADDRESS

Not Applicable

SUMMARY OF REQUEST

A textual amendment to the Code of Ordinances, Title VII, Traffic and Vehicles, Chapter 70: General Provisions, Section 70.04; Title IX, General Regulations, Chapter 93: Real Property Nuisances, Section 93.044; Title XVII, Land Development Code, Chapter 185: Zoning Code, Section 185.006 and Section 185.123. The purpose of this amendment is to update provisions for the parking of vehicles in residential areas and to revise definitions within the applicable sections of the referenced codes.

Existing Zoning

Not Applicable

Existing Land Use

Not Applicable

Site Improvements

Not Applicable

Site Acreage

Not Applicable

APPLICABILITY

City-Wide

COMPREHENSIVE PLAN COMPATIBILITY

Not specifically addressed

BACKGROUND:

A textual amendment to the Code of Ordinances, Title VII, Traffic and Vehicles, Chapter 70: General Provisions, Section 70.04; Title IX, General Regulations, Chapter 93: Real Property Nuisances, Section 93.044; Title XVII, Land Development Code, Chapter 185: Zoning Code, Section 185.006 and Section 185.123.

The purpose of this amendment is to update provisions for the parking of vehicles in residential areas and to revise definitions within the applicable sections of the referenced codes. The applicant for this amendment is the City of Palm Bay. Proposed language for this amendment is attached in legislative style with additions between >>arrow<< symbols and deletions in ~~strikethrough~~ format.

ANALYSIS:

This amendment was drafted at the direction of the Palm Bay City Council. A public workshop on the content of this report will follow the Planning and Zoning Board.

The purpose of Chapter 70 is to incorporate certain provisions of the Florida Uniform Traffic Control Law, contained in Florida Statute Chapter 316. Within Chapter 70 is a definition for commercial vehicles that contains the basic elements from the statute. The definition was adopted in 1989 and later amended in 1992. Staff is proposing a further revision to this definition to provide clarity and consistency.

The purpose of Chapter 93 is to establish provisions for the use of Real Property within the City of Palm Bay and to include procedures for enforcement of the requirements of this subchapter that are necessary for abatement of nuisances that are dangerous to public health and safety. The amendment seeks to add restrictions to the parking of vehicles on unimproved real property (Section 93.04), and to remove the private property parking regulations currently found in Section 93.044.

To further clarify, the provisions of Section 93.044 are not being removed from the Code of Ordinances entirely, rather, they are being moved to Section 185.123, which staff believes is the proper location for such provisions. An additional restriction has been proposed within this subchapter that restricts the total number of vehicles that may be parked upon an improved property, to what staff believes is reasonable. The current regulations do not contain a maximum number of vehicles that may be kept.

The purpose of Chapter 185: Zoning Code, is to effectuate and implement the policies of the City's comprehensive plan in order to protect, preserve, and improve the public health, safety, and welfare of the inhabitants of the City. Specifically, Section 185.005 (F) seeks to preserve the character and stability of residential areas of the City. One such subsection that exists in this Chapter, to further this purpose, is Section 185.123, Regulation of Commercial and Recreational Vehicles in Residential Areas.

Section 185.123 was adopted in 1989 and has had six (6) amendments since. These amendments included such items as the definition of a commercial vehicle (and further revision of such), the allowance of temporary parking of commercial vehicles that were performing repairs or engaged in construction activities, and the allowance of Class “A” wreckers, meeting certain standards. Staff proposes to retitle this subsection, include the provisions from Section 93.044, and redefine commercial vehicles to a standard that is much for clear, concise, and consistent with parallel sections of Code.

Furthermore, the amendment identifies acceptable materials for improved parking surfaces, includes a definition for inoperable vehicle, and exempts farm equipment used in the operation of a bona fide agricultural activity.

STAFF RECOMMENDATION:

Case T-7-2020 is recommended for approval.

**§ 70.04 LARGE COMMERCIAL VEHICLES ON RESIDENTIAL STREETS;
COMPREHENSIVE PLAN, TRANSPORTATION ELEMENT ADOPTED.**

(B) Definitions.

COMMERCIAL VEHICLES. Any truck, bus, trailer, portable equipment, machinery, or similar vehicle or combination thereof used or intended to be used for any commercial enterprise or business purpose, >>and is considered a Class 4 Truck or higher, as determined by the Federal Highway Administration. A Class 1-3 Truck, regardless of its intended use, shall not be considered a commercial truck.<< ~~or which has over four (4) wheels, more than two (2) axles, a height greater than eight (8) feet or has an overall length of more than twenty-two (22) feet, excluding self-propelled roadway vehicles less than six thousand (6,000) pounds net weight and pickup trucks with a standard pickup truck bed with a carrying capacity no greater than one and one-half (1.5) ton gross weight.~~

~~§ 93.044 PRIVATE PROPERTY PARKING REGULATIONS.~~

~~No inoperable motor vehicle shall be parked, kept or stored on any premises, and no vehicle shall at any time be in a state of major disassembly, disrepair, or in the process of being stripped or dismantled. Painting of vehicles is prohibited unless conducted inside an approved spray booth.~~

~~(A) No vehicle shall be parked:~~

~~(1) In front of a residence, except within the paved driveway or adjacent to the driveway (on the side opposite the front door of the residence) upon an improved surface;~~

~~(2) In the rear yard of a residence, unless the rear yard is enclosed by a 6-foot tall opaque fence.~~

~~(B) A maximum of two (2) vehicles (per property) are permitted to be parked on the sides of a residence and shall be parked upon an improved surface.~~

~~(1) Vehicles parked on the side of a residence located on a corner lot must be screened from the street adjacent to the side of the residence by a 6-foot tall opaque fence.~~

~~(C) Exceptions:~~

~~(1) One (1) vehicle may be unlicensed and/or inoperable in the rear yard, provided the rear yard is enclosed by a 6-foot tall opaque fence.~~

~~(2) A vehicle of any type is permitted to undergo major overhaul, including body work, provided that such work is performed inside a structure or similarly enclosed area designed and approved for such purposes.~~

~~(3) Properly licensed and approved commercial activities being conducted on commercial property.~~

§ 185.006 DEFINITIONS.

COMMERCIAL VEHICLE. Any truck, bus, trailer, portable equipment, machinery, or similar vehicle or combination thereof used or intended to be used for any commercial enterprise or business purpose, >>and is considered a Class 4 Truck or higher, as determined by the Federal Highway Administration. A Class 1-3 Truck, regardless of its intended use, shall not be considered a commercial truck.<< ~~or which has over four (4) wheels, more than two (2) axles, a height greater than eight (8) feet or has an overall length of more than twenty-two (22) feet, excluding self-propelled roadway vehicles less than six thousand (6,000) pounds net weight and pickup trucks with a standard pickup truck bed with a carrying capacity no greater than one and one-half (1.5) ton gross weight.~~

§ 185.123 REGULATION OF ~~COMMERCIAL AND RECREATIONAL~~ VEHICLES IN RESIDENTIAL AREAS.

(A) *Definitions.* For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

CLASS A WRECKER. For the removal of cars and light duty trucks and vehicles weighing 10,000 pounds gross vehicle weight or less.

COMMERCIAL VEHICLE. Any truck, bus, trailer, portable equipment, machinery or similar vehicle or combination thereof, used or intended to be used for any commercial enterprise or business purpose, >>and is considered a Class 4 Truck or higher, as determined by the Federal Highway Administration. A Class 1-3 Truck, regardless of its intended use, shall not be considered a commercial truck.<< ~~or which has over four (4) wheels, more than two (2) axles, a height greater than eight (8) feet or has an overall length of more than twenty-two (22) feet, excluding self-propelled roadway vehicles less than six thousand (6,000) pounds net weight and pickup trucks with a standard pickup truck bed with a carrying capacity no greater than one and one-half (1.5) ton gross weight.~~

>>INOPERABLE VEHICLE. A vehicle which cannot be driven upon the public or private streets for reasons including but not limited to being unlicensed, wrecked, abandoned, in a state of disrepair, or incapable of being moved under its own power.<<

RECREATIONAL VEHICLE. Any boat, boat trailer, cargo trailer, house trailer, motor home, camper, bus, or similar vehicle or equipment, including any vehicle or part of a vehicle or equipment designed for temporary living quarters for recreation, camping, or travel, >>or is licensed and registered as a recreational vehicle by the Department of Motor Vehicles<< ~~excluding self-propelled roadway vehicles less than twenty-two (22) feet in length.~~

RESIDENTIAL AREA. Any lot, right-of-way, or other land designated as residential in this chapter and in any other applicable ordinance of the city.

NET WEIGHT. ~~The actual weight of the vehicle, including any attachments or equipment which has been added, excluding any load.~~

(B) *Parking vehicles in residential areas.* It shall be unlawful for any person, either as agent, owner, occupant, lessee, tenant or otherwise, to park, store, stop, deposit or allow, cause or permit to be parked, stored, stopped, or deposited on any public or private property of the RR, RE, RS-1, RS-2, RS-3, SF-1, ~~SF-2~~, SRE, RM-10, RM-15, RM-20, >>BMUV<<, RMH or RVP zoning districts of the city, any commercial vehicle at any time.

>>(1) No vehicle shall be parked:<<

>>(a) In front of a residence, except within the paved driveway or adjacent to the driveway (on the side opposite the front door of the residence) upon an improved surface. Grass, dirt, and/or mulch are not considered improved surfaces. Examples of improved surfaces are concrete, pavers, brick, gravel, or other material as may be approved by the Growth Management Director, or his designee. Any loose material, such as gravel or stone, shall be contained by solid borders, such as landscape timbers, landscape edging, railroad ties, etc.;<<

>>(b) In the rear yard of a residence, unless the rear yard is enclosed by a 6-foot tall opaque fence.<<

>> (2) A maximum of two (2) vehicles (per property) are permitted to be parked on the sides of a residence and shall be parked upon an improved surface. The vehicles shall not exceed two on a single side or one on each side. This shall exclude the front and rear sides of property.<<

>>(a) Vehicles parked on the side of a residence located on a corner lot must be screened from the street adjacent to the side of the residence by a 6-foot tall opaque fence.<<

(4>>3<<) Exceptions. The provisions of this section shall not apply to:

(a) Private property in any residential district whereon construction is underway, for which a current and valid building permit has been issued by the city, as to those vehicles actively engaged in such construction, between the hours of 7:00 a.m. and 9:00 p.m., Monday through Saturday;

(b) Those persons performing lawful and authorized work upon property in a residential district where the vehicle is parked or stopped;

(c) The emergency parking of a disabled vehicle in a residential district. However, any such vehicle shall be removed from the residential district within twenty-four (24) hours by wrecker towing or other available means regardless of the nature of the emergency;

(d) Those vehicles parked in a residential district for a period not to exceed eight (8) hours rendering business, commercial or medical services to property at the location where parked or stopped.

(e) Class A Wreckers which are less than thirty-six (36) feet in length are prohibited from parking in residential areas between the hours of 8:00 a.m. and 5:00 p.m., excluding

weekends and holidays. This provision does not prevail over deed restrictions or Homeowner Association restrictions in residential areas. Such wreckers shall be properly parked as per ordinance and state law, shall not obstruct sidewalks, drainage or flow of traffic, and shall not be actively towing a vehicle when parked at a residence. All parked wreckers shall maintain a minimum of ten (10) feet of clearance from the adjacent road surface.

>>(f) Farm equipment used in the operation of an agricultural activity shall be exempt from the provisions of this subchapter. The property for which this equipment is exempt shall have a current agricultural exemption from the Brevard County Tax Collector.<<

>>(g) One (1) vehicle may be unlicensed and/or inoperable in the rear yard, provided the rear yard is enclosed by a 6-foot tall opaque fence.<<

(2>>4<<) For the purpose of this section, the words park, store, stop, and deposit shall mean the cessation of movement of a vehicle.

(C) *Parking recreational vehicles in residential areas.* It shall be unlawful for any person to park or store a recreational vehicle in a residential area for longer than twenty-four (24) consecutive hours or forty-eight (48) hours in any one (1) month period, except on residential lots behind the front >>face of the residence<< and ~~side corner building setback line.~~ >>Recreational vehicles parked on the street side of a corner lot (opposite the side interior property line) must be screened by a 6' tall opaque fence.<< No vehicle shall be used for living, sleeping or housekeeping purposes in any location not approved for such use under the zoning requirements of this chapter. Any such vehicles shall have attached, at all times, a current vehicle registration license plate. >>Parking of recreational vehicles are exempt from having to be placed upon an improved surface.<<

>>(D) No vehicle shall be parked or stored upon an unimproved parcel of land. Parking of vehicles is considered an accessory use as there must be a principal use (such as a residence) for the parking of vehicles to be accessory to.<<



































>>(E) No inoperable motor vehicle shall be parked, kept or stored on any premises, and no vehicle shall at any time be in a state of major disassembly, disrepair, or in the process of being stripped or dismantled, unless such work is being performed inside a garage or similarly enclosed area designed for such purposes. Painting of vehicles is prohibited unless conducted inside an approved spray booth.<<

~~(D) *Prima facie evidence.* It shall be prima facie evidence that a self-propelled commercial vehicle exceeds six thousand (6,000) pounds net weight if the vehicle exceeds the number of wheels, number of axles, height, or length limitations of division (A) above.~~

~~(E) *Authority of city to enter property.* The city shall, through its employees, be authorized to enter upon any property where a suspected violation of this section is observed, to conduct a reasonable inspection, and/or to determine the validity of the suspected violation.~~

*The below Figure is for illustration purposes only; it will not be inserted into the Code.

FIGURE C-1 FHWA 13 VEHICLE CATEGORY CLASSIFICATION

Class 1 Motorcycles		Class 7 Four or more axle, single unit	
Class 2 Passenger cars		Class 8 Four or less axle, single trailer	
			
			
			
Class 3 Four tire, single unit		Class 9 5-Axle tractor semitrailer	
			
			
Class 4 Buses		Class 10 Six or more axle, single trailer	
		Class 11 Five or less axle, multi trailer	
			
Class 5 Two axle, six tire, single unit		Class 12 Six axle, multi-trailer	
		Class 13 Seven or more axle, multi-trailer	
			
Class 6 Three axle, single unit			
			
			



LAND DEVELOPMENT DIVISION

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CODE TEXTUAL AMENDMENT APPLICATION

This application must be deemed complete and legible, and must be returned by the first day of the month during division office hours, with all enclosures referred to herein, to the Land Development Division, Palm Bay, Florida, to be processed for consideration the following month at the earliest by the Planning and Zoning Board. The application will then be referred by the Planning and Zoning Board for study and recommendation to the City Council. You or your representative are required to attend the meeting(s) and will be notified by mail of the date and time of the meeting(s). The Planning and Zoning Board holds their regular meeting the first Wednesday of every month at 7:00 p.m. in the City Hall Council Chambers, 120 Malabar Road SE, Palm Bay, Florida, unless otherwise stated.

ORDINANCE SECTION(S) PROPOSED TO BE CHANGED:

Sections 70.04; 93.04 and 93.044; 185.006 and 185.123

PROPOSED LANGUAGE (attach addendum if necessary):

See attached.

JUSTIFICATION FOR PROPOSED CHANGE (attach other documents if necessary)

The purpose of this amendment is to update provisions for the parking of vehicles in residential areas and to revise definitions within the applicable sections of the referenced codes.

CITY OF PALM BAY, FLORIDA
CODE TEXTUAL AMENDMENT APPLICATION
PAGE 2 OF 2

THE APPLICATION FEE MUST BE SUBMITTED WITH APPLICATION TO PROCESS THIS REQUEST:

☐

***\$1,500.00 Application Fee. Make Check payable to "City of Palm Bay."**

I, the undersigned understand that this application must be complete and accurate before consideration by the Planning and Zoning Board/Local Planning Agency and certify that all the answers the questions in said application, and all data and matter attached to and made a part of said application are honest and true to the best of my knowledge and belief.

Under penalties of perjury, I declare that I have read the foregoing code textual amendment application and that the facts stated in it are true.

Signature of Applicant Laurence Bradley Digitally signed by Laurence Bradley
DN: dc=org, dc=palmbayflorida, ou=Community
Planning & Economic Development, ou=Land
Development, cn=Laurence Bradley
Date: 2020.03.12 15:50:58 -04'00' Date 3/12/2020

Printed Name of Applicant Laurence Bradley, AICP, Director of Growth Management

Full Address 120 Malabar Road SE, Palm Bay, FL 32909

Telephone 321-733-3042 Email laurence.bradley@palmbayflorida.org

PERSON TO BE NOTIFIED (If different from above):

Printed Name _____

Full Address _____

Telephone _____ Email _____

***NOTE: APPLICATION FEE IS NON-REFUNDABLE UPON PAYMENT TO THE CITY**