

**VILLAGE OF BERRIEN SPRINGS
ORDINANCE NUMBER 367**

AN ORDINANCE TO AMEND AND RESTATE CHAPTER 38 ENTITLED "TRAFFIC AND VEHICLES," ARTICLE III ENTITLED "STOPPING, STANDING AND PARKING," SECTION 38-61 ENTITLED "PARKING ON PUBLIC RIGHTS-OF-WAY, STREETS OR TREE LAWNS WITHOUT CURBS AND GUTTERS; LIABILITY FOR IMPROVEMENTS WITHIN RIGHT-OF-WAY LINE"

NOW THEREFORE, The Village of Berrien Springs ordains:

SECTION 1. PURPOSE.

Subsection 4, entitled "*Highland Estates/Krohns Addition parking on subdivision roads*," under Section 38-61 entitled "Parking on Public Rights-of-way, Streets or Tree Lawns without Curbs and Gutters; Liability for Improvements within Right-of-way Line," is hereby deleted and Section 38-61 shall be restated in its entirety as follows:

SECTION 2. AMENDMENT AND RESTATEMENT.

ARTICLE III. STOPPING, STANDING AND PARKING*

Sec. 38-61. Parking on Public Rights-of-Way, Streets or Tree Lawns without Curbs and Gutters; Liability for Improvements within Right-of-Way Line.

(a) No motor vehicle shall be parked or allowed to stand within the public rights-of-way, streets or tree lawns where there are no curbs and gutters and where parking on the paved portion of the street is not permitted within the frontage boundaries of a lot or parcel of property in residentially zoned districts unless:

(1) Permission. The vehicle is parked or allowed to stand with the permission of the owner or occupant of that particular lot or parcel, and

(2) No Obstruction/Clear Vision Area. Such parking or standing of motor vehicles shall not obstruct the vision or movement of vehicles entering or exiting driveways and access routes for the lot or parcel and adjacent lots or parcels.

* **Cross reference**— Off-street parking requirements, § 48-356 et seq.

State Law reference— Authority to regulate standing or parking of vehicles, MCL 257.606(1)(a); stopping, standing or parking of vehicles, MCL 257.672 et seq.

(3) Parking Area on Tree Lawn Must be Improved. Parking on any tree lawn may only take place provided said parking area is improved with pavement having an asphalt or Portland cement binder, or, shall be crushed stone and shall be graded and surfaced for it to permit drainage and disposal of surface water and/or snow accumulating within the confines of the parcel. This Subsection (a)(3) shall take effect one hundred eighty (180) days from the date of the adoption of this Ordinance in order to give residents time to make the necessary improvements as required in this Ordinance to designated tree lawn parking areas.¹

- a. Designation of Improved Parking Area on Tree Lawn. The Building Inspector and Zoning Administrator shall be empowered to determine and designate on the tree lawn the improved parking area.
- b. Cost. The property owner shall bear the cost of the installation costs of the improved parking space and these improvements within the right-of-way line and the paved portion of the street made by the owner or the occupant of a lot or parcel are done so at the risk of the owner or occupant and the owner or occupant shall properly maintain the said improved parking spaces. The Village shall not be responsible or liable to repair or replace the improved parking areas unless the Village must remove or otherwise damage the improved parking area in the course of the operation, maintenance, or repair of Village facilities and utilities within the right-of-way.
- c. "Tree lawn" shall mean the unimproved portion of the street between the edge of the paved roadway and the edge of the sidewalk. Where no sidewalk exists, the *tree lawn* shall mean the unimproved portion of the street between the edge of the paved roadway and the edge of the public right-of-way, as determined by the building inspector and zoning administrator.

(b) Civil Infraction. Every person who is convicted of a violation of this section shall be punished by a fine of not to exceed \$25.00, together with the costs of the prosecution. Further, if it is necessary to remove any unlawfully parked motor vehicle, the motor vehicle shall be towed and impounded by order of the police department, and the owner shall be required to pay the impounding and towing fees prior to the return of the motor vehicle, over and above any fines and costs.

(Ord. No. 286, § 1, 11-3-1997; Ord. No. 324, § 5, 5-2-2011; Ord. No. 349, § 1, 9-15-2014)

Cross reference - Streets, sidewalks and other public places, ch. 36.

¹ For purposes of this restated ordinance, this 180-day grace period shall only apply to the Highland Estates Subdivision and that part of Washington, Pam Drive, Highland, Lynn and Ann that are within the Highland Estates Subdivision, as well as the Krohns Addition Subdivision and that portion of Michigan, Park, Lake, Fisher and Krohn that are within that subdivision.

SECTION 3. PRIOR ORDINANCES.

All other ordinances or parts of ordinances in conflict with or superseded by this Ordinance are repealed except to the extent that any project, condition, violation or prosecution that was subject to the prior ordinance shall continue.

SECTION 4. HEADINGS.

The headings used in each section of this ordinance are for the purpose of identification and are not a substantive part of this ordinance

SECTION 5. SEVERABILITY.

If any section, subsection, sentence, clause or phrase of this Ordinance is, for any reason, held to be unconstitutional, unlawful or unenforceable by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance.

SECTION 6. EFFECTIVE DATE.

This Ordinance shall take effect twenty (20) days after publication.

SECTION 7. PUBLICATION.


The Village Clerk shall certify to the adoption of this Ordinance and cause the same to be published as required by law.

YEAS: Lonna Johnson, Jim Allred, Barry Gravitt, Sandy Swartz, Kristin von Maur, Jesse Hibler and President Milt Richter.

NAYS: None

ABSENT: None

Dated: November 6, 2017


Milt Richter, Village President

Ordinance declared adopted:


Sheryl A. Kesterke, Village Clerk

Certification

I hereby certify that the above and foregoing Ordinance was duly adopted by the Village Council of Berrien Springs and published in the *Journal Era*, a weekly newspaper published in the Village of Berrien Springs, in the issue of said newspaper dated and published on the 8th day of November, 2017.


Sheryl A. Kesterke, Village Clerk

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