

TOWN OF JUPITER



DATE: December 14, 2011
TO: Honorable Mayor and Members of Town Council
THRU: Andrew D. Lukasik, Town Manager *asl*
FROM: John R. Sickler, Director of Planning and Zoning *JRS*

SUBJECT: **Residential Swale Parking Regulations** – Text amendment to Chapter 19 (Traffic and Motor Vehicles), amending residential swale parking regulations to:

- Clarify where motor vehicles, boats, trailers and recreational vehicles are permitted to be parked in a right-of-way swale;
- Include new definitions for “swale” and “right-of-way.”

HEARING DATES:	TC 11/15/11 1st Reading	Ord #40-11
	TC 12/20/11 2nd Reading	PZ #11-302
		DMK

EXECUTIVE SUMMARY:

Approval of changes to Chapter 19 of the Town Code to clarify how and where motor vehicles, boats, trailers and recreational vehicles will be allowed to be parked in swales along residential streets. The proposed changes also include definitions for a swale and a right-of-way.

At their November 15, 2011 meeting, the Town Council **approved** (by a 4-1 vote) on 1st reading the text amendments recommended by staff. The proposed residential swale parking text amendment (Ordinance #40-11) is associated with, and complements, the concurrent proposed residential neighborhood parking regulations (Ordinance #3-11) text amendment.

The Town Council Action section of the staff report contains responses to requests for additional information at 1st reading, including a concern about swale parking on narrow rights-of-way. Staff has determined that there are a limited number of rights-of-way in the Town that are less than 40 feet wide and has proposed language in the staff report to allow residents to park on a portion of the front yards on these narrow rights-of-way as noted in Town Council Action section of the staff report.

The proposed text amendment includes the following regulations to:

- Clarify that motor vehicles, boats, trailers and recreational vehicles parked in residential right-of-way swales must be:
 - Totally in the swale with the left-hand (driver side) wheels parallel to street within 12 inches of paved street edge;
 - Facing in the direction of authorized traffic movement;
 - Compliant with Chapter 316, Florida Statutes “State Uniform Traffic Control”; and
- define “swale” and “right-of-way.”

STAFF RECOMMENDATION:

Staff recommends **approval** of the subject text amendments.

Strategic Priority: All Neighborhoods as Desirable Places to Live

Attachments:

Staff Report	Ordinance #40-11
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**TOWN OF JUPITER
TOWN MANAGER'S OFFICE**



DATE: December 14, 2011
TO: Honorable Mayor and Members of Town Council
THRU: Andrew D. Lukasik, Town Manager
FROM: John Sickler, Director of Planning and Zoning *JRS*
SUBJECT: Residential Swale Parking Regulations – Text amendment to Chapter 19 (Traffic and Motor Vehicles), amending swale parking regulations to:

- Clarify where motor vehicles, boats, trailers and recreational vehicles are permitted to be parked in a right-of-way swale;
- Include new definitions for “swale” and “right-of-way.”

Ordinance #40-11
PZ #11-302
DMK

Meeting dates: TC 11/15/11 1st Reading
TC 12/20/11 2nd Reading

Applicant: Town initiated
Request: To amend the following in Chapter 19:

1. New Section 19-35 (Limitations on parking on swales in residential zoning districts) to clarify that vehicles must be –
 - Totally in the swale with the left-hand wheels parallel to street within 12 inches of paved street edge;
 - Facing in the direction of authorized traffic movement;
 - Compliant with all applicable State regulations in Chapter 316, Florida Statutes “State Uniform Traffic Control”;
2. Section 19-81 (Definitions) – To include new definitions for “right-of-way” and “swale.”

Town Council Action.

At their November 15, 2011 meeting, the Town Council **approved** (by a 4-1 vote) on 1st reading the text amendments recommended by staff. The Town Council also requested staff provide additional information regarding the following:

1. The Vice-Mayor had a concern about how swale parking would be regulated for infrequent family gatherings.

Staff comment: Code Compliance Supervisor Frank Melillo stated the Code unit currently will work with all Town residents when some relief is requested pertaining to relaxing swale parking regulations in the Town Code. Examples of these types of relief in the past have been accommodating a resident that wants to load-up a recreational vehicle the night before

leaving on a trip or allowing a resident to store a boat in front of their property overnight because they were not able to return it to their storage facility by the end of the day. This type of consideration would be extended to residents that are proposing to have a large family gathering that might impact the swales adjacent to their residence. In an instance where prior requests are not made prior to a gathering, if a complaint is received by the Code unit or the Police Department the property owner or resident will be contacted and informed of the conflict with the Town Code. The Code unit will then will make a follow-up contact with the property owner or resident and explain what the Town would like them to do if a similar event is anticipated in the future (i.e. If a large party is planned and it is expected there will be parking concerns, please contact the Code unit in advance and the Police Department will be informed in order to handle any potential complaints).

2. The Mayor asked staff to review the swale easement on both sides of Cheyenne Street, which is located just south of Center Street and west of Pennock Lane. She noted the Town's aerial maps indicate the property lines of the single family homes on Cheyenne street appear to go to the middle of the paved road.

Staff comment: The Town Engineer was able to determine an easement to establish a 30 foot wide right-of-way for Cheyenne Street was recorded with the County in 1975. However, Engineering Department records do not indicate whether official Town Council action was taken by ordinance (a draft ordinance was proposed in 1978) to take-over the road. It is further noted that in the early 1990s, the Town did install water mains, stormwater drainage pipes and asphalt on the road. It is a reasonable interpretation from these actions that the Town has accepted ownership of Cheyenne Street. The Town Engineer further notes that the 22 feet Cheyenne paved road appears to be in the middle of the 30 foot right-of-way. Therefore, the right-of-way swale on each side of the pavement is four feet wide. This would be less than the minimum amount of space necessary to accommodate parking in the swale area of the right-of-way, as previously proposed in the subject text amendment. In addition, the Town Engineer stated there are a limited number of similar rights-of-way in the Town that are less than 40 feet wide. In order to provide residents on these narrower rights-of-way with the ability to park in existing swales, staff recommends the following language be added to Section 19-35:

- (d) Parking on a portion of a front yard is permitted on a right-of-way that is less than 40 feet wide, consistent with the provisions of subsections (a) through (c), provided parking will not occur on any existing sidewalk or bike path.

The above proposed change will require a vehicle to be parked with the same restrictions of a wider right-of-way, but will provide some latitude to park partially within the front yard. If there is not enough room to park in the swale because of a sidewalk, bike path or fence, then the resident will still have the option of parking on the street.

This change has been included in Ordinance #40-11, and the Town Council will need to amend the ordinance if it adopts any changes to the text proposed by staff.

Staff Recommendation.

Planning and Zoning, Police, Code Compliance, Engineering and Neighborhood Services staff recommend **approval** of the proposed text changes contained in Ordinance #40-11 (in an underline and ~~strike-through~~ format), with an effective date of three months after approval.

Background.

The subject residential swale parking text amendment (Ordinance #40-11) is associated with, and complements, the concurrent text amendment regarding residential neighborhood parking regulations (Ordinance #3-11 [see Attachment B]). The adoption hearing (second reading) for the subject text amendment and the concurrent residential neighborhood parking text amendment are both scheduled for December 20, 2011.

Staff postponed the concurrent residential neighborhood parking text amendment to address resident concerns. Prior to the scheduled adoption hearing in August 2011 for the proposed residential neighborhood parking regulations text amendment, Neighborhood Services received input from Jupiter River Estates residents. The residents expressed concerns that the residential neighborhood parking regulations could negatively impact parking in road right-of-way swales adjacent to their lots by pushing these parking problems into the right-of-way. Staff notes that there are existing right-of-way swales in some neighborhoods, including Jupiter River Estates, which are approximately 15 feet wide. Motor vehicles can currently park in these wide swales haphazardly. The intent of the subject residential swale parking text amendment is to address how parking will be regulated in right-of-way swales to avoid a new parking concern.

Since the concurrent Ordinance #3-11 on residential neighborhood parking regulations did not address right-of-way swale parking regulations, staff is initiating the changes in Ordinance #40-11.

The following table indicates the major differences between the existing residential neighborhood parking and residential swale parking regulations and the proposed regulations:

Parking Issue	Existing Parking Regulations	Proposed Changes to Residential Neighborhood Parking Regulations (Ordinance #3-11)	Proposed Changes to Residential Swale Parking Regulations (Ordinance #40-11)
<i>Parking passenger cars and trucks¹ in front and side corner yards</i>	There are no restrictions on where passenger cars and trucks can be parked.	<ul style="list-style-type: none"> • Passenger cars and trucks must be parked on either a paved driveway or on unpaved surfaces parallel to a paved driveway, within eight feet of the edge of the driveway on the side of the driveway closest to the side property line. • If there is not enough room to park a passenger car or truck, either partially or totally, on an unpaved surface parallel to a paved driveway on the side closest to the side property line, then similar parallel parking on unpaved surfaces is allowed on the other side of 	Not Applicable

¹ Consists of panel, pick-up, van or similar types of vehicles not over three-quarter-ton rated capacity.

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		<p>the driveway.</p> <ul style="list-style-type: none"> • Parking on unpaved surfaces except as detailed above will be prohibited within the front and side corner yards of a lot. 	
<i>Parking boats, trailers and recreational vehicles in side and rear yards</i>	One boat; one boat trailer or utility trailer; and one recreational vehicle, but not more than one of each.	No Changes	Not Applicable
<i>Parking passenger cars and trucks in rear yards</i>	There are no restrictions on where passenger cars and trucks can be parked.	No more than a total of two passenger cars and/or trucks.	Not Applicable
<i>Parking passenger cars, trucks, trailers, boats and recreational vehicles in swales</i>	<ul style="list-style-type: none"> • Parking on recently seeded or sodded road swales is prohibited. • Parking on a road right-of-way (which includes the paved street and the adjacent swale) for a time-period of more than 24 consecutive hours; or for 72 consecutive hours in designated on-street parking is prohibited. • Must be compliant with the following restrictions (as contained in Chapter 316, Florida Statutes): <ul style="list-style-type: none"> • At least 15 feet away from a fire hydrant; • At least 20 feet away from a crosswalk at an intersection; • At least 30 feet away from a flashing signal, stop sign or traffic control signal. 	Not Applicable	<ul style="list-style-type: none"> • Must be totally within the swale with the driver-side wheels parallel to and within 12 inches of the edge of the street pavement; • Must be parked in the direction of the adjacent authorized traffic movement; • Parking on an unpaved portion of a road right-of-way adjacent to a curbed street is prohibited.

The above table and additional diagrams (see Attachment A) illustrate the location of *allowed* and *prohibited* parking based on the residential neighborhood parking regulations and residential swale parking text amendments. The table and diagrams were presented to residents at a public input meeting on October 24, 2011. The information was also placed on the Planning and Zoning web page along with the RSVP for the meeting. Neighborhood Services staff also informed the neighborhoods that have been involved in the public participation process for the residential neighborhood parking regulations text amendment of the October 24th meeting. There were 20 persons in attendance at the meeting and all but two were from the Jupiter River Estates neighborhood. They expressed concerns with the new parking regulations stating they would not have enough room to park the number of vehicles they owned in the allowed areas.

Analysis.

- 1. New Section 19-35. Limitations on parking on swales in residential zoning districts.**
Staff proposes to include the following in this new section pertaining to parking of motor vehicles, trailers, boats, watercrafts and/or recreational vehicles a right-of-way swale:
 - a. Must be totally within the swale with left-hand (driver side) wheels parallel to and within 12 inches of the edge of the street pavement – The proposed regulation will create orderly parking in the swale by only allowing parking parallel to the adjacent street pavement. Additionally, it will prohibit double stacked parking in wide residential swales.
 - b. Must be facing in the direction of authorized traffic movement – The proposed regulation is consistent with the corresponding on-street parking regulation contained in Chapter 316, Florida Statutes (F.S.) “State Uniform Traffic Control.” The requirement will help avoid potential accidents associated with entering a street against the flow of traffic.
 - c. Must comply with Chapter 316, F.S. regulations pertaining to parking near fire hydrants, crosswalks at intersections and stop signs – Staff notes that Chapter 19 currently requires adherence to all regulations contained in Chapter 316, F.S. Specific inclusion of the state regulations related to parking near fire hydrants, crosswalks at intersections and stop signs will allow the Town’s Code Compliance officers to more easily communicate these regulations to neighborhood residents and achieve voluntary compliance.
 - d. Parking a motor vehicle on an unpaved portion of a right-of-way adjacent to a curbed street is prohibited – The inclusion of this regulation will prohibit motor vehicles from hopping a curb to park. While most curbed residential streets are located in neighborhoods with restrictive covenants to avoid this type of parking, the regulation will provide a Town-wide regulation.

As previously noted, diagrams indicating *allowed* and *prohibited* parking in a right-of-way swale with the above proposed text amendments is included as Attachment A.

- 2. Amend Section 19-81. Definitions.** Staff proposes amending this section to add the following:
 - a. New definition for “right-of-way” – This definition is proposed to clarify that a right-of-way includes any applicable swale.
 - b. New definition for “swale” – This definition is proposed to clarify the purpose of a swale and the applicable areas that it is located in a right-of-way with or without sidewalks.

Based on the above analysis staff recommends **approval** of the zoning text amendments proposed in Ordinance #40-11. Staff is proposing the effective date of the new regulations be three months (March 20, 2012) after approval by the Town Council. This delay will allow staff time to educate residents on the new parking regulations.

Attachments:

Attachment A – Diagram of allowed and prohibited parking with proposed residential swale parking and residential neighborhood parking text amendments (See Concurrent Neighborhood Parking Regulations Executive Summary)

Attachment B – See concurrent zoning text amendment on residential neighborhoods parking Ordinance #3-11

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ORDINANCE NO. 40-11

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF JUPITER, FLORIDA, AMENDING CHAPTER 19 OF THE TOWN CODE TO CREATE A NEW SECTION 19-35 TO BE ENTITLED, "LIMITATIONS ON PARKING ON SWALES IN RESIDENTIAL ZONING DISTRICTS"; PROVIDING FOR THE AMENDMENT OF SECTION 19-81 TO ADD DEFINITIONS FOR "RIGHT-OF-WAY" AND "SWALE"; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE REPEAL OF LAWS IN CONFLICT; PROVIDING FOR CODIFICATION, AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town Council of the Town of Jupiter, Florida ("Town") has adopted a Comprehensive Plan which has been determined to be in compliance with Chapter 163, Part II, Florida Statutes; and entitled

WHEREAS, pursuant to Section 163.3202(2), Florida Statutes, municipalities are required to provide specific and detailed land development regulations, which may include provisions regulating the parking of vehicles in residentially zoned districts, as part of the implementation of their adopted comprehensive plans; and

WHEREAS, the Town Council of the Town of has previously enacted regulations in regards to parking of vehicles in the Town upon swales in residential zoning districts which have been codified in Chapter 19 of the Town Code; and

WHEREAS, Town staff has recommended various amendments to the regulations which pertain to parking in swales in residential zoning districts to further the public's health, safety and general welfare; and

1 **WHEREAS**, the Town Council, after duly noticed public hearings has determined that
2 the adoption of the amendments herein would be consistent with the Town’s Plan and would
3 further the public’s health, safety and general welfare.

4 **NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF**
5 **JUPITER, FLORIDA THAT:**

6 **Section 1.** The foregoing whereas clauses are incorporated herein as the legislative
7 findings of the Town Council.

8 **Section 2.** Chapter 19, Article II, of the Town Code is hereby amended to create a new
9 Section 19-35 entitled, “Limitations on parking on swales in residential zoning districts”, as
10 follows:

11 **Sec. 19-35. Limitations on parking on swales in residential zoning districts.**

12 The parking of a motor vehicle (as defined under the Florida Uniform Traffic Control Law),
13 trailer, boat, watercraft (as defined in Section 14-121) and/or recreational vehicle (as defined in
14 Section 27-1) within a swale in a right-of-way which is located in a residential zoning district, the
15 Neighborhood Subdistrict of the Mixed Use Development (MXD) Zoning District or the
16 Residential Subdistrict of the Inlet Village Zoning District, shall meet the following standards:

17 (a) Must be totally within the swale with the left-hand (driver side) wheels parallel to and within
18 12 inches of the edge of the street pavement;

19 (b) Must be facing in the direction of authorized traffic movement;

20 (c) Must comply with Chapter 316, Florida Statutes as follows:

21 (1) At least 15 feet away from a fire hydrant;

22 (2) At least 20 feet away from a crosswalk at an intersection;

23 (3) At least 30 feet away from a flashing signal stop sign or traffic control signal.

24 (d) Parking on a portion of a front yard is permitted on a right-of-way that is less than 40 feet
25 wide, consistant with the provisions of subsections (a) through (c), provided parking will not
26 occur on any existing sidewalk or bike path.
27

1 The parking of a motor vehicle on an unpaved portion of a right-of-way adjacent to a street with
2 a raised curb is prohibited.

3 **Section 3.** Chapter 19, Article III, Section 19-81 of the Town Code, entitled "Definitions"
4 is hereby amended to read as follows:

5 **Sec. 19-81. Definitions.**

6 The following words, terms and phrases, when used in Article II and this article, shall have
7 the meaning ascribed to them in this section, except where the content clearly indicates a
8 different meaning:

9 Right-of-way shall mean the total width of any land reserved or dedicated to the perpetual
10 use of the public, which includes uses such as a street, alley, easement, sidewalk, bike path or,
11 swale.

12 Swale shall mean the area within any right-of-way, used for the conveyance and/or retention
13 of stormwater run-off, which has no curb or gutter section lying between the edge of the street
14 pavement and the nearest edge of a sidewalk or bike path; or, if there is no such sidewalk or
15 bike path, then lying between the edge of the street pavement and the edge of the right-of-way.

16 **Section 4. Severability.** If any section, subsection, sentence, clause, phrase or portion
17 of this Ordinance is for any reason held invalid or unconstitutional by any court of competent
18 jurisdiction, such portion shall be deemed a separate, distinct and independent provision and
19 such holding shall not affect the validity of the remaining portions thereof.

20 **Section 5. Repeal of laws in conflict.** All ordinances or parts of ordinances in conflict
21 herewith are hereby repealed to the extent of such conflict.

22 **Section 6. Codification.** Sections of the Ordinance may be renumbered or re-lettered to
23 accomplish such, and the word "Ordinance" may be changed to "Section", "Article", or any
24 other appropriate word.

25 **Section 7. Effective Date.** This Ordinance shall take effect three months from the date
26 of approval.

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