

§ 94.53 REGULATION OF PERMITTED OFF-STREET PARKING AREAS WITHIN VILLAGE RIGHTS-OF-WAY.

(A) *Purpose.* It is the obligation of the village to keep the rights-of-way of the village free, clear and unencumbered. Furthermore, no person has a right to encroach upon or alter a right-of-way, except as consistent with §§ 94.50 through 94.53. The purpose of this section is to establish design standards for permitted off-street parking areas. Parking areas located within the right-of-way that are not in compliance with this section are hereby declared nuisances and either must be removed or brought into conformity with the requirements of this chapter.

(B) *Permitted off-street parking areas.* The village hereby authorizes permitted off-street parking areas to be constructed in the unpaved portion of a village right-of-way only if it meets all of the following criteria:

- (1) It is designed and intended for use as a motor vehicle parking area;
- (2) Any parking area must be below the grade of the street, following the natural slope of the street and right-of-way to the greatest extent possible so as to not impede the flow of storm water from a street into the ground or storm water drain. In the event excavation will be performed in the area, Ohio's "call before you dig" laws shall be in effect, and proof of compliance must be provided.
- (3) If the natural soil of the parking area is replaced or supplemented with other materials in order to create a surface for vehicular parking, such materials must be sufficiently porous to allow for the proper drainage of water from the street and percolation into the ground. The use of No. 304 gravel as well as pervious type grid systems, otherwise in compliance with the requirements of this subsection, are hereby specifically authorized as approved parking area surface materials.
- (4) It may only be placed in that portion of a village right-of-way which is located within eight feet of the paved portion of any village street and is located adjacent to the real estate owned by a person responsible for constructing and/or maintaining a permitted off-street parking area.
- (5) If any form of timbers, bricks, stones or other material is used to outline any portion of the parking area, said timbers, bricks, stones or other material shall not rise more than one inch above the existing ground level and shall not exceed more than eight inches in width and shall be placed no closer than three feet from the edge of any road surface. Any outlining material that exceeds one inch in height, eight inches in width, or which is placed closer than three feet from the edge of any road surface, negatively affects the natural flow of surface water and the delivery of village services and is therefore a nuisance. Further, any form of timbers, bricks, stones or other material shall not block or otherwise impede the flow of water into any village drain.

(6) All such parking areas shall be properly maintained. Specifically, all parking areas shall be kept free and clear of weeds, debris, and trash.

(7) All such parking areas shall be constructed and maintained in a manner so as not to create a hazard to vehicular or pedestrian traffic.

(8) All such parking areas shall be constructed and maintained in a manner so as not to create a hazard to or interfere with any village owned trees.

(9) All parking areas shall be constructed so as to otherwise be in compliance with all parking regulations of the village.

(C) *Revocability.* Any permission or authority granted to any person to alter or place structures in any part of the right-of-way shall not be construed as vesting any interest to such person that is not revocable without cause by the village. Village retains the right to remove or alter all areas within the right-of-way without notice or hearing. In addition, any person altering the right-of-way shall or placing any structure in the right-of-way shall, by such action, agree to indemnify the village from any claims arising from damage caused by such actions. Furthermore, creation of a parking area in the right-of-way does not create any exclusive rights to park at that location. Parking within all such locations is open to the public.

(D) *Nuisance.* In establishing the objectives of this section, the village has determined that without adequate regulation and design standards, parking areas are a nuisance. Parking areas which do not meet the criteria create possible traffic hazards, safety concerns for pedestrians, obstacles for emergency vehicles, obstacles to maintenance vehicles and the delivery of public services and obstacles for the run off of surface water, and excavating poses a danger to underground public utilities. Moreover, the appearance of the village is marred by visual blight created by unacceptable planning and lack of maintenance and repair. Therefore the number of such unauthorized parking areas shall be eliminated and those parking areas permitted shall comply with the standards of this code in order to reduce the aforementioned effects.

(E) *Driveways.* Driveways constructed in conformity with §§ 94.15 through 94.24 of the Codified Ordinances of the Village of Terrace Park shall be considered exceptions, and therefore not subject to this section.

(F) *Walkways.* Pedestrian walkways serving a dwelling, which do not otherwise create a hazard to vehicular or pedestrian traffic or materially interfere with the delivery of village services shall be considered exceptions and therefore not subject to this section.

(G) *Amortization.* Parking areas which do not meet all the criteria set forth in division (B) above, shall be removed, altered, or remodeled to conform to the

provisions of this section not later than May 1, 2003. Any parking areas constructed on or after August 1, 2002 must immediately comply with the provisions of this section.

(H) *Order of Village Administrator.* Whenever the existence of a parking area in violation of § 94.53 shall be brought to the attention of the Village Administrator, he or she shall order such use to be discontinued within 30 days. If the Village Street Commissioner shall be of the opinion that the parking area presents a conflict with the current use of the public right-of-way or impacts adversely upon the adjoining property in any way or impedes the flow of storm water from the street, then the Village Street Commissioner shall order the unauthorized parking area removed immediately.

(I) *Penalty.* It shall be a violation of this section to create or cause the creation of any unauthorized encroachment or fail to remove such encroachment upon orders of the Village Street Commissioner. Persons found to have violated this action shall be subject to a fine up to \$100. Each day shall be considered a separate offense.

(Ord. 3-1-2002, passed 7-9-02)