

**CITY OF HUNTINGTON WOODS
OAKLAND COUNTY, MICHIGAN
ORDINANCE NO. _____**

AN ORDINANCE TO AMEND THE CODE OF ORDINANCES OF THE CITY OF HUNTINGTON WOODS, BY AMENDING CHAPTER 32, STREETS, SIDEWALKS AND OTHER PUBLIC PLACES, ARTICLE II, STREETS, DIVISION 1, GENERALLY, SECTION 32-28, REMOVAL OF ENCROACHMENT; AND TO AMEND ARTICLE V, LAWN EXTENSIONS, DIVISION 2, RIGHT-OF-WAY PARKING SPACES, IN ITS ENTIRETY, AND TO PROVIDE PENALITIES FOR VIOLATIONS THEREOF.

THE CITY OF HUNTINGTON WOODS ORDAINS:

Section 1 of Ordinance.

Chapter 32, Streets, Sidewalks and Other Public Places, Article II, Streets, Division 1, Generally, Section 32-28, Removal of Encroachment, shall be amended to read as follows:

Sec. 32-28 – Removal of Encroachment

Encroachments and obstructions in the street or street right-of-way, including parking spaces, may be removed by the City and excavations refilled and the expense of such removal or refilling charged to the abutting landowner, subject to Sec. 32-277 below. The procedure for collection of such expenses shall be as prescribed in the chapter for single lot assessment upon not less than seven (7) days' notice to such landowner in accordance with Section 1-11.

Section 2 of Ordinance.

Chapter 32, Streets, Sidewalks and Other Public Places, Article V, Lawn Extensions, Division 2, Right-of-Way Parking Spaces, shall be amended in its entirety to read as follows:

Sec. 32-271 – Purpose

The City has absolute control of all the streets, highways and alleys within its limits and may use, regulate, control and improve the same and the space above and beneath them. Pursuant to Section 40-394(a) of the City Code, right-of-way parking spaces are specifically prohibited. This prohibition is necessary to protect the public, health and safety of the residents, and to maintain the aesthetics of the City. However, the City recognizes that there may be unique circumstances under which the City Commission, exercising its discretion, may determine that a waiver be granted for a particular property owner to permit a right-of-way parking space.

Sec. 32-272 – Prohibition of Parking in Right-of-Way

Parking spaces or parking in a right-of-way shall be specifically prohibited, unless a waiver has been granted by the City Commission and permit fees paid as required in this Division.

Sec. 32-273 - Written Application; Waiver for Parking in Right-of-Way.

A property owner may submit a written application to the City Commission for a waiver to permit a right-of-way parking space. If the applicant is not the property owner, the application shall include written authorization for the application from the property owner. The application shall include a description of the unique circumstances related to the property, and shall include a survey depicting the property lines, right-of-way line, and the location and dimensions of the proposed parking space. A waiver is to be granted only in those limited circumstances where the need for the waiver is based on unique circumstances related to the specific property for which the waiver is requested. Unique circumstances do not include in and of itself the ownership of more than two vehicles by the occupants of the property.

In order to determine whether a waiver may be granted, the City Commission shall, in its discretion, consider the following factors:

1. The specific location of the proposed right-of-way parking space.
2. Whether the proposed right-of-way parking space is located on a street where parking is prohibited.
3. The unique circumstances applicable to the property that might justify the grant of the waiver.
4. Whether the right-of-way parking space would have a negative impact on surrounding properties.
5. Whether the property is a corner lot and there is less than twenty (20) feet of driveway length between the garage door and the property line and there is an inability to create an additional parking space on site.
6. Whether the property, due to the existing configuration of the house, is too narrow to allow for the construction of a two-car garage.
7. Whether the plight of the property owner is due to unique circumstances peculiar to the property and not to general neighborhood conditions.
8. Whether the waiver would alter the essential character of the area.
9. Whether the need for the waiver is self-created.

Sec. 32-274 – Requirements for Right-of-Way Parking Space

If a waiver for a right-of-way parking space is granted by the City Commission, the following conditions shall apply:

1. The right-of-way parking space shall be parallel to the road.
2. The right-of-way parking space may only be used by non-commercial vehicles. Commercial vehicles, recreational vehicles of any nature, and non-commercial vehicles containing any form of signage are specifically prohibited.
3. The right-of-way parking space shall not accommodate more than one (1) vehicle parked parallel to the street, and shall be limited in size to eight (8) feet by twenty-two (22) feet.
4. The right-of-way parking space shall not create a traffic hazard.

5. The right-of-way parking space shall not obstruct access to any utility or fire hydrant.
6. Installation of the right-of-way parking space shall not require the removal of any tree.
7. The right-of-way parking space shall be constructed only of permeable/grass pavers, permitting the drainage of storm water and allowing grass to grow through. Asphalt, concrete, gravel, or any other paved surface is specifically prohibited.
8. The right-of-way parking space shall be constructed and maintained at the sole cost and expense of the property owner.
9. The boundaries of the right-of-way parking space shall be well-defined and shall not be located on either the sidewalk or the road.
10. The property owner shall not damage any abutting City curbs and/or gutters.
11. The property owner shall not have been previously issued violations for illegal parking on the property.
12. Any vehicle parked in the right-of-way space shall be licensed.
13. The right-of-way parking space is to be used for only vehicles that are used on a regular basis, and shall not be used for storage of infrequently used vehicles.
14. The property owner shall execute a Revocable License, in a form approved by the City Attorney, which specifically states that the waiver is valid, only as long as the unique circumstances that formed the basis for the waiver exist on the property, and only as long as the property owner pays the annual permit fee as required in Sec. 32-272 below. The waiver will be administratively reviewed annually at the time the annual permit fee is due and may be revoked if the unique circumstances cease to exist. The City may administratively approve a Revocable License for a successor-in-interest (successor property owner) if the unique circumstances which justify the grant of the waiver continue to exist for the successor property owner; provided, however, that the successor property owner shall execute a Revocable License and otherwise comply with the terms of this ordinance. The Revocable License shall contain a provision in which the property owner shall agree to indemnify and hold harmless the City, its officials, employees, agents, and consultants, from any liability, damages, costs or claims resulting from the construction or use of said right-of-way space, and further agrees to reimburse the City and pay for any and all damages to the street resulting from or caused by the construction, maintenance or use of the right-of-way parking space. The Revocable License shall be recorded against the property.

Sec. 32-275 – Annual License Fee

A license fee shall be established by resolution of the City Commission and shall be paid in full prior to installation of the right-of-way parking space for which a waiver has been granted. The property owner shall thereafter pay an annual license fee in an amount established by resolution of the City Commission, which shall be paid no later than October 1 of each year.

Sec. 32-276 – Revocation of Waiver/Restoration

In the event the property owner fails to pay the annual license fee as required by Section 32-375, and after notice from the City, the property owner shall have fourteen (14) days in which to pay the required fee, or the waiver shall be automatically revoked without further action by the City Commission. The property owner shall have thirty (30) days after notice of revocation of the waiver to remove the grass pavers and restore the right-of-way parking space to a well-maintained condition with seed and/or sod.

Sec. 32-277 - Preexisting Right-of-Way Parking Spaces.

At the time of the adoption of this ordinance, there are existing right-of-way parking spaces in the City for which the annual fees have been paid. Some of those right-of-way spaces were installed without any prior approval from the City, and others exist even though they were to have been removed upon the sale of the property under prior license agreements. It is the specific goal of this ordinance to eliminate the existing right-of-way spaces. The existing right-of-way spaces upon which the annual fees are current at the time of adoption of this ordinance will be permitted to be retained for a temporary period, conditioned upon the property owner continuing to pay the annual license fee, and subject to the following:

1. The City is currently constructing road improvements throughout the City. Existing right-of-way spaces along roads where construction has not yet occurred shall be permitted to remain temporarily. However, as road work progresses, these existing right-of-way spaces shall be removed during road construction, at the expense of the City. Prior to removal, the property owner may apply to the City for a waiver. If a waiver is granted for an existing right-of-way space, the property owner shall comply with all other requirements of this ordinance, including Sections 32-274 and 32-275.

2. Road construction has been completed in some areas of the City, and there are presently four right-of-way spaces that still exist along the improved roads. These four spaces will be allowed to remain so long as the property owners pay the annual license fee. However, upon sale or transfer of these four properties, and prior to closing on any sale or transfer of the properties, the property owner shall notify the City of any pending sale or transfer of the property, and the right-of-way will be removed at the cost of the City the property owners shall cause the removal of the parking space as set forth below. These property owners shall execute a Revocable License, in a form approved by the City Attorney, which specifically states that the right-of-way space shall be removed prior to the sale or transfer of the property. The Revocable License shall contain a provision in which the property owner shall agree to indemnify and hold

harmless the City, its officials, employees, agents, and consultants, from any liability, damages, costs or claims resulting from the construction or use of said right-of-way space, and further agrees to reimburse the City and pay for any and all damages to the street resulting from or caused by the construction, maintenance or use of the right-of-way parking space. The Revocable License shall be recorded against the property. In the event the property owners fail to notify the City of the sale or transfer of the property, or fail to execute the Revocable License, the City may enter upon the property, remove, refill and seed the space, and the expense of such removal or refilling shall be charged to the abutting landowner as set forth in Sec. 32-28 above. With respect to these four parking spaces, the property owner may apply to the City for a waiver. If a waiver is granted for an existing right-of-way space, the property owner shall comply with all other requirements of this ordinance, including Sections 32-274 and 32-275.

Sec. 32-278 – Violations and Penalties

Failure to restore the right-of-way parking space shall result in the City issuing a municipal civil infraction for each day that such violation continues. In addition, violation of this ordinance is hereby declared to be a nuisance per se and the City specifically reserves the right to proceed in any court of competent jurisdiction for the purpose of obtaining an injunction or other appropriate remedy to compel compliance with this ordinance. Every day on which any violation of this ordinance continues, constitutes a separate offense and shall be subject to penalties as a separate offense.

Section 3 of Ordinance. Repealer.

All ordinances, parts of ordinances, or sections of the City Code in conflict with this Ordinance are repealed only to the extent necessary to give this Ordinance full force and effect.

Section 4 of Ordinance. Severability.

Should any section, subdivision, clause, or phrase of this Ordinance be declared by the courts to be invalid, the validity of the Ordinance as a whole, or in part, shall not be affected other than the part invalidated.

Section 5 of Ordinance. Savings.

All proceedings pending and all rights and liabilities existing, acquired or incurred at the time this Ordinance takes effect, are saved and may be consummated according to the law in force when they were commenced.

Section 6 of Ordinance. Effective Date.

This Ordinance shall be effective twenty (20) days from the date of adoption and shall be published as required by the Charter of the City of Huntington Woods.

Section 7 of Ordinance. Enactment.

This Ordinance is declared to have been enacted by the City Commission of the City of Huntington Woods at a meeting called and held on the ___ day of _____, 2015, and ordered to be given publication in the manner prescribed by law.

Ayes:

Nays:

Abstentions:

Absent:

STATE OF MICHIGAN)
) ss.
COUNTY OF OAKLAND)

I, the undersigned, the qualified and acting City Clerk of the City of Huntington Woods, Oakland County, Michigan, do certify that the foregoing is a true and complete copy of the Ordinance adopted by the City Commission of the City of Huntington Woods at a meeting held on the ___ day of _____, 2015, the original of which is on file in my office.

JOY SOLANSKEY, City Clerk
City of Huntington Woods