

# 19

ORDINANCE 2011-01

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**AN ORDINANCE OF THE CITY OF FLAGLER BEACH, FLORIDA, AMENDING SECTION 2.06.08.4.1 OF THE LAND DEVELOPMENT REGULATIONS REGARDING PLACEMENT OF TEMPORARY STRUCTURES AND PARKING AND STORAGE OF UTILITY TRAILERS AND RECREATIONAL VEHICLES; AMENDING SECTIONS 2.02.00 AND 5.02.01 OF THE LAND DEVELOPMENT REGULATIONS TO PROVIDE DEFINITIONS; PROVIDING FOR COMPLIANCE ASSISTANCE; PROVIDING FOR CODIFICATION, SEVERABILITY, AND REPEAL OF CONFLICT ORDINANCES, AND ESTABLISHING AN EFFECTIVE DATE.**

**WHEREAS**, the City Commission of Flagler Beach hereby finds it desirable and necessary to amend Sections 2.06.08.4.1 of the Land Development Regulations to clarify regulations regarding placement of temporary structures and parking and storage of utility trailers and recreational vehicles on private property and to amend Sections 2.02.00 and 5.02.01 to define temporary structures, utility trailers and recreational vehicles; and

**WHEREAS**, the City Commission is mindful that the City is a retirement community with approximately ninety (90) percent of its residential lots platted to 50' X 100' in size and with narrow side and rear yards; and

**WHEREAS**, many of the residents of the City of Flagler Beach own recreational vehicles; and

**WHEREAS**, recreational vehicles are owned by many residents who desire that their recreational vehicles be readily available to them; and

**WHEREAS**, based on the recommendation of the Planning and Architectural Review Board, sitting as the City's local planning agency, the Commission finds and determines that this Ordinance is not inconsistent with the City's Comprehensive Plan; and

**WHEREAS**, the City Commission finds it necessary and desirable to allow owners of utility trailers and recreational vehicles to park or store their trailers on their residential lots under certain conditions and circumstances to ensure safety and health and to preserve aesthetics of the City's residential neighborhoods.

(NOTE: underline text denotes additions, ~~strikethrough~~ text denotes deletions and asterisks "**\* \* \***" denote sections of the existing Ordinance which remain unaltered and not reprinted herein).

**NOW, THEREFORE, BE IT ORDAINED BY THE COMMISSION OF THE CITY OF FLAGLER BEACH, FLORIDA:**

46           **SECTION 1. Legislative findings and intent.** The findings set forth in the recitals  
47 above are hereby adopted as legislative findings pertaining to this Ordinance.

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49           **SECTION 2.** Section 2.02.00, "Definitions," of the Land Development Regulations  
50 shall be amended as follows:

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52       Recreational vehicle, except as otherwise defined in these land development regulations, is a  
53 vehicle primarily used as temporary living quarters for recreational, camping, or travel use,  
54 which either has its own motive power or is mounted on or drawn by another vehicle.  
55 Recreational vehicle units are those defined in Section 320.01, Florida Statutes, as amended from  
56 time to time.

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59       Structure, temporary means a structure without any foundation or footings, designed,  
60 constructed, and intended to be used on a short term basis, and which is removed when the  
61 designated time period, activity, or use for which the temporary structure was erected has  
62 ceased.

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66       ~~Travel trailer or recreational vehicle—A vehicle less than forty (40) feet in length and used for~~  
67 ~~temporary or recreational living or sleeping purposes, and standing on wheels, whether self-~~  
68 ~~propelled or requiring a separate vehicle for power.~~

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72       Utility trailer means a trailer manufactured, designed or used to store or carry personal property  
73 including but not limited to: household furnishings, building materials, lumber, boxes,  
74 automobiles and all terrain vehicles.

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77           **SECTION 3.** Section 2.06.08.4.1 of the Land Development Regulations shall be  
78 amended as follows:

79  
80       Section 2.06.08.4.1 ~~Accessory and Temporary structures, utility trailers, motor vehicles, and~~  
81 ~~recreational vehicles regulations.~~

82  
83           ~~Except as hereinafter provided, n~~No accessory or temporary structure, utility trailer or  
84 recreational vehicle shall project into the required yard or encroach into easements, parking  
85 areas, or other required areas except as hereinafter provided.

86  
87           (1) Unless temporary structures are prohibited in any district or subdivision, Tents,  
88 eabanas, outdoor shelters, sheds, tool houses, and other enclosed and temporary structures may  
89 be constructed in a required rear yard provided that such accessory all such structures,  
90 collectively, buildings do not occupy more than thirty (30) percent of the required rear yard and

91 provided it is not located within the rear yard setback~~closer than five (5) feet to a side or rear lot~~  
92 ~~line.~~

93  
94 (2) Recreational vehicles, ~~motor vehicles~~ Travel trailers, campers, utility trailers, and  
95 boats shall have a current license tags or validation stickers, and shall be in good working order,  
96 and well maintained. All ~~B~~boats, other than canoes and small boats less than 12 feet in length,  
97 and the like that are normally hand-carried, shall be stored on a-trailers with a current tags or  
98 validation stickers., and Boat trailers shall also be in good working order, well maintained, and in  
99 good working order. , and in a neat and orderly condition. For purposes of this section, “well  
100 maintained” shall mean that the body, tires, windows, and bumpers are maintained. “Good  
101 working order” shall mean that the recreational vehicle, boat, or boat trailer ~~or motor vehicle~~ is  
102 functional, usable and in such a state as it may be used without further repair or alteration for the  
103 purpose for which is was intended.

104  
105 (3) To protect and promote the public health, safety and welfare, to provide light, safety  
106 from fire, safety from other damages and to protect property owners from certain general  
107 nuisances associated with unregulated parking, storage, or maintenance of utility trailers and  
108 recreational vehicles, the parking, storage, and maintenance of utility trailers and recreational  
109 vehicles shall be allowed on private property subject to the following:

110  
111 a. No utility trailer or recreational vehicle shall be occupied as temporary living  
112 quarters while such utility trailer or recreational vehicle is parked or stored within a residentially  
113 zoned district in the City except as otherwise provided in the Code of Ordinances. No utility  
114 trailer or recreational vehicle parked or stored in the City shall have its wheels removed for a  
115 period greater than 72 consecutive hours, except for repair or maintenance. No recreational  
116 vehicle parked or stored in the City shall run a gas-powered generator for any purpose other than  
117 maintenance and testing purposes. A rebuttable presumption shall exist that a gas-powered  
118 generator was run for purposes other than maintenance and testing if such generator is run for  
119 more than fifteen minutes in any twenty-four hour period.

120  
121 b. No utility trailer or recreational vehicle shall be parked in such a way that it  
122 encroaches onto a street or right-of-way or in any location which visually obstructs vehicle  
123 egress from nearby properties or the view or vision of vehicular traffic. ~~or impede the vision of~~  
124 vehicular traffic.

125  
126 c. Utility trailers and recreational vehicles more than forty (40) feet in overall length  
127 may not be parked or stored on residential parcels unless stored in fully enclosed garages or  
128 stored entirely within carports.

129  
130 d. A utility trailer or recreational vehicle parked or stored at a residence on residential  
131 property must be owned by the owner or tenant of the parcel of property upon which the utility  
132 trailer or recreational vehicle is parked or stored. However, visitors of the owner or tenant may  
133 temporarily park their utility trailer or recreational vehicle on the property for no more than 72  
134 consecutive hours within a six-month consecutive period so long as the provisions of this or any  
135 other code section is not violated.

137 e. No more than one (1) recreational vehicle or one (1) utility trailer shall be parked  
138 outside of a fully enclosed garage at any one time.

139 f. A utility trailer or recreational vehicle may be kept:

- 141 (i) in a fully enclosed garage or stored entirely within a carport;  
142 (ii) in a rear yard so long as the recreational vehicle does not occupy more  
143 than thirty (30) percent of the required rear yard and is not located within  
144 the rear yard setback; or  
145 (iii) in a side yard not fronting any street, so long as the boat, boat trailer, or  
146 recreational vehicle is not within the side yard setback.

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149 (3) g. Resident-owned Utility trailers and recreational vehicles might may be  
150 temporarily parked in the residence driveway for the purpose of loading, unloading, minor  
151 repairs, or general maintenance or being repaired for use. However, such temporary parking shall  
152 not occur continuously for more than ~~seventy-two (72)~~ hours in any consecutive seven-day  
153 period.

154 h. No utility trailer or recreational vehicle shall be parked closer than five feet from  
155 any structure or structure overhang.

156  
157 i. When concrete pads have been issued permits by the City prior to the effective date of  
158 this Ordinance for parking and storage of recreational vehicles but are not in compliance with  
159 this section, parking and storage of such recreational vehicles on the concrete pads are hereby  
160 grandfathered in and not subject to Section 2.06.08.5 regarding nonconforming uses.

161 j. Owners of utility trailers or recreational vehicles parked or stored in violation of  
162 this section prior to the effective date of this Ordinance shall have 90 days to come into  
163 compliance with this section.

164 (4) In an effort to assist property owners comply with the regulations of this Section,  
165 the following procedures shall be followed by the City for first-time violations of this Section.

166 a. Upon documenting a first-time violation of this Section, the Code Enforcement  
167 Officer shall, prior to issuing a notice of violation, inform the subject property owner of the  
168 violation and make a written offer to the owner of the subject property offering the assistance of  
169 the City in providing assessment of compliance options. The compliance assistance agreement  
170 shall be in a form approved by the City. The subject property owner shall have three business  
171 days to accept the City's compliance assistance agreement. If the subject property owner refuses  
172 the compliance assistance agreement or fails to respond within three business days from the date  
173 the compliance assistance offer was made, the Code Enforcement Officer shall proceed to issue a  
174 notice of violation.

175 b. If the subject property owner accepts the City's offer of compliance assistance,  
176 the Code Enforcement Officer shall schedule an inspection of the subject property by the Code  
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182 Enforcement Officer for the purpose of evaluating the most efficient method of bringing the  
183 property into compliance with this Section.

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185 c. Within three business days from the date of the compliance inspection performed  
186 pursuant to paragraph (b) the Code Enforcement Officer shall notify the subject property owner  
187 of the Code Enforcement's determination as to the most efficient method of bringing the subject  
188 property into compliance.

189  
190 d. The owner of the subject property shall be allowed 21 days from the date of the  
191 Notice of the compliance methods described in paragraph (c) to bring the subject property into  
192 compliance by any means the subject property owner chooses. If at the end of said 21 day  
193 period, the subject property remains in violation, the Code Enforcement Officer shall proceed to  
194 issue a Notice of Violation.

195  
196 e. Failure by the City to meet any of the time deadlines provided herein shall not  
197 prevent the Code Enforcement Board or Special Magistrate from making a finding that the  
198 property is in violation of this Section at a duly notice hearing. In the event that the City is  
199 shown to have failed to undertake or complete any action required by this Section, the Code  
200 Enforcement Board or Special Magistrate shall include in the time allowed for cure of the  
201 violation additional time for the subject property owner to avail himself or herself of the  
202 compliance assistance detailed herein.

203  
204 **SECTION 4.** Section 5.02.01 of the Land Development Regulations shall be amended  
205 as follows:

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207 **Sec. 5.02.01. Definitions.**

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209 The terms used in this article shall, unless otherwise specified, be defined as set forth in  
210 F.S. Chapters 316 and 320.01, as amended from time to time.

211  
212 **SECTION 5. Codification.** It is the intent of the City Commission of the City of  
213 Flagler Beach that the provisions of this Ordinance shall be codified. The codifier is granted  
214 broad and liberal authority in codifying the provisions of this Ordinance and renumbering  
215 subsections consistent with this Ordinance.

216  
217 **SECTION 6. Severability.** If any section, sentence, clause or phrase of this Ordinance  
218 is held to be invalid or unconstitutional by a Court of competent jurisdiction, then said holding  
219 shall in no way affect the validity of the remaining portions of this Ordinance.

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221 **SECTION 7. Repeal of conflicting ordinances.** In any case where a provision of this  
222 Ordinance is found to be in conflict with provisions of any other ordinance of this City, the  
223 conflicting provisions of the previous ordinance shall be repealed by this Ordinance.

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225 **SECTION 8. Effective date.** This Ordinance shall take effect immediately upon  
226 adoption as provided by the Charter of the City of Flagler Beach.

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228 PASSED ON FIRST READING THIS 10TH DAY OF FEBRUARY, 2011.

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PASSED AND ADOPTED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2011.

CITY OF FLAGLER BEACH, FLORIDA  
CITY COMMISSION

\_\_\_\_\_  
Alice M. Baker, Mayor

ATTEST:

\_\_\_\_\_  
Penny Overstreet, City Clerk

**THE NEWS-JOURNAL**

Published Daily and Sunday  
Daytona Beach, Volusia County, Florida

**State of Florida,  
County of Volusia**

Before the undersigned authority personally appeared

**Kelley Meehan**

who, on oath says that she is .....

**LEGAL COORDINATOR**

of The News-Journal, a daily and Sunday newspaper,  
published at Daytona Beach in Volusia County, Florida; the  
attached copy of advertisement, being a  
.....

**PUBLIC NOTICE**

**L 922203**

in the Court,  
was published in said newspaper in the issues.....

**MARCH 1, 2011**

Affiant further says that The News-Journal is a newspaper  
published at Daytona Beach, in said Volusia County, Florida,  
and that the said newspaper has heretofore been continuously  
published in said Volusia County, Florida, each day and  
Sunday and has been entered as second-class mail matter at  
the post office in Daytona Beach, in said Volusia County,  
Florida, for a period of one year next preceding the first  
publication of the attached copy of advertisement; and affiant  
further says that he has neither paid nor promised any person,  
firm or corporation any discount, rebate, commission or  
refund for the purpose of securing this advertisement for  
publication in the said newspaper

.....  
*Kelley Meehan*  
.....

Sworn to and subscribed before me

This 1<sup>ST</sup> of MARCH

A.D. 2011

.....  
*Rachael L. Smith*  
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**ORDINANCE 2011-01**  
AN ORDINANCE BY THE CITY  
COMMISSION OF THE CITY OF  
FLAGLER BEACH, AMENDING  
SECTION 2.06.08.4.1 OF THE  
LAND DEVELOPMENT REGULA-  
TIONS REGARDING PLACE-  
MENT OF TEMPORARY STRUC-  
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STORAGE OF UTILITY TRAIL-  
ERS AND RECREATIONAL VE-  
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VIDING FOR CODIFICATION,  
SEVERABILITY, AND REPEAL  
OF CONFLICT ORDINANCES,  
AND ESTABLISHING AN EFFEC-  
TIVE DATE.  
A PUBLIC HEARING AND FINAL  
READING WILL BE HELD ON  
MARCH 10, 2011 AT 6:30 P.M.,  
OR AS SOON THERE AFTER AS  
POSSIBLE, IN THE CITY COM-  
MISSION CHAMBERS, 105 S.  
2ND ST., FLAGLER BEACH, FL.  
THIS PUBLIC HEARING MAY BE  
CONTINUED TO A FUTURE  
DATE OR DATES. THE TIMES  
AND DATES OF ANY  
CONTINUANCES OF A PUBLIC  
HEARING SHALL BE AN-  
NOUNCED DURING THE PUB-  
LIC HEARING WITHOUT ANY  
FURTHER PUBLISHED NOTICE.  
THE ORDINANCE MAY BE  
VIEWED AT THE ABOVE LOCA-  
TION. INTERESTED PARTIES  
MAY APPEAR AT THE MEETING  
AND BE HEARD WITH RE-  
SPECT TO THE PROPOSED OR-  
DINANCE.  
~~2011 MARCH 1, 2011 H.~~