

**ORDINANCE NO. 03-17-2016**

**AN ORDINANCE AMENDING TITLE 8, CHAPTER 8.20  
PARKING OF THE ELKINS MUNICIPAL CODE BY  
ADOPTING A NEW CHAPTER 8.20 AND OTHER  
MATTERS RELATED THERETO**

**WHEREAS**, population growth in Elkins has been primarily in residential neighborhoods developed within the last thirty or so years;

**WHEREAS**, with the increased population growth there has been an increase in the number of vehicles being operated within the City;

**WHEREAS**, the increase in the number of vehicles has also produced an increase of vehicles parking in areas not designed nor prepared for vehicle storage;

**WHEREAS**, the parking of vehicles in those areas of the City not designed nor prepared for the storage of vehicles, even on a short term basis has decreased the visibility for drivers operating vehicles, hampered the movement of vehicles lawfully using the streets and roads, and increased the likelihood of groundwater contamination from vehicle fluids;

**WHEREAS**, the Elkins Planning Commission has recommended passage of new restrictions on the parking of all motor vehicles within the City; and,

**WHEREAS**, warnings to residents and visitors concerning parking violations, as provided for in EMC Chapter 8.20 should be capable of being issued by employees of the Elkins Planning Department in addition to peace officers.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF ELKINS,  
ARKANSAS, That:**

**SECTION 1:** Section 8.20.01 of the Elkins Municipal Code is hereby amended to read as follows:

**“8.20.01 Parking Restrictions In Residential by Zoned Districts.**

(a) *Commercial vehicle.* No commercial vehicle shall be parked or stored in any residentially zoned district of the City, or in any platted subdivision zoned agricultural on lots less than one acre in size, as shown on the official zoning map, and shall not be parked or stored in the street right-of-way.

(b) *Parking any motor vehicle on unpaved area prohibited.* No parking, displaying, or storing of any motor vehicle shall be permitted on any grass surface, gravel surface, or other unpaved area in any residential zone, or in any platted subdivision zoned agricultural on lots less than one acre in size, except that:

(1) One parking space may be located on the grass in a required front set back adjacent to and parallel to the current driveway located on the property. The size of such parking space shall not exceed 9' × 19'. Access to such parking space shall be by way of the property's driveway, not by driving over the curb, and shall be located on the opposite side of the driveway from the primary entrance to the residential structure. If the parking space is not maintained with adequate grasses to keep the area from becoming rutted, muddy and/or soil from being blown or washed away, such parking area shall be paved by the property owner by obtaining an expanded parking permit.

(2) Subject to subdivision restrictions/covenants, an expanded parking permit may be obtained to expand an existing driveway. The expansion must be in a required front set back adjacent to and parallel to the current driveway located on the property, where geographic conditions are favorable. The expansion shall be located

on the opposite side of the driveway from the primary entrance to the residential structure, and shall be constructed in accordance with the Elkins Land Use Code. Provided, however, that the maximum allowed paved surface area shall not exceed 40 percent of the total area of the front yard. The expanded parking permit shall be obtained from the Elkins Planning Department by the owner of the property on which the expanded parking is sought, and shall include inspections of the driveway expansion area by that Elkins Planning Department before and after installation of the expanded parking area. The expanded parking permit shall cost \$10.00 upon application for the permit in conjunction with a curb cut permit which is also obtained at the Elkins Planning Department. No curb cut will be required if the expanded parking area can be accessed by way of an existing driveway without driving over the curb. All expanded parking areas shall be concrete or asphalt.

(c) *Storage or parking of motor vehicles.* The storage or parking of motor vehicles in any side yard or rear/back yard of property in any residential zone, or in any platted subdivision zoned agricultural on lots less than one acre in size, shall be prohibited, unless that area of the property has a privacy fence of at least five (5) feet in height.

(d) *Unpaved driveways.* Properties on which an unpaved driveway existed as of the date of the passage of this chapter would not be required to pave, but would be subject to all other restrictions contained herein. Provided, however, any such driveways would be required to be paved if the use and maintenance of such driveway and parking area lapses for a period of one year or if the use served by such driveway is expanded.

(e) *Variations.* In instances where strict enforcement of the requirements of subsections (b) and (c) would cause undue hardship due to circumstances unique to the individual property under consideration, and the granting of such variance is demonstrated to be within the spirit and intent of the provisions of this chapter, the Planning Commission may grant variations of the requirements of subsections (b) and (c) according to the following guidelines:

(1) The Planning Commission may modify such requirements to the extent deemed just and proper so as to relieve such difficulty or hardship, provided that such relief may be granted without detriment to the public interest.

(2) When the applicant can show the property was acquired in good faith and where by reason of the exceptional narrowness, shallowness, size or shape of a specific piece of property, or where by reason of exceptional topographic conditions or other extraordinary situation or condition of the piece of property, the strict application of such provisions would prohibit or unreasonably restrict the use of the property, and the Planning Commission is satisfied that the granting of a variance would alleviate a clear hardship, as distinguished from a special privilege or convenience sought by the applicant, such variance may be granted; provided that all variances shall be in harmony with the intended purpose of this chapter.

(3) Bill of assurance or performance bond. A bill of assurance to the City may be required from the property owner prior to any variance being granted, which shall run with the land and shall set a fixed period of time in which the varied requirement must be provided by the property owner.

(4) Any party aggrieved by the decision of the Planning Commission in granting or denying a variance may appeal the decision to the City Council within 30 days of the Planning Commission's decision by giving notice thereof to the Recorder-Treasurer.

(f) *Exceptions.* The prohibitions set out herein do not apply to the following:

(1) Commercial vehicles or construction equipment during the actual performance of a temporary service on the property where it is parked.

(2) A vehicle making a bona fide pickup or delivery of a person(s), property or merchandise.

(3) Emergency vehicles.”

**SECTION 2:** Section 8.20.02 of the Elkins Municipal Code is hereby amended to read as follows:

**“8.20.02 Parking and Storage of Certain Vehicles.** In residentially zoned areas of the City, as shown on the official zoning map, it shall be unlawful to park or leave a boat, recreational vehicle, utility trailer, or trailer of any kind, on any residential lot, except as specifically provided below:

(1) A recreational vehicle, all-terrain vehicle, boat, trailer, or utility trailer may be parked or left in the rear yard, not closer than eight feet to the rear lot line or in a side yard not projecting beyond the front roof line.

(2) No recreational vehicle, all-terrain vehicle, boat, trailer, or utility trailer may be parked in the front yard between the paved edge of any street and a dwelling or garage (whichever is closer to the paved edge of the street), unless it is parked or left on a garage driveway or other paved surface area which is immediately adjacent to or an expansion of the garage driveway. Further, no recreational vehicle, all-terrain vehicle, boat, trailer, or utility trailer shall be parked closer than ten feet to the paved edge of any street.

(3) The total number of recreational vehicles, all-terrain vehicles, boats, trailers, or utility trailers (other than passenger vehicles) which may be parked, as permitted in Subsection (1) or (2) above, shall be limited to two, not including those kept in a garage. Further, only one recreational vehicle, boat, trailer, or utility trailer may be parked or stored between the paved edge of any street and dwelling or garage (whichever is closer to the paved edge of the street).

(4) A recreational vehicle, all-terrain vehicle, boat, trailer, or utility trailer shall not be parked or stored where such parking or storage shall constitute a clear and demonstrable vehicular traffic hazard, or be a threat to public health or safety.

(5) It shall be unlawful to park a recreational vehicle, all-terrain vehicle, boat, utility trailer, or trailer of any kind, upon a public street, except when it is actually being loaded, readied for use, or unloaded, but in no event longer than 8 hours

(6) It shall be unlawful to use a recreational vehicle or trailer, which otherwise complies with the provisions above, for temporary on premises dwelling purposes for more than seven days total in any continuous twelve (12) month period.

(7) The parking of a recreational vehicle, all-terrain vehicle, boat, trailer, or utility trailer as defined in Section 8.20.03 shall effect a violation of this Section if it results in the parking of other vehicles upon a public street.

(8) A trailer, or utility trailer shall not be used to park or store any unsightly, inoperative or unlicensed vehicle in accordance with the Elkins Municipal Code.

(9) A trailer, or utility trailer shall not be used to park or store any unsightly or unsanitary objects.

(10) A trailer, or utility trailer, shall not be used to park or store any materials, supplies, equipment, or property used in connection with the conducting of a business not located on the property.”

**Section 3:** Section 8.20.03 of the Elkins Municipal Code is hereby amended to read as follows:

**“8.20.03 Definitions.** For the purposes of Chapter 8.20 the following definitions shall apply:

*All-terrain vehicle* shall mean every three-wheeled, four-wheeled, or six-wheeled vehicle 75 inches or less in width, equipped with low pressure tires designed primarily for off-road recreational use, and having an engine displacement of no

more than 1,000 cubic centimeters. The term “all-terrain vehicle” shall not include any golf cart, riding lawnmower, or lawn or garden tractor.

*Boat* shall mean all types of watercraft, whether registered, unregistered, licensed or unlicensed. The term boat shall include any wheeled trailer or other device on which such boat is or may be kept, stored, or transported, whether registered or unregistered, licensed or unlicensed.

*Commercial vehicle* means a vehicle that has any of the following characteristics: (1) has a gross vehicle weight, gross vehicle weight rating, gross combination weight, or gross combination weight rating of 20,001 pounds or more or (2) backhoes, bulldozers or other wheeled or tracked vehicles used in construction or (3) regardless of weight, is used in the transportation of waste or hazardous or noxious materials such as but not limited to a garbage truck, pump-out truck, chemical truck, gasoline truck or fuel oil truck, or (4) a "box truck", which includes any truck with a cuboid-shaped fully enclosed cargo area. However, commercial vehicle does not include a recreational vehicle as defined herein.

*Front yard area* shall mean the area between the plane of the front elevation of the main portion of a dwelling unit extending to the side property lines and the front property line abutting the street, including the driveway.

*Motor vehicle/vehicle* means a self-propelled device by which any person or property is, or may be transported except devices moved solely by human power, but does not include recreational vehicle.

*Park, when prohibited*, means the standing of a vehicle whether occupied or not, other than temporarily for the purpose of or actually engaging in loading or unloading.

*Paved* shall mean a surface paved or covered with a constructed surface of concrete or asphalt in accordance with the standards contained in the City of Elkins Land Use Code.

*Recreational vehicle* shall mean any unit primarily designed as a living quarters for recreation, camping, or travel use, which either contains its own motive power as in the case of, but not limited to, motor homes, motor coaches, mini-motor homes, or recreational vans or is permanently mounted on a vehicle such as a truck camper or pickup camper.

*Residential lot* shall mean a parcel of land located in a residentially zoned district, as established on the official zoning map, of at least sufficient size to meet minimum requirements of the district in which it is located. Such lot shall have frontage on an improved public street, or on an approved private street, and may consist of:

- (1) A single lot of record.
- (2) A portion of a lot of record.
- (3) A combination of complete lots of record, of complete lots of record and portions of lots of record, or of portions of lots of record.
- (4) A parcel of land described by metes and bounds.

*Store* shall mean to place for the purpose of preserving, protecting and securing it for a period in excess of 24 hours.

*Trailer* shall mean, but is not limited to, any vehicle designed or utilized for the transportation of a boat, vehicle, snowmobile, livestock, cargo or similar items or as living quarters for recreation, camping or travel use as in the case of a travel trailer, tent, camper, popup or 5<sup>th</sup> wheel trailer, which does not have motive power of its own, but is designed to be drawn by vehicle.

*Utility trailer* shall mean a vehicular structure or device with or without its own motive power, licensed or unlicensed, designed and/or used for the transportation of goods or materials.”

**Section 4:** Chapter 8.20 of the Elkins Municipal Code is hereby amended by adding Section 8.20.04 as follows:

**“8.20.04 Street parking and emergency access routes.**

(a) Except as authorized, no motor vehicles shall be parked or stored.

- (1) On the side of any street which is designated on the master street plan and built to the standard of a minor collector or major collector or upon any street or road which after review and recommendation of the Planning Commission and approval of the City Council.
- (2) On the side of any street designated as an emergency access route, and on which a sign has been placed stating "Emergency Access Route: No Parking this Side of Street."
- (3) On the side(s) of any street which has a designated bicycle lane.

(b) The City Council hereby authorizes and empowers the fire department, police department, and street department to work jointly in such manner as they see fit to designate and make certain city streets emergency access routes; to purchase or have constructed signs or signals to mark such emergency access routes, and to change or modify such routes or markings as they deem necessary or desirable; and to evaluate the feasibility of parking on the street.

(c) Street parking in residential areas, where otherwise allowed, shall be limited to parking adjacent to property owned or occupied by the operator of the vehicle, or with permission of the owner or occupant of the property. Provided however, that this limitation shall not apply to the parking of vehicles for temporary events (such as garage sales or parties) for a period not to exceed eight hours."

**SECTION 5:** Chapter 8.20 of the Elkins Municipal Code is hereby amended by adding

Section 8.20.05:

**8.20.05 Warning.** Any responsible party or the driver/operator of a truck, recreational vehicle, all-terrain vehicle, trailer or other motor vehicle which is in violation of Chapter 8.20 of this Code may be issued a written warning by a peace officer or by an employee of the of the Elkins planning department/office or may be issued a citation, and may be directed by a peace officer to move the truck, recreational vehicle, all-terrain vehicle, trailer or other motor vehicle and cease the violation within two (2) hours; if the direction to move the truck,

recreational vehicle, is not followed within the prescribed time, then the truck, recreational vehicle, all-terrain vehicle, trailer or other motor vehicle may be towed at the direction of the peace officer pursuant to the procedures of the Elkins Police Department. All towing and storage expenses shall be borne by the owner, driver, operator or other responsible party of such truck, recreational vehicle, all-terrain vehicle, trailer or other motor vehicle.”

**Section 6:** Chapter 8.20 of the Elkins Municipal Code is hereby amended by adding Section 8.20.06 as follows:

“**8.20.06 Fine.** The fine for violating any provision of Chapter 8.20 of this Code shall be no less than Twenty-Five Dollars (\$25.00) and shall not exceed One Hundred Dollars (\$100.00) for each separate offense, plus court costs as applicable.”

**PASSED AND APPROVED** this 16th day of June, 2016,

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L. BRUCE LEDFORD, Mayor

ATTEST:

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DELIA FOSTER, Recorder-Treasurer