

ORDINANCE NO. 529

AN ORDINANCE OF TOWN OF INDIAN RIVER SHORES, FLORIDA, A MUNICIPAL CORPORATION, ADDING SECTION 71.13, TRAFFIC SAFETY AND PARKING OF CONSTRUCTION, CONTRACTING, AND OTHER VEHICLES INVOLVED IN COMMERCE TO THE TOWN'S CODE OF ORDINANCES; PROVIDING FOR CONTINUITY; PROVIDING FOR CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town of Indian River Shores (Town) has experienced ongoing issues with commercial vehicles parking along public roadways; and

WHEREAS, it has been necessary to consider how to accommodate the occasional and temporary parking needs of various types of vehicles along the major thoroughfare through Town while maintaining safe traffic flow;

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF INDIAN RIVER SHORES:

SECTION 1. The following Section shall be incorporated into the Code of Ordinances:

Section 71.13 Traffic Safety and Parking of Construction, Contracting, and Other Vehicles Involved in Commerce

a. **Definitions**

- 1) *Traffic safety devices* - any device to include, but not limited to orange traffic cones, road flares, flags, or electronic strobes utilized to warn approaching traffic of a potential hazard.
- 2) *Construction vehicles* - any vehicle used in the performance of a construction project, to include but not limited to tractors, trucks, and trailers used for delivery of construction or contracting material, self-propelled or operator-propelled paving equipment, and forklifts.
- 3) *Contracting vehicles* - any vehicle involved in any type of contracting work, to include but not limited to landscaping trucks and trailers, bucket lifts, trucks outfitted to transport large mowing devices, vehicles designed to load and or carry tree trimmings.
- 4) *Flagman* - any person designated to hold a bright flag in order to alert oncoming traffic of a potential hazard.
- 5) *Other vehicles involved in commerce* - to include moving trucks of all sizes, delivery trucks, and car carriers.
- 6) *Traffic Safety Permit* - a permit for engaging in any enumerated activities.
- 7) *Public roadway* - any state, county, or municipal roadway. (This excludes private roadways within subdivisions).
- 8) *Enumerated activities* - loading or unloading construction material or equipment; loading or unloading an landscaping equipment or material; loading or unloading any vehicles onto car carriers; delivering or picking up any goods; loading or unloading any household items into or out of moving trucks.
- 9) *Center turn lanes* - lanes in between the north and south lanes of Highway A-1-A with painted channelization designed to facilitate turning left across traffic.

b. **Permit Required.** All persons operating construction, contracting or other vehicles involved in commerce shall secure a permit from the Town of Indian River Shores, Public Safety Department, prior to parking a vehicle within 20 feet of the traveled portion of any public roadway so as to engage in

enumerated activities.

- 1) This permit shall be obtained from the Public Safety Department.
 - 2) Regardless of when acquired, the permit will expire on December 31st of each year.
 - 3) The permit shall cover one company's vehicles.
- c. **Safety Equipment Required.** The following safety equipment must be present and utilized as directed when conducting any of the enumerated activities:
- 1) To channel traffic from right to left away from the rear of said parked vehicle, a minimum of 8 traffic safety devices, spaced 10 feet apart, to the rear of any vehicle parked on any public roadway;
 - 2) a minimum of two (2) traffic safety devices, spaced 10 feet apart, to the front of any vehicle parked on any public roadway;
 - 3) if a flagman is used, flags must be mounted on a stick or pole no less than three feet long, bright orange or red in color, no less than one square foot in area, held one flag per hand.
- d. **Shut Down of Public Roadway.** At no time shall anyone shut down any part of the travelled portion of any public roadway, nor shall anyone divert traffic outside the confines of the intended lane of travel, without police presence and permission.
- e. **Construction Equipment.** No construction apparatus, to include but not limited to a forklift, shall be permitted to operate on any part of any traveled portion of any public roadway without police presence and permission.
- f. **Written Plan of Execution.** The Director of the Public Safety Department or his designee shall, at his discretion, require any owner or operator of any construction, contracting, and other vehicles involved in commerce to submit a written plan of execution prior to or during any of the enumerated activities.
- g. **Community Safety.** The Director of the Public Safety Department or his designee shall reserve the right to shut down any activities if such activities are deemed to be potentially harmful to members of the community.
- h. **Permits Maintained.** The Public Safety Department shall keep a file containing all active permits. That file shall be accessible to Public Safety Officers 24/7.
- i. **Exemptions.** Holders of this permit shall be temporarily, on a case by case basis, exempt from the provisions of Sec. 71.07. – Parking or standing of vehicles along Highway A-1-A, specifically:
- 1) *It shall be unlawful for any person to park or stand any vehicle or to permit the parking or standing of any vehicle within 500 feet of any entrance, exit, ingress, or egress to and from Highway A-1-A within the town or in any designated "No-Parking" areas that are properly signed.*
 - 2) *Parking of vehicles on other areas of Highway A-1-A within the limits of the town shall be limited to two hours. Any vehicle found in violation of this section may be removed by the town at the expense of the owner.*
- j. **Center Lane Parking.** No construction, contracting or other vehicles involved in commerce shall park in a center turn lane in order to perform any enumerated activities under any circumstances.
- k. **Enforcement Procedures.**
- 1) Violations. Any person who violates a provision of this ordinance shall be deemed to have committed a municipal noncriminal infraction and shall be cited for the infraction.
 - 2) Procedure.
 - a) The Public Safety Officer finding a violation of the provisions of this ordinance may issue a citation in writing on a form prescribed therefore by the Department of Public Safety.
 - b) Any citation must be answered within 72 hours of issuance during the hours and at a place specified in the citation or by mailing a check or money order as payment for the penalty by U.S. mail. If payment is made within this period the penalty for violation will be \$25.
 - c) If the violator does not appear or mail a check or money order within the 72 hour period, the Department of Public Safety shall send the registered owner of a motor vehicle or to the permit

holder informing of the violation and that the owner or permit holder must appear in response to the citation within seven days of the date of the letter and that the penalty for such violation is \$50.

- d). If the person cited fails to pay the penalty within seven days of the date of the letter or fails to request a hearing within seven days of the date of the letter in the manner provided in division (7) below, written notice of the violation shall be sent to the registered owner in the name of the traffic violations bureau of the clerk of the county court.

(1) The form of the notice shall be substantially as follows:

“You are notified that a traffic citation, numbered _____, has been issued against the following vehicle registered in your name to wit: (list the number and description of vehicle). Pursuant to the Code of the Town of Indian River Shores, you have ten days from the date of this notice to tender payment of \$50. Unless the amount is paid in full within the time specified above, a summons for you to appear for a hearing before the county court judge, based on a sworn statement, will be issued. At said hearing, you must answer to the charge and the court will determine whether an infraction has been committed. If the commission of an infraction has been proven, the county judge may impose a civil penalty not to exceed \$250.”

(2) The notice hand delivered to the person cited by an officer or mailed by certified or registered mail to the address shown on the vehicle registration shall be deemed sufficient and equivalent to the notice having been received by the person cited.

- e) If the person cited fails to pay the penalty within the stated time or fails to request a hearing, in the manner provided in division (7) below, the clerk of the court, based upon a sworn affidavit, shall issue a summons to appear directed to the person cited. Failure to appear at the hearings requested by the person cited or at the appointed time and place in the summons shall be deemed a contempt of the court, which violation shall be punished as provided by state law.
- f) If the person cited pays the penalty prior to a finding of an infraction by the court, he shall have admitted the infraction and shall have waived his right to hearing on the issue and the commission of the infraction shall not be used as evidence in any other proceedings.
- g) Any person cited for an infraction may elect to appear before the county judge by requesting a hearing. The request shall be made at the place specified in the citation. The request must be made before a summons to appear is issued.
- h) Any person electing to appear before the county judge or who is required to so appear, shall be entitled to a hearing to determine whether an infraction has been committed.
- i) The commission of a charged infraction at a hearing under this section must be provided beyond a reasonable doubt.
- j) If a person is found by the county judge to have committed an infraction, he may appeal to the circuit court.

1. Penalty.

If, at a hearing held pursuant to the commission of an infraction has been proven, the county judge may impose a civil penalty not to exceed \$250.

SECTION 2. All ordinances or parts of ordinances in conflict herewith or inconsistent with the provisions of this Ordinance are hereby repealed to the extent of such conflict.

SECTION 3. If any provision of this ordinance or the application hereof is held invalid, such invalidity shall not affect the other provisions or applications of this ordinance, and to this end, the provisions.

SECTION 4. This Ordinance shall take effect upon its final reading and approval.

1st Reading: August 25, 2016

Published: September 9 , 2016

PASSED AND ADOPTED upon second and final reading at a regular meeting of the Town Council of the Town of Indian River Shores, Florida, on the 22nd day of September, 2016.

By:

/s _____
Brian M. Barefoot, Mayor

Attest: /s _____
Laura Aldrich, Town Clerk