

## VILLAGE OF BRIARCLIFF

### ORDINANCE NO. 2023-01-25-08

**AN ORDINANCE AMENDING 2021-10-26-11, PROVIDING FOR THE PROHIBITION OR REGULATION OF STOPPING, STANDING, OR PARKING OF VEHICLES ON THE IMPROVED PORTIONS AND RIGHTS OF WAY OF ROADS IN THE VILLAGE OF BRIARCLIFF, TEXAS; PROVIDING FOR THE REMOVAL OR CITATION OF SUCH VEHICLES; REGULATING THE STOPPING, STANDING, OR PARKING OF VEHICLES; PROVIDING FOR ENFORCEMENT; PROVIDING PRESUMPTIONS; PROVIDING FOR PENALTIES; PROVIDING FOR CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE.**

WHEREAS, the Village of Briarcliff (“Village”) is Type A General-Law Municipality with limited improved roadways and widths of roadways; and,

WHEREAS, the improved roadways are less than 28 feet in width and do not allow for the safe stopping, standing, or parking of vehicles on the improved portions of said roadways under certain circumstances; and,

WHEREAS, the Village has determined that the stopping, standing, and parking of vehicles in the improved areas of roadways and rights of way adjacent thereto in the Village are a public nuisance, are dangerous to persons and property, and are a serious threat to the life, health, and safety of persons traveling on the improved roadways of the Village and are a nuisance; and,

WHEREAS, the Village has determined that control and abatement of such nuisances is to the benefit of the public health, safety, and general welfare, and,

WHEREAS, the Village owns and maintains certain roads or streets in the Village, but other roads or streets are privately owned and maintained; and,

WHEREAS, pursuant to Section 542.008, Texas Transportation Code, and other applicable law, in a subdivision where the roads are privately owned or maintained, the governing body of the entity that maintains the roads may request a municipality extend by ordinance any traffic rules that apply to a road owned by the municipality so that the roads in the subdivision are under the same traffic rules and therefore considered to be public highways or streets for the application and enforcement of specified traffic rules, including parking; and,

WHEREAS, the governing body of the entity that owns roads or streets in the subdivision known as Briarcliff, Inc., the Briarcliff Property Owners Association, Inc. (“BPOA”), on June 21, 2001 requested the Village extend certain traffic regulations to the streets in the Village owned by the BPOA, including, but not limited to speed limits as posted,

adherence to all traffic control signs, and that motor vehicles driven in the Village be driven by licensed drivers; and,

WHEREAS, on December 3, 2020, the governing body of the BPOA requested additional traffic regulations of the Village be extended to the roads and streets owned and maintained by the BPOA, including laws related to the standing, stopping, or parking of vehicles on the improved areas of roadways in the Village as well as the right of way of said roads and streets; and,

WHEREAS, the Village is empowered to adopt an ordinance, act, law, or regulation that is necessary for the government, interest, welfare, or good order of the municipality as a body politic;

WHEREAS, the Village, under Sections 311.002, 542.008, 545.302, 545.303, 681.011, and 545.356 Texas Transportation Code, and other applicable law, has exclusive control over the highways, streets, and alleys of the municipality and may abate or remove an encroachment or obstruction on a highway, street, or alley, open, change, regulate, or improve a street;

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE VILLAGE OF BRIARCLIFF, TEXAS:

#### Section 1. FINDINGS

The foregoing recitals are hereby found to be true and correct and are hereby adopted as findings of fact and conclusions of law by the Board of Aldermen of the Village of Briarcliff and made a part hereof for all purposes.

Section 2. Chapter 12, Article 12.03, Parking, Stopping, or Standing, of the Village of Briarcliff Code of Ordinances is hereby amended to read as follows:

#### “12.03.001 Purpose

The provisions of this article are deemed necessary to promote the health, safety, property, and general welfare of the residents of and visitors to the Village.

#### 12.03.002 Definitions

Words used in this article and not defined herein shall have their ordinarily accepted meaning or other meaning as set forth in applicable statute, ordinance, law, rule, or regulation. For the purposes of this article, the following words and phrases shall have the meaning respectively ascribed to them by this section:

*Emergency Services Personnel.* Individuals who are in the service of a fire or emergency medical services provider actively providing emergency or non-emergency services.

Improved. Any paved, surfaced, or otherwise maintained portion of any right of way, other than natural vegetation.

Law Enforcement Officer. An officer authorized by applicable law, including, but not limited to, Article 2.12, Code of Criminal Procedure, or other applicable law, to enforce statutes, ordinances, laws, rules, or regulations or arrest persons, including persons who violate traffic regulations.

Motorboat. Any vessel propelled or designed to be propelled by machinery, whether or not the machinery is permanently or temporarily affixed or is the principal source of propulsion.

Motor Vehicle. A self-propelled vehicle and/or a trailer.

Operator. A person who drives or has physical control of a vehicle.

Owner. A person who has a property interest in or title to a vehicle, and includes a person entitled to use and possess a vehicle subject to a security interest and excludes a lienholder or lessee whose lease is not intended as security.

Park or Parking. To stand an occupied or unoccupied vehicle, regardless of whether the vehicle is receiving or discharging persons or property.

Person. An individual, entity, including, but not limited to, the State, a political subdivision of the state, a corporation, partnership, association, or other legal entity.

Personal Watercraft. A type of motorboat that is specifically designed to be operated by a person or persons sitting, standing, or kneeling on the vessel rather than in the conventional manner of sitting or standing inside the vessel.

Recreational Vehicle. A motor vehicle that is designed for temporary human habitation for uses including recreational camping or seasonal use, is built on a chassis, and may contain one or more life-support systems.

Residence District. The territory in the Village of Briarcliff, Texas adjacent to and including a roadway if at least 200 feet of the roadway frontage is primarily improved with residences or buildings used for business purposes and residences.

Roadway or Highway. A portion of a street in the Village of Briarcliff, Texas, other than a berm or shoulder that is improved, designed, or ordinarily used for vehicle traffic.

Shoulder. The portion of a right of way, highway, or roadway that is adjacent to the roadway, designed or ordinarily used for parking; distinguished from the roadway by different design, construction, marking, and is not improved, designed, or ordinarily used for vehicle traffic which includes the right of way.

Stand or Standing. To halt an occupied or unoccupied vehicle, other than temporarily while receiving or discharging persons.

Stop or Stopping. To completely cease movement, including momentary halting, and, when prohibited, to halt, stand, or park a vehicle unless necessary to avoid conflict with other traffic, vehicles, property, or persons or to comply with directions of a law enforcement officer, emergency services personnel, or a traffic control sign or signal.

Towable Recreational Vehicle. A non-motorized vehicle that is designed to be towable by a motor vehicle for temporary human habitation for uses including recreational camping or seasonal use, is built on a chassis, and may contain one or more life-support systems.

Trailer. A vehicle with or without motive power designed to be drawn by a motor vehicle and to transport persons or property.

Vehicle. A device or motor vehicle that can be used to transport or draw persons or property on a roadway or highway including a towable recreational vehicle or trailer.

Vessel. Any watercraft, including, but not limited to, a motorboat, sailboat, rowboat, or personal watercraft, used or capable of being used for transportation on water.

Village. The Village of Briarcliff, Texas.

Village Official. An employee or contractor of the Village authorized to enforce ordinances of the Village, specifically including this Ordinance.

Watercraft. A vessel, including a motor boat, sail boat, rowboat, or personal watercraft, subject to registration under Chapter 31, Parks and Wildlife Code or any other vessel such as a canoe, sailboat, rowboat, or kayak.

12.03.003 Nuisance Declared and Prohibition or Regulation of Parking, Stopping, or Standing on Roadway, Street, or Right-of-Way.

The following are hereby declared a nuisance and violation of applicable law and this Ordinance:

(a) The parking of a vehicle by an operator or owner on the improved portion of a roadway or highway within the Village from sunset to sunrise on any roadway in the Village.

(b) An operator or owner may not stop, park, or leave standing an attended, unattended, occupied, or unoccupied vehicle from sunset to sunrise on the improved portion of a roadway in the Village or otherwise violate any provision of this article, with the sole exception being for the immediate and active loading or unloading of a vehicle for the purposes of delivering packages or other materials to a structure or property or the

immediate and active loading or unloading of persons only if the operator or owner has activated the flashers or hazard lights of the vehicle which so the vehicle may be viewed by other operators on said roadway.

(c) An operator or owner may not stop, park, or leave standing from sunset to sunrise an attended, unattended, occupied, or unoccupied vessel, motorboat, personal watercraft, recreational vehicle, towable recreational vehicle, trailer or other vehicle on or over the improved portion of a roadway.

(d) An operator or owner may not park or leave standing a vessel, motorboat, personal watercraft, towable recreational vehicle, or trailer on the shoulder or right of way adjacent to the improved portion of a roadway for more than five consecutive days or for a period not to exceed eight days in any thirty-day period. Any portion of a day shall be counted as a full day. The same prohibition applies to any vehicle more than twenty-five (25) feet long measuring from the farthest point of the front of the vehicle to the farthest point on the rear of the vehicle.

(e) An authorized Village Official or a law enforcement officer may provide for the citation of a vehicle or its owner or the filing of a complaint with the appropriate Village Official to be prosecuted in the Municipal Court of the Village as provided for herein and/or towing of a vehicle parking, stopping, or standing in violation of this Ordinance or any Zone identified provided for herein.

(f) It is an exception to this Ordinance, and any provisions herein, for Emergency Services Personnel, when actually responding to an emergency or in the course and scope of duties under applicable law for Emergency Services Personnel to stop, stand, or park as necessary for the performance of their duties.

#### 12.03.004 Parking Near Village Hall and Water Plant

(a) The parking, stopping or standing of a vehicle is prohibited or restricted as follows in the vicinity of the Village Hall or Village Water Plant:

- (1) Zone A: Parking prohibited;
- (2) Zone B: Parking restricted to Village personnel and officials only; and,
- (3) Zone C: Parking restricted to Village officials and visitors on official business.

(b) All Zones will be identified with appropriate signs and will clearly state it is a tow-away zone and parking is for authorized personnel of the Village.

(c) An authorized Village official or a law enforcement officer may provide for the citation of a vehicle or its owner to be prosecuted in the Municipal Court of the Village as provided for herein and/or towing of a vehicle parking, stopping, or standing in any Zone identified provided for herein.

(d) All vehicles, trailers, or vessels of the Village, the Briarcliff Property Owners Association, a public or private utility, or a political subdivision or agency of the State of

Texas or United States of America are exempt from this Article when such vehicles are being immediately utilized for official duties.

#### 12.03.005 Citation or Removal of Unlawfully Parked, Stopped, or Standing Vehicles

A law enforcement officer or authorized Village official may cite or remove a vehicle, by towing or otherwise, or require the operator, the owner, or a person in charge of a vehicle to move or remove a vehicle in violation of this ordinance, Section 545.305, Texas Transportation Code, or other applicable law. In addition to the procedures set forth above, an individual by written, sworn complaint, may file said complaint with the appropriate Village Official for further prosecution in accordance with applicable law.

#### 12.03.06 Penalty

(a) Unless specifically provided for herein, an offense under this Article or any Article amended hereby shall not require a culpable mental state. It is the intent of this Article to impose strict liability for a violation of this Article, and a specific culpable mental state is hereby dispensed with and not required.

(b) The violation of any provision of this Article under Section 12.03.004 shall be a Class C misdemeanor and punished by a fine not to exceed \$50.00 for each violation, and each day such a violation occurs shall be counted as a separate offense. For this subsection only, after citation, and before the issuance of a summons or subpoena by the Municipal Court of the Village has been issued for the prosecution of a violation of this Ordinance under Section 12.03.004, a person may appear before the Municipal Court Clerk or other appropriate Village official at the Village Hall and plead “no contest” and pay a fine of \$20.00 for any violation hereunder thereby precluding further prosecution of any violation.

(c) The violation of any provision of this Article under Section 12.03.003 shall be a Class C misdemeanor and punished by a fine not to exceed \$500.00 for each violation, and each day such a violation occurs shall be counted as a separate offense.

(d) Any duly authorized law enforcement officer of the State of Texas, Travis County, or authorized Village Official of the Village may issue a citation for any violation of this Ordinance, which shall be prosecuted by the Municipal Court of the Village. An individual may report a violation of this Ordinance to the appropriate Village Official for further prosecution as allowed by law.

(e) In addition to any criminal penalty hereunder, the Village may seek any civil, legal, or equitable relief, including injunctive relief, to which it may be entitled in a court of appropriate jurisdiction.

(f) A vehicle in violation of this Ordinance may be towed or removed as provided for herein in under applicable law in addition to any other penalty allowed hereunder or under applicable law.

(g) This Ordinance does not supersede any applicable state law on the stopping, standing, or parking of a vehicle, and such violation of said law may be prosecuted as appropriate by the Village

#### 12.03.007 Presumption

It is presumed and deemed that the registered owner of a vehicle is the person who stopped, stood, or parked a vehicle at the time and place the offense occurred.

#### Section 3. Conflict

Whenever any provisions of this Ordinance conflict with those contained in another ordinance, the most stringent or restrictive provision shall control.

#### Section 4. Severability

If any article, section, or provision of this Ordinance is found invalid, unconstitutional, or inoperative by any court with jurisdiction to determine same, then the other articles, sections, or provisions herein shall remain in full force and effect.

#### Section 5. Effective Date

This Ordinance shall become effective from and after the date of its publication, or the publication of a caption summarizing its purpose and stating the penalty for the violation.

PASSED, APPROVED, AND ADOPTED on the 25th day of January 2023.

VILLAGE OF BRIARCLIFF

  
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Allen Hostetler, Mayor

ATTEST:

  
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Tina Linder, Village Secretary

