

**ORDINANCE NO. 2287**

**AN ORDINANCE OF THE CITY OF APOPKA, FLORIDA, AMENDING THE APOPKA CODE OF ORDINANCES, PART II, CHAPTER 78 "TRAFFIC AND MOTOR VEHICLES", ARTICLE II, DIVISION 1, SECTION 78-37, "MANNER OF STOPPING, STANDING OR PARKING," IN ITS ENTIRETY; AND AMENDING ARTICLE II, DIVISION 2, SECTION 78-65(A), "WITHHOLDING OF ISSUANCE OF LICENSE PLATES AND STICKERS BY STATE" TO PROVIDE FOR CLARIFICATION; PROVIDING FOR DIRECTIONS TO THE CITY CLERK; PROVIDING FOR CONFLICTS, SEVERABILITY, AND AN EFFECTIVE DATE.**

**WHEREAS,** The Constitution of the State of Florida and Chapter 166 of the Florida Statutes empowers the City of Apopka to adopt regulations which furthers a municipal purpose; and

**WHEREAS,** The City Council of the City of Apopka, Florida has the authority and responsibility to protect the health, safety, and welfare of the citizens of the City of Apopka; and

**WHEREAS,** Pursuant to F.S. §316.006, chartered municipalities have original jurisdiction over all streets and highways located within their boundaries; and

**WHEREAS,** the Apopka Police Chief is designated the responsibility to investigate and reduce the incidents of illicit activity within the city limits, including, but not limited to such activities as prostitution, illegal drug transactions and possessions, and transport and possession of stolen goods; and

**WHEREAS,** the City Council of the City of Apopka, Florida, has determined that the continued protection of the health, safety, and welfare of its citizens requires that Chapter 78, Article II, Division 1, Section 78-37, of the Apopka Code of Ordinances be amended in its entirety, as provided in the attached, Exhibit "A".

**WHEREAS,** the City Council of the City of Apopka, Florida, has determined that the continued protection of the health, safety, and welfare of its citizens requires that Chapter 78, Article II, Division 2, Section 78-65(a), of the of the Apopka Code of Ordinances be amended to provide for clarification, as provided in Section 2 of this ordinance.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF APOPKA, FLORIDA,** as follows:

**SECTION 1.** That Chapter 78, Article II, Division 1, Section 78-37 of the Code of Ordinances of the City of Apopka, Florida, is hereby amended and shall be replaced in its entirety by the attached Exhibit "A", which is incorporated herein by reference.

**SECTION 2.** That Chapter 78, Article II, Division 2, Section 78-65(a) of the Code of Ordinances of the City of Apopka, Florida is hereby amended in its entirety as follows:

\* \* \*

**Sec. 78-65. Withholding of issuance of license plates and stickers by state.**

(a) The city police department may prepare and supply to the county clerk's office, traffic violations bureau, a list of persons who have three or more outstanding parking violations. The county clerk's office will forward the list of the named persons to the state department of highway safety and motor vehicles on a magnetically encoded computer reel, cartridge, or by any other electronic means which is machine readable by the installed computer system at the department, listing persons who have three or more outstanding parking violations which occurred within the city..

\* \* \* \*

**SECTION 3.** It is the intention of the City Council that the provisions of this ordinance shall become and be made a part of the part of the Code of Ordinances of the City of Apopka; and the City Clerk is directed to take the necessary steps to effect codification into the Code, and Sections of this ordinance may be numbered or renumbered or lettered or re-lettered and the word "ordinance" may be changed to "chapter", "section", "article", or such other appropriate word or phrase in order to accomplish such codification. Typographical errors which do not affect the intent may be authorized by the Mayor, without need of public hearing, by filing a corrected or re-codified copy of same with the City Clerk.

**SECTION 4.** That nothing in this ordinance shall be construed to affect any suit or proceeding impending in any court, or any rights, or liability incurred, or any cause or causes of action acquired or existing, under any act or ordinance; nor shall any just or legal right or remedy of any character be lost, impaired or affected by this ordinance.

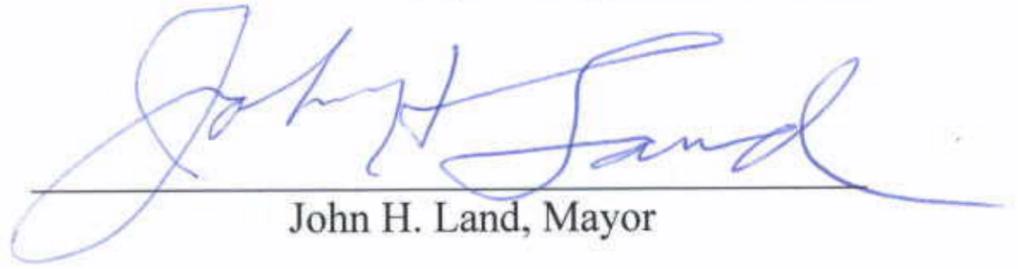
**SECTION 5.** All ordinances or parts of ordinances in conflict herewith are hereby repealed. Sections, Subsections, and parts not specifically repealed or amended by this Ordinance are held intact in their entirety.

**SECTION 6.** If any section, subsection, sentence, clause, phrase of this ordinance, or the particular application thereof shall be held invalid by any court, administrative agency, or other body with appropriate jurisdiction, the remaining section, subsection, sentences, clauses or phrases under application should not be affected thereby.

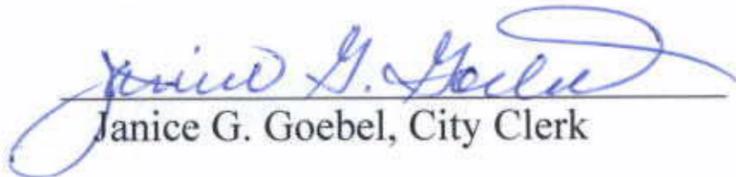
**SECTION 7.** That this ordinance and the rules, regulations, provisions, requirements, orders and matters established and adopted hereby shall take effect and be in full force and effect immediately upon its passage and adoption.

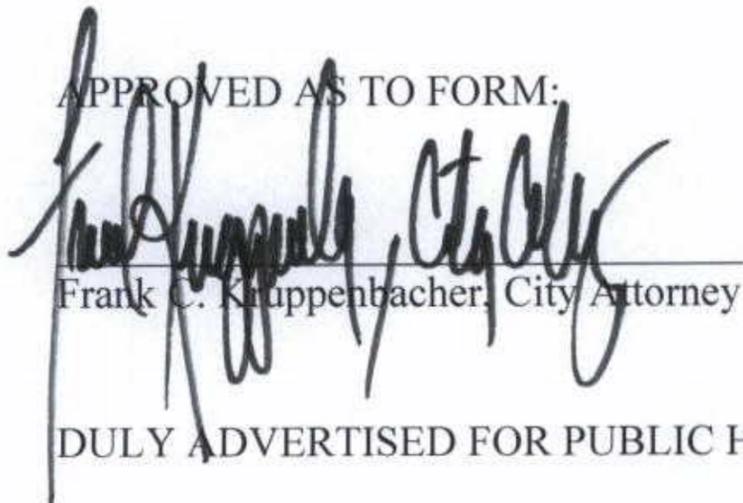
FIRST READING: January 16, 2013

SECOND READING  
and ADOPTION: February 6, 2013

  
John H. Land, Mayor

ATTEST:

  
Janice G. Goebel, City Clerk

APPROVED AS TO FORM:  
  
Frank C. Kruppenbacher, City Attorney

DULY ADVERTISED FOR PUBLIC HEARING: January 25, 2013

Ord. No. 2287 - **Exhibit "A"**

Sec. 78-37. - Manner of stopping, standing, or parking.

(a) No person shall stop, stand or park a vehicle, or trailer, whether motorized or otherwise, nor conex or container upon any street, regardless of whether or not there is a posting prohibiting such action, except as follows:

(1) Upon a street which has been marked or a sign erected for angle parking, a vehicle shall be parked at the angle to the curb indicated by such mark or sign or upon a street which has been marked or a sign erected for parallel parking with the edge of the street, headed in the direction of traffic and with the curbside wheels of the vehicle within twelve (12) inches of the edge of the street.

(2) In a place where, and at hours when, stopping for the loading or unloading of merchandise or materials is permitted, a vehicle used for the transportation of merchandise or materials may back into the curb to take on or discharge its load when the owner of such vehicle holds a loading zone permit granting him such privilege in accordance with this code. Such permit shall be on the rear of the vehicle at the time. It shall be unlawful for any owner or driver to violate any of the special terms or conditions of any such special permit.

(3) This section shall not apply to the driver or owner of any vehicle which is disabled while on the paved or main-traveled portion of a street in such manner and to such extent that it is impossible to avoid stopping and temporarily leaving the disabled vehicle in such position, or to passenger-carrying buses, or licensed taxis, temporarily parked while loading or discharging passengers, where conditions render such parking off the paved portion of the street hazardous or impractical nor will this section apply to family or social gatherings provided all other restrictions are followed and all driveway and on-site parking is first occupied. In any case where an exception exists to park on a street, the vehicle(s) must be parked within twelve (12) inches of the curb and with the flow of traffic and adhering to all other parking rules including, but not limited to, not blocking traffic or parking within thirty (30)' of an intersection or curve or within fifteen (15)' of a fire hydrant.

a. It is prima fascia evidence of a violation of this section if the vehicle(s) parked in the street under this exception are registered (or leased) to an address on the street parked, are registered in the name of a person living on the street parked, or, in any case, found to be parked in the street for sequential days.

b. For the purpose of this section a "family or social gathering" is defined as a special occasion such as birthdays, graduation, holidays, or other special events. It is not intended for the routine gathering or meeting whether daily, weekly or

monthly. Exceptions under this section are considered affirmative defenses and must be proved by the defendant in a hearing.

(4) For the purposes of this chapter "stopping, standing, or parking" is considered the halting, even momentarily, of a vehicle, whether occupied or not, except when necessary to avoid conflict with other traffic or to comply with the directions of a police officer or traffic control sign or signal.

(b) Parking of Trailers, etc., Prohibited. – For the purpose of this section, the term "trailer" shall mean and include any vehicle or device, with or without motorized power, designed for carrying persons or property and for being drawn by a motor vehicle. The term shall include, but not be limited to, vehicles or devices designed, manufactured or used for: transporting or carrying boats, jet skis, or similar watercraft; transporting or carrying motor scooters or motorcycles; transporting or carrying automobiles, trucks, buses or similar motor vehicles; or a dwelling place, living abode or sleeping place (either permanently or temporarily) and equipped for use as a conveyance on streets and highways. This excludes portable signs.

(1) No person shall park a trailer, except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer or official traffic control device, in any of the following places:

- a. on any sidewalk;
- b. on any public street, highway or street;
- c. on any public right-of-way;
- d. bicycle lane or trail; or
- e. on any city park or city recreation facility except where specifically authorized by a police officer, park ranger, firefighter, code enforcement officer, recreation attendant, or permitted by an official sign. If so permitted, only for the purpose of, and during the time of, visiting or using the park or recreation facility where such parking is permitted.

(2) Nothing in this section shall apply to a work or utility trailer being used to assist in the performance of such work, on a temporary basis, and with proper maintenance of traffic protocol in place and in a manner not to obstruct the flow of traffic.

(c) Nothing in this section ('a' or 'b', above) shall apply to temporary (max of 72 hours) parking of recreational vehicles or trailered vessels when necessary for loading, unloading, cleaning or other preparations as may be necessary for the residents themselves provided all other restrictions are followed and all driveway and on-site parking is first occupied (or is

otherwise unusable) and such vessel is registered (or leased) to the owner or occupier of the residence upon the street parked. In any case where an exception exists to park on a street, the vehicle(s) or trailer must be parked within twelve (12) inches of the curb and with the flow of traffic and adhering to all other parking rules including, but not limited to, not blocking traffic or parking within thirty (30) feet of an intersection or curve or within fifteen (15) feet of a fire hydrant. Nothing in this section is meant to be in conflict with restrictions in storage of such vehicles identified in 7.02.04 "Storage of boats and recreational vehicles" of the land development code). Exceptions under this section are considered affirmative defenses and must be proved by the defendant in a hearing.

(d) Commercial Vehicles:

(1) Vehicles considered to be commercial vehicles in accordance with the Apopka LDC are prohibited from parking in any residential area at any time. Nothing in this section precludes a bonafide vendor from using a commercial vehicle in conducting legitimate business and for its designed purpose. Promotional trucks or other commercial vehicles being used for promotional purposes are specifically prohibited.

(2) Vehicles considered to be commercial vehicles in accordance with the Apopka LDC are prohibited from parking in any business district unless specifically owned or leased by such business having ownership or control of the property. Such vehicles shall not be used in an effort to advertise or promote the business through the method of parking or position in relation to the traveling public in an effort contrary to the spirit of the City's sign codes and ordinances. Such vehicles shall be located in a bona-fide parking space unless being actively loaded or unloaded.

(3) For purposes of this section, "*Commercial vehicle*" means a tractor cab, or tractor trailer or truck with a tandem rear axle or a gross vehicle weight of over ten thousand (10,000) pounds, or having a length greater than twenty-one (21) feet, or height greater than ten (10) feet, or buses used for transporting passengers for a fee, taxicabs, shuttle vans, limousines or vans used to transport passengers for a fee. Any vehicle with external modifications designed to be used for the purpose of lifting objects or persons above the height of the vehicle is included as a commercial vehicle. Step vans, flatbed and stake bed trucks, wreckers, farm equipment, dump trucks and earth moving equipment are included as commercial vehicles. Sport utility vehicles, family vans not transporting passengers for a fee and standard manufactured pick-up trucks, and duel rear wheel pick-up trucks used for personal use are expressly excluded from the definition of commercial vehicle. Also excluded from the definition of commercial vehicle are light duty class "A" wreckers when they are authorized by the city,