

LEE COUNTY ORDINANCE NO. 83-35

AN ORDINANCE RELATING TO PARKING ON CAPTIVA ISLAND FLORIDA; PROVIDING FINDINGS OF FACT; PROVIDING DEFINITIONS; PROVIDING FOR PUBLIC PARKING AREAS; PROHIBITING PARKING OF VEHICLES IN RIGHTS-OF-WAY AND PUBLIC AREAS; PROVIDING FOR PENALTIES; PROVIDING FOR LIABILITY; PROVIDING FOR EXCEPTIONS; PROVIDING FOR REVIEW; PROVIDING FOR ENFORCEMENT; PROVIDING FOR SEVERANCE; PROVIDING FOR CONFLICT; PROVIDING FOR INCLUSION INTO THE CODE; PROVIDING AN EFFECTIVE DATE.

The Board of County Commissioners of Lee County Florida, hereby makes and declares the following legislative findings of fact which are made a part of this Ordinance in full:

WHEREAS, Captiva Island in Lee County, Florida is approximately 5 miles long, is between 300 to 2,000 feet wide, contains a total of approximately 642 acres, is situated between the Gulf of Mexico and Pine Island Sound, and is known for its unique atmosphere and unusual natural environment; and

WHEREAS, the Board of County Commissioners of Lee County, Florida recognizes the necessity of preserving the Island's irreplaceable natural features for use and enjoyment by residents and visitors alike and the necessity of balancing the increasing pressure for parking and other services against environmental constraints; and

WHEREAS, the Board desires to perpetuate the beauty, tranquility and other environmental virtues which have made this sensitive barrier island famous; and

WHEREAS, the attraction of Captiva's serene environment and beautiful beaches has resulted in an inordinate influx of tourists and visitors in such numbers that the parking areas cannot accommodate all of the vehicles; and

WHEREAS, the influx of tourists into the Island's residential neighborhoods and low intensity resort areas has caused serious inconvenience, discomfort and unsafe conditions for the County's residents and taxpayers; and

WHEREAS, the primary responsibility of paying for the public services required by the influx of tourists is borne by the County's residents and taxpayers; and

WHEREAS, parking upon many of the Island's street and road rights-of-way is impossible or inappropriate due to the presence

of mature vegetation; and

WHEREAS, the Island's businesses provide private parking for their customers, and parking along roads and streets in the Island's central business district creates a hazardous and congested condition endangering the well-being of motorists, bicyclists, and pedestrians alike; and

WHEREAS, this island is extremely vulnerable to flood tides greater than 4 1/2 feet above mean sea level; and

WHEREAS, there is only one route for evacuation from Captiva Island and it is a narrow two lane road with little or no shoulders, with elevations as low as 2 1/2 feet above mean sea level and this road takes all traffic to Sanibel Island, whose evacuation corridor is poorly suited for the vital task of evacuating even the Sanibel populace; and

WHEREAS, there is currently no suitable on-island hurricane refuge; and

WHEREAS, the County should limit and manage traffic so that the evacuation capacity will not be substantially exceeded; and

WHEREAS, it is the intent of this Ordinance to reduce hazardous traffic conditions resulting from the haphazard and illegal parking of vehicles upon street and road rights-of-way within or adjacent to the Island's residential and central business district and sole evacuation route; to protect those areas and the Island from the polluted air, excessive noise, trash, refuse and commotion associated with such parking problems; to protect the Island's residents and property owners and business personnel from unreasonable burdens in gaining access to their properties and businesses; to preserve the renowned character of the Island generally as low intensity residential and resort, thereby promoting and stabilizing the residential property values and tax base of the Island and the Island's tourist related economy; to promote efficiency in the maintenance of streets and public areas in a clean and safe condition; and to preserve the safety of children and other pedestrians and traffic safety generally; and

WHEREAS, the Board of County Commissioners of Lee County wishes to encourage the use by Lee County residents and visitors of the public parking facilities at the southern end of the Island where Captiva Drive Southwest commences, known as Turner Beach, and at the northern end of the Island where Captiva Drive Southwest terminates, which is adjacent to South Seas Plantation; and

WHEREAS, the provisions of this Ordinance only apply to the parking of vehicles and not to access of the general public to the public beaches.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF LEE COUNTY, FLORIDA;

Section 1. Definitions:

- a. Person, for purposes of this Ordinance, means any natural person, individual, firm, association, joint venture, partnership, estate, trust, business trust, syndicate, fiduciary, corporation and any other group or combination.
- b. Vehicle, for purposes of this Ordinance, shall mean and include any device in, upon or by which any person or property is or may be transported or drawn upon a highway including motorcycles and motor-driven cycles as defined by Florida Statutes. Bicycles and mopeds are excluded from the purview of this Ordinance.

Section 2. General Prohibition:

The parking of vehicles in or upon all street and road rights-of-way within the boundaries of Captiva Island, Lee County, Florida, is hereby prohibited.

Section 3. Public Parking Areas:

The following designated parking areas shall continue to provide the opportunity for public parking on Captiva Island:

- a. That parking area located at the southern end of the Island where Captiva Drive Southwest commences, known as Turner Beach; and
- b. That parking area located at the northern end of the Island where Captiva Drive Southwest terminates, which is adjacent to South Seas Plantation; and

c. Such other areas as may be designated by the Board of County Commissioners for public purposes from time to time.

Section 4. Penalties:

Any violation of Section 2 of this Ordinance shall be punishable by a fine of fifteen dollars (\$15.00). Any person who fails to satisfy the provisions contained in the Lee County summons for violations of parking contained in Section 24-27 of the Code of Ordinances for Lee County, Florida and elects to appear before a designated official to present evidence shall be deemed to have waived his right to the civil penalty provisions of the ticket. The official, after a hearing shall make a determination as to whether a parking violation has been committed and may impose a fine not to exceed one hundred dollars (\$100.00) plus court costs.

Section 5. Liability:

The vehicle registrant is responsible and liable for payment of any parking ticket, fine, civil penalty or impoundment fee or enforcement procedure hereunder unless the vehicle registrant furnishes evidence that the vehicle was, at the time of violation, in the care, custody or control of another person. In such instances, the vehicle registrant is required, within a reasonable time after notification of the violation, to furnish to the Lee County Sheriff's Department, the name and address of the person who had care, custody or control of the vehicle. The vehicle registrant is not responsible for any violation if the vehicle involved was, at the time, stolen or in the care, custody or control of some person who did not have permission of the vehicle registrant to use the vehicle.

Section 6. Exceptions:

This Ordinance shall not apply to:

- a. County vehicles parked for purposes of conducting County business, including, but not limited to, Lee County Sheriff's Department, Transportation and Public Works Department and Community Services and Parks Department Vehicles.
- b. Emergency and fire vehicles, including ambulances, for purposes of responding to an emergency or fire.

- c. Sanibel Police vehicles, Florida Highway Patrol vehicles, U.S. Coast Guard, Florida Marine Patrol and other law enforcement vehicles when conducting law enforcement business and when such vehicles are clearly identified as law enforcement agency vehicles.
- d. Private vehicles when conducting animal rescue and vehicles of scientific teams conducting research for only the period necessary to accomplish their task and only with prior approval of the County Administrator.
- e. Individual private vehicles as approved by the County Administrator or the Administrator's designee, after consultation with the Captiva Fire Control District Chief, for reasons of health, handicaps, or unique hardship.
- f. Individual private vehicles as approved by the County Administrator or the Administrator's designee, after consultation with the Captiva Fire Control District Chief, to allow parking for special events of limited duration.

Section 7. Enforcement:

This Ordinance shall not be enforced until such time as a sign clearly stating its prohibition has been duly posted adjacent to Captiva Drive Southwest at Blind Pass Bridge.

Section 8. Severance:

If any section, subsection, sentence, clause, phrase or portion of this Ordinance, is, for any reason, held invalid or unconstitutional by any Court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portion hereof.

Section 9 . Conflict:

All ordinances and parts of ordinances in conflict herewith shall be and the same are hereby repealed. If any part of this Ordinance conflicts with any other part, it shall be severed and

the remainder shall have the full force and effect and be liberally construed.

Section 10. Code of Ordinances:

The provisions of this Ordinance, including the Findings of Fact, shall be included and incorporated into the Code of Ordinances of Lee County, as an addition thereto, and shall be appropriately numbered and renumbered to conform to the uniform numbering system of the Code upon such inclusion.

Section 11. Effective Date:

This Ordinance shall take effect on the 10th day of January, 1984.

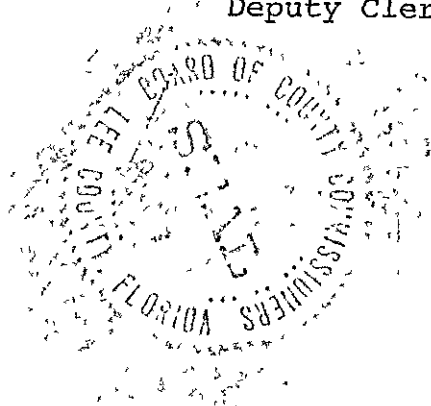
DULY PASSED AND ENACTED by the Board of County Commissioners of Lee County, Florida, this 14th day of December, 1983.

ATTEST:
SAL GERACI, CLERK

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

By: Sal Geraci
Deputy Clerk

By: R. E. Estwood
Chairman



Approved & Signed
James Jaeger
County Attorney