

History of the Overnight Parking Ban in Oak Park

A. Overnight Parking Ban

The Village of Oak Park has had an on-street overnight parking ban in effect since at least 1937. The Village originally prohibited parking from 2:00 a.m. to 6:00 a.m. on all Village streets. In 1939, the code was amended to change those hours to 2:30 to 6:00 a.m.

B. Establishment of Overnight Parking in Parking Enclaves

In 1980, the Village first addressed the demand for overnight parking by adopting an ordinance, 1980-O-33, which established overnight parking in enclaves. The ordinance outlined a process by which the Board could establish overnight parking enclaves in cul-de-sacs and curb cuts in the parkway in high demand areas. Enclave parking was limited to permit holders who resided within 4 blocks of the enclave or designated area.

Shortly thereafter, in 1980, the Board also adopted ordinances designating the Chicago and Northwestern train embankment as an area where overnight parking was permitted, as well as areas along the Eisenhower expressway.

In 1986, the ordinance was amended so that enclave parking could only be established in areas where it would not have a negative impact on police protection. The parking enclave ordinance is now codified in Section 15-3-15 and 16 of the Village Code. The requirements are as follows:

- Curb cuts and cul-de-sac parking enclaves must be separate from the physical flow of normal street traffic.
- Enclaves will also be permitted adjacent to the Chicago and Northwestern or Eisenhower Expressway embankments, as parking in these unique areas does not affect street cleaning or leaf and snow removal to as great an extent as normally traveled street areas.
- The proposed parking enclave will not have a substantial negative impact on police protection.
- The area must be in or adjacent to areas having the severest parking space shortages in the Village.
- Curb cut parking enclaves shall not be permitted if there is a substantially negative effect on grassed parkways.
- Parking by monthly permit.
- Parking only for residents of the surrounding four block area.
- Parking from six o'clock (6:00) P.M. to eight o'clock (8:00) A.M., except as modified by resolution of the Village Board, based on unique parking needs of the area.

From 1980 to present, the Village has adopted various ordinances and resolutions establishing enclave parking in areas.

The Village also provides off-street, overnight parking for residents in forty -two (42) off-street parking lots it owns or leases.

C. On-Street Overnight Parking

In 1988, in a continuing effort to address the demand for overnight parking, the Village Board adopted Ordinance 1988-O-58, which first established on-street, overnight permit parking in certain R-7 multi-family zoning districts on a two year trial basis. The Village found that the overnight parking ban enhanced police surveillance, and allowed public works street maintenance operations, such as street sweeping, leaf pick up and snow plowing to occur. However, the lack of parking for residents of multi-family buildings created an economic hardship on rental property owners because it limited tenants to those without vehicles. In addition, due to a lack of legal overnight parking, residents were parking illegally to the extent that 160,000 tickets were issued in the eighteen month period from January 1987, to June 1988. These illegal parkers thwarted the goals of the overnight parking ban. To meet the competing demands, the ordinance established the following:

- On-street, overnight parking permitted in certain designated R-7 zoning districts shown on a map, except for blocks where single-family homes occupy more than 50% of the street frontage.
- Permit zones may be created by a petition of 51% of the residents in the area, or by staff referral. The Village Board then refers the matter to the Parking and Traffic Commission (now the Transportation Commission) for hearing.
- Parking and Traffic must find that there is a severe shortage of parking in the area and that there are no reasonable alternatives to on-street parking.
- Parking for residents only which must be established by ID and Village vehicle sticker.
- Permits not available to residents who live within 2 blocks of an available off-street parking space.
- Parking limited to one vehicle per dwelling unit.
- Parking by permit in 90% of the available spaces in a designated zone. The remaining 10% reserved for guests.
- Parking on alternate sides of the street between 6:00 p.m. to 8:00 a.m., except as varied by resolution adopted by the Village Board for a particular area.
- Parking fees which exceed the cost of administering the system are deposited into an Off-Street Parking Fund.

In 1990, by Ordinance 1990-O-30, the Village Board extended the two year trial period of the on-street parking system for an additional five years, noting that every parking space created by this system was sold in 1990. This ordinance also established that in order to purchase a permit, the vehicle owner can not have any outstanding parking tickets.

In 1991, by Ordinance 1991-O-14, the Village expanded the overnight parking zones to include the street frontage across the street from the previously established zones (so that the established system of alternate side parking would include the other side of the street.)

In 1994, by Ordinance 1994-O-60, the Village made on-street, overnight parking permanent by removing the “trial basis” language, noting that since its inception, all available parking spaces were sold. The Board found that the percentage of tenants who do not own vehicles is decreasing, while the percentage of households owning two or more vehicles continues to increase. The Village Board found that the stability of the Village’s multi-family housing stock is directly affected by a lack of available parking, which was the primary cause of turnover in multi-family buildings. At the time this ordinance was adopted, forty-nine (49%) of multi-family residential housing units did not have on-site parking and over 2,000 vehicle owners were still in need of parking.

The highlights of the 1994 ordinance are as follows:

- On-street, overnight parking is permanent (trial basis removed)
- Parking on both sides of the street (as opposed to alternating sides) from 2:30 a.m. to 8:00 a.m.
- Ninety percent (90%) of available street footage in a zone is permit parking.
- Permits are restricted to residents
- Ten percent (10%) of available parking spaces are reserved for visitors
- Permits not available to residents who have off-street parking available within one block of their residence
- No permit may be sold to an individual who has outstanding parking tickets
- More than one permits may be sold per household, but only if excess parking is available after the due date for permit renewals (so that each household had a chance to obtain one permit)
- Parking is prohibited between the hours of 8:00 a.m. and 10:00 a.m. to allow for street sweeping, snow removal and leaf pick up
- Permissible overnight parking zones were expanded to:

- areas where at least one side of the street is in an R-7 zoning district
- areas adjacent to an R-7 District in a less restrictive zoning district (B or C)
- streets in front of public property
- an area along Pleasant Street between Kenilworth and Grove in an R-6 zone
- No overnight parking zones may be established in areas where more than fifty percent (50%) of the linear feet of a block is occupied by single-family homes, a church, a school, or a public park.

In 1995, the Village adopted Ordinance 1995-O-68 to further expand the areas where on-street, overnight parking may be established to include:

- Streets adjacent to properties located within 500 feet of an R-7 zoned district which contains a multi-family dwelling of four or more units which is owned and operated as a legal, non-conforming use
- Portions of streets where at least one side is adjacent to an R-7 zoning district
- Streets adjacent to public property which is adjacent to an R-7 multi-family district
- Streets in front of multi-family buildings without regard to the percentage of single-family footage on the block.

In 1996, the Village adopted Ordinance 1996-O-83 which changed the “no parking from 8:00 a.m. to 10:00 a.m.” restriction so that street maintenance activities could occur between 8:00 a.m. to 10:00 a.m., or 1:00 p.m. to 3:00 p.m., or 3:00 p.m. to 5:00 p.m. This was in response to the operational impossibility of performing street maintenance activities in all on-street parking zones during a single two-hour window.

In 2004, the Village adopted Ordinance 2004-O-07 which sought to further address the need for times when street maintenance activities could be performed by permitting on-street, overnight permit parking from 9:00 p.m. to 10:00 a.m., six days a week, except on the north and east sides of the street on Tuesdays, and on the south and west sides of the street Wednesdays, when parking terminates at 8:00 a.m.. This ordinance also clarified that parking on the reserved ten percent (10%) of the overnight permit zones was still subject to the overnight parking ban. This made sure that those reserved spaces would be available to a variety of users, rather than being open and unregulated parking.

In 2005, by Ordinance 2005-O-22, the Village further expanded the permissible areas for on-street, overnight parking zones to include street frontage adjacent to property within 500 feet of

an R-7 multi-family zone or within 500 feet of a retail or commercial zone adjacent to an R-7 zone.

In 2008, by Ordinance 2008-O-10, the Village again expanded the permissible on-street, overnight parking zones by amending the language prohibiting zones from being established in areas where more than 50% of the street frontage is occupied by single-family homes, a church, a school or a public park to remove the latter three uses from the calculation.

In 2009, the Village adopted Ordinance 2009-O-57 which permitted residents of one permit parking area to purchase permits remaining available in another permit area regardless of where the person lives.

In 2011, the Village reconfigured available parking in the Harrison Arts District area to address shared parking concerns and to prohibit parking by non-permit holders after 11 p.m. or before 6:00 a.m.

Each of these ordinances maintains the requirement that the establishment of overnight parking by ordinance be based on the following findings:

- That the area has a severe shortage of overnight off-street parking
- No reasonable solution can be identified
- The establishment of overnight parking on-street parking will substantially improve existing conditions for police protection and street maintenance activities
- It is in the best interest of the designated area and the community as a whole that on-street parking be established in the area.

The purpose of these findings is to distinguish between those areas where overnight parking is needed while still maintaining the overnight parking ban in other areas.

D. Supply and Demand

The Village provides the following parking:

- | | |
|------------------------------|---|
| • 42 off-street parking lots | 1,524 permit spaces and
124 metered spaces |
| • 4 parking garages | 2,385 parking spaces |
| • 60 parking enclaves | 951 parking spaces |
| • 17 on-street parking zones | <u>2,330</u> parking spaces |
| Total spaces | 7,314 overnight parking spaces. |

According to the latest census, the Village has 24,519 housing units, with 55.1% or 13,509 being multi-family units, with an average of 2.34 persons per household across all housing types. (Many multi-family units provide their own parking so these statistics do not reflect off site parking demand.)

The Village has historically tracked the success of the overnight permit parking system by the reduction in the number of illegal parkers. Available data on the number of overnight parking tickets issued shows the following:

1/1987 to 6/1988	160,000	(18 month period)
1993	71,367	
1994	74,248	extrapolated from 6 mo data

2004	28,368	
2005	22,733	
2006	21,706	
2007	21,025	
2008	18,979	
2009	16,361	
2010	16,679	
2011	16,772	
2012	17,508	

E. Short Term parking passes

Aside from reserving ten percent (10%) of permit parking zones for visitors in multi-family areas, the Village has not formally established a system of on-street parking for visitors of either multi-family or single-family residents, including guests, care givers, contractors, or for the occasional short term needs of residents for parking beyond what they legally have, such as during reconstruction of an existing garage, due to a medical need, or when permit holders who do not have 24 hour parking permits leave town.

Instead, the Village has addressed these short term needs by an administrative system of passes which allow parking outside the overnight permit zones, such as in single-family districts.

The Village has undertaken various initiatives to formalizing the pass system since 1995. A 1998 file memo noted that staff generated 10,000 passes per month at that time, with 91% being for overnight parking. With the establishment of more legal overnight parking over the years, staff now issue 72,000 on-street overnight, daytime and extended parking passes to residents and their visitors. Further details of this pass system are beyond the scope of this memo.

F. Legal Authority to Regulate Parking on Public Streets

The Illinois Vehicle Code empowers municipalities to use their police power “to regulate the standing or parking of vehicles,” 625 ILCS 5/11-208, with certain limitations not relevant to this discussion.

In 1975, the Village’s overnight parking ban was challenged in a lawsuit brought by a parking ticketholder, *Flanagan v. Village of Oak Park*, 35 Ill.App.3d 6 (1st Dist. 1975). In the context of that lawsuit the court held:

It is clear that a municipality has the authority to regulate parking, and the only remaining question is whether the exercise of that authority is reasonable.

Oak Park established the reasonableness of the overnight parking ban in the *Flanagan* case by testimony that the ordinance assists with snow and leaf removal and street sweeping; and minimizes auto thefts, facilitates the discovery of stolen cars, and eliminates hiding places for criminals. While these reasons were sufficient to establish the reasonable basis for the overnight parking ban, they are not the only valid factors the Village Board may consider in determining how to regulate parking. Instead, the Village may regulate parking on the public streets in any manner that is reasonable, so long as the regulation serves a public purpose.

Courts generally defer to the wisdom of local governments in determining what is “reasonable.” In *City of Crystal Lake v. Cunningham*, 52 Ill.App.3d 819 (1977), a similar parking ticket challenge, the court held that even though the city offered no specific evidence as to the reasonableness of its overnight parking ban ordinance, the parking ticket holder challenging the reasonableness of the ordinance was required to offer convincing proof that the ordinance bears no reasonable relation to a legitimate exercise of municipal police power. In other words, a parking ordinance is presumed valid by the court unless a challenger can prove that there is no reasonable basis for the parking regulation. In *Evergreen Park v. Russell*, 102 Ill.App.3d 723 (1981), the court held that so long as the ordinance serves a public purpose, it is presumed valid. This gives the Village wide latitude to address the parking demand in the context of other valid public concerns, such as maintaining the residential character of neighborhoods, the value of both single-family and multi-family properties, the need for street maintenance activities, or any other public concern. It should be noted that in the past, the Board was advised that amendments to the system of overnight parking would “weaken the ban.” This is not sound advice as any reasonable parking scheme will be upheld by a court. The Village Board has wide latitude to regulate parking, including having a general overnight parking ban and a system of passes to provide relief from the ban, so long as the Village Board has a reasonable reason for doing so.

In *City of Milwaukee v. Hoffman*, 29 Wisc.2d 193 (Wis. 1965), a case from the Supreme Court of Wisconsin, the court upheld a Milwaukee ordinance which prohibits overnight parking on certain streets but allows individuals to park on those same streets if they purchase a permit. The court held that Milwaukee’s ordinance was a reasonable technique for regulating night parking on its streets.

So long as the Village addresses present day realities in a reasonable manner, a parking ordinance will be upheld by the courts.

G. Conclusion

As is apparent by the above review, the Village has continually been asked to address the demand for overnight parking. Past efforts have attempted to balance the operational needs of street maintenance activities, the preservation of the residential quality of single-family housing areas and the preservation of multi-family housing values with the need for parking. In 2006, the Village conducted a citizen survey which demonstrated that community members are sharply divided in their opinions on a host of proposals to change the way parking is addressed in the Village. The results of that survey are provided on the following page.

1. How many cars or trucks do you park overnight in the Village?	Survey Count
more	34
none	179
one	780
three	101
two	613
Grand Total	1707

2. Where do you park overnight now?	Survey Count
not-applicable	60
private-garage	763
private-space	330
village-garage	62
village off-street parking lot	106
village on-street parking zone	386
Grand Total	1707

3. Do you live north or south of Lake Street?	Survey Count
north	657
south	1050
Grand Total	1707

4. Do you live east or west of East Avenue?	Survey Count
east	736
west	971
Grand Total	1707

5. What best describes your home?	Survey Count
building with 2 or 3 Units	80
building with 4 or more Units	721
Duplex or Townhouses	81
Single-family	776
Other	49
Grand Total	1707

6. Do you rent or own your home?	Survey Count
own	1297
rent	410
Grand Total	1707

7. Is this a condominium?	Survey Count
no	1198
yes	509
Grand Total	1707

8. How long have you lived in Oak Park?	Survey Count
More than 1, less than 3 years	372
More than 3, less than 5 years	227
More than 5, less than 10 years	292
Less than 1 years	213
10 or more years	603
Grand Total	1707

9. In which category is your age?	Survey Count
18-24	66
25-34	539
35-44	485
45-54	327
55-64	224
65 or older	66
Grand Total	1707

10a Repeal the overnight parking ban	Survey Count
Strongly Support	655
Somewhat Support	251
Somewhat Oppose	149
Strongly Oppose	652
Grand Total	1707

10b Remove the overnight parking ban and establish alternate side parking	Survey Count
Strongly Support	470
Somewhat Support	398
Somewhat Oppose	219
Strongly Oppose	620
Grand Total	1707

10c Limit overnight parking to vehicle owners who purchase passes for themselves and their visitors	Survey Count
Strongly Support	361
Somewhat Support	458
Somewhat Oppose	314
Strongly Oppose	574
Grand Total	1707

10d Leave the overnight parking ban in place as is, but expand the existing overnight on-street parking permit areas	Survey Count
Strongly Support	246
Somewhat Support	496
Somewhat Oppose	361
Strongly Oppose	604
Grand Total	1707

10e Alter overnight parking ban to allow parking throughout the Village by permit only, and on alternate sides of the street except on streets wide enough to accommodate dual-side parking	Survey Count
Strongly Support	156
Somewhat Support	385
Somewhat Oppose	376
Strongly Oppose	790
Grand Total	1707

10f. Leave the overnight parking ban in place as is, but expand existing on-street permit zones and sell zone-specific parking passes that residents may use or issue to their visitors, as well a non-zone specific parking pass that residents may purchase to park vehicles in areas not designated as overnight permit parking zones	Survey Count
Strongly Support	227
Somewhat Support	455
Somewhat Oppose	346
Strongly Oppose	679
Grand Total	1707