

# HOA Policy: Vehicles and Parking

*If you feel a situation involving a vehicle(s) poses an **imminent safety concern**, contact the Opelika Police Department (OPD) at the phone number you deem most appropriate.*

**EMERGENCY #911 -OR- Non-Emergency #334-705-5200**

Once you have notified the Opelika Police Department of a matter you consider an "imminent safety concern", then, we ask that you make the HOA aware of the matter. For matters you deem TO NOT be an imminent safety concern, please submit a "Request" through the BUILDIUM Member Portal or email "wyndhamgates@gmail.com" and provide as much information as possible so the Board can correctly assess the situation.

The Association Board of Directors views a reasonable number of vehicles per lot and the proper parking of vehicles as both an issue of aesthetics and overall neighborhood safety. When the number of vehicles associated with a Lot, the manner in which vehicles are being parked, or both comes to the attention of the board, the Covenants will be used to determine the proper course of action and enforcement. The Association and the Board DO NOT have the authority to enforce the laws of the State of Alabama or the City of Opelika, only our Covenants. All Lots in the neighborhood are subject to the Wyndham Gates' Covenants, Conditions, and Restrictions (the "Covenants"). By purchasing a lot in and continuing to reside in Wyndham Gates, you have agreed and consented to the Association's authority "to make and to enforce reasonable rules and regulations governing the use of the Property, including the Lots." Ref. Covenants at 7(a).1

"**Covenants - USE RESTRICTIONS - (g) Parking**" is provided on page 2 of this policy. While other covenants may also apply to specific situations, (g) Parking primarily applies to this topic and can be found beginning on page 15 of our Covenants. (Complete recorded Covenants are available for download from [www.wghoa.us](http://www.wghoa.us))

## REASONABLE NUMBER OF VEHICLES PER LOT

A "reasonable number" of vehicles\* will be determined on a per Lot basis based off:

- The size of the driveway (i.e. "two-car", "three-car", etc.)
- Garage Size- The Covenants identify a home's garage primarily as a resource for the parking of vehicles\*. If a resident/homeowner chooses to utilize their garage in a different manner, but not in conflict with the Covenants, it **DOES NOT** remove the garage from consideration as available space for vehicles when determining a "reasonable number" of vehicles for the Lot/Property in question.

## PARKING ON THE STREET

The parking of vehicles\* on the street is **AUTHORIZED** with the following restrictions:

- It is temporary, short term, and infrequent as determined by the Board
- Vehicles\* are not parked against the flow of traffic or in a way that restricts access by emergency and other services
- Vehicles\* do not obstruct mailboxes, fire hydrants, street signs, stop signs, intersections, driveways, etc.

## WHAT IF I HAVE A WORK VEHICLE, BOAT, GOLFCART, ATV, TRAILER, ETC?

Per our Covenants, vehicles of this type are considered "prohibited". See "\*" on pg. 2 for clarification in determining a vehicle's status. Covenants dictate without written approval from the Board, prohibited vehicles/trailers may only be kept in your garage and not stored on your lot in the open or otherwise on your property or common areas<sup>1</sup> of the neighborhood. (<sup>1</sup>. On the Street, empty lots, or parked at the Pool Lot). To receive a determination on a vehicle's status or to request written approval to park/store a prohibited vehicle, please submit a general request through the BUILDIUM member portal (preferred) or email "wyndhamgates@gmail.com".

## HOW THE BOARD WILL RESPOND TO THESE MATTERS?

When the number of vehicles, their type, or their parking conflicts with our Covenants or when the board is notified of a matter reported to the OPD, the Board may elect to take any, all, or a combination of the following actions:

- Report the vehicle(s) in question to the Opelika Police Department
- Issue a violation and notify the perceived owner or responsible association member of the violation
- Assess a fine and notify the perceived owner or responsible association member of the fine
- Have the vehicle(s) in question towed from the property (All reasonable costs associated with the removal of the vehicle(s) and their recovery will be the responsibility of the vehicle owner.)

*It is important to note that fines, at the discretion of the Board, may be assessed on a daily, weekly, or other basis as allowed by our Bylaws and Covenants.*

## "Covenants - USE RESTRICTIONS - (g) Parking

No Owner or Occupant may keep or bring onto the Property more than a reasonable number of vehicles per Lot at any time, as determined by the Board; provided, however, the Board may adopt reasonable rules, depending on the size of the driveway, limiting the number of vehicles which may be parked at the Property. Vehicles only may be parked in garages, designated parking spaces, or other areas authorized in writing by the Board or Declarant. Vehicles shall not be parked in such a manner as to prevent the safe flow of traffic along the public street or to prevent the safe flow of ingress and egress from any particular driveway. Vehicles shall not be parked in front of or block access to fire hydrants located throughout the subdivision.

Disabled and stored vehicles are prohibited from being parked on the Property, except in garages. For purposes of this subparagraph, a vehicle shall be considered "disabled" if it does not have a current license tag or is obviously inoperable. A vehicle shall be considered "stored" if it remains on the Property, other than in a garage, for fourteen (14) consecutive days or longer without prior written Board permission.

Boats, trailers, buses, trucks with a load capacity of one (1) ton or more and vans (excluding mini-vans and sport utility vehicles used as passenger vehicles), recreational vehicles (RV's and motor homes), vehicles used primarily for commercial purposes and containing visible evidence of commercial use (such as tool boxes, tool racks, business decals or signs, or other visible business evidence), and vehicles with commercial writings on their exteriors are also **prohibited** from being parked on a Lot or on the Property, except: (1) in garages or as otherwise approved by the Board, or (2), in the case of service vehicles, on a temporary basis during daytime business hours or during emergencies for the purpose of serving a Lot."

*\*As described in the paragraph directly above, only certain types of vehicles are approved to be parked/stored in the neighborhood except when kept in your garage, or when given special, written approval by the Board.*

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## WGHOA Legal Council Interpretation

**Included, beginning on page 3 of this policy, is a legal interpretation of our Covenants and the board's authority/basis for enforcement provided by the Association's legal counsel.**

December 4, 2020

Wyndham Gates Homeowner's Association

Re: **Wyndham Gates Homeowners' Association Parking Enforcement**

To Whom It May Concern:

My firm represents the Wyndham Gates Homeowners' Association (the "Association"). As you are likely aware, your property is subject to the Wyndham Gates' Covenants, Conditions, and Restrictions (the "Covenants"). By purchasing a lot in and continuing to reside in Wyndham Gates, you have agreed and consented to the Association's authority "to make and to enforce reasonable rules and regulations governing the use of the Property, including the Lots." Covenants at 7(a).<sup>1</sup> In addition, you agreed that the Association can "enforce use restrictions, other Declaration and Bylaws provisions, and rules and regulations by imposing reasonable monetary fines, exercising self-help powers, and suspending use and voting privileges and services paid for as a Common Expense, as provided herein." *Id.* at 7(b). In short, the Association has the authority to enforce the Covenants.

The one example from the Covenants relates to maintaining the public streets, parking, and other potential nuisances. For example, the Covenants provide:

(g) Parking. No Owner or Occupant may keep or bring onto the Property more than a reasonable number of vehicles per Lot at any time, as determined by the Board; provided, however, the Board may adopt reasonable rules, depending on the size of the driveway, limiting the number of vehicles which may be parked at the Property. Vehicles only may be parked in garages, designated parking spaces, or other areas authorized in writing by the Board or Declarant. Vehicles shall not be parked in such a manner as to prevent the safe flow of traffic along the public street or to prevent the safe flow of ingress and egress from any particular driveway. Vehicles shall not be parked in front of or block access to fire hydrants located throughout the subdivision.

*Id.* at 11(g). A similar provision provides, "[n]o Owner or Occupant shall park his or her car or other motor vehicle on any portion of the Property, other than in the garage[.]" *Id.* at 11(I).

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<sup>1</sup> Wyndham Gates Lot Owners have the duty and responsibility to ensure that any tenants or leaseholds comply with all Covenants and Restrictions. The Owner is responsible for the costs of compliance with the Covenants and Restrictions.

Under the Board's Bylaws, if an Owner violates these provisions, the Board may exercise "self-help" to remedy any violation of the Bylaws or Covenants, unless the Covenants specifically state otherwise. Bylaws, Art. V, § 3. This includes, but is not limited to, "the towing of vehicles that are in violation of parking rules and regulations[.]" *Id.* If the Board exercises self-help to remedy a violation of the Bylaws or Covenants, "the Owner or Occupant responsible for the violation for which abatement is sought *shall pay all costs*, including reasonable attorney's fees[.]" *Id.*

Finally, it is important to note that the Association and the Board do not enforce the laws of the State of Alabama or the City of Opelika. Instead, the Board enforces the Covenants and Bylaws for Wyndham Gates' Neighborhood. Nonetheless, there are some items that may overlap and violate both Alabama or local laws and the Covenants. For instance, parking in front of a fire hydrant violates both local law and the Covenants. Covenants at 11(g). This overlap does not—in any way—diminish the Association's authority.

Should you have any questions or concerns regarding the contents of this letter, please do not hesitate to contact me.

Sincerely yours,

A handwritten signature in black ink that reads "Blake Brookshire". The signature is written in a cursive, flowing style.

Blake E. Brookshire