



CITY OF COMMERCE AGENDA REPORT

TO: Honorable Mayor and City Council **Item No.** _____

FROM: City Administrator

SUBJECT: Recreational and Oversized Vehicle(s) Used for Dwelling Purposes
and Parked and/or Stored on Public Right-of-Ways

MEETING DATE: April 17, 2018

Please allow this report to serve as an analysis regarding the policy implications and implementation of an ordinance regulating recreational and oversized vehicles used for dwelling purposes that are parked and/or stored in public right-of-ways in the City of Commerce ("City").

RECOMMENDATION

Provide the City Attorney's Office with a directive on how to proceed to either:

1. Conduct any additional research based on any questions or concerns that the City Council may have, and report back to City Council; or
2. Direct staff to draft a proposed ordinance based on City Council's general policy recommendations (and input from the City Attorney's office).

BACKGROUND

The City of Commerce ("City") staff has recently observed the rise of large and oversized vehicles, especially recreational vehicles, parked in the City's public right-of-ways for extended periods of times, which are being used for dwelling purposes. Most recently in March 2018, City staff has observed the number of recreational vehicles used for dwelling purposes triple. City staff has also observed that campers, RVs, and tents are now also being parked or stored not only on City property, but on private property, including vacant lots, riverbeds and railroads.

Last year, forty-one (41) people were identified to be homeless in the City. This year, the number of persons identified in the City as being homeless - and residing in the City - has increased to one-hundred twenty-seven (127). It appears there is a correlation between this unfortunate statistic with the public nuisances being reported to City staff.

DISCUSSION & ANALYSIS

Public Nuisances Resulting from Recreational and Oversized Vehicles Used for Dwelling Purposes

The extended periods of times that the RVs are parked in public have resulted in nuisance conditions negatively impacting the public's health, safety, and welfare. Specifically, the complaints the City receives, and/or the type of activities City staff has observed, resulting from this condition, include, but are not limited to:

- Traffic hazards to vehicles and pedestrians creating visual obstructions at intersections, driveways, and alleys based on the size of the vehicles and/or the location where the vehicles are parked;
- Diminished parking on streets for immediately adjacent residents and business owners;
- RVs that are not registered with the State of California and/or that are inoperable;
- Illegal dumping of human urine and feces onto the City's public right of ways, and stormwater system;
- Abandoned property and/or trash and debris dumped and/or scattered around the public right of ways where the RVs are parked;
- Persons who own and/or are in control of the RVs serving as "landlords", and renting out RVs to persons by charging them; and
- Increased reports to the City of theft and burglaries in surrounding residential and commercial properties.

Current Enforcement Actions

While City staff and the Sheriff's Department responds to complaints and/or observations of non-compliant conditions, they are limited on how to address this activity in a comprehensive, long-lasting, and/or permanent way. The City has enforcement options available to address some of the underlying issues, but they are out of date, and/or when reviewed together, Commerce Municipal Code ("CMC") provisions, as well as applicable California Vehicle Code sections, are unclear to persons enforcing the codes, appear to be internally contradictory, or simply are ineffective. For example, CMC section 10.44.050, "Use of streets for storage of vehicles prohibited" states that "No person who owns or has possession, custody or control of any vehicle shall park the vehicle upon any street or alley for more than a consecutive period of seventy-two hours."

The biggest frustration that staff has expressed is that vehicles used for dwelling purposes move from one location to another every seventy-two (72) hours so as to avoid parking enforcement violations; however, the underlying activities remain, and/or violations are simply moved to another area of the City. There is a need for an ordinance to be able to enforce this nuisance in a manner so as to serve as a deterrent.

Impact of increasing Homeless Population in the City of Commerce

A reality in addressing this matter is that there is an apparent homeless community that may be using oversized vehicles as their place of residence. However, these vehicles were not intended to be used as permanent dwellings, especially when they are stored and parked on public streets. As noted above, the number of homeless people residing in the City increased from forty-one (41) people to one hundred twenty-seven (127).

In responding to complaints to persons residing in oversized and recreational vehicles, City staff is doing their best to address this in a holistic manner – Public Works personnel conduct the clean-up of the illegal dumpings and abandonment of property; Social Services personnel makes direct contact with the occupants to offer any available resources to the occupants of the RVs; and Community Safety Officers and Sheriff Deputies respond to parking and crime activities, at times having lawful cause to impound some of the vehicles. Staff is observing a migration of people from other cities come into the City due to a lack of regulations concerning the use of vehicles for living purposes.

Political and Social Resistance Against Regulations Prohibiting the Occupancy of Vehicles for Shelter, and Legal Challenges to City Ordinances

Various cities in California that have attempted to either introduce an ordinance prohibiting the sleeping or living in vehicles parked on public streets, or enforce same as a result of complaints about homeless persons living in vehicles, have received considerable push-back to said efforts from the homeless community, as well as public interest and non-profit organizations representing homeless persons' interests.

Additionally, some cities' ordinances have been challenged in court, calling into question the constitutionality of the ordinance, or the manner in which an ordinance is enforced. The most prevalent example is the City of Los Angeles, as the Ninth Circuit ruled in *Desertain v. City of Los Angeles* (9th Cir., 2014) that the Los Angeles ordinance was unconstitutionally vague and overbroad because it did not adequately identify prohibited conduct and encouraged discriminatory and arbitrary enforcement. As a result of said ruling, the City of Los Angeles repealed their ordinance. Currently, their main regulations include, but are not limited to:

- Living in a vehicle is prohibited at all times within one block (500 feet) of licensed schools, pre-schools, daycare facilities, or parks;
- However, persons may live in a vehicle:

(1) between 6:00 a.m. and 9:00 p.m., more than one block (500 feet) away from licensed schools, pre-schools, daycare facilities, or parks; and

(2) persons may live in a vehicle between 9:00 p.m. and 6:00 a.m. in non-residentially zoned areas, which are more than one block (500 feet) away from licensed schools, pre-schools, or daycare facilities or parks.

Therefore, the City of Los Angeles now allows persons to live in vehicles, but places restrictions based on timeframes and locations. (See Section 85.02 of the Los Angeles Municipal Code).

Enforcement Options

There are four main approaches to how various municipalities are addressing this matter:

(1) Enact and enforce an ordinance prohibiting vehicle habitation on City streets or City-owned sites, and some cities allowing for times and locations when living in a vehicle will be allowed (i.e., City of Los Angeles);

(2) Enforcing the underlying issue through parking regulations and limits, making the offense subject to a civil/administrative citation penalty, as opposed to making the offense subject to a criminal penalty; and/or

(3) Creating a permitting system where individuals can purchase temporary permits to park their vehicles on public streets (i.e., City of Santa Monica, City of Lakewood, City of Santa Barbara); and/or

(4) Creating pilot programs to allow habitation of vehicles during certain hours, and in limited locations, including on public or private property (typically parking lots of religious institutions, non-profit organizations, or businesses, as well as public parking lots, with a non-profit organization typically administering the logistics of said program) (i.e., City of Santa Barbara).

Pros and Cons of Existing Enforcement Options

The biggest criticism of ordinances banning the use of vehicles in public spaces for sleeping or living voiced by the homeless community and their legal advocates is that the law is criminalizing the poor and/or the symptoms of homelessness when due to necessity or lack of alternative housing options, the poor or homeless have no other option but to live in their vehicles. The latter is especially true, it is argued, when there are no affordable housing options or available shelters for the homeless in the community.

Not regulating this activity to avoid having said ordinance legally challenged also creates a problem in that said city becomes a mecca for “vehicle dwellers” to migrate to said city since no regulations exist banning sleeping or living in vehicles parked in public streets.

A “vehicle camp” program has been explored [i.e., City of Palo Alto] and/or implemented in various cities still enacting an ordinance prohibiting vehicle habitation on City streets [i.e., Santa Barbara, and Eugene, Oregon]. Included in this “social service” approach, is to educate and provide outreach to people habitating vehicles by disseminating information and literature as to available social services, including shelter and housing options. The benefit of enforcing an ordinance prohibiting or limiting vehicle dwellers in public places, coupled with a vehicle camp program within a city is that city fears of lawsuits by homeless persons is diminished because the homeless are provided with a viable “housing” alternative from parking on public streets, and therefore have no reason to violate the law. Typically if the City does not have the resources to establish, administer and staff said program, cities seek the commitment of churches, congregations, businesses, etc. to participate in allowing a limited number of vehicles per location, for limited overnight hours.

CONCLUSION

The City will need to amend its current laws in order to be able to regulate the use of vehicles for dwelling purposes so as to ameliorate the growing public safety implications caused by the conditions and activities surrounding dwellers in vehicles. Further, City staff and Sheriff deputies need uniform regulations and enforcement tools to address the public nuisances in a more permanent and uniform manner. Further, they need policy direction as to how to address this issue when a percentage of the violators represent themselves to be homeless. Not regulating this activity at all creates a problem in that the City can potentially become a mecca or safe haven for “vehicle dwellers” to migrate to the City since no regulations exist banning dwelling or living in vehicles parked in public streets, which is the impression City staff is getting from responding to these complaints.

The City Attorney’s office is available to answer any questions the Mayor or any members of the City Council have as to the contents of this report, and/or to provide additional, supplemental and/or other relevant information. Otherwise, based on the City Council’s directive, the City Attorney’s Office will be prepared to draft an ordinance.

Recommended/Prepared by: Norma Copado, Assistant City Attorney
Reviewed By and Approved as to Form: Norma Copado, Assistant City Attorney
Respectfully submitted: Edgar P. Cisneros, City Administrator