

CITY OF MORGAN HILL

REQUEST FOR CITY COUNCIL ACTION

MEETING DATE:

AGENDA ITEM NO. 27

TITLE: PARKING OVERSIZE VEHICLES IN RESIDENTIAL AREAS

RECOMMENDED ACTION:

1. Motion to waive the reading in full of the ordinance.
2. Motion to introduce an ordinance to amend the Municipal Code by adding Section 10.40.210 prohibiting parking of oversize vehicles in residential areas.

**EXECUTIVE SUMMARY:** Existing ordinances restrict storing any vehicle on public streets for more than 72 hours or parking large commercial vehicles weighing more than 11,000 pounds in residential areas. Parking other oversize vehicles, such as recreational vehicles, private busses and rental moving trucks creates special hazards in residential areas. Such vehicles commonly exceed twenty feet in length and/or seven feet in height. Because of their size, they can obscure the vision of stop signs and traffic control devices and impair the visibility of cars backing out of driveways or pedestrians crossing the street. These sight distance safety concerns can contribute to unnecessary collisions or auto-pedestrian accidents. The Police Department receives several complaints about these vehicles each year.


This ordinance would restrict parking of oversize vehicles on public streets in residential areas. The height limit of seven feet was determined based on the standard height of stop signs. The overall length limit of a vehicle or combination of vehicles of 20 feet was determined to be adequate to reduce sight distance concerns in front of or around the parked vehicle. Vehicles designed primarily for private passenger use, such as larger sport utility vehicles and passenger vans, are exempt from this ordinance because their overall dimensions do not exceed the restricted limits. Oversize vehicles may park in residential areas for up to 10 hours for the purpose of loading or unloading food, supplies, equipment, or cargo. This allows for loading or unloading the vehicle in the evening and relocating it the next morning. The fine for violating parking ordinances is \$32.

**CONSISTENCY WITH CITY COUNCIL GOALS:** This ordinance is consistent with Council Goals to provide for public safety.

**FISCAL IMPACT:** Enforcement of this ordinance may create a minimal amount of revenue to the General Fund.

**COORDINATED WITH:** City Manager, City Attorney

  
\_\_\_\_\_  
Department Director

  
\_\_\_\_\_  
City Manager



## CITY OF MORGAN HILL POLICE DEPARTMENT

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### INTEROFFICE MEMORANDUM

**Date:** June 4, 1999  
**To:** David Jinkens  
**From:** Steve Schwab  
**Subject:** Oversize Vehicle Parking Ordinance  
**cc:**

As a result of community complaints regarding oversize vehicles parked in residential areas and safety concerns that could result in traffic collisions, we have been asked to develop an ordinance regulating parking of large vehicles in residential areas for the City Council's consideration. The City and Police Department receives 10 to 12 complaints on this issue each year. The complaints usually concern the parking and storing of large recreational vehicles and rental type trucks that are larger than sport utility vehicles that are intended for passenger use such as Chevy Suburbans etc.

City Ordinances already prohibit the parking of commercial vehicles in excess of 11,000 pounds gross vehicle weight off of truck routes except for loading and unloading of cargo. However, this ordinance does not address privately owned or rented vehicles that are oversized but fall below this weight limit. Likewise, city ordinances also prohibit the parking or storing of any vehicle on city streets for a period in excess of 72 hours. Removal of vehicles under this ordinance can be time consuming. Given available staffing levels and following procedures regarding statutory time limits for enforcement, it is often seven to ten days from the time the complaint is received until a vehicle is actually towed from the street.

Because of their size, parking oversize vehicles on residential streets creates sight distance concerns and sight obstructions that could contribute to collisions with pedestrians running into the street or vehicles backing into the streets from driveways. The alternative to parking oversize vehicles on the street in residential areas would be to park the vehicle in a driveway or on private property which does not encroach on the public right of way, or store the vehicle in an appropriate storage yard. The ordinance would allow for parking on the street for a period of no more than 10 hours for the purpose of loading or unloading food, supplies, equipment, or cargo, or to make necessary repairs to allow the vehicle to be moved.

Typically, this ordinance would be enforced on a complaint basis. Upon an initial complaint, the

Police Department would contact the homeowner either personally or by a warning sticker placed on the vehicle and request that oversize vehicle be removed from the street. Should our request for cooperation not yield results, the Police Department could issue a citation for violation of the ordinance. In addition, the initial warning would start the statutory time limit that would allow the vehicle to be towed if it is being stored on the street for more than 72 hours.

**ORDINANCE NO. 1434, NEW SERIES**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL ADDING SECTION 10.40.210 TO THE MUNICIPAL CODE, REGARDING PARKING OVERSIZE VEHICLES ON RESIDENTIAL STREETS.**

WHEREAS, oversized vehicles parked on residential streets can impair the visibility of stop signs and traffic control devices, and

WHEREAS, oversized vehicles parked on residential streets can impair the visibility of vehicles exiting driveways and pedestrians crossing the street, and

WHEREAS, impaired visibility caused by oversized vehicles creates sight distance safety concerns which constitute a nuisance and is injurious to the safety and general welfare of the community.

**THE CITY COUNCIL OF THE CITY OF MORGAN HILL DOES HEREBY ORDAIN AS FOLLOWS:**

**Section 1.** Section 10.40.210 of the Morgan Hill Municipal Code is added to read as follows:

**10.40.210 Parking oversized vehicles in residential areas.**

A. Notwithstanding the provisions of Section 10.40.140, no person shall stop, stand or park an oversized vehicle in a residential zone, as shown on the official zoning map of the city as may be amended from time to time, except for the purpose of loading or unloading food, supplies, equipment or cargo or due to a temporary and unplanned inoperability. Such exemption period shall not exceed ten (10) consecutive hours.

B. For the purposes of this section, the term "oversized vehicle" shall mean any vehicle or combination of vehicles which exceeds twenty (20) feet in length or seven (7) feet in height exclusive of any projecting lights or devices allowed by the provisions of the California Vehicle Code.

**Section 2.** **Severability.** If any part of this Ordinance is held to be invalid or inapplicable to any situation by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance or the applicability of this Ordinance to other situations.

**Section 3.** **Effective Date; Publication.** This ordinance shall take effect from and after thirty (30) days after the date of its adoption. The City Clerk is hereby directed to publish this ordinance pursuant to §36933 of the Government Code.

**PASSED AND ADOPTED** by the City Council of Morgan Hill at a Regular Meeting held on the 16<sup>th</sup> day of June 1999, by the following vote.

**AYES: COUNCIL MEMBERS:**  
**NOS: COUNCIL MEMBERS:**  
**ABSTAIN: COUNCIL MEMBER:**  
**ABSENT: COUNCIL MEMBER:**

**ATTEST:**

**APPROVED:**

\_\_\_\_\_  
**IRMA TORREZ, City Clerk**

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**DENNIS KENNEDY, Mayor**

☪ **CERTIFICATION** ☪

I, **IRMA TORREZ, CITY CLERK OF THE CITY OF MORGAN HILL, CALIFORNIA**, do hereby certify that the foregoing is a true and correct copy of Ordinance No. 1434 adopted by the City Council at the Regular Meeting on June 16, 1999.

**WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.**

DATE: \_\_\_\_\_

\_\_\_\_\_  
Irma Torrez, City Clerk

**Action:** *On a motion by Council Member Sellers and seconded by Council Member Cook, the City Council unanimously (5-0): 1) **Adopted** Resolution No. 5294, declaring the need for this emergency expenditure; and 2) **Approved** emergency expenditure of \$60,000 for installation of the pumping facility for Diana Well #3.*

## **SECOND READING OF ORDINANCES:**

### **22. ADOPT ORDINANCE NO. 1434, NEW SERIES**

Chief of Police Schwab presented the staff report and stated that the basis for the ordinance is that oversized vehicles in residential areas create a sight distance impairment which cause a traffic safety hazard by vehicles backing out of driveways, pedestrians crossing streets, or tall vehicles obscuring traffic control devices.

Council Member Cook said that it has been suggested by several individuals that the existing 72-hour window period may be applicable in this situation. She requested that the staff address this point.

Chief of Police Schwab said that the city currently has in place an ordinance that restricts the parking of any vehicles on any public street longer than 72-hours. This ordinance is currently enforced on a complaint basis. If an officer observes an abandoned vehicle, the officer can initiate the 72-hour tow warning. He said that the 72-hour ordinance is different in two respects: 1) If a complaint is received that a vehicle has been abandoned or parked in excess of 72-hours, a notice will be placed on the vehicle with the enforcement being the towing of the vehicle, not citing the vehicle. 2) A person can park a vehicle legally for less than 72-hours, move the vehicle a reasonable distance, and then park the vehicle in the same spot with the 72-hour clock starting to click again. The ordinance before the City Council is different in that if the ordinance needs to be enforced, it will be the city's intent to notify the owner by placing a notice on the vehicle or personally notifying the owner that they are in violation of the ordinance. The city will give the owner reasonable time to move the vehicle before citing the owner. If an owner is cited, it will be the enforcement mechanism rather than towing the vehicle. This ordinance would make it unlawful to park an oversized vehicle in residential streets.

Mayor Pro Tempore Chang asked how the police would determine the 10 hour limit. Chief of Police Schwab responded that State Vehicle Code allows cities to adopt ordinances restricting the parking of oversized vehicles. The code does not identify how you do this or what the standards must be. He said that there are a number of cities that have this ordinance in place and that each city handles it a little differently. He said that the 10-hour exception was an attempt to provide a reasonable exception to allow individuals to load and unload their vehicles. This 10-hour limit has some flexibility and discretion based on what the city wants to do. He said that the City Council can amend the ordinance to reflect a different time limit to what it believes is reasonable. However, the problem that the city would run against is that the findings for the ordinance are based on oversize vehicles causing a vision obstruction that creates a hazard. If a citation is issued and the case is taken to court, the question becomes whether the city allowed a hazard to occur by giving a longer exception period, thus invalidating the need for the ordinance. He said that the City Council needs to keep in mind that the exceptions need to comply with the findings of the ordinance. He said that no action would be taken in most cases unless a complaint is initiated or a police officer observes an immediate traffic hazard. He said that once a complaint is received, notification would be given to the owner.



Council Member Tate said that if there is a clear and present traffic hazard, it does not seem reasonable to wait 10-hours to rectify the immediate danger. Chief of Police Schwab said that if there is an obvious traffic hazard caused by an oversized vehicle, there are other sections of the State Vehicle Code that allows the city to remove the vehicle.

In response to Council Member Sellers question, Chief of Police Schwab indicated that by the adoption of the ordinance, the city would state that it is reasonable for a person to have to park an oversized vehicle in front of their house for a given number of hours for the purpose of loading or unloading. The city would run into the issue of compromising the findings if the city extends the "reasonableness."

Mayor Kennedy said that he sees large vehicles parked on Dunne Avenue blocking bicycle lanes. Chief of Police Schwab said that the ordinance would not apply to Dunne Avenue as it is not zoned as a residential area. However, there are other laws that can be used to enforce this area.

Mayor Kennedy opened the floor to public comment.

Rich Jensen, 16760 Willow Creek Drive, stated his opposition to the ordinance. He stated that he has had the opportunity to speak to Chief of Police Schwab and three council members earlier today. He said that he has researched this issue and that he was advised by the City of Gilroy's statistical officer that there have been no accidents attributed to motor homes being parked on streets. He did not believe that the facts support this ordinance. He agreed that motor homes can be a hazard and that something would need to be done in this case. He felt that the existing vehicle ordinance was adequate. He felt that the city was trying to deal with gross violators. In dealing with them, the city will be making the rest of the citizens pay a heavy toll.

Joe Szep, 460 Las Coches Court, stated that he wrote a letter to each City Council stating that he cannot get ready to use his motor home in less than 48-hours. He did not believe that the 10-hour limitation was adequate nor realistic. He said that if a city presents a law that would restrict parking to less than 72-hours, the city must post signs every 250 feet on residential streets. He said that the City of Salinas had a similar ordinance challenged and that a three superior court judge panel in Monterey County ruled that this law must be followed. Therefore, the City of Salinas did not pursue the ordinance because they could not afford to install the signs.

Curtis Wright, 17435 Walnut Grove Drive, commended the City Council for bringing this action as far as it has. He urged the City Council to carry out the ordinance as this is a matter of public safety. He felt that the time limit is reasonable, especially when the city council is not saying that oversized vehicles cannot be parked in driveways or that they cannot be stored in side yards. The city council is just considering an ordinance that restricts storage and parking on city streets where oversized vehicles present a traffic hazard.

Wayne Conroy, 17653 Peak Avenue, said that he is aware that there are many recreational vehicles that are never moved from the front of homes. He said that some homes cannot accommodate the storage of motor homes/trailers in the side yard. He said that it takes time to load and unload recreational vehicles. He felt that there were enough laws in place to address a hazardous situation that can be enforced.

Kristy Greenburg, 15850 Jackson Oaks Drive, stated that her family owns a recreational vehicle and that she is aware of the problems being expressed by the individuals opposed to the ordinance. She said that recreational vehicles are currently being parked for 48 hours and if this ordinance is adopted, owners will have to reduce the hours that they can park in front of their homes. She felt that adoption of this ordinance would reduce the risk of a traffic hazard. She said that the question is whether the convenience to a few individuals who own recreational vehicles is worth the risk of accidents and injury to the vast majority who are using the street.

No other comments were offered.

Council Member Cook said that it was her recollection that the city approved narrow street standards a couple of years. Therefore, the actual pavement is of a narrow width in a newer neighborhoods versus older residential areas. If this is the case, she expressed concern with oversized vehicles parking on streets. She said that not only the length and height are of concern, but also the width of a vehicle. She stated her support of the ordinance.

Council Member Tate stated that he sees the ordinance, as crafted, as being an ordinance that requires common sense and that it is not a hard and fast enforcement. It is not the intent to enforce every vehicle that is seen, but that it is intended to enforce the ordinance on a complaint basis or if a police officer observes a safety violation. He said that he would support the ordinance.

Council Member Sellers expressed concern with the restriction of the number of hours that a recreation vehicles can be parked on the street. He felt that the hours should be a reasonable amount of time. He did not believe that 10-hours would accomplish the needs of the recreational vehicle owners. He recommended that the ordinance be amended to extend parking to 72-hours to allow for exceptions, keeping the spirit of the ordinance in tack.

**Action:**        *Council Member Sellers made a motion, seconded by Council Member Cook, to amend Ordinance No. 1434, New Series, amending Section 1a to replace 10-hours with "...shall not exceed 72 consecutive hours."*

Mayor Pro Tempore Chang said that safety remains the issue of concern. If the ordinance is enforced on a complaint basis, the 10-hours would become effective upon notification by the police department. She stated her support of the ordinance, as crafted, as there are some streets in residential areas that cannot accommodate the parking of oversized vehicles.

Council Member Sellers said that a law abiding citizen who is trying to get away for the weekend may be in violation of a city ordinance, if adopted. He recommended that the city accommodate their concerns and yet maintain the integrity of the ordinance.

Acting City Attorney Leichter said that the ordinance is based on public safety and not on aesthetics. She said that it would be hard to argue in court that you consider having a vehicle parked 72-hours as being a safety issue. She expressed concern that extending the hours beyond 10-hours would not withstand scrutiny.

**Action:**        *Council Member Cook withdrew her second to the motion.*



Mayor Pro Tempore Chang said that she was responding to a complaint that she received approximately three months ago about a recreational vehicle being parked in an area of the city. She requested that the Chief of Police investigate this matter. A notice was placed on the recreational vehicle and that to date, this particular recreational vehicle still remains parked in the same location, moving occasionally. She stated her support of a 10-hour parking limitation.

Mayor Kennedy said that there is the issue of reasonableness and that he understood that safety is important. If the City Council creates an ordinance that is difficult to comply with such that every recreational vehicle owner will violate it, then the ordinance is not effective. He expressed concern that the ordinance may be too restrictive that it becomes unreasonable and undoable. He did not believe that 10-hours would give an individual enough time to load and unload a recreational vehicle. He recommended that the ordinance be amended to stipulate a 24-hour limitation.

Acting City Attorney Leichter stated that she has some concerns even with the 10 hour limitation. She said that some cities do not allow recreational vehicle parking at all. These ordinances are premised not only on safety but also on aesthetics. She felt that this is an ordinance that needs to be flexible both in application and in concept to withstand a legal challenge. She said that the ordinance would need to be tested for a few months to see what types of complaints are being received, how many citations are being issued, and how the citizens feel about it. She felt that the ordinance, as drafted, would withstand a legal challenge. She said that she would have concerns with a 24-hour restriction withstanding a legal challenge. She said that Vehicle Code 22507 states that a city can regulate oversized vehicles. She said that it is the Chief of Police, special counsel and her interpretation that the city has satisfied this section's requirement by placing a warning notice on the vehicle. She felt that the warning notice satisfies the intent and the language of this vehicle code section.

Council Member Tate recommended that the ordinance be adopted and that it be reviewed in six months.

Mr. Szep suggested that the ordinance stipulate how the ordinance is to be enforced. He said that Vehicle Code 22507 reads as follows: "No such ordinance or resolution shall apply until signs or markings, giving adequate notice have been placed."

Mr. Jensen reiterated his recommendation to defer action on this item and that the city council establish a citizen's committee to study this issue. He stated that he was not opposed to the ordinance but felt that there were problems associated with it. He felt that there would be a financial impact to the city with enforcement of the ordinance.

Director of Public Works Ashcraft informed the City Council that in 1996, residential street width standards were reduced from 40 feet to 36 feet, noting that a 36-foot street width is a standard in California.

In response to Mr. Szep's reading of Vehicle Code 22507, Chief of Police Schwab stated that the marking would be the notice that would be placed on the vehicle stating that the owner is in violation and that the vehicle be moved or a citation will be issued.

**Action:** *On a motion by Council Member Tate and seconded by Mayor Pro Tempore Chang, the City Council **adopted** Ordinance No. 1434, New Series as follows: An Ordinance of the City Council of the City of Morgan Hill adding Section 10.40.210 to the Municipal Code, regarding parking oversize vehicles on residential streets, to be reviewed in six months, by the following roll call vote: AYES: Chang, Cook, Kennedy, Tate; NOES: Sellers; ABSTAIN: None; ABSENT: None.*

**23. ADOPT ORDINANCE NO. 1436, NEW SERIES**

**Action:** *On a motion by Council Member Cook and seconded by Council Member Tate, the City Council **adopted** Ordinance No. 1436, New Series as follows: An Ordinance of the City Council of the City of Morgan Hill amending a development agreement to provide for an exception to loss of building allocation for application MP-98-02: Barrett-Hogg (APN 817-57-002) by the following roll call vote: AYES: Chang, Cook, Kennedy, Sellers, Tate; NOES: None; ABSTAIN: None; ABSENT: None.*

**24. SPECIAL AND REGULAR CITY COUNCIL MEETING MINUTES OF JUNE 16, 1999**

**Action:** *On a motion by Council Member Tate and seconded by Council Member Cook, the City Council unanimously (5-0) **approved** the Special and Regular City Council meeting minutes of June 16, 1999 as submitted.*

**FUTURE COUNCIL-INITIATED AGENDA ITEMS**

- Discussion of a policy that states the level of reserves that should be kept in a Landscape & Lighting Assessment District based on future projection costs to sustain districts. (Council Member Cook)

**ADJOURNMENT:** There being no further business, Mayor Kennedy adjourned the special and regular City Council meeting at 9:57 p.m.

**MINUTES RECORDED AND PREPARED BY:**

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**IRMA TORREZ, City Clerk**