



COUNCIL AGENDA: 4/9/24
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ITEM: 3.3

Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: John Ristow

SUBJECT: SEE BELOW

DATE: March 25, 2024

Approved

Date

3/29/24

SUPPLEMENTAL

SUBJECT: PROPOSED ORDINANCES AUTHORIZING THE REMOVAL OF VEHICLES PARKED IN VIOLATION OF PROHIBITED LARGE VEHICLE PARKING ZONES AND NO OVERNIGHT PARKING ZONES

REASON FOR SUPPLEMENTAL

This supplemental memorandum is intended to provide additional background, context, and analysis for City Council consideration related to the draft large vehicle and overnight parking ordinances which will:

- Authorize the removal of vehicles parked overnight upon a street, or portions thereof, where overnight parking of vehicles is prohibited and posted as a tow-away zone; and
- Authorize the removal of large vehicles parked upon a street, or portions thereof, where the parking of large vehicles is prohibited and posted as a tow-away zone as deemed appropriate through an engineering assessment noting the parking of large vehicles creates a safety hazard for pedestrians, bicycles, or vehicles.

BACKGROUND

In August 2023, the Rules and Open Government Committee (Committee) directed the City Manager to draft an ordinance prohibiting encampments and vehicle dwelling within 150 feet of K-12 schools and return to the City Council with a cost estimate to fully enforce the ordinance or phase in enforcement with existing resources. In September of 2023, the Committee further directed the City Manager and City Attorney to return with a framework for evaluation and discussion which should include:

- On-Street locations where oversized vehicles could be permitted to park.
- Street characteristics where restricting parking of oversized vehicles could be enforced.
- Phased implementation/enforcement of oversized vehicle ordinance restricting parking.
- Provide notice/maps to residents living in oversized vehicles with areas they can park.
- Understand ability to enforce existing laws/restrictions pertaining to oversized vehicles.
- Zoning Code amendments to streamline the creation of recreational vehicles safe parking sites.

In response to the above August and September 2023 Committee directions, staff brought forward two memos at the January 30, 2024 City Council meeting:

- **Item 8.1:** [Regulating Oversized Vehicles Citywide](#)
- **Item 8.2:** [Addressing Encampments and Oversized Vehicles Around Schools](#)

The City Council accepted the report and referred item 8.1 for discussion to the February 8, 2024, Neighborhood Services and Education Committee. Further consideration of the recommendations in the staff report was directed to the Fiscal Year 2024-2025 Budget process.

The City Council approved item 8.2 with additions and amendments¹, which sought to expand flexibility to address oversized vehicle impacts citywide. The City Council directed the City Manager and City Attorney to:

- Prepare an ordinance giving flexibility to add locations through City Council resolution which prohibits the parking and authorizes the towing of oversized vehicles on public roadways within any area where an engineering assessment has identified that safety hazards for pedestrians, bicycles, or vehicles caused by the parking of oversized vehicles exist.
- Prepare an ordinance giving flexibility to add locations through City Council resolution, which prohibits the parking and authorizes the towing of vehicles parked within any area that prohibits parking between the hours of 10:00 p.m. and 6:00 a.m.
- Initiate a pilot at three K-12 schools most impacted by the parking of oversized vehicles.

ANALYSIS

The California Vehicle Code (CVC) establishes enforcement reach, authority, and methods that can be used by cities and law enforcement agencies to enforce parking regulations. The CVC's parking codes do not allow a city to regulate activities in and around vehicles. For example, living in a vehicle is not an activity contemplated by the CVC. Therefore, the activity cannot be regulated through parking restrictions. Additionally, the CVC does not provide a mechanism to

¹ January 30, 2024, City Council Meeting, Item 8.2, Addressing Encampments and Oversized Vehicles Around Schools, memorandum co-authored by Mayor Mahan and Councilmembers Jimenez, Cohen, Ortiz, Doan: <https://sanjoseca.primegov.com/Portal/viewer?id=0&type=7&uid=d22b960b-c475-4268-8093-be07b4483b0a>

single out specific vehicle types—e.g., recreational vehicles, boats, trailers—for restriction and enforcement.

The CVC authorizes the issuance of a parking citation as the standard penalty for violating overnight and oversized vehicle parking restrictions. However, CVC Section 22651(n) allows agencies to designate existing parking regulations as towable offenses by adopting a local ordinance or resolution. The proposed amendments to the San José Municipal Code will introduce an enforcement option authorizing the towing of vehicles in violation of posted overnight or oversized restrictions to better achieve compliance within zones identified through the adoption of a resolution. Other areas within the City with existing overnight and oversized parking restrictions will remain enforceable via citation only. City Council may adopt additional overnight/oversized tow zones via resolution, including transitioning existing restrictions to tow zones.

The City Council approved three pilot areas to be absorbed with existing resources listed below:

- Independence High School (Council Districts 3 and 5)
- Shirakawa Elementary School (Council District 7)
- Challenger School – Berryessa (Council District 3)

Additional sites beyond the three pilot areas will introduce significant increases in workload and coordination to the Department of Transportation and partner departments. Additional tow zones require at least:

- Engineering analyses of proposed locations where the prohibition of towable overnight or oversized vehicle parking may be considered.
- Outreach to impacted schools, residents, businesses, and potentially vehicles owners.
- Drafting, in collaboration with the City Attorney’s Office, resolutions for City Council approval for each zone(s) where towable oversized and/or overnight parking restrictions are to be introduced.
- Conducting field visits, fabricating, and installing new parking restrictions and tow notification signage.
- Additional personnel and resource availability to support enforcement activities and tow coordination.

In addition to added workload and costs the Department of Transportation expects to occur as a result of any expansion of enforcement zones, it should be noted that there will be impacts on City departments functioning in program support roles. This includes San José Police Department, Parks Recreation and Neighborhood Services (BeautifySJ), and Housing personnel as they currently have little to no evening response capabilities to support overnight enforcement.

The implementation of posted parking restrictions, both citable and towable, consistently results in vehicles relocating just outside the restricted area or elsewhere in the City. It does not reduce the overall occurrence rate. For the subset of oversized vehicles that are lived in, supportive

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housing and services are vital tools to addressing the root causes of their needs. City departments will continue to implement and support the development of additional supportive parking sites and services.

COST SUMMARY/IMPLICATIONS

Expansion of overnight and oversized parking restrictions beyond the three pilot areas would require significant investments and would need to be addressed through the Fiscal Year 2024-2025 or a future year budget process. City Council's approval of the Mayor's March Budget Message for Fiscal Year 2024-2025 directed the City Manager to "explore the allocation of one-time or ongoing funding, as appropriate, to pilot better citywide regulation of oversized vehicles, including using tow authority when appropriate to enforce prohibited "overnight" and "oversized" parking, facilitate enhanced street sweeping, and implement a 150-ft setback for our most impacted schools." While the Administration is currently in the process of preparing the 2024-2025 Proposed Budget to best meet this direction, given the structural/service level shortfall in the General Fund and other City Council priorities that will require service tradeoffs, it is likely that the funding ultimately recommended in the Proposed Budget to provide some level of additional enforcement capability will still be insufficient to implement the full implications of these ordinances.

Consistent with City Council direction at its January 30, 2024, meeting, a Manager's Budget Addendum will estimate the additional resource needs and major considerations for enforcement programs that achieve objectives approved for oversized vehicles, prohibited overnight and oversized parking, enhanced street sweeping, and setbacks for impacted schools. This information will further inform the City Council in its consideration of the Proposed Budget, as well as help inform potential investments that may be considered in future years.

COORDINATION

This memorandum was coordinated with the City Attorney's Office and the City Manager's Budget Office.

/s/

JOHN RISTOW

Director of Transportation

For questions, please contact Heather Hoshii, Deputy Director, at heather.hoshii@sanjoseca.gov.