

ORDINANCE NO. 754

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COMMERCE AMENDING SECTIONS 10.44.130 AND 10.44.140 OF CHAPTER 10.44 (“STOPPING, STANDING AND PARKING”) AND ADDING SECTIONS 10.44.135 AND 10.44.136 TO CHAPTER 10.44 (“STOPPING, STANDING AND PARKING”) TO THE COMMERCE MUNICIPAL CODE, CREATING A TEMPORARY RECREATIONAL PARKING PERMIT PROGRAM AND A RECREATIONAL VEHICLE DISABILITY PARKING PERMIT PROGRAM

WHEREAS, the City of Commerce (“City”) has experienced a systemic increase in the number of vehicles parked for an excessive period of time along numerous streets throughout the City; and

WHEREAS, the City is experiencing numerous recreational vehicles parked overnight within the public rights-of-way, especially within residential areas, often causing parking shortages for residents and businesses, creating unsanitary conditions, increasing noise levels, and growing incidences of vehicular graffiti and crime, and creating visual obstacles that obstruct sight distance for vehicles, pedestrians, as well as public safety staff and law enforcement; and

WHEREAS, parked oversized vehicles, including recreational vehicles, interfere with and obstruct visual access to streets, traffic control signs and signals, other vehicles, pedestrians, bicycles, and sidewalks, thereby substantially increasing the risk of collisions between vehicles, as well as collisions with bicycles, and pedestrians, at intersections, near driveways, and on all streets in the City, including curved roadway sections, narrow streets, busy streets, commercial districts, and neighborhood streets. Such collisions lead to severe bodily injuries and property damage; and

WHEREAS, in some instances the oversized vehicles parking in the City are used as a hangout or for dwelling purposes habitation resulting in serious public health and safety impacts, including not only the safety concerns relating to the size of the vehicle, but additional problems related to waste disposal from on-board kitchen, bathing and toileting facilities, noise and fumes from on-board generators, and privacy impacts to other nearby residents arising from the proximity of the street to fixed residential dwelling units; and

WHEREAS, pursuant to the Americans with Disabilities Act, on-street parking is a “program, service, or activity,” requiring the City to consider reasonable modifications to its programs when needed to provide meaningful access for persons with a disability; and

WHEREAS, California Vehicle Code Sections 22507 and 22507.5, and case law such as *Homes on Wheels v. City of Santa Barbara* (2004) 119 Cal.App.4th 1173,

confirm the City's authority to restrict the parking of vehicles on certain streets, during all or certain hours of the day.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF COMMERCE, CALIFORNIA DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1: The City Council hereby finds and determines that the recitals above are true and correct and are hereby incorporated into this Ordinance as though fully set forth herein.

SECTION 2: Section 10.44.130 of the Commerce Municipal Code is hereby amended to read as follows:

10.44.130 - Restriction of oversized vehicle parking.

(a) No person shall leave standing or parking any oversized vehicle on any streets, alleys, public ways or public places, or any portions thereof, in areas where the City Manager, City Engineer or Director of Public Works has caused signs or markings giving adequate notice of the restriction to be placed, except as provided in subsection (d).

(b) For purposes of this title, "oversized vehicle" means any vehicle, as that word is defined in the Vehicle Code, Section 670, or a combination of connected vehicles (including, but not limited to, trailers or semi-trailers, as defined in Vehicle Code Section 670), which exceeds twenty-five feet in length, or eighty inches in width, or eighty-two inches in height, exclusive of such projecting lights or devices as are expressly allowed pursuant to the Vehicle Code as it now exists, or as hereafter may be amended. Oversized vehicle shall not mean or include a pick-up truck or sport utility vehicle, which is less than twenty-five feet in length and eighty-two inches in height.

(c) Recreational vehicles of any size are not permitted. The term "recreational vehicle" ("RV") shall have the same meaning as set forth in California Health and Safety Code Section 18010, or as hereafter may be amended.

(d) Exceptions. This section shall not apply to:

(1) Any oversized commercial vehicle actively engaged in the loading or unloading of materials, supplies, or goods, in the delivery of goods, wares, merchandise, or other materials at an adjacent business for no longer than thirty minutes.

(2) Any vehicle belonging to or under contract with local, state or federal government authorities, or a public utility, and any emergency vehicle, as defined by Vehicle Code Section 165.

(3) Any bus for no longer than two hours, and any bus in an area specifically posted to allow bus parking or stopping for a prescribed time.

(4) An oversized vehicle properly displaying a current and valid distinguishing disabled placard or license plate issued pursuant to the Vehicle Code, so long as said vehicle is also adhering to all other traffic and parking regulations as enumerated in this title, code and Vehicle Code, including parked on a blue curb zone.

(5) A recreational vehicle that has been issued and is displaying a temporary recreational vehicle parking permit issued pursuant to Section 10.44.135, or a recreational vehicle disability parking permit issued and displayed pursuant to Section 10.44.136.

(e) The City Manager, City Engineer, or Director of Public Works are authorized to promulgate and publish rules and regulations to interpret and implement this section.

SECTION 3: Chapter 10.44 of Title 10 of the Commerce Municipal Code is hereby amended by adding Section 10.44.135 to read as follows:

10.44.135 - Temporary Recreational Vehicle Parking Permits

(a) A person may obtain a temporary recreational vehicle parking permit for a specific recreational vehicle if he or she demonstrates in writing to the satisfaction of the Director of Public Works or his or her designee, on an application form prepared by the Director of Public Works and upon payment of a fee prescribed by resolution of the City Council, that they meet each of the following conditions:

(1) The person owns or lawfully possess a recreational vehicle, which is operable and currently registered with the State of California;

(2) The person is a permanent city resident as determined under the law of California that wishes to temporarily park their recreational vehicle adjacent to their residence. For purposes of this section, “adjacent” to a permanent city resident’s residence means within twenty-five (25) feet of the resident’s fixed address, or a non-resident temporarily visiting a specific fixed residential address with the consent of the resident of that address;

(3) The proposed parking location is reasonably situated to provide temporary access to the specific fixed residential address of the applicant, or the host of the applicant in the case of visitors;

(4) The proposed parking location does not create or exacerbate a dangerous traffic safety condition.

(b) A permit may be issued for loading, unloading, or other short-term use for a period of not more than seventy-two (72) consecutive hours. Such activities must be conducted in compliance with all other laws and regulations. No more than forty (40) permits shall be issued to any one (1) eligible resident or to any one (1) eligible vehicle within one (1) calendar year, and a twenty-four (24) hour period must elapse between permits. Such parking shall be limited to the area adjacent to the residence from which the loading or unloading will occur, or as close in reasonable proximity as possible as may be necessarily determined by the Director of Public Works, or his or her designee, thereto if the area adjacent to the residence is not available for parking.

(c) A permit may be issued for visitor parking for a period of not more than forty-eight (48) hours. Visitor parking must be conducted in compliance with all other laws and regulations. No more than four (4) such permits shall be issued for any one (1) host residence per one (1) calendar year and a twenty-four (24) hour period must elapse between permits. Such permits may only be issued to persons visiting a resident within the city and such visitor must provide proof that the owner of the recreational vehicle resides outside the city, and that it is operable and currently registered. Such parking shall be limited to the area adjacent to the host residence, or as close in reasonable proximity as possible thereto, as may be necessarily determined by the Director of Public Works, or his or her designee, if the area adjacent to the host residence is not available for parking.

(d) Recreational vehicle parking with a temporary recreational vehicle parking permit shall be subject to all applicable parking restrictions in the California Vehicle Code and the Commerce Municipal Code.

(e) Nothing in this section shall be construed to permit dwelling in a vehicle.

(f) The City Manager, Director of Public Works, or City Engineer are authorized to promulgate and publish rules and regulations to interpret and implement this section.

(g) All related fees and charges associated with, or as referenced or determined by, this section, and/or to implement the temporary parking permit, shall be established by resolution of the City Council, which may be amended from time to time.

SECTION 4: Chapter 10.44 of Title 10 of the Commerce Municipal Code is hereby amended by adding Section 10.44.136 to read as follows:

10.44.136 – Recreational Vehicle Disability Parking Permits.

(a) A person may obtain a recreational vehicle disability parking permit for a specific recreational vehicle to be parked at a specific location or locations if he or she demonstrates in writing to the satisfaction of the Director of Public Works or his

or her designee, on an application form prepared by the Director of Public Works and upon payment of a fee prescribed by resolution of the City Council, that they meet each of the following conditions:

(1) The person owns or lawfully possess a recreational vehicle, which is operable and currently registered with the State of California;

(2) The person is a permanent city resident as determined under the law of California;

(3) The person possesses a distinguishing disabled placard or license plate lawfully and properly issued pursuant to the California Vehicle Code;

(4) The proposed parking location is necessary to provide access to a specific fixed residential address sited with a lawful dwelling unit at which the person resides;

(5) The proposed parking location does not create or exacerbate a dangerous traffic safety condition;

(6) The person demonstrates that by reason of the disability which warranted issuance of their California distinguishing placard or license plate, the recreational vehicle is specially equipped and necessary to accommodate the disability of the person seeking the permit so that a reasonable modification to the City's on-street parking regulations is warranted under state and federal law.

(A) If a recreational vehicle disability parking permit applicant or permit holder fails or refuses to provide the information required by these rules and regulations, the Director of Public Works may, but need not, obtain from the Department of Motor Vehicles the information allowed by California Vehicle Code section 22511.58(a). When he or she deems it necessary or advisable, the Director of Public Works may convene a review panel for the purposes enumerated in California Vehicle Code section 22511.58(b).

(b) Application Review and Permit Issuance. Upon receipt of a complete application for a recreational vehicle disability parking permit, and prior to issuing any such permit, the Director of Public Works shall:

(1) Review the application and all supporting materials for completeness and compliance with this section.

(2) Inspect the recreational vehicle to determine whether it is specially equipped and necessary to accommodate the applicant's disability.

(3) Review the requested parking location to verify that it is a legal dwelling unit where the applicant resides.

(c) Duration. Recreational vehicle disability parking permits shall be valid for so long as the person remains disabled, but for no longer than one year. Permits may be renewed provided that the permit holder demonstrates in writing that he or she continues to meet the conditions of this section.

(d) Recreational vehicle parking with a recreational vehicle disability parking permit shall be subject to all applicable parking restrictions in the California Vehicle Code and the Commerce Municipal Code.

SECTION 5: Section 10.44.140 of the Commerce Municipal Code is hereby amended to read as follows:

10.44.140 - Unlawful parking of vehicles, including vehicles parked, stopped or standing on public right-of-ways that are used for dwelling purposes.

(a) No person shall park, stop or stand, or allow to park, stop or stand, or permit to remain for a period longer than two hours on any street, alley, highway, public way, or public place, any trailer, semi-trailer, or bus (all as defined in the vehicle code), or any mobile home, or any truck used primarily for business or commercial hauling and of a weight in excess of three-quarters ton capacity, unless such person has a written authorization or approval from the law enforcement agency, director, city administrator, and/or their designees. Notwithstanding the two-hour permissible maximum parking period allowed for in this section, said vehicle is required to adhere to all other applicable traffic and parking regulations as enumerated in this title, code and vehicle code, unless explicitly exempted.

(b) No person shall park, allow to park or stand, or permit to park or stand any of the following vehicles: (1) trailer, (2) semi-trailer, (3) bus (all as defined in the vehicle code), (4) mobile home, or (5) any vehicle which is capable of greater than one thousand five hundred pounds (three-quarter ton) cargo capacity on any street, alley, highway, public way, or public place between the hours of two o'clock a.m. and six o'clock a.m. of any day.

(c) Except as otherwise provided by statute, ordinance, resolution, permit, regulation, policy or other authorization by the city, no person shall park, stop, stand, or cause, allow or permit to park, stop, or stand, any vehicle, including mobile homes and recreational vehicles, used for dwelling purposes, in the streets, highways, alleys, public ways, public places, areas, or portions thereof.

(1) For purposes of this chapter, "recreational vehicles" shall mean and include:

(A) "Recreational vehicle" means a motor home, slide-in camper, travel trailer, or camping trailer, with or without motive power, designed for

dwelling purposes for recreational or emergency occupancy.

(B) "Camping trailer" means a vehicular portable unit mounted on wheels and constructed with collapsible partial sidewalls which fold for towing by another vehicle and unfold to park or stand, and designed for dwelling purposes for recreational or emergency occupancy.

(C) "Motor home" means a vehicular unit built on or permanently attached to a self-propelled motor vehicle chassis, chassis cab or van, which becomes an integral part of the completed vehicle, designed for dwelling purposes for recreational or emergency occupancy.

(D) "Slide-in camper" means a portable unit, consisting of a roof, floor and sides, designed to be loaded onto and unloaded from the bed of a pickup truck, and designed for dwelling purposes for recreational or emergency occupancy and shall include a truck camper.

(E) "Travel trailer" means a portable unit, mounted on wheels, of such a size and weight as not to require special highway movement permits when drawn by a motor vehicle and for dwelling purposes for recreational or emergency occupancy.

(2) For purposes of this chapter, "dwelling" means and includes more than one of the following activities and when it reasonably appears, in light of all circumstances, that a person is using a vehicle for human habitation, as a place of residence and/or living accommodation: possessing inside or on a vehicle items that are not associated with ordinary vehicle use, such as a sleeping bag, bedroll, blanket, sheet, pillow; keeping and maintaining kitchen utensils, cookware, and cooking equipment; preparing or cooking meals inside or on the vehicle, or immediately adjacent and outside of the vehicle on public property; maintaining human waste, or unlawfully dumping human waste from the vehicle onto the public right of way; obscuring some or all of the vehicle's windows; and/or sleeping inside a vehicle.

(3) Nothing herein precludes the enforcement of any other laws against recreational vehicles or vehicles used for dwelling purposes, such as parking restrictions, including, but not limited to, prohibition of overnight parking. In this regard, restricted streets, highways, alleys, public ways, public places, areas, or portions thereof, shall include those explicitly enumerated in city Resolution No. 18-94, and any amendments thereto.

(4) Refusal to comply with this sub-section after the person owning, operating, or in control of the subject vehicle has been warned by a law enforcement officer or other authorized city official designated to enforce this title that his or her conduct is in violation thereof, and is allowed a reasonable opportunity to comply but still refuses to do so, shall be subject to the city's penalty

provisions, pursuant to Title 1 of this code.

(d) This section shall not apply to a commercial truck (as established by a current registration with the state department of motor vehicles):

(1) While such truck is being loaded or unloaded and such additional time is reasonably required for such loading and unloading operations; or

(2) When such vehicle is parked in connection with, and in aid of, the performance of a service to or on a property in the block on which such vehicle is parked for a period reasonably necessary to complete such service.

(3) Said vehicle is, however, required to adhere to all other traffic and parking regulations as enumerated in this title, code and Vehicle Code, including loading and unloading time limitations.

(e) The City Manager, city engineer, or director, or their designees, are authorized to promulgate and publish rules and regulation to interpret and implement this section.

SECTION 6: In the event of any conflict between the provisions of this Ordinance and the Commerce Municipal Code, or any appendix or ordinance adopted therein by incorporation, the provisions of this Ordinance shall apply and supersede.

SECTION 7: CEQA. This ordinance is exempt from the California Environmental Quality Act ("CEQA") based on the following:

A. Under CEQA Guidelines Section 15061(b)(3), CEQA review is not required because there is no possibility that this ordinance may have a significant effect on the environment.

B. Under CEQA Guidelines Section 15378, the proposed amendment is not a project under CEQA because it will not cause a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment, because it is limiting in nature and does not authorize any specific development activity or promote new construction.

C. Any potential indirect physical change in the environment is speculative and not reasonably foreseeable.

SECTION 8: Severability. If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is for any reason held out to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have adopted this Ordinance and each section, subsection, subdivision,

sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more section, subsection, subdivision, sentence, clause, phrase, or portion thereof, be declared invalid or unconstitutional.

SECTION 9: The City Clerk shall attest to the adoption of this Ordinance and shall cause the same to be posted as required by law. This ordinance shall take effect thirty (30) days after its adoption.

PASSED, APPROVED AND ADOPTED this 16th day of June, 2020.

CITY OF COMMERCE


Ivan Altamirano, Mayor

ATTEST:


Lena Shumway
City Clerk