

Lompoc City Council Agenda Item

City Council Meeting Date: August 17, 2010

TO: Honorable Mayor and City Council Members

FROM: Code Enforcement Team

SUBJECT: Code Enforcement Team Update and Request for Council Direction



RECOMMENDATION

1. That the Council direct staff concerning an ordinance addressing unhitched trailers including fifth wheel trailers and/or semitrailers as follows:
 - (a) To prohibit unhitched trailers of any size and variety parked on any City street at any time, **except** for semi-trailers on truck routes or moving trailers in actual use; or
 - (b) To prohibit unhitched trailers of any size and variety parked on any City street at any time, **including** semi-trailers on truck routes, except moving trailers in actual use; or
 - (c) By providing any other direction, including no action, the Council chooses.
2. That the Council direct staff concerning weed and rubbish abatement on residential properties as follows:
 - (a) Change City policy to include the abatement of weeds and rubbish on residential properties as well as on vacant lots and regulation of lenders of properties in foreclosure or with loans in default; or
 - (b) No change in policy and continue to abate weed and rubbish via Lompoc Municipal Code Chapter 17.140 and the Planning Division's procedures; or
 - (c) Any other action the Council chooses.
3. That the Council direct staff concerning administrative citations and fines for failure to comply with the Lompoc Municipal Code as follows:
 - (a) To prepare an ordinance to create an administrative citation system with progressive fines of \$100, \$250, and \$1,000 for repeat offenses within any 12-month period; or
 - (b) No change.

4. That the Council direct staff concerning use of City streets to collect personal property as follows:
 - (a) To prepare an ordinance to prohibit such use of City streets in the R-1 District; or
 - (b) To prepare an ordinance to prohibit such use of City streets in any residential district; or
 - (c) By providing any other direction, including no action, the Council chooses.

BACKGROUND

The Code Enforcement Team has discussed several options to regulate parking of vehicles on City streets including:

- Removal of parked vehicles for random street sweeping following 24-hours' notice;
- Prohibition of unhitched trailers of any size and variety parked on any City street at any time, except for semi-trailers on truck routes or moving trailers in actual use;
- Prohibition of hitched trailers, parking between the hours of 12:00 a.m. and 6:00 a.m., unless they are (i) recreational trailers with approval of the Chief of Police for not more than a total of six (6) days within any one-month (1-month) period and not more than fifty (50) days within any twelve-month (12-month) period, (ii) moving trailers or (iii) trailers being used to provide a service to the property on the block on which the trailer is parked;
- Prohibition of self-propelled recreational vehicles of any size and variety parking on any City street between the hours of 12:00 a.m. and 6:00 a.m., except a resident may receive a permit from the Chief of Police allowing such parking for not more than a total of six (6) days within any one (1) month period and not more than fifty (50) days within any twelve (12) month period;
- Imposition of progressive fines with three steps, \$50, \$100, and \$250, for repeat offenses within any 12-month period.

A special Council meeting was held on June 8, 2010, during which the above options were discussed and public input received. Since that time the Code Enforcement Team has determined the Municipal Code contains adequate language to allow towing of vehicles after providing twenty-four hours' notice in order to conduct street sweeping. That authority is granted in LMC Subsection 10.08.180(B) and allows police officers to remove:

Any vehicle which is parked or left standing upon a street or highway where the use of such street or highway or a portion thereof is necessary for the cleaning, repair or construction of the street or highway or for the installation of underground utilities or where the use of the street or highway or any portion thereof is authorized for a purpose other than the normal flow of traffic or where the use of the street or highway or any portion thereof is necessary for the movement of equipment, articles or structures of unusual size, and the parking of such vehicle would prohibit or interfere with such use or movement; provided, that signs giving notice that such

vehicle may be removed are erected or placed at least 24 hours prior to the removal.

DISCUSSION

Unhitched Trailers

At the June 8, 2010, meeting Council directed staff to consider addressing trailer and recreational vehicle parking issues in stages over an extended period of time.

The Code Enforcement Team is seeking Council's direction in drafting the first stage of the regulations regarding parking of trailers and RVs. Our recommendation is to first address unhitched trailers parked on City streets.

Staff has conducted a survey of City streets and located approximately 300 unhitched trailers parked in the City, including horse trailers, boat trailers, fifth wheels, jet-ski trailers, campers, and trailers.

Unhitched trailers pose safety hazards for motorists and pedestrians alike. They are also an attractive nuisance as children are often seen playing under and around them. Heavy unhitched trailers (such as semitrailers and fifth wheel trailers) create safety hazards due to their immobility in case of emergency.

Storage of Vehicles on City Streets

The City Attorney's Office has completed additional research regarding the City's ability to prevent individuals from using City streets as vehicle storage areas. Pursuant to the California Constitution, the City has police powers within its jurisdictional limits as long as the City's laws do not conflict with general State law. "Conflict" may grow out of the exact language of State and municipal laws, a local attempt to impose additional requirements in a field preempted by general law or the State's adoption of a general scheme on a particular subject. Here, the California State Vehicle Code preempts the entire subject area of traffic regulation and control. The regulation of parking on public streets is an adjunct to the control and regulation of vehicular traffic. Thus, the City may not further regulate vehicle parking, except as expressly authorized in the Vehicle Code. Limiting the number of vehicles one person can park on a public street is not authorized. However, zoning laws may provide an alternate means to restraining the accumulation of vehicles on public streets.

The ability to limit the collection of private property in the public right-of-way may be accomplished through land use regulations. The goal would be to address the problem of "overuse of streets" and provide relatively quiet, wide streets with less traffic, fewer people, and a pleasant and reasonably safe environment in which families might raise their children, thus meeting family needs, and promoting family values. Case law supports this idea prescribing, "A quiet place where yards are wide, people few, and motor vehicles restricted are legitimate guidelines in a land-use project addressed to family needs." *Village of Belle Terre v. Boraas* 416 U.S. 1, 9 and *City of Chula Vista v. Kenneth L. Pagard* 115 Cal.App.3d 785, 747. Lompoc's Municipal Code already provides a zoning purpose that contemplates a suitable environment for family life on a neighborhood basis. Therefore, the Council may want to consider directing staff to draft an ordinance to prohibit a person from collecting personal property in the public right-of-way by declaring such activity is not a land use permitted in the R-1 Districts or any residential district.

Weed and Rubbish Abatement

In addition to parking issues, the Code Enforcement Team has discussed weed and rubbish abatement on residential properties. Historically the Lompoc Fire Department has conducted annual weed and rubbish abatement of vacant lots located within the City. The procedure for weed and rubbish abatement is set forth in Government Code Sections 39560-39588, and provides notice to property owners be given, a public hearing be held where objections will be considered, and liens for the costs of abatement be placed upon the properties.

Weed and rubbish abatement pursuant to Government Code Sections 39560-39588 is not limited to vacant lots only. Any lot within the City containing weeds as defined by Government Code Section 39560(b) and rubbish may be subject to abatement.

There are many residential lots within the City containing weeds and rubbish that are currently addressed through the Planning Division's code enforcement efforts pursuant to Lompoc Municipal Code Chapter 17.140 - Nuisance. This is a complaint driven process and voluntary compliance is achieved in a majority of the cases. However, for those property owners who refuse to comply with the Lompoc Municipal Code, the process for City abatement under Chapter 17.140 is better used for more complex matters. It would be more efficient for staff to include weed and rubbish abatement of residential lots with the current process already being utilized for vacant lots. Additionally, the provisions under the Government Code allow for recurring weed abatement without further hearings which would be ideal in cases of foreclosed or abandoned homes.

In addition, the California Civil Code grants authority for fines of up to \$1,000 per day against an owner, including a bank or lending institution, which fails to maintain vacant residential property that was purchased at a foreclosure sale or acquired through foreclosure or a deed of trust. "Failure to maintain" means failure to care for the exterior of a property, including excessive foliage growth, failure to prevent trespassers or squatters from remaining on the property, failure to prevent mosquito larvae, or the existence of other conditions that create public nuisance.

Imposition of Administrative Fines

Occasions have recently arisen where an imposition of administrative citations with fines would be beneficial in giving the public an additional monetary incentive to abide by the Lompoc Municipal Code especially with respect to code enforcement. In addition to creating new parking ordinances and adjusting City policy with respect to weed and rubbish abatement, staff recommends imposition of progressive administrative fines for Municipal Code violations including parking, weed, rubbish, and any other nuisance abatement.

CONCLUSION

The Code Enforcement Team is requesting City Council direction on parking of unhitched trailers and storage of private property on City streets, weed and rubbish abatement on residential properties, and imposition of administrative fines for violations of the City's municipal code. Staff believes those regulations will assist the City in dealing with various code enforcement issues that confront the City on a regular basis.

Respectfully Submitted:

Joseph W. Pannone, City Attorney

Laurel M. Barcelona, City Administrator

Minutes from August 17, 2010 Council Meeting

CITY 2. Code Enforcement Team Update and Request for Council Direction.

Paralegal Teri Schwab presented the staff report and recommendations.

Council Member Lingl asked if staff has addressed the issue of individuals using commercial streets to park several privately owned vehicles. Staff stated that the City must adhere to the State Vehicle Code, thus limiting the City's ability to address specific commercial streets and parking.

Public Comment:

1. Dirk Starbuck, Martin Van Enoo, Ralph Harman, Ashley Costa, Frances Milligan, John Linn, and Bill Mackins spoke about the recommendations and gave suggestions to Council regarding unhitched trailers parked on City streets.
2. DeWayne Holmdahl asked Council to consider assigning the weed and rubbish abatement process to a single department.

After a lengthy discussion, Council directed staff to return at a future date with clear, distinct recommendations on regulating personal property on City streets, and draft ordinances to address the issues of unhitched trailers including fifth wheel and/or semitrailers parked on City streets; and the establishment of an administrative citation system with progressive fines for repeat offenses. Council approved weed and rubbish abatement of residential properties to be conducted under Government Code Sections 39560-39588.