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December 5, 2006

HONORABLE MAYOR AND CITY COUNCIL  
City of Long Beach  
California

RECOMMENDATION:

Receive and File Report Regarding Legal Issues Related to  
Parking Restrictions

DISCUSSION

In a memo placed on the October 10, 2006 agenda, Councilwoman Schipske and Councilwoman Gabelich expressed concern about a number of parking issues, including new regulations adopted by the City of Lakewood. The City Council asked this office to review six issues discussed in the memo.

City of Lakewood Parking Restrictions

There is concern that recent ordinances adopted by the City of Lakewood will result in an increase of non-motorized or oversize vehicles being parked in Long Beach residential neighborhoods. Lakewood banned on-street parking for "non-Lakewood RV's and trailers" effective September 2006. There is a limited exception for guests of Lakewood residents. In November 2006, Lakewood voters authorized (effective July 1, 2007) a no-fee parking permit system that will allow RVs and trailers registered to Lakewood addresses up to 16 3-day permits per year for on-street parking (and up to 32 per year, per address.) A permit is not required for loading or unloading. More information about Lakewood's upcoming restrictions are available on that city's website: [http://www.lakewoodcity.org/about\\_lakewood/elections.asp](http://www.lakewoodcity.org/about_lakewood/elections.asp).

Long Beach Parking Issues

Question: May the City prohibit the parking of any non-motorized or oversize vehicle on residential streets by non-residents of Long Beach, except for guests who obtain a permit?

Answer: The City may prohibit or restrict the parking of a class of vehicles (such as boat

trailers or vehicles exceeding a certain width and length, provided it makes appropriate findings. For example, a block may have extremely limited parking, and the City could choose to prohibit vehicles other than cars, and/or implement a preferential parking system in order to maximize parking for residents' cars. It is less certain whether a City could lawfully allow a class of vehicles, such as boat trailers, owned by residents or their guests to be parked on the street while prohibiting the same use by non-residents who are not guests. There is an unpublished case which holds that this kind of regulation could be implemented provided findings are made justifying favoring residents over non-residents; the City of Lakewood has apparently relied on this case for its new regulations and extended the holding to justify granting temporary permits to guests of residents.

Question: May the City prohibit parking of any non-motorized or oversize vehicle on residential streets, between 2:00 a.m. and 5:00 a.m. and by permit at other times?

Answer: Yes. A 2 a.m. to 6 a.m. prohibition is consistent with the City's other overnight parking bans. Temporary exemptions could be granted by permit. The prohibition must be posted at all "entrances" to the City, as determined by the Traffic Engineer.

Question: May the City prohibit street parking of limousines in a residential zone?

Answer: Yes. Existing regulations may be used to regulate the parking of limousines. Currently, Long Beach Municipal Code ("LBMC") Section 10.40.010 prohibits the parking on non-truck route streets of commercial vehicles weighing more than three tons, except while making deliveries. LBMC Section 10.22.030 and 10.22.130 provide that no vehicle may be parked on the public right of way for more than 72 hours without being moved. Oversized vehicles may be banned by ordinance following a petition from residents under LBMC Section 10.24.77 or by action of the Traffic Engineer. The parking of all commercial vehicles, except for loading and unloading, may be prohibited on residential streets by ordinance.

Question: May the City prohibit the use of a vehicle as a sign in a residential zone?

Answer: Yes. The parking of a vehicle for the primary purpose of advertising (such as a billboard truck) in a residential area may be also be prohibited by ordinance. Signs incidental to the operation of a business (such as displaying a business name and contact information on a truck which makes deliveries or service calls) should be excluded.

Question: May the City require owners of vehicles displaying "for sale" signs and parking such vehicles anywhere but on their own residential property, to obtain a "daily" business license from the City?

Answer: Yes, although input from the Business License Bureau is advised regarding the logistics of implementing such a program, which would require the creation of a new

type of temporary business license. Among the concerns about implementing a temporary business license system is how it would be applied to non-residents with minimal "business contacts" in the City (such as a visitor to Long Beach who parks a car displaying a "for sale" sign on a Long Beach street) and how the ordinance could be enforced on private commercial property such as a shopping center parking lot. Currently, the parking of vehicles for sale at certain locations on the public right-of-way is prohibited pursuant to LBMC Section 10.22.080. That section could be revised in conjunction with a new permit system.

Alternatively, the City could continue to expand the locations at which the parking of vehicles for sale is prohibited outright, when it determines that it is necessary to mitigate traffic hazards or abate a nuisance, and finds that adequate alternative locations are available. A City-wide prohibition of parking of cars for sale on the public right-of-way is more problematic: In order for a City-wide prohibition to withstand a legal challenge, the City would need to make findings that no less restrictive regulation would solve the problems identified as being caused by the on-street parking of vehicles for sale.

Question: 1) May the City require vehicles parked on any commercial or industrial zoned property for the sole purpose of advertising the vehicle "for sale" to have the written consent of the property owner posted on the vehicle ? 2) May the City prohibit any vehicle with a "for sale" sign from being parked within 100 feet of any street right of way?

Answer: 1) Yes, except for a business licensed to sell vehicles. A property or manager who allows cars with "for sale" signs to be parked on his or her property must obtain a business license and conform with all zoning requirements, development standards, and State licensing requirements as well. 2) Yes, except that a car displaying "for sale" signs (or any other information) may be parked on residential property (such as a driveway) with the consent of the property owner.

#### Providing Notice of Parking Regulations

The City must provide notice of new City-wide parking regulations by posting signs at all City "entrances," as determined by the City Traffic Engineer. In addition, existing signs which prohibit parking in a defined area (such as "No Parking of Oversized Vehicles This Block") must be removed before a City-wide prohibition can be enforced. (Courts have confirmed that if one block is posted "No Parking" and the next is not, it is reasonable for a motorist to assume parking is permitted where there is no sign.)

SUGGESTED ACTION:

Approve Recommendation.

Respectfully submitted,

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By 

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