

CITY OF YAKIMA

LEGAL

DEPARTMENT

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MEMORANDUM

May 13, 2020

TO: Honorable Mayor and Members of the City Council
Alex Meyerhoff, Interim City Manager

FROM: Brooke Goosman, Senior Assistant City Attorney

SUBJECT: Review of Unauthorized Vehicles, Chapter 9.47 of the Yakima Municipal Code

In early 2019, the City of Yakima Healthy Communities & Neighborhood Building Committee discussed potential issues with the Yakima Municipal Code Unauthorized Vehicles ordinance. One option the committee reviewed, at the urging of a resident, was changing the definition of “junk vehicle” to a broader definition that would allow for more undesirable vehicles to be towed. The committee’s proposed amendments were presented to the City Council, and after discussion at the June 18, 2019 City Council meeting, the Council declined to amend the junk vehicle definition. (It is worth noting the definition contained in our ordinance is the same as in the Revised Code of Washington).

Other community members then expressed concern over a different issue also addressed within this ordinance: vehicles parked on the roadway for more than 24 hours that are inoperable and/or unlicensed. Code enforcement officers also relayed concerns with the language in the ordinance that made enforcement difficult.

At the July 2, 2019 City Council meeting, the Council moved to direct staff to provide a presentation in August 2019, on the current parking ordinance and provide proposed language to strengthen enforcement.

At the August 20, 2019 City Council meeting, I presented proposed amendments to the “24 hour parking rule” ordinance. Specifically, YMC 9.47.010(J)(1)(b) and 9.47.040(b) were discussed. 9.47.010(J)(1)(b), at the time, stated a vehicle that had been parked on a highway for more than 24 hours is an unauthorized vehicle, and 9.47.040, stated unauthorized vehicles may be impounded when the vehicle remained substantially in that location for an additional 48 hours after notice has been given. The term “substantially” was not defined and it was unclear if a vehicle owner moved their vehicle even a few feet, if that was sufficient to overcome “substantially in that location” and thus avoid the vehicle being towed. I proposed we amend the language that a vehicle had to be moved “substantially” to allow that a vehicle may be impounded “when the vehicle has failed to move one block face.” The Council agreed the language should be amended and voted to move forward with the recommended changes. The Council declined to extend the 24 hour parking limit.

The Legal Department was also directed to draft an ordinance modeled after the Coulee Dam ordinance regarding unlicensed vehicle parking (prohibiting unlicensed vehicles from parking on the public roadway at all times). Two city residents encouraged the Council to develop a more stringent ordinance than what the municipal code contained at the time.

On September 17, 2019, the City Council voted to adopt the proposed amendments to 9.47.010(J)(1)(b) and (K) and 9.47.040(b), and to add the sections prohibiting unlicensed vehicles from parking in public roadways (9.47.071, 9.47.072, 9.47.073). The new sections provide that owners of unlicensed/unregistered vehicles parked on the roadway shall be given a civil penalty of \$50 and the vehicle immediately towed.

The City Legal Department is currently evaluating the Unlicensed Vehicle code sections due to existing concerns received from residents regarding the lack of notice preceding vehicle impoundment. The Legal Department proposes including a 48 hours notice requirement before towing, in order to avoid constitutional challenges, as well as including language describing the procedure for contesting a tow impound. Further, it will be proposed that the language directing that parking officers "shall" impound a vehicle be amended to "may" to allow for officer discretion and consideration of reasonable alternatives to vehicle impounds.

Relevant YMC sections

9.47.010 Definitions

J. "Unauthorized vehicle" means a vehicle, motor home as defined in RCW 46.04.305, camper as defined in RCW 46.04.085 or trailer as defined in RCW 46.04.620 which is parked or left standing for the indicated period of time. There are two types of unauthorized vehicles, public and private.

(1) Public Locations.

a. A vehicle is an unauthorized vehicle immediately when:

(i) The vehicle is impeding the flow of traffic or entry or exit into any driveway, including access to city of Yakima property; or

(ii) A vehicle poses an immediate danger to public safety including but not limited to danger arising from a mechanical defect(s); or

(iii) A law enforcement officer has probable cause to believe that the vehicle is stolen; or

(iv) A law enforcement officer has contact with a vehicle operator on public property or highway for purposes of arrest, placement into custody, investigatory stop, accident scene investigation, or voluntary contact by the operator, and the officer observes that the operator is physically or mentally incapable of deciding or refuses to decide upon steps to be taken to protect the vehicle and its contents; or

(v) A vehicle is left unattended on a highway and it is impeding construction, maintenance or repair of the highway, in violation of a temporary sign or barricade prohibiting parking on or entry into the highway, or a portion thereof, when the sign or barricade has been placed under the direction of the city of Yakima director of public works, or his designee, to facilitate construction, repair or maintenance of the public highway and when the sign or barricade notifies that vehicles parked or left unattended in violation thereof are subject to impound by inclusion of the words "subject to impound," "tow away zone," or words of similar import; or

(vi) A vehicle is left unattended in violation of YMC 9.50.060 and the vehicle is impeding street cleaning; or

(vii) A vehicle is left unattended in a marked loading zone posted with a sign notifying that vehicles parked in violation thereof are subject to impound by the inclusion on the sign of the words "subject to impound," "tow away zone," or words of similar import; or

(viii) A vehicle must be removed from a fire zone established in YMC 9.50.240, as determined by a commanding officer; or

(ix) A vehicle without a special license plate, card, or decal indicating that the vehicle is being used to transport a disabled person under RCW 46.16.381 is parked in a stall or space clearly and conspicuously marked under RCW 46.61.581 which space is provided on private property without charge or on public property; or

(x) The driver of a vehicle is arrested for a violation of RCW 46.20.342, 46.20.345, 46.61.502 or 46.61.504; or

(xi) A law enforcement officer finds a vehicle standing upon the roadway in violation of any of the provisions of RCW 46.61.560, the officer may provide for the removal of vehicle or may require the driver or other person in charge of the vehicle to move the vehicle to a position of safety off the roadway; or

(xii) A law enforcement officer finds a vehicle unattended upon a highway where the vehicle jeopardizes public safety; or

(xiii) A law enforcement officer finds a vehicle unattended at the scene of an accident; or

(xiv) The driver of a vehicle is arrested and taken into custody by a law enforcement officer; or

(xv) Upon determining that a person is operating a motor vehicle without a valid driver's license in violation of RCW 46.20.005 or with a license that has been expired for ninety days or more; or

(xvi) A law enforcement officer finds an unauthorized vehicle parked in violation of YMC 9.50.060(C) and/or YMC 9.50.050(55), provided the location is posted with a sign notifying that vehicles parked during the dates and times specified therein are subject to immediate impound by the inclusion on the sign of the words "subject to impound," "tow away zone," or words of similar import; or

(xvii) If in a publicly owned or controlled parking facility, properly posted under YMC 9.47.040(D); or

(xviii) Constituting an accident or a traffic hazard.

b. After twenty-four hours on any one block face if on a highway not subject to subsection (J)(1)(a) of this section.

(2) Private Locations.

a. Immediately if on residential property.

b. After twenty-four hours if on private, nonresidential property.

K. "Unlicensed vehicle" for the purposes of this chapter is any car, truck, van, motor home, camper, trailer, motorcycle or other vehicle not displaying a proper, current proof of licensing from the state of license plate issuance or any car, truck, van, motor home, camper, trailer, motorcycle or other vehicle not bearing license plates.

9.47.040 Unauthorized Vehicle

A. Immediate Public Impound. Unauthorized vehicles pursuant to YMC 9.47.010(J)(1)(a) may be immediately impounded by a registered tow truck operator at the direction of a law enforcement officer. A public works department employee under written designation by the public works director may authorize impoundment of vehicles pursuant to YMC 9.47.010(J)(1)(a)(i), (v) or (vi) in accord with procedures of this chapter or other applicable code sections.

B. Public Impound After Forty-Eight Hours. Unauthorized vehicles pursuant to YMC 9.47.010(J)(1)(b) may be impounded when the vehicle has failed to move one block face for an additional forty-eight hours after notice is given by a law enforcement officer pursuant to subsections (B)(1) and (2) of this section as follows:

(1) The law enforcement officer shall securely attach to and conspicuously display on the vehicle a notification sticker. The chief of police or an authorized designee shall design the sticker in compliance with RCW 46.55.085.

(2) If the vehicle has current registration plates, the officer shall check the records to learn the identity of the last owner of record and the officer or the agency shall make a reasonable effort to contact the owner by telephone in order to give the owner the information on the notification sticker.

9.47.071 Prohibition against parking unlicensed vehicle.

No unlicensed vehicle as described in YMC 9.47.010(K) shall be permitted to park on any public street, parking lot or parking strip in the city of Yakima.

9.47.072 Towing and impound of unlicensed vehicle.

Any unlicensed vehicle parked on a public street or parking lot within the city of Yakima shall be towed and impounded at owner's risk and expense by a registered tow truck operator at the direction of a law enforcement officer or an authorized designee.

9.47.073 Civil infraction—Violation—Unlicensed vehicle.

Failure to perform any act required, or the performance of any act prohibited, by this chapter is designated as a civil infraction, and any person, firm or corporation found to have committed such a civil infraction shall be assessed a monetary penalty of fifty dollars. Each day during which a violation continues shall be deemed a separate offense. Whenever a monetary penalty is imposed by a court for violation of a city ordinance it shall be payable immediately.