

DATE: September 12, 2006

TO: Phillip L. Nelson, City Manager

FROM: Brian P. Murphy, Assistant City Manager/Services
Mark Miller, Planning Director
Mark Stimac, Director of Building & Zoning

SUBJECT: ZOTA 215-C Articles XLIII and XLIV Pertaining to
Commercial Vehicle Parking Appeals &
Results of Commercial Vehicle Visual Survey

RECOMMENDATION:

Staff recommends that the changes to Articles XLIII and XLIV of the Zoning Ordinance transferring the authority to hear variance requests for the outdoor parking of commercial vehicles to the BZA be approved as recommended by the Planning Commission and City Management with an effective date January 1, 2007. We further recommend that Staff be directed to work with the Planning Commission to prepare a Zoning Ordinance Text Amendment to Section 40.66.00 revising the provisions for the allowances for the outdoor parking of commercial vehicles in residential districts in line with the results of the commercial vehicle survey provided by City Council.

BACKGROUND:

At the July 24, 2006, meeting City Council postponed action on ZOTA 215-C. This was done to allow staff to review the definitions of commercial vehicles to see if there were necessary revisions. In order to facilitate this task, Council was asked at the meeting of August 14, 2006, to complete a survey with examples of vehicles for consideration on how they should be categorized with relation to the definition and regulation of outdoor commercial vehicle storage on residential property in Troy. Attached is a summary of the results from that survey and the subsequent recommendation for implementation.

SURVEY RESULTS:

In reviewing the responses there appears to be three criteria for determining whether a vehicle should be classified as a commercial vehicle that a majority of Council wishes to regulate. The three criteria are: capacity, height, and signage.

Further review shows that the key in determining whether a vehicle is a commercial vehicle that Council wishes to regulate depends on the number of criteria that are met.

Capacity: The Gross Vehicle Weight Rating (GVWR) most effectively defines this criterion. The State of Michigan, in their definition of a commercial vehicle, uses a GVWR above 10,000 pounds to define a commercial vehicle.

Height: A majority of Council agreed that some vehicles, even though they did not exceed the State's 10,000-pound limit, were commercial vehicles that we wish to regulate. These vehicles tended to be taller vehicles. While specific dimensions are not available for each example it appears that this height limit is in the area of 8 feet.

Signage: The responses from Council showed that there had to be some form of signage on the vehicle for it to be classified as a vehicle that they wished to regulate.

The anomaly to this analysis is the examples used of "stake trucks". The two smaller examples of the stake trucks are under 10,000 GVWR and are less than 8' in height. If they had no signage (as shown in the examples) they would not be regulated. However, Council did indicate that the outdoor storage of these types of vehicles should be regulated in the ordinance. Specific language would need to be drafted to describe these types of vehicles.

In addition, there were some inconsistencies in the analysis of trailers. The results showed that an enclosed trailer with a sign indicating its commercial use was a vehicle to be regulated. However, an unenclosed trailer without signage of approximately the same size, holding equipment for an obvious commercial use, was not a vehicle to be regulated. As part of our action plan implementing the results of the blight strategies, staff was directed to look at modifying the requirements for the outdoor storage of recreational vehicles and trailers on residential property. We will try to address these issues as part of that process.

In response to the results of the survey, we propose that language be drafted for consideration as a Zoning Ordinance Text Amendment that would modify the provisions for the outdoor storage of commercial vehicles on residential property in Section 40.66.00 of the Ordinance. The proposed text would allow a residence to have one vehicle that exceeded the minimum threshold of any one of the individual criteria listed. The text would further require a variance for the outdoor storage of more than one vehicle exceeding the minimum threshold of any one of the criteria, or the outdoor storage of any vehicle that exceeded two or more of the criteria.

Under this scenario, the definition of a commercial vehicle contained within section 04.20.32 would not need to be changed from its present form, however, the definitions of commercial vehicle: pick-up truck and commercial vehicle: van contained within Sections 04.20.33 and 04.20.34 respectively would no longer be necessary and should eventually be deleted.

Trailers would continue to be regulated at this time as to their location on the site per the requirements of Section 40.65.00 of the Ordinance. This current text requires that the trailers be located in a side or rear yard and be at least 3' from a side or rear property line.

Attachments: 1) Table of Results of Visual Survey of Commercial Vehicles
 2) ZOTA 215-C, City Council Public hearing Draft

Prepared by: Mark Stimac, Director of Building and Zoning

Reviewed as to Form and Legality:

Lori Grigg Bluhm
City Attorney

Date

Results of Visual Survey of Commercial Vehicles

EXAMPLE	VEHICLE TYPE	SIGN?	COMMERCIAL VEHICLE?	REGULATE?	NUMBER OF CRITERIA
1-A	Passenger	X	4	3	1
1-B	Pickup	X	3	3	1
1-C	Passenger		0	0	0
2-A	Passenger Van	X	4	4	1
2-B	SUV	X	3	3	1
2-C	Mini Van	X	3	3	1
3-A	Cargo Van		3	2	0
3-B	Cargo Van	X	2	2	1
3-C	Snow Plow Truck		1	1	0
4-A	Modified Pickup		3	2	0
4-B	Cube Van		4	4	2
4-C	Box Truck		6	7	2
5-A	Cargo Van	X	3	3	1
5-B	Cube Van	X	4	4	2
5-C	Big Truck		1	1	2
6-A	Big Truck		1	1	2
6-B	Dump Truck	X	6	7	3
6-C	Large Stake	X	6	7	3
7-A	Small Stake		3	4	0
7-B	Medium Stake		4	5	0
7-C	Large Stake		6	7	1
8-A	Enclosed Trailer		3	3	0
8-B	Enclosed Trailer	X	5	4	1
8-C	Open Trailer with equipment		2	2	0

CITY OF TROY
AN ORDINANCE TO AMEND
CHAPTER 39 OF THE CODE
OF THE CITY OF TROY
CITY COUNCIL PUBLIC HEARING DRAFT

The City of Troy ordains:

Section 1. Short Title

This Ordinance shall be known and may be cited as an amendment to Chapter 39 of the Code of the City of Troy.

Section 2 – Amendment to Articles XLIII and XLIV of Chapter 39

Article XLIII BOARD OF ZONING APPEALS of Chapter 39 of the Code of the City of Troy is amended to add a provision that gives the responsibility for reviewing and approving Temporary Parking of Commercial Vehicle in One-Family Residential Districts to the Board of Zoning Appeals. Article XLIV CITY COUNCIL APPEALS is removed in its entirety, to remove the responsibility for reviewing commercial vehicle appeals and off-street parking appeals from City Council.

(Underlining, except for major section titles, denotes changes)

[Add Section 43.74.00 to read as follows]:

43.74.00 TEMPORARY PARKING OF COMMERCIAL VEHICLES IN ONE-FAMILY RESIDENTIAL DISTRICTS

The Board of Zoning Appeals shall have the authority to review and approve applications for the Temporary Parking of Commercial Vehicles in One- Family Residential Districts.

43.74.01 Temporary Parking of Commercial Vehicles in One-Family Residential Districts as set forth in the preceding Section shall be based upon meeting all of the following standards:

A. Efforts by the applicant have determined that there are no reasonable or feasible alternative locations for the parking of the subject commercial vehicle.

B. A garage or accessory building on the subject residential site cannot accommodate, or cannot reasonably be constructed or modified to accommodate, the subject commercial vehicle.

C. The location available on the residential site for the outdoor parking of the subject commercial vehicle is adequate to provide for such parking in a manner which will not negatively impact adjacent residential properties, and will not negatively impact pedestrian and vehicular movement along the frontage street(s).

43.74.02 The Board of Zoning Appeals may grant approval for Temporary Parking for a period not to exceed two (2) years.

43.74.03 Except as otherwise provided in Sections 43.74.00 through 43.74.02, the procedure governing other appeals to the Board of Zoning Appeals shall be applicable to applications for the Temporary Parking of Commercial Vehicles in One-Family Residential Districts.

[Revise (Delete in its' entirety) Article 44 as follows]:

~~44.00.00 — ARTICLE XLIV — CITY COUNCIL APPEALS~~

~~44.01.00 — APPEALS: OFF-STREET PARKING~~

~~————— An appeal may be made to the City Council by any person or entity affected by a decision of the Building Inspector regarding off-street parking requirements, as set forth in Section 40.21.01 through 40.21.83. The appeal shall be made by filing with the Building Inspector an application for hearing before the City Council specifying the grounds for appeal. The Building Inspector shall transmit to the Council all documents relating to the appeal.~~

~~44.02.00 — APPEALS: OUTDOOR PARKING OF COMMERCIAL VEHICLES IN RESIDENTIAL DISTRICTS~~

~~————— An appeal may be made to the City Council by any person or entity affected by a decision of the Director of Building and Zoning in relation to the type or character of vehicle permitted to be parked outdoors in Residential Districts, in accordance with the provisions of Section 40.66.00 of this Chapter. The appeal shall be made by filing with the Building Department an application for hearing before the City Council specifying the grounds for appeal. The Director of~~

~~Building and Zoning shall transmit to the City Council all documents relating to the appeal.~~

~~(Rev. 02-05-01)~~

~~44.02.01 — Upon receipt of the Appeal Application from the Director of Building and Zoning, the City Council shall hold a Public Hearing on the request, the notice of which shall respect the following requirements:~~

- ~~_____ A. — All owners of property within 150 feet of the property proposed to be the site for parking of such vehicle shall be notified by U. S. Mail, and~~
- ~~_____ B. — Said notice shall be postmarked no less than 14 days before the date of the Public Hearing.~~

~~(Rev. 02-05-01)~~

~~44.02.02 — Actions to grant appeals as set forth in the preceding Section shall be based upon at least one of the following findings by the City Council:~~

- ~~_____ A. — The occurrence of the subject commercial vehicle on the residential site involved is compelled by parties other than the owner or occupant of the subject residential site (e.g. employer).~~
- ~~_____ B. — Efforts by the applicant have determined that there are no reasonable or feasible alternative locations for the parking of the subject commercial vehicle.~~
- ~~_____ C. — A garage or accessory building on the subject residential site cannot accommodate, or cannot reasonably be constructed or modified to accommodate, the subject commercial vehicle.~~
- ~~_____ D. — The location available on the residential site for the outdoor parking of the subject commercial vehicle is adequate to provide for such parking in a manner which will not negatively impact adjacent residential properties, and will not negatively impact pedestrian and vehicular movement along the frontage street(s).~~

~~(Rev. 05-09-94)~~

~~44.02.03 The City Council may grant appeals in relation to the type, character, or number of commercial vehicles to be parked outdoors in Residential Districts for an initial period not to exceed two (2) years, and may thereafter extend such actions for a similar period.~~

~~(Rev. 05-09-94)~~

~~44.03.00 All other provisions regarding appeals to the Board of Zoning Appeals in Article XLIII shall be followed by the applicant and the City Council in reviewing appeals under this Article.~~

Section 3. Savings

All proceedings pending, and all rights and liabilities existing, acquired or incurred, at the time this Ordinance takes effect, are hereby saved. Such proceedings may be consummated under and according to the ordinance in force at the time such proceedings were commenced. This ordinance shall not be construed to alter, affect, or abate any pending prosecution, or prevent prosecution hereafter instituted under any ordinance specifically or impliedly repealed or amended by this ordinance adopting this penal regulation, for offenses committed prior to the effective date of this ordinance; and new prosecutions may be instituted and all prosecutions pending at the effective date of this ordinance may be continued, for offenses committed prior to the effective date of this ordinance, under and in accordance with the provisions of any ordinance in force at the time of the commission of such offense.

Section 4. Severability Clause

Should any word, phrase, sentence, paragraph or section of this Ordinance be held invalid or unconstitutional, the remaining provision of this ordinance shall remain in full force and effect.

Section 5. Effective Date

This Ordinance shall become effective January 1, 2007.

This Ordinance is enacted by the Council of the City of Troy, Oakland County, Michigan, at a regular meeting of the City Council held at City Hall, 500 W. Big Beaver, Troy, MI, on the _____ day of _____, 2006.

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