



SUBSTITUTE
ORDINANCE NO. 28437

1 BY REQUEST OF DEPUTY MAYOR THOMS AND COUNCIL MEMBER LONERGAN
2 AN ORDINANCE relating to public health and safety; amending Chapter 11.05 of
3 the Tacoma Municipal Code by amending Section 11.05.231 thereof to
4 modify the prohibitions on the use of vehicles for human habitation; and
5 declaring an emergency, making necessary the passage of this ordinance
6 and it becoming effective immediately.

7 WHEREAS, in March 2016, the City Council amended Section 11.05.231 of
8 the Tacoma Municipal Code ("TMC"), relating to human habitation of vehicles, to
9 provide a clearer definition of "habitation," and further, extended the prohibition
10 period from 24 hours to seven days in order to allow for more outreach efforts to
11 connect individuals with available services, and

12 WHEREAS, since that time, the City has identified challenges with
13 enforcement, especially with regard to the time limitations and addressing
14 unoccupied vehicles, and

15 WHEREAS, in May 2017, the City declared a state of emergency due to the
16 growing public health concerns associated with an increase in the number of
17 homeless and unsheltered individuals in the City, who, on any given night, can be
18 found sleeping in parks, cars, abandoned buildings, under highway overpasses,
19 and in other places not fit for human habitation, and

20 WHEREAS the increase of homeless encampments and higher
21 concentrations of individuals living in cars or other areas in places not meant for
22 human habitation is having a significant impact on public health and safety, as
23 there are inadequate sanitation and disposal facilities, which can have a high
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potential for community health impacts, endangering the health of the occupants
as well as the surrounding community and neighborhoods, and

WHEREAS conditions experienced by unsheltered individuals may include
accumulation of uncontained garbage that becomes a food source for vermin,
vectors (organisms that transmit diseases or parasites) and related pathogens;
lack of proper food storage and clean dishes that can facilitate the spread of food-
borne disease; lack of sanitary facilities to dispose of human and animal fecal
waste; improper disposal of discarded medical and sharps waste; accumulation of
combustible materials that can ignite; lack of access to handwashing and personal
hygiene; lack of clean water; and the victimization of homeless persons by both
sheltered and non-sheltered persons, and

WHEREAS Neighborhood and Community Services Department staff, in
consultation with the Tacoma Police Department, is recommending the following
changes to TMC 11.05.231:

- Specify that enforcement efforts relate to the improper use of a vehicle, as opposed to penalizing the person. This provides greater clarity for law enforcement and other personnel.
- Incorporate a presumption that the registered owner is responsible for the improper use of the vehicle, which will assist on-scene enforcement efforts if a vehicle is unattended.
- Reduce the time permitted for use at any one location from 7 days to 72 hours. This is intended to lessen the impact on the surrounding communities, as opposed to the current time frame.
- Add a minimum distance required for an unlawful vehicle to be moved from the spot of violation, specifically one-half of one mile. This change helps resolve the challenges of an inherent permanent ban, which is impracticable for enforcement purposes.



- Reduce the severity of the penalty from a Class 1 to a Class 3 civil infraction (a reduction from \$250 to \$50), in recognition of the financial burdens created by a monetary penalty. This also helps further the City's equity objectives; and

WHEREAS these changes are being recommended in connection with the state of emergency that was declared by the City Council pursuant to Ordinance No. 28430 in order to mitigate the public health conditions associated with the homelessness crisis impacting the City of Tacoma; Now, Therefore,

BE IT ORDAINED BY THE CITY OF TACOMA:

Section 1. That Section 11.05.231 of the Tacoma Municipal Code is hereby amended as set forth in the attached Exhibit "A."

Section 2. That, due to the existence of a previously declared public emergency, as declared in Ordinance No. 28430, this ordinance is effective upon passage by an affirmative vote of at least six members of the City Council.

Passed _____

Mayor

Attest:

City Clerk

Approved as to form:

Deputy City Attorney



EXHIBIT "A"

CHAPTER 11.05 MODEL TRAFFIC ORDINANCE

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11.05.231 Human habitation of vehicles.

A. Definitions.

1. "Human habitation" shall mean the use of a vehicle for dwelling or residential purposes. Evidence of human habitation includes, but is not limited to, any combination of two or more of the following activities: sleeping; setting up any bedding, sleeping bags, bedroll, pillow or other sleeping materials in such a manner as to be used for sleeping; engaging in housekeeping or cooking activities; storing cookware, cooking equipment; or bodily fluids in a vehicle; storing personal possessions in such a manner that some or all of the vehicle's windows are obscured; using sanitation, plumbing and/or electrical systems or equipment in a manner inconsistent with any provision of the Tacoma Municipal Code, or any other

activity where it reasonably appears, in light of all the circumstances, that a person or persons is using the vehicle as a living accommodation. For purposes of this section, "human habitation" means the use of a vehicle as a dwelling place and does not include temporary use of a vehicle for alleviation of sickness or because of physical inability to operate the vehicle.

2. "Vehicle" shall include, but not be limited to, automobiles, motorcycles, trucks, buses, motorized recreational vehicles, campers, boats, travel trailers, boat trailers, utility trailers, or other similar devices.

3. "Recreational Vehicle" ("RV") means a vehicular-type unit primarily designed for recreational camping or travel use that has its own motive power or is mounted on or towed by another vehicle. The units include travel trailers, fifth wheel trailers, folding camping trailers, truck campers, and motor homes.

B. It is unlawful ~~for any person to use a~~ for any vehicle to be used for human habitation purposes for a period exceeding ~~72 hours~~ seven days, in either one or multiple locations, on a public street or public right-of-way anywhere in the City of Tacoma, unless a permit has been issued in accordance with subsections D and E herein. It shall be unlawful for a vehicle to be moved any distance less than one-half of one mile from the position it occupied at the start of the 72-hour period in order to avoid the time limit regulation of this section. Proof that any vehicle was found stopped, parked, or standing in or along any public street or public right-of-way and was unattended by any person but was in violation of this subsection, together with proof that the defendant was at the time of such violation the registered owner of such vehicle, shall constitute in evidence a prima facie presumption that the registered owner of such vehicle was the person who parked or placed such a vehicle at the point where and for the time during which such violation occurred.

C. Recreational vehicle parks in compliance with Chapter 2.16 of the Tacoma Municipal Code and state law are exempt from the provisions of this section.

D. A recreational vehicle may be used for human habitation if an appropriate permit, such as a special events, special use, or temporary use permit, has been obtained from the City that authorizes a recreational vehicle to be parked and used for human habitation.

E. Recreational vehicles ("RVs") may be permitted to be used for human habitation for a maximum of 14 days per calendar year at a specific location when the resident of the property adjacent to which the RV will be parked has first obtained a permit from the City.

1. Permits are valid only for the dates authorized on the permit and only for the location indicated on the permit. A permit must be displayed in a manner that it is clearly visible from the outside of the recreational vehicle.



2. The owner, operator, and occupants of the RV must comply with all conditions printed on the permit. Conditions include: (a) the vehicle must be legally parked, (b) all waste and sewage generated within the RV must be disposed of in a safe and legal manner, (c) operation of a generator while the RV is parked is prohibited, (d) the use of extension cords and other hookups is prohibited, (e) the erection of awnings and setting up furniture or similar items outside the RV is prohibited.

3. The violation of any condition printed on the permit is a violation, and the owner or operator of the RV may be cited, as provided in this section. A permit may be summarily revoked by a police officer, road compliance officer, code enforcement officer, tax and license compliance officer, or parking enforcement officer when (a) a condition printed on the permit or other Municipal Code provision has been violated by the vehicle owner, operator, or occupant or (b) the Municipal Code is violated in relation to the parking or occupancy of the vehicle or (c) the permit was obtained by fraud or misrepresentation.

4. The resident obtaining the permit must present proof of residency at the address at the time of application for the permit.

5. Fees. The cost of a permit is \$10 payable to the City of Tacoma Finance Department.

F. Emergency Action. Any vehicle being used for human habitation which is resulting in the discharge of human waste or sewage in any location or manner except into an approved public or private sewage disposal system constructed and maintained in accordance with the Tacoma Municipal Code may be summarily removed and impounded notwithstanding any provision of this chapter.

G. Violations.

1. Any violation of this section is a ~~c~~Class 13 civil infraction, and the owner, operator, or person in charge of any vehicle found to be in violation of this section shall be assessed a monetary penalty of not more than \$50 not to exceed \$250, not including statutory assessments. A violation of this section is a civil infraction, and the owner, operator, or person in charge of any vehicle found to be in violation of this section shall be assessed a monetary penalty as follows:

a. For a first offense, a fine of not more than fifty dollars (\$50.00), not including statutory assessments, shall be assessed;

b. For a second offense, a fine of not more than one hundred dollars (\$100.00), not including statutory assessments, shall be assessed; and

c. For a third and any subsequent offense, a fine of not more than two hundred and fifty dollars (\$250.00), not including statutory assessments, shall be assessed.

2. Any violation in any street, park, alley, public parking lot, or other public way which constitutes an obstruction to traffic, or presents a threat to public safety, may subject the vehicle to immediate impoundment in accordance with the provisions contained in RCW Chapter 46.55. If the vehicle is inoperable and cannot be moved under its own power from where it is located, the vehicle may be subject to enforcement and impoundment pursuant to TMC 8.23.050.

3. Penalties for a violation of this section shall be in addition to any other remedy provided by local or state law and nothing in this chapter should be construed to limit the authority of the City to enforce pursuant to any other provision of local or state law.

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