



MEMO

Legal Department

To: Mayor Haila, Ames City Council
From: Mark O. Lambert, City Attorney
Date: April 7, 2023
Subject: Bus/home parked on City streets

At the March 14, 2023, Ames City Council meeting, the Council discussed the situation of the individual living in a revamped school bus, which is parked on City streets.

Two motions were adopted by the Council:

- 1) Moved by Gartin, seconded by Corrieri, to ask staff to come back to the City Council with options on size of vehicles under Option 3A (of the previous memo).
- 2) Moved by Betcher, seconded by Rollins, that staff look at other issues of safety with the woodburning stove and animal habitation, as well as where motor vehicles fit into the current City Code and what options the City Council has the means to regulate. Vote on Motion: 6-0. Motion declared carried unanimously.

VEHICLES

Staff checked with the Iowa Department of Transportation, and the DOT indicated that they didn't have any authority over people living in their vehicles or having alternative heating sources in their vehicles.

A question was raised about whether the City could require that anyone living in a vehicle only live in a vehicle that was commercially made for such, and

included a source of potable water, sanitary facilities, heat, etc. I believe this would face the same constitutional concerns as outright prohibiting people from living in their vehicles. It is something that the Council could try if it wished, but I believe it might result in litigation and I am not confident that the courts would rule in the City's favor.

FIRE CODE

There is nothing in the Fire Code that prohibits wood-burning stoves in vehicles.

The Fire Code only applies to structures, not vehicles.

If this were a building instead of a bus, the Fire Code would require that the chimney be longer and that a spark arrester be installed on the top of the chimney.

PUBLIC HEALTH

Despite several attempts, I have not connected with staff at the Iowa Department of Public Health or the Story County Health Department. I did review the public health chapters of the Iowa Code, and I do not believe state or county public health authorities have any jurisdiction over the matter of someone living in their vehicle. Of course, human waste products must be disposed of properly, but we do not know how the bus owner disposes of such.

ANIMALS

The bus reportedly contains has five or so ferrets as pets. The owner used to also have two cats, but apparently doesn't have cats now.

Our "Animals" ordinance, Chapter 3 of the Ames Municipal Code, provides for a standard of care for animals, at Section 3.111. We have no evidence that the animals in the bus are not being provided appropriate care.

The bus owner has turned over the ferrets twice to Animal Control for temporary protective care, in June of 2021 and July of 2022, once because it was too hot in the bus because of excessive heat from the heater (reportedly, she used a gas heater at the time, not the current wood-burning stove); and once because it was too hot because the bus air conditioning was not functioning. The fact

that she has turned over the animals for temporary protective care would indicate that she is concerned for the welfare of the pets.

Animal Control staff have been in the bus to view the conditions and did not determine that the animals were in bad conditions or lacking appropriate care. Animal Control can only enter the bus with the owner's permission, unless a warrant is obtained, and there are no current grounds for such a warrant.

SIZE OF VEHICLES

The Council adopted a motion for the City Attorney to come back with options on limiting the size of vehicles parked on City Streets.

After consulting with the Public Works traffic engineers, and Police Department traffic enforcement staff, my recommendation would be that if the Council desires to limit the size of vehicles parked on City streets. I discovered that the largest "regular" vehicle appears to be the Ford F350 pick-up truck. The short-bed version is 250 inches, which is just under 21 feet. The long-bed version is 266 inches, which is slightly more than 22 feet. **Therefore, based upon discussions with City traffic engineers and their recommendation on a size limit, I would recommend a 25-foot limit if the Council chooses to adopt such a limitation.** A reminder that school buses range in size from 20 to 45 feet, with the average standard school bus being 35 feet long. Although a 25-foot limit would not prevent a 20-foot school bus from being parked on City streets, if we went a 20-foot limit, it would prohibit some pick-up trucks from parking on the street. City traffic engineering staff suggested a 25-foot limit, just to be safe, but a 23-foot limit would still allow the largest pickup truck to park on the streets.

The following exceptions should be considered: City public works vehicles, construction vehicles during active construction, school buses transporting children, and vehicles that are actively loading and unloading. (Perhaps others)

OPTIONS:

1. Prohibit vehicles 25 feet or more from parking on City streets in residential areas, with exceptions for loading/unloading, etc.
2. Prohibit vehicles 23 feet or more from parking on City streets in residential areas, with exceptions for loading/unloading, etc.
3. Prohibit vehicles 20 feet or more from parking on City streets in residential areas, with exceptions for loading/unloading, etc.

I note that I am presuming the Council would intend to prohibit these large vehicles in residential areas only. The Council could choose to make this prohibition apply to commercial and/or industrial areas of the City as well.

AN ALTERNATIVE TO LENGTH LIMITATION

As an alternative to a length limitation, both traffic and parking staff suggested that a limit on the type of vehicle might be an easier limitation to enforce. That would be a prohibition on “commercial vehicles” being parked on City streets. We would define commercial vehicles as commercial trucks (not pick-ups), boxed vehicles, tow trucks, buses, any vehicles that are designed to seat 16 or more people, recreational vehicles (RVs), and exclude such vehicles while loading/unloading merchandise or passengers, public works vehicles, etc.