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Mr. David J. Watkins, Chairman
Transportation Committee
Board of Representatives
City of Stamford

Re: Parking Ordinance Section 231-46

Dear Representative Watkins:

This letter is in response to your request for a legal opinion regarding possible changes to the above referenced ordinance that restricts parking of certain vehicles in residential zones during certain hours. Specifically, you have asked whether the City of Stamford (“City”) zoning regulations, ordinances, or state law prohibit proposing an ordinance that would: (1) restrict parking by motor vehicles, including trucks, that weigh less than the current 18,000 lb. weight limit, either with or without specification as to requiring a commercial driver’s license; (2) impose vehicle height restriction(s); (3) restrict weight to less than 18,000 pounds of non-motorized vehicles, including but not limited, semitrailers, boat trailers, horse trailers, and house trailers; and (4) restrict parking of certain types of trucks, such as garbage and/or hauling trucks.

The power to regulate parking on public streets is a universally recognized police power of the state that may be delegated to its municipal subdivisions. 7 Am. Jur. 2d. Automobile and Highway Traffic, Section 271; *Edwards v. City of Hartford*, 145 Conn. 141 (Conn. App. 1958); see also Connecticut General Statutes § 7-148(c)(7)(B).¹ Currently, § 231-46² of the Stamford Code of Ordinances prohibits parking of certain vehicles on residential City streets between certain hours and limits the time in which

¹ C.G.S. § 7-148(c)(7)(B) provides that a municipality shall have the power to “[r]egulate and prohibit, in a manner not inconsistent with the general statutes, traffic, the operation of vehicles on streets and highways, off-street parking and on-street residential neighborhood parking areas in which on-street parking is limited to residents of a given neighborhood, as determined by the municipality.”

² Stamford Code of Ordinances § 231-46 reads in relevant part:

A. No person shall park:

- (1) On the street within five hundred (500) feet of a residential dwelling *between the hours of 9:00 p.m. and 6:00 a.m.*; or
- (2) On a street located in a residential zone, including but not limited to the RA-3, RA-2, RA-1, RA-20, R10, R-71/2, R-5, or RMF Zone as defined in the City of Stamford Zoning Regulations, *for longer than two hours in any twenty-four-hour period* unless the parking of said vehicle is in connection with and incidental to a permitted use in any of the aforementioned zones because it is a legal nonconforming use as defined under the Zoning Regulations of the City of Stamford, any of the following:
 - (a) Any vehicle requiring a Class 1 or Class 2 motor vehicle operator’s license or commercial driver’s license to operate.
 - (b) Any motor vehicle which exceeds a gross weight of eighteen thousand (18,000) pounds or has more than two axles.

(c) Any non-motorized vehicle, whether attached or not attached to a motor vehicle, which together exceeds a gross weight of eighteen thousand (18,000) pounds, including but not limited to semitrailers, boat trailers, horse trailers and house trailers.

(d) Any motor vehicle which exceeds three-fourths (3/4) ton in capacity, is not used solely by the occupants of the premises and has been prohibited by the Zoning Regulations of the City of Stamford from parking on or being garaged on private residential property.

those vehicles may be parked in any twenty-four hour period.³

As written, § 231-46 contains at least three different weight restrictions for vehicles. The first weight restriction is implicitly contained in subsection (a), which prohibits the parking of any vehicle that requires a commercial driver's license to operate. In Connecticut, a commercial driver's license ("CDL") is required to operate commercial vehicles. C.G.S. § 14-1(17). A commercial vehicle is "a vehicle designed or used to transport passengers or property that has a *gross vehicle weight rating of twenty-six thousand and one pounds or more, or a gross combination weight rating of twenty-six thousand and one pounds or more*, inclusive of a towed unit or units with a gross vehicle weight rating of more than ten thousand pounds."⁴ C.G.S. § 14-1(19). Section 231-46 subsection (b) expressly restricts the parking of motor vehicles that exceed a gross weight of 18,000 pounds. And subsection (d) expressly restricts the parking of any motor vehicle that exceeds three-fourths ton in capacity....that has been prohibited by the City's Zoning Regulations.

You have asked whether the 18,001 pound weight limit can be reduced, either with or without specification as to requiring a CDL. It is my opinion the weight restriction contained in subsection (b) can be reduced to less than 18,000 without specifying the need for a CDL. The commercial vehicle restriction applies to a class of vehicles and has a weight limit that is separate from the 18,001 restriction contained in subsection (b).

You also asked whether the weight restriction that applies to non-motorized vehicles can be reduced to less than 18,000. Yes, it can. However, a non-motorized vehicle is restricted if it AND the motor vehicle used to tow it exceeds 18,000 pounds. The non-motorized vehicle itself does not need to weigh more than 18,000 pounds.

You also asked whether the ordinance can restrict the parking of garbage and haulage trucks regardless of their size and/or weight. The City may restrict the parking of all garbage and haulage trucks if the restriction is "reasonably calculated" and has a rational basis to achieve public health, safety and welfare. Greater New Haven Property Owners Association v. City of New Haven, 288 Conn. 181, 187 (2008). This ordinance was enacted several years ago because the overnight parking of large commercial vehicles on residential streets obstructed visibility for drivers and pedestrians and diminished available roadway for vehicular traffic.⁵ If the City now restricts trucks without reference to size and/or weight, it must offer a different, legitimate health and/or safety reason for the restriction.

Lastly, the City may impose height and/or length limitations for vehicles parked on residential streets. In my opinion, the City may impose height and length restrictions for parked vehicles if the restrictions are reasonably calculated and have a rational basis to achieve public health, safety and welfare.

I trust that this letter adequately addresses all of your concerns. If you have any additional questions regarding this matter, please feel free to contact me.

Very truly yours,

KATHRYN EMMETT
CORPORATION COUNSEL

BY *Vikki Cooper*

Vikki Cooper
Deputy Corporation Counsel

³ There are some exceptions to the parking restrictions contained in Section 231-46. Specifically, Section 231-46A(2) permits restricted vehicles to be park on residential streets for more than two hours a day if the parking of those vehicles are in connection with and incidental to a legal nonconforming use under the City's Zoning Regulations. Section 231-46B permits parking of restricted vehicles for longer than two hours per day if the vehicles are being used for construction and/or repairs to structures or dwellings on the adjacent property or the vehicles are being used for moving personal property in or out of the structures or dwellings on the adjacent property.

⁴ Commercial vehicles also include vehicles designed to transport sixteen or more passengers, including the driver, or is designed to transport more than ten passengers, including the driver, and is used to transport students under the age of twenty-one years to and from school. Any vehicle that is used to transport hazardous materials in accordance with 49 CFR 172, Subpart F, as amended, or any quantity of a material listed as a select agent or toxin in 42 CFR Part 73, is also defined as a commercial vehicle. C.G.S. § 14-1(19).

⁵ The ordinance was also enacted to reduce noise during overnight hours when large commercial trucks were being started and driven through the neighborhoods.

