

ITEM #:	<u>31</u>
DATE:	<u>12-19-23</u>
DEPT:	<u>P & H</u>

COUNCIL ACTION FORM

SUBJECT: **TEXT AMENDMENT FOR PUBLIC NUISANCE (PROPERTY MAINTENANCE) STANDARDS RELATED CHANGES TO AMES MUNICIPAL CODE CHAPTERS 18, 22, 29, AND 30**

BACKGROUND:

The City Council reviewed a [staff report](#) on October 10, 2023, related to the consistency of the Zoning Ordinance (Chapter 29 of the Ames Municipal Code), Streets and Sidewalks Code (Chapter 22), and Parking Code (Chapter 18) with the recently adopted updated Public Nuisance “Property Maintenance” Code (Chapter 30). The chapters overlap primarily in their regulation of outdoor vehicle storage and parking and their definitions of various types of vehicles. **Definitions were found to be inconsistent between the chapters causing the intent of some of the standards to be unclear.**

The City Council directed staff to address these inconsistencies with updates to the pertinent chapters as follows:

1. Add and update the definitions within the Zoning Ordinance, including those definitions from Chapter 30 for vehicles, trailers, semitrailers, inoperable, and junk vehicles.
2. Keep the zoning ordinance 30-day limit on keeping of junked vehicles outdoors, but add a limit of one (1) junked vehicle per property and require it be stored on an approved parking area.
3. Add an allowance for the parking of one (1) recreational vehicle, boat, or trailer to be parked on a driveway for up to 72 hours. Over 72 hours is considered outdoor storage.
4. Add an allowance for the storage of one (1) recreational vehicle, boat, or trailer outdoors in the side or rear yard of a home on an approved parking surface.
5. Add exemption for screening of trash receptacles for one and two-family homes on private property.
6. Add Home Occupation reference to Chapter 30 for enforcement options.
7. Update Chapter 18 Parking related to front yard parking, definitions, and the parking of equipment.
8. Update Chapter 22 Streets and Sidewalk for prohibitions on storage within the right-of-way and obstructions of the right-of-way.

The updating of definitions for Chapter 29 required edits to a number of sections that apply to parking and storage of vehicles to maintain consistency. Two concerns arose during this update process that staff wants to highlight for the City Council before the proposed code amendments are approved.

Concern 1. The adoption of Chapter 30 was a lengthy process with numerous public comments that ultimately resulted in adoption of the new standards on September 12th with an effective date of January 1, 2024. While many of the changes discussed herein are not significant changes, changes regarding issue #2 junked vehicle storage listed above that was directed by the City Council on October 10th is a significant change that departs from the Chapter 30 approval from September 12th. (See Junk Vehicle Storage below). Staff is concerned that the public is not aware of this change and, therefore, have not provided feedback to the Council regarding this change.

If the proposed language with the 30-day limit regardless of covering is ultimately approved by the City Council, staff will need to have an opportunity for education and outreach.

Concern 2. An additional issue that was not discussed in October is clarification that the keeping of a vehicle for residential use is always considered parking and permissible, and is not storage. This change is consistent with the Council's prior deletion of the 15-day parking rule at the time of adoption of Chapter 30. The Zoning Ordinance currently classifies the parking of vehicles as storage (over 72 hours) on residential properties, which is not permitted. The draft ordinance eliminates the 72-hour storage definition for residential vehicle parking. If this was not City Council's intent, the ordinance will need to be modified.

Per the City Council's direction, Staff has prepared a complete draft ordinance with all related changes (Attachment A). Tables comparing current versus proposed parking and storage allowances by vehicle type (junked, operable, recreational vehicles, etc.), is included in the Addendum. A summary of the topics and changes follows.

TEXT AMENDMENTS TO THE ZONING ORDINANCE

Definition Amendments

Chapter 30 includes definitions of vehicles, trailers, semitrailers, and junked (formerly inoperable) vehicles. To maintain consistency, City Council directed staff to modify definitions within the Zoning Ordinance and ensure the code chapters matched.

Staff also added or amended definitions for all-terrain vehicles, equipment, commercial trucks, habitation, accessory parking, and commercial parking to assist in the administration of these requirements. Specifically, it makes clear which parking requirements, such as front yard parking limits, apply to what types of vehicles.

Junked Vehicle Storage

Currently, junked vehicles (referred to as "inoperable" in the current code) are not permitted to be stored for more than 30 days per the Zoning Ordinance (Section 29.304(3)(a)(iii)). Storage is defined as keeping of a vehicle for over 72 hours. This section is not clear on the number of junked vehicles permitted to be stored on a property.

With the recent Property Maintenance Code amendments, Chapter 30 now allows junked vehicles to be stored for no more than 48 hours unless screened or covered with a tarp. It does not speak to a limited number or maximum duration of storage outdoors. **However, the Zoning Ordinance limit of 30 days is more restrictive and would apply whether the vehicles are screened or not.**

At the October 10th meeting, City Council directed staff to resolve the inconsistencies about junked vehicle storage by amending the Zoning Ordinance to allow only one junked vehicle to be stored for no more than 30 days. This includes outdoor storage of screened vehicles previously referenced in Chapter 30. As currently proposed within the draft ordinance, the unlimited storage language of Chapter 30 would be modified to limit storage to 30 days and 1 vehicle, regardless of screening.

The 30-day limitation will apply to the individual junked vehicle on the whole property, not to a precise location on the property. The 30-day limit will not restart if a vehicle is moved elsewhere on a property.

Additionally, the 30 days are cumulative for any junked vehicle during a calendar year regardless of whether it leaves the site. It does allow for different junked vehicles to be on a property over the course

of a year, but never more than one at a time, and each is limited to 30 days.

Another critical detail is that a junked vehicle is never considered “parked” it is always counted as storage and storage cannot occur within a required parking space per standards of 29.406 (5) of the Zoning Ordinance. This is consistent with current zoning regulations that apply to use of required parking spaces.

Recreational Vehicle (RV), Trailer, and Boat Parking and Storage

Currently, Section 29.406(19) of the Zoning Code allows one trailer, recreational vehicle, boat, or boat trailer, to be parked behind the front yard setback.

City Council directed staff to allow one recreational vehicle, boat, or trailer to be stored (for more than 72 hours) in the side or rear yard of a property (please note that due to the lengthy discussion involving various terms, the minutes from October 10th reflect that the motion was to allow storage behind the front yard setback whereas the actual motion used the terms side and rear yard). **The amendment clearly permits their storage versus the current code that indicates parking is all that is allowed.** Only one recreational vehicle, boat, or trailer is permitted to be stored (not one of each).

Additionally, City Council directed staff to allow one recreational vehicle, boat, or trailer to be parked for no more than 72 hours in a required parking space (i.e. on a driveway) to allow for off-street loading and unloading.

Trash Receptacles

Under the current code, trash receptacles for one- and two-family dwellings (e.g., 32 to 96-gallon carts on wheels or toters) are required to be screened, although staff does not believe the requirement was enforced. **City Council directed staff to remove the screening requirements for trash receptacles used for single- and two-family dwellings, relaxing the current requirement.**

Vehicle Use for Human Habitation

Chapter 29.304(3)(a)(ii) of the current code disallows “parking” of vehicles to be used for habitation.

The intent of this section is to ensure that only approved dwellings are used for living purposes in all zoning districts. Residential uses are required to be within a dwelling, except within mobile home parks with RLP zoning. The proposed amendment now states “use of” rather than “parking of”, which helps avoid the complications of storage and parking definitions. A definition of habitation has been included within Chapter 29, which defines habitation in relation to accommodation for sleeping. Other changes were made to address the updated definitions for various vehicle types.

Home Occupations

Minor amendments to the standards for home occupations were made to conform with the newly defined terms for vehicles. The current prohibition of keeping equipment, trailers, etc. on a driveway or the public street continues to apply. A vehicle related to the business may be parked on the driveway and street.

Home occupations not in compliance with the Zoning Ordinance were added as a public nuisance in Chapter 30. This will streamline enforcement of the home occupation standards as a nuisance issue since many of the standards are operationally based due to state law requirements.

TEXTS AMENDMENT TO CHAPTERS 18 AND 22:

Equipment Storage and Front Yard Parking

Currently, Chapter 18 prohibits the parking of trucks and trailers over one (1) ton manufacturer's rated capacity, duly licensed as such, or any vehicle of twenty (20) or more gross tons, or boats on city streets. This standard does not address miscellaneous vehicles or equipment. Although City Council directed staff to add equipment, such as agricultural implements or construction equipment, to this provision, it was determined that parking enforcement would be difficult as the police rely upon vehicle registration for enforcement, which does not exist for equipment. **Additionally, this standard is outdated in its terminology and difficult to enforce by staff as written with or without adding new terms to list. Therefore, the prohibition on the parking of equipment was not added to Chapter 18 and it is instead added to Chapter 22. Alternate language will have to be suggested by staff in the future to adequately address the Council's goal.**

Therefore, the only change proposed at this time to Chapter 18 based upon the October direction is to address the coordination of front yard parking enforcement for residential properties. This section was amended to state that "any vehicle, motorized or non-motorized" is prohibited which captures trailers as non-motorized vehicles. This conforms with the Zoning Ordinance definitions and standards.

Although not instructed to do so, staff struck an older provision in Chapter 18 because it was duplicative of requirements for the provision of accessible parking spaces in the Zoning Ordinance and Building Code.

Encroachments and Obstructions

The primary purpose of the amendments was to address a variety of obstructions and encroachments that occur from time to time within the right-of-way. Chapter 22 and 30 did not have coordinated descriptions of these issues for enforcement. Per direction in October, the lists have been modified to include prohibitions of additional types of materials, equipment, and containers.

Because of the Chapter's language restricting items in the right-of-way that do not have an Obstruction Permit, an exemption was created for residential garbage and recycling receptacles. These can be located within the right-of-way if they do not obstruct the street, sidewalk, etc. No time limit was included with the exception.

The language regarding encroachments and obstruction was also rephrased to clearly prohibit storage within or use of the right-of-way for the listed items, unless a permit has been granted by the City, permanent or temporary. **This more clearly shows the Chapter's intent: obstructions of streets and sidewalks are prohibited, rather than permitted with the granting of a permit.** This approach makes communication of standards and enforcement clearer. The City will continue to have the right to remove any materials, items, etc. in the right-of-way that do not have a permit and Chapter 30 will apply as an option for enforcement as well.

PLANNING AND ZONING COMMISSION RECOMMENDATION:

The Planning and Zoning Commission reviewed the proposed text amendment at its December 6, 2023, meeting. **The Commission's discussion focused on parking/storage (over 72 hours) of operable vehicles.** Currently, under the Zoning Ordinance, this is prohibited on residential properties including on driveways or other approved parking areas. The City Council did not give staff direction to change

this provision in the Zoning Ordinance as part of this amendment. However, during the Property Maintenance Code amendment process, the City Council did strike a prohibition on the storage of operable vehicles for more than 15 days from Chapter 30. **It appears to staff that Council intended to allow for an unlimited duration on the keeping of vehicles associated with a residential property, even though this amendment was not initiated to zoning standards on October 10.**

The Commission was concerned that it was still prohibited in the Zoning Ordinance, given how common it is for vehicles to be kept outside on residential properties when an occupant is on vacation or otherwise. **The Commission recommended the City Council approve the text amendments to Chapter 29 with an allowance for operable vehicle storage on residential properties, either on driveways or other approved parking surfaces for an unlimited duration.**

Since the Commission meeting, staff has added the residential vehicle parking exception into the definitions of outdoor storage and accessory parking, again with the understanding that this was the Council's intent through the Property Maintenance Code amendments. **If City Council did not intend for there to be no limitation on residential vehicle parking, the draft ordinance would need to be amended.**

The Commission did not review the changes to the other chapters as only the Zoning Ordinance is under the Commission's purview.

ALTERNATIVES:

1. Approve on first reading the ordinance amending Chapters 18, 22, 29, and 30 of the Ames Municipal Code related to public nuisance and property maintenance standards as proposed.

If the Council chooses to approve proposed the language, including the limits on Junked Vehicle storage with no screening exceptions, staff will want to provide additional notice and education to the public. As a result City Council should be prepared to take public input at the second and third readings of the proposed ordinance.

2. Approve on first reading an ordinance, with modifications to the proposed language.

3. Table consideration of the ordinance and ask staff for more information or for additional public outreach.

CITY MANAGER'S RECOMMENDED ACTION:

The proposed changes primarily alter the current allowances and prohibitions for parking and storage. The most substantial changes are for junked vehicles (30-day storage allowance for one) and recreational vehicles, boats, and trailers (storage and parking allowance for one). The current code is unclear on these allowances/prohibitions, and as a result enforcement was limited or did not occur consistently.

The proposed changes provide needed clarifications on vehicle definitions, definitions of parking versus storage, and eliminate confusion on what code enforcement or nuisance abatement procedures apply. Therefore, it is the recommendation of the City Manager that the City Council adopt Alternative #1, as described above.

ATTACHMENT(S):

[ADDENDUM.pdf](#)

[DRAFT Ordinance for Amendments Related to Public Nuisance Code.pdf](#)