



August 16, 2005

Gary Jackson
Asheville City Manager

Dear Mr. Jackson,

The continuing conflict between Maxwell Street neighbors and Greenlife Grocery has been a concern to the Coalition of Asheville Neighborhoods (CAN) and its members. One of our concerns is the legality and wisdom of the attached letter from Police Chief Bill Hogan dated July 7, 2005.

You may recall that we brought this letter to your attention during your July 21, 2005 meeting with CAN representatives. The letter was also brought to the attention of at least three City Council members: Jan Davis, Brownie Newman, and Dr. Carl Mumpower on July 12, 2005. The only action we are aware of is a request on July 12 from Dr. Mumpower for City Attorney Bob Oast to “shed some light” on the issue.

The CAN Board believes the following resolution to the conflict would be legal, protect the interest of the city, and allow the parties in the conflict an opportunity and reason to compromise.

- a) Police Chief instructs his officers to enforce the law.
- b) When a citizen reports a violation of the law, the police enforce the law.
- c) If the parties in conflict reach a compromise which results in the police not being called during a violation of the law or in there being no violation of the law then everyone is much happier.

Having allowed over a month for the system to work, we respectfully request an update at this time. We are particularly interested in better understanding the following:

- 1) Is the letter legal or good policy? We interpret the letter as the Police Chief creating new law and directing his officers to disregard the existing law.
- 2) Based on Chief Hogan’s direction, the sign in front of the Greenlife loading dock currently states “No Parking, Stopping or Standing Except When Docks Are Full”. How is this legally different than posting a sign on Kimberly Ave. stating “Speed Limit 25 mph Except when Merrimon Ave. is Busy”?
- 3) What part of Chief Hogan’s “compromise” was a concession for Greenlife Grocery and their continued use of Maxwell Street for unloading and truck parking?

We believe the following sections of the UDO are relevant to the legality of this specific situation.

UDO Section 7-11-1(b)6

... Public rights-of-way may be used for maneuvering by delivery vehicles entering or leaving off-street loading berths as set forth in subsection 7-11-1(c), but those berths shall be designed so that no public rights-of-way are blocked by parked delivery vehicles.

Commentary: Delivery vehicles up to 70 feet long routinely block the entire sidewalk due to we presume improper design of the loading dock.

UDO Section 16-1-16(1)a

The streets and sidewalks of the city shall be kept free of all obstructions and open to traffic at all times, and it shall be unlawful for any person to deposit any article or do any act which obstructs such streets and sidewalks.

Commentary: Delivery trucks are required to perform difficult maneuvers in order to enter the loading dock which routinely requires blocking the street for several minutes, or on occasion, several hours when they get stuck in a 'jackknife' position. Delivery vehicles routinely block the entire sidewalk.

UDO Section 19-2-19-59a

It shall be unlawful to park a vehicle as described in subsection (b) of this section on any city system streets within the city.... (b) A vehicle to which this section shall be applicable shall be a truck, tractor, trailer, semi trailer or bus which has a gross weight in excess of 10,000 pounds or which has a length in excess of 270 inches overall or a width in excess of 96 inches.

Commentary: 270 inches equals 22.5 feet. The trucks which deliver to Greenlife are commonly 50 feet and up to 70 feet in length which is more than 2 to 3 times the length allowed for street parking. The trucks are very often over 10,000 pounds based upon the smaller delivery being 14,000 pounds.

We believe an update in writing within two weeks (email would be fine) addressing the City's action on these items would be appropriate. Additionally we think it would be fair to ask that if the Police Chief overstepped his authority, that he rescind his letter in writing to Reid Thompson along with an apology.

Sincerely,

Coalition of Asheville Neighborhoods
Chris Pelly – President
Barber Melton – Vice-President
James Judd – Web Communications
Tom Rightmyer – Secretary
Mike Lewis – Member
Joe Minicozzi – Member

cc: Asheville City Council

Attachment: July 7, 2005 letter from Chief Hogan to Reid Thompson and John Swann



City of Asheville, NC

Police Department

July 7, 2005

Mr. Reid Thompson
Mr. John Swann
Greenlife Grocery
70 Merrimon Avenue
Asheville, NC 28801

Gentlemen:

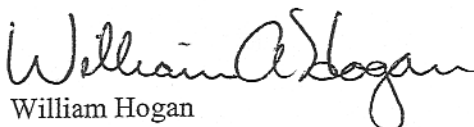
As I am sure you are aware, there is a significant history of issues and complaints regarding the parking on Maxwell Street and indeed the entire use of Maxwell Street by delivery vehicles coming to the Greenlife Grocery. This situation has been reviewed by the North District Community Resource Officer, the North District Commander, the Patrol Division Captain, the City Traffic Engineering Office, the City Attorney's Office, and me. The purpose of this letter is to advise of the enforcement actions that will be taken by the officers of the Asheville Police Department pertaining to the parking issues. The points I would like to convey are as follows:

1. The parking signage pertaining to Greenlife Grocery will be changed to state "No Stopping, Standing, or Parking when loading docks are empty."
2. Delivery vehicles that park on Maxwell Street when a loading dock is empty will be cited for parking violations. Delivery trucks parked on Maxwell Street because the loading docks are full will not be cited for parking violations unless they block the street so other vehicles cannot get through.
3. Delivery vehicles that park on the sidewalk on Maxwell Street will be cited for a parking violation. The only exception to this will be in the case of a large tractor-trailer truck which is backed as far as possible into the large loading dock and yet still blocks a part of the sidewalk directly in front of the large dock.

I understand that this enforcement stance may not make either party in the dispute happy. However, I feel it is the best compromise possible between the competing interests in the situation. I have directed the North District Supervisors to ensure that their personnel enforce the parking violations strictly according to the guidelines stated in this letter.

Thank you for your patience in this matter.

Sincerely,


William Hogan
Chief of Police

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