

Legal Memorandum

To: Judiciary and Administration Committee

Cc:

From: Paul Fredrickson, Assistant City Attorney *PF*

Date: October 31, 2016

Re: Craig's Towing/Junk Dealer's License Requirement

You requested a review of the requirements for tow truck operators regarding obtaining a Junk Dealer's license and eligibility for a Junk Dealer's license under City of La Crosse Municipal Code §§ 10-457; 10-460 and 10-482. More specifically, you requested an opinion on whether or not Craig's Towing, located at 1222 Island Street within the City of La Crosse requires a Junk Dealer's license and whether a license can be granted at that location. The information reviewed included the above-listed ordinance sections, the statements of the business model made by Craig's towing at the Judiciary and Administration Committee Meeting held on October 4, 2016, the comments made during the Common Council Meeting held on October 13, 2016 as well as information obtained from the City's Inspection Department and those directly with Craig's towing. It is the determination of the Legal Department that under current law, Craig's Towing does require a Junk Dealer's license in order to operate within the City of La Crosse. Further, it is the determination of the Legal Department that, under current law, a Junk Dealer's license cannot be granted because of Craig's Towing's proximity to prohibited residential areas at its current address of 1222 Island Street.

ANALYSIS:

The City of La Crosse Municipal Code § 10-457 incorporates "motor vehicles, no longer used as such, to be used for scrap metal or stripping of parts" within its definition of junk. From this language, it is clear that motor vehicles qualify as junk, unless the vehicles are intended to be used as originally intended. That is, in order to not be classified as junk the motor vehicles must be intended to be functional

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again regardless of what the owner otherwise intends to do with the vehicle or its parts.

City of La Crosse Municipal Code § 10-482 requires any person maintaining any building, structure, yard for keeping or storing in commercial quantities motor vehicles or parts thereof which is commonly classified as junk to obtain a license. In the course of its business, Craig's towing obtains vehicles that are no longer to be used as motor vehicles and stores them until the business can obtain a clear title and the vehicles can be sold. It is undisputed Craig's towing operates for a commercial purpose. Although Craig's Towing does not tear apart each vehicle for parts, Craig's towing does remove the tires and drain fluids from the each vehicle before selling each vehicle for the value of the metal contained within each vehicle.

Based on the above definitions, it is the opinion of the Legal Department that Craig's Towing operates as a junk dealer within the City of La Crosse and therefore must obtain a junk dealer's license. Any businesses engaging in the storing and subsequent sale of a motor vehicle, which will no longer be used as a motor vehicle, must similarly obtain a junk dealer's license under current law. All towing companies, however, may or may not need such a license. Storing of a motor vehicle that is still intended to be used as a vehicle does not require a license. Only once the vehicles are no longer intended to be used as such and those vehicles are stored on one's property for a commercial purpose does that property then become a junk yard under current law.

For the above-listed reasons, Craig's Towing must obtain a Junk Dealers license, however, under La Crosse Municipal Code § 10-460 no junk dealing business may carry on in the business of junk dealing within a distance of 1,000 feet from land zoned for single family residence district, residence district, multiple dwelling district, special multiple dwelling district , or low density multiple dwelling district unless the premise was established before April 1, 1992. Craig's Towing operates at 1222 Island Street. Craig's Towing is approximately 211 feet from a prohibited district. Craig's towing has been in business at 1222 Island Street for approximately 10 years. From the available information, the premise was not a junkyard, as defined by ordinance as of April 1,1992. It is the opinion of the Legal Department that because Craig's Towing operates within 1000 feet of a prohibited neighborhood and the premise was not a junkyard as of April 1, 1992 the necessary-junk dealer's license cannot be granted under current law.

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