



CITY OF SANTA BARBARA

ORDINANCE COMMITTEE REPORT

AGENDA DATE: November 18, 2014

TO: Ordinance Committee

FROM: Ariel Calonne, City Attorney

SUBJECT: Municipal Code Amendments Pertaining To Recreational Vehicle Parking

RECOMMENDATION:

That the Ordinance Committee consider proposed amendments to Municipal Code sections 10.44.205, 15.16.060 and 15.16.080 pertaining to recreational vehicle parking and the definition of "temporary recreational vehicles," and forward the ordinance amendments to the City Council for introduction and adoption.

SUMMARY:

The proposed ordinance revisions would define "excessive" RV parking as three or more RVs on a street or street block face. The proposal would also repeal the current prohibition against camping in "temporary recreational vehicles."

DISCUSSION:

History of the "No RV" Parking Ordinances

Recreational vehicle parking regulation in Santa Barbara has a lengthy recent history, including at least two lawsuits. On November 19, 2002, the City Council adopted Ordinance No. 5263 to, among other things, prohibit overnight parking (2 a.m. to 6 a.m.) of RVs and certain other large vehicles and trailers. Thereafter, in *Homes on Wheels v. City of Santa Barbara* (2004) 119 Cal.App.4th 1173, the Court of Appeal upheld (against a preemption argument) Santa Barbara's power under Vehicle Code section 22507 to regulate overnight RV parking. But the Court of Appeal also ruled that the City had failed to provide adequate notice of the regulations because it had not posted each street where the regulations might be applicable, relying instead on posting just 33 locations that the City Attorney had deemed to be "entrances" to the City.

On January 11, 2007, the City and Homes on Wheels reached a settlement agreement under which the City agreed to amend its overnight RV parking ordinance by making it applicable only in a defined area of the City's waterfront, where "entrance" signage would be posted.¹ The City also agreed to expand the Recreational Vehicle Safe Parking Program which was previously set forth in Resolution No. 05-072, adopted August 2, 2005. That program allows supervised overnight RV parking and habitation in certain public and private parking lots.

The City's actions in furtherance of the settlement were reflected in Ordinance No. 5411, adopted on February 6, 2007, and in Resolution No. 07-026, adopted on April 24, 2007 (which repealed and superseded Resolution No. 05-072). Ordinance No. 5411 amended SBMC section 10.44.200 to remove RVs from the citywide 2 a.m. to 6 a.m. large vehicle and trailer parking prohibition. It also implemented the agreed-upon "waterfront" area RV parking restrictions. Resolution No. 07-026 authorized the City Administrator to retain a nonprofit social service organization (New Beginnings Counseling Center -- NBCC) to administer the Recreational Vehicle Accommodation Program (Safe RV Parking Program) and further designated certain public lots for "temporary transitional use for overnight Recreational Vehicle accommodations."

On June 10, 2008, the Council received an update from NBCC on the Safe RV Parking Program. As part of that update, City staff briefed the Council on efforts by the Police, Public Works and the City Attorney's Office to address RV issues in the community. The update noted that "No RV Parking" signs had been posted around Alice Keck Park, Alameda Park, and Ortega Park due to traffic safety concerns. The update concluded by alerting Council that these departments were working on broader solutions to address unwanted RV intrusion into neighborhoods.

On November 11, 2008, the Public Works and Police Departments approached the Ordinance Committee with a new RV parking ordinance. The report noted increasing and significant public nuisance problems associated with RVs, such as lack of proper sanitation or fire safety protection, littering, excessive noise, placement by RV owners of personal belongings outside of RVs, and illegal dumping. The report also noted that there had been an increase in certain criminal activity in those areas outside the waterfront where overnight RV parking was no longer prohibited, while crime in the restricted waterfront areas had decreased. Staff proposed a new ordinance that would give the Public Works Director authority, upon consultation with the Police Chief, to "designate those streets (or portions thereof) as no parking for recreational vehicles

¹ The affected area is defined in SBMC 10.44.200 to be the area south of the U.S. 101 freeway and between Castillo Street and the eastern boundary of the City at the Andre Clark Bird Refuge and Coast Village Road.

where it is necessary to decrease parking by **excessive** numbers of such vehicles.” Despite the mention of “excessive” in the staff report, no objective locational or quantitative criteria for restrictions on RVs were proposed in the actual text of the ordinance. The Ordinance Committee generally approved of the concept, but asked to see additional objective criteria for limiting RV parking.

Staff returned to the Ordinance Committee on December 9, 2008, with a revised proposal that limited the Public Works Director’s authority to post no RV parking areas by prescribing that there must be an “excessive” number of RVs within 500 feet of certain sensitive land uses before no parking signs could be posted and enforced. The language allowed the Public Works Director, after “advice” from the Police Chief, to post no RV parking zones when there exists:

“an **excessive number** of such vehicles and to provide for the public health and safety, provided that the streets or street block faces so designated are located **within five hundred (500) feet** of at least one of the following land uses:

1. any School or Educational Institution;
2. any Child Care Center, Family Day Care Home, or Group Home;
3. any park, public library, or museum open to the public;
4. any community center or social service center, public or private;
5. any City or nonprofit recreational facility;
6. any Community Care Facility, Skilled Nursing Facility, health care facility, or hospital;
7. any homeless shelter;
8. any church or other religious facility;
9. any designated safe route to schools. that would limit the locational and quantitative reach of the new ordinance.”

This language was approved by the Ordinance Committee and forwarded to the full Council. Council adopted the language as SBMC 10.44.205 (Ordinance No. 5475) on December 23, 2008. Since adoption, staff has used the ordinance extensively to post no RV parking zones in response to public complaints. In some instances where traffic safety needs warranted posting, staff have considered parking of a single RV to be “excessive.”

On August 4, 2011, Homes on Wheels again sued the City, this time alleging that the new (2008) ordinance reflected in SBMC 10.44.205 violated the equal protection, “travel,” and disability rights of certain named plaintiffs who wished to continue residing in RVs on City streets. The Santa Barbara Superior Court ultimately sustained the City’s demurrer to the Second Amended Complaint without leave to amend, thus ruling in the City’s favor. The Court flatly rejected the claim that the ordinance discriminated

against the disabled; instead the Court found that the ordinance was neutral in its terms and applied equally to all RVs regardless of the disability status of the driver or occupants. The Court further rejected the notion that state or federal law created an obligation on the part of the City to create areas where disabled RV owners have an unqualified right to park. HoW did not appeal the trial court's decision.

Earlier this year, the Mayor and the City Attorney's Office were approached by representatives of Homes on Wheels (HoW). The City Attorney met with HoW representatives on numerous occasions to discuss their concerns. They have expressed concern that SBMC 10.44.205 is being applied in areas where only a single RV had been deemed "excessive" by City staff. They also expressed concern that, particularly in the waterfront "No RV" zone, RVs bearing disabled placards are being prohibited from parking in blue curb zones. The City Attorney agreed to present a definition of "excessive" parking for consideration by the Ordinance Committee. We did not, however, agree that the City must allow disabled RV parking in on-street blue curb areas where all RVs are otherwise prohibited.

New Case Law on Camping in Vehicles

Separate and apart from the issues raised by HoW, the City Attorney's Office is concerned about certain provisions of the SBMC relating to "temporary recreational vehicles." On June 19, 2014, the Ninth Circuit Court of Appeals struck down Los Angeles's ordinance prohibiting the use of vehicles as "living quarters." (*Desertrain v City of Los Angeles* (9th Cir. 2014) 754 F.3d 1147.) In that civil rights case, following a "Town Hall on Homelessness" meeting, the Los Angeles Police Department created a "Venice Homelessness Task Force" consisting of 19 officers tasked with citing and arresting homeless individuals who were using their cars as living quarters. The ordinance did not define the phrase "living quarters." On that basis, it was declared void for vagueness in that "men of common intelligence must necessarily guess at its meaning." For example, the Court pointed out that one could not determine whether keeping even a sleeping bag in a car might convert the vehicle into living quarters. The Court also ruled that the ordinance promoted arbitrary enforcement that targets the homeless because it gave no limits on the discretion an officer might use to determine whether a car was being used as living quarters.

Santa Barbara has an ordinance with language that might be problematic in view of the *Desertrain* case. SBMC 15.16.060 E. broadly defines "temporary recreational vehicle as "any motor vehicle altered and equipped for sleeping or human habitation." Next, SBMC 15.16.080 provides that:

“It is unlawful for any person to use any recreational vehicle or temporary recreational vehicle for sleeping, human habitation or camping purposes in any of the following areas except as otherwise provided for:

- A. Any public park;
- B. Any public street;
- C. Any public parking lot or public area, improved or unimproved;
- D. Any public beach.”

Quite literally, a sedan carrying a sleeping bag could be a temporary recreational vehicle because it might be construed by an officer as a “motor vehicle altered and equipped for sleeping or human habitation.” This expansive and relatively standardless definition appears susceptible to the same sort of vagueness challenge that Los Angeles faced in the *Desertrain* case.

PROPOSED AMENDMENTS:

With respect to the no RV parking ordinance, we propose amending the term “excessive” to SBMC 10.44.205 as follows:

“The term “excessive” shall mean three or more vehicles.”

The full text of the proposal is on Attachment 1. The Ordinance Committee may wish to use a higher or lower threshold for the definition of “excessive,” and may do so lawfully.

We also advise amending the language in SBMC 15.16.060 defining “temporary recreational vehicle” as well as the reference to such vehicles in SBMC 15.16.080. The full text of the proposal is on Attachment 2. We believe this will protect the City from a constitutional challenge to the ordinance.

CONCLUSION:

We recommend that the Ordinance Committee consider proposed amendments to Municipal Code sections 10.44.205, 15.16.060 and 15.16.080 pertaining to recreational vehicle parking and the definition of “temporary recreational vehicles,” and forward the ordinance amendments to the City Council for introduction and adoption.

- ATTACHMENTS:**
- 1. Ordinance Amending SBMC section 10.44.205
 - 2. Ordinance Amending SBMC sections 15.16.060 and 15.16.080

PREPARED BY: Ariel Calonne, City Attorney

SUBMITTED BY: Ariel Calonne, City Attorney

APPROVED BY: City Administrator's Office

ORDINANCE NO. _____

**AN ORDINANCE OF THE COUNCIL OF THE CITY OF
SANTA BARBARA TO AMEND SECTION 10.44.205 OF
THE SANTA BARBARA MUNICIPAL CODE PERTAINING
TO THE PARKING OF RECREATIONAL VEHICLES AND
THE DEFINITION OF “EXCESSIVE” NUMBERS OF SUCH
VEHICLES**

THE CITY COUNCIL OF THE CITY OF SANTA BARBARA DOES ORDAIN AS FOLLOWS:

SECTION 1. Section 10.44.205 of Chapter 10.44 of Title 10 of the Santa Barbara Municipal Code is amended to read as follows:

10.44.205 Public Works Director Authority to Regulate Parking of Recreational Vehicles.

A. RECREATIONAL VEHICLES. For the purposes of this section, the term “Recreational Vehicle” shall be as defined in Section 18010 of the state Health and Safety Code, as it is presently enacted or hereafter amended. 248 rev. 6/30/09

B. AUTHORITY OF PUBLIC WORKS DIRECTOR – PARKING OF RECREATIONAL VEHICLES. In accordance with the authority provided by state Vehicle Code Section 22507, the Public Works Director, upon the advice of the Chief of Police, may designate those streets or portions of streets (including specific block faces) within the City where it is necessary to prohibit or restrict the stopping, standing, or parking of Recreational Vehicles in order to decrease parking by an excessive number of such vehicles and to provide for the public health and safety, provided that the streets or street block faces so designated are located within five hundred (500) feet of at least one of the following land uses:

ATTACHMENT 1
STAFF DRAFT 11/18/14
SHOWING CHANGES FROM CURRENT CODE

1. any School or Educational Institution;
2. any Child Care Center, Family Day Care Home, or Group Home;
3. any park, public library, or museum open to the public;
4. any community center or social service center, public or private;
5. any City or nonprofit recreational facility;
6. any Community Care Facility, Skilled Nursing Facility, health care facility, or hospital;
7. any homeless shelter;
8. any church or other religious facility;
9. any designated safe route to schools.

C. NOTICE OF RESTRICTIONS. When signed or marked in accordance with state Vehicle Code requirements, no person shall stop, stand, or park a Recreational Vehicle in or on any street, portion of street or block face so designated generally (where designated) or in violation of any hourly restrictions so signed or marked.

D. MEASUREMENT OF DISTANCE. For the purposes of this Section, distance shall be measured in a straight line, without regard to intervening structures or objects, and shall be based on property lines or street right-of-way lines.

E. DEFINITIONS. Capitalized terms used herein shall be construed and applied as defined by Title 28 of the Santa Barbara Municipal Code. The term “excessive” shall mean three or more vehicles.

ORDINANCE NO. _____

**AN ORDINANCE OF THE COUNCIL OF THE CITY OF
SANTA BARBARA TO AMEND SECTIONS 15.16.060 AND
15.16.080 OF THE SANTA BARBARA MUNICIPAL CODE
TO DELETE TEMPORARY RECREATIONAL VEHICLES
FROM THE PROHIBITION ON SLEEPING, HUMAN
HABITATION OR CAMPING IN RECREATIONAL
VEHICLES IN CERTAIN AREAS**

THE CITY COUNCIL OF THE CITY OF SANTA BARBARA DOES ORDAIN AS
FOLLOWS:

SECTION 1. Section 15.16.060 of Chapter 15.16 of Title 15 of the Santa Barbara
Municipal Code is amended to read as follows:

15.16.060. Recreational Vehicles and Camping in Public Areas - Definitions.

For the purpose of Section 15.16.060 through 15.16.100 inclusive, the following
words and terms are defined as follows:

- A. BOAT TRAILER. A vehicle used to convey a boat;
- B. CAMP. The use of camping facilities such as tents, tarpaulins or temporary shelters, the use of non-City designated cooking facilities and similar equipment or the use of cots, beds or hammocks. "Camping" shall not include merely sleeping outside or the use of a sleeping bag, bedroll, or mat, and no more personal possessions than can reasonably be carried by an individual.
- C. PUBLIC STREET. Includes streets, roads, highways, alleys, sidewalks, parkways, bridges, culverts, drains and all other facilities and areas necessary for the construction, improvement and maintenance of streets and roads.
- D. RECREATIONAL VEHICLE. Shall have the definition set forth in Section 28.04.555 of this Code.

~~E. "Temporary recreational vehicle" means any motor vehicle altered and equipped for sleeping or human habitation.~~

SECTION 2. Section 15.16.080 of Chapter 15.16 of Title 15 of the Santa Barbara Municipal Code is amended to read as follows:

15.16.080. Recreational Vehicles - Unlawful Areas to Use.

It is unlawful for any person to use any recreational vehicle ~~or temporary recreational vehicle~~ for sleeping, human habitation or camping purposes in any of the following areas except as otherwise provided for:

- A. Any public park.
- B. Any public street.
- C. Any public parking lot or public area, improved or unimproved.
- D. Any public beach.