



OFFICE OF THE CITY ATTORNEY

RECREATIONAL VEHICLE PARKING

History, Issues & Options



Overview

- **Introduction**
 - State Law Preemption of Local Control
 - Existing City Parking Regulations
 - Recent History of City RV Parking Regulation
- **On-Street RV Parking Impacts**
- **Regulatory Options**
- **Parking for the Disabled**



STATE LAW PREEMPTION OF LOCAL CONTROL



California Supreme Court

- “The right of control over street traffic is an exercise of a part of the sovereign power of the state.”

Ex parte Daniels (1920) 183 Cal. 636, 639



California Vehicle Code

Vehicle Code section 21:

Except as otherwise expressly provided, . . . a local authority shall not enact or enforce any ordinance or resolution on the matters covered by this code”

(1935 & 1959)



What Cities Can Do About Parking

“Local authorities “may, by ordinance or resolution, prohibit or restrict the stopping, parking, or standing of vehicles, including, but not limited to, vehicles that are six feet or more in height . . .within 100 feet of any intersection, on certain streets or highways, or portions thereof, during all or certain hours of the day.” Veh.Code section 22507.



What Cities Can Do About Parking

“In our view, the more logical construction of section 22507 is that local authorities may prohibit or restrict the stopping, parking or standing of ***any type of vehicle*** on certain streets or highways, or portions thereof, during all or certain hours of the day, including, but not limited to, vehicles of a certain size parked within 100 feet of an intersection.” People v. Garth (1991) 234 Cal.App.3d 1797



What Cities Can Do About Parking

A City “may remove a vehicle . . . under the following circumstances:

- When a vehicle is parked or left standing upon a highway for **72 or more consecutive hours** in violation of a local ordinance authorizing removal.
- . . . a vehicle shall not be removed unless signs are posted giving notice of the removal. Vehicle Code section 22651.



EXISTING CITY PARKING REGULATIONS



Existing City Parking Regulations

No person who owns or has possession, custody or control of any vehicle shall park such vehicle upon any street or alley for more than a consecutive period of seventy-two (72) hours. . . . [the Police] . . . may remove the vehicle from the street in the manner and subject to the requirements of the Vehicle Code. SBMC section 10.44.060



SBMC section 10.44.205

- Enacted in 2008
- Establishes Locational Restrictions on Recreational Vehicle Parking
 - Based Upon the Nature of Surrounding Land Uses



Existing City Parking Regulations

It is unlawful for any person to use any ***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. SBMC section 15.16.080



What is a Recreational Vehicle?

A motor home, slide-in camper, travel trailer, truck camper, or camping trailer, with or without motive power, designed for human habitation for recreational or emergency occupancy. SBMC section 28.04.555



What is Camping?

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. SBMC section 15.16.060 B.



RVs Are Allowed Off-Street

Notwithstanding . . . any other provision of this Code, the overnight use of a paved parking area by the registered owner of a recreational vehicle . . . is allowed under the following expressly limited circumstances:

- Up to 5 in Church & Nonprofit Parking Lots
- 1 per parcel in M-1 North of 101 & C-M East of SB Street (2007 Map)
- City Lots Designated by Resolution

SBMC section 28.87.180



RECENT HISTORY OF CITY RV PARKING REGULATION

2002-2016: Ordinances, Lawsuits and Case Law



2002: Ordinance No. 5263

No person shall park or stand or permit to remain for a longer period than two (2) hours on any street . . . Any recreational vehicle or temporary recreational vehicle.

No person shall park . . . any recreational vehicle or temporary recreational vehicle . . . between the hours of two (2:00) a.m. and six (6:00) a.m. SBMC section 10.44.200



2002: Ordinance No. 5263

“ . . . the ordinance or resolution shall not apply until signs or markings giving ***adequate notice*** thereof have been placed.” Vehicle Code section 22507(a)

City Transportation Engineer posted 33 locations which . . . “the City Attorney contended were entrances to the City.”



2003 Lawsuit: *Homes on Wheels 1*

- HoW seeks a preliminary injunction against the ordinance
- HoW alleges
 - Ordinance targeted the homeless population “to banish them from the City”
 - Ordinance violates Vehicle Code section 22507
- City defeats injunction in trial court



2004: HoW 1 Appeal

- HoW Drops Homeless Claim on Appeal
- HoW Argues Two Issues
 - City Cannot Single Out RVs, Must Ban All Vehicles or None
 - Sign Posting Inadequate



HoW 1 Appeal Decision

- Published Opinion Makes Law
- *Homes on Wheels v. City of Santa Barbara* (2004) 119 Cal.App.4th 1173
- City wins on 1st Issue: **“Legislature gave the City the power to select the type of vehicles that are regulated. It did not impose an “all vehicles or none” standard.”**



2004: HoW 1 Appeal Decision

- City Loses On Sign Posting
 - “Here the City did not post signs on all the streets to which the ordinance applies. It placed signs at 33 locations which the City Attorney contended were entrances to the City.”
 - But . . .



2004: HoW 1 Appeal Decision

“[W]e do not necessarily agree . . . that the City must post every street corner in town. ***Yet . . . the City's evidence was insufficient to show adequate posting. The City presented no testimony and the City Attorney's oral argument was not evidence. . . . [The City Engineer's] declaration did not explain the reasons for the selection of each of the 33 sites.***”



2004-2006: HoW 1 Trial Preparation

- **2 More Years of Litigation**
 - Trial Court Orders Mediation

- **8 Point Settlement Reached after Extensive Negotiations**



2007: HoW 1 Settlement

1. Limited RV Overnight Parking Ban to "a defined Waterfront area south of the freeway"
2. Post Signage Only At The Perimeters Of The Area
3. Expand RV Alternative Parking Lot Site Program in 28.87.180 B. by No Less Than 8 Parking Spaces in City Lots



HoW 1 Settlement

4. Create Private Property Parking Program in M-1 North of US 101 and C-M East of Santa Barbara Street
5. City Will Request Priority Affordable Housing Placement for RV Alternative Site Parking Program Participants
6. City Council Will Support Program Encouraging More Non-Profit Participation in RV Parking Program



HoW 1 Settlement

7. City Will Support ADR Procedure for Conflicts Between RV Residents in Permitted RV Parking Locations and Neighborhoods

8. City Pays \$20,000 in Attorney's Fees to Homes on Wheels



2007: City Implements Settlement

- **Ordinance No. 5411**

- Creates Waterfront No RV Parking Area with Entrance/Perimeter Signage Only
- Amends Zoning to Allow Limited Off-Street RV Parking in Church and Non-Profit Lots, Parts of M-1 and C-M, and City Parking Lots



2007: City Implements Settlement

- **Resolution No. 07-026**

- Authorizes Non-Profit RV Parking Management Contract (New Beginnings)
- Designates City Lots: Carrillo-Castillo Commuter, Cota Commuter, Garden-Cabrillo Visitor Center
 - 14 New City RV Spaces Created (cf. 8)



2008: New City RV Ordinance

- Staff Seeks Broad Posting Authority With New SBMC section 10.44.205
- Ordinance Committee Action
 - Limits Authority of the Public Works Director, with Advice from the Police Chief, to Post No RV Parking Signs Only When an **Excessive** Number of RVs Park **Within 500 Feet of Certain Areas**



2008: New City RV Ordinance

- **Posting Allowed Within 500 Feet of**
 - Schools
 - Child Care Center, Family Day Care, or Group Homes
 - Parks, Public Libraries, or museums
 - Public & Private Community Centers



2008: New City RV Ordinance

- **Posting Allowed Within 500 Feet of**
 - Recreational Facilities
 - Hospitals, Community Care, Skilled Nursing, And Health Care Facilities
 - Homeless Shelters
 - Churches
 - Designated Safe Routes To Schools



2011 Lawsuit: *Homes on Wheels 2*

- **HoW Sues Again (August 2011)**

- Alleges New Ordinance Violates RV Dwellers' Equal Protection, Travel, and Disability Rights
- Trial Court Flatly Rejects Disability Discrimination Claim
- Court Finds No City Obligation to Create Areas Where Disabled RV Dwellers Have an Unlimited Right To Park



2014: HoW Approaches City With 2 Concerns

- Asserts That Staff is (Unlawfully) Finding a Single RV to be “Excessive” Under SBMC 10.44.205
- In the Waterfront “No RV” Zone, RVs With Disabled Placards Should Not Be Prohibited From Parking In Blue Curb Zones



2014: *Desertrain* Civil Rights Case

- Federal Appeals Court Strikes Down Los Angeles Ordinance Prohibiting Use of Vehicles “as living quarters either overnight, day-by-day, or otherwise” *Desertrain v. City of Los Angeles* (9th Cir. 2014)

754 F.3d 1147

- Finds Federal Civil Rights Violation



2014: *Desertrain* Civil Rights Case

- Los Angeles Officials Held a “Town Hall on Homelessness” to Address Complaints of Homeless Individuals with Vehicles Living on Local Streets in Venice
- At the Town Hall, City Officials Said Their Concern Was ***Not*** Homelessness
 - Illegal Dumping of Trash and Human Waste on Streets Was Endangering Public Health



2014: *Desertrain* Civil Rights Case

- But, LAPD Created the Venice Homelessness Task Force to Cite and Arrest Homeless People Using Their Automobiles as “Living Quarters”
- Task Force officers were to use Section 85.02 to Cite and Arrest Homeless People in Automobiles Used as “living quarters”



2014: *Desertrain* Civil Rights Case

- Ordinance Unconstitutionally Vague Because It Did Not Define “Living Quarters”
- “Vagueness may invalidate a criminal law for either of two independent reasons. First, it may fail to provide the kind of notice that will enable ordinary people to understand what conduct it prohibits; second, ***it may authorize and even encourage arbitrary and discriminatory enforcement.***”



2014: *Desertrain* Civil Rights Case

- Court Found That a Reasonable Person Could Not Determine Whether Simply Keeping a Sleeping Bag in a Car Might Convert it into “Living Quarters”
- 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



2014: SBMC Amendments

- City Attorney Proposes Amendments to SBMC 10.44.205
 - Define “Excessive” as 3 or More
 - Delete Vague “Temporary Recreational Vehicle” Term Based Upon *Desertrain* Case
- No Change in Disabled Placard Interpretation



2014: Ordinance Committee Review

- Committee Recommends 2 or More RVs as “Excessive” (2-1, Hotchkiss, Rowse Aye, Murillo No)
- Committee Recommends Elimination of “Temporary RV” Term (3-0)



2015 Lawsuit: *Homes on Wheels 3*

- Filed March 4, 2015
- “Cookie Cutter” Complaint
Duplicating *Homes on Wheels 2*
- Same Plaintiffs as *HoW 2*, Adds 2
New Plaintiffs



May 2015: Council Approval

- Council Approves Ordinance Committee Changes to SBMC section 10.44.205 on May 12, 2015 (6-1, Murillo No)



June 2015: *HoW* 3 Dismissed

- Trial Court Rejects *HoW* 3 Lawsuit
 - Barred by Res Judicata – Same Plaintiffs Can't Re-Litigate *HoW* 2, New Ones Can Amend Case
 - New Plaintiffs Fail to Amend
- *HoW* Appeals
- Appeal Now Pending



November 2015: Council Action

- Council Members Rowse and Francisco Request Council Referral to Ordinance Committee
- Expand SBMC 10.44.205 to Allow Posting Near Sensitive Land Uses
- Council Approves 5-2 (Schneider, Murillo No)



ON-STREET RV PARKING IMPACTS



Community Health & Safety

- Litter
- Sewage Disposal
- Noise
- Large Size of Many Parked RVs
- Impacts on Residential Privacy



Traffic Safety

- Size of RVs
 - RVs Are Often Very Large in Relation to City Streets and Other Vehicles
- Line of Sight and Street Width Challenges, Especially on Santa Barbara's Historic and Narrow Streets in Older Neighborhoods



Street Dwelling

- RVs are Intended to be Temporary Dwelling Spaces
- City Streets Are Not Designed or Intended for Human Occupancy, Even Temporary in Nature
 - No Human Sanitation Facilities
 - No Access to Utilities
 - No Private Open Space
 - No Access to Garbage Removal



REGULATORY OPTIONS

Locational Traffic Safety and Oversized Vehicle Regulation



Option 1: Locational Traffic Safety

- Builds Upon Existing SBMC
10.44.205
- Not Land Use Based
- Empowers the Public Works Director to Post No RV Parking Signs Where it is Necessary or Desirable for Traffic Safety Reasons



Option 1: Locational Traffic Safety

“to avoid the impairment or potential impairment of the safety of travel and passage by motor vehicles, bicycles or pedestrians. These streets or portions of streets (including block faces) may include, but are not limited to, those areas with narrow travel lanes or where sight distances may be impaired by large vehicles or other obstructions.”



Option 1: Locational Traffic Safety

- Continues 2008 Council Policy
Control Over Posting Decisions
- Based Upon a Clear Policy Rationale
- Provides Clear Guidance to Staff on
Acceptable Posting Locations



Option 2: Oversized Vehicle Regulation

- Prohibit Oversized Vehicle Parking Citywide
 - Must Define “Oversized”
- Must Consider Several Exceptions
- This Approach is Used in Many California Cities



Option 2: Definition of Oversized

“Oversized vehicle” means any vehicle . . . or a combination of connected vehicles, which exceeds:

- 25 feet in length, or
- 80 inches in width, or
- 82 inches in height, exclusive of projecting lights or devices
- Does not include a pickup truck that is less than 25 feet in length and 82 inches in height.



Oversized Vehicle Exceptions

- Five Exception Categories
 1. Loading or Unloading of Persons, Materials, Supplies or Goods, in the Delivery of Goods, Wares, Merchandise, or Other Materials, or in the Course of Construction Or Other Work at an Adjacent Residence or Business



Oversized Vehicle Exceptions

2. Active Engagement in Temporary or Emergency Repairs
3. Federal, State, Local Government Authorities, Public Utility, and Any Emergency Vehicle
4. Valid Disabled Placard or License Plates
5. Short-Term City Permit



Oversized Vehicle Permits

Purpose is to allow a resident, out-of-town visitor, or commercial enterprise to park on a street adjacent to the residence where they live, are visiting, or conducting business for a limited time period



Proposed Permit Time Limits

- Valid for no more than 5 consecutive days
- Permittee may apply for and be granted an extension
- Maximum time of 10 days within any consecutive 90 day period



WHAT DOES AN OVERSIZED VEHICLES LOOK LIKE?

Draft Size Limits:

25' L

80" W

82" H



73' Long





May Exceed 25' in Length



Type A Motorhome



**The largest
motorized RV**

**Built on a specially
made chassis**

**Length: 21 to 45
feet**

Type B Motorhome



Smallest self-contained motorhome (van conversion)

Built on a van Chassis

Length: 16 to 24 feet

Type C Motorhome



Mini-motorhome built on a van or pickup truck chassis

Similar to type As but more compact

Length: 20 to 35 Feet

Bus Conversion



Motorhome built using a bus shell that is converted for recreation vehicle use

Length: 35 to 45 feet



Mini
Motorhome
21' L
95.5" W
113.5" H



25' Long

Height?

Width?



25' Long



30' Long



36' L
12' 4" H
96" W



25' 6" L
11' 3" H
94" W



36' 3" L
8'6" W
12'10" H



46' Long



PARKING FOR THE DISABLED

Questions Under State and Federal Law



Vehicle Code section 22511.5

- Disabled Placard Parking Without Time Limits is Allowed:
 - On Streets with Preferential Parking Privileges and Height Limits
 - In Any Parking Zone with Posted Time Restrictions
 - At Meters with No Charge
- **BUT . . .**



Vehicle Code section 22511.5

“This subdivision does not apply to a zone for which state law or ordinance absolutely prohibits stopping, parking, or standing of all vehicles, ***or which the law or ordinance reserves for special types of vehicles***, or to the parking of a vehicle that is involved in the operation of a street vending business.”



Vehicle Code section 22511.5

- What Does This Phrase Mean?
 - *“which the law or ordinance reserves for special types of vehicles”*
- Does No RV or No Oversized Parking “Reserve” the Space for Other Vehicles?
- Is It a Reservation or Exclusion?



California Case Law on Disabled Parking

“ . . . the Legislature did not intend to confer greater parking privileges on disabled persons if there is no posted sign limiting the amount of time that a motorist can park his vehicle.” *Spicer v. City of Camarillo* (2011) 195 Cal.App.4th 1423, 1427



Americans with Disabilities Act

“[N]o qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of the ***services, programs, or activities of a public entity***, or be subjected to discrimination by any such entity. 42 U.S.C.A. section 12132



Federal ADA Case Law

- 2014 Federal Appeals Court Ruling
- Legal Issue Presented:
 - ***Is the provision of public on-street parking a “service, program, or activity” under the ADA?***
 - *Fortyune v. City of Lomita* (9th Cir. 2014) 766 F.3d 1098, 1102, cert. denied sub nom. *City of Lomita, Cal. v. Fortyune* (2015) 135 S.Ct. 2888 [192 L.Ed.2d 924]



Fortyune v. City of Lomita

“Robin Fortyune is a paraplegic who uses a wheelchair for mobility. He filed suit against the City of Lomita . . . alleging that he experiences “great difficulty, discomfort and, even[] fear for his safety” when frequenting facilities in the City because ***none of the City's public on-street parking is accessible*** to people with disabilities.”

Fortyune v. City of Lomita (9th Cir. 2014) 766 F.3d 1098, 1100



Fortyune v. City of Lomita

“The City argued that, absent the adoption of ADA implementing regulations specifically targeted toward on-street parking, it is not required to provide accessible on-street parking.”

Fortyune v. City of Lomita (9th Cir. 2014) 766 F.3d 1098, 110



Fortyune v. City of Lomita

- **The Court Turned to Federal Regulations:**
 - A public entity shall operate each service, program, or activity so that the service, program, or activity, when viewed in its entirety, is readily accessible to and usable by individuals with disabilities. 28 C.F.R. § 35.150



Fortyune v. City of Lomita

- Court Concludes that the ADA Requires Local Governments to Maintain Accessible On-Street Public Parking, Even in the Absence of Regulatory Design Specifications for On-Street Parking Facilities



ADA Allows Gives Little Flexibility

“[P]ublic entities have some flexibility in handling existing inaccessible facilities. For instance, ***they are not required to make structural changes to all existing on-street parking facilities*** if they can make public on-street parking accessible by other means, such as by providing accessible on-street parking at other nearby sites.” *Fortyune v. City of Lomita* (9th Cir. 2014) 766 F.3d 1098, 1102-03



Equal Access is Required

“[A] public entity's programs and services, viewed in their entirety, must be equally accessible to disabled

persons. . . .” *Cohen v. City of Culver City* (9th Cir. 2014) 754 F.3d 690, 695

“. . . a public entity may require disabled individuals to **‘take a marginally longer route’**” *Fortyune v. City of Lomita* (9th Cir. 2014) 766 F.3d 1098, 1103



ADA Parking Rules Are Uncertain

- No Way for the City to Comply With Technical Standards That Do Not Exist
- In *Fortyune*, the City of Lomita Provided Absolutely No Accessible On-Street Parking Citywide
- ***So, How Much Accessible Parking Must Be Provided and Where?***



ADA Parking Rules Are Uncertain

- No Way for the City to Comply With Technical Standards That Do Not Exist
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- ***So, How Much Accessible Parking Must Be Provided and Where?***



U.S. Access Board Proposed Right of Way Guidelines

R214 On-Street Parking Spaces. Where on-street parking is provided on the block perimeter and the parking is marked or metered, accessible parking spaces complying with R309 shall be provided in accordance with Table R214. Where parking pay stations are provided and the parking is not marked, each 6.1 m (20.0 ft) of block perimeter where parking is permitted shall be counted as one parking space.



Table R214 Accessible Parking Spaces

Total Number of Marked or Metered Parking Spaces on the Block Perimeter	Minimum Required Number of Accessible Parking Spaces
1 to 25	1
26 to 50	2
51 to 75	3
76 to 100	4
101 to 150	5
151 to 200	6
201 and over	4% of total



Disabled Parking Conundrum

- Must the City Provide On-Street Parking for the Disabled Owners of RVs and Oversized Vehicles, Even in Zones Where the Vehicles are Generally Not Allowed?
- Must the City Provide Off-Street Parking Opportunities for Homeless RV Dwellers?



CONCLUSIONS



Conclusions

- **The City May Regulate RV or Oversized Vehicle On-Street Parking Using Either a Locational Traffic Safety or Oversized Vehicle Approach**
- **Each Approach Requires Sign Posting**



Conclusions

- **The Locational Traffic Safety Approach Maintains Existing Council Policy Control Established in 2008**
- **A Citywide Oversized Vehicle Ordinance Allows Greater Staff Flexibility, But Requires A Permit Administration System**



Conclusions

- **The City Has a Duty to Provide the Disabled with “Equal Access” to City Programs, Services, or Activities, Including On-Street Parking**
- **The Extent of the City’s Duty is Legally Unclear**



Conclusions

- **The Land Use-Based Locational Approach of Existing SBMC section 10.44.205 Raises Important Policy and Legal Issues**
 - Must the City Provide RV Disabled Access to Essential Services?
 - Why is RV Parking Harmful in Those Locations?



QUESTIONS AND ANSWERS
