



CITY OF SANTA BARBARA

ORDINANCE COMMITTEE AGENDA REPORT

AGENDA DATE: June 7, 2016

TO: Ordinance Committee

FROM: City Attorney's Office

SUBJECT: Continued Discussion of Recreational Vehicle Parking Regulations

RECOMMENDATION: That the Ordinance Committee continue its discussion of the proposed forms of Recreational Vehicle Parking Ordinance Amendments and make recommendations to the City Council.

DISCUSSION:

Attachment No. 3 to this Council Agenda Report is the PowerPoint presentation that was provided on May 17, 2016. The May 17, 2016 Agenda Report follows:

On November 24, 2015, Council Members Rowse and Francisco sought and received Council authority (5-2, Mayor Schneider and Council Member Murillo opposed) for the Ordinance Committee to re-examine the City's existing Recreational Vehicle (RV) parking regulations. The November Council memorandum stated that the purpose of this referral was to extend the discretionary authority of the Public Works Director and Police Chief to restrict excessive on-street RV parking in negatively impacted neighborhoods. The memorandum also suggested that the extended authority might cover any "sensitive" land use.

By way of background, SBMC section 10.44.205 authorizes the Public Works Director, with the advice of the Police Chief, to identify and post areas near certain land use types where "excessive" RV parking is incompatible with the public health and safety. Those land use types (i.e., schools, child care, parks, churches, etc.) have been described as "sensitive" because of their unusual and specific characteristics. The Council vigorously debated whether the term "sensitive" was too vague to be used to govern staff's discretion to regulate RV parking. Accordingly, the ultimate direction to staff provided direction to consider alternative regulatory options.

The Committee will recall that in 2015, Council amended SBMC section 10.44.205 in order to define "excessive" as meaning two or more recreational vehicles. Moreover, at the same time Council removed the prohibition on "temporary RV" parking because the code definition had become unacceptably vague under new federal court case law. At that time, we described the extensive history of the City's RV parking regulations. We will repeat it here for reference because it is clear that the Council's previous policy was

intended to limit staff's authority to post restricted RV parking areas as allowed by state law.

History of the "No RV" Parking Ordinances

Recreational vehicle parking regulation in Santa Barbara has a lengthy and recent history of at least three lawsuits, including a pending case brought by Homes on Wheels.

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 RV parking 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-only" 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."

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.

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 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.

The Current Situation and Available Regulatory Options

Staff have engaged in serious discussions and factual analysis to identify two regulatory options. Staff discussions were founded upon a record of widespread and repeated public complaints to staff, generally from persons living in residential areas, about the nuisance and safety concerns they feel are posed by long-term RV parking adjacent to their stationary homes. These concerns include problems with litter, sewage disposal, and noise. Public concerns also arise due to the large size of many RVs, with attendant impacts on motor vehicle, bicycle and pedestrian safety. Many members of the public also articulate a generalized fear related to the transient nature of some RV dwellers.

Staff’s factual analysis focused upon the size and character of RVs, rather than the status of RV dwellers. With respect to size, RVs are often very large in relation to city streets and other vehicles. This poses line of sight and street width challenges, especially on Santa Barbara’s historic and narrow streets in older neighborhoods. With respect to the character, the troublesome characteristics of RVs arise from the fact that they are intended to be at least temporary dwelling spaces. City streets are not designed or intended for human occupancy, even temporary in nature; there are no human sanitation facilities, there is no access to utilities, there is no private open space, and there is no access to garbage removal or postal services. The Committee should

weigh and evaluate these facts in order to identify the health, safety and general welfare concerns which support new regulations.

Option One: Add Locational Traffic Safety as a Criterion for No RV Parking Posting

The first approach identified by staff builds upon the existing street location identification system established in SBMC section 10.44.205. Quite simply, in addition to the categorical list of sensitive land uses, Council could add authority for the Public Works Director to post no RV parking signs in areas where it is necessary or desirable for traffic safety reasons. The specific language, set forth in Attachment 1 to this Report, provides, in pertinent part, that:

. . .the Public Works Director 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 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.

While the safety impairment determination requires judgment and discretion, it is quite specific in identifying the purpose and objective of no RV parking areas. We believe it is a reasonable and rationale standard for the exercise of staff discretion. Sign posting would be required in prohibited areas.

Option Two: Prohibit Oversized Vehicles

The second approach identified by staff would create a ban on all oversized vehicle parking, subject to a series of special exemptions. The proposed size criteria, which are used in many cities, provides:

“Oversized vehicle” means any vehicle, as that word is defined in state Vehicle Code Section 670, or a combination of connected vehicles, which exceeds twenty-five (25') feet in length, or eighty (80") inches in width, or eighty-two (82") inches in height, exclusive of such projecting lights or devices as are expressly allowed pursuant to the state Vehicle Code as it now exists or hereafter may be amended. Oversized vehicle shall not mean or include a pickup truck, which is less than twenty-five (25') feet in length and eighty-two (82") inches in height.

Staff believes these size criteria would encompass many RVs. Sign posting would be required.

An oversized vehicle prohibition would require several exceptions in order to be workable and practical. The staff proposal includes the following exceptions:

- Any oversized vehicle actively engaged in the 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;
- Any oversized vehicle to which a person is actively engaged in making temporary or emergency repairs;
- Any vehicle belonging to federal, state, or local government authorities, or a public utility, and any emergency vehicles as defined by state Vehicle Code Section 165;
- Any oversized vehicle properly displaying valid disabled placard or license plates issued by a governmental entity; or
- Any oversized vehicle that has been issued and is displaying a permit issued by the City.

The last exception category, i.e., oversized vehicles with City permits, would require funding for the Public Works Department to issue and administer issuance of City permits. Cost recovery would be provided through the imposition of a fee for a permit. Permits would be allowed for short-term periods (5 days at a time, not to exceed 10 days in any 90 day period). Permits would be available to residents, their visitors and commercial enterprises providing services at the site.

BUDGET/FINANCIAL INFORMATION:

The oversized vehicle ordinance approach would require Council to adopt cost recovery fees to cover the cost of issuing and managing a permit system. Each ordinance approach would create some financial impact through the sign posting requirements.

ATTACHMENT(S): 1. Traffic Safety Ordinance Option
2. Oversized Vehicle Ordinance Option
3. PowerPoint Presentation dated May 17, 2016

SUBMITTED BY: Ariel Pierre Calonne, City Attorney

APPROVED BY: City Administrator's Office

ORDINANCE NO. _____

**AN ORDINANCE OF THE COUNCIL OF THE CITY
OF SANTA BARBARA AMENDING SECTION
10.44.205 OF THE SANTA BARBARA MUNICIPAL
CODE WITH RESPECT TO RECREATIONAL
VEHICLE PARKING**

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.

B. AUTHORITY OF PUBLIC WORKS DIRECTOR – PARKING OF
RECREATIONAL VEHICLES NEAR DESIGNATED LAND USES. 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:

1. any School or Educational Institution, provided further that the Public Works Director shall post all of the streets or portions of streets in the City within five hundred (500) feet of any School or Educational Institution to prohibit stopping, standing or parking a Recreational Vehicle;

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. AUTHORITY OF PUBLIC WORKS DIRECTOR – PARKING OF RECREATIONAL VEHICLES IN AREAS WHERE MOTOR VEHICLE, BICYCLE, OR PEDESTRIAN SAFETY MAY BE IMPAIRED. In accordance with the authority provided by state Vehicle Code Section 22507, the Public Works Director 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 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.

DG. 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.

ED. 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.

EE. 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 two or more vehicles.

ORDINANCE NO. _____

**AN ORDINANCE OF THE COUNCIL OF THE
CITY OF SANTA BARBARA AMENDING THE
MUNICIPAL CODE BY ADDING SECTION
10.44.220 WITH RESPECT TO OVERSIZED
VEHICLE PARKING**

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

SECTION 1. Chapter 10.44 of Title 10 of the Santa Barbara Municipal Code is
amending by adding Section 10.44.220 which read as follows:

10.44.220 Restriction of Oversized Vehicle Parking.

A. DEFINITIONS. "Oversized vehicle" means any vehicle, as that word is
defined in state Vehicle Code Section 670, or a combination of connected vehicles,
which exceeds twenty-five (25') feet in length, or eighty (80") inches in width, or eighty-
two (82") inches in height, exclusive of such projecting lights or devices as are expressly
allowed pursuant to the state Vehicle Code as it now exists or hereafter may be
amended. Oversized vehicle shall not mean or include a pickup truck, which is less
than twenty-five (25') feet in length and eighty-two (82") inches in height.

B. RESTRICTION ON OVERSIZED VEHICLE PARKING. No person shall
park or leave standing any oversized vehicle on any streets or portions of streets,
except as provided in Subsection C. of this section.

C. EXCEPTIONS. This section shall not apply to:

1. Any oversized vehicle actively engaged in the 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;

2. Any oversized vehicle to which a person is actively engaged in making temporary or emergency repairs;

3. Any vehicle belonging to federal, state, or local government authorities, or a public utility, and any emergency vehicles as defined by state Vehicle Code Section 165;

4. Any oversized vehicle properly displaying valid disabled placard or license plates issued by a governmental entity; or

5. Any oversized vehicle that has been issued and is displaying a permit issued pursuant to subsection D.

D. PERMITS. An oversized vehicle may be parked on a highway in a residential area or a commercial area if an oversized vehicle parking permit is issued by the City pursuant to the following:

1. Purpose. The purpose of authorizing the issuance of oversized vehicle parking permits is to allow a resident, out-of-town visitor, or commercial enterprise to park on a highway adjacent to the residence where he or she lives, is visiting, or conducting business, respectively, for a designated time period.

2. Issuance of Permits. Oversized vehicle parking permits shall be issued by the Public Works Director, or his or her designee.

3. Requirements for Oversized Vehicle Parking Permits. Any City resident, out-of-town visitor to a resident, or commercial enterprise operating within the City may

obtain an oversized vehicle parking permit authorizing the resident, visitor or commercial enterprise to park an oversized vehicle on streets or portions of streets (including specific block faces) adjacent to a specified residence where he or she lives, is a guest, or a location where the enterprise is conducting business, respectively.

4. Application Forms--Fees. Each applicant desiring an oversized vehicle parking permit shall file with the Public Works Director a completed City application form and pay an application fee approved by City Council Resolution.

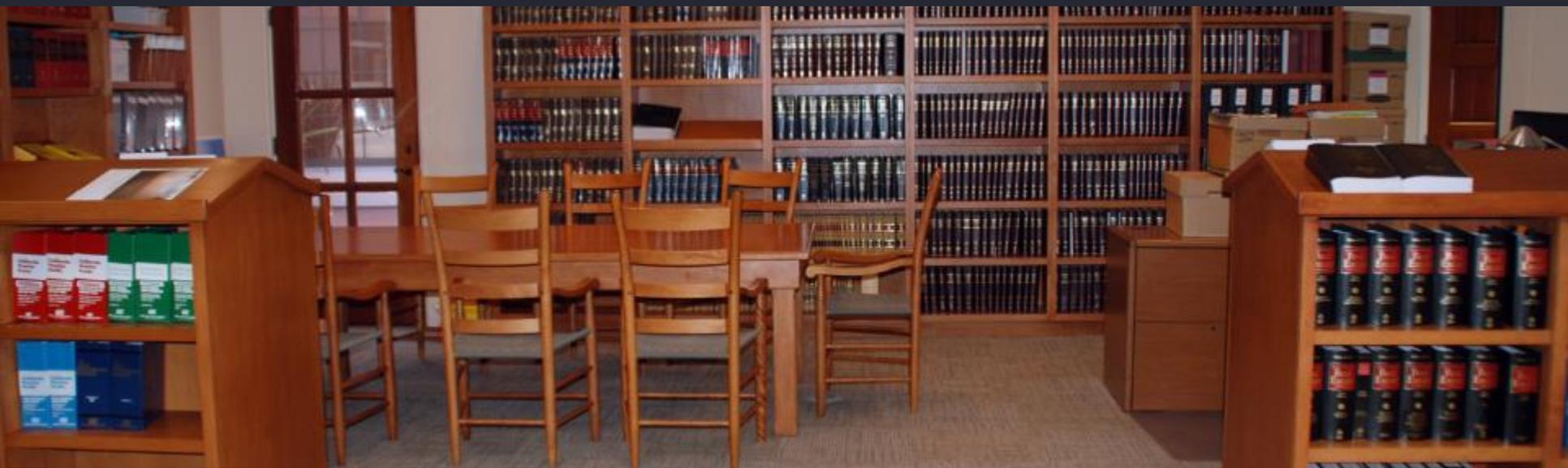
5. Description of Permits. Oversized vehicle parking shall be issued on a form approved by the Public Works Director, and shall include the license plate number of the oversized vehicle to which it relates, the address or location the vehicle is approved to park, and the dates of issuance and expiration of the permit.

6. Display. All permits shall be placed at the lower driver's side of the windshield of the oversized vehicle to which it relates, so it is clearly visible from the exterior of the oversized vehicle.

7. Oversized Vehicle Permit--Duration-- Renewal. An oversized vehicle parking permit shall be valid for a period not to exceed five (5) consecutive calendar days. A resident may apply for and be granted an extension if the resident or commercial enterprise still qualifies under the conditions set forth herein. In no event shall oversized vehicle parking permits be issued to a specific residence for a total period in excess of ten (10) days within any consecutive ninety (90) day period.

E. NOTICE OF RESTRICTIONS. When signed or marked in accordance with state Vehicle Code requirements, no person shall stop, stand, or park an oversized

vehicle in or on any street, portion of street or block face so designated generally (where designated).



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

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ON-STREET RV PARKING IMPACTS



Community Health & Safety

- Litter
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- 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
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REGULATORY OPTIONS

Locational Traffic Safety and Oversized Vehicle Regulation



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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.”

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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?***



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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**

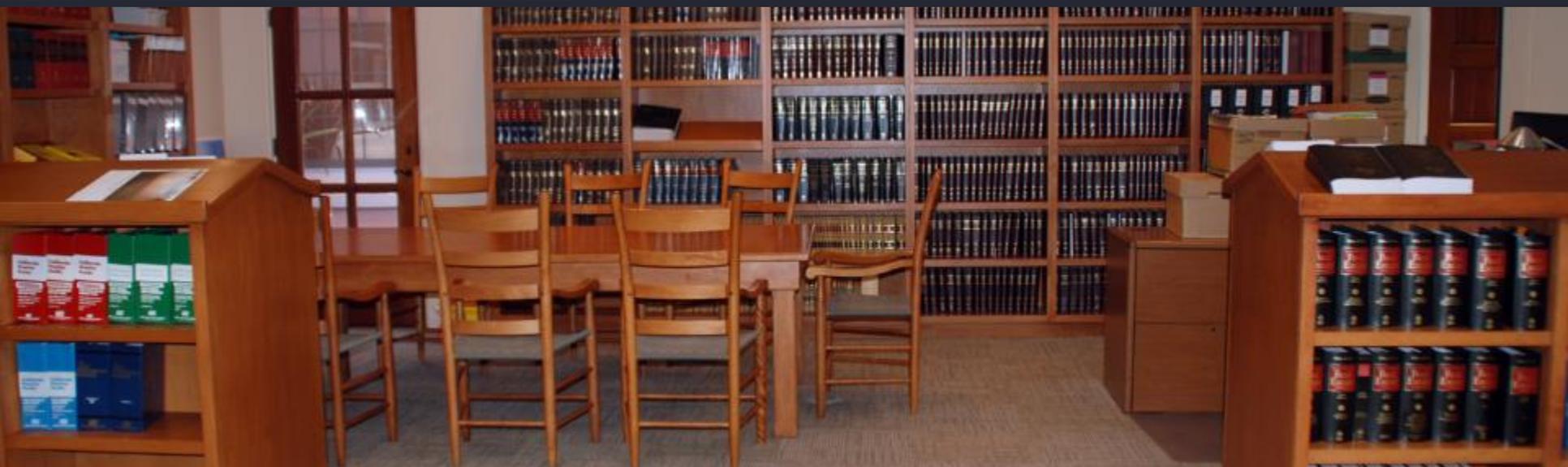


Conclusions

- **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



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



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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?***



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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
