



Office of the City Manager

ACTION CALENDAR  
February 28, 2019

To: Honorable Mayor and Members of the City Council  
 From: Dee Williams-Ridley, City Manager  
 Submitted by: Paul Buddenhagen, Deputy City Manager  
 Subject: Referral Responses: Managing Recreational Vehicle (RV) Parking

RECOMMENDATION

Review options provided by City staff in the report and take one of the following actions:

1. Refer the recommendations in Option A, amending existing codes to limit RVs parking in the City of Berkeley for extended periods of time and developing an online RV Permitting system, to the City Manager; and/or
2. Adopt the recommendations provided in Option B below, prohibiting parking campers and RVs during certain hours and creating additional resources for people living in RVs, and adopt the first reading of two ordinances amending Berkeley Municipal Code (BMC) Chapter 12.76 and BMC Section 14.40.120 and refer any additional costs to the FY20-21 Budget process.

SUMMARY

The City of Berkeley is experiencing an increasing number of RVs parking for long periods of time, impacting public safety, health, and the parking needs for Berkeley residents and businesses. On September 25, 2018, City Council approved a recommendation to “Refer to the City Manager to look into how other cities use permitting to manage RV parking and suggest a permit process that Council can consider to enable RV parking but place some sensible limits.” Additionally, on December 11, 2018 the City Council approved a recommendation to “Refer to the City Manager to establish a recreational vehicle waste discharge facility on City property and equitable administrative fee program, including consideration of method of pump out, cost, locations, and capacity, and refer costs associated with the facility to the FY 2020/21 Budget Process.”

In order to understand how other neighboring cities are responding to this regional challenge, City staff gathered information on other cities in the Bay Area (Oakland, San Francisco, Fairfield, Richmond, Albany, Emeryville, Alameda and Antioch) and their policies and laws regarding RV parking. The following table presents some findings.

City	Ban Against RV Parking	RV Permitting Process	Special Policies or Services
Oakland	Yes	No	Yes 150 space RV lot coming
San Francisco	Yes	No	Yes
Fairfield	Yes	No	No
Richmond	Yes	No	No
Albany	Yes	Yes/Residents	No
Emeryville	Yes	No	No
Alameda	Yes	No	Yes/Hygiene bus
Antioch	Yes	No	No

Currently, the City has few laws which can effectively address the persistent presence of RVs parking in the City of Berkeley, and no existing sanctioned pathway for RVs to affordably dispose of their effluent waste. In response to these needs, City staff have developed two possible options for Council consideration.

**Option A** would entail amending existing codes to prohibit RVs parking in the City of Berkeley for extended periods of time and developing an online RV Permitting system that limits the total amount of time any RV or registered owner of an RV parks their vehicle on the City’s right-of-way or City-owned off-street parking lots in a calendar year.

**Option B** would revise existing codes to prohibit parking oversize vehicles, including campers and RVs, in the City of Berkeley from the hours of 2 a.m. to 5 a.m. on any public right-of-way, as well as update existing BMC 12.76 which prohibits sleeping in house cars, and provide alternate resources for those living in RVs.

Adopting either Option A or B would include increased services for RV dwellers to support the transition from living in vehicles to living inside dwellings.

**RV dump/pump station** In considering the disposal of waste, staff explored installation of a City RV dump/pump station as well as contracting with a mobile pump contractor to

deliver and discharge the effluent waste to an existing nearby RV dump station. The City does have the capacity to absorb the additional waste into the existing sewer collection system. A consideration of the costs associated with each option is below, with the assumption of serving approximately 100 RVs per week. Regardless of the option selected, staff recommends that the implementation costs be recovered through the permitting process.

Option 1: City RV dump/pump station. While staff does not have a set estimate for the total cost of construction of a new RV dump/pump station, this option would require a feasibility study and a planning cost estimate, including long-term maintenance and operational costs, from a professional consultant. Staff also anticipates the need to pursue information from regulatory agencies, which may impact the overall cost of the station's construction and maintenance. No specific location has been identified for this option at this time. Alternatively, staff has learned of a pump station option which could be installed for approximately \$11,000, which would allow individuals to discharge directly into the City's sewer system. While this option would result in minimal staffing costs, other issues to consider include liability, maintenance, and replacement costs.

Option 2: Contract to deliver and discharge waste. Staff are gathering estimates for this type of service. Staff believe, however, this may be the lowest cost option because there is no need for new infrastructure and no additional cost for long term maintenance. Under this option, the mobile effluent waste contractor would visit a designated location and collect the waste from the RVs onsite, then could either dispose of the waste directly into the City's sewer collection system, or could haul the waste to an off-site location for disposal.

#### FISCAL IMPACTS OF RECOMMENDATION

Adopting Option B would require some additional as yet undetermined staffing costs to enforce the amendments to the BMC. Providing additional outreach and flexible funding for either option would cost up to approximately \$362,000 annually; this would include one outreach person and flexible funds in the amount of \$3,000 each for 100 vehicle dwellers. Council could choose to reallocate existing homeless outreach staff and/or reduce the flexible funds to lower the overall cost.

#### CURRENT SITUATION AND ITS EFFECTS

This report responds to a referral that originally appeared on the agenda of the September 25, 2018 Council meeting and was sponsored by Councilmembers Maio, Hahn, and Mayor Arreguin. At that meeting, the City Council approved a recommendation to "Refer to the City Manager to look into how other cities use permitting to manage RV parking and suggest a permit process that Council can consider to enable RV parking but place some sensible limits."

Additionally, this report responds to a referral from the December 11, 2018 Council meeting which was sponsored by Councilmembers Harrison and Davila. At that meeting the City Council approved a recommendation to “Refer to the City Manager to establish a recreational vehicle waste discharge facility on City property and equitable administrative fee program, including consideration of method of pump out, cost, locations, and capacity, and refer costs associated with the facility to the FY 2020/21 Budget Process.”

Currently, depending on the size, Recreational Vehicles (RVs) can park for three days at a time anywhere there is room and move continuously throughout the City. In practice, RVs often comply with the 72-hour rule by moving a very short distance – sometimes as little as three feet, to the opposite side of the street or around a corner – which results in the vehicles essentially occupying the same general area indefinitely.

The increase in the number of RVs parking in the City of Berkeley, and the subsequent impacts, may be quantified in multiple ways. In December 2018, Berkeley Police staff conducted a thorough citywide count of Recreational Vehicles on the City right-of-way. They counted 193 RVs, campers, converted busses, and vehicles that have been set up and/or designed for human habitation within the City’s borders. Of that number, over 100 were located west of San Pablo Avenue. These figures are consistent with a similar assessment which was conducted in November 2018.

Community residents contacted the City more than 1,500 times with requests to address the presence of and/or impacts from extended RV parking in 2018. These requests come via Berkeley Police Dispatch, the City’s BPD Direct Parking line, 311 service requests, and through emails directly to staff and council.

The types of issues raised through these calls for service include the loss of residential and customer parking for commercial businesses, and the illegal dumping of trash, debris, and human waste onto City streets, sidewalks, and waterways. The City has 1.5 FTE in Berkeley Police, and 0.85 FTE in Neighborhood Services that respond to these calls for service, as well as other similar service calls that are not RV generated.

One of the issues that is most often raised with regards to extended RV Parking is the alleged discharge of human waste in inappropriate locations. Runoff from the City’s storm sewer system is periodically tested as part of regional testing efforts, but not at a scale that would be able to quantify the environmental impacts under discussion. The Regional Water Board, however, has received reports of alleged dumping of human waste, and as a result City staff have been mandated to investigate all complaints. Warnings have been issued, but no citations have been issued to date. Any verified discharge of human waste into the storm sewer system would be considered a violation of the City’s Municipal Code (BMC 17.20); if left unaddressed, the City could be at risk of violating its National Pollutant Discharge Elimination System (NPDES) Municipal

Regional Permit, which would lead to enforcement actions by the Regional Water Board.

Currently, the City provides 25 portable toilets and nine hand washing stations at strategic locations throughout the City to help with this issue. There are also extended hours for the City's 181 permanent public restroom facilities.

### BACKGROUND

City staff gathered information on neighboring Cities in the Bay Area, in order to explore existing practices and to explore options the City of Berkeley may have in addressing the ongoing RV parking issues in our City.

Staff in the City Manager's Office, City Attorney's Office, and Public Works and Police Departments have collaborated to produce the proposed options. Option A includes amendments to Berkeley Municipal Code sections 12.76 and 14.40.120 (Attachments 1 and 2) that incorporate the principal points and purposes of the September 25, 2018 referral, and an RV permit process. Option B retains the amendments to Berkeley Municipal Code as noted in Attachments 3 and 4. Both options include the potential to provide outreach to people living in RVs to provide them with information and resources to establish a more stable living situation.

### **Option A**

Option A includes amending existing codes to clarify the prohibition against RVs parking in the City of Berkeley for extended periods of time and creating an online RV Permitting system that limits the total amount of time any RV or registered owner of an RV parks their vehicle on the City's right-of-way in a calendar year.

- *Existing and Possible Municipal Code Considerations:* Currently, the City has multiple Municipal and Vehicular Code sections which support some form of enforcement for RV Parking, or could be amended to do so.

Applicable statutes and laws regulating the parking of RVs on City streets include California Vehicle Code § 22651(k), and BMC 14.36.050, which makes it unlawful to park or leave standing a vehicle on "any public street in the City for seventy-two or more consecutive hours." This section is typically enforced based on complaints, and motorists are provided a warning before a vehicle is cited and/or towed.

BMC 12.76, which prohibits the use of "any house car or camper for human habitation within the City," has not been enforced since June 2014, when the United States Court of Appeals for the Ninth Circuit issued an opinion invalidating an ordinance that prohibited parking a vehicle being used as "living quarters" on Los Angeles streets. The Court held the Los Angeles ordinance was unconstitutionally vague because it failed to provide "fair notice" of what

was being prohibited. Berkeley's "house car" ordinance does not currently define "human habitation" with any specificity, although it could be amended to do so. Attachment 3 includes proposed language which would change the existing ordinance.

BMC 14.40.120 makes it unlawful to park any "heavy duty commercial vehicle on any street between the hours of two a.m. and five a.m." for more than an hour. "Heavy duty commercial vehicle" is defined as a single vehicle or combination of vehicles that (1) has more than two axles, or (2) is 20 feet or longer, or (3) is wider than 6 feet, 6 inches. Examples in the ordinance "include, but shall not be limited to dump trucks, moving vans, tractors, pole or pipe dollies." This section could be amended to clarify that it applies to oversized vehicles used for activities other than commercial purposes, including RVs. Attachment 4 includes proposed language which would make this clarification.

- *Proposed RV Permit System:* In response to the increase in extended RV parking throughout the City, City staff propose implementation of a permit system, modeled after the City's existing RPP visitor pass program, which grants a permit to a licensed vehicle, or a registered owner, a maximum of 14 days per calendar year to park an RV on the City right-of-way, streets, and off-street City-owned parking lots.

The online permit system would be accessible to the general public through Berkeley Public Libraries' free access to computers and the internet, through the City of Berkeley's Customer Service Counter, or through a City webpage.

Individual permits would be issued to a licensed vehicle and/or a registered owner. The permit would also specify an area or street for which the permit would be valid. The permit would also hold the permit holder accountable for the cost of removing any trash and debris left behind, following the conclusion of the permitted time period.

Anticipated costs for the RV permitting system include the cost to acquire and run the online permit platform, administration costs and the impact on existing staff to enforce the policy.

Option A provides all RV owners the ability to legally park on the City's right-of-way for a short time period, and supports residents and businesses who are negatively impacted by vehicular living for long periods of time.

## **Option B**

Option B would revise existing codes and provide outreach to people living in RVs to provide them with information and resources to establish a more stable living situation.

- *Amendments to Existing Municipal Code:* As outlined in Option A, the City would revise the BMC 14.40.120 (Attachment 1) to clarify that RVs are included in the prohibition of parking for oversized vehicles from 2 – 5 a.m., as well as update the language to BMC 12.76 as proposed in the revised ordinance (Attachment 2) regarding the use of house cars for human habitation. Without the inclusion of an RV permitting process, this would lead to a ban of RVs parking on Berkeley city streets.
- *Provide Alternate Resources and/or Locations outside of Berkeley:* City staff has learned of a multi-city collaborative effort, led by the City of Union City and involving the cities of Fremont, Hayward, San Leandro, and Alameda, to leverage use of state Homeless Emergency Assistance Program (HEAP) funding to establish safe parking sites which would be open to other cities. The goal for this effort is to avoid duplicating efforts (e.g. every city start a safe parking program) and to have complimentary programs that hopefully fill gaps (e.g. RV parking) since the issue is a regional one, with individuals often moving between cities in the Bay Area. Partnership in this program would be a substantial financial investment, and would likely require use of some Measure P or HEAP funding, allocated to the City to address the homeless crisis. Additionally, staff could explore partnering with the City of Oakland on RV safe parking.

By prohibiting RVs on the City's streets, Option B would clearly address the ongoing negative issues associated with the continued presence of RVs parking for extended periods of time in the City. Staff shortages and high workloads could compromise a robust enforcement strategy associated with Option B.

### **Both options**

*Provide Outreach to people living in RVs:* The City could expand outreach efforts to encourage people living in RVs to take advantage of any available shelter resources and, if resources are available, provide flexible funding to help people resolve their homeless situation. This could include housing problem solving and/or housing assistance. This approach would require additional resources for staffing and flexible funds. Providing additional outreach and flexible funding would cost up to approximately \$362,000 annually; this would include one outreach person and flexible funds in the amount of \$3,000 each for 100 vehicle dwellers.

### ENVIRONMENTAL SUSTAINABILITY

Environmental sustainability is a core value of the City of Berkeley and informs all City operations. Implementation of a City pump station to collect effluent waste would have the clear benefit of reducing the possibility of human waste entering the storm drain system and consequently the Bay. This is consistent with the goals and requirements set forth in the City's NPDES Municipal Regional Permit. Alternatively, prohibiting the use of public right-of-way for RV parking throughout the City of Berkeley would

accomplish a similar goal, as it reduces the likelihood of human waste entering the storm drain system.

#### RATIONALE FOR RECOMMENDATION

The approaches proposed by City staff includes the amendment of existing codes to prohibit RVs parking in the City of Berkeley for extended periods of time; and an online RV Permitting system that limits the total amount of time any RV or registered owner of an RV parks their vehicle on the City's right-of-way, streets, and off-street parking lots in a calendar year. These are coupled with increased services in an effort to increase the transition to more stable living for people living in RVs.

#### ALTERNATIVE ACTIONS CONSIDERED

City Staff considered the option of developing a sanctioned parking location within the City borders. However, there is insufficient space within the City to accommodate such a program. Additionally, there are several liability and logistical concerns which are raised by the City assuming responsibility for such a sanctioned environment.

One additional option would be to continue current City practices regarding RV parking, which includes enforcement of existing vehicle code as well as BMC 14.36, which restricts parking of any vehicle for longer than 72 hours on the public right-of-way.

If this option was preferred, and council desired, staff could come back with pump out costs, locations and timeline. In considering the disposal of waste, staff explored installation of a City RV dump/pump station as well as contracting with a mobile pump contractor to deliver and discharge the effluent waste to an existing nearby RV dump station. The City does have the capacity to absorb the additional waste into the existing sewer collection system. A consideration of the costs associate with each option is below, with the assumption of serving approximately 100 RVs per week. Regardless of the option selected, staff recommends that the implementation costs be recovered through the permitting process.

Option 1: City RV dump/pump station. While staff does not have a set estimate for the total cost of construction of a new RV dump/pump station, this option would require a feasibility study and a planning cost estimate, including long-term maintenance and operational costs, from a professional consultant. Staff also anticipates the need to pursue information from regulatory agencies, which may impact the overall cost of the station's construction and maintenance. No specific location has been identified for this option at this time. Alternatively, staff has learned of a pump station option which could be installed for approximately \$11,000, which would allow individuals to discharge directly into the City's sewer system. While this option would result in minimal staffing costs, other issues to consider include liability, maintenance, and replacement costs.

Option 2: Contract to deliver and discharge waste. Staff are gathering estimates for this type of service. Staff believe, however, this may be the lowest cost option because



there is no need for new infrastructure and no additional cost for long term maintenance. Under this option, the mobile effluent waste contractor would visit a designated location and collect the waste from the RVs onsite, then could either dispose of the waste directly into the City's sewer collection system, or could haul the waste to an off-site location for disposal.

**CONTACT PERSON**

Kristen Lee, Interim Assistant to the City Manager, 981-7017

**Attachments:**

1. Proposed revisions to BMC 14.40.120
2. Proposed revisions to BMC 12.76
3. Referral Report from September 25, 2018
4. Referral Report from December 11, 2018

ORDINANCE NO. -N.S.

STOPPING, STANDING OR PARKING RESTRICTED OR PROHIBITED ON CERTAIN  
STREETS; AMENDING BERKELEY MUNICIPAL CODE SECTION 14.40.120

BE IT ORDAINED by the Council of the City of Berkeley as follows:

Section 1. That Berkeley Municipal Code Section 14.40.120 is amended to read as follows:

**14.40.120 No parking between two a.m. and five a.m.**

A. It is unlawful for any person to park any oversize or heavy duty commercial vehicle on any street between the hours of two a.m. and five a.m. for a greater length of time than one hour.

B. For the purpose of this section, oversize or heavy duty commercial vehicle shall mean a single vehicle or combination of vehicles having more than two axles, a single vehicle or combination of vehicles 20 feet or more in length, or a single vehicle or combination of vehicles six feet six inches or more in width, and shall include, but shall not be limited to dump trucks, moving vans, tractors, pole or pipe dollies, recreational vehicles (RVs), campers.

Section 2. Copies of this Ordinance shall be posted for two days prior to adoption in the display case located near the walkway in front of the Maudelle Shirek Building, 2134 Martin Luther King Jr. Way. Within 15 days of adoption, copies of this Ordinance shall be filed at each branch of the Berkeley Public Library and the title shall be published in a newspaper of general circulation.

ORDINANCE NO. -N.S.

HOUSE CARS; AMENDING BERKELEY MUNICIPAL CODE CHAPTER 12.76

BE IT ORDAINED by the Council of the City of Berkeley as follows:

Section 1. That Berkeley Municipal Code Section 12.76.010 is amended to read as follows:

**12.76.010 Definitions.**

A. "Camper" means a structure designed to be mounted upon or attached to a motor vehicle, ~~in order and~~ to provide facilities for human habitation or camping purposes.

B. "House car" means a motor vehicle originally designed or permanently or temporarily altered and equipped for human habitation, or to which a camper has been permanently or temporarily attached. ~~A house car need not contain any plumbing or cooking facilities.~~

Section 2. That Berkeley Municipal Code Section 12.76.020 is amended to read as follows:

**12.76.020 Use for human habitation prohibited – Exception.**

A. No person shall use or occupy or permit the use or occupancy of any house car or camper for human habitation within the City, provided that not more than one house car may be placed, kept and maintained in the rear of any single-family or duplex residential building and used for sleeping purposes only for not more than three successive nights in any 90-day period. Such house car shall not be placed closer than five feet to any property line or closer than ten feet to any building, and the sanitary and cooking facilities therein shall not be used.

B. ~~For purposes of this Chapter, "human habitation" means residing in or using any camper or house car for living accommodation, lodging, or sleeping purposes, as exemplified by remaining for prolonged or repeated periods of time not associated with ordinary use for transportation purposes, with one's possessions (including, but not limited to, clothing, sleeping bags, bed rolls, blankets, sheets, or other sleeping implements, luggage, cooking and eating utensils, cookware, food or beverages or toiletries). These activities constitute human habitation when it reasonably appears, in light of all of the circumstances, that a person is using a house car or camper as a living, lodging, or sleeping accommodation regardless of his or her intent, or the nature of any other activities in which he or she might also be engaged.~~

Section 3. Copies of this Ordinance shall be posted for two days prior to adoption in the display case located near the walkway in front of the Maudelle Shirek Building, 2134 Martin Luther King Jr. Way. Within 15 days of adoption, copies of this Ordinance shall be filed at each branch of the Berkeley Public Library and the title shall be published in a newspaper of general circulation.

# LINDA MAIO

## COUNCILMEMBER



**ACTION CALENDAR**  
September 25, 2018

TO: Honorable Mayor and Members of the City Council

FROM: Councilmembers Maio, Hahn, and Mayor Arreguin

SUBJECT: Managing RV Parking Via Permit Process

### **RECOMMENDATION**

Refer to the City Manager to look into how other cities use permitting to manage RV parking and suggest a permit process that Council can consider to enable RV parking but place some sensible limits.

### **BACKGROUND**

The flatlands in Berkeley have become home to an increasing number of RVs parking for very long periods of time. District 1 residents, schools, and business have been reporting increasing numbers and also problems associated with long term parking. These concerns include taking up parking that is needed for residents and businesses. The most problematic of issues is public safety and health. Berkeley has no pump-out facilities and therefore reports of using garbage cans and storm drains for disposing of personal waste have come to our attention.

This Item asks the City Manager to look into what other cities have done to place reasonable limits on RVs. Here is a link to what Antioch has in place: <http://www.antiochca.gov/police/rv-permit>. This item requests consideration of a 2-week permit.

### **ENVIRONMENTAL SUSTAINABILITY**

Positive impact on storm drain systems.

### **FINANCIAL IMPLICATIONS**

Staff time for education and enforcement.

### **CONTACT**

Office of Councilmember Linda Maio, District 1

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Office of Councilmember Kate Harrison, District 4

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Office of Mayor Jesse Arreguin



Kate Harrison  
Councilmember District 4

CONSENT CALENDAR  
December 11, 2018

To: Honorable Mayor and Members of the City Council  
 From: Councilmembers Harrison and Davila  
 Subject: Referral to City Manager to establish Recreational Vehicle Waste Discharge Facility on City Property and Referral to FY 2020/21 Budget Process

RECOMMENDATION

1. Refer to the City Manager to establish a recreational vehicle waste discharge facility on City property and equitable administrative fee program, and
2. Refer costs associated with the facility to the FY 2020/21 Budget Process.

BACKGROUND

A limited number of RV waste discharge facilities exist across the Bay Area; no such public facility is currently available in Berkeley. The nearest public facility appears to be miles away in San Leandro. The ability to discharge human waste into municipal sewers protects public health and meets a basic human need. It is in the interest of the City to prevent the improper discharge of untreated waste into the environment and to provide equitable and convenient access to municipal services.

The City's Parks, Recreation & Waterfront Department reported in June of 2018 that some 200 vehicle dwellers, including visitors, parked overnight in the Berkeley Marina. Vehicle dwellers also park in streets throughout Berkeley. Vehicles provide them with critical respite from the elements but vehicle dwellers lack basic sanitary services.

The Council established an informal Council-staff task force in June of 2018 to explore the feasibility of establishing a sanctioned vehicle dweller park with restrooms and potentially a discharge facility. The task force is making progress, but the long-term nature of the exploration process leaves RV dwellers without critical services. The City can reasonably establish a waste discharge facility on City property in the short term, while pursuing a comprehensive RV park over the long term.

Consultations with officials managing waste discharge facilities at the Central Marin Sanitation Agency and with the Contra Costa County Fairgrounds indicate that the cost of constructing a discharge facility would be relatively inexpensive as fees can be established to cover the cost. Both facilities consist of a sewer drain and RV tank connection equipment, as well as a clean water hose for cleaning. Central Marin reported that their facility cost \$150,000 and was completed ten years ago, which,

adjusted for inflation, is approximately \$176,000. Both Marin and Contra Costa charge \$10 for each use of the facility, report very low management costs, and serve an average of 10 users per month.

#### FINANCIAL IMPLICATIONS

Costs associated with building the facility, approximately \$150,000 – \$200,000, offset by fees, and staff time to collect fees. On average, an RV occupied by two people needs to discharge waste every week. Thus for every 50 RVs, 2,400 discharges annually could be expected, generating \$36,000 with a \$15 per use fee. Under this scenario, costs would be recouped in approximately 5 years and a small percentage of the fee could go towards subsidizing service for very low-income vehicle dwellers.

#### ENVIRONMENTAL SUSTAINABILITY

Reduces public health hazards, as well as environmental pollutants entering our waterways due to poor sanitation and/or a lack of sanitation services. Reduces travel time and resulting emissions.

#### CONTACT PERSON

Councilmember Kate Harrison, Council District 4, (510) 981-7140