



Advancing Justice

Housing | Health | Children & Youth



AMERICAN CIVIL LIBERTIES UNION  
FOUNDATION

Northern  
California



January 14, 2020

Mountain View City Council  
500 Castro Street  
Mountain View, CA 94041

**RE: Item 7.2: Referendum Petition Against Ordinance 15.19**

Dear Mayor, Vice Mayor, and Councilmembers:

We write to urge you to accept the certification of the sufficiency of the referendum petition against Mountain View Ordinance 15.9 related to oversized vehicle parking on narrow streets and repeal this ordinance. There are three compelling reasons you should take this action.

First, your constituents have clearly and overwhelmingly stated that they oppose the ordinance. The success of the referendum petition, in which an all-volunteer team collected over 4,100 signatures of registered voters opposed to the ordinance in less than 30 days, and the overwhelming number of public comments at City Council against the ordinance, both show there is significant community opposition to this new law. City Council should heed the message sent by the residents of Mountain View and repeal this ordinance to take a more compassionate approach that meets the needs of its residents living in vehicles.

Second, the ordinance should be repealed in light of persistent issues with the City's Safe Parking Program. The City of Mountain View has always pursued law enforcement as just one part of a three-pronged strategy to addressing the needs of vehicle residents.<sup>1</sup> The strategy also includes short-term initiatives to meet the immediate needs of unhoused residents and longer-term strategies to improve the overall supply of housing. Under this strategy, City Council created its nascent Safe Parking Program to provide a place for Mountain View vehicle residents to safely park without penalty while the City stepped up parking enforcement under Ordinance 15.9 and others.

---

<sup>1</sup> Margaret Abe-Koga and Lucas Ramirez, *Opinion: A Comprehensive Approach to Addressing Homelessness*, MTN. VIEW VOICE (Apr. 5, 2019), <https://www.mv-voice.com/print/story/2019/04/05/a-comprehensive-approach-to-addressing-homelessness>; see also *HOMELESSNESS Study, Survey and Strategy*, CITY OF MTN. VIEW, CA (last visited Jan 13, 2020), [https://www.mountainview.gov/depts/comdev/preservation/homelessness\\_study\\_survey\\_and\\_strategy.aspx](https://www.mountainview.gov/depts/comdev/preservation/homelessness_study_survey_and_strategy.aspx).

The Safe Parking Program, however, cannot solve the problem. To begin with, it is mired in an issue over insurance for the nonprofit providing safe parking services, MOVE Mountain View. The Safe Parking Program was expected to be fully operational by this month, January 2020, but MOVE Mountain View was unable to secure insurance for the largest city-owned lots.<sup>2</sup> This means that over 70 spaces planned to be available to vehicle residents now have suspended operations indefinitely.

However, even if MOVE Mountain View is able to address its insurance issues, , the rules of the Safe Parking Program prevent it from providing even short-term stability or relief for vehicle residents. As one vehicle resident has pointed out, these rules suggest that the program is “designed to fail.”<sup>3</sup> First, the program rules restrict access to the hours of 5:00 PM to 9:00 AM, forcing vehicle residents to find someplace else to park during the day.<sup>4</sup> This rule categorically excludes vehicle residents who cannot drive (potentially due to a disability) and those who cannot afford to keep their vehicles running. And any vehicle resident would have a hard time finding a space in the City to park for a few hours during the day each day. Additionally, the rules prohibit the provision of electricity hookups and the use of any kind of electric generator,<sup>5</sup> meaning vehicle residents will be without electricity for refrigerators, lights, or appliances once the batteries in their vehicles die each night.

Third, and more fundamentally, even a functional Safe Parking Program could never provide sufficient relief to vehicle residents to address the concerns we have voiced in past letters over the constitutionality of the oversized vehicle ban that would be implemented with Ordinance 15.9. Quite simply, *Martin v. Boise* requires indoor shelter space before a city can criminalize conduct associated with being unhoused, such as sleeping in an oversized vehicle.<sup>6</sup> Ticketing and towing oversized vehicle residents when they have no place else to go would therefore be cruel and unusual punishment under the Eighth Amendment.<sup>7</sup> As previously explained, an RV ban would also violate the Eighth Amendment’s Excessive Fines Clause, the Fourteenth Amendment’s Equal Protection Clause and protection for substantive due process, the Fourth Amendment’s prohibition on unreasonable searches and seizures, the First Amendment’s protection of the freedom of association, and the right to travel protected by the U.S. and California constitutions.<sup>8</sup>

Local measures intended to make life more difficult for people who are homeless or housing insecure only perpetuate the housing crisis by limiting alternative housing options and precluding any opportunity for these individuals to reach a place of stability that will allow them to find long-term

---

<sup>2</sup> Aldo Toledo, *Mountain View: Insurer Won’t Cover Operating Largest Lots in RV Safe Parking Program*, THE MERCURY NEWS (Jan. 7, 2020, 6:33 AM), <https://www.mercurynews.com/2020/01/07/mountain-view-insurer-wont-cover-operating-largest-lots-in-rv-safe-parking-programram/>.

<sup>3</sup> Aldo Toledo, *Mountain View Voters to Decide Whether Homeless’ RVs Should Be Banned from Narrow Streets*, THE MERCURY NEWS (Dec. 26, 2019), <https://www.mercurynews.com/2019/12/26/mountain-view-voters-to-decide-whether-homeless-rvs-should-be-banned-from-narrow-streets/>.

<sup>4</sup> Mtn. View Mun. Code § 36.32.

<sup>5</sup> Mtn. View Mun. Code § 19.108.

<sup>6</sup> The Supreme Court recently declined to review *Martin v. Boise*, letting it stand as the law of the land in the Ninth Circuit. See *City of Boise v. Martin*, No. 19-247, 2019 U.S. LEXIS 7571 (Dec. 16, 2019).

<sup>7</sup> See *Martin v. Boise*, 902 F.3d 1031, 1048 (2018).

<sup>8</sup> See Letters from Law Foundation of Silicon Valley, ACLU of Northern California, and Disability Rights Advocates to Mountain View City Council dated September 24, 2019 and May 7, 2019.

affordable housing. Worse, these measures offend bedrock notions of fairness, inclusivity, and equality, and send a message that our communities are not really open to all.

Through their successful referendum petition on Ordinance 15.9, Mountain View voters have spoken up to say this measure and the exclusionary message it sends *does not* reflect their values. City Council should take this invitation to do right by all of its residents, and vote to repeal Ordinance 15.9 instead of pushing it forward to a referendum election.

Sincerely,



Nadia Aziz, Directing Attorney  
Michael Trujillo, Staff Attorney  
Law Foundation of Silicon Valley



William S. Freeman, Senior Counsel  
ACLU Foundation of Northern California



Thomas Zito, Supervising Attorney  
Disability Rights Advocates

CC:  
Krishan Chopra, City Attorney  
Max Bosel, Interim City Manager