



## City of Tacoma

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**TO:** Board of Building Appeals

**FROM:** Jennifer Taylor, Deputy City Attorney

**SUBJECT:** Changes to TMC 2.01 relating to "Recreational Vehicles"

**DATE:** June 3, 2015

To the Chair and Members of the Board:

Presently, the Municipal Building and Structures Code, as codified in TMC Chapter 2.01, prohibits the "improper use" of a recreational vehicle ("RV") on private property. "Improper use" is not defined. There are also additional regulations relating to RVs found in TMC 11.05 and in Title 13 of the Land Use Code.

The United States Court of Appeals for the 9<sup>th</sup> Circuit, which includes the State of Washington, issued an opinion in Desertrain, et al v City of Los Angeles (9<sup>th</sup> Cir. 2014) regarding a provision of the Los Angeles Municipal Code which prohibits the use of a vehicle "as living quarters either overnight, day-by-day, or otherwise." The 9th Circuit held that that the statute was unconstitutionally vague as it did not provide adequate notice of the unlawful conduct and opened the door to discriminatory enforcement against the homeless and the poor. The court specifically noted that the statute did not define "living quarters," specify how long a person had to be engaged in such activity, or define when "otherwise" was. The way that Los Angeles enforced its ordinance actual sleeping was not required to be in violation. In light of this ruling, the City has suspended enforcement of the affected provisions in TMC 2.01 and is proposing to repeal them, with the intent to amend other provisions of the Code to define clarify what conduct is permitted and what is prohibited.

Attached hereto is a draft of the relevant portion of the Minimum Building Structures Code with the affected provisions deleted. The City is respectfully requesting that the Board approve the proposed deleted language. Should the Board approve the suggested amendments, the City will present the appropriate draft ordinances, in conjunction with other TMC amendments, to the City Council.