

SHIFTING GEARS:

Moving Colorado Away
from Criminalizing Vehicle Residency
and Towards Safe Parking



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EXECUTIVE SUMMARY



Colorado is in the midst of a housing crisis, which has resulted in thousands of people experiencing homelessness.¹ In 2020, the Point in Time survey recorded 9,846 individuals experiencing homelessness in Colorado.² Of these individuals, 2,913 – nearly 30% – were unsheltered.³ Further, given the impending end of COVID-19 protections, such as the federal and state residential eviction moratoria and extended unemployment benefits, the number of those experiencing homelessness in Colorado is likely to rise in 2021 and 2022. Evictions from December 2020 to January 2021 were already on the rise, from 925 filings to 2,011 filings – a 218% increase.⁴

In response to the crisis, vehicles have become an affordable housing option for many.⁵ However, cities in Colorado have historically struggled to create sustainable solutions to aid those who are experiencing homelessness and living in their vehicles. Whether through misguided efforts to help, or pressure from housed communities and community members, cities too often have adopted new laws and regulations within their municipal codes that criminalize, rather than assist, these populations.⁶ This report focuses specifically on municipal ordinances that criminalize vehicle residency.

This report undertakes a comprehensive review of the municipal codes in twenty cities selected based on their population and location: Arvada, Aurora, Boulder, Breckenridge, Broomfield, Colorado Springs, Craig, Denver, Durango, Fort Collins, Glenwood Springs, Golden, Grand Junction, Greeley, Lakewood, La Junta, Littleton, Longmont, Pueblo, and Thornton. These cities' municipal codes were surveyed for key words relevant to vehicle residency and identified ordinances that were separated into five categories: (1) ordinances that prohibit the parking of large vehicles; (2) ordinances that prohibit inoperable, junk, or abandoned vehicles; (3) ordinances that prohibit parking for longer than 72 hours; (4) ordinances that outright prohibit sleeping or living in cars; and (5) regulations found in local zoning codes.

Laws that prohibit parking large vehicles on public streets prevent individuals from living in an RV when they lose other forms of housing, which criminalizes vehicle residency. Laws that prohibit and impound junk, inoperable, and abandoned vehicles disallow individuals to create a home from a car that may not currently be operable, which criminalizes vehicle residency. Laws that prohibit parking on public streets for more than 24 to 72 hours force individuals to move locations frequently, which criminalizes vehicle residency. Laws that prohibit sleeping or living in vehicles prevent individuals from legally sleeping or living in their car, which directly criminalizes vehicle residency. Further, zoning codes frequently contain provisions that prohibit land uses not specifically permitted in a particular zone district, which, as may be interpreted, criminalize vehicle residency.

This report analyzes identified ordinances from across the state, suggests how to change the laws to make them more amenable to vehicle residents, discusses the constitutionality of these laws, and concludes with a state-wide solution to vehicle residency through safe parking and the Colorado Safe Parking Initiative. Both municipalities within Colorado, and the state itself, must take action to ensure that the growing population of vehicle residents can find refuge and a safe place to rest.

Summary of Findings

- **All the cities surveyed have at least one type of law that criminalizes vehicle residency.**
- **Regarding laws prohibiting the parking of large vehicles:** 13 of 20 cities surveyed, or 65%, have a law that prohibits the parking of large vehicles. The penalties for violating these ordinances range from fines up to \$3,000 or cancellation of a person's license.
- **Regarding laws prohibiting the parking of junk, inoperable, or abandoned vehicles:** 19 out of 20 cities surveyed – or 95% – have laws that prohibit the parking of junk, inoperable, or abandoned vehicles. The penalties for violating these ordinances may include vehicle impoundment or a city-enacted sale.
- **Regarding laws prohibiting parking in excess of 72 hours:** 4 out of 20 cities surveyed – 20% – have laws that prohibit parking in a single location over 72 hours. The penalties for violating these ordinances range from \$25 up to \$100 and may eventually include vehicle impoundment.
- **Regarding laws prohibiting sleeping or living in vehicles:** 12 out of 20 cities surveyed – 60% – have laws that prohibit living or sleeping in vehicles. The penalties for violating these ordinances include a fine of up to \$2,650 and/or imprisonment up to one year.

Safe Parking as a Solution

Safe parking is an initiative that provides overnight parking to individuals experiencing homelessness who are temporarily residing or sleeping in their vehicles. Safe parking is a sustainable solution that enhances the lives of vehicle residents and provides value to cities in overall safety, efficiency, comfort, and wellbeing. Yet, many municipal ordinances, as outlined in this report, unintentionally prohibit safe parking, which exacerbates harm. In Colorado, there is already a non-profit program that exists to support the establishment of these safe parking sites: Colorado Safe Parking Initiative (CSPI). The Colorado Legislature and its municipalities must act to change their ordinances and allow for the creative and collaborative solutions safe parking offers.

INTRODUCTION



Artwork by Daniel Lowenstein

Homelessness is on the rise in the United States. The annual Point-in-Time (PIT) study, conducted throughout the United States on a single night in January 2020, showed a 2% rise in the number of individuals experiencing homelessness from 2019, marking an increase for the fourth year in a row.⁷ One increasing subset of this population is individuals who reside in vehicles, also known as “vehicle residents.” This report examines the laws that criminalize vehicle residents throughout Colorado and offers a solution through safe parking programs, like the Colorado Safe Parking Initiative (CSPI), to enable cities to help, rather than continue to hurt this vulnerable population.

A. Homelessness in Colorado

Colorado is in a homelessness crisis.⁸ In 2020, roughly 9,846 individuals experienced homelessness in Colorado.⁹ On the single night of the PIT study in January 2020, 2,913 – nearly 30% – were unsheltered.¹⁰ Of those experiencing homelessness across Colorado, roughly 60% reside in the seven metro-Denver counties (Adams, Arapahoe, Boulder, Broomfield, Denver, Douglas, and Jefferson), 16% reside in Colorado Springs (El Paso), and 24% reside in the remaining counties across the state.¹¹

Municipalities across Colorado cannot disregard this data as merely a metropolitan Front Range issue.¹² In 2019, Colorado’s PIT study reported that 2,302 individuals were experiencing homelessness outside of the metro-Denver and Colorado Springs areas.¹³ 798 were unsheltered.¹⁴ From these numbers, 22% resided in Larimer County, 16% in Mesa County, and 15% in Pueblo County.¹⁵ Across the state, the number of those experiencing homelessness is growing dramatically, especially as COVID-19’s impact on the economy and employment continues to disrupt everyday living. Given the impending end of COVID-related government relief, such as the federal residential eviction moratorium on June 30, 2021,¹⁶ and additional unemployment assistance in September 2021,¹⁷ evictions are likely to increase throughout 2021 and 2022.¹⁸ In fact, residential evictions from December 2020 to January 2021 were already on the rise from 925 filings to 2,011 filings, a 218% increase.¹⁹

With more people living in their vehicles than ever before, municipalities have begun to criminalize such behavior. Between 2006²⁰ and 2016,²¹ laws restricting vehicle residency increased 213% across the country. From 2016 to 2019, there was another 31% increase.²² Colorado has joined this trend, and cities throughout the state have enacted new ordinances that criminalize living in vehicles as recently as 2020. Criminalizing this lifesaving behavior creates a cycle of poverty and homelessness. Municipal traffic ordinances most often punish individuals with fines, though jail time is also possible.²³ For those struggling to pay the fine,²⁴ subsequent tickets force individuals into the all-too-common spiral of consequential debt.²⁵ Thereafter, the targeted individual can face ineligibility for public assistance and food stamps, heightened future criminal punishment, and driver license suspension.²⁶ A single parking ticket costs much more than it appears on its face for those struggling to survive. State officials and elected city council members are facing a profound challenge: how to assist their citizens without perpetuating a cycle of criminality, poverty, and homelessness.

B. History of Exclusionary Laws and Criminalization

Historically, municipalities have enacted exclusionary laws to keep “certain” people out of public spaces and consciousness, like “Anti-Okie” laws,²⁷ Jim Crow,²⁸ Ugly laws,²⁹ and Sundown laws.³⁰ Today, exclusionary laws focus on keeping people experiencing homelessness out of public spaces and consciousness.³¹ Acting under the guise of public safety, these exclusionary laws are often counterproductive and a manifestation of the unsupported fear that unchecked behavior will inevitably invite worse behavior.

A popular theory espousing this notion is the “Broken Windows” theory. Originating in 1982, “Broken Windows” follows the belief that physical and social disorder in a neighborhood (abandoned lots, begging, loitering, and public drinking or urination) gives rise to fear.³² In response to that fear, neighbors stay home to avoid the disorder.³³ This then signals to more serious criminals that no one cares about a block or neighborhood, effectively inviting more serious crimes.³⁴ Hence the name, if a “window in a building is left unrepaired, all the rest of the windows will soon be broken;” one broken window becomes many.³⁵



This theory accurately describes Colorado communities’ fear that “serious street crime flourishes in areas where disorderly behavior goes unchecked.”³⁶ Stated differently, Coloradans fear that the unchecked person sleeping in their vehicle or on the street is, in effect, the first broken window, and if left uncorrected, social disorder will inevitably follow. But this fear is not supported by any measure of social scientific research, and it comes at a tremendous cost when individuals experiencing homelessness are treated as “broken windows,” rather than people.³⁷

While the broken windows approach to community policing and municipal policy may respond to outspoken fears, it comes at a severe social cost, as discussed more fully below.³⁸ When municipal ordinances are not narrowly tailored, and instead are overbroad, overinclusive, and selectively enforced, the individuals that those laws target are pushed into chronic homelessness. This consequence is too high a price – both literally and constitutionally.

C. Methodology

This report surveyed municipal and zoning codes to determine how Colorado cities perpetuate chronic homelessness and criminalize vehicle residency. This report calls for action across the state to employ creative solutions that allow for vehicle residency. Municipalities must abandon overinclusive and unconstitutional ordinances, and instead adopt an active solution: safe parking. Colorado already has a program working to support the establishment of safe parking sites, the Colorado Safe Parking Initiative (CSPI), and the state should partner with CSPI to expand safe parking opportunities.

This report identified and analyzed four categories of municipal ordinances that criminalize vehicle residency: (1) ordinances that prohibit the parking of large vehicles; (2) ordinances that prohibit inoperable, junk, or abandoned vehicles; (3) ordinances that prohibit parking for longer than 72 hours; and (4) ordinances that prohibit sleeping or living in vehicles. These categories mirror those chosen by the Seattle University School of Law Homeless Rights Advocacy Project for its report *Living at the Intersection: Laws and Vehicle Residency*, which analyzed similar laws across Washington State.³⁹ This report also briefly discusses zoning codes and how they may impact vehicle residents.

This report reviewed the municipal codes of twenty cities across the state that vary in population, location, and tourism.⁴⁰ The survey utilized keywords to identify the ordinances that criminalize vehicle residency.⁴¹



All twenty cities surveyed have laws that criminalize vehicle residency. These laws are pervasive in both smaller and larger cities, along the Western Slope and the Front Range.⁴² For example, Denver prohibits parking a vehicle in the same public place for over 72 hours.⁴³ In the Eastern Plains,⁴⁴ La Junta prohibits parking a large vehicle on any public roadway.⁴⁵ On the Western Slope, Grand Junction prohibits the parking of any abandoned or inoperable vehicle and permits a police officer to remove such vehicles.⁴⁶

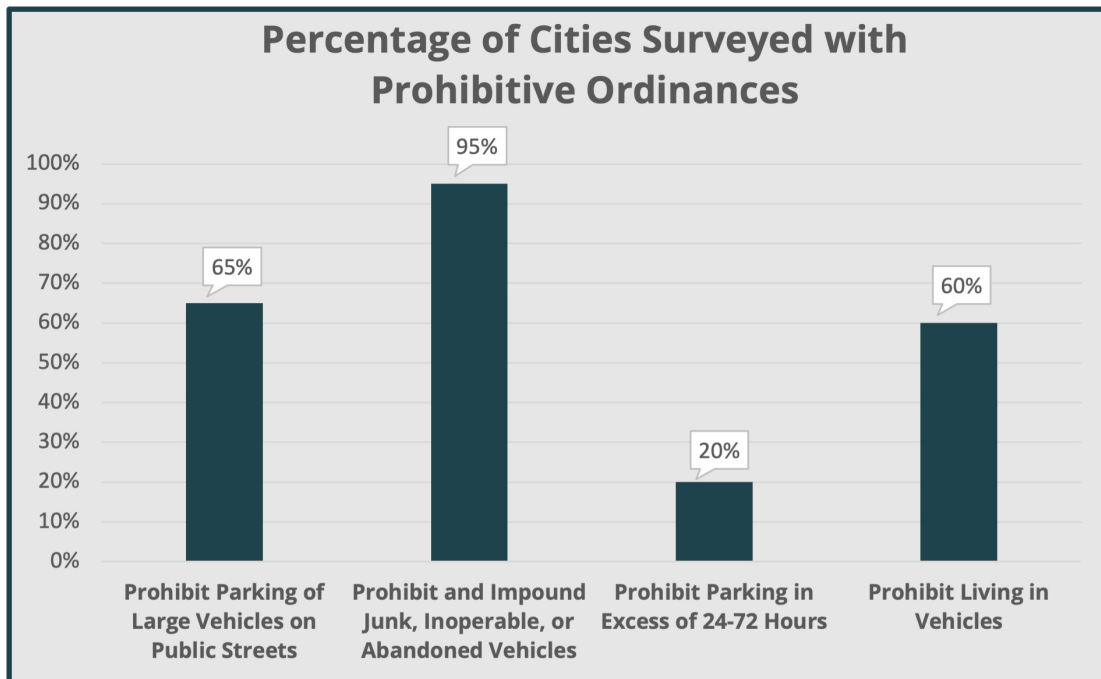
In addition to laws that criminalize vehicle residency at the municipal level, state regulations also impact those living in their vehicles. For example, state parking regulations prohibit parking within five feet of a private or public driveway, which effectively prohibits someone from parking overnight in certain residential areas.⁴⁷ State regulations also require people to pay onerous vehicle registration fees, which burdens drivers living in poverty who must choose to either forgo their vehicle or drive it unregistered, in violation of state law.⁴⁸

From this research, it is clear that Colorado’s cities are criminalizing vehicle residency and disparately impacting Colorado’s most vulnerable citizens – those without permanent housing. When municipalities enforce laws that prohibit vehicle residency, they inhibit creative and collaborative solutions, such as safe parking lots, that can provide safe sleeping spaces for people experiencing homelessness while they pursue more stable housing.

MUNICIPAL ACTION

In recent years, municipal governments across Colorado have enacted laws in each of the four categories examined in this report.⁴⁹ Overall, these ordinances discriminate against vehicle residents with their targeted prohibitions and expansive and overinclusive definitions. These ordinances punish individuals experiencing homelessness and thwart their efforts to survive while working to secure permanent housing.

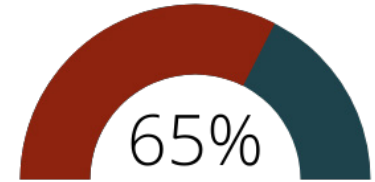
Fortunately, Colorado municipalities have the power and ability to correct the ordinances and zoning codes that are furthering chronic homelessness and preventing willing community members, like congregations, from creating safe parking lots. There is no financial cost to municipalities to change these ordinances. On the contrary, these changes will lower costs for taxpayers, the police department, the local court system, and for those living in their vehicles. Further, both municipal ordinances and zoning codes are amendable, often requiring a majority vote from city council⁵⁰ or a public hearing.⁵¹ Colorado municipalities must act swiftly to change these prohibitive ordinances and zoning codes, either through the simple modifications suggested below, or through broad amendments with a model municipal code, to allow for safe parking.⁵²



Below is a discussion of the four specific municipal ordinances that currently criminalize homelessness. These ordinances are broad, overinclusive, and discriminatorily enforced. Changing only a few words or removing certain phrases from these ordinances to make them narrower and more specific will help municipalities achieve the shared community goal of getting individuals and families into stable housing.

A. Laws that Prohibit Parking Large Vehicles on Public Streets

More than half of the surveyed cities’ ordinances restrict the parking of large vehicles. These laws are problematic because recreational vehicles (RVs) and other large vehicles have become “a new form of affordable housing” and prohibitive laws exacerbate Colorado’s housing crisis. Cities must amend these overbroad ordinances and instead work to proactively create safe spaces for large vehicles to park.



Percentage of cities surveyed that prohibit parking large vehicles on public streets

I. Surveying the Municipal Code

Municipalities in Colorado commonly prohibit large vehicles from parking on public streets, making it illegal to find a place to sleep. Thirteen of the twenty cities surveyed – 65% – have this type of prohibition.⁵³

Fort Collins provides an instructive example:⁵⁴

Fort Collins 1214. - Parking certain vehicles in a residential zone prohibited.

(1) No motor vehicle exceeding twenty (20) feet in length, or any trailer coach, recreational vehicle, mobile home, trailer, semi-trailer or truck tractor, or part of such vehicle, shall be parked or stored upon the street adjacent to any lot zoned [Residential/Neighborhood/Mixed Use] ...

This Fort Collins ordinance bans parking large vehicles in residential and mixed-use districts. Other surveyed cities follow a similar tactic: Arvada, Littleton, and Thornton have all banned the parking of large vehicles in residential zones. Other cities use different methods to accomplish the same goal. Some ban parking large vehicles, but only for a certain amount of time. Denver prohibits parking large vehicles for more than twenty-four hours in or adjacent to any residential zone district. Durango has enacted a blanket prohibition on parking mobile homes for longer than 24 hours anywhere in the city. Aurora prohibits parking a large vehicle anywhere in the city for more than five days. Colorado Springs also prohibits parking of large vehicles in residential areas, but only during certain hours at night.

Other cities, such as Boulder, La Junta, Lakewood, Broomfield, and Golden, instead enact complete bans on parking large vehicles in any part of the city, not just in residential zones. La Junta prohibits any person from parking “any trailer, automobile trailer, recreational vehicle or camper trailer on any public street, public alley, public highway, or other public conveyance, except [in an emergency].”⁵⁵ In La Junta – a community with a large migrant worker population and an affordable housing shortage – enforcement of this law may impact workers who have no other place to rest. For example, in nearby Manzanola, “individuals have been forced to sleep in their vehicles for several days while awaiting approval” for housing set aside for migrant workers.⁵⁶

Despite slightly different methods for prohibiting the parking of large vehicles, these laws all have the same effect: criminalizing the conduct of individuals living in their vehicles.

2. Identifying the Problem

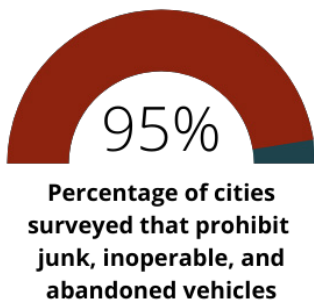
RVs and other mobile shelters are a valuable form of affordable housing for anyone who is foreclosed upon, evicted, or otherwise unable to live in traditional homes.⁵⁷ When cities punish people for living in large vehicles with parking tickets and impoundment, they catalyze a temporary episode of homelessness into a potentially chronic situation. When fined, individuals must spend their days in court, either figuring out how to pay parking tickets or locating their impounded vehicle, rather than searching for housing or attending work. If an individual is cited for violating the Fort Collins’ ordinance discussed above, they will be responsible for a \$3,000 maximum fine.⁵⁸ If the individual cannot pay that fine, they may face “cancellation and denial of [their] license.”⁵⁹

3. Creating a Solution

Fort Collins and other cities need to change their restrictive limitation on large vehicles, and they can. In response to the COVID-19 pandemic, Fort Collins made exceptions to this prohibition, and it must extend these exceptions to allow for safe parking of large vehicles.⁶⁰ Fort Collins must specify within its ordinances the permitted areas and locations recreational vehicles *can* park, rather than a flat prohibition on the zones and areas recreational vehicles cannot park.

Viewing Fort Collins as an example demonstrates how Colorado cities can choose to be proactively inclusive, rather than prohibitive. For instance, Colorado municipalities can follow the example set in Oakland, California, which in 2020, enacted an ordinance that authorized recreational vehicles to “be on vacant property that is located within a zoning district that permits residential activities.”⁶¹ When Oakland made this adjustment, Mayor Libby Schaaf said, “[w]e do not find it acceptable for people to use our sidewalks as trashcans or put their raw human waste into our storm drain systems. However, we cannot afford to just push this problem somewhere else. We want to be compassionate and address it.”⁶² Similarly, while Colorado cities have an interest in protecting city systems, the current municipal ordinances overreach. As enacted and policed today, prohibitive ordinances are intended to “push the problem somewhere else.” Colorado must become compassionate and offer productive solutions, like changing municipal laws to allow for safe parking lots.

B. Laws that Prohibit and Impound Junk, Inoperable, and Abandoned Vehicles



Nearly every city surveyed has an ordinance that authorizes local police to ticket, immobilize, and tow vehicles that are “abandoned,” “inoperable,” “stored,” “unsafe,” or “unlawful,” even if that car is someone’s home. These “poverty tows” cause economic devastation for vehicle owners and are an ineffective municipal debt collection tool.⁶³ Municipalities must remove blanket prohibitions and narrowly tailor these ordinances to improve revenue-generating efforts and create safe parking spaces for vehicle residents.

I. Surveying the Municipal Code

Laws that prohibit the parking of inoperable, junk, or abandoned vehicles are the most prevalent. Of the twenty cities surveyed, 95% (19/20) have ordinances that prohibit parking junk vehicles, abandoned vehicles, or both.⁶⁴ Within those nineteen cities with these ordinances, eight prohibited parking these vehicles on public property or streets within the city,⁶⁵ and eleven prohibited parking or keeping these vehicles anywhere within the city.⁶⁶

Consider Thornton’s Municipal Code Section 38-421, which generally defines the unlawful parking of abandoned, inoperable, or unsafe motor vehicles.⁶⁷

Thornton 38-421. - Unlawful parking—Generally.

It shall be unlawful for any person to park or store or permit to be parked or stored **anywhere within the limits of the city**, unless specifically stated in a subsection:

- (1) Abandoned motor vehicles.
- (2) Inoperable motor vehicles, unless they are completely enclosed in a permanent structure.
- (3) Stored motor vehicles, unless they are completely enclosed in a permanent structure.
- (4) Unsafe motor vehicles, unless they are completely enclosed in a permanent structure.
- (5) Unlawful motor vehicles, unless they are completely enclosed in a permanent structure.

A city’s definition of the keywords in the ordinance, like “abandoned,” illustrates how these ordinances criminalize vehicle residency. For example, Thornton defines an “abandoned vehicle” as “any motor vehicle left unattended on public property, including any portion of the highway right-of-way, for a period of 24 hours or longer.”⁶⁸ The city also defines an “inoperable motor vehicle” as any “which is not capable of travel under its own power for any reason, including but not limited to mechanical failure, collision, fire, damage or lack of parts.”⁶⁹

Other cities’ definitions of “inoperable,” “abandoned,” and “junk,” as they relate to the prohibited type of vehicles, allow for greater discrimination against vehicle residents. In contrast to Thornton, some cities define “inoperable vehicles” more expansively in their ordinances.⁷⁰ Arvada’s definition of “inoperable” encompasses not only vehicles that are wrecked or “in a state of disrepair” but also any vehicle without “a current license plate or tag.”⁷¹ Many of the surveyed cities also have far-reaching definitions of “junk vehicles” that include prohibitions against vehicles without current license plates or registration stickers.⁷² Similarly, Greeley defines an “abandoned vehicle” as one “that is not registered or does not have a license plate with a current registration sticker.”⁷³

These varying definitions reveal that cities can issue citations for broad reasons, like leaving a vehicle on any street within the city for more than a day or parking a vehicle with mechanical issues on a city street. Extending the definition of prohibited vehicles to include registration requirements justifies citations under this ordinance for an even broader category, including individuals who are unable to pay for current plates and registration. The broadening of these ordinances has an unacceptable consequence: municipalities criminalize poverty.

2. Identifying the Problem

Thornton’s prohibition on parking abandoned, inoperable, or unsafe vehicles *anywhere within the city limits* that is not an enclosed structure, not only prevents safe parking solutions from aiding those who need it but furthers chronic homelessness, especially when coupled with the city’s punishments on the vehicle’s owner.

To illustrate this point, consider the following hypothetical: Thornton defines an inoperable vehicle as one that cannot travel under its own powers for any reason, including something as simple as a flat tire.⁷⁴ The city provides no concession if an individual living in their car is saving up the money to fix or repair it. Therefore, even if a car is parked in a safe lot with a flat tire, Thornton police will cite and ticket the “inoperable vehicle.”

If the citation remains unpaid, the police can use a device, often referred to as a boot, to immobilize the car for up to 72 hours.⁷⁵ This puts the owner on “notice.”⁷⁶ To re-mobilize the car, the owner must pay all prior unpaid parking fines, fees, and associated costs to the municipal court clerk.⁷⁷ If all fees remain unpaid after 72 hours, then the city will tow and impound the car,⁷⁸ sometimes even without providing the owner notice if the car is deemed “unsafe.”⁷⁹

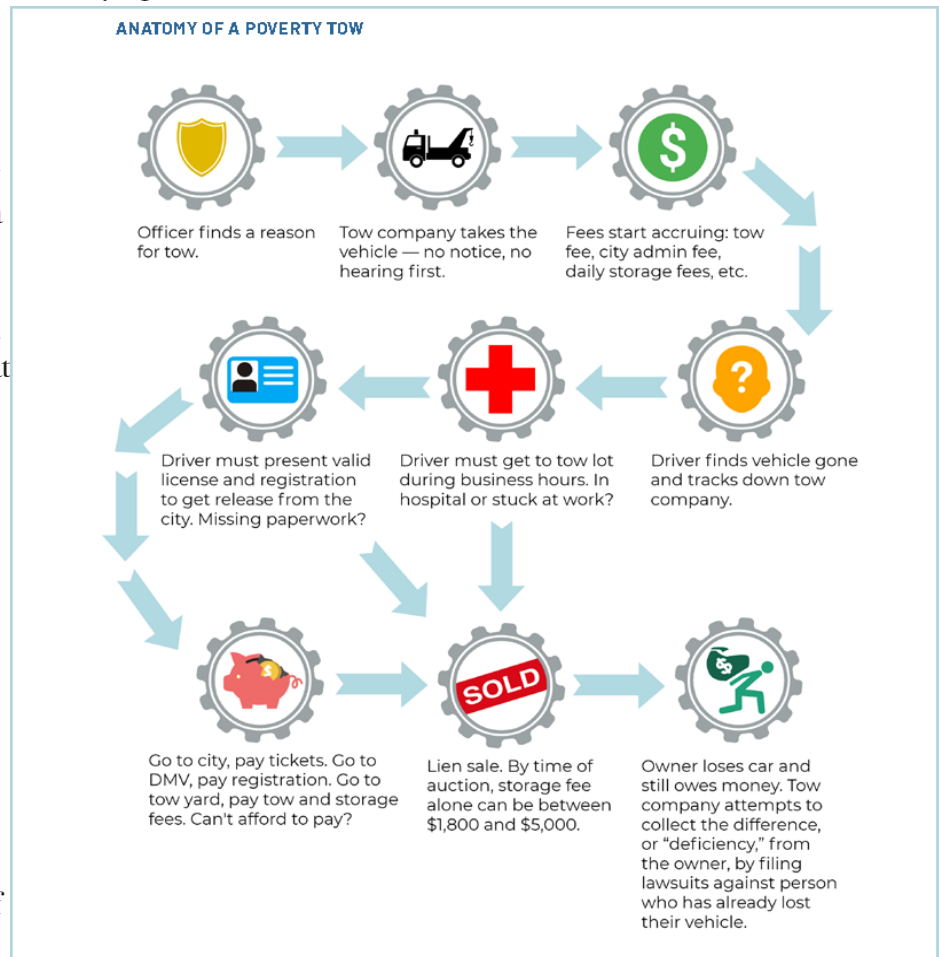


Image from: PUB. L. CTR., ET AL., TOWED INTO DEBT: HOW TOWING PRACTICES IN CALIFORNIA PUNISH POOR PEOPLE 4-6 (2019).

To retrieve the car from the impoundment lot, the owner must still pay all unpaid parking fines, fees, and associated costs,⁸⁰ plus all costs of removal and impoundment and all other incurred expenses and administrative costs (past, present, and future).⁸¹ After sixty days, the car is sold and all personal belongings are discarded.⁸² If the car is valued at less than \$200, then the car is junked and scrapped.⁸³

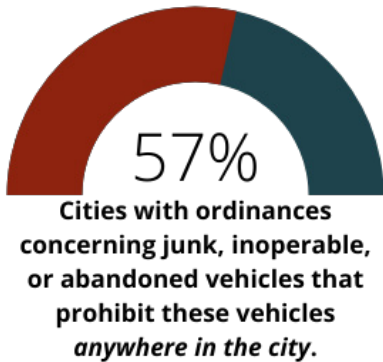
Now, even without a car or their personal belongings, the owner is still responsible for paying the city back for all fees and costs incurred, including the unpaid tickets, the tow, the impoundment, and the sale or the junking and scrapping.⁸⁴ Not to mention, with unpaid fines, the owner potentially faces criminal prosecution for a class 2 misdemeanor, which carries a maximum sentence of one year imprisonment or an additional \$1,000 fine, or both.⁸⁵

Practically, a vehicle resident could have their vehicle impounded, not learn of the vehicle’s location for multiple days, and then be forced to pay the fees associated with the impoundment, or else face criminal charges. In this very real and common hypothetical situation, Thornton has successfully caused an owner economic devastation and home destruction while also forcing them to incur costs that they likely cannot pay. Everyone involved loses — those who

can least afford fees and fines are burdened with them, leaving already vulnerable individuals in a worse place, and municipalities spend money they will likely never recoup.

3. Creating a Solution

Colorado municipalities, including Thornton, can easily amend these ordinances that create high costs for vehicle owners, the city, and taxpayers at large.



First, cities must remove language that creates a blanket prohibition against parking abandoned or inoperable vehicles anywhere within city limits. Instead, municipalities can use permissive language to allow inoperable *but occupied* vehicles to reside in designated areas within the city. A safe place to reside gives vehicle owners a chance to repair or fix their vehicles without incurring additional debt from city parking violations.

Second, cities must amend overbroad and expansive definitions for “abandoned,” “inoperable,” “junk,” and other terms. Municipalities can narrowly tailor these definitions to be more specific, so the ordinances better target the real problem: *unoccupied* vehicles that are a public health and safety hazard.

Third, local municipalities should create fair ways for car owners to petition the city, have their financial situation assessed, and receive a grace period, extension, or payment plan to pay back debts. Once the municipality and individual establish a payment plan, the municipality should return vehicles to their owners, so they have a safe place to sleep at night and get back on their feet.

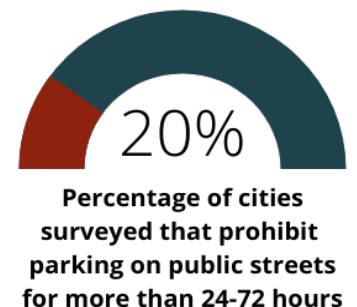
The stated purpose for parking restrictions and towing punishments is to promote public safety, not debt collection and punishing people for minor violations. By changing their ordinances to allow for safe parking, municipalities can accomplish their goal of protecting public health and safety while also achieving community-minded and humanitarian goals.

C. Laws that Prohibit Parking on Public Streets for More Than 24 to 72 Hours

Throughout Colorado, cities have implemented 24 to 72-hour parking regulations to limit the amount of time individuals can park their vehicles on a street in a single space. These laws require vehicle residents to constantly be on the move, impacting their safety and disrupting their community, in addition to incurring time-consuming and gas-guzzling mandates, excessive fees, and potential property loss.⁸⁶ Cities can amend these ordinances to allow for safe parking in residential areas and areas with little need for parking turnover.

I. Surveying the Municipal Code

Twenty percent of the cities surveyed have ordinances that prohibit parking for more than 72 hours.⁸⁷ While relatively less represented in the surveyed cities, these restrictive ordinances have an immense impact. The four cities with this type of ordinance have some of the largest populations in Colorado, according to the U.S.



Census Bureau.⁸⁸ Denver and Colorado Springs are the two largest cities in Colorado, and Greeley and Boulder are the eleventh and twelfth largest.⁸⁹ Together, these four cities hold approximately 25% of Colorado’s total population, with many vehicle residents impacted by their ordinances.

Denver offers a quintessential example of this ban on parking longer than 72 hours.⁹⁰

Denver 54-465. - Parking in excess of seventy-two hours.

(a) It shall be unlawful for any owner or operator of a vehicle to leave that vehicle parked in the same place on a public street continuously for a period in excess of seventy-two (72) hours. A vehicle shall be considered in violation of this subsection if it has not been moved at least one hundred (100) feet during the seventy-two-hour period of time.

(b) It shall be unlawful for the owner of an automobile junker to leave it parked on any public street for a period in excess of seventy-two (72) hours, regardless of location. The seventy-two-hour time limit includes the cumulative time spent on any public street.

In context, Denver Code of Ordinances Section 54-465 looks like just another “poverty tow,” discussed above. While Section 54-465(a) creates a blanket prohibition on parking for more than 72 hours without moving the car at least 100 feet, part (b) creates a flat prohibition on parking a “junker” anywhere on public streets for longer than 72 hours, regardless of location.⁹¹

Denver 54-465. - Parking in excess of seventy-two hours.

For purposes of this section, an automobile junker is defined as a vehicle which is:

- (1) Apparently inoperable; and
- (2) Extensively damaged, such damage including *but not limited to* any of the following: broken windows, windshield, or both; missing wheels, tires, motor, or transmission.

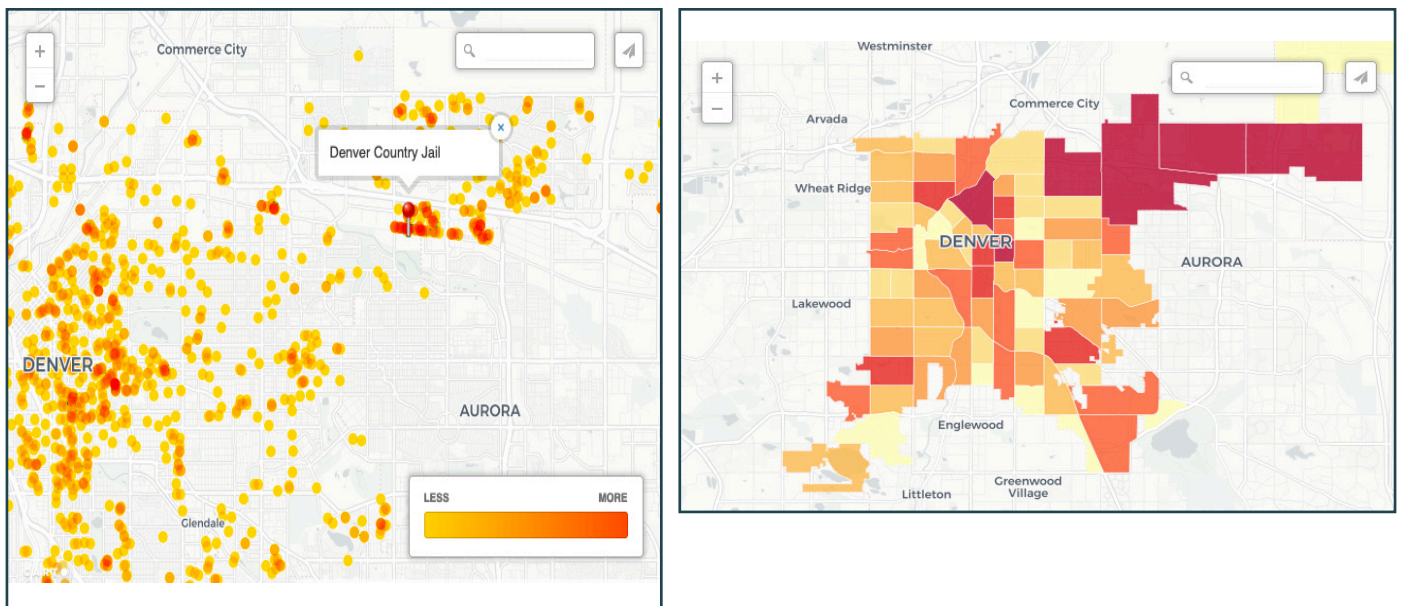
This definition provides wide latitude for police to enforce the 72-hour parking restriction on essentially any vehicle that appears inoperable and damaged. Given the overbroad restriction on “junkers,” it is easy to see how worn and older cars can be disproportionately targeted, ticketed, and towed based on this 72-hour parking restriction.

While Denver requires a vehicle to move at least 100 feet within the 72-hour-period, Boulder requires a vehicle to move at least two-tenths of a mile, or 1,056 feet, within the 72-hour-period.⁹² Colorado Springs, on the other hand, places additional time restraints on specific areas of the city with a prohibition on parking for 24 hours or more on “a street fronting on a business zone area.”⁹³

These ordinances force vehicle residents in these densely populated cities to search for a new spot to park and sleep every three days. Because these cities have large populations, they are likely more crowded and parking options are scarcer, which limits vehicle residents’ options and causes them to waste hours and gas searching for a new parking spot.

2. Identifying the Problem

Municipalities enact laws that, facially, prohibit parking on public streets for more than 72 hours to promote parking turnover and access to businesses. However, realistically, these laws enable a disruptive policy that disproportionately impacts people who live in their vehicles. While the research has not been done in Colorado cities, Dr. Graham Pruss has extensively researched vehicle residency in Seattle and has found that vehicle residents receive more tickets for extended parking than permanent residents who park in the same area.⁹⁴



Graphs adapted from Andrew Kenney, *MAP: Stapleton is the 72-hour parking ticket capital of Denver*, DENVERITE (Sep. 27, 2017, 2:00 PM), <https://denverite.com/2017/09/27/stapleton-72-hour-parking-ticket-capital-denver/>.

Denver claims that the 72-hour time limit is to “encourage[] parking turnover and access to businesses.”⁹⁵ Yet, in practice, as shown in dark red on the graph above, most parking citations occur outside of the areas where businesses are prevalent.⁹⁶ Instead, the highest concentration of citations occurs in Denver’s industrial areas, and on the streets surrounding the Denver County Jail, where there are few businesses and little need for parking turnover.⁹⁷

The penalty for violating these ordinances seems trivial, but the progression of a citation reveals the disparate effect on vehicle residents. A ticket for violating this ordinance ranges from \$25-\$75. Once someone is ticketed

more than 3 times in Denver, the car is booted, incurring another \$100 fee.⁹⁸ After 72 hours with the boot, the car is impounded for another \$120 towing and impound fee, and the owner is charged \$20 per day for “storage” at the impound lot.⁹⁹ Within 30 days of receiving notice of impoundment, the owner must then claim the vehicle and pay all the associated charges, or else the “vehicle is subject to disposal by the city by auction” or other methods.¹⁰⁰ If an individual cannot answer or pay the citation for parking in one spot for more than 72 hours, they face immobilization, impoundment, and disposal of their vehicle.

3. Creating a Solution

Twenty-four to seventy-two-hour restrictions on parking inhibit creative, private solutions to safe parking. For example, if a private citizen wanted to offer aid to a neighbor living in their car by offering them a place to park in front of their house and access to laundry or internet, this would not be possible without risk of parking tickets and possible impoundment. Denver could easily remove the 72-hour parking restriction in neighborhoods where businesses are not prevalent and parking turnover is unnecessary. Another remedy is for cities to offer vehicle residents a special permit to park for over 72 hours.¹⁰¹ Homeless outreach workers, who already encounter and assist vehicle residents, or employers who hire individuals living in their vehicles could administer and dispense such permits. Simple, low-cost solutions such as these could enable private citizens to actively help individuals living in their vehicles.

Westword recently wrote an article about the barriers that prevent private citizens from offering aid to vehicle residents. Chelsey Baker-Hauck and Amanda Mooney had met and were becoming friends. Baker-Hauck could have offered for Mooney to live in front of her house during their growing friendship, giving her a safe place to stay and easy access to laundry and pet care that Baker-Hauck was already offering. However, because of Denver’s 72-hour parking restriction, Baker-Hauck could not offer this solution without putting Mooney at risk of parking tickets or towing.

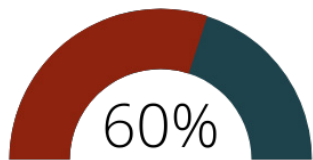
Roadmap of a citation



D. Laws that Prohibit Living in Vehicles

Nearly two-thirds of the surveyed cities have ordinances that prohibit individuals from living in their vehicles. Cities can revise their municipal ordinances to remove broad and overinclusive language and replace it with narrow and specific language to allow safe parking sites to flourish.

I. Surveying the Municipal Code



Percentage of cities surveyed that prohibit living in vehicles

Twelve of the twenty cities surveyed – 60% – ban living or sleeping in vehicles.¹⁰² These ordinances exist in major metropolitan cities, such as Boulder, Broomfield, Littleton, Lakewood, and Longmont, and in cities with major tourist economies, such as Breckenridge, Durango, and Glenwood Springs. These laws criminalize vehicle residency and homelessness, and often come with fines and/or jail sentences.

Some cities, such as Glenwood Springs, criminalize sleeping in a car for a certain time, either overnight or during certain hours.¹⁰³ Other cities have exceptions. In Boulder, for example, an individual could sleep in their car overnight *once* in a seven-day period without it counting as using a vehicle as a temporary residence.¹⁰⁴ Similarly, Breckenridge carves out an exception in its prohibition for daytime napping.¹⁰⁵ Whereas other cities, like Broomfield, create a blanket prohibition without specifying a time period.¹⁰⁶

Consider Breckenridge’s ordinance:¹⁰⁷

Breckenridge 6-3H-4: Camping Restrictions; Camping Permit for Special Events:

A. As used in this section, the following words have the following meanings:

CAMP: To reside or dwell temporarily in a place, with shelter, and conduct activities of daily living, such as eating or sleeping in such place. Without limiting the generality of the foregoing, the term includes the act of staying overnight in a parked motor vehicle, including, but not limited to, recreational vehicles, trailers, fifth wheel trailers, and pop up trailers. The term, however, does not include napping during the day or picnicking, or staying overnight in a permanent structure that meets the requirements of the town's building codes described in title 8, chapter 1 of this code.

B. It shall be unlawful for any person to camp on any private property or public property anywhere within the town unless authorized by a valid camping permit issued by the town manager pursuant to subsection C of this section.

This ordinance targets “camping” but defines camping so broadly that it creates a ban on vehicle residency. While the ordinance makes exceptions for napping or picnicking, those terms are left undefined, which invites discrepancy in enforcement. The penalty for violating this ordinance is a misdemeanor offense punishable by a fine of up to \$2,650 and/or imprisonment of up to one year.¹⁰⁸ A person can face a penalty for “each and every day” they violate the ordinance.¹⁰⁹ This is a significant fine or punishment for anyone, but it may be especially severe for someone with limited resources and experiencing homelessness.

2. Identifying the Problem

Laws that prohibit living in vehicles are the only facially discriminatory laws that prevent private citizens and cities from developing safe parking lots. Sometimes these ordinances stand alone, as in Littleton,¹¹⁰ and sometimes the restrictions are buried within the definitions section in municipal codes. Regardless of where municipalities place these regulations, they have the same effect: they block creative solutions to homelessness, such as safe parking.

These bans criminalize vulnerable populations and further entrench them in the cycle of homelessness. For example, Breckenridge’s camping definition, as written, makes living in a vehicle a misdemeanor offense. In Colorado, a landlord can refuse to rent to any prospective tenant if they have any criminal conviction in the past five years.¹¹¹ Affordable housing is scarce in Colorado, and Summit County, where Breckenridge is located, is no exception.¹¹² In fact, the Colorado Department of Local Affairs estimates that, for low-income renters, Summit County has 165 fewer rental units than needed to support the population of low-income renters.¹¹³ The prospects are even worse for extremely low-income renters, where the shortage is estimated to be 470 units.¹¹⁴ Logically, when there are more renters than affordable apartments, landlords can be more selective in who they rent to, which makes passing a criminal background check more imperative for those vying for rental units. A misdemeanor on one’s record for merely sleeping in a vehicle could keep someone from more sustainable housing for five years.

This consequence is especially egregious when one considers that an ordinance, like Breckenridge’s, applies to both public and private property. Even a private property owner is prohibited from using *their own land* to assist a neighbor needing a safe place to park and sleep. Definitions such as this block private citizens from creating solutions to homelessness that will come at no financial cost to a municipality. With over 50% of low-income households burdened with housing costs¹¹⁵ in a tourist town that relies on minimum wage workers,¹¹⁶ Breckenridge cannot afford to block free solutions to housing problems.



van-life ≠ vehicle residents

Further, ordinances like these are ripe for discriminatory enforcement. For example, despite Breckenridge’s ordinance, people known as “van-lifers” can still vacation, or even live, in Breckenridge without facing the same criminalization that vehicle residents do.¹¹⁷ Unlike vehicle residents, who are often forced into living in their vehicles by way of economic stress, van-lifers are people who choose to live in their often expensive and retrofitted vehicles as a way of life.¹¹⁸ “The van-life movement has picked up steam in recent years . . . these people typically fill their new homes on wheels with luxury amenities like full bathrooms, full kitchens, and projector screens to watch TV.”¹¹⁹ While

it may seem like van-lifers and vehicle residents (as described in this report) live similar lifestyles, that is not the case. Vehicle residents live in their vehicles and travel “involuntarily and facing the dangers of the lifestyle without any of the luxuries.”¹²⁰ One danger is discriminatory enforcement of laws banning sleeping in vehicles.

3. Creating a Solution

Through established procedures, definitions in municipal codes, at large, can be located and amended. A city council can read an ordinance’s definitions and remove the language that blocks creative, private solutions to homelessness. For example, if Breckenridge simply removed “motor vehicle” from the definition, private landowners could open their land to vehicle residents for a safe place to sleep. With private landowners willing and ready to step in to provide simple and easy solutions to help with homelessness issues, municipalities lack justification for retaining prohibitive laws that keep these solutions out of reach.

Beyond the definitions section, cities can ensure that their codes do not create a blanket prohibition on sleeping in a vehicle. Rather, cities should adopt ordinances that are more specifically tailored to their interests. For example, is an outright ban the most productive type of ordinance, or would a ban on sleeping in a vehicle only on certain public property be more appropriate? What interest does a municipality serve in banning individuals or organizations from using private land to help people living in their vehicles? Municipalities should have an inherent desire to encourage private, free solutions to problems that most commonly rely on city funds. Changing the municipal code to clear up language and allow for safe parking lots on private land is in everyone’s best interest.

E. Zoning Codes

Aside from municipal ordinances, most municipalities and towns have zoning laws that need to be addressed to pave the way for accessible solutions.

1. Zoning Context

Broadly defined, “zoning ordinances restrict land use, and the types, size and density of dwelling units that may be constructed on land in accordance with a comprehensive plan.”¹²¹ Cities delegate land for specific uses to dictate where certain buildings and activities are permissible. Zoning laws control not only what can be done on public land, but also what landowners can do on private property.¹²² For context, it is important to remember the history behind zoning ordinances, including explicit racial segregation. “In 1910, numerous cities adopted zoning ordinances that, for example, prohibited blacks from buying homes on blocks that were majority white, and vice versa.”¹²³ Additionally, municipalities used zoning laws to “site . . . Locally Undesirable Land Uses . . . such as dumps and smelters, in black neighborhoods, thereby deepening the slum conditions in areas that might otherwise be conducive to housing integration.”¹²⁴ These practices continue today.¹²⁵ Zoning codes continue to further segregation between the rich and the visibly poor, such as those experiencing homelessness and living in their vehicles.

2. Identifying the Problem

Zoning codes prohibit creative solutions for vehicle residents, working both in tandem with other municipal codes and independently.

First, zoning codes often work with other municipal codes to enact more restrictions on public and private land use. When municipal and zoning codes interact, it often creates a frustrating web of regulations that are almost impossible to understand or enforce.

Consider this zoning ordinance in Glenwood Springs:¹²⁶

Glenwood Springs 070.010.040. - Authority, Applicability, and Jurisdiction.

(d) Municipal Code and Municipal Charter.

(1) Whenever any provision of this Title conflicts with other provisions of the Municipal Code, the **stricter provision**, as determined by the City Attorney, shall govern.

This provision requires citizens in Glenwood Springs to research and understand both zoning and other municipal code provisions before they commence any type of new land use or development. With respect to safe parking, for example, while the Glenwood Springs Zoning Code does not prohibit sleeping in a vehicle, the municipal code *does*.¹²⁷ However, the municipal code allows sleeping or camping on private property with the owner's permission. So, which regulation is controlling? Is sleeping in vehicles on private property allowed or prohibited? With unclear ordinances and undefined terms, such as "public area," establishing a safe parking lot is more complicated and confusing than it needs to be, which allows for local law enforcement to discriminatorily enforce the codes. Glenwood Springs, and cities with similar provisions, must remove the more prohibitive language or adopt an amendment that allows for safe parking unrestricted by any other municipal regulations.

Second, if not working with other provisions of a municipal codes to create a more restrictive environment, zoning codes alone can be singularly restrictive and can prohibit safe parking. Take, for example, the Denver Zoning Code:¹²⁸

Denver Zoning Code 3.4.1.2.

Uses not listed are prohibited, unless the Zoning Administrator specifically permits the unlisted use according to Section 12.4.6, Code Interpretations and Determination of Unlisted Uses.

Confining land solely to listed uses creates the possibility of code enforcement that prohibits all uses that were not explicitly considered by the municipality in drafting and promulgating their zoning code. While there can be exceptions, the permitting process for these exceptions can be administratively burdensome, complicated, and costly.¹²⁹ Independently, this zoning ordinance severely limits public and private uses of land.¹³⁰

3. Creating a Solution

Recently, advocates for creative changes to homelessness have utilized the zoning administrator’s authority to develop a workaround to “uses not listed are prohibited” by creating a permit process. Consider Denver’s Beloved Community Village (BCV), a tiny home village that offers a temporary solution to homelessness. Originally, BCV’s landowners needed to apply for a special use permit and issue a public notice to alert the surrounding community of their planned land use every few months. Because of the process’s cumbersome nature, landowners would often ask BCV to move, rather than apply for a permit. In 2019, however, Denver City Council voted to allow the zoning administrator to develop a special application, called the Temporary Tiny Home Village application,¹³¹ that streamlines the permit process. This change allows BCV to renew its permits administratively and within the community where BCV is located, rather than with permission from the Denver City Council.

In 2020, in response to the COVID-19 pandemic, Denver City Council voted to expand the Zoning Administrator’s ability to grant temporary permits for uses that are unlisted in Denver’s Zoning Code in more areas of the city. This change allowed the Zoning Administrator to grant permits for temporary outdoor shelters and camps for people living on the streets that Denver’s Zoning Code would otherwise prohibit.¹³² While these temporary permits are set to end when the pandemic restrictions lift in Denver, Denver City Council should amend the Zoning Code to make this exception permanent and available to other potential safe parking lot operators.

But the work does not end there. City councils throughout the state should not rely on unclear zoning codes, temporary changes, or solutions that rely on a zoning administrator. Creative solutions to homelessness, such as tiny home villages, safe parking, and accessory dwelling units¹³³ are simple, cost-effective, and allow private landowners to help community members live on unused land. The only thing standing in the way of private solutions to homelessness is the refusal by city councils and municipalities to engage in creative thinking and change zoning and municipal codes. As public servants, our policy makers have the duty to lead their constituents away from the “Broken Windows” fear that an unchecked vehicle resident will inevitably invite social disorder.¹³⁴ The cost here is political courage. Now is the time for city councils to open the zoning and municipal codes, and allow private citizens to engage in the creative thinking and solutions needed to help end the homelessness crisis in Colorado.

CONSTITUTIONAL OVERVIEW



Courts across the country consistently hold laws unconstitutional when they disproportionately criminalize basic human acts, which individuals experiencing homelessness are forced to perform in public.¹³⁵ Previous reports and law review articles have examined the constitutionality of laws that prohibit behaviors associated most with those experiencing homelessness,¹³⁶ including panhandling bans, camping bans, sit/lie prohibitions, and vagrancy laws in Colorado.¹³⁷ Ordinances that target and criminalize individuals living in their vehicles are following in the footsteps of their discriminatory and exclusionary predecessors, and face the same unconstitutional fate.¹³⁸

A. Theories of Unconstitutionality

Laws that criminalize homelessness have been deemed unconstitutional in several ways.¹³⁹ As applied to vehicle residency, four constitutional theories are implicated: the Eighth Amendment’s ban on cruel and unusual punishment;¹⁴⁰ the Fourteenth Amendment’s vagueness doctrine¹⁴¹ and its Equal Protection clause;¹⁴² and the Fourth Amendment’s protection of property rights.¹⁴³ Individuals experiencing homelessness retain the same constitutional protections as every other individual, and courts across the country are increasingly and consistently stepping up to protect constitutional rights when local laws infringe upon them.

Eighth Amendment - Cruel and Unusual Punishment

The Supreme Court has held that punishing a person based on their status is cruel and unusual, in violation of the Eighth Amendment.¹⁴⁴ Other courts have similarly recognized that the Eighth Amendment places substantive limits on what the government may criminalize and that laws criminalizing “conduct that is an unavoidable consequence of being

homeless” are unconstitutional.¹⁴⁵ Such laws may result from legitimate governmental objectives like the promotion of public health and safety, or they may have less noble but constitutionally permissible purposes, like avoiding visible poverty. Regardless of the motive, “the means must stand constitutional scrutiny, as well as the end to be achieved.”¹⁴⁶ Here, laws that criminalize vehicle residency fail because any form of punishment against an unhoused person engaging in life-sustaining activities is inherently cruel and unusual.

Fourteenth Amendment - Unconstitutional Vagueness

Courts have further held that laws criminalizing homelessness are unconstitutionally vague under the Fourteenth Amendment’s Due Process Clause.¹⁴⁷ As the Supreme Court stated, the Constitution does not permit the government to “roundup . . . so-called undesirables” under the guise of criminal law.¹⁴⁸ Laws that are void for vagueness fail to give “a person of ordinary intelligence fair notice that his contemplated conduct is forbidden by the statute,” or those that encourage “arbitrary and erratic arrests and convictions.”¹⁴⁹ Over-inclusive laws that could theoretically apply to any individuals engaged in ordinary daily activities, but are instead enforced systematically against the unhoused, violate the vagueness doctrine.

Fourteenth Amendment - Equal Protection

The Fourteenth Amendment’s Equal Protection clause is triggered when laws are enforced arbitrarily and in a discriminatory manner.¹⁵⁰ In the context of homelessness, successful equal protection claims are rare.¹⁵¹ However, the argument must be made that individuals experiencing homelessness deserve equal protection under the law.¹⁵²

Any law that discriminates against a minority population or implicates individual rights is subject to heightened scrutiny by courts.¹⁵³ Courts may review with strict scrutiny, which presumes the law unconstitutional unless the government can show that it is “narrowly tailored to achieve a compelling government interest.”¹⁵⁴ In other words, a law infringing on fundamental rights cannot go further than what is necessary to achieve the city’s objective.¹⁵⁵ Engaging in life-sustaining activities, such as sleeping or eating, must be considered a fundamental right.¹⁵⁶ In addition, vehicle residents’ constitutional right to travel may be considered a fundamental right for equal protection purposes.¹⁵⁷

One issue that an equal protection challenge may encounter is that individuals experiencing poverty and homelessness have not yet been deemed a suspect or quasi-suspect class to receive heightened scrutiny.¹⁵⁸ However, individuals experiencing homelessness should be given suspect classification.¹⁵⁹ Individuals experiencing homelessness are a disadvantaged group; they are regularly forgotten about by society, and unhoused individuals continually face discrimination by businesses and the government in the enforcement of arbitrary laws.¹⁶⁰ Furthermore, an argument can be made that homelessness is involuntary given the unavailability of affordable housing and government protections.¹⁶¹ To fulfill the rights of those experiencing homelessness, the government must acknowledge their inherent human dignity and provide for the “equal capability for functioning.”¹⁶²

Fourth and Fourteenth Amendment – Right to Privacy and Property Rights

Law enforcement “sweeps” of encampments have been held unconstitutional under the Fourth and Fourteenth Amendments.¹⁶³ As stated by the Ninth Circuit in 2012, “[u]nhoused people retain an interest in the continued ownership of their personal possessions.”¹⁶⁴ Several courts have followed the Ninth Circuit’s reasoning to hold sweeps of encampments and confiscation of property without due process unconstitutional.¹⁶⁵

Laws which disproportionately affect vehicle residents and criminalize the act of living in one's vehicle are discriminatory and exclusionary. Ordinances prohibiting or severely limiting vehicle residency are the fastest growing anti-homeless ordinances, according to the National Law Center on Homelessness and Poverty.¹⁶⁶ Although the case law is currently less developed, as laws targeting vehicle residents proliferate, the time is ripe for constitutional challenges to ensure constitutional protections for vehicle residents.

B. Laws that Prohibit Parking Large Vehicles on Public Streets

When laws prohibit or restrict the parking of vehicles based on their length or weight, vehicle residents are left without a safe, reliable, and legal place to park. Ultimately, residents in large vehicles are forced to move their vehicles and risk receiving citations and eventual impoundment.¹⁶⁷ Thirteen of the Colorado cities surveyed have an ordinance criminalizing or restricting the parking of large vehicles on public streets.¹⁶⁸

In evaluating these laws, a court will balance the state's interest and the rights implicated.¹⁶⁹ For laws prohibiting the parking of large vehicles, there is a balance between protecting infrastructure, like the free movement of vehicles and managing waste disposal, and one's right to park in public, engage in life-sustaining activities such as sleep, and to be free from police harassment.¹⁷⁰ These laws are problematic despite public interest justifications because they are disproportionately enforced against vehicle residents compared to housed individuals.¹⁷¹ While large vehicle restrictions on some streets may be necessary for public safety,¹⁷² a ban on parking large vehicles on *all* public streets goes too far. With no private property to park their large vehicles on, large vehicle residents are forced to park on public streets and risk punishment.¹⁷³



Disproportionate enforcement raises several constitutional issues, including Fourteenth Amendment Due Process and Equal Protection concerns.¹⁷⁴ In addition, if ordinances prohibiting the parking of large vehicles leave vehicle residents with no other place to sleep, eat, or live, they could amount to a violation of the Eighth Amendment's ban on Cruel and Unusual Punishment.¹⁷⁵ Despite attempts to justify large vehicle bans, these ordinances ultimately target visible poverty and push out individuals experiencing homelessness.¹⁷⁶ With no place to park large vehicles, these bans could amount to the criminalization of one's status as an individual experiencing homelessness.¹⁷⁷

C. Laws that Prohibit and Impound Junk, Inoperable, and Abandoned Vehicles

Laws that authorize the impoundment of junk, inoperable, and abandoned vehicles are pervasive. Nineteen of the Colorado cities surveyed have similar ordinances, which authorize impoundment of vehicles when they are considered "abandoned" or "junk."¹⁷⁸ Vehicle impoundment creates several problems for vehicle residents, including the unconstitutional confiscation of their home, being forced to sleep on the street or in a shelter, and the inability to pay the costs associated with releasing their vehicle.¹⁷⁹ Indefinite impoundment may lead cities to the auction of vehicles at rates lower than the amount the owner was required to pay for the vehicle's return.¹⁸⁰

The Fourth Amendment bans unreasonable searches and seizures and is implicated at two key moments for vehicle residents: (1) when police tow and effectively seize one's vehicle; and (2) when police search one's vehicle during impoundment. Additionally, impoundment may implicate Fourteenth Amendment Due Process if the ordinance is too vague and does not give individuals sufficient notice about when their vehicle could be impounded.¹⁸¹

Under U.S. Supreme Court Fourth Amendment case law, cars and homes are held to different standards.¹⁸² The argument is that individuals have less of a reasonable expectation of privacy in their car compared to their home because cars are non-stationary possessions subject to government regulation, and they provide a lesser form of privacy.¹⁸³ The "reasonable person" would therefore not engage in the same private activities in one's car as they would in one's home.¹⁸⁴ However, for vehicle residents, one's car and home are indistinguishable based on arbitrary privacy expectations. For vehicle residents, everything that is done in one's home is done in one's vehicle.

A warrant or exigent circumstances are the only justifications under which police may search an individual's home.¹⁸⁵ A vehicle's mobile nature is understood to satisfy the exigent circumstance exception to the warrant requirement.¹⁸⁶ Nevertheless, under regular circumstances, the police must still have probable cause before a vehicle may be searched or seized.¹⁸⁷ Yet, a glaring exception to this rule occurs during vehicle impoundment. When a vehicle is impounded, the police may search it without a warrant and without probable cause under a special needs search exception to the Fourth Amendment.¹⁸⁸ However, even in the case of a special needs search (a search without probable cause), the government's need must be balanced against the individual's interest.¹⁸⁹ When the individual interest is a vehicle resident's interest in their home, this balance may in fact weigh in favor of the individual. It would be contrary to Fourth Amendment notions of property and privacy for vehicle residents to be subject to a lower expectation of privacy in their home.¹⁹⁰ "[T]he Fourth Amendment protects people, not places,"¹⁹¹ and a vehicle resident's reasonable expectation of privacy in their home does not diminish simply because their home happens to be on four wheels. Lower courts across the country have found that individuals experiencing homelessness maintain Fourth Amendment protections in situations sufficiently analogous to vehicle residency.¹⁹²

Courts have found that individuals experiencing homelessness maintain Fourth Amendment protections in their "unabandoned, but momentarily unattended personal property."¹⁹³ Fourth Amendment arguments have been largely successful in cases involving police sweeps of encampments, resulting in police throwing out the belongings of individuals experiencing homelessness.¹⁹⁴ In *People v. Schafer*, the Colorado Supreme Court found tents to merit equivalent Fourth Amendment protections to those of one's home.¹⁹⁵ The court clarified that "one's occupation of a tent is entitled to equivalent protection from government intrusion as that afforded to homes or hotel rooms."¹⁹⁶ Justice Hobbs looked to Colorado's history and outdoor culture as a justification for extending protections to a tent equal to that of a home (the highest protection under Fourth Amendment case law).¹⁹⁷

This same line of reasoning must be extended to vehicles, which arguably provide a higher level of privacy and security compared to a tent.¹⁹⁸ Vehicles provide a barrier from the elements, locked doors for protection, and a shield from outside noise ears, and sight—for vehicle residents who cover their windows during times of rest. Therefore, individuals likely have a higher expectation of privacy in their vehicle as opposed to a tent, which provides protection only from outside view.¹⁹⁹ As Justice Hobbs thoughtfully stated, "[t]hrough it cannot be secured by a deadbolt and can be entered by those who respect not others, the thin walls . . . are notice of its occupant's claim to privacy unless consent to enter be asked and given."²⁰⁰

D. Laws that Prohibit Parking on Public Streets for More Than 24 to 72 Hours

Laws that prohibit parking on public streets for longer than a specified period criminalizes vehicle residency. Of the Colorado municipalities surveyed, four had such laws. These laws are highly susceptible to arbitrary or discriminatory enforcement and can be challenged as unconstitutionally vague under the Fourteenth Amendment.

Laws that are void for vagueness are those that fail to give “a person of ordinary intelligence fair notice that his contemplated conduct is forbidden by the statute,” or those that encourage “arbitrary and erratic arrests and convictions.”²⁰¹

While facially neutral, these laws disproportionately impact unhoused people. Without a home to sleep in or property on which to park a car, vehicle residents must be constantly on the move to ensure they do not violate parking time restrictions. This movement can mean having fewer safe options to park to avoid law enforcement scrutiny, along with disruptions to sleep and normalcy. In the balance between governmental objectives and individual rights, the right

to engage in basic human functions without interference or ticketing must be favored.

The Eighth Amendment is also implicated when parking time restrictions effectively criminalize vehicle residency. For vehicle residents, a vehicle represents the only home available. Forcing vehicle residents to constantly relocate is a disruption to daily life, and the potential for ticketing contributes to the cycle of poverty that keeps unhoused people from finding stable housing. For a person who cannot afford gas, maintaining a vehicle in one location is an “unavoidable consequence of being homeless,” and punishment on that basis violates the Eighth Amendment.²⁰² Moreover, criminalization of vehicle residency is to criminalize a person based on their status, which the Supreme Court has declared unconstitutional.²⁰³

Mr. Brown* had been homeless and living in his truck before. It had not been a big deal - his landlord sold his building, and he had to leave before he found a new place to stay. He had a job, and they let him sleep in the parking lot behind their building for the week while he looked for a new place to stay.

This time it was different. His place of employment had closed, and he had to leave his apartment because he could not pay rent. He was working an overnight temp job and saving for a new place to stay, and sleeping in his car during the day. He had almost saved enough for his place when he got his first parking ticket. Instead of sleeping during the day, he spent the time trying to pay off his parking ticket. Because of the lost sleep, Mr. Brown lost his temp job. Pretty soon, the parking tickets and vehicle costs added up, and before he knew it, the authorities impounded his truck. He lost all of his belongings, as well as his transportation to and from his employment.

This time, rather than his homelessness being a temporary, week-long, manageable issue, he was homeless for more than a year. In other words, laws criminalizing vehicle residents caused Mr. Brown to become chronically homeless.

*Name changed upon request

E. Laws that Prohibit Living in Vehicles

Twelve of the Colorado cities surveyed have prohibitions on living in a vehicle, constituting overt criminalization of vehicle residency. Such laws have been held unconstitutional in the past on Eighth and Fourteenth Amendment grounds, and Colorado’s laws suffer the same constitutional infirmities.

The Eighth Amendment prohibits criminalization of conduct that is the unavoidable consequence of being homeless.²⁰⁴ For a person without a house, but with a vehicle, living in that vehicle is often the best or only option for

shelter. Homeless shelters have certain requirements that some people may be unable to meet, such as check-in times, limitations on how many nights a person can stay, specifications on who can stay, or restrictions on pets.²⁰⁵ Moreover, there are a limited number of shelter beds available on any given night and with a growing population of unhoused people, shelter space is increasingly burdened. Finally, the risk of leaving a car—often the most valuable item a person has and the home to all their belongings—unattended overnight is a risk some cannot take.

Even if a person does potentially have access to a shelter bed, the government’s interest in avoiding visible poverty does not outweigh that person’s right to make the choices that are safest for them based on their status as they experience homelessness. As stated in a recent Colorado case, “just because [a person] may be able to obtain shelter on some nights or eventually escape homelessness altogether does not render his status at the time of citation to be any less worthy of protection.”²⁰⁶ To criminalize a person for sleeping in or occupying a vehicle as a residence—the unavoidable consequences of being homeless—is to criminalize the status of homelessness itself.

The outright criminalization of vehicle residency also fails to pass constitutional muster under the Fourteenth Amendment. The Due Process Clause prohibits statutes that are unconstitutionally vague. The Ninth Circuit has held that ordinances prohibiting living in vehicles are unconstitutionally vague both because they fail to provide adequate notice as to the conduct they criminalize and because they encourage arbitrary and erratic enforcement.²⁰⁷

Ordinances that include undefined terms in their prohibition on living in vehicles, such as “living quarters” and “habitation,” or “temporary” and “napping” in the exceptions, without defining these terms are likely void for vagueness. May a person keep belongings in their vehicle? Eat a meal? At what point does a nap become unlawful sleeping? Without clear guidelines, these ordinances do not provide adequate guidance on prohibited conduct and are therefore unconstitutional under the Due Process Clause.

Moreover, these laws clearly promote arbitrary and erratic enforcement. The prohibited conduct is unclear and could implicate many people who go about ordinary conduct in their vehicles. However, the enforcement is selective against vehicle residents. Under the guise of health and public safety, prohibitions on living in vehicles allow law enforcement to target the unhoused population, making the laws “incompatible with the concept of an even-handed administration of the law to the poor and to the rich that is fundamental to a democratic society.”²⁰⁸

F. Zoning Codes

In addition to other forms of municipal ordinances, cities and municipalities enact zoning codes that regulate land usage. Under the Standard State Zoning Enabling Act (SSZEA), local governments have the authority to regulate land use “[f]or the purpose of promoting health, safety, morals, or the general welfare of the community.”²⁰⁹ Historically, this broad grant of authority allowed municipalities to discriminate against those whom they consider to be “undesirable” via their zoning code.²¹⁰ Today, this authority manifests in zoning codes that exclude minorities and push out visible poverty.²¹¹ While neutral zoning regulations that have the effect of discriminating against racial minorities or the poor have been held constitutional,²¹² municipalities can avoid constitutional scrutiny altogether by amending their zoning codes to allow for inclusionary practices that protect, rather than discriminate against, those experiencing homelessness.

SAFE PARKING



Homelessness is not a new crisis, yet when a city criminalizes survival behaviors, harm is magnified. Colorado is not alone in its struggles, and cities throughout the United States are looking for creative ways to help their citizens overcome the struggles homelessness presents.²¹³ Cities in California,²¹⁴ Washington,²¹⁵ Oregon,²¹⁶ and other states have adopted a new way of addressing homelessness: safe parking.²¹⁷ Colorado cities have the power to follow these cities

and initiate safe parking as a solution to assist those who have opted to live in their cars as an adaptive response to catastrophe, systemic displacement, and joblessness. Safe parking not only enhances the lives of its residents, but it also provides value to cities and municipalities in overall safety, efficiency, comfort, and wellbeing.

Safe parking is an initiative wherein private or public land is offered, usually in the form of parking lots, to provide overnight parking to individuals experiencing homelessness who are temporarily residing or sleeping in their vehicles. These parking lots provide vehicle residents with safe sleeping spaces where they are free from the threat of ticketing or having to “move along” every few hours. Safe parking meets the needs of individuals that traditional sheltering models underserve, specifically people with animals, couples without children, trans individuals who do not feel comfortable or cannot stay in the

Simon Aguirre is a vehicular resident. He slept in different parking lots around the metro area, usually without incident. In mid-January 2021, Simon woke up to a police officer outside his car. Simon had parked in Arvada for the night. The officer warned Simon it was illegal to sleep in his car and provided information for a lot coordinated by the Colorado Safe Parking Initiative (CSPI).

As a result of this incident, Simon started worrying about officers and started paying more attention to where he would spend each night. Fortunately, the officer provided him with the CSPI information, so he has spent the last few months at a CSPI lot.

shelter that matches their gender identity, and people who have recently lost housing due to COVID-related events but maintain stable employment. Additionally, because very few, if any, shelters are accessible for people who work night shifts, safe parking has the potential to serve a population that is unable to access shelter at all.

Not only does safe parking offer a creative solution for individuals facing homelessness, but it does so at little-to-no-cost to cities, compared to other affordable housing solutions. Safe parking is collaborative and creative. Private landowners, such as religious congregations, open their parking lots to vehicle residents, and volunteers or non-profit organizers staff the lots and often provide services to the residents sleeping there. Cities can also offer lots that traditionally remain unused after business hours, such as libraries or community centers. Any vacant lot or plot of land can become a safe parking site.

A. Colorado Safe Parking Initiative



Colorado already has a program that supports the establishment of these safe parking sites: Colorado Safe Parking Initiative (CSPI).²¹⁸ CSPI supports the development of safe parking lots for vehicle residents to quell the fear of being ticketed, towed, or harassed throughout the night.²¹⁹ CSPI also connects safe parking lot guests with other necessary services.²²⁰

As of April 2021, CSPI has twelve sites that are completely full, with waitlists.²²¹ The sites are in Boulder, Longmont, Broomfield, Golden, Arvada, and Breckenridge.²²² Adams, Denver, and Arapahoe counties anticipate sites soon.²²³



That's one of the nice things about [CSPI]: if they do have the resources of a vehicle, we can hopefully find places for.... people to recover and become part of society, or, at least, to not continue suffering.

-Chelsey Baker-Hauck
Co-founder & Board Member, CSPI



CSPI employs trauma-informed solutions to contribute to a safe environment and shape how Colorado communities understand and treat individuals experiencing homelessness.²²⁴ Trauma-informed care and solutions focus on three main goals: “(1) realizing the prevalence of trauma; (2) recognizing how trauma affects all individuals . . . ; [and] (3) responding by putting this knowledge into practice”²²⁵ CSPI utilizes trauma-informed practices during the intake process, orientation and operation of host sites, community building within the lots, and the emphasis on choice.²²⁶

CSPI's intake process is designed to funnel participants into its lots quickly and easily, maximizing safety, while eliminating barriers and probing questions.²²⁷ CSPI emphasizes safety, security, and sanitation because trauma often results from a lack of these three priorities.²²⁸ CSPI further incorporates trauma-informed solutions in operating its host sites. Lots are kept to ten cars or fewer because more space in the lots protects guests' privacy and reduces conflict and noise.²²⁹ Many guests work, or are in school, so noise is a paramount concern for them.²³⁰

CSPI encourages its host lots, currently congregations, to be trauma informed.²³¹ The main requirement for most congregations is that the lots be kept clean and free of drug use.²³² CSPI also encourages the congregations themselves to build relationships with lot participants and foster community through barbecue nights, community dinners, and movie nights during the summer.²³³ The volunteers who operate the lots encourage participants to find jobs, offer words of hope, and assist without proselytizing.²³⁴ CSPI provides training for volunteers, where their staff also implements this trauma-informed behavior model.²³⁵ Building community for those who want it, and recognizing that not everyone does, is a trauma-informed solution practiced by CSPI.²³⁶

“

Marlena Grossi has been living in her vehicle for the past few months. She has been homeless and on the road with her husband and two young children. It is always difficult for Marlena to find a safe place to sleep, and she has received many warnings from both police officers and private security that she cannot stay in a place she had chosen for the night. She counts herself fortunate that she has not had more serious run-ins with law enforcement.

Since moving to Colorado, Marlena has tried to remain as discrete as possible: she observes signs slowly and does not try to "make waves." As a result, though, her life has been impacted significantly. Notably, she must drive 10-15 minutes to use the restroom when she is at the parking space she spends much of her time in because it is one of the few spaces she has found where she knows no one will harass her.

When she can, Marlena prefers to park at a Colorado Safe Parking Initiative (CSPI) lot, but it is sometimes difficult because she works nights, and the lots may be closed during the days. The CSPI lots have been an enormous relief for Marlena and her family, especially because of the easy bathroom access they provide. Marlena appreciates how accommodating everyone at CSPI can be. For example, when she was sick several weeks ago and feared she had COVID-19, CSPI staff allowed her to stay in her safe parking lot for longer than she typically might be able to so that she could have a safe place to rest and recover.

”

B. Recommendations for Municipalities

Colorado’s municipalities must aid and support safe parking lots, which provide a creative solution to assist individuals experiencing homelessness and living in their vehicles across the state. Safe parking programs in cities such as Seattle, Santa Barbara, San Diego, and Eugene have been successful because they had local government funding and broad community support. In partnering with CSPI, Colorado municipalities can become more trauma-informed, a practice that is needed amid growing evictions, displacement, and criminalization.

1. Local Government Funding & Community Support

Local government funding and support for a safe parking program in Colorado is critical. First, government funding and public grants can make a sizable difference in safe parking programs and the services they can provide. Consider Santa Barbara’s safe parking program. A key to its success was early support and collaboration with local government. The program held weekly homeless coalition meetings, which city council members and local advocates attended to discuss problems and brainstorm creative solutions.²³⁷ The city also drafted ordinances to allow private property owners to utilize their parking infrastructures for the safe parking program.²³⁸ Further, Santa Barbara received federal grants and city-managed funds.²³⁹

Eugene’s safe parking program also utilizes local funding.²⁴⁰ The nonprofit that manages the safe parking program receives approximately \$90,000 from the city each year for intake, case management, portable toilets, and trash collection at city-owned and private lots.²⁴¹ State and municipal governments in Colorado must follow these programs and provide funding and public land to CSPI to expand safe parking in Colorado.

Second, local government support for these programs fosters community buy-in. Garnering public support for safe parking programs eases tension that could arise between local law enforcement and vehicle residents and increases positive visibility of vehicle residents and the low-cost programs necessary to address their most basic needs – safety and sanitation. Seattle’s program established a public-private partnership between the city of Seattle and faith-based organizations.²⁴² Funding is provided through the city of Seattle to help faith-based organizations make capital improvements to become a program host site.²⁴³

Santa Barbara’s program built a strong reputation within its communities, and positive engagement ensures its longevity. For example, if a community resident makes a complaint or has any concern, it is addressed by the program coordinator, who then follows up with the specific community member who raised the issue.²⁴⁴ This approach builds strong community relationships and prevents objections in the community from the outset.

Further, the program actively maintains a relationship with local law enforcement. This relationship helps law enforcement understand the “identified parker” as a “local citizen” and that the program is entirely legal.²⁴⁵ In Eugene, the safe parking host is the first responder to police calls involving people dwelling in their vehicles.²⁴⁶ William Wise, the director of the program, said the safe parking program has saved the city of Eugene approximately \$300,000 per year because the existence of the program decreases the frequency of police calls.²⁴⁷ As exhibited in Eugene, safe parking lots not only save municipalities money but foster positive community engagement.

2. Trauma-Informed Solutions

To succeed in providing safe parking solutions in Colorado, municipalities must incorporate trauma-informed strategies. Trauma refers to a person’s experiences that involve heightened “physical and psychological

stress reactions.”²⁴⁸ Such experiences can be a single event, multiple events, or certain circumstances that impact an individual’s ability to function.²⁴⁹

A trauma-informed approach understands that everyone has trauma in their lives that affects how people interact with each other.²⁵⁰ Trauma is an outcome of many life experiences, including the experience of homelessness; trauma symptoms are prevalent in 76-100% of women who have experienced homelessness and 67% of men.²⁵¹ An effective way to respond to trauma is to build relationships and foster a supportive environment, through listening without judgment and creating trust.²⁵²

A best practice for trauma-informed solutions in safe parking programs is choice.²⁵³ A safe parking program in Colorado, CSPI, is already ensuring that vehicle residents have as much personal autonomy as possible.²⁵⁴ For example, one CSPI guest worked overnight at her job occasionally so did not need space each night but required a space the nights she did not work.²⁵⁵ She was accommodated and empowered by working with CSPI to find a solution for her particular circumstances.²⁵⁶

Trauma-informed solutions remove arbitrary rules, are creative, and meet those impacted by trauma where they are.²⁵⁷ Municipalities must act with dual purposes to effectively respond to the homelessness crisis in Colorado: (1) narrowly tailor overbroad and overinclusive ordinances that currently criminalize vehicle residency;²⁵⁸ and (2) partner with safe parking programs, like CSPI, to expand safe parking lots, employ trauma-informed solutions, and maximize success.

C. Recommendations for the State

While municipalities have the authority and autonomy to change their municipal ordinances and zoning codes to allow for safe parking, the state government must also act. Colorado can employ creative solutions with either a uniform safe parking model code or economic development incentives for municipalities. Safe parking requires the state’s attention, participation, involvement, and support to aid Colorado’s municipalities in creating a compassionate solution.

“

After recently becoming homeless, Tony Russo* has found it difficult to find locations to sleep in without being moved by authorities or encountering problems with other individuals experiencing homelessness.

Once, when parked on a public street next to a church, Tony was asked to move by the church security guard. Another time, he was parked on a public street in Golden. A Colorado State Patrol officer had some business in the area, and Tony asked them whether he could stay in his spot. The officer said he could and provided him with resources regarding shelters and food banks.

Since moving into a Colorado Safe Parking Initiative lot, Tony has not had to worry about constantly interacting with public and private law enforcement. He can now focus on getting his life to where he wants it.

*Name changed upon request

”

I. A State-Wide Supportive Safe Parking Model Code

Roughly 4,000 Coloradans are living in their cars, unsheltered.²⁵⁹ Colorado can create and pass state-wide legislation that mandates municipalities to adopt a model safe parking ordinance. The need for safe parking lots to end the criminalization of vehicle residency is an issue with “general state-wide character.”²⁶⁰ Uniformity across the state, rather than a “patchwork” of varying standards across local ordinances, favors a state-wide approach.

Article XX, Section 6 of the Colorado Constitution grants municipalities “home-rule” authority to create or amend charters to govern local and municipal matters.²⁶¹ There are three broad categories: (1) matters of local concern, governed by the municipality; (2) matters of statewide concern, governed by the state; and (3) matters of mixed state and local concern.²⁶² In determining whether a matter is a local concern, state concern, or mixed concern, the Colorado Supreme Court considers the totality of the circumstances on a case-by-case basis.²⁶³

Traffic regulation and matters that have “general state-wide character” are matters of statewide concern to be governed by the state.²⁶⁴ Thus, although municipalities generally govern narrow traffic issues like street intersections and parking regulations, safe parking is a matter of statewide concern because it has “general state-wide character.”²⁶⁵ Because of the transient nature of individuals living unsheltered in their cars, varying standards from municipality to municipality place an undue burden on those experiencing homelessness across the state.²⁶⁶ Safe parking causes an extraterritorial impact, and uniformity amongst ordinances is preferred.²⁶⁷ The Colorado legislature should propose and adopt a safe parking model code to be uniformly enforced and enacted in every jurisdiction across the state.

2. State Incentives for Municipalities

ECONOMIC DEVELOPMENT INCENTIVES	
TAX CREDITS	
 TAX EXEMPTIONS	
CASH PAYMENTS	
 GRANTS	
LOANS	
 STARTUP CAPITAL	
CONSULTING / TECHNICAL ASSISTANCE	
 PROGRAMMATIC SUPPORT	
COLORADO CAN EXTEND THE SAME ECONOMIC DEVELOPMENT INCENTIVES TO MUNICIPALITIES SEEKING TO CREATE SAFE PARKING LOTS THAT IT OFFERS TO NEW BUSINESSES.	

Although municipalities are better equipped to address issues related to safe parking on the local level, the State must assist and aid municipalities. Additionally, Colorado’s legislature must advocate for individuals experiencing homelessness and support Colorado cities in their efforts to provide tangible solutions, *not sanctions*, for those that are unsheltered.

One way the State can incentivize safe parking is through Colorado’s Office of Economic Development and International Trade (OEDIT), which provides programs and funding opportunities to businesses who choose to locate in Colorado.²⁶⁸ Just as the Colorado legislature empowers the OEDIT to offer economic development incentives to new businesses, it should allow OEDIT to offer economic development incentives to municipalities looking to create safe parking lots for vulnerable Coloradans.

OEDIT incentivizes programs relating to “[h]ealth and [w]ellness.”²⁶⁹ The website states that OEDIT is “Where Health Meets Humanity” and boasts of “collaborative approach[es] to innovating thinking.”²⁷⁰ Unhoused people have “significantly worse health and health outcomes than people who have housing [and] . . . mortality rates among people who are homeless are up to four times higher than in the general population.”²⁷¹ OEDIT could fulfill its mission of collaborative approaches and health meeting humanity by incentivizing municipalities to care for Coloradans living in their cars by creating safe parking sites. Doing so will revitalize distressed neighborhoods and communities, occupy vacant and underutilized spaces within a city’s bounds for a positive public

purpose, deliver opportunity and protection to a vulnerable and underserved population, and curb the growth of chronic homelessness across the state.

The State can further incentivize municipalities to change restrictive zoning laws. The State can allocate more general or federal funds to municipalities that choose to loosen restrictions on zoning and allow for safe parking or increased affordable housing. The state could shift dollars for human services or transportation from municipalities who insist on maintaining strict zoning laws to cities that allow for a more diverse economic population.²⁷² Additionally, the state could incentivize municipalities to relax their municipal ordinances and zoning codes by giving them money for decreasing the number of tickets and impoundments, or alternatively decreasing state funding to municipalities that issue the highest number of tickets per capita.

Nearly 100 years ago in a dissenting opinion, Justice Brandeis commented, “It is one of the happy incidents of the federal system that a single courageous state may, if its citizens choose, serve as a laboratory; and try novel social and economic experiments without risk to the rest of the country.”²⁷³ The question remains: is Colorado courageous enough?

“It is one of the happy incidents of the federal system that a single courageous state may, if its citizens choose, serve as a laboratory; and try novel social and economic experiments without risk to the rest of the country.”

JUSTICE BRANDEIS

IS COLORADO COURAGEOUS ENOUGH?

CONCLUSION

Vehicle residency is a necessity for individuals who might otherwise be living on the streets. Instead of creating places for these individuals to get back on their feet and transition to stable housing, Colorado cities criminalize their existence by making it unlawful to park large vehicles in certain areas, drive a vehicle that fits into a broad definition of junk or abandoned, park for too long in any given location, or simply sleep in a vehicle.

These laws are counterproductive. Rather than act as a solution to the problems vehicle residents face, like the need for stable housing, these laws make survival more difficult, which perversely leads to higher rates of homelessness.

While many of these laws may be facially unconstitutional, or at least unconstitutional as enforced, judicial action is only one way to solve this problem. This report stresses that Colorado municipalities have the power to act before facing any lawsuit. State and local legislatures must amend existing laws to create space for vehicle residents while protecting private property interests and public safety and enact new laws that proactively provide safe parking. Not only is this approach the humane option, but it is also the most cost-effective.

Homelessness is a crisis, and the authors of this report acknowledge the time required for society to provide everyone access to a safe and permanent home. However, the changes advocated for in this report are simple solutions that state and local legislatures can enact to slow the growth of the homelessness crisis, allow vehicle residents to rebuild their lives, and end the marginalization of individuals living in their cars.

APPENDIX A:

Laws Criminalizing Vehicle Residency

Laws that Prohibit Parking Large Vehicles on Public Streets

City	Code Section
Arvada	§ 54-173
Aurora	§ 134-358
Boulder	§ 7-6-24
Broomfield	§ 10-12-010
Colorado Springs	§ 10.12.107
Denver	§ 54-464
Durango	§ 24-74
Fort Collins	§12-14
Golden	§ 10.04.340
La Junta	§ 15.40.030
Lakewood	§ 10.33.075
Littleton	§ 9-1-6
Thornton	§ 38-430

Laws that Prohibit and Impound Junk, Inoperable, and Abandoned Vehicles

City	Code Section
Arvada	§ 62-35
Aurora	§§ 134-37, 146
Boulder	§§§ 7-1-1; 7-7-3
Breckenridge	§§ 5-1-4, -7; 7-3-1, -2
Broomfield	§§ 8-20-010, 020
Colorado Springs	§§ 9.6.502; 10.25.101
Craig	§§ 8.12.010, 040
Denver	§ 54-812
Durango	§ 12-42
Fort Collins	§ 1801
Glenwood Springs	§ 120.04.020
Golden	§§ 5.07.010, 020
Grand Junction	§ 10.12.010
Greeley	§§ 11.02.010, 180
La Junta	§§ 10.12.010, .020, .030
Littleton	§§ 7-4-2, -9
Longmont	§§ 11.12.030, 040, 050
Pueblo	§§ 7-3-40, -41, -44
Thornton	§ 38-386, 421

Laws that Prohibit Parking on Public Streets for More Than 24 to 72 Hours

City	Code Section
Boulder	§ 7-6-20
Colorado Springs	§ 10.25.101
Denver	§ 54-465
Greeley	§ 11.02.050

Laws that Prohibit Living in Vehicles

City	Code Section
Boulder	§ 5-6-3
Breckenridge	§ 6-3H-4
Broomfield	§ 10-12-060
Craig	§ 10.04.020
Durango	§ 17-65
Fort Collins	Traffic Code § 1213(2)
Glenwood Springs	§ 120.020.100
Greeley	§ 11.02.090
Lakewood	§ 9.80.020
Littleton	§ 4-1-5
Longmont	§§ 11.12.030, .045
Pueblo	§ 17-4-27

ENDNOTES

1. Colorado Homelessness Statistics, U.S. INTERAGENCY COUNCIL ON HOMELESSNESS, <https://www.usich.gov/homelessness-statistics/co> (last visited Apr. 27, 2021).
2. U.S. DEP'T OF HOUS. & URB. DEV., HUD 2020 CONTINUUM OF CARE HOMELESS ASSISTANCE PROGRAMS HOMELESS POPULATIONS AND SUBPOPULATIONS (2020), https://files.hudexchange.info/reports/published/CoC_Pop-Sub_State_CO_2020.pdf. The Point-in-Time survey is widely recognized to be extremely under-inclusive; the counts provide the minimum number of homeless individuals on the night of December 15, 2020. *See* NAT'L L. CTR. ON HOMELESSNESS AND POVERTY, DON'T COUNT ON IT: HOW THE HUD POINT-IN-TIME COUNT UNDERESTIMATES THE HOMELESSNESS CRISIS IN AMERICA (2017).
3. *Id.*
4. *Research & Data*, COLO. JUD. BRANCH, <https://www.courts.state.co.us/Administration/Unit.cfm?Unit=annrep> (last visited Apr. 27, 2021).
5. Amy Pollard, Living Behind the Wheel, SLATE, Aug. 20, 2018, <https://slate.com/business/2018/08/vehicle-homelessness-is-on-the-rise-should-cities-help-people-sleep-in-their-cars.html>.
6. NAT'L L. CTR. ON HOMELESSNESS & POVERTY, *Housing not Handcuffs* 2019 43 (2019).
7. Pam Fessler, HUD: Growth of Homelessness During 2020 was 'Devastating,' Even Before the Pandemic, NPR (Mar. 18, 2021), <https://www.npr.org/2021/03/18/978244891/hud-growth-of-homelessness-during-2020-was-devastating-even-before-the-pandemic>.
8. 580,466 Americans were experiencing homelessness on a single night in January 2020. Colorado is responsible for 1.7% of that total count, ranking as the thirteenth highest state across the country. *Colorado Homelessness Statistics*, *supra* note 1. *See also* NAT'L ALL. TO END HOMELESSNESS, STATE OF HOMELESSNESS: 2020 EDITION (2020).
9. HUD 2020 CONTINUUM OF CARE HOMELESS ASSISTANCE PROGRAMS HOMELESS POPULATIONS AND SUBPOPULATIONS, *supra* note 2.
10. *Id.* For purposes of the Point-in-Time (PIT) count, HUD considers “unsheltered” homeless as those individuals and families that are sleeping in a place not designed for or ordinarily used as a regular sleeping accommodation, including a car, park, abandoned building, bus or train station, or camping ground. 42 U.S.C.A. § 11302(a)(1)-(2) (West 2021).
11. These percentage allocations come from the 2019 PIT survey. The “Balance of the State” only conducted a survey on those in shelters for 2020 due to the COVID-19 pandemic. We include them here with the assumption that they remain within a 1-2% accuracy for 2020 totals. *State of Homelessness: State and CoC Dashboards*, NAT'L ALL. TO END HOMELESSNESS, <https://endhomelessness.org/homelessness-in-america/homelessness-statistics/state-of-homelessness-dashboards/?State=Colorado> (last visited Apr. 27, 2021). *See also* 2020 Point in Time Data, METRO DENVER HOMELESS INITIATIVE, https://www.mdhi.org/2020_pit_reports (last visited Apr 27, 2021) (showing 61.99% or 6,104 total individuals from HUD's 2020 PIT count reside in the metro-Denver counties).
12. The Front Range is usually used to refer to the major metropolitan cities in front of the Rockies in Colorado, however, it technically encompasses the area to the east of the Rockies from Wyoming to Southern Colorado. *See* Patrick McGuire, *Colorado's Front Range—Much More Than Big Cities*, UNCOVER COLO., Aug. 11, 2020, <https://www.uncovercolorado.com/front-range-colorado/>.
13. COLO. COAL. FOR THE HOMELESS, *A Snapshot of Homelessness in the Colorado Balance of State Continuum of Care* 5 (2019), <https://www.coloradocoalition.org/sites/default/files/2019-06/2019%20CO%20BOS%20CoC%20PIT%20Final%20Report.pdf>.
14. *Id.*
15. *Id.*
16. Chris Arnold, *Federal Eviction Moratorium Extended Just 2 Days Before Expiration*, NPR (Mar. 29,

- 2021), <https://www.npr.org/2021/03/29/982234755/federal-eviction-moratorium-extended-just-two-days-before-expiration>.
17. *Extended Benefits Programs*, COLO. DEP'T OF LAB. & EMP., <https://cdle.colorado.gov/unemployment/extended-benefits-programs> (last visited Apr. 27, 2021).
 18. Tamara Chuang, *A National Eviction Ban will Help Colorado Renters Stay Housed Until March 31, but There Are Asterisks*, COLO. SUN (Jan. 28, 2021), <https://coloradosun.com/2021/01/28/national-moratorium-eviction-ban-colorado-renters-assistance/>.
 19. COLO. JUD. BRANCH, *supra* note 4.
 20. HOUSING NOT HANDCUFFS 2019, *supra* note 6, at 43.
 21. *Id.*
 22. *Id.*
 23. *See, e.g.*, BRECKENRIDGE, COLO., CODE § 1-4-1.
 24. *See, e.g.*, K. Babe Howell, *Broken Lives from Broken Windows: The Hidden Costs of Aggressive Order-Maintenance Policing*, 33 N.Y.U. REV. OF L. & SOC. CHANGE 271, 283-90, 307-14 (2009).
 25. *Id.*
 26. *Id.* at 300.
 27. Enacted after the Great Depression and “dust bowl” migrations, California’s “Anti-Okie” law punished anyone for “bring[ing] or assist[ing] in bringing” extremely poor people into the state. Harry Simon, *Towns Without Pity: A Constitutional and Historical Analysis of Official Efforts to Drive Homeless Persons from American Cities*, 66 TUL. L. REV. 631, 641 (1992).
 28. Jim Crow laws marginalized, and isolated people based on their racial identity. The United States Supreme Court overturned most Jim Crow laws when it held that segregation inherently violated the Fourteenth Amendment’s Equal Protection Clause. *Brown v. Bd. of Educ.*, 347 U.S. 483 (1954).
 29. “Ugly Laws” made it illegal for people with “unsightly or disgusting” disabilities to appear in public. In 1990, the American Disabilities Act (ADA) overturned and prohibited such discrimination. JAVIER ORTIZ, MATTHEW DICK & SARA RANKIN, *THE WRONG SIDE OF HISTORY: A COMPARISON OF MODERN AND HISTORICAL CRIMINALIZATION LAWS* 10 (2015).
 30. “Sundown Towns” did not allow people who were considered “minorities” to remain in the town after the sunset. These laws disappeared after the Supreme Court held that real estate could not have racial covenants. *Id.* at 11.
 31. For further evidence and analysis about how laws criminalizing homelessness continue the legacy of status crimes, *see* RACHEL A. ADCOCK, REBECCA BUTLER-DINES, DAVID W. CHAMBERS, MICHAEL J. LAGARDE, ALEXANDRA M. MOORE, CHARLOTTE F. NUTTING, SUZETTE M. REED, ARIELLE M. SCHREIBER, PAUL M. WARREN, KOBI A. WEBB & ELIE M. ZWIEBEL, *TOO HIGH A PRICE: WHAT CRIMINALIZING HOMELESSNESS COSTS COLORADO* 9 (Nantiya Ruan ed., 2016); ORTIZ, DICK & RANKIN *supra* note 29, at 2–12.
 32. George L. Kelling & James Q. Wilson, *Broken Windows: The Police and Neighborhood Safety*, *THE ATLANTIC*, Mar. 1982, at 31–32.
 33. *Id.*
 34. *Id.*
 35. *Id.*
 36. *Id.*
 37. *See, e.g.*, Howell, *supra* note 24, at 307–14.
 38. *See* discussion *infra* Section II.
 39. JESSICA SO, SCOTT MACDONALD, JUSTIN OLSON & RYAN MANSELL, *LIVING AT THE INTERSECTION: LAWS AND VEHICLE RESIDENCY* 11 (Sara Rankin ed.) (2016).
 40. The surveyed cities were Arvada, Aurora, Boulder, Breckenridge, Broomfield, Colorado Springs, Craig, Denver, Durango, Fort Collins, Glenwood Springs, Golden, Grand Junction, Greeley, Lakewood, La Junta, Littleton, Longmont, Pueblo, and Thornton.

41. These keywords were: residential, large vehicle, truck, car, recreational vehicle, mobile home, travel trailer, inoperable, abandoned, junk, dismantled, wrecked, parking, impound, in excess of, residing, vehicle, occupation, sleeping, and living.
42. The Western Slope refers to the region of Colorado that is West of the Rocky Mountains. While the Front Range usually refers to the major metropolitan cities in front of the Rockies in Colorado, however, it technically encompasses the area to the east of the Rockies from Wyoming to Southern Colorado. *See* McGuire, *supra* note 12.
43. DENVER, COLO., CODE § 54-465.
44. The Eastern Plains refers to the eastern half of Colorado which is part of the Great Plains. *See* COLORADO STATE FOREST SERVICE, *Colorado Plains*, <https://csfs.colostate.edu/colorado-plains/> (last visited Apr. 29, 2021).
45. LA JUNTA, COLO., CODE § 15.40.030.
46. GRAND JUNCTION, COLO., CODE § 10.12.010.
47. COLO. REV. STAT. § 42-4-1204 (2021).
48. COLO. REV. STAT. § 42-3-306 (2021).
49. For example, Greeley adopted its law defining abandoned vehicles as, among other things, any vehicles without current registration or as any vehicles left on a public right of way for longer than 72 hours, in March 2019. GREELEY, COLO., CODE § 11.02.010. Lakewood’s law prohibiting parking recreational vehicles on public streets was enacted in September 2019. John Aguilar, *Lakewood Puts an End to RV Parking, Shutting Down Makeshift Solution to Homelessness*, THE DENVER POST (Sept. 27, 2019), <https://www.denverpost.com/2019/09/27/lakewood-recreational-vehicle-homeless-parking/>. Longmont’s law prohibiting sleeping in cars came into effect in November 2020. John Fryar, *Longmont City Council Approves RV Street Parking Ban*, LONGMONT TIMES-CALL (Nov. 10, 2020), <https://www.timescall.com/2020/11/10/longmont-city-council-approves-rv-street-parking-ban/>.
50. To enact or amend municipal ordinances. *See, e.g.*, THORNTON, COLO., CODE § 8.4 (describing that an ordinance may be introduced and passed at any regular meeting with a majority affirmative vote from the council); BRECKENRIDGE, COLO., CODE § 5.10 (describing the procedure for enacting new ordinances at regular city council meetings with an affirmative council vote).
51. To amend zoning codes. *See, e.g.*, THORNTON, COLO., CODE § 18.41 (requiring a completed application, public hearing, and a majority affirmative vote from the council to adopt the zoning change); BRECKENRIDGE, COLO., CODE § 22.4(B) (requiring the planning and zoning commission to hold a public hearing before adopting a proposed amendment, supplement, or change).
52. Model municipal codes are available if a municipality should decide to enact sweeping change to allow for these creative solutions to homelessness.
53. ARVADA, COLO., CODE § 54-173; AURORA, COLO., CODE § 134-358; BOULDER, COLO., CODE § 7-6-24; BROOMFIELD, COLO., CODE § 10-12-010; COLORADO SPRINGS, COLO., CODE § 10.12.107; DENV., COLO., CODE § 54-464; DURANGO, COLO., CODE § 24-74; FORT COLLINS, COLO., CODE § 12-14; GOLDEN, COLO., CODE § 10.04.340; LA JUNTA, COLO., CODE § 15.40.030; LAKEWOOD, COLO., CODE § 10.33.075; LITTLETON, COLO., CODE § 9-1-6; THORNTON, COLO., CODE § 38-430.
54. FORT COLLINS, COLO., CODE § 12-14(1).
55. LA JUNTA, COLO., CODE § 15.040.030.
56. Joe Zemba, *Migrants Voice Housing Concerns*, LA JUNTA TRIBUNE-DEMOCRAT (July 15, 2016), <https://www.lajuntatribunedemocrat.com/news/20160715/migrants-voice-housing-concerns>.
57. *See e.g.*, Graham Pruss, *Without Parking, Those Who Live in Vehicles Have Nowhere to Go*, SAPIENS (Aug. 14, 2019), <https://www.sapiens.org/culture/vehicle-residency/>; Amy Scott, *For One Denver Couple, Home is a 25-foot RV*, MARKETPLACE (May 26, 2020), marketplace.org/2020/05/26/for-one-denver-couple-home-is-a-25-foot-rv/; Jessica Guynn, *‘Hidden homeless crisis’: After Losing Jobs and Homes, More People are Living in Cars and RVs and it’s Getting Worse*, USA TODAY (Feb. 12, 2021), <https://www.usatoday.com/story/>

money/2021/02/12/covid-unemployment-layoffs-foreclosure- eviction-homeless-car-rv/6713901002/.

58. FORT COLLINS, COLO., CODE § 1-15(b).

59. *Id.*

60. *See, e.g.*, Press Release, City of Fort Collins, Fort Collins Temporarily Allows Occupancy of RVs in City Limits (Mar. 25, 2020), <https://www.fcgov.com/news/index.php?id=7702> (“The City of Fort Collins will temporarily allow people to occupy recreational vehicles parked on private property for living, working, or sleeping purposes to provide more options for social distancing and physical quarantine during the COVID-19 outbreak”).

61. OAKLAND, CAL., CODE § 5.72.060.

62. Ali Tadayton, *Oakland Opens Sanctioned RV-Dweller Park*, EAST BAY TIMES (June 22, 2019), <https://www.eastbaytimes.com/2019/06/22/oakland-opens-sanctioned-rv-dweller-park/>.

63. *See, e.g.*, PUB. L. CTR., ET AL., TOWED INTO DEBT: HOW TOWING PRACTICES IN CALIFORNIA PUNISH POOR PEOPLE 4-6 (2019); *Ending Poverty Tows (AB 516)*, AMER. CIV. LIBERTIES UNION, <https://www.aclusocal.org/en/legislation/ending-poverty-tows-ab-516> (last visited Apr. 29, 2021) (supporting a bill in Los Angeles to end “poverty tows”).

64. ARVADA, COLO., CODE § 62-35; AURORA, COLO., CODE § 146; BOULDER, COLO., CODE § 7-1-3; BRECKENRIDGE, COLO., CODE § 7-3-1; BROOMFIELD, COLO., CODE § 8-20-020; COLORADO SPRINGS, COLO., CODE § 10.25.101; CRAIG, COLO., CODE § 8.12.040; DENVER, COLO., CODE § 54-812; DURANGO, COLO., CODE § 12-42; FORT COLLINS, COLO., CODE § 1801; GLENWOOD SPRINGS, COLO., CODE § 120.04.020; GOLDEN, COLO., CODE § 5.07.020; GRAND JUNCTION, COLO., CODE § 10.12.010; GREELEY, COLO., CODE § 11.02.180; LA JUNTA, COLO., CODE § 10.12.030; LITTLETON, COLO., CODE § 7-4-9; LONGMONT, COLO., CODE § 11.12.040; PUEBLO, COLO., CODE § 7-3-41; THORNTON, COLO., CODE § 38-421.

65. ARVADA, COLO., CODE § 62-35(d); AURORA, COLO., CODE § 134-37(a)(2); BOULDER, COLO., CODE § 7-6-23(a); BRECKENRIDGE, COLO., CODE § 7-3-2; FORT COLLINS, COLO., CODE § 1801(2); GLENWOOD SPRINGS, COLO., CODE § 120.040.020(7)(3); GOLDEN, COLO., CODE § 5.07.020(a)(2); GRAND JUNCTION, COLO., CODE § 10.12.010(c).

66. BROOMFIELD, COLO., CODE § 8-20-020(A); COLORADO SPRINGS, COLO., CODE § 10.25.101(S); CRAIG, COLO., CODE § 8.12.040(6); DENVER, COLO., CODE § 54-812(a); DURANGO, COLO., CODE § 12-42(a-c); GREELEY, COLO., CODE § 9.36.030; LA JUNTA, COLO., CODE § 10.12.030(a); LITTLETON, COLO., CODE § 7-4-9; LONGMONT, COLO., CODE § 11.12.050; PUEBLO, COLO., CODE § 7-3-41(a); THORNTON, COLO., CODE § 38-421.

67. THORNTON, COLO., CODE § 38-421(1)-(5).

68. *Id.*

69. *Id.*

70. *See, e.g.*, ARVADA, COLO., CODE § 62-35; BOULDER, COLO., CODE § 7-1-1; GLENWOOD SPRINGS, COLO., CODE § 120.040.020(7)(2)(a)(i); GOLDEN, COLO., CODE § 5.07.010.

71. ARVADA, COLO., CODE § 62-35.

72. *See, e.g.*, BROOMFIELD, COLO., CODE § 8-20-101(B); CRAIG, COLO., CODE § 8.12.010(F); LA JUNTA, COLO., CODE § 10.12.010.

73. GREELEY, COLO., CODE § 11.02.010(3).

74. THORNTON, COLO., CODE § 38-421(2).

75. *Id.* § 38-421.1.

76. *Id.*

77. *Id.*

78. *Id.*

79. *Id.* § 38-423.

80. *Id.* § 38-426(d).

81. *Id.* § 38-427(e).

82. *Id.* § 38-428(d).

83. *Id.* § 38-428(e).
84. *Id.* § 38-427(e).
85. COLO. REV. STAT. § 42-4-2110 (2002).
86. Aaron Burkhalter, *Hell on Wheels*, REAL CHANGE (Aug. 8, 2013), <https://www.realchangenews.org/news/2013/08/08/hell-wheels>.
87. BOULDER, COLO., CODE § 7-6-20; COLORADO SPRINGS, COLO., CODE § 10.25.101; DENVER, COLO., CODE § 54-465; GREELEY, COLO., CODE § 11.02.050.
88. U.S. CENSUS BUREAU, CITY AND TOWN POPULATION TOTALS: 2010-2019, ANNUAL ESTIMATES OF THE RESIDENT POPULATION FOR INCORPORATED PLACES IN COLORADO: APRIL 1, 2010 TO JULY 1, 2019 (May 2020), <https://www.census.gov/data/tables/time-series/demo/popest/2010s-total-cities-and-towns.html>.
89. *Id.*
90. DENVER, COLO., CODE § 54-465(a)–(b).
91. *Id.* § 54-465(b).
92. BOULDER, COLO., CODE § 7-6-20(b).
93. COLORADO SPRINGS, COLO., CODE § 10.25.101(D).
94. Graham Pruss, *A Home Without a Home: Vehicle Residency and Settled Bias* 302 (2019) (Ph.D. dissertation, University of Washington), https://digital.lib.washington.edu/researchworks/bitstream/handle/1773/44706/Pruss_washington_0250E_20593.pdf.
95. *Park Smart - Common Non-Posted Parking Ordinances*, DENVER CITY & CNTY., <https://www.denvergov.org/content/dam/denvergov/Portals/681/documents/2web%20site%20flyer.pdf> (last visited Apr. 3, 2021).
96. Andrew Kenney, *MAP: Stapleton is the 72-hour parking ticket capital of Denver*, DENVERITE (Sep. 27, 2017, 2:00 PM), <https://denverite.com/2017/09/27/stapleton-72-hour-parking-ticket-capital-denver/>.
97. *Id.*
98. *Tickets & Towing*, DENVER CITY & CNTY., <https://www.denvergov.org/Government/Departments/Parking-Division/Tickets-and-Towing> (last visited Apr. 3, 2021).
99. *Vehicle Impound*, DENVER CITY & CNTY., <https://www.denvergov.org/Government/Departments/Sheriff-Department/Services/Vehicle-Impound> (last visited Apr. 3, 2021).
100. DENVER, COLO., CODE § 54-814(c)(2); *see id.* § 54-813(a).
101. *Parking Permits*, DENVER CITY & CNTY., <https://www.denvergov.org/Government/Departments/Parking-Division/Permits> (last visited Apr. 4, 2021).
102. BOULDER, COLO., CODE § 5-6-3; BRECKENRIDGE, COLO., CODE § 6-3H-4; BROOMFIELD, COLO., CODE § 10-12-060; CRAIG, COLO., CODE § 10.04.020; DURANGO, COLO., CODE § 17-65; FORT COLLINS, COLO., CODE § 1213(2); GLENWOOD SPRINGS, COLO., CODE § 120.020.100; GREELEY, COLO., CODE § 11.02.090; LAKEWOOD, COLO., CODE § 9.80.020; LITTLETON, COLO., CODE § 4-1-5; LONGMONT, COLO., CODE § 11.12.030; PUEBLO, COLO., CODE § 17-4-27.
103. GLENWOOD SPRINGS, COLO., CODE § 120.020.100.
104. BOULDER, COLO., CODE § 5-6-2003.
105. BRECKENRIDGE, COLO., CODE § 6-3H-4.
106. BROOMFIELD, COLO., CODE § 10-12-1960.
107. BRECKENRIDGE, COLO., CODE § 6-3H-4.
108. *Id.* § 1-4-1.
109. *Id.*
110. LITTLETON, COLO., CODE § 4-1-5(I)(14) (“301.4 Temporary Housing Prohibited. Any vehicle, mobile, or other structure used for human shelter which is designed to be transportable, and which is not attached to any utilities system or which is situated in a designated trailer park, may not be occupied or used for living purposes on public or private property within the city limits.”).
111. Rental Application Fairness Act, COLO. REV. STAT. § 38-12-901 (2019).
112. ANDREW AURAND, DAN EMMANUEL, DAN THREET, IKRA RAFI, DIANE YENTEL, NAT’L LOW INCOME HOUS.

- COAL., OUT OF REACH 2020: THE HIGH COST OF HOUSING 1, 49 (2020), https://reports.nlihc.org/sites/default/files/oor/OOR_2020.pdf.
113. *Division of Housing*, COLO. DEP'T LOC. AFFS., <http://cdola.colorado.gov/housing> (last visited Apr. 5, 2021) (follow “Housing Data Explorer hyperlink, then look at “Rental Gap by County” tab and select “Summit County”).
114. *Id.*
115. *Id.*
116. Take, for example, Breckenridge’s largest year-round employer Breckenridge Grand Vacations (BGV). Eli Pace, *Breckenridge Grand Vacations named best large company in Denver Post’s 2018 Top Workplaces list*, SUMMIT DAILY (Apr. 24, 2018), <https://www.summitdaily.com/news/business/breckenridge-grand-vacations-named-best-large-company-in-denver-posts-2018-top-workplaces-list/#:~:text=With%20600%2Dplus%20employees%2C%20BGV,years%2C%20according%20to%20the%20company>. The most popular roles at BGV are housekeeper (making \$30,338/year), front desk agent (making \$32,740/year) and support specialist (making \$15.33/hour). INDEED, <https://www.indeed.com/cmp/Breckenridge-Grand-Vacations> (last visited Apr. 6, 2021). Yet, the Department of Housing and Urban Development lists a yearly salary of \$33,650 as “50% AMI” or very low income. SUMMIT COUNTY HOUSING AUTHORITY, 2021 SUMMIT COUNTY AREA MEDIAN INCOME (AMI) (2021), <https://www.summithousing.us/wp-content/uploads/2021/04/2021-AMI-Summit-County.pdf>. The National Low Income Housing Coalition estimates that for a worker to afford a 2-bedroom apartment they must be paid at least \$27.19/hour. AURAND ET AL., *supra* note 112, at 52.
117. See @theroamhome, INSTAGRAM (Apr. 2, 2021), <https://www.instagram.com/p/CNK5GjQBmte/?igshid=zd241owyopn0>.
118. Andrew Fraieli, *The Grey Limits of Homelessness*, HOMELESS VOICE (Dec. 19, 2019), <https://homelessvoice.org/the-grey-limits-of-homelessness/>.
119. Frank Olito, *As the Number of Homeless People Living Out of Their Vehicles Grows Across the US, One Man Shows What it’s Really Like to Live Involuntarily Out of a Van for 2 Years*, INSIDER (Feb. 25, 2021), <https://www.insider.com/living-in-car-involuntarily-experience-2021-2>.
120. *Id.*
121. Katherine C. Devers & J. Gardiner West, *Exclusionary Zoning and Its Effect on Housing Opportunities for the Homeless*, 4 NOTRE DAME J. L. ETHICS & PUB. POL’Y 349, 351 (1989).
122. COLO. HOUS. AFFORDABILITY PROJECT, <https://cohousingaffordabilityproject.org/> (last visited Apr. 8, 2021).
123. J. William Callison, *The Color of Law*, 26 J. AFFORDABLE HOUS. & CMTY. DEV. L. 5, 9 (2017).
124. *Id.*
125. For example, a recent article in the Denverite discussed life expectancy across Denver and found those living in Globeville, one of the city’s poorest neighborhoods, had an average life expectancy almost 7 years shorter than Denver’s average. Esteban L. Hernandez, *Life expectancy in Denver varies by as much as 13 years depending on what part of the city you live in*, DENVERITE (Apr. 5, 2021, 5:00 AM), <https://denverite.com/2021/04/05/life-expectancy-in-denver-varies-by-as-much-as-13-years-depending-on-what-part-of-the-city-you-live-in/>. Globeville is a historically immigrant community, close to a smelter, which has been the site of two Environmental Protection Agency superfund soil remediations and “shoulder[s] a disproportionate share of pollution.” GRETCHEN ARMIJO & GENE C. HOOK, DENVER DEP’T ENV’T HEALTH, HOW NEIGHBORHOOD PLANNING AFFECTS HEALTH IN GLOBEVILLE AND ELYRIA SWANSEA 1, 12-13 (2014), https://www.denvergov.org/content/dam/denvergov/Portals/746/documents/HIA/HIA%20Composite%20Report_9-18-14.pdf.
126. GLENWOOD SPRINGS, COLO., CODE § 070.010.040(d)(1).
127. *Id.* §120.020.100 (prohibiting sleeping “in any vehicle parked upon any street, alley, public parking lot, public park or any other public area” between 10:00 pm and 7:00 am throughout the city, and there is an outright ban on sleeping in a vehicle in all downtown areas).
128. DENVER, COLO., ZONING CODE § 3.4.1.2 (emphasis added).

129. For example, in Denver’s Zoning Code Section 12.3-4 requires a complicated “Special Exception” permitting process that involves fees, multiple reviews by the zoning administrator and city council, as well as a public notice requirement before a special exception permit is granted. DENVER, COLO., ZONING CODE § 12.3-4. Further, permits only last for a limited time, requiring permit-holders to repeat this process, sometimes more than once a year. *Id.*
130. *Id.* at § 3.4.1.2.
131. DENVER CITY & CNTY., TEMPORARY TINY HOME VILLAGE PERMITTING GUIDE, https://www.denvergov.org/content/dam/denvergov/Portals/696/documents/Commercial_Zoning/TTHV_Guide.pdf (last visited Apr. 7, 2021).
132. Forrest Czarnecki, *Denver Oks Zoning Change That Frees Up Land for Managed Homeless Campsites*, COLO. POL. (Dec. 5, 2020), https://www.coloradopolitics.com/denver/denver-oks-zoning-change-that-frees-up-land-for-managed-homeless-campsites/article_f10bcce6-0cfb-11eb-b569-d3028a896d9d.html.
133. See DAVID BREWSTER, TRAN DINH, ANNA FULLERTON, GREG HUCKABY & MAMIE PARKS, YES, IN MY BACKYARD: BUILDING ADUS TO ADDRESS HOMELESSNESS 4 (Sara Rankin, Nantiya Ruan, Elie Zweibel eds., 2018).
134. See discussion *supra* Section I.B.
135. See Sara Rankin, *Civilly Criminalizing Homelessness*, HARV. C.R.-C.L. L. REV. (forthcoming 2021), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3677531.
136. See ADCOCK ET AL., *supra* note 31; see also Sara Rankin, *Punishing Homelessness*, NEW CRIM. L. REV. 99 (2019).
137. ADCOCK ET AL., *supra* note 31.
138. See *id.* (discussing how laws criminalizing homelessness are rooted in the United States’ history of exclusionary laws, such as ugly laws, sundown laws, and Jim Crow laws).
139. While the laws addressed here are analyzed under the United States Constitution, the same theories of unconstitutionality apply with equal force under the Colorado Constitution. Laws criminalizing vehicle residency can therefore be challenged using both state and federal constitutions.
140. U.S. CONST. amend. VIII.
141. *Id.* amend. XIV, § 2.
142. *Id.* § 1.
143. *Id.* amend. IV.
144. *Robinson v. California*, 370 U.S. 660, 677 (1962).
145. *Martin v. City of Boise*, 902 F.3d 1031, 1048 (9th Cir. 2018); see also *Pottinger v. City of Miami*, 810 F. Supp. 1551, 1565 (S.D. Fla. 1992); *Johnson v. City of Dallas*, 860 F. Supp. 344, 350 (N.D. Tex. 1994), rev’d on other grounds, 61 F.3d 442 (5th Cir. 1995); *People v. Wiemold*, No. 19CV30889, at *9 (Dist. Ct. Colo. 2021).
146. *Robinson*, 370 U.S. at 667 (Douglas, J., concurring).
147. *Chicago v. Morales*, 527 U.S. 41, 64 (1999); *Desertrain v. City of Los Angeles*, 754 F.3d 1147, 1155–57 (9th Cir. 2014); *Pottinger*, 810 F. Supp. at 1576; *Wiemold*, No. 19CV30889, at *15–16.
148. *Papachristou v. City of Jacksonville*, 405 U.S. 156, 170 (1972).
149. *Id.* at 162.
150. See *Pottinger*, 810 F. Supp. at 1577–80; *Browne v. City of Grand Junction*, 136 F. Supp. 3d 1276, 1294–96 (D. Colo. 2015).
151. See, e.g., *Pottinger*, 810 F. Supp. at 1577–80 (finding that homelessness, is not a suspect class but still finding a violation of equal protection based on a restriction on the right to travel); *Browne*, 136 F. Supp. 3d at 1295 (finding that the ordinance did not create classifications of individuals).
152. *Pottinger*, 810 F. Supp. at 1578 (“It can be argued that the homeless are saddled with such disabilities or have been subjected to a history of unequal treatment or are so politically powerless that extraordinary protection of the homeless as a class is warranted.”).
153. See *U.S. v. Carolene Prods. Co.*, 304 U.S. 144, 155 n.4 (1938).

154. See *Parents Involved in Cmty. Schs. v. Seattle Sch. Dist. No. 1*, 551 U.S. 701, 720 (2007).
155. *Id.*; see also *Pottinger*, 810 F. Supp. at 1583 (“[A]rresting homeless people is not the least intrusive means of achieving the City’s compelling interest in preventing crime in public parks.”).
156. See *Pottinger*, 810 F. Supp. at 1565 (“resisting the need to eat, sleep, or engage in life-sustaining activities is impossible.”).
157. *Id.* at 1583 (finding ordinances criminalizing homelessness to be an infringement on the right to travel and a violation of Equal Protection); *Att’y Gen. of New York v. Soto-Lopez*, 476 U.S. 898, 902 n.2 (1986) (finding that the right to travel “achieves its most forceful expression” under Equal Protection).
158. Jennifer E. Watson, *When No Place is Home: Why the Homeless Deserve Suspect Classification*, 88 IOWA L. REV. 501, 511 (2003).
159. *Id.* at 511, 515.
160. *Id.* at 516–23; see *Pottinger*, 810 F. Supp. at 1578 (“It can be argued that the homeless are saddled with such disabilities or have been subjected to a history of unequal treatment or are so politically powerless that extraordinary protection of the homeless as a class is warranted.”).
161. Watson, *supra* note 158 at 526–33.
162. See Joshua Cohen, *Book Reviews: Inequality Reexamined by Amartya Sen*, 92 J. PHIL. 275, 276, 279 (1995) (“Any improvement in an agent’s environment—cleaner water, for example—counts as an improvement in capability for functioning: an improvement in water quality constitutes an improvement in the set of beings and doings that lie within an agent’s reach.”).
163. See *United States v. James Daniel Good Real Prop.*, 510 U.S. 43, 52–61 (1993); *People v. Schafer*, 946 P.2d 938, 944–45 (Colo. 1997).
164. *Lavan v. City of Los Angeles*, 693 F.3d 1022, 1031 (9th Cir. 2012).
165. See, e.g., *Sanchez v. City of Fresno*, 914 F. Supp. 2d 1079, 1103 (E.D. Cal. 2012); *Carr v. Oregon Dep’t of Transp.*, No. 13-cv-02218, 2014 WL 3741934, at *4 (D. Or. July 29, 2014); *Mitchell v. City of Los Angeles*, No. CV 16-01750, 2016 WL 11519288, at *4 (C.D. Cal. Apr. 13, 2016).
166. Anna Scott, *Amid Homelessness Crisis, Los Angeles Restricts Living in Vehicles*, NPR (Aug. 19, 2019), <https://www.npr.org/2019/08/19/751802740/amid-homelessness-crisis-los-angeles-restricts-living-in-vehicles>.
167. See SO ET AL., *supra* note 39, at 4–7.
168. See discussion *supra* Section II.A.1.
169. See *Carolene Prods. Co.*, 304 U.S. at 155 n.4.
170. Mark Noack, *Amid Protests, Mountain View Council Passes RV Parking Ban*, MOUNTAIN VIEW VOICE (Sep. 25, 2019), <https://www.mv-voice.com/news/2019/09/25/amid-protests-mountain-view-council-passes-rv-parking-ban>.
171. SO ET AL., *supra* note 39, at i-iii.
172. See Noack, *supra* note 170.
173. See Monte Whaley, *Council Favors New Rules to Keep RVs From Parking on Longmont Streets*, 9NEWS (Aug. 8, 2020), <https://www.9news.com/article/news/local/local-politics/longmont-council-supports-rv-ban-city-streets/73-aa824a39-afc6-4939-aa8f-2ac3e86c3261>.
174. See *Desertrain*, 754 F.3d at 1155–57; *Pottinger*, 810 F. Supp. at 1156; see also *Browne*, 136 F. Supp. 3d at 1295 (dismissing equal protection claims for failure to show that the law created separate classifications of individuals).
175. *Martin*, 902 F.3d at 1048.
176. Noack, *supra* note 170.
177. See *Robinson*, 370 U.S. at 677 (finding that status crimes are a violation of the Eighth Amendment’s prohibition on cruel and unusual punishment).
178. See discussion *supra* Section III.B.1.
179. SO ET AL., *supra* note 39, at 7.

180. Ashley Archibald, *Car Campers Lose Their Shelter and Pay Heavy Fines Only to See Their Property Auctioned at a Fraction of the Cost*, REAL CHANGE NEWS (June 14, 2017), <https://www.realchangenews.org/news/2017/06/14/car-campers-lose-their-shelter-and-pay-heavy-fines-only-see-their-property-auctioned>.
181. See *Papachristou*, 405 U.S. at 170.
182. See *Chambers v. Maroney*, 399 U.S. 42, 48 (1970); *Carroll v. United States*, 267 U.S. 132, 153 (1925).
183. *Chambers*, 399 U.S. at 48–51; *South Dakota v. Opperman*, 428 U.S. 364, 386 (1976).
184. See *Chambers*, 399 U.S. at 48, 52.
185. See *Payton v. New York*, 445 U.S. 573, 586–87 (1980).
186. *Chambers*, 299 U.S. at 51–52.
187. *Id.*
188. *Opperman*, 428 U.S. at 375–76.
189. See, e.g., *id.* at 372–76.
190. See *Payton*, U.S. 445 U.S. at 585–86; *United States v. U.S. Dist. Ct. for the E. Dist. of Mich., S. Div.*, 407 U.S. 297, 313 (1972) (“[P]hysical entry of the home is the chief evil against which the wording of the Fourth Amendment is directed.”)
191. *Katz v. U.S.*, 389 U.S. 347, 351 (1967).
192. See *Schafer*, 946 P.2d at 944 (finding Fourth Amendment protections in a tent); *Lavan*, 693 F.3d at 1031 (finding Fourth Amendment protections in photographs, personal papers, electronics, and other items); *Pottinger*, 810 F. Supp. at 1571–73 (“[T]he property of homeless individuals is due no less protection under the fourth amendment than that of the rest of society.”); *Lehr v. Sacramento*, 624 F. Supp. 2d 1218, 1235–36 (E.D. Cal. 2009) (denying Sacramento’s motion to dismiss on the Fourth Amendment claims).
193. *Lavan*, 693 F.3d at 1024; *Pottinger*, 810 F. Supp. at 1571–73.
194. See *id.*; see also *Lehr*, 624 F. Supp. 2d at 1235–36.
195. *Schafer*, 946 P.2d at 944.
196. *Id.*
197. *Id.* at 942–44.
198. See Archibald, *supra* note 180.
199. See *id.*; *Schafer*, 946 P.2d at 942–44.
200. *Schafer*, 946 P.2d at 944.
201. *Papachristou*, 405 U.S. at 162.
202. *City of Boise*, 902 F.3d at 1048.
203. *Robinson*, 370 U.S. at 667.
204. See *Wiemold*, No. 19CV30889 at 9.
205. See *City of Boise*, 902 F.3d at 1041.
206. *Wiemold*, No. 19CV30889 at 13.
207. *Desertrain*, 754 F.3d at 1156–57.
208. *Id.* at 1157.
209. Brian J. Connolly & David A. Brewster, *Building a More Equitable Land Use Regulatory System: Toward a Twenty-First Century Zoning Enabling Act*, 29 J. AFFORDABLE HOUS. 493, 495–96 (2021) (quoting U.S. DEP’T COM., A STANDARD ZONING ENABLING ACT § 1 (1926)).
210. *Id.* at 496, 498–500.
211. *Id.* at 498–500.
212. *Vill. of Arlington Heights v. Metro. Hous. Dev. Corp.*, 429 U.S. 252, 271 (1977); see Connolly & Brewster, *supra* note 215, at 499.
213. Lauren Lowery and Mital Lyons-Warren, *Vehicle Homelessness and the Road to Housing During and After COVID-19*, NATIONAL LEAGUE OF CITIES (May 28, 2020), <https://www.nlc.org/article/2020/05/28/vehicle-homelessness-and-the-road-to-housing-during-and-after-covid-19/>.

214. NEW BEGINNINGS, <https://sbnbcc.org/safe-parking/> (last visited Apr. 3, 2021).
215. See Oskar Rey, *Safe Parking Programs: A Safe Place to Sleep in Your Car*, MRSC (March 14, 2018), <https://mrsc.org/Home/Stay-Informed/MRSC-Insight/March-2018/Safe-Parking-Programs.aspx>.
216. *Overnight Parking Program*, EUGENE, <https://www.eugene-or.gov/3703/Overnight-Parking-Program> (last visited Apr. 3, 2021).
217. Matthey Zeitlin, *Affordable housing is disappearing. So, cities are designating parking lots to sleep in*, VOX (Oct. 18, 2019, 9:55 AM), <https://www.vox.com/the-highlight/2019/10/11/20897485/california-homeless-safe-parking-lots-cars-rvs>.
218. *About Colorado Safe Parking Initiative*, COLO. SAFE PARKING INITIATIVE, <https://www.colosafeparking.org/about-colorado-safe-parking-initiative> (last visited April 30, 2021).
219. See *id.*
220. See *id.*
221. Email from Chelsey Baker-Hauck, Board Member, Colorado Safe Parking Initiative (April 2, 2021, 02:56 PM MST).
222. *Id.*
223. *Id.*
224. Telephone Interview with Linda Barringer, Treasurer, Colorado Safe Parking Initiative (April 8, 2021).
225. Substance Abuse and Mental Health Services Administration, *Trauma-Informed Care in Behavioral Health Services, Part 3: A Review of the Literature*, U.S. DEP'T HEALTH & HUM. SERVS., 1, 10, https://store.samhsa.gov/sites/default/files/d7/priv/sma14-4816_litreview.pdf.
226. Telephone Interview with Rochelle Brogan, Board Chair, Colorado Safe Parking Initiative (April 15, 2021).
227. Barringer, *supra* note 224; see *Apply for Safe Parking*, COLO. SAFE PARKING INITIATIVE, <https://www.colosafeparking.org/apply-for-safe-parking> (last visited April 23, 2021).
228. Barringer, *supra* note 224.
229. Brogan, *supra* note 226.
230. *Id.*
231. Barringer, *supra* note 224.
232. *Id.*
233. *Id.*
234. *Id.*
235. *Id.*
236. *Id.*
237. TYRONE RAY IVEY & JODLEYN GILLELAND, *HIDDEN IN PLAIN SIGHT: FINDING SAFE PARKING FOR VEHICLE RESIDENTS* 10 (Sara Rankin ed., 2018).
238. *Id.*
239. *Id.*
240. Lynn Thompson, *'Desperately needed': Church provides safe parking spaces for homeless*, SEATTLE TIMES, <https://www.seattletimes.com/seattle-news/eastside/desperately-needed-safe-parking-spaces-for-homeless/> (last updated Sept. 21, 2015).
241. *Id.*; *Overnight Parking Program*, ST. VINCENT DE PAUL, <https://www.svdop.us/what-we-do/homeless-services/overnight-parking-program/> (last visited April 23, 2021).
242. *Road to Housing*, SEATTLE CITY COUNCIL, SEATTLE.GOV, <https://www.seattle.gov/council/meet-the-council/mike-obrien/road-to-housing#:~:text=The%20Road%20to%20Housing%20program,City%20Councilmember%20Mike%20O'Brien> (last visited April 30, 2021).
243. *Id.*
244. IVEY & GILLELAND, *supra* note 237, at 17.

245. *Id.* at 18. CSPI has also found that working with law enforcement has been difficult but necessary at times, to protect the participants in its lots. Barringer, *supra* note 224.
246. Thompson, *supra* note 240.
247. *Id.*
248. Substance Abuse and Mental Health Services Administration, *supra* note 225, at 1.
249. *Id.*
250. *See id.* at 10.
251. *See* Substance Abuse and Mental Health Services Administration, *A Treatment Improvement Protocol, Trauma-Informed Care in Behavioral Health Services*, U.S. DEP’T HEALTH & HUM. SERVS., 1, 57, <https://store.samhsa.gov/sites/default/files/d7/priv/sma14-4816.pdf>.
252. Barringer, *supra* note 224.
253. *Id.*
254. *Id.*
255. *Id.*
256. *Id.*
257. *Id.*
258. *See* discussion *supra* Section II.
259. U.S. DEP’T OF HOUS. & URBAN DEV., *supra* note 2.
260. *See* Webb v. City of Black Hawk, 295 P.3d 480, 486 (Colo. 2013).
261. COLO. CONST. art. XX, § 6; Four–Cnty. Metro. Cap. Improvement Dist. v. Bd. of Cnty. Comm’rs, 369 P.2d 67, 72 (1962).
262. *Id.*
263. Webb, 295 P.3d at 486.
264. *Id.* at 491.
265. *Id.* (recognizing that traffic regulation is a matter of statewide concern, but “certain narrow traffic issues” are to be governed by the municipality).
266. A lack of uniformity amongst local ordinances poses an inherent risk to the safety of those experiencing homelessness and contributes to their likelihood of receiving citations and ultimately incarceration. *See* discussion *supra* Section III.
267. Walgreen v. Charnes, 819 P.2d 1039, 1047 (Colo. 1991) (defining extraterritorial impacts as those involving state residents’ expectations, as well as those that create a ripple effect impacting state residents outside the municipality).
268. COLO. OFF. ECON. DEV. & INT’L TRADE, <https://choosecolorado.com/doing-business/incentives/> (last visited Mar. 30, 2021).
269. *Id.*
270. COLO. OFF. ECON. DEV. & INT’L TRADE, <https://choosecolorado.com/key-industries/health-wellness/> (last visited Apr. 8, 2021).
271. KATHI R. TRAWVER, STEPHEN OBY, LAUREN KOMINKIEWICZ, FRANCES B. KOMINKIEWICZ & KELSEY WHITTINGTON, HOMELESSNESS PREVENTION AND INTERVENTION IN SOCIAL WORK 30 (Heather Larken, Amanda Aykanian, Calvin L. Streeter eds., 2019).
272. COLO. GEN. ASSEMBLY, <https://leg.colorado.gov/explorebudget/> (last visited Apr. 8, 2021).
273. New State Ice Co. v. Liebmann, 285 U.S. 262, 311 (1932) (Brandeis, J., dissenting).