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13 *Attorneys for Plaintiffs*

14 **UNITED STATES DISTRICT COURT**  
 15 **NORTHERN DISTRICT OF CALIFORNIA**  
 16 **SAN FRANCISCO DIVISION**

17 DAVID ALLEN YESUE, MICHAEL W.  
 DEEGAN, PAIGE ELIGHTZA CORLEY,  
 18 JESSICA MARIE WETCH, and SONOMA  
 COUNTY ACTS OF KINDNESS,

19 Plaintiffs,

20 v.

21 CITY OF SEBASTOPOL,

22 Defendant.

Case No.

**COMPLAINT FOR DECLARATORY  
AND INJUNCTIVE RELIEF**

**DEMAND FOR JURY TRIAL**

**INTRODUCTION**

1  
2 1. Like many cities in Northern California and nationwide, Defendant City of  
3 Sebastopol (“Defendant” or “City”) has recently experienced a dramatic rise in the number of  
4 residents without fixed housing. Skyrocketing property values, rapidly rising rents, and a  
5 decades-long failure to invest in affordable housing have made housing unaffordable for far too  
6 many Sebastopol residents. Current listings for the smallest available apartments in Sebastopol  
7 approach an amount that is roughly equivalent to 100% of the monthly net income for a full-time  
8 worker making California’s minimum wage.

9 2. As a result, many long-time residents of Sebastopol have been priced out of fixed  
10 housing, even though they want and need to continue living in the City to be near to their  
11 families, jobs, schools, medical facilities, and support networks.

12 3. Because Sebastopol provides almost no shelter facilities for residents  
13 experiencing homelessness, many people who have been pushed out of fixed housing have only  
14 one alternative to living unsheltered on the streets and parks of their City, which is to live in their  
15 vehicles. Shelter options are even more limited/nonexistent for unhoused Sebastopol residents  
16 with disabilities, where the City has failed to provide and accommodate accessible fixed living  
17 and shelter options.

18 4. As the incidence of vehicular habitation in the City has increased, residents and  
19 business owners have complained to their elected leaders, claiming that the presence of people  
20 living in vehicles constitutes a “danger” to them and their businesses.

21 5. In response to these complaints, the City enacted Ordinance No. 1136, which  
22 added Chapter 10.76 to the Sebastopol Municipal Code (“SMC”). This ordinance defines  
23 “recreational vehicle” or “RV” as **any vehicle or trailer “designed or altered for human**  
24 **habitation.”** As such, it is more than a ban on the parking of traditional recreational or oversized  
25 vehicles; it is a ban on any “human habitation vehicle” (“HHV”), even if such an HHV is no  
26 larger than the average sedan. Ordinance No. 1136 (the “HHV Ordinance”) prohibits parking or  
27 standing of an HHV in residential zones and many other City areas **at all hours**. In addition,  
28 parking of an HHV in commercial, industrial, and “community facility” zones is prohibited

1 between the hours of 7:30 a.m. and 10:00 p.m. Together, these prohibitions serve to banish  
2 people who have to live in their vehicles from the entire City during daytime hours, and  
3 effectively make it impossible for them to continue living in the City they call home.

4 6. The HHV Ordinance is both cruel and unlawful. The HHV Ordinance violates the  
5 constitutional and statutory rights of the Plaintiffs here—people who need to live in their  
6 vehicles, and who ask only that they be able to peaceably park on City streets without the threat  
7 of being ticketed, or worse, having the vehicles that are their only homes, and all their  
8 possessions, towed away and possibly destroyed.

9 7. The HHV Ordinance violates the Eighth Amendment bans on “cruel and unusual  
10 punishment” and excessive fines; violates the Fourteenth Amendment’s guarantees of equal  
11 protection of the laws and due process; amounts to “state created danger;” permits unreasonable  
12 seizures in violation of the Fourth Amendment; is void for vagueness; violates the fundamental  
13 right of freedom of travel; violates analogous provisions of the California Constitution; and  
14 violates federal and state laws protecting persons with disabilities. Plaintiffs seek an order from  
15 this Court declaring that the HHV Ordinance is invalid and enjoining the City from enforcing it.

16 8. Prior to filing this Complaint, Plaintiffs, through their counsel, communicated  
17 with the City Council, explaining why the HHV Ordinance was unlawful, demanding that it be  
18 rescinded, and indicating their willingness to enter into dialogue with the City regarding the  
19 HHV Ordinance. On September 20, 2022, the City responded by saying that while it had  
20 “considered” Plaintiffs’ letter, it had “instructed the City Attorney to defend the parking  
21 ordinance.” Plaintiffs were thus left with no avenue for vindicating their rights other than filing  
22 the present suit.

23 **JURISDICTION AND VENUE**

24 9. This Court has jurisdiction over this action pursuant 28 U.S.C. §§ 1331 and 1343,  
25 42 U.S.C. § 12132, 29 U.S.C. § 749, and 42 U.S.C. § 1983 because Plaintiffs’ claims arise under  
26 the laws and Constitution of the United States. Pursuant to 28 U.S.C. § 1367, this Court has  
27 supplemental jurisdiction over the California state law and California constitutional claims  
28 because Plaintiffs’ state claims are related to Plaintiffs’ federal claims, arise out of a common

1 nucleus of operative facts, and form part of the same case or controversy under Article III of the  
2 Constitution.

3 10. Venue is proper in the Northern District of California pursuant to 28 U.S.C.  
4 § 1391(b)–(c) because the Defendant, the City of Sebastopol, is within this District and all events  
5 giving rise to Plaintiffs’ claims occurred in this District. The relief that Plaintiffs seek is within  
6 this Court’s power to grant.

7 11. Because the events and omissions giving rise to Plaintiffs’ claims occurred in the  
8 County of Sonoma, this case should be assigned to the Northern District’s San Francisco  
9 Division or its Oakland Division. N. D. Cal. Civ. L.R. 3-2(c).

10 **PARTIES**

11 12. Plaintiff David Allen Yesue is 61 years old. He has lived in Sebastopol, on and  
12 off, for over 26 years. He has been unhoused for approximately two and one-half years as a  
13 result of his mobility disabilities (including an injured hip that requires replacement, and severe  
14 osteoarthritis in his knee), and his corresponding inability to work and earn a regular income.  
15 Because of his mobility disabilities, Mr. Yesue is unable to walk without using crutches or other  
16 assistive devices. Prior to becoming disabled, he did renovations on homes to assist people to  
17 bring their homes into compliance with code enforcement. He can no longer do manual labor  
18 because of his mobility disabilities. Prior to becoming houseless, he owned his own home and a  
19 restaurant, worked on and owned commercial property, coached high school baseball in  
20 Sebastopol, and served as a volunteer with the Community Disaster Response Team. Mr. Yesue  
21 has a strong social network in Sebastopol—including people who help care for him and take him  
22 to doctors’ appointments—and receives all his medical treatment in the City. He currently lives  
23 in a 1986 RV that he parked in various places in Sebastopol until March 2022, during which time  
24 he was periodically harassed by local residents and police. He currently has his RV parked at  
25 Horizon Shine Village (the “Village”), a “safe parking” program run by Sonoma Applied Village  
26 Services (“SAVS”) under contract with Defendant, but there is no assurance that the Village will  
27  
28

1 remain open after the end of 2022. If he were to be unable to continue to live at the Village, he  
2 would face the devastating possibility of losing his vehicle and being forced to live unsheltered  
3 on the street. Mr. Yesue has a disability-related need to live in his RV rather than on the streets  
4 of Sebastopol or in congregate shelter, because his mobility disabilities make it difficult or  
5 impossible for him to carry his things from place to place and living unsheltered would greatly  
6 exacerbate the pain from his various disabilities. Further, the relative privacy of his RV helps Mr.  
7 Yesue manage his mental health; by contrast, living in a congregate shelter would trigger his  
8 anxiety.

9       13. Plaintiff Michael W. Deegan is 66 years old and currently lives in an RV outside  
10 of Sebastopol. He was previously employed as a commercial driver, but lost his license several  
11 years ago. Mr. Deegan has several disabilities—including a serious knee injury, severe  
12 depression and other mental health disabilities, and health conditions that put him at increased  
13 risk of complications from COVID-19 and other infectious diseases. Because these disabilities  
14 prevent him from working, he currently lives on only \$ 1,167.20 per month in benefit  
15 payments—far too little to afford fixed housing in Sebastopol. As a result, his RV is the only  
16 shelter available to him, and the only place where he can maintain his belongings and feel safe.  
17 He moved to Sebastopol from Santa Rosa in 2018, living in an RV on Laguna Parkway and on  
18 Morris Street, but was routinely harassed by police. He left Sebastopol after passage of the HHV  
19 Ordinance because he could not risk living there due to the threat of being ticketed and having  
20 his RV towed. Mr. Deegan has a disability-related need to live in his RV rather than on the  
21 streets of Sebastopol (or in a congregate shelter): because of his mental health conditions and  
22 vulnerability to COVID-19 and other infectious diseases, he cannot live in a congregate setting,  
23 and he would be at particular risk if forced to live unsheltered on the street. Living independently  
24 in his RV allows Mr. Deegan to manage his mental health conditions and protect himself from  
25 infectious disease; losing the shelter, safety, and security his RV provides would be devastating  
26 to Mr. Deegan's physical and mental health.

27       14. Plaintiff Paige Elightza Corley is 25 years old and a resident of Sebastopol. She  
28 grew up in the foster care system, which exposed her to a great deal of instability, trauma, and

1 violence. As a result of significant trauma, she has mental health disabilities in the form of post-  
2 traumatic stress disorder (“PTSD”), depression, and anxiety, which make it impossible for her to  
3 live in a congregate setting. She moved to Sebastopol in 2021 to take care of the son of a friend  
4 who later passed away. She has found a sense of community in Sebastopol and wishes to  
5 continue to live there, but cannot afford rent on the income she earns from a series of part-time  
6 jobs. She previously lived in a vehicle on Morris Street and other locations in Sebastopol and is  
7 currently living at the Village. Prior to moving into the Village, her RV was ticketed, and she  
8 was threatened with towing on multiple occasions. If the Village closes, she will have no choice  
9 but to leave Sebastopol because she cannot live there in a vehicle under constant threat of being  
10 ticketed and having her vehicle and all her possessions taken from her. Ms. Corley has a  
11 disability-related need to live in his RV rather than on the streets of Sebastopol, or in a  
12 congregate shelter: her mental health disabilities make it impossible for her to live in a  
13 congregate setting around unfamiliar people. Having the private, safe space of her own that her  
14 RV provides allows her to manage her PTSD, anxiety, and depression, and protects her from the  
15 violence and harassment she would likely be exposed to as a young woman living in a  
16 congregate setting, or alone on the street. Losing this shelter and safety would dramatically  
17 worsen Ms. Corley’s mental health disabilities.

18 15. Plaintiff Jessica Marie “Kitty” Wetch is 35 years old and was born and raised in  
19 Sonoma County. Her family has lived in Sebastopol for three generations, and she has family  
20 and a support system in the City. Ms. Wetch has several disabilities including PTSD and heart  
21 disease. Prior to becoming disabled, she worked in Sebastopol for 17 years as a Certified Nurse’s  
22 Assistant, but because of her PTSD, depression, and head injury she is no longer able to work.  
23 The symptoms of Ms. Wetch’s PTSD make it very difficult for her to live in congregate shelter.  
24 When she attempted to stay in the West County Winter Shelter in Guerneville (the closest shelter  
25 to her home in Sebastopol, which is still over a 30-minute drive away), she found that she could  
26 not sleep near unknown men, and that being around children and families reminded her of losing  
27 her own children, and worsened her depression and anxiety. She is also at high risk of  
28 complications from COVID-19 and other infectious diseases because of a heart condition, which

1 makes congregate settings unsafe. By contrast, living in a vehicle allows her to better manage her  
2 PTSD, anxiety, and depression, and to protect herself from communicable diseases like COVID-  
3 19. She cannot reside in a vehicle in Sebastopol, however, because of the threat of ticketing and  
4 towing created by the HHV Ordinance. Recently, she was forced to sell her vehicle because she  
5 was unable to park it in Sebastopol or other safe location without being harassed, ticketed, or  
6 threatened with towing. If the HHV Ordinance were rescinded or invalidated, she would move  
7 back to Sebastopol, her home of choice, and live in a vehicle until she could get back on her feet  
8 and secure fixed housing.

9 16. Plaintiff Sonoma County Acts of Kindness (“AOK”) is a non-profit organization  
10 registered under Section 501(c)(3) of the Internal Revenue Code, whose mission is “to provide  
11 basic necessities, resources, and advocacy to enrich the well-being of the homeless and  
12 financially underprivileged” in its community. AOK strives to build trust and relationships with  
13 people experiencing homelessness, and to advocate on their behalf, and it helps guide people into  
14 getting help, shelter, or housing. Its volunteers work on the streets of Santa Rosa and neighboring  
15 communities including Sebastopol, serving 100-200 or more individuals every day, providing  
16 necessities such as meals, hygiene supplies, clothing, first aid, tents, sleeping bags, and garbage  
17 pickups. As a result of enactment of the HHV Ordinance, AOK’s mission has been frustrated,  
18 and it has had to divert its resources, because many of the people it has assisted in Sebastopol  
19 have dispersed or gone into hiding. Consequently, it has been forced to spend greater time and  
20 effort locating those people to provide them with assistance, and it cannot assist as many people  
21 with the same resources as previously.

22 17. Defendant City of Sebastopol is a local government agency and subdivision of the  
23 State of California. Defendant City is responsible for passing the HHV Ordinance, and through  
24 its agents: the Mayor, City Council, City Attorney, Police Department, and Police Chief,  
25 enforces the HHV Ordinance and cites Plaintiffs and others similarly situated for violations  
26 thereof.

1 **FACTS COMMON TO ALL CLAIMS FOR RELIEF**

2 18. Prior to early 2022, among the streets in Sebastopol where the concentration of  
3 HHVs increased were Morris Street and Laguna Parkway, both of which are adjacent to a  
4 downtown shopping area known as The Barlow. As the number of HHVs on these streets  
5 increased, nearby residents and merchants began to complain about them to the City Council.

6 19. In response to these complaints, the City became determined to drive HHV  
7 residents out of town by criminalizing the act of parking, on City streets, any vehicle that could  
8 be used for sleeping. This plan was developed in several phases beginning in late 2021.

9 20. On October 5, 2021, the City Council created an Ad Hoc Committee for the  
10 Unhoused, consisting of the Mayor and one other councilmember. On October 27, 2021, the Ad  
11 Hoc Committee made several recommendations, among which was that the City “make a  
12 commitment to clearing Morris Street, and supporting parking rule changes, as needed, to protect  
13 Morris Street as well as the neighborhoods from developing overnight parking problems in the  
14 future....”

15 21. At the request of the Ad Hoc Committee, on November 30, 2021 the City Council  
16 passed Resolution 6386-2021, declaring the existence of a “homeless emergency.” According to  
17 the City Council, the “emergency” was *not* the human tragedy of members of the community  
18 being forced to live in vehicles. Rather, in the view of the City Council, the emergency was that  
19 the existence of these vehicularly-housed residents was “impacting adjacent property owners,  
20 neighborhood [sic], businesses ... and the general public.”

21 22. The City Council further declared that in view of this “emergency,” it should  
22 “make a commitment to clearing Morris Street” and “propos[e] parking rule changes, as needed,  
23 to protect Morris Street as well as the neighborhoods from developing overnight parking  
24 problems in the future.” City staff were directed to “clear Morris Street” and “modify and  
25 enforce parking rules on Morris Street to prevent future collection of overnight live-in vehicles  
26 on that street,” and to make any needed changes in parking rules City-wide “to prevent similar  
27 situations from developing in neighborhoods and elsewhere in town.” The City made clear that it  
28 viewed the regulation of parking as a means to remove vehicularly housed people from the City.



1 In a newsletter sent to constituents on December 3, 2021, Defendant declared that “the Council  
2 moved to begin the process of creating enforceable parking rules to prevent future ... RV and  
3 vehicle camping on City streets.”

4 23. In other words, the City decided to blame and punish the victims of its own lack  
5 of affordable housing.

6 24. Moreover, the City Council felt it was important that a parking ban be city-wide  
7 because, in the words of one councilmember, “more RVs [are] coming into town generally from  
8 other areas where they’ve been rousted. [This] will make the clearing of Morris and a  
9 Sebastopol-wide parking policy and enforcement strategy all the more important.” The same  
10 councilmember responded approvingly to a constituent who said that “we don’t want to make  
11 ourselves into a ‘sanctuary city’ to continue attracting the un-housed.”

12 25. At about this time, the City was working to open Horizon Shine Village, the “safe  
13 parking” site operated under contract with SAVS. The City was aware, however, that the Village  
14 would be unable to accommodate all vehicularly housed people then living in Sebastopol, both  
15 because some people would be unable to abide by the Village’s eligibility requirements and  
16 because the 20 available spaces were far too few. In September 2021, the Sebastopol Police  
17 Department compiled a list of 32 vehicles parked on Morris Street alone. In December 2021, the  
18 Police Department counted 43 vehicles being used for housing throughout the City, housing a  
19 total of 47 people—over **double** the amount of people and vehicles the City planned to  
20 accommodate at the Village. One councilmember acknowledged to a constituent that the City  
21 had been tracking people’s length of stay on Morris Street. Only those who had been vehicularly  
22 housed the longest would be eligible for a place at the Village; “newcomers [will not be] given  
23 the opportunity.”

24 26. As a councilmember informed SAVS, the City viewed establishment of the  
25 Village as only being acceptable in the context of “the community’s understanding that we will  
26 be clearing the rest of our streets of RVs,” and that it would be a “bad message all around” if the  
27 Village ended up “attract[ing] more RV dwellers to our streets.” But this same councilmember  
28

1 acknowledged that at most, the Village could accommodate only a “portion of the RV dwellers,”  
2 and that it was only “one year of funding and ... not a final solution.”

3         27. The City’s actions to rid its streets of HHVs is part of an overall program to  
4 remove from public places people who are, of necessity, living in those areas. During the latter  
5 part of 2021 and into 2022, the Sebastopol Police Department regularly “swept” public parks and  
6 other public places to remove people who were living there, notwithstanding the lack of  
7 sufficient alternative shelter options. The Chief of Police unambiguously instructed his officers  
8 that “we will not allow encampments to be re-established.”

9         28. In February 2022, the City Council enacted Ordinance No. 1136, which added  
10 Chapter 10.76 to the Sebastopol Municipal Code. A copy of the HHV Ordinance is attached as  
11 Exhibit A to this Complaint.

12         29. A number of municipalities in Northern California have recently enacted  
13 ordinances banning or severely restricting the parking of “oversized vehicles” (“OSVs”) on city  
14 streets. These ordinances typically define an OSV as any vehicle exceeding certain dimensions  
15 of length, width, and/or height, and purport to justify OSV parking restrictions on the claimed  
16 dangers to pedestrians, cyclists, or other motorists caused by the sheer size of parked OSVs.

17         30. The HHV Ordinance passed by the Sebastopol City Council, however, lacks even  
18 this pretense of a “traffic safety” rationale. The HHV Ordinance is based purely on animus  
19 toward people forced to live in their vehicles and targets them based on the unfounded fear that  
20 their existence constitutes a threat to the rest of the community.

21         31. Reflecting this animus, the preamble of the HHV Ordinance proclaims:  
22 “WHEREAS, conditions of extreme peril to the safety of persons and property has [sic] arisen  
23 within the City as to homelessness in general and particularly as to those who are living in RVs  
24 or cars on Morris Street and Laguna Park Way, and that [sic] action is needed ....” The fact that  
25 the preamble focuses on Morris Street and Laguna Parkway, both of which are adjacent to The  
26 Barlow, demonstrates that the “extreme peril” was the perceived threat to the interests of  
27 businesses and housed neighbors in this area. If the City had been concerned about the plight of  
28 HHV residents, it would not have singled out the “peril” existing in only one location.

1 32. Similarly, the “findings and purpose” section of the HHV Ordinance claims only  
2 two purposes, one of which is fictitious and the other of which confirms the City’s intent to drive  
3 out inhabitants of HHVs.

4 33. The first stated “purpose” is “to ensure that there is adequate parking for residents  
5 of the city.” In the record of proceedings leading up to adoption of the HHV Ordinance,  
6 however, there is no evidence of any claim that there was inadequate or insufficient parking  
7 space anywhere in the City.

8 34. The second stated purpose is the real one: “to regulate the parking of vehicles  
9 **actively used as sleeping accommodations** [emphasis added].” This purpose demonstrates the  
10 City’s hostility toward people forced to live in their vehicles, and its intent to drive them away.

11 35. Consistent with this intent, the HHV Ordinance does not define “Recreational  
12 Vehicle” or “RV” according to a vehicle’s size or physical dimensions, but rather, according to  
13 whether a vehicle is “designed or altered for human habitation for recreational, emergency, or  
14 other human occupancy.” Sebastopol Municipal Code § 10.76.030. Thus, the HHV Ordinance  
15 can be enforced against the owner of **any** vehicle, including one as small as a sedan, if it appears  
16 to be used for sleeping or even if it merely has sleeping gear in it.

17 36. The HHV Ordinance provides that it is unlawful “to park or leave standing any  
18 recreational vehicle on any public street in the city that is zoned residential at any time,” or “to  
19 park or leave standing any recreational vehicle on any public street in the city that is zoned  
20 commercial, industrial, or community facility at any time between the hours of 7:30 am and  
21 10:00 pm.” In other words, it is unlawful to park or stand an HHV in any residential  
22 neighborhood at any time of the day or night, or **anywhere in the City** during 14-1/2 daylight  
23 and evening hours every day. Sebastopol Municipal Code § 10.76.040 (A),(B).

24 37. Violations of the HHV Ordinance are infractions subject to fines, immediate  
25 towing, or both. Sebastopol Municipal Code § 10.76.080. Under general provisions of the  
26 Sebastopol Municipal Code, a person is guilty of a separate offense for each day during any  
27 portion of which a violation is committed. Sebastopol Municipal Code §1.04.020. The minimum  
28

1 penalty for a single traffic infraction in Sebastopol is \$42.50, and the fines and fees associated  
2 with a tow can easily mount to hundreds of dollars, not to mention the loss of one's home.

3 38. Moreover, pursuant to California Vehicle Code § 40000.28, once a person has  
4 been "convicted" of three or more violations of the HHV Ordinance within a 12-month period,  
5 subsequent violations of the Ordinance may be charged as misdemeanors. Under this provision  
6 of the Vehicle Code, a bail forfeiture (including a failure to pay a ticket) is deemed to be a  
7 conviction.

8 39. The City-wide ban on parking during daylight and evening hours is based on a  
9 cynical and incorrect interpretation of existing law in the Ninth Circuit. In comments delivered at  
10 a City Council meeting on January 18, 2022, the City's Chief of Police admitted that under  
11 *Martin v. City of Boise*, 920 F.3d 584 (9th Cir. 2019), the City could not enforce a citywide ban  
12 on *overnight* parking because it could not "restrict people's ability to sleep in their vehicle."  
13 While he was correct that *Martin* precludes enforcement of an ordinance that criminalizes  
14 sleeping in a vehicle where no practically available alternative shelter exists, his analysis failed  
15 to account for the fact that some people need to sleep or carry out other necessary human  
16 activities during daylight or evening hours, and that the City cannot arbitrarily insist that only  
17 certain hours of the day are permissible for sleeping or other "universal and unavoidable  
18 consequences of being human," such as simply existing in a place. He also failed to recognize  
19 that it is unlawful to require people to be in a constant state of motion as a requirement of  
20 remaining or residing in their hometown.

21 40. In furtherance of its goal to banish HHV residents from Sebastopol, on May 3,  
22 2022 the City Council enacted Ordinance No. 1142 (the "72-Hour Ordinance"), which amended  
23 Chapters 10.76 and 10.36 of the Sebastopol Municipal Code to enable its police officers to ticket  
24 and tow vehicles that are parked on any street, alley, or City-owned parking lot for more than 72  
25 consecutive hours. Sebastopol Municipal Code § 10.36.050 now provides that a vehicle is in  
26 violation of this section if it has not been moved at least one mile during the 72-hour period, and  
27 that it cannot be re-parked within 1/2 mile of its previous location sooner than 72 hours after it  
28 was moved.

1           41. Even though the 72-Hour Ordinance appears to cover any and all vehicles, there  
2 can be no doubt that it was enacted as another means for the City to banish HHV residents. This  
3 is demonstrated by the fact that the recitals in the Ordinance refer to the existence of a “local  
4 homeless emergency” and the need to “have a clear and concise understanding of Recreational  
5 Vehicles (RV) rules and regulations of Sebastopol,” but do not reference any other need for the  
6 promulgation of a 72-hour parking limit. In addition, email correspondence shows that the Chief  
7 of Police advocated for enactment of this ordinance because people could comply with the City’s  
8 previous 72-hour restriction by simply moving a vehicle several feet every few days, making it  
9 easier for an HHV to remain in the same general location.

10           42. To make matters worse, City officials have made clear that they intend to enforce  
11 both the HHV Ordinance and the 72-Hour Ordinance in a selective and discriminatory fashion.  
12 Although the HHV Ordinance as written would prohibit parking or standing of any vehicle in  
13 which a person *could* sleep, such as a converted minivan, a pickup with a camper shell, a  
14 Sprinter van, or a VW microbus, the City intends to enforce the ordinance only against people  
15 who are actually using their vehicle for sleeping, or are otherwise thought to be “undesirable.” At  
16 the January 18, 2022 City Council meeting, one councilmember asked what would happen to a  
17 resident who has “a VW van that they park in front of their house.” In response, the Chief of  
18 Police suggested that such a resident need not be concerned because enforcement of the HHV  
19 Ordinance would be “complaint driven by neighbors.” During the February 23, 2022 City  
20 Council meeting, the Chief further stated: “Somebody who drives a vehicle such as a VW van  
21 that’s been modified [to sleep in] into downtown to eat dinner is probably not going to see a  
22 whole lot of us. But if we see that vehicle is staying in the same spot over and over again for a  
23 long period of time, then common sense kicks in that somebody’s probably utilizing that vehicle  
24 to live in and that would be a violation of the ordinance at that point.” In other words, City  
25 officials have admitted that they do not intend to even-handedly restrict the parking of vehicles  
26 “designed or altered for human habitation”—as the plain text of the HHV Ordinance would  
27 suggest—but rather, to selectively enforce the HHV Ordinance only against those who are  
28 unfortunate enough to actually need to sleep in such vehicles. This is consistent with the purpose,

1 stated in the text of the HHV Ordinance, to regulate the parking of vehicles “actively used as  
2 sleeping accommodations.”

3 43. Similarly, the City has directed its police officers to cite vehicles for violation of  
4 the 72-Hour Ordinance in response to homeowner complaints about “RVs.” And it is  
5 inconceivable that the 72-Hour Ordinance would ever be enforced so as to require a homeowner  
6 to move their car at least one mile every three days, and then park it at least 1/2 mile away from  
7 their house.

8 44. Indeed, for people the City deems “undesirable,” the City is openly using a  
9 combination of the HHV Ordinance, the 72-Hour Ordinance, and other tools to force them to  
10 leave the City. In April 2022, one police officer told their sergeant that they had warned a person  
11 parked in an HHV on Morris Street that he would soon be towed. The sergeant replied that this  
12 person could be cited for driving the vehicle because he was unlicensed, but added, “He’s been  
13 assured by the chief [of police] that if we find him driving out of town in the next few days, that  
14 we won’t cite him for that.”

15 45. As anticipated and intended by the City, adoption of the HHV Ordinance has  
16 drastically reduced the number of HHVs parked in Sebastopol, because it has made it impossible  
17 for Plaintiffs and others who must live in their vehicles to remain in Sebastopol. They are unable  
18 to afford the tickets that they would incur for violation of the HHV Ordinance, and cannot cope  
19 with the risk that, for as little as a single violation, their home and all their possessions could be  
20 confiscated and towed away. The risk of such tows is particularly acute because the City appears  
21 to have a policy or practice of improperly classifying towed vehicles as “abandoned,” meaning  
22 that they can be immediately destroyed. The City has effectively banished Plaintiffs and people  
23 like them from the community.

24 46. Although some of the Plaintiffs have secured places to park their vehicles at  
25 Horizon Shine Village, this is not an acceptable solution for all HHV residents. In addition to  
26 being too small to house all the people who had previously lived in vehicles in Sebastopol, the  
27 Village requires residents to abide by rules that not all can observe. Further, there is no assurance  
28

1 that The Village will remain operational past December 2022, as the contract under which The  
2 Village is operated expires at that time and has yet to be renewed.

3 **The HHV Ordinance Has a Different and Greater Harm on People with Disabilities**

4 47. As the Ninth Circuit has recently recognized, “there is a well-documented  
5 correlation between physical and mental illness and homelessness.” *Johnson v. City of Grants*  
6 *Pass*, \_\_\_\_ F 4th \_\_\_\_, No. 20-35752, 2022 WL 4492090, at \*13 n. 21 (9th Cir. Sept. 28,  
7 2022). A disproportionately large share of Sebastopol’s unhoused residents have mental or  
8 physical disabilities, as do all individual Plaintiffs.<sup>1</sup>

9 48. As discussed above, each of the individual Plaintiffs has a disability-related need  
10 to remain in or return to their vehicles, which—in addition to being their only source of shelter  
11 and vehicular transportation—are crucial to managing their disabilities and maintaining their  
12 physical and mental health.

13 49. While every Sebastopol resident who lives in a vehicle is merely attempting to  
14 meet the universal and basic human need for shelter in the face of the City’s persistent failure to  
15 ensure that affordable housing is available, and all would be harmed if pushed out of the City or  
16 forced from the HHVs that are their only remaining homes (as has already happened to some  
17 individuals), Plaintiffs with disabilities face additional harms that are different, and even more  
18 severe.

19 50. Plaintiffs and others with mental health disabilities risk serious exacerbation of  
20 their conditions by losing the relative safety, solitude, and privacy that their vehicular homes  
21 provide. Similarly, the stress of attempting to comply with the City’s HHV Ordinance (and  
22 facing the prospect of tickets and tows that will drive them deeper into poverty and deprive them  
23 of their homes) disproportionately impacts people with mental health disabilities and those with  
24 compromised immune systems. Those with disability-related immune system vulnerabilities and  
25 other disabling health conditions are also at a greater risk for infection, serious illness, and life-

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26  
27 <sup>1</sup> For Plaintiffs, as for many unhoused people with disabilities, there is a direct causal link  
28 between their disabilities, their inability to work full time (or at all), and their inability to afford  
housing in a city like Sebastopol, which has failed to ensure that an adequate amount of its  
housing is affordable.

1 threatening consequences if they lose the rudimentary shelter of their vehicles, or are forced to  
2 relocate far from City services; public bathrooms and sources of potable water; food; medical  
3 care; friend, family, and caregiver networks; and other necessary supports. Similarly, those with  
4 mobility disabilities have a much more difficult time sleeping on the ground out of doors,  
5 whether in a tent or not.

6         51. In addition, enforcement of the HHV Ordinance (including the likely towing of  
7 Plaintiffs' vehicular homes) jeopardizes Plaintiffs' ability to engage in basic and necessary  
8 functions of life that those vehicular homes help facilitate, such as procuring food and water,  
9 preparing meals, using the bathroom, maintaining basic health and cleanliness, and traveling to  
10 necessary medical care. While these are of course necessary activities for anyone, they are  
11 particularly important for Plaintiffs and others with disabilities, who are actively managing a  
12 variety of conditions, and whose already-vulnerable physical and mental health would be far  
13 worsened without the support and security their vehicular homes provide.

14         52. Furthermore, because Plaintiffs all have a disability-related need to be in a HHV  
15 and, under the HHV Ordinance, those vehicles are allowed essentially nowhere in Sebastopol  
16 between the hours of 7:30 a.m. and 10:00 p.m., Plaintiffs with disabilities are effectively  
17 precluded—by reason of their disabilities—from traveling to or parking in every part of the City  
18 except at night. In this way, the City's HHV Ordinance serves to deny Plaintiffs with disabilities  
19 meaningful access to on-street parking, as well as all of the parks, public areas, restrooms,  
20 drinking fountains, businesses, and other City services, facilities, and amenities such parking is  
21 adjacent to and intended to serve. While vehicularly housed people who do not have disabilities  
22 may be able to travel the distances required to access services and facilities the HHV Ordinance  
23 prevents them from parking near, Plaintiffs and other vehicularly-housed people with mobility  
24 disabilities cannot. By forcing people with a disability-related need to use an HHV into scattered  
25 and remote areas outside the City, the HHV Ordinance will prevent many Plaintiffs and others  
26 from accessing such City services, amenities, and facilities at all: under the HHV Ordinance,  
27 they cannot drive to and park near them, and their mobility disabilities and other health  
28



1 impairments will make it difficult if not impossible to walk to those services, amenities, and  
2 facilities.

3 53. Indeed, by preventing Plaintiffs and others with a disability-related need to remain  
4 in their HHVs from legally parking anywhere in the City, the HHV Ordinance not only excludes  
5 them from discrete City services and facilities like parks and public bathrooms: as a practical  
6 matter, it also excludes them from the City itself, and from nearly every service, program, or  
7 activity the City provides. In fact, the HHV Ordinance **expressly** prohibits parking in  
8 “community facility” areas such as those adjacent its library and public parks—during all day  
9 and evening hours.

10 54. Plaintiffs notified Defendant about the HHV Ordinance’s disproportionate impact  
11 on people with disabilities and the need eliminate the impacts of the HHV Ordinance on people  
12 with disabilities on August 26, 2022. On September 20, 2022, the City responded to Plaintiffs’  
13 letter, but failed to even mention the impacts on people with disabilities. The City’s response  
14 stated, “The City Council considered your August 26, 2022 letter and instructed the City  
15 Attorney to defend the parking ordinance.” Based on this and subsequent responses to offers to  
16 talk, Plaintiffs concluded that any further requests to the City to reasonably modify the HHV  
17 Ordinance, or refrain from enforcement thereof, would be futile.

18 **FIRST CLAIM FOR RELIEF**

19 **Cruel and Unusual Punishment**

20 **(Eighth Amendment of the U. S. Constitution)**

21 55. Plaintiffs incorporate by reference all foregoing and subsequent paragraphs as  
22 though fully set forth herein.

23 56. Under the Eighth Amendment, a government cannot impose criminal penalties on  
24 indigent persons for sitting, sleeping, or lying outside on public property (or otherwise engaging  
25 in the “universal and unavoidable consequences of being human,” such as simply existing in a  
26 place) so long as those persons do not have access to shelter. *Martin v. City of Boise*, 902 F.3d  
27 1031, 1048 (9th Cir. 2018), amended by 920 F.3d 584 (9th Cir. 2019), cert. denied, 140 S. Ct.  
28 674 (2019). The prohibitions of the Eighth Amendment extend to civil penalties as well,

1 particularly where, as here, multiple violations of a purportedly civil ordinance can be charged as  
2 criminal violations. *Johnson v. City of Grants Pass*, *supra*, 2022 WL 4492090, at \*16.

3 57. There are virtually no homeless shelters in the City, and Horizon Shine Village  
4 currently has a significant waitlist. Plaintiffs’ only available shelter from the elements—the only  
5 place they can sleep or simply be—is in their vehicles. Anyone who is unable to gain admittance  
6 to Horizon Shine Village must stop their vehicles to perform these basic human functions and  
7 has no options but to park on City streets. Further, if the City’s contract to operate The Village is  
8 not renewed, even those persons who currently reside there will be unable to do so.

9 58. Despite this plain lack of reasonably available alternative shelter, the HHV  
10 Ordinance imposes civil and (and ultimately, criminal) penalties on Plaintiffs for sleeping in the  
11 only shelter they have access to, their vehicles parked on public roads in Sebastopol: pursuant to  
12 California Vehicle Code § 40000.28, once a person has been “convicted” of three or more  
13 violations of the HHV Ordinance within a 12 month period, subsequent violations of the HHV  
14 Ordinance may be charged as misdemeanors.

15 59. Accordingly, the HHV Ordinance (and the actual or threatened enforcement  
16 thereof) violates the Eighth Amendment’s ban on cruel and unusual punishment.

17 **SECOND CLAIM FOR RELIEF**

18 **Excessive Fines**

19 **(Eighth and Fourteenth Amendments of the U. S. Constitution)**

20 60. Plaintiffs incorporate by reference all foregoing and subsequent paragraphs as  
21 though fully set forth herein.

22 61. The Eighth Amendment’s Excessive Fines Clause limits the government’s power  
23 to extract payments, whether in cash or in kind, “as punishment for some offense.” *Austin v.*  
24 *United States*, 509 U.S. 602, 609–10 (1993). A fine is excessive if it is grossly disproportionate  
25 to the gravity of the offense, will deprive the offender of their livelihood, or is more than their  
26 circumstances and estate will bear. *See Timbs v. Indiana*, 139 S. Ct. 682 (2019). Imposing  
27 unpayable fines on indigent persons also violates due process and equal protections of the laws  
28

1 under the Fourteenth Amendment and the California Constitution. *Bearden v. Georgia*, 461 U.S.  
2 660, 667–68 (1983); *People v. Duenas*, 30 Cal. App. 5th 1157, 1168 (2019).

3 62. The City, by the acts alleged herein, has violated the Eighth Amendment  
4 Excessive Fines Clause by establishing a regime under which fines for a single continuous act—  
5 that of residing in an HHV on city streets—gives rise to a series of rapidly cascading and ever-  
6 increasing fines and penalties. Those fines and penalties can culminate in the towing of a  
7 Plaintiff’s home with a very expensive payment required to the towing company to return that  
8 home to the Plaintiff. These penalties are grossly disproportionate to the gravity of the offense  
9 because they require Plaintiffs, who already cannot afford to pay rent or a mortgage in the City  
10 and must live in their vehicles, to pay exorbitant amounts to maintain their only remaining home.  
11 If Plaintiffs cannot afford to pay these penalties, they lose their only means of shelter and face  
12 the risk of living unsheltered on the streets, and in some cases, access to life-saving medical care  
13 and protection from the elements, which will effectively increase their chances of illness. Even if  
14 it were theoretically possible for Plaintiffs to pay these exorbitant penalties, they would sacrifice  
15 paying for basic necessities, including food and medication, in order to do so.

16 63. The HHV Ordinance imposes no limits on the total amount of parking citations  
17 the City can issue or the number of times the City can tow and impound a vehicle. The HHV  
18 Ordinance also creates no exemptions for those who cannot afford to pay these penalties.

19 64. As a result of enforcement of the HHV Ordinance, Plaintiffs have unfairly  
20 received, and/or face the threat of receiving, tickets they cannot afford to pay and have suffered,  
21 or will suffer, mental distress, humiliation, and fear. Plaintiffs are therefore entitled to injunctive  
22 and declaratory relief, restitution, and attorneys’ fees and costs.

23 **THIRD CLAIM FOR RELIEF**

24 **State-Created Danger**

25 **(Fourteenth Amendment of the U. S. Constitution)**

26 65. Plaintiffs incorporate by reference all foregoing and subsequent paragraphs as  
27 though fully set forth herein.

28 66. The HHV Ordinance gives the City the power to tow individuals’ vehicles.

1 67. For vehicularly housed individuals like Plaintiffs, towing their vehicles  
2 constructively evicts them from their homes, as they are unable to pay the fees to secure the  
3 release of their vehicles in the event of a tow. This deprives these individuals of their only shelter  
4 and effectively forces them to live unsheltered on the street.

5 68. The City is aware of the fact that there is a housing crisis in Sebastopol and that  
6 towing vehicularly housed individuals' homes will likely result in them living on the street.

7 69. During the ongoing COVID-19 pandemic, the risks posed to individuals whose  
8 homes are towed are even greater. Individuals whose homes are towed are exposed to an  
9 increased risk of contracting the COVID-19 virus because they are less able to distance  
10 themselves from others by living in their homes.

11 70. Even if these individuals are able to secure shelter elsewhere, for example in a  
12 homeless shelter, their risk of contracting the virus is still heightened because they are in  
13 communal living quarters where they cannot socially distance as effectively.

14 71. Towing individuals' vehicles affirmatively places individuals in a state-created  
15 danger, in violation of the Fourteenth Amendment.

16 72. The City is aware of the risks it exposes individuals to when it deprives them of  
17 their only shelter during a pandemic.

18 73. The City has acted with deliberate indifference to the danger in which it places  
19 Plaintiffs and has failed to take any steps, obvious or otherwise, to address these risks.

20 **FOURTH CLAIM FOR RELIEF**

21 **Equal Protection**

22 **(Fourteenth Amendment of the U. S. Constitution)**

23 74. Plaintiffs incorporate by reference all foregoing and subsequent paragraphs as  
24 though fully set forth herein.

25 75. The Fourteenth Amendment of the U. S. Constitution guarantees to all persons the  
26 equal protection of the laws. The Equal Protection Clause is violated when a government takes  
27 action based on antipathy or prejudice toward a disfavored group of persons and such action is  
28 not rationally related to a legitimate governmental purpose. *City of Cleburne, Tex. v. Cleburne*

1 *Living Center*, 473 U.S. 432 (1985).

2 76. The passage and enforcement of the HHV Ordinance and the 72-Hour Ordinance  
3 by Defendant City violate the Equal Protection Clause because they are plainly rooted in the  
4 City’s antipathy toward people who are forced to reside in their vehicles. As the Supreme Court  
5 has repeatedly recognized, the desire to harm or expel a “politically unpopular group” is not a  
6 legitimate state interest, and the prejudices, negative attitudes, and unsubstantiated fears of  
7 constituents do not constitute a rational basis for state action. *Id.* at 447-50.

8 **FIFTH CLAIM FOR RELIEF**

9 **Unreasonable Seizure of Property by Towing**

10 **(Fourth Amendment of the U. S. Constitution; Cal. Veh. Code § 22650(b))**

11 77. Plaintiffs incorporate by reference all foregoing and subsequent paragraphs as  
12 though fully set forth herein.

13 78. Under the Fourth Amendment of the U.S. Constitution, all persons are entitled to  
14 be free from unreasonable seizures of their property. The towing or impoundment of a vehicle  
15 constitutes a “seizure” under well-established Fourth Amendment jurisprudence.

16 79. California Vehicle Code § 22650(b) expressly acknowledges that “[a]ny removal  
17 of a vehicle is a seizure under the Fourth Amendment of the Constitution of the United States”  
18 and “shall be reasonable and subject to the limits set forth in Fourth Amendment jurisprudence.”

19 80. Under Fourth Amendment jurisprudence, an immediate seizure of a vehicle may  
20 sometimes be justified under the “community caretaking” doctrine, but such authority is  
21 narrowly circumscribed. Any removal that is based on the “community caretaking” function of  
22 law enforcement agencies “is only reasonable if the removal is necessary to achieve the  
23 community caretaking need, such as ensuring the safe flow of traffic or protecting property from  
24 theft or vandalism.” Cal. Veh. Code § 22650(b); *see also, Miranda v. City of Cornelius*, 429 F.3d  
25 858, 864 (9<sup>th</sup> Cir. 2005).

26 81. Mere violation of a city ordinance is *not* a sufficient basis for impoundment of a  
27 vehicle under either the Fourth Amendment or the California Vehicle Code. In order for the  
28 towing or impoundment of a vehicle to be permissible, Defendant City must either obtain a

1 warrant or establish that the seizure is justified under the “community caretaking” doctrine. Since  
2 the City has never attempted to demonstrate that the HHV Ordinance is based on traffic safety  
3 considerations or that any parked HHV impedes the safe flow of traffic, no community  
4 caretaking need justifies towing the vehicles that Defendant City claims are merely violating the  
5 HHV Ordinance.

6 82. Accordingly, the acts of Defendant City, as alleged herein, violate the Fourth  
7 Amendment and the California Vehicle Code.

8 **SIXTH CLAIM FOR RELIEF**

9 **Procedural Due Process**

10 **(Fourteenth Amendment of the U. S. Constitution; 42 U.S.C. § 1983)**

11 83. Plaintiffs incorporate by reference all foregoing and subsequent paragraphs as  
12 though fully set forth herein.

13 84. Under the Fourteenth Amendment of the U.S. Constitution, no state may deprive  
14 any person of life, liberty, or property without due process of law. Under 42 U.S.C. § 1983, any  
15 person who, under color of state law, deprives another person of their right to due process of law  
16 is liable to the injured party.

17 85. The person whose vehicle is towed must be provided with individualized notice  
18 unless the towing entity has a “strong justification” for not providing notice.

19 86. The HHV Ordinance does not provide for individualized notice, stating only that  
20 towing may occur as soon as the first infraction.

21 87. Defendant City does not provide individualized notice of towing to persons it  
22 claims are violating the HHV Ordinance, and does not have the required “strong justification”  
23 for towing Plaintiffs’ vehicles without providing notice.

24 88. Defendant, acting under color of state law, has deprived Plaintiffs of due process  
25 by taking, or threatening to take, their vehicles without individualized notice, a hearing, or any of  
26 the procedural protections that a hearing would provide. These violations are even more  
27 egregious because the items of property seized are not merely Defendants’ possessions but rather  
28

1 their homes, which are their sole means of protection from the elements, and which in many  
2 cases contain all of their worldly belongings.

3 **SEVENTH CLAIM FOR RELIEF**

4 **Void for Vagueness**

5 **(Fifth and Fourteenth Amendments of the U. S. Constitution)**

6 89. Plaintiffs incorporate by reference all foregoing and subsequent paragraphs as  
7 though fully set forth herein.

8 90. The Due Process Clause of the Fourteenth Amendment of the U.S. Constitution  
9 provides that no state shall “deprive any person of life, liberty, or property, without due process  
10 of law.” To satisfy the substantive due process, a municipal ordinance must be sufficiently  
11 definite to provide adequate notice of conduct proscribed, and to provide sufficient guidelines for  
12 the police so that arbitrary and discriminatory enforcement does not occur. *Desertrain v. City of*  
13 *Los Angeles*, 754 F.3d 1147, 1155 (9th Cir. 2014).

14 91. As written, the HHV Ordinance broadly restricts, and in some locations entirely  
15 prohibits, the parking of any vehicle “designed or altered for human habitation.” The language in  
16 the HHV Ordinance fails to provide adequate notice of the conduct proscribed, because it is  
17 impossible for a vehicle owner to know whether their vehicle fits within this description. For  
18 example, is a vehicle “designed ... for human habitation” if it contains enough room for  
19 sleeping, even though in its current configuration it does not have a bed, toilet, or other  
20 accoutrements of habitation? Has a sedan, SUV or small truck been “altered for human  
21 habitation” if the owner places a sleeping bag across the back seat? An air mattress? A camp cot?  
22 The list of questions that arise as to whether a particular vehicle is prohibited from parking under  
23 the HHV Ordinance is potentially limitless.

24 92. Furthermore, the City has not only failed to provide notice or guidelines for the  
25 police so as to prevent arbitrary and discriminatory enforcement; it has affirmatively stated that it  
26 intends to enforce the HHV Ordinance in an arbitrary and discriminatory way, against only those  
27 people whose vehicles “designed or altered for human habitation” are being “actively used as  
28 sleeping accommodations.” In addition, the City has let it be known that enforcement will be

1 driven by neighbor complaints, and by police officers' individual determinations of who is  
2 "undesirable," while wealthier or more "desirable" persons will be left undisturbed.

3 93. The HHV Ordinance should therefore be declared unconstitutionally vague  
4 facially in violation of Substantive Due Process protections under the Fourteenth Amendment of  
5 the U.S. Constitution.

6 **EIGHTH CLAIM FOR RELIEF**

7 **Right of Free Movement**

8 **(Fourteenth Amendment of the U. S. Constitution)**

9 94. Plaintiffs incorporate by reference all foregoing and subsequent paragraphs as  
10 though fully set forth herein.

11 95. Since even before the adoption of the U.S. Constitution, residents of all states  
12 have "possessed the fundamental right, inherent in citizens of all free governments, [to]  
13 peacefully dwell within the limits of their respective states, to move at will from place to place  
14 therein, and to have free ingress thereto and egress therefrom..." *U.S. v. Wheeler*, 254 U.S. 281,  
15 293 (1920). The fundamental right to travel and to "peacefully dwell," although not explicitly  
16 enumerated in the Constitution, has been consistently recognized by the courts and has been  
17 found to be embedded within the Commerce Clause (Article I, § 8) and the Privileges and  
18 Immunities, Due Process, and Equal Protection Clauses of the Fourteenth Amendment. Although  
19 sometimes referred to in shorthand fashion as a "right to travel" or "right to freedom of  
20 movement," this fundamental right encompasses not only both intrastate and interstate travel, but  
21 also the right to remain, free from disturbance, in the place where one has arrived.

22 96. Because the right of freedom of movement is a fundamental right, under the Equal  
23 Protection Clause of the 14th Amendment to the U.S. Constitution, any ordinance restricting  
24 exercise of that right is "presumptively invidious" and is invalid unless the government can  
25 prove the restriction has been "precisely tailored to serve a compelling governmental interest."  
26 *Plyler v. Doe*, 457 U.S. 202, 216-17 (1982). The HHV Ordinance serves no compelling  
27 governmental interest; in fact, the HHV Ordinance was established to expel from the City those  
28 who cannot afford permanent residences in Sebastopol and who sleep in vehicles as a result.



1 Even if the City had a compelling interest—which it does not—the City failed to take efforts to  
2 precisely tailor the HHV Ordinance to serve such an interest, as would be required.

3 97. The HHV Ordinance violates Plaintiff’s fundamental right to free movement for  
4 several reasons, including by targeting Plaintiffs and seeking to banish them from the City based  
5 on their lack of fixed housing and socioeconomic status. The HHV Ordinance impermissibly  
6 prevents Plaintiffs from peacefully dwelling in the city of their choosing (and from even  
7 traveling and parking within it during most hours of the day). The HHV Ordinance also  
8 impermissibly favors Sebastopol residents in fixed housing and discriminates against Plaintiffs.  
9 Furthermore, the HHV Ordinance flatly denies Plaintiffs their right to use public space within the  
10 City, by prohibiting Plaintiffs from parking their vehicles on public roads intended for parking.  
11 Expelling an entire population from the City is particularly egregious, and dangerous, in light of  
12 the ongoing COVID-19 pandemic which threatens the health and safety of this vulnerable  
13 population who are at risk of being displaced from the City and critical resources.

#### 14 **NINTH CLAIM FOR RELIEF**

##### 15 **Right of Intrastate Travel**

##### 16 **(Article I, §§ 7(a) and 24, California Constitution)**

17 98. Plaintiffs incorporate by reference all foregoing and subsequent paragraphs as  
18 though fully set forth herein.

19 99. The California Constitution, Article I, §§ 7(a) and 24, protects the right to travel,  
20 or freedom of movement. “[T]he right to intrastate travel (which includes intramunicipal travel)  
21 is a basic human right...implicit in the concept of a democratic society...This personal liberty  
22 consists in the power of locomotion, of changing situation or moving one’s person to whatever  
23 place one’s inclination may direct, without imprisonment or restraint.” *In re White*, 97 Cal. App.  
24 3d 141, 148 (1979) (internal citations omitted).

25 100. Because the right of freedom of movement is a fundamental right, under the Equal  
26 Protection Clause of the California Constitution, any ordinance restricting exercise of that right is  
27 “should be regarded with skepticism. If available alternative means exist which are less violative  
28 of the constitutional right and are narrowly drawn so as to correlate more closely with the

1 purposes contemplated, those alternatives should be used.” *Id. White*, 97 Cal. App. 3d at 150.  
2 The HHV Ordinance serves no compelling governmental interest; in fact, the HHV Ordinance  
3 was established to expel from the City those who cannot afford permanent residences in  
4 Sebastopol and who sleep in vehicles as a result. Even if the City had a compelling interest—  
5 which it does not—the City failed to take efforts to precisely tailor the HHV Ordinance to serve  
6 such an interest, as would be required.

7 101. The HHV Ordinance violates Plaintiffs’ fundamental right to free movement for  
8 several reasons, including by targeting Plaintiffs and seeking to banish them from the City based  
9 on their lack of fixed housing and socioeconomic status. The HHV Ordinance impermissibly  
10 prevents Plaintiffs from peacefully dwelling in the city of their choosing (and from even  
11 traveling and parking within it during most hours of the day). The HHV Ordinance also  
12 impermissibly favors Sebastopol residents in fixed housing and discriminates against Plaintiffs.  
13 Furthermore, the HHV Ordinance flatly denies Plaintiffs their right to use public space within the  
14 City, by prohibiting Plaintiffs from parking their vehicles on public roads intended for parking.  
15 Expelling an entire population from the City is particularly egregious, and dangerous, in light of  
16 the ongoing COVID-19 pandemic which threatens the health and safety of this vulnerable  
17 population who are at risk of being displaced from the City and critical resources.

18 **TENTH CLAIM FOR RELIEF**

19 **Excessive Fines and Fees**

20 **(Article I, §17 of the California Constitution)**

21 102. Plaintiffs incorporate by reference all foregoing and subsequent paragraphs as  
22 though fully set forth herein.

23 103. Under Article I, § 17 of the California Constitution, “Cruel or unusual punishment  
24 may not be inflicted or excessive fines imposed.”

25 104. For the reasons set forth above with respect to the Eighth Amendment of the U.S.  
26 Constitution, the HHV Ordinance also violates Plaintiffs’ rights under Article I, § 17 of the  
27 California Constitution.

1 **ELEVENTH CLAIM FOR RELIEF**

2 **Unlawful Seizure of Property by Towing**

3 **(Article I, § 13 of the California Constitution; Cal. Veh. C. § 22650(b))**

4 105. Plaintiffs incorporate by reference all foregoing and subsequent paragraphs as  
5 though fully set forth herein.

6 106. Under Article I, § 13 of the California Constitution, all persons have the right “to  
7 be secure in their persons, houses, papers and effects against unreasonable searches and seizures  
8 ...”

9 107. For the reasons set forth above with respect to the Fourth Amendment of the U.S.  
10 Constitution, the HHV Ordinance violates Plaintiffs’ rights under Article I, § 13 of the California  
11 Constitution and Cal. Veh. Code § 22650(b).

12 **TWELFTH CLAIM FOR RELIEF**

13 **Americans with Disabilities Act**

14 **(42 U.S.C. § 12132)**

15 108. Plaintiffs incorporate by reference all foregoing and subsequent paragraphs as  
16 though fully set forth herein.

17 109. Defendant City is a public entity within the meaning of Title II of the Americans  
18 with Disabilities Act (“ADA”). 42 U.S.C. § 12131.

19 110. Plaintiffs are all “qualified persons with disabilities” as defined in the ADA. 42  
20 U.S.C. § 12102; 42 U.S.C. § 12131; 28 C.F.R. § 35.104.

21 111. Title II of the Americans with Disabilities Act provides in pertinent part that “no  
22 qualified individual with a disability shall, by reason of such disability, be excluded from  
23 participation in or be denied the benefits of the services, programs, or activities of a public entity,  
24 or be subjected to discrimination by any such entity.” 42 U.S.C. § 12132.

25 112. This prohibition against discrimination in “services, programs, or activities”  
26 applies to “anything a public entity does.” *Cohen v. City of Culver City*, 754 F.3d 690, 695 (9th  
27 Cir. 2014) (citation omitted); *see also Barden v. City of Sacramento*, 292 F.3d 1073, 1076-77  
28 (9th Cir. 2002) (discussing rationale for broad construction).

1           113. The City’s parking program, including enforcement thereof by the Sebastopol  
2 police department, are services, programs, or activities of the City. The various amenities of city  
3 life as well as public spaces and facilities are also “services, programs or activities” of the City.

4           114. Title II protects people with disabilities against facially neutral policies that  
5 burden people with disabilities more than non-disabled people, and requires public entities to  
6 provide reasonable modifications to avoid such “different and greater” burdens, unless the public  
7 entity can demonstrate such modifications would result in a fundamental alteration of the  
8 program. 28 C.F.R. § 35.130(b)(7); *Crowder v. Kitagawa*, 81 F.3d 1480, 1485 (9th Cir. 1996).

9           115. The “obligation to ‘accommodate’ a disability can include the obligation to alter  
10 policies that can be barriers to nondisabled persons as well,” and reasonable modifications can  
11 adjust for the “practical impact” of a disability (including the practical *financial* impact), not just  
12 for the “immediate manifestations of the physical or mental impairment giving rise to the  
13 disability.” *Giebler v. M & B Associates*, 343 F. 3d 1143, 1150-55 (9th Cir. 2003).

14           116. As noted above, the City’s HHV Ordinance discriminatorily imposes different  
15 and greater harms on Plaintiffs and others with disabilities, and excludes them from participation  
16 in and/or denies them the benefit of City services, programs, or activities.

17           117. Plaintiffs have requested the City rescind or reasonably modify the HHV  
18 Ordinance to avoid this discriminatory impact, but the City has refused even to create a process  
19 by which such modifications could be requested—much less to grant them. Such necessary  
20 modifications could include exemptions from enforcement of the HHV Ordinance (for example,  
21 allowing people with a demonstrated disability-related need to park in locations that would  
22 otherwise be prohibited), and/or granting people with disabilities priority access to “safe  
23 parking” sites such as The Village (and, until there are available spaces there, to allow them to  
24 park on City streets at any time without violating the HHV Ordinance). By categorically refusing  
25 any such necessary and reasonable modifications, the City has violated the ADA.

26           118. In addition, Title II regulations interpreting the ADA prohibit a public entity from  
27 utilizing criteria or methods of administration that have the effect of subjecting qualified  
28 individuals with disabilities to discrimination based on disability, and from imposing eligibility

1 criteria that screen out or tend to screen out individuals with disabilities from fully and equally  
2 enjoying any service, program, or activity. 29 C.F.R. § 35.130(b)(3); 28 C.F.R. § 35.130(b)(8).

3 119. The City’s HHV Ordinance has the effect of discriminating against and imposing  
4 disproportionate burdens on people with disabilities based on their disability, and of screening  
5 out such persons from full and equal enjoyment of the City’s programs, services, and activities,  
6 including street parking and related enforcement, and all the services, programs, and activities  
7 such parking is intended to serve.

8 120. In carrying out Defendant’s policies and practices as described herein, Defendant  
9 has also utilized criteria or methods of administration that have the effect of subjecting qualified  
10 individuals with disabilities to discrimination based on disability. 29 C.F.R. § 35.130(b)(3).

11 121. Defendant has acted knowingly and with deliberate indifference to the harm  
12 substantially likely to occur. As a direct and proximate result of Defendant’s acts and omissions,  
13 Plaintiffs have suffered and will continue to suffer injuries for which they have no adequate  
14 remedy at law.

15 122. Because Defendant’s discriminatory conduct is ongoing, declaratory and  
16 injunctive relief are appropriate.

17 123. Pursuant to 42 U.S.C. § 12133, Plaintiffs with disabilities are entitled to  
18 declaratory and injunctive relief, and to recover from Defendants the reasonable attorneys’ fees  
19 and costs incurred in bringing this action.

20 **THIRTEENTH CLAIM FOR RELIEF**

21 **California Disabled Persons Act**

22 **(Cal. Civ. Code §§ 54-54.3)**

23 124. Plaintiffs incorporate by reference all foregoing and subsequent paragraphs as  
24 though fully set forth herein.

25 125. The California Disabled Persons Act (“CDPA”) incorporates the Americans with  
26 Disabilities Act, and states that “a violation of the right of an individual under the Americans  
27 with Disabilities Act . . . constitutes a violation of” the CDPA. Cal. Civ. Code § 54.1(d).

28 126. Thus, by violating the ADA as alleged in Plaintiffs’ Eleventh Cause of Action,

1 above, the City is also violating the CDPA.

2 127. Plaintiffs are aggrieved and potentially aggrieved by Defendant’s acts and  
3 omissions, as alleged herein. Moreover, as a direct and proximate result of those acts and  
4 omissions, Plaintiffs have suffered and will continue to suffer injuries for which they have no  
5 adequate remedy at law.

6 128. Because Defendant’s discriminatory conduct is ongoing, declaratory and  
7 injunctive relief are appropriate.

8 **FOURTEENTH CLAIM FOR RELIEF**

9 **Discriminatory Program**

10 **(California Government Code § 11135)**

11 129. Plaintiffs incorporate by reference all foregoing and subsequent paragraphs as  
12 though fully set forth herein.

13 130. California Government Code § 11135 sets forth a nondiscriminatory policy for  
14 state programs. It provides in part that:

15 [no] person in the State of California shall, on the basis of race, national origin,  
16 ethnic group identification, religion, age, sex, sexual orientation, color, genetic  
17 information or disability, be unlawfully denied full and equal access to the  
18 benefits of, or be unlawfully subjected to discrimination under, any program or  
19 activity that is conducted, operated, or administered by the state or by any state  
agency, is funded directly by the state, or receives any financial assistance from  
the state.

20 Cal. Gov’t Code § 11135(a).

21 131. It is a discriminatory practice for a recipient of state financial assistance, in  
22 carrying out any program or activity, on the basis of disability, “(a) to deny a person the  
23 opportunity to participate in, or benefit from an aid, benefit or service; (b) to afford a person the  
24 opportunity to participate in or benefit from an aid, benefit or service that is not equal to that  
25 afforded others; (c) to provide a person with an aid, benefit or service that is not as effective in  
26 affording an equal opportunity to obtain the same result, to gain the same benefit, or to reach the  
27 same level of achievement as that provided to others...(g) to otherwise limit a person in the  
28

1 enjoyment of any right, privilege, advantage or opportunity enjoyed by other receiving any aid,  
2 benefit or service resulting from the program activity.” 22 Cal. Code Regs. § 11154 (a)-(c), (g).

3 132. It is also discrimination for a recipient of state financial assistance to utilize  
4 criteria or methods of administration that: “(1) have the purpose or effect of subjecting a person  
5 to discrimination on the basis of disability; [or] (2) have the purpose or effect of defeating or  
6 substantially impairing the accomplishment of the objective of the recipient’s program with  
7 respect to a person with a disability...” 22 Cal. Code Regs. § 11154(i).

8 133. Defendant City was at all times relevant to this action, and is currently operating  
9 or administering a program or activity that receives state financial assistance, within the meaning  
10 of Section 11135.

11 134. The same conduct that constitutes a violation of Title II of the ADA, detailed  
12 above, also constitutes a violation of the antidiscrimination provisions of Section 11135.

13 135. Plaintiffs with disabilities are entitled to declaratory and injunctive relief as well  
14 as reasonable attorneys’ fees and costs incurred in bringing this action.

15 **DEMAND FOR TRIAL BY JURY**

16 Plaintiffs respectfully demand trial by jury of all issues so triable.

17 **PRAYER FOR RELIEF**

18 Based on the foregoing, Plaintiffs respectfully request that the Court issue the following relief:

19 1. Declare that Sebastopol Ordinance No. 1136 and the sections of the Sebastopol  
20 Municipal Code added and amended thereby violate the Fourth, Eighth, and Fourteenth  
21 Amendments of the U.S. Constitution; Article I, §§ 7(a), 13, and 24 of the California  
22 Constitution; Cal. Veh. Code § 22650(b); Title II of the Americans with Disabilities Act, 42  
23 U.S.C. §§ 12132 et seq.; Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 749; the  
24 California Disabled Persons Act, Cal. Civ. Code §§ 54-54.3; and Cal. Gov’t Code § 11135.

25 2. Declare that the HHV Ordinance is void for vagueness and unenforceable under  
26 the Fourteenth Amendment of the U.S. Constitution;

27 3. Issue a preliminary and permanent injunction declaring the HHV Ordinance  
28 unenforceable and directing Defendant City to cease all efforts to enforce or collect prior

1 citations issued under the HHV Ordinance;

2 4. In the alternative, issue an order requiring the City to create a process for people  
3 with disabilities to seek necessary accommodations to enforcement of the HHV Ordinance, such  
4 as those described above;

5 5. Award restitution for fines and penalties that Defendant City has collected from  
6 Plaintiffs pursuant to the HHV Ordinance;

7 6. Award Plaintiffs reasonable attorneys' fees pursuant to 42 U.S.C. § 1988, 42  
8 U.S.C. § 12205, 29 U.S.C. § 794a(a)(2)(b), Cal. Civ. Code § 55, and Cal. Civ. Proc. Code §  
9 1021.5;

10 7. Award to Plaintiffs costs and expenses incurred in the filing and prosecution of  
11 this action, as authorized by 42 U.S.C. § 12188 and California Civ. Code § 55;

12 8. Order such other and further relief that the Court deems just and proper.

13  
14 Dated: October 25, 2022

/s/ William S. Freeman

15 William S. Freeman  
16 Brandon L. Greene  
17 John Thomas H. Do  
18 AMERICAN CIVIL LIBERTIES UNION  
19 FOUNDATION OF NORTHERN  
20 CALIFORNIA

/s/ Thomas Zito

21 Thomas Zito  
22 Sean Betouliere  
23 DISABILITY RIGHTS ADVOCATES

/s/ Justin O. Milligan

24 Justin O. Milligan  
25 Sunny Noh  
26 LEGAL AID OF SONOMA COUNTY

/s/ Jeffery Hoffman

27 Jeffery Hoffman  
28 Alicia Roman  
CALIFORNIA RURAL LEGAL  
ASSISTANCE, INC.

*Attorneys for Plaintiffs*



# Exhibit A

**ORDINANCE NUMBER 1136**

SECOND READING AND ADOPTION

**AN ORDINANCE OF THE CITY OF SEBASTOPOL ADDING CHAPTER 10.76, and AMENDING  
CHAPTER 10.36 OF THE SEBASTOPOL MUNICIPAL CODE**

WHEREAS, the public interest will best be served by having a clear and concise understanding of Recreational Vehicles (RV) rules and regulations of Sebastopol; and

WHEREAS, on November 30, 2021, the City of Sebastopol City Council approved Resolution Number 6386-2021, A Resolution of the City Council of the City of Sebastopol Proclaiming the Existence of a Local Homeless Emergency; and

WHEREAS, at the November 30, 2021 meeting, City Council directed staff to Provide Recommendations for Parking Changes on Morris Street, Laguna Park Way, as well as City-Wide parking changes recommendations; and

WHEREAS, conditions of extreme peril to the safety of persons and property has arisen within the City as to homeless in general and particularly as to those who are living in RVs or cars on Morris Street and Laguna Park Way, and that action is needed; and

WHEREAS, the City of Sebastopol Police Department has recommended that there be parking restrictions for oversized and recreational vehicle; and

WHEREAS, The City Council has reviewed the Police Department's recommendations and desires to amend the Sebastopol Municipal Code; and

WHEREAS, The City Council finds that the proposed changes are in the best health, safety, and welfare interests of the City.

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF SEBASTOPOL DOES ORDAIN THE ADDING OF CHAPTER 10.76 AND AMENDMENT OF CHAPTER 10.36 AS FOLLOWS:

**SECTION 1.** Recitals. The above recitals are true and correct and are incorporated herein by this reference.

**SECTION 2.** Amending of Chapter 10.36, Stopping, Standing and Parking for Certain Purposes or in Certain Places: Chapter 10.36.010(B), is hereby amended to read as follows:  
The provisions of this chapter imposing a time limit on standing or parking shall not relieve any person from the duty to observe other and more restrictive provisions of the Vehicle Code or the ordinances of this City, *including the Recreational Vehicle Parking Ordinance contained in Chapter 10.76*, prohibiting or limiting the standing or parking of vehicles in specified places or at specified times.

**SECTION 3.** Adding of Chapter 10.76: Chapter 10.76, Recreational Vehicle Parking, is hereby added to Sebastopol Municipal Code to read as follows:

Recreational Vehicle Parking Ordinance

Chapter 10.76. – Recreational Vehicle Parking Ordinance

Sections:

10.76.010	Title.
10.76.020	Findings and purpose.
10.76.030	Definitions
10.76.040	Parking Prohibited
10.76.050	Exceptions
10.76.060	Notice
10.76.070	Prohibited Activities
10.76.080	Violations

-----  
**10.76.010 Title.**

This chapter shall be known as the “Recreational Vehicle Parking Ordinance.”

**10.76.020 Findings and purpose:**

The regulations enacted by this chapter are intended to ensure there is adequate parking for residents of the city and to regulate the parking of vehicles actively used as sleeping accommodations.

**10.76.030 Definitions**

Unless the contrary is stated or clearly appears from the context, the following definitions will govern the construction of the words and phrases used in this chapter:

“Homeowner” means any person who owns their home.

“Out-of-town visitor” means any natural person who does not reside in the city and who is temporarily visiting a resident of the city.

“Recreational vehicle” or “RV” means a motorhome, travel trailer, truck camper, camping trailer, or other vehicle or trailer, with or without motive power, designed or altered for human habitation for recreational, emergency, or other human occupancy. “Recreational vehicle” specifically includes, but is not limited to: a “recreational vehicle” as defined by California Health and Safety Code Section 18010; a “truck camper” as defined by Health and Safety Code Section 18013.4; a “camp trailer” as defined in California Vehicle Code Section 242; a “camper” as defined in California Vehicle Code Section 243; a “fifth-wheel travel trailer” as defined in California Vehicle Code Section 324; a “house car” as defined by California Vehicle Code Section 362; a “trailer coach” as defined in California Vehicle Code Section 635; a van camper; or a van conversion.

“Tenant” means any person who occupies land or property rented from a landlord.

#### **10.76.040 Parking Prohibitions**

- A. It is unlawful for a person to park or leave standing any recreational vehicle on any public street in the city that is zoned residential at any time.
- B. It is unlawful for a person to park or leave standing any recreational vehicle on any public street in the city that is zoned commercial, industrial, or community facility at any time between the hours of 7:30am and 10:00pm.
- C. It is unlawful for a person to park or leave standing any recreational vehicle on any park, square, or alley at any time.
- D. It is unlawful for a person to park or leave standing any recreational vehicle in any city-owned parking lot at any time unless that person is conducting city-related business during business hours at the location for which the parking lot is designated.
- E. It is unlawful for a person to park or leave standing any recreational vehicle less than 30 feet from the corner of any street so as not to impede site visibility for other motorists.

#### **10.76.050 Exceptions**

The prohibitions of this section do not apply to:

- A. Recreational vehicles parked or left standing as a result of a mechanical breakdown so as to allow the performance of emergency repairs on the vehicle for a period not to exceed 48 hours.
- B. Recreational vehicles parked or left standing on any public street in the city that is zoned residential so as to allow the use of a homeowner, tenant, or out-of-town visitor to load/unload the vehicle for a period not to exceed 72 hours.
- C. Nothing in the ordinance is applicable to commercial vehicles providing services to businesses, such as the delivery or picking up of goods or vehicles otherwise approved by other City of Sebastopol departments through that department's permitting process (e.g., construction vehicles).

#### **10.76.060 Notice**

Signs giving reasonable notice of the prohibitions contained in this chapter will be erected within the city as required by the California Vehicle Code.

#### **10.76.070 Prohibited Activities**

No person shall:

A. Run electrical cords, extension cords, hoses, cables, or other items across, above, or on the parkway or sidewalk from any property to a recreational vehicle parked on a public street at any time;

B. Make a sewer connection with a recreational vehicle or dump wastes from a recreational vehicle onto public or private land other than a designated RV dump. Violation of this subsection is a misdemeanor.

#### 10.76.080 Violations

Unless otherwise specified, all violations of this chapter shall be an infraction and such persons shall be subject to citation, towing or both. Parking citations may be appealed under California Vehicle Code 40215 et seq.

**SECTION 4.** CEQA. The City Council finds, pursuant to Title 14 of the California Code of Regulations, Section 15378(b)(5), that this ordinance is exempt from the requirements of the California Environmental Quality Act (CEQA) in that it is a governmental, organizational or administrative activity that will not result in direct or indirect changes in the environment.

**SECTION 5.** Severability. If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed this Ordinance and each and every section, subsection, sentence, clause, or phrase not declared invalid or unconstitutional without regard to whether any portion of the ordinance would be subsequently declared invalid or unconstitutional.

**SECTION 6.** Effective Date. The City Clerk shall certify to the adoption of this Ordinance and shall cause the same or a summary thereof to be published as required by law. This Ordinance shall take effect and be in full force and effect on March 26, 2022.

APPROVED FOR WAIVING OF FIRST READING AND INTRODUCTION OF ORDINANCE at Regular City Council Meeting of January 18, 2022.

APPROVED FOR SECOND READING AND ADOPTION OF ORDINANCE at a City Council Meeting of February 23, 2022.

**VOTE:**

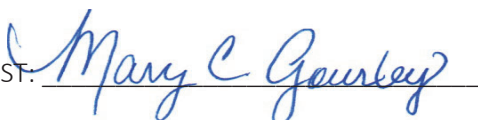
Ayes: Councilmembers Gurney, Rich, Vice Mayor Hinton and Mayor Slayter  
Noes: None  
Absent: None  
Abstain: Councilmember Glass

APPROVED:



Mayor Patrick Slayter

ATTEST:



Mary Gourley, Assistant City Manager/City Clerk, MMC

A handwritten signature in blue ink, appearing to read "Larry McLaughlin".

Larry McLaughlin, City Attorney