

**Kelsey Rogers**

Communication No. 2, Item NO. 4

**From:** Jill Lebsock <Jill\_Lebsock@gap.com>  
**Sent:** Monday, October 07, 2013 11:09 AM  
**To:** city clerk  
**Subject:** Council Members: For tonight, October 7th Agenda item (Section 10.04.195 - Parking Oversize and Commercial Vehicles)

*Sent on behalf of Chris Lebsock*

**From:** Christopher Lebsock [<mailto:clebsock@hausfeldllp.com>]  
**Sent:** Monday, October 07, 2013

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OCT 7 2013  
CITY OF MILL VALLEY

Dear Council Members,

I write with respect to Agenda Item No. 6 on the Monday, October 7, 2013 Calendar, and specifically proposed Section 10.04.195 - Parking Oversize and Commercial Vehicles.

The second paragraph of this proposed section purports to bar “commercial vehicles”, including, but not limited to, pick-up trucks over 8001 pounds, with certain modifications that extend above the “manufacturer’s [sp] box” or “a rack extending over the length of a vehicle’s bed which currently has goods or wares of a commercial nature stored thereon”. These limitations will undoubtedly affect contractors and others that live within Mill Valley by preventing them from parking their vehicles on City streets adjacent to their homes.

Paragraph two of this section purports to define a “Commercial Vehicle”, but it uses unusual terminology to do so. A “Commercial Vehicle” is a vehicle with a “ground vehicle weight” of 8001 pounds or more according to the proposed regulation. Generally, motor-vehicle manufacturers (and State regulatory officials) refer to the “gross vehicle weight” of a vehicle. The GVWR of a vehicle defines the manufacturer’s maximum safe weight of a vehicle, including passengers, cargo, fuel, etc. California imposes certain incremental obligations on owners of vehicles with high GVWRs. I am not clear whether the Council meant to refer to gross vehicle weight, rather than ground vehicle weight, but I suggest you reconsider the term used. Is it the intent of the City to actually weigh a vehicle before citing it, or is it the capability of hauling more than 8001 pounds that matters to you? Indeed, weight appears to be a proxy for size in the proposed regulation, but there are plenty of visually imposing vehicles that do not have a GVWR of more than 8001 pounds. In this regard, consider Suburbans and other large SUVs as an example. One of our Mill Valley friends recently converted a Mercedes cargo van into a passenger vehicle to transport his large family around town. The vehicle is visually imposing (in the same sense that a work-truck is visually imposing), but would be exempted by your proposed regulation. Arguably, one could say that this vehicle creates safety and blight issues—so why should it be excluded? 15 passenger carpool vans would also seem to fall outside the regulation, but why should they if visual blight and safety are the purported concerns being addressed by the regulations? The same can be said of non-commercial “pick-up trucks” with modified after-market oversize wheels and suspension assemblies.

In short, it seems that the proposed solution (which, I note above, is not entirely clear) may sweep too broadly AND too narrowly. Can’t safety considerations be narrowly tailored to obstruction of intersections and signage? If the issue is blight, can’t this be accommodated by less restrictive means that do not prevent a contractor from parking his truck adjacent to his house or apartment? I encourage you to consider whether restrictions on the overnight parking of a resident’s work truck is rationally related to the City’s legitimate concerns about safety and blight when other similar-sized vehicles are exempted from the proposed regulations. If the issue is the length of time that a vehicle remains parked in a particular location, that can be addressed requiring movement of vehicles on a regular basis, perhaps even two or three days business days.

I encourage the Council to continue this matter to a future hearing in order to give this proposed regulation more thought and consideration.

Regards,

Chris Lebsock

## Commercial Vehicle

260. (a) A "commercial vehicle" is a motor vehicle of a type required to be registered under this code used or maintained for the transportation of persons for hire, compensation, or profit or designed, used, or maintained primarily for the transportation of property.

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