



## CITY COUNCIL AGENDA REPORT

DATE: February 18, 2021

**AGENDA OF:** February 23, 2021

**DEPARTMENT:** City Council, City Manager, Police, City Attorney

**SUBJECT:** Ordinance Amending Chapter 6.36 of the Santa Cruz Municipal Code Related to Regulations for Temporary Outdoor Living. Location: Citywide. CEQA: Exempt. (CN, CM, PD, CA)

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**RECOMMENDATION:** Consider introducing for publication an ordinance amending Chapter 6.36 of the Santa Cruz Municipal Code related to temporary outdoor living.

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**BACKGROUND:** Governments at various levels across the entire country are struggling to address increasing numbers of individuals who are living without permanent housing. A variety of factors have contributed to the situation, including but not limited to systemic inadequacy of available funding, economic factors (such as the Great Recession, economic fallout from COVID-19, and increasing housing costs), lack of mental health services, a rise in substance abuse, and a wide range of other contributing factors.

*Local Context.* Across the country, a biennial census is taken in late January that provides a baseline to understand absolute numbers and trends related to unhoused individuals. The last count in 2019 (available at

<https://housingmatterssc.org/wp-content/uploads/2019/08/2019-PIT-Count-Full-Report.pdf>)

estimated approximately 1,200 unhoused individuals in the City of Santa Cruz (City), and an estimated 865 of those were unsheltered. The 1,200 individuals in the City represented 55 percent of the homeless population (approximately 2,170) in Santa Cruz County (County). For comparison, the County's population was approximately 273,200 in 2019 and the City's population was approximately 64,600 according to 2019 U.S. Census data. Thus, while the City's overall population represented less than 24 percent of the County's population, 55 percent of the County's homeless were located within the City. To reduce the potential transmission of COVID-19, the January 2021 point in time survey covered only those residing in shelters.

With additional funds dedicated to preventing the spread of COVID-19 in the unsheltered population, the City and County have partnered to expand shelter capacity to accommodate hundreds of additional individuals. Nevertheless, as illustrated by the numbers noted in the 2019 point in time count, hundreds of unhoused individuals still remain in the City. Despite having more Citywide and Countywide shelter capacity than ever before, the presence of the unhoused has become more visible, as areas prone to wildfires were cleared of people living outdoors in the

late Summer/early Fall of 2019, and as many people living near waterways relocated in advance of winter rains.

The increase in large encampments has led to a variety of hazards, such as environmental degradation associated with trash, unpermitted excavation, erosion, presence of discarded hypodermic needles, etc.; unsanitary living conditions, such as lack of adequate restroom and handwashing facilities; noise; illicit drug use and sales; and inability of all Santa Cruzans to access community amenities such as parks. The presence of encampments has also led to a variety of calls for the City, County, and/or State to provide additional services, such as provision of health services related to physical and mental health, as well as substance abuse; provision of hygiene services such as restrooms, hand washing, and shower facilities; and connections to resource services such as short- and long-term housing, access to healthy and nutritious food (CalFresh), and other resources.

*Martin v. City of Boise* and Related Legal Precedent In the *Martin v. City of Boise* case, the 9<sup>th</sup> Circuit Court ruled that “the Eighth Amendment’s prohibition on cruel and unusual punishment bars a city from prosecuting people criminally for sleeping outside on public property when those people have no home or other shelter to go to.” Courts have also upheld the rights of unsheltered people to take basic measures to protect themselves from the elements in a tent or with bedding, in situations where no other shelter is available. See *Blake v. City of Grants Pass*, No. 1:18-cv-01823-CL, 2020 U.S. Dist. LEXIS 129494, at \*20-21 (D. Or. July 22, 2020 (“the Eight Amendment also prohibits a City from punishing homeless people for taking necessary minimal measures to keep themselves warm and dry while sleeping when there are no alternative forms of shelter available.”) See also *Martin v. City of Boise*, 920 F.3d 584, 618 (9th Cir. 2019) (“The Camping Ordinance therefore can be . . . enforced against homeless individuals who take even the most rudimentary precautions to protect themselves from the elements. . . . [A] municipality cannot criminalize such behavior consistently with the Eighth Amendment when no sleeping space is practically available in any shelter.”) Additionally, courts have held that the Fourth Amendment (unreasonable seizure) and the Fourteenth Amendment (due process) are potentially implicated when the government seizes or destroys homeless persons’ property that is left in public places. See for example *Garcia v. City of Los Angeles*, 2020 U.S. Dist. LEXIS 81041.

In light of these legal requirements, it has been a challenge for municipalities with low shelter availability to draft legally permissible camping ordinances, although *Martin* leaves open the possibility to regulate in this space. *Martin* states that “Whether some other ordinance is consistent with the Eighth Amendment will depend . . . on whether it punishes a person for lacking the means to live out the ‘universal and unavoidable consequences of being human.’” The draft ordinance presented to you is intended to regulate issues related to encampments in a way that meets the requirements of *Martin* and related precedent.

*Outreach and Council Direction.* Recognizing the significant challenges associated with addressing the unhoused population, the City Council established a Community Advisory Committee on Homelessness (CACH) in June of 2019 to engage with the community and consider various policy options related to homelessness. The CACH membership included people with a wide range of experience and knowledge, including a number of individuals who either were or had been unhoused. Over the course of a year, the CACH held approximately 16 public meetings (see <https://www.cityofsantacruz.com/government/city-council-subcommittees/community-advisory-committee-on-homelessness-cach>) and made a range of recommendations to the City Council. The CACH also had a number of subcommittees that met on a regular basis to explore

certain topics in more detail. At its February 25, 2020 meeting, the City Council, based on recommendations from the CACH, passed motions directing staff to bring back amendments to Chapter 6.36 of the Santa Cruz Municipal Code that include the following:

(1) Prohibition of overnight and daytime encampments in sensitive and at-risk areas of the City, with direction that prior to moving and/or citing people sleeping in restricted locations, information should be provided about legal indoor shelter locations such as the Armory, Salvation Army, or a facility within the County.

At-risk areas should include, but are not limited to, those where:

- a) Encampment is in a public right of way (road) and/or is blocking pedestrian traffic.
- b) Encampment is blocking or impeding City staff (and/or agents of the City) access to City infrastructure.
- c) Encampment is on private property without the owner's permission.
- d) Encampment is in an area/configuration that constitutes a danger to occupants.
- e) An imminent fire risk has been determined by the Fire Chief and a fire risk operational plan has been initiated by the Fire Department.
- f) Encampment is within the boundaries of the Water Director's safe drinking water/watershed habitat map.
- g) Encampment is within the boundaries of the Parks and Recreation Director's environmentally sensitive habitat map.
- h) Encampment has already been closed due to Urgent Criteria or Scoring of High Priority with Assessment Tool.

(2) Prohibition of high density unpermitted encampments within the City, based on number of occupants and/or square footage.

(3) Increase to five (5) the number of overnight vehicles permitted in City-authorized safe-parking programs located on faith-based, commercial, and approved governmental lots, in accordance with conditions approved by Council. By City Council resolution, number of overnight safe-parking vehicles in approved governmental lots may exceed five.

(4) Direct the City Manager to draft new comprehensive "Personal Property Management" guidelines with analysis of best practices, resource considerations and implementation considerations to return for Council discussion and possible action no later than May 2020, and to provide clarity to City staff, minimize the negative consequences of discarding survival

belongings and minimize the community impacts of unattended personal property.

At the same meeting, the City Council passed motions containing the following additional mid-term policy direction:

(5) That the City Council support shelter and safe sleeping models that include organization/staffing to supervise the site and take responsibility for addressing issues that arise but also include substantive management, operational, and governance roles for participants.

(6) Direct the members of the 2X2 City-County working group to agendaize an item related to safe sleeping siting and program models at their next meeting, for a recommendation on the appropriate body to lead the siting, oversight, programmatic analysis, and public outreach.

*Efforts Underway.* The City and County regularly coordinate to provide a wide range of services to the unhoused population. The County has specific functions related to health and human services and receives State funding for such services, thus it plays a significant role in physical health, mental health, and substance abuse treatment for the unhoused in a manner that the City is generally not organized, staffed, or funded to provide (though Fire Department personnel do provide emergency medical assistance). While generally not set up to directly provide medical and other outreach services, the City partners with the County to help those services reach unhoused individuals in the City. Even in a year of slashed budgets and furloughs, the City anticipates having to allocate nearly \$4 million for services, homelessness prevention, and cleanup, not to mention a substantial percentage of Police and Fire calls, to the issue of homelessness. Each year, the City works to maintain its open spaces as the occurrence and impacts of large encampments have grown, which has generated significant costs within Parks and Recreation, Public Works, the City Manager's Office and the Police Department. The Police Department and County have coordinated to embed two mental health liaisons from the County Behavioral Health Services team into the field with City police officers at the City's expense. The City also contributes to the County's HOPES program, the Downtown Outreach Worker program, and to County sheltering programs. Similarly, the City and County have partnered to offer mobile shower services in the City. The City funds a variety of nonprofits providing services for people experiencing homelessness, including Downtown Streets, Housing Matters, Encompass Community Services, and the Community Action Board of Santa Cruz County, among others.

The City annually dedicates a significant percentage of its Community Development Block Grant (CDBG) funding (approximately \$1.2 million in 2021 and typically hundreds of thousands of dollars each year). These funds help prevent individuals from becoming homeless, such as through security deposit, rent payments, and program support, and they provide support to individuals already experiencing homelessness in our City. The City also funds infrastructure investments to support those experiencing homelessness, such \$456,000 of the 2021 in CDBG money the City is dedicating towards upgrades to the hygiene bay on the Housing Matters campus that will provide showers and an additional \$375,000 to COVID-19 pandemic homeless services such as additional hygiene stations, camp cleanups, safe parking programs, water and encampment management.

The City leases property (land and buildings) to Housing Matters and Encompass (on the Coral Street Campus) at a considerably below-market rate as a means to house and support those

experiencing homelessness. The long-term, 55-year lease with Housing Matters has a fixed rent of \$3,400 per month with no escalators. A 12 percent, 16-year rent reduction was recently granted to Housing Matters to finance a solar energy installation. The lease rate is currently a small fraction of market rent, and it is set with no increases for another 36 years. The \$1,000 per month rent received from Encompass for the River Street Shelter is similarly well below market rate, and rents received are earmarked to fund the City's maintenance responsibilities for the aged property. The City also leases two locations to the Homeless Garden Project at well below market rate. Their Pogonip Farm and Garden lease is a 20-year lease at \$1 per year, and their lease at 101 Washington Street, adjacent to Depot Park, has a rate of \$1 per month and \$200 per month of produce distribution to non-profit organizations which serve the low income or homeless community.

The City and County also partner to create shelters for the City's unhoused population. A wide range of facilities within the City limits are currently housing or providing shelter for homeless or formerly homeless individuals, such as the Housing Matters campus, Armory and related facilities on that site in upper De Laveaga Park, Santa Cruz Veteran's Hall, and a number of hotels that are being rented for purposes of providing shelter during the COVID-19 pandemic. The City has been supportive of various safe parking programs, where recreational and other vehicles are provided with locations where they can safely park overnight. A number of religious institutions in the City take advantage of this program, and the program also currently operates in two City-owned parking lots. Included with this ordinance is a proposed expansion of the number of vehicles that can be allowed at each site.

The City and County coordinate on providing a range of services as part of their respective participation in the County's Continuum of Care – the Homeless Action Partnership. Tens of millions of dollars have been allocated to a range of housing, outreach, diversion, and other programs just in the past few years. The County is in the midst of prioritizing a range of improvements related to homelessness service provision, including but not limited to diversion of individuals from homelessness, increased housing options, improved governance structure, and better data collection and coordination. The City is partnering and coordinating with the County on these efforts. For example, just since November of 2020, the City has approved or authorized construction of:

- 120 units of permanent supportive housing on the Housing Matters Campus, units that will serve homeless or formerly homeless individuals;
- 15 units affordable to very low income households and five additional units affordable to low income households within a larger project on Front Street;
- Approximately 85 affordable units between Pacific Avenue and Front Street, south of the Metro transit station, with 25% of the units being supportive housing units that will be available to homeless or formerly homeless individuals;
- Approximately 100 affordable units on Pacific Avenue at the current Metro transit station, with 25% of the units being supportive housing units that will be available to homeless or formerly homeless individuals; and
- Up to 100 affordable units in a project anticipated to have at least 65 affordable units in the public parking lot on Cedar Street, adjacent to the Calvary Church, with 25% of the units as supportive housing units that will be available to homeless or formerly homeless individuals.

The City is also actively advocating with State and Federal legislators to encourage provision of additional resources to the City and County for addressing issues surrounding unhoused

individuals, and the City is actively coordinating with Caltrans to address encampments on its properties.

While the above-noted proactive work consumes time, direct costs, and opportunity costs, addressing encampments has created additional, significant cost burdens for the City. A recent one-time clean-up and restoration of Pogonip cost approximately \$200,000, and a recent one-time cleanup of the area behind the Santa Cruz Memorial Cemetery cost over \$60,000. The City has regular and ongoing costs associated with trash services at many locations throughout the City. After teams of employees conducted significant outreach to encourage campers to move from flood-prone areas adjacent to the San Lorenzo River to higher ground in advance of the late January storms, the City removed 4.5 tons of trash and debris from the area, preventing it from washing into the National Marine Sanctuary.

**DISCUSSION:** Ideally, each person experiencing homelessness could be provided a home in which to reside or at least a shelter in which to temporarily connect with services on a path toward becoming housed; however, that is not the reality of the City's, County's, or State's current position. As described above, pursuant to the *Martin v. Boise* decision and similar legal precedent, in light of the City's low shelter availability, the City likely cannot enact an ordinance that prohibits unhoused people from sleeping on all public property. However, in the *Martin v. Boise* decision, the court states "We in no way dictate to the City that it must...allow anyone who wishes to sit, lie, or sleep on the streets...at any time and at any place." Accordingly, the draft ordinance proposes various time, place, and manner restrictions related to outdoor living.

*Consistency with Prior Council Direction.* The foundation of the draft ordinance began with the CACH recommendations that were carried forward into the Council's February 25, 2020 motion. In general, the ordinance specifies where camping is allowed, where it is not allowed, and how enforcement will occur. The following section reiterates portions of the Council's motions (indented text) and provides analysis of each section in relation to proposed ordinance.

(1) Prohibition of overnight and daytime encampments in sensitive and at-risk areas of the City, with direction that prior to moving and/or citing people sleeping in restricted locations, information should be provided about legal indoor shelter locations such as the Armory, Salvation Army, or a facility within the County.

Section 6.36.070(a) of the proposed ordinance states that City staff shall consider giving a verbal or written warning before an infraction citation is issued. The warning, if given, shall provide the person with information about legal indoor shelter and/or permissible nighttime sleeping options. The warning shall be given in all instances where the City staff member holds a reasonable belief that a warning, by itself, would be effective in causing the person to come into compliance with this Chapter.

At-risk areas should include, but are not limited to, those where:

- a) Encampment is in a public right of way (road) and/or is blocking pedestrian traffic.
- b) Encampment is blocking or impeding City staff (and/or agents of the City) access to City infrastructure.

- c) Encampment is on private property without the owner's permission.
- d) Encampment is in an area/configuration that constitutes a danger to occupants.
- e) An imminent fire risk has been determined by the Fire Chief and a fire risk operational plan has been initiated by the Fire Department.
- f) Encampment is within the boundaries of the Water Director's safe drinking water/watershed habitat map.

Each of the above provisions (a through f) has been incorporated into the draft ordinance. See Sections 6.36.030, 6.36.040, and 6.36.060. With respect to "a" above, the draft ordinance does provide some exceptions for blocking sidewalks, as discussed below in more detail.

- g) Encampment is within the boundaries of the Parks and Recreation Director's environmentally sensitive habitat map.

The General Plan 2030 contains a map showing environmentally sensitive habitat areas in the City, and the affected areas are shown on the series of maps that are attached to this report. The draft ordinance would prohibit outdoor living in many environmentally sensitive habitat areas, such as Neary Lagoon, Jessie Street Marsh, Arroyo Seco Canyon, Lighthouse Field, etc. In addition to direct prohibitions in various areas, Section 6.36.040 prohibits camping in a manner that constitutes a reasonably foreseeable danger to identified special-status species, and it authorizes areas to be closed for the protection of sensitive species. Additionally, Section 6.36.060 prohibits direct damage to the environment through activities such as excavating or terracing soil, harming trees, cutting vegetation, or disturbing wildlife dens, burrows, or nests. These provisions are intended to protect the environment, including sensitive habitat areas, and the ordinance requires that the website be kept current with respect to areas where camping is prohibited.

- h) Encampment has already been closed due to Urgent Criteria or Scoring of High Priority with Assessment Tool.

The proposed ordinance contains a provision in Section 6.36.040 that prohibits outdoor living "In any location that is currently deemed closed by the city, including but not limited to areas closed due to prior nuisance conditions resulting in abatement."

- (2) Prohibition of high density unpermitted encampments within the City, based on number of occupants and/or square footage.

A significant issue that has consistently arisen with respect to quality of life concerns, environmental degradation, and City costs has been the size of encampments. As encampments grow and become more entrenched, the issues associated with them become more challenging. Police experience additional issues with illicit drug sales (such as methamphetamine and heroin), illicit drug use, theft, noise, and vandalism. Parks and Recreation and Public Works teams experience more difficult refuse clean-up, maintenance, and environmental remediation work. As these issues compound, members of the public report they feel less safe and less welcome to use

the area. These reasons contributed to the CACH recommendation to limit density of encampments. The same issues typically worsen the longer encampments remain in a single location.

In discussing the topic with the City's police personnel, the enforcement of density requirements proved to be challenging. For example, if too many people were present, who would have to leave? How would an officer know who the last person to arrive is? Would everyone have to leave? Where would the people who have to leave go to sleep? Thus, alternative approaches were considered.

To address the concerns that arise from encampment density and entrenchment, two provisions are included in the ordinance. First, the ordinance limits an individual's occupied area to 12 feet by 12 feet. Second, the draft ordinance requires that tents, huts, and similar structures not be erected between the hours of 8:00 a.m. and 8:00 p.m. (Additional discussion of the 8:00 a.m. to 8:00 p.m. restrictions and enforcement is contained below in the "Additional Noteworthy Ordinance Criteria" section.) These provisions are intended to help to reduce some of the quality of life impacts, environmental impacts, and clean-up and restoration costs that have been regularly experienced in the City, particularly as individuals become entrenched and encampments grow.

(3) Increase to five (5) the number of overnight vehicles permitted in City-authorized safe-parking programs located on faith-based, commercial, and approved governmental lots, in accordance with conditions approved by Council. By City Council resolution, number of overnight safe-parking vehicles in approved governmental lots may exceed five.

The ordinance currently allows for three such vehicles to be located on the site of a religious institution and for two such vehicles to be located on the site of a business in a non-residential district. As proposed, the draft ordinance includes an increase in the number of vehicles allowed on religious institution sites from three to six and on business sites in non-residential districts from two to three. Businesses and religious institutions currently operate these uses in the City, and they generally have received few complaints. The Association of Faith Communities (AFC) often operates these uses on the sites of religious institutions, and they operate the use on two City-owned sites as well. (See <https://www.afcsantacruz.org/safespaces-program.html> for more information on AFC's program.) Though the existing ordinance does contain a series of general standards related to issues such as nuisance and sanitation, businesses are inherently incentivized to keep such operations free of issues that would affect their business, neighbors, or the environment. Other than the increase in the number of allowable vehicles, no other substantive changes are proposed at this time.

(4) Direct the City Manager to draft new comprehensive "Personal Property Management" guidelines with analysis of best practices, resource considerations and implementation considerations to return for Council discussion and possible action no later than May 2020, and to provide clarity to City staff, minimize the negative consequences of discarding survival belongings and minimize the community impacts of unattended personal property.

Section 6.36.080 of the proposed ordinance includes regulations related to the removal and storage of personal belongings.



(5) That the City Council support shelter and safe sleeping models that include organization/staffing to supervise the site and take responsibility for addressing issues that arise but also include substantive management, operational, and governance roles for participants.

(6) Direct the members of the 2X2 City-County working group to agendaize an item related to safe sleeping siting and program models at their next meeting, for a recommendation on the appropriate body to lead the siting, oversight, programmatic analysis, and public outreach.

With additional COVID-19 funding, the City and County have partnered to provide safe sleeping locations for hundreds of additional individuals within the City limits. Some have been in hotels within the City, others have been in newly opened shelters (such as the Santa Cruz Veteran's Hall), and others have been in managed camping facilities (such as the former Benchlands site in lower San Lorenzo Park and the current Golflands site behind the Santa Cruz Armory). The operation of these facilities has been instructive, and they have been quite expensive as well. The managed camp at the Benchlands, for example, served 86 individuals at its peak and is estimated to have cost over \$100,000 per month to operate, including but not limited to staffing, security, sanitation, three meals per day, and infrastructure rental. The City has also supported safe parking locations by offering the Police Department parking lot and Lot 17 (south of Laurel, between Wheel Works and the San Lorenzo River) as locations for a safe parking program managed through the Association of Faith Communities.

In addition to funding implications, the other most significant challenge associated with these facilities is the identification of sufficient locations within the City to house those who currently reside (unsheltered) in the City, as well as those who could reasonably be expected to come to the City if those facilities were provided. The City has had and continues to have discussions about where these facilities could be located. At this point in time, no additional sanctioned encampments are proposed. However, the ordinance, in Section 6.36.050, specifies that the City Manager or City Council may establish such sites in the future.

*Additional Noteworthy Ordinance Criteria.* In addition to the above specific direction from the ordinance, analyses of additional noteworthy criteria follow:

- A. Daytime restrictions. The proposed ordinance generally prohibits the erection of tents between the hours of 8:00 a.m. and 8:00 p.m. Exceptions are included for individuals who have a disability that would preclude them from packing and storing their tent on a daily basis. Inclement weather exceptions would apply. Structures that are erected during the daytime and which are reasonably meant for daytime-only use and not meant for habitation for more than 12 hours are also exempted. The daytime camping restrictions would not be enforced until the City sponsors or arranges for the sponsorship of an unsheltered persons' storage program within the City of Santa Cruz.

Of note, daytime restrictions were considered by the CACH Safe Sleeping Subcommittee; however, they remained on its "unresolved issues" list. (See the last page of the attached CACH Safe Sleeping Subcommittee report.) The CACH did recommend that the City Council amend Chapter 6.36 to ensure that daytime use of blankets, tarps, sunshades, and sleeping bags are not restricted; however, that did not

become part of the Council's direction. For the reasons discussed above in the Council direction section under item number 2, the draft ordinance contains provisions that limit the ability of individuals to erect tents between the hours of 8:00 a.m. and 8:00 p.m.

B. Additional Location Prohibitions. The above analysis of the Council's direction stemming from the CACH report covers many key areas where camping would be prohibited. However, several areas that are proposed to be prohibited as part of the draft ordinance are not covered in those analyses.

i. Downtown and City-owned Beach Areas. These areas are critical recreational destinations for tourists and locals, and both have hours of use that regularly extend beyond the 8:00 p.m. to 8:00 a.m. timeframe when camping would be allowed elsewhere in the City. With business operations and with large numbers of visitors frequenting these areas during many, if not most, hours of the day and night, the draft ordinance proposes to prohibit camping in these areas. The ordinance defines the perimeter of the Downtown area and notes that camping is prohibited there, the City-owned beaches, other City-owned areas zoned as OF-R Ocean-Front Recreational (e.g., areas on the ocean side of West Cliff Drive), City-owned areas zoned as C-B Beach Commercial (the wharf and Boardwalk), and within the Beach Street right-of-way. State-owned beaches and rights-of-way are not included in the ordinance as areas where camping is prohibited, as the State retains land use authority over its own properties when conducting State business on said properties.

ii. Neighborhood & Community Parks. The presence of unsanctioned camping in neighborhood and community parks, as defined in the Parks and Recreation Master Plan, has created concern among residents about the ability of the nearby residents and all Santa Cruzans to access and use park facilities. To allow for park access to be provided to the greater community, outdoor living encampments are prohibited in all neighborhood and community parks.

iii. Select Open Spaces & Open Space Restrictions. Due to their environmental sensitivity and proximity to residential uses, the draft ordinance would prohibit outdoor living encampments in Neary Lagoon, Jessie Street Marsh, and Arroyo Seco Canyon. Within other open spaces, as defined in the Parks and Recreation Master Plan, outdoor living encampments would be allowed when not located within 75 linear feet of a designated trail. The presence of encampments in those areas may also be limited by other restrictions, such as closures due to fire risk, potential detrimental effects to sensitive species, or areas closed for cleaning or restoration.

Attached to this report are maps that depict areas where camping is prohibited and potentially prohibited, and the ordinance requires that a website be maintained with maps and the latest information about areas where camping is and is not allowed between 8:00 p.m. and 8:00 a.m. As noted above, the ordinance does contain language that would allow for the City Council or City Manager to specifically designate certain areas where and conditions under which camping may be allowed.

C. Closures for Cleaning/Maintenance. The ordinance allows the City Manager to close areas for cleaning, maintenance, and/or addressing health or safety concerns. The need for this provision could arise when, for example, locations become inundated with

refuse, infested with vermin, or environmentally compromised. Its use requires an analysis of available lands remaining for temporary outdoor living, and any closure greater than 30 days would require Council ratification, unless the closure is related to risks related to fire, flooding, or sensitive species.

- D. **Other Prohibitions.** To reduce negative consequences of outdoor living, the ordinance contains a range of requirements in Section 6.36.060, including but not limited to prohibitions or limitations on storage of tires, bike parts, gasoline, generators, household furniture, or propane tanks, or combustible materials, including combustible waste. Additionally, open fires and improperly discarded hypodermic needles are prohibited.
- E. **Enforcement Penalties.** Pursuant to Section 6.36.070, failure to adhere to the ordinance provisions will first result in consideration of a warning, prior to issuance of a citation. The warning will be given in instances where the City staff member holds a reasonable belief that said warning would be effective in causing the person to come into compliance with the requirements of the Municipal Code. If a warning is believed to be ineffective, a citation with a monetary penalty of not more than \$20 would be issued. If an individual does not take reasonably prompt action to remove an encampment that violates the Code or if an individual is cited again within 30 days, they will be guilty of a misdemeanor.
- F. **Blocking of Sidewalks.** Most sidewalks in the City are insufficient width to allow for camping while maintaining full pedestrian access. The ordinance contains (in Section 6.36.040(b)(5)) provisions that allow for blocking of certain sidewalks, in areas where camping is not otherwise prohibited, between the hours allowed 8:00 p.m. to 8:00 a.m. to accommodate individuals who need to sleep and have no shelter. The regulations are structured such that enforcement of sidewalk blockages can occur if pedestrian access is not maintained on at least one side of the street.
- G. **Sleeping in Vehicles in the Public Right-of-Way.** The ordinance does not specifically address individuals who are sleeping in their vehicles on public streets. The City Council approved an ordinance related to this topic in 2016; however, the Coastal Commission did not certify the request. Thus, the ordinance is not currently in effect and is still pending with the Coastal Commission. Coordination with the Coastal Commission has resumed to discuss the approach for bringing that ordinance back before the Coastal Commission.

*Environmental Review.* The California Environmental Quality Act (CEQA) provides several “categorical exemptions” which are applicable to categories of projects and activities that the Natural Resource Agency has determined generally do not pose a risk of significant impacts on the environment. Section 15307 of the CEQA Guidelines “consists of actions taken by a regulatory agencies... to assure the maintenance, restoration, or enhancement of a natural resource where the regulatory process involves procedures for protection of the environment.” Section 15307 of the CEQA Guidelines “consists of actions taken by regulatory agencies... to assure the maintenance, restoration, enhancement, or protection of the environment where the regulatory process involves procedures for the protection of the environment.” The proposed ordinance is not anticipated to result in any construction, and provisions contained therein are expressly intended to protect natural resources and the environment. Furthermore, as beneficial rather than detrimental environmental effects are anticipated to result from the ordinance, the project is exempt under

Code of Regulations Section 15061(b), the “common sense exemption,” since it can be seen with certainty that no significant effect on the environment will occur. Therefore, the adoption of this ordinance is exempt from CEQA.

*Summary.* As the sample of efforts underway that were presented in the Background section illustrates, the City and County have myriad approaches that aim to support the unhoused population. The proposed ordinance changes included with this report are but one tool in this series of approaches. The proposed ordinance changes will not end homelessness. Many of the other efforts associated with the City’s and County’s approach seek to reduce the number of unhoused people in the City, and even with those efforts, unhoused people will continue to reside in the City. Instead, this ordinance seeks to address some of the behavioral, environmental, and quality of life issues that arise with the unsheltered population. As noted above, these issues can be exacerbated when individuals gather in large groups and remain in one location. Therefore, the proposed ordinance seeks to provide tools for addressing some of the negative effects of encampments while also ensuring that the unsheltered population can live outdoors, while abiding to known, reasonable standards. As described herein, the ordinance, along with the multitude of efforts undertaken by the City and County, balance the sometimes competing issues of compassionate responses, fiscal impacts, environmental effects, and quality of life for housed and unhoused individuals. If the Council passes the first reading of the subject ordinance for publication at this time, a second reading will be presented to the Council in two weeks, at which time, should the Council formally adopt that ordinance, it would take effect 30 days after that date. As noted herein, the daytime camping regulations would not be enforced until a day storage program is in effect. This ordinance will be regularly evaluated, and it is anticipated that proposed modifications will be presented to the Council from time to time as its implementation provides additional data and insights.

**FISCAL IMPACT:** As noted in various places within this report, the City spends considerable sums of money and very significant staff resources on efforts to address homelessness. While expenses and resource allocation will continue, the presence of an enforceable ordinance with explicit ground rules has the potential to reduce both staff time and direct expenses.

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**ATTACHMENTS:**

1. Draft Ordinance
2. Water Department Director's Source Water Protection Zone Map
3. Maps Depicting Areas Where Camping is Prohibited and Potentially Prohibited
4. Excerpt of City Council Minutes from February 25, 2020
5. CACH Safe Sleep Subcommittee's Comments from February 4, 2020