



**MEMORANDUM
COUNTY EXECUTIVE OFFICE
ADMINISTRATION**
County of Placer

TO: Honorable Board of Supervisors **DATE:** February 8, 2022
FROM: Todd Leopold, County Executive Officer
BY: Bekki Riggan, Deputy County Executive Officer
Sarah Poindexter, Management Analyst II
SUBJECT: Ordinance Repealing and Replacing Placer County Code Chapter 12, Article 12.26, Entitled "Camping and Personal Property Storage on County Property and Public Areas"

ACTION REQUESTED

Introduce and waive oral reading of an Ordinance repealing and replacing Placer County Code Chapter 12, Article 12.26, in its entirety regarding camping on county property.

BACKGROUND

On January 11, 2022, staff presented a proposed Ordinance to repeal and replace County Code Chapter 12, Article 12.26. The proposed Ordinance included an exemption for camping by necessity during the hours of 10p.m. – 7a.m. Your Board directed staff to revise the proposed Ordinance to include longer hours for the exemption given to those camping by necessity and to add an additional exemption for inclement weather. Furthermore, your Board directed staff to explore service alternatives during the hours when camping is prohibited.

Proposed Camping Ordinance

Due to concerns associated with the significant increase in camping on public lands, updating the county's camping laws consistent with recent case law is recommended to ensure the safety and well-being of the homeless community and preserve the rights of others to use public areas for their intended purposes. The purpose of this proposed ordinance is to avoid unsafe, unsanitary, and potentially disorderly conditions as well as the degradation or destruction of open spaces and facilities within the county.

Consistent with the 9th Circuit *Martin v. Boise* ruling and subsequent case law, the proposed ordinance would prohibit camping in county public places (as defined in the ordinance) except in the case of camping of necessity, defined when a jurisdiction cannot offer an alternative because every shelter in the local area is at capacity.

The proposed Ordinance would establish the following:

- It shall be unlawful for any person to camp, occupy camp facilities, use camp paraphernalia, or use public utilities on any County Public Property or Very High Fire

Severity Zone area in the unincorporated area of the county, except as otherwise provided in Section 12.26.060 (camping due to necessity).

- It shall be unlawful for any person to store personal property, including camp facilities and camp paraphernalia, on any County Public Property, unless authorized

The following rules will apply to persons deemed to be camping due to necessity:

- No person shall erect, configure, or construct any camp facilities in any public area from 7:00 a.m. to 7:00 p.m.
- All camping facilities and paraphernalia must be taken down and removed between 7:00 a.m. and 7:00 p.m.
- No camping facilities or paraphernalia may be stored on county public property during the hours of 7:00 a.m. and 7:00 p.m.

The above listed rules may not be enforced during rainfall, sleet, snow, or other adverse weather conditions as determined by the enforcement officer. Prior to any enforcement action, individuals who are camping on county property will be provided with information on available housing or shelter, including day center and gathering locations. Formal notice of the intent to remove the encampment will also be provided at least 48 hours in advance of any enforcement actions. Individuals occupying a camp facility at the time of enforcement will be permitted to retain their personal property, unless the items are deemed as an immediate threat to health or safety of the public or as evidence of a crime. If personal property is not retained at the time an encampment is removed, it will be stored for a maximum of 90 days.

Day Use Resources

Following your Board's direction, CEO staff worked with various county departments including Health and Human Services, the Sheriff's Office, Probation, Facilities Services, CDRA, and Library Services to discuss service alternatives available individuals during the day when camping is prohibited.

The following day resources were identified for those prohibited from camping:

1. Service Center

The Service Center will provide a specified location for unsheltered individuals to receive services on the Placer County Government Campus during daytime hours. Adults will be invited to check-in, temporarily store their belongings, learn more about and connect to services and housing options, take part in enriching activities, and come inside during inclement weather. Two existing sites on the Placer County Government Center campus have been identified as options to serve as a Service Center for up to 25 individuals at a time. Next steps include finalizing a location and identifying a contractor to operate the Center and monitor attendance.

2. Placer Re-Entry Program (PREP)

The Placer Re-Entry Program is hosted in two locations: 1). The Santucci Justice Center in Roseville, and 2). Highway 49 in Auburn, approximately 1.5 miles from the Placer County Government Center. The PREP centers are open Monday through Friday, 8:00 - 4:30 pm. Programs and services include case management support, employment and educational linkage services, referrals to community resources, enrollment in Medi-Cal, reduced fee/no fee CA ID vouchers to DMV, bus passes, etc.

Zoom and onsite classes include Anger Management, Courage to Change, Getting it Right, Moral Reconciliation Therapy, Moving Through Grief, Moving Beyond Co-Dependency, PC 1000-Diversion Program for Drug Offense, Seeking Safety, Theft Education, Wellness and Recovery, 52 Week Parenting and the 52 Week Batterers Treatment program. Additional services include the Northern California Construction Training Program (NCCT) located at the Auburn Fairgrounds, which can accommodate approximately 15 participants per training session and is open Monday through Friday, 7:00 – 3:30 pm. Participants receive training in a classroom setting as well as hands-on building experience in construction trades while working under the supervision of the instructor. Successful students may be offered the opportunity to join an apprenticeship program.

3. Probation Outreach Vehicle

The Probation Department affords numerous programs and services designed to assist homeless individuals. Most recently, the Probation Department has deployed the Probation Outreach Vehicle (POV) as a mobile probation office designed to bring court-related services to the homeless population throughout the county. Probation Officers work in collaboration with Health and Human Services Practitioners to provide POV office appointments near shelters and campsites throughout the community regardless of their probation/supervision status. These services are open to everyone and are free to participants.

4. Placer County Libraries

The Placer County Libraries provide another resource for support services during the day. The library offers services such as free Wi-Fi, computers, printers, photocopiers, and online resources, including practical tools to find jobs and build resumes. The library also offers books, magazines, and DVDs to borrow for entertainment and enrichment.

Staff anticipate that the Service Center will be operational in April 2022, consistent with anticipated timing for implementation of the Proposed Ordinance.

Honorable Board of Supervisors

February 8, 2022

Ordinance Repealing and Replacing Placer County Code Chapter 12, Article 12.26, Entitled
“Camping and Personal Property Storage on County Property and Public Areas”

Page 4

ENVIRONMENTAL IMPACT

The proposed action does not constitute a project under the California Environmental Quality Act (“CEQA”), and it can be seen with certainty that it will have no impact on the environment. Thus, this matter is exempt under CEQA under Sections 15060(c)(2) and 15060(c)(3) of the CEQA Guidelines.

FISCAL IMPACT

One-time costs not to exceed \$150,000 are anticipated for clean-up efforts on county owned property including debris removal, temporary storage, and signage will be funded with General Fund in lieu of The Coronavirus Aid, Relief, and Economic Security Act (CARES) dollars. Other avenues for reimbursement through state and/or federal grant funding for all proposed services will also be explored.

A homelessness coordination group comprised of multiple county departments has been convened by County Executive Office staff to develop an implementation plan for a service center. Service center operational costs are projected to be approximately \$30,000 per month. Staff will return to your Board for approval of expenditures associated with a service center once the implementation plan has been finalized.

ATTACHMENTS

Attachment 1 – Ordinance

Attachment 2 – Staff Report January 11, 2022

Before the Board of Supervisors County of Placer, State of California

In the matter of:

An ordinance repealing and replacing Placer County Code Chapter 12, Article 12.26 in its entirety regarding Camping and Personal Property on County Property and Public Areas

Ordinance No.: _____

Introduced: _____

The following Ordinance was duly passed by the Board of Supervisors of the County of Placer at a regular meeting held _____, 2022, by the following vote:

Ayes:

Noes:

Absent:

Signed and approved by me after its passage.

Chair, Board of Supervisors

Attest:

Clerk of said Board

WHEREAS, the County of Placer encourages the use of County-owned open spaces, buildings and facilities within the unincorporated area of the County by all members of the community; and

WHEREAS, camping in areas of the County not designated and permitted for the same can create unsanitary, unhealthy, disorderly and dangerous conditions that may affect both the campers and the general public; and

WHEREAS, camping in areas of the County not designated and permitted for the same tends to degrade or even destroy the property upon which the camping is occurring, particularly in situations where an encampment is large and ongoing; and

WHEREAS, camping in areas of the County where County facilities and buildings are intended for use by County employees and are open to the public has created concerns for the health and safety of the same; and

WHEREAS, the County has the authority to regulate to ensure the public's health, safety and general welfare and desires to regulate camping within the unincorporated areas of the County as designated and identified in this ordinance; and

WHEREAS, the Board of Supervisors must balance the need to recognize camping by necessity with the health, safety and welfare of its employees and the public utilizing the county buildings, facilities and open space to ensure an environment that serves, protects and maintains County facilities and services for the purpose they were established and to best serve the public's health, safety and general welfare.

NOW, THEREFORE, THE BOARD OF SUPERVISORS OF THE COUNTY OF PLACER ORDAINS AS FOLLOWS:

SECTION 1. Placer County Code Chapter 12, Article 12.26 is hereby repealed in its entirety and replaced with Placer County Code Chapter 12, Article 12.26 as set forth in Exhibit A, which is attached hereto and incorporated herein by reference.

SECTION 2. This ordinance shall take effect and be in full force thirty (30) days after the date of its passage. The Clerk is directed to publish this ordinance, or a summary thereof, within fifteen (15) days in accordance with Government Code section 25124.

Exhibit A

Article 12.26 CAMPING AND PERSONAL PROPERTY STORAGE ON COUNTY PROPERTY AND PUBLIC AREAS

12.26.010 Purpose.

This article is intended to protect the health, welfare, and safety by reserving county owned or controlled open spaces, facilities, buildings and utilities within the unincorporated area of the county for their intended purposes ("County Public Property"). County Public Property within the unincorporated area should be readily accessible and available to residents, county employees, citizens doing business in county buildings and the public at large. The use of these areas for camping purposes or storage of personal property interferes with the rights of others to use the areas for their intended purposes and is deleterious to public peace, health, safety and welfare. The use of these areas for camping obstructs the intended uses for the public at large, employees and citizens doing business in county buildings and facilities, contributes to blight and can cause damage to public property. This article is intended to avoid unsafe and potentially disorderly conditions, unsanitary and unhealthful conditions, and the degradation or destruction of County Public Property.

12.26.020 Definitions.

"Available shelter" shall mean beds or other accommodations made available to an indigent, homeless individual ("individual") on a temporary basis and at no cost to said individual. The term "available shelter" does not include the following: (1) shelter space where an individual cannot stay because the individual has exceeded a shelter's maximum stay rule or because shelter is unavailable due to the individual's gender; (2) shelter space that cannot reasonably accommodate the individual's mental or physical needs or disabilities; (3) shelter space that does not permit a minor child to be housed in the same facility with at least one parent or legal guardian, assuming the individual(s) seeking such shelter are at least one parent or legal guardian with a minor child; (4) shelter space for which an individual is required to attend or participate in religious activities or programs as a condition of utilizing the shelter space and declines to do so; and (5) shelter space in which the location is at capacity or where the individual does not otherwise satisfy the location's criteria for admission.

"Available shelter location" shall mean: (1) a hotel or motel room procured through a voucher; (2) a governmental, private, or non-profit facility that is an established and sanctioned emergency or homeless shelter that provides overnight or 24/7 beds or other accommodations; or (3) any other available shelter recognized by the County as suitable and safe location that provides beds or other accommodations that meet applicable state and local criteria. An established and sanctioned emergency or homeless shelter need not have a fixed location. The location may vary provided the overnight beds or other accommodations are authorized by the property owner. The county will maintain a current list of all such available shelter locations.

"Camp" or "Camping" shall mean residing in or using County Public Property for one or more nights for living accommodation purposes, such as sleeping activities or making preparations to sleep (including the laying down of bedding for the purpose of sleeping), or using any tents or storing personal belongings (including but not limited to clothing, sleeping bags, bedrolls, blankets, sheets, luggage, furniture, televisions, backpacks, kitchen utensils, cookware and similar material). These activities constitute camping when it reasonably appears, in light of all the circumstances, that a person is using County Public Property as a living accommodation for one or more nights by camping thereon. "Camping" includes, but is

not limited to, utilizing County Public Property and building entrances, alcoves, loading docks, stairs or other ingress/egress areas to County Public Property.

“Camping by necessity” shall mean there is no “available sheltering location”, as defined in this article, available for an indigent, homeless individual to stay at no charge.

“Camp facilities” shall mean, but are not limited to, tents, huts, boxes or similar temporary shelters consisting of any material with or without a top or roof or any other upper covering or that is otherwise enclosed by sides that is of sufficient size for a person to fit underneath or inside while sitting or lying down and may include the use of a tarp or other material tied or affixed to create an enclosed area.

“Camp paraphernalia” shall mean but is not limited to tarpaulins, cots, beds, sleeping bags, hammocks, recliners, couches, furniture, lawn chairs, and similar equipment.

“County Public Property” shall mean any facility, building, utility, landscaped area or open space located in the unincorporated area of the county, whether improved or unimproved, including, but not limited to, any of the following: public alleyways, public parking lots; public passageways; public streets; public rights-of-way; park playgrounds; freeway on-ramps and off-ramps; publicly owned, maintained or operated parks; publicly owned, maintained, or operated landscaped areas or greenbelts; publicly owned fences, benches, trees, light poles, or equipment boxes; publicly owned, maintained, or operated open spaces; county owned or leased buildings including but not limited to surrounding parking and landscaped areas and all entries, breezeways, alleyways, loading docks, pedestrian pathways adjacent to or leading up to and into the buildings; public sidewalks, curbs, and gutters; public educational institutions, public libraries; or other county owned, maintained, or operated properties located within the unincorporated area of the county. County Public Property shall include, but not be limited to, the Placer County Government Center, the Placer County Auburn Library, the Placer County Administrative Center, the Placer County Sunset facility, the Placer County Tahoe office, the Placer County Atherton facility, Cirby Hills Drive, Dry Creek Open Space, county-owned public parks and playgrounds, the Hidden Falls Regional Park, and Dollar Creek Trailhead.

“Critical infrastructure” shall mean real property or a facility, whether privately or publicly owned, that the county executive officer designates as being vital and integral to the operation or functioning of the county or in need of protection that its damage, incapacity, disruption, or destruction would have a debilitating impact on the public health, safety, or welfare. Critical infrastructure may include, but is not limited to, county buildings that are open and do business with the public; fire stations, police stations, jails, court houses or hospitals; bridges, roads, sidewalks, train tracks, drainage systems or levees; or water sources.

“Enforcement official” shall mean as set forth in Section 12.26.100.

“Landscaped area” shall mean any manicured or natural ground covered areas including but not limited to flower beds, bushes, brush areas, or shrubs.

“Personal property” shall mean any tangible property and includes, but is not limited to, goods, materials, merchandise, tents, tarpaulins, bedding, blankets, sleeping bags, recliners, couches, lawn chairs, personal items such as household items, luggage, backpacks, clothing, food, documents and medication.

“Public utilities” shall mean any outdoor water, sewer, or electrical outlets or fixtures on county owned, maintained or operated properties located within the unincorporated area of the county that are not designated for public use.

“Store” shall mean to put aside or accumulate for use when needed, to put for safekeeping, to place or leave in a location.

“Very High Fire Severity Zones” shall mean mapped areas as defined by the Office of State Fire Marshal that designates zones (based on factors such as fuel, slope, and fire weather) with varying degrees of fire hazard (i.e., moderate, high and very high).

12.26.030 Unlawful camping.

It shall be unlawful for any person to camp, occupy camp facilities, use camp paraphernalia, or use public utilities on any County Public Property or Very High Fire Severity Zone area in the unincorporated area of the county, except as otherwise provided in Section 12.26.060; or as authorized through a county camping permit for a permitted county owned or maintained campground; or as authorized or mandated by applicable law or other county code. It is a violation of this section to set up provisions for the purpose of camping whether or not a full night is actually spent at the location.

County Public Property need not have signs posted to enforce this article. For larger County Public Property locations and campuses, the county will take reasonable steps to install signs to provide notice of this article at main vehicle and pedestrian entrances. Said signs are intended for general information to the public and will not substitute for noticing required pursuant to Section 12.26.080.

12.26.040 Storage of personal property on public property.

It shall be unlawful for any person to store personal property, including camp facilities and camp paraphernalia, on any County Public Property, except as otherwise provided herein, authorized through a county camping permit for a permitted county owned or maintained campground or as mandated by applicable law or county code.

12.26.050 Offer of housing, shelter and services.

Prior to directing a person to remove camp facilities or camp paraphernalia or prior to removing the camp facilities, the enforcement officer or designee shall offer information to the occupant(s) regarding any available shelter and available shelter location and other health and human services programs that said enforcement official, or designee reasonably believes are relevant to the occupant(s) and their individual circumstances. The enforcement officer or designee will also provide information on sanctioned day use or gathering locations in the area. A list of the same will be posted at locations where homeless, indigent individuals will reasonably see the information.

12.26.060 Exemption for necessity.

The provisions of this article shall not apply to any individual camping by necessity as defined in this article.

If an individual is camping by necessity, the following criteria for safe camping shall apply:

- (a) No person shall erect, configure, or construct any camp facilities in any public area from 7:00 a.m. to 7:00 p.m. A person must take down, fold and completely remove any camp facilities and camp paraphernalia stored, erected, configured, or constructed on any public property between the hours of 7:00 a.m. and 7:00 p.m. No camping

facilities or paraphernalia shall be stored on County Public Property during the hours of 7:00 a.m. and 7:00 p.m.

- (b) At no time shall any person obstruct access to a street, sidewalk, park playground, public utility, public property or other public right-of-way open for pedestrian travel or governmental use:
 - 1. By sitting, lying or sleeping, or by storing, using, maintaining or placing personal property in a manner that does not allow for passage as required by the Americans with Disabilities Act of 1990, as amended from time to time; or
 - 2. By sitting, lying or sleeping, or by storing, using, maintaining or placing personal property within fifty (50) feet of any operational or utilizable, entrance, exit, driveway or loading dock; or
 - 3. By creating any barrier with string, wire, rope or chain, or other attachments or appurtenances upon county owned buildings, trees, light poles, fences, equipment, or other public facilities or structures.
- (c) The use of public utilities not designated for public use is prohibited.
- (d) The use of public buildings for camping is prohibited unless designated by the County as an available shelter location.

Subsection (a) may not be enforced during rainfall, sleet or snow or other adverse weather condition as determined by the enforcement officer unless an unsafe or dangerous condition, as determined by the enforcement officer, necessitates enforcement.

Nothing in this section excuses an indigent homeless individual from complying at all times with the following provisions of county code, as may be amended, and the enforcement official from enforcing the same:

County Code Chapter 6, Article 6.08, Section 6.08.010 Violations of Animal Control Regulations Generally

County Code Chapter 8, Article 8.16, Section 8.16.150 - Littering

County Code Chapter 9, Article 9.08, Section 9.08.010 - Possession or Consumption of Alcoholic Beverages in Designated Areas Prohibited

County Code Chapter 9, Article 9.40 - Urinating or Defecating in Public Places

County Code Chapter 12, Article 12.26, Section 12.26.030(B) – Fires in Public Areas Prohibited

12.26.070 Other exemptions.

The provisions of this article shall not apply in the event of an emergency reasonably affecting the person who is attempting to camp , including a county declared emergency or natural disaster, such as a fire or earthquake, nor to camping in public areas legally established and clearly designated for camping purposes, nor to any employee of the county or any public utility or governmental agency who is required to enter or be in said areas in the course of their employment.

12.26.080 Notices.

The enforcement official shall provide occupants of a camp facility notice of intent to remove the encampment at least forty-eight (48) hours in advance of any action to remove the camp facility for a violation of Sections 12.26.030 and/or 12.26.040. Notice shall be in writing and shall be served personally on the occupant(s) of the camp facility that are present when the enforcement officer attempts to serve notice. In addition, the enforcement officer shall post the notice on or near the camp facility, so as to reasonably communicate the notice to persons living at the camp facility but not present during the attempt to serve notice. The notice shall contain the following information:

- (a) The location of the camp facility;
- (b) The date and time notice was served or posted;
- (c) A statement that the camp facility violates this article;
- (d) An advisement that the county will remove the camp facility within forty-eight (48) hours after the date and time of the notice;
- (e) Information about any available shelter and available shelter location, as defined in this article; housing or shelter and homeless services available and day use and gathering locations for occupants of the camp facility and the phone number and address to contact in order to obtain the housing or shelter or other health and human services;
- (f) An advisement that any personal property remaining at the camp facility site when the enforcement officer returns to remove the camp facility will be impounded for no fewer than ninety (90) days and will be discarded thereafter if not claimed; and
- (g) The address, phone number and operating hours of the location where the personal property will be stored and may be retrieved and that the county will charge no fee for storage or retrieval.

12.26.090 Personal property.

A person occupying a camp facility who is present at the time the enforcing officer is removing the camp facility may retain their personal property except those items constituting an immediate threat to the health or safety of the public or items that constitute evidence of a crime or contraband may be seized, as permitted by law.

Any personal property seized shall be stored for no less than ninety (90) days, with the following exceptions:

- (a) Items that present a health or safety risk if stored, such as items soiled by bodily fluids, items that are moldy, items infested by insects or vermin, perishable items and food, need not be stored and may be discarded;
- (b) Open alcohol containers; and
- (c) Items that constitute evidence of a crime or contraband may be seized and/or discarded, as permitted by law.

Notices provided pursuant to Section 12.26.080 will include notification that personal property not retrieved within the ninety (90) day period will be considered abandoned and the county may dispose of the same without further notice.

12.26.100 Enforcement official.

This article may be enforced by the: (1) code enforcement officer(s); (2) county sheriff; (3) facilities management director or designees; (4) parks and open space director or designees; or in the case of a Very High Fire Hazard Zone, the county fire marshal. The county executive officer may issue regulations or guidelines necessary or appropriate to aid in the enforcement and implementation of this article and may create any additional procedures consistent with this article and state law necessary or appropriate to protect the property rights of individuals whose property is taken into custody pursuant to this article.

12.26.110 Penalties.

Violations of this article are subject to County Code Chapter 1, Article 1.24, Section 1.24.010.

12.26.120 Severability.

The provisions of this article are declared to be separated and severable. The invalidity of any clause, phrase, sentence, paragraph, subdivision, section or portion of this article, or the invalidity of the application thereof to any person or circumstance shall not affect the validity of the remainder of this article, or the validity of its application to other persons or circumstances.



**MEMORANDUM
COUNTY EXECUTIVE OFFICE
ADMINISTRATION
County of Placer**

TO: Honorable Board of Supervisors **DATE:** January 11, 2022
FROM: Todd Leopold, County Executive Officer
BY: Bekki Riggan, Deputy County Executive Officer
Sarah Poindexter, Management Analyst II
SUBJECT: Ordinance Repealing and Replacing Placer County Code Chapter 12, Article 12.26, Entitled "Camping and Personal Property Storage on County Property and Public Areas"

ACTION REQUESTED

Introduce and waive oral reading of an Ordinance repealing and replacing Placer County Code Chapter 12, Article 12.26, in its entirety regarding camping on county property.

BACKGROUND

Camping on public lands outside of areas specifically designed and designated for those purposes can create health and safety risks, not only for persons engaged in the camping but also for all persons encountering the sometimes unsanitary and disorderly environment in burgeoning, makeshift camps. Further, camping may interfere with the intended purposes of public areas and with important federal regulations requiring a clear path of travel on sidewalks under the Americans with Disabilities Act.

On July 7, 2015, your Board approved an Ordinance establishing County Code Chapter 12, Article 12.26 which regulated camping and personal property storage on county property and public places to balance the needs of homeless individuals with the rights of others in the community. However, subsequent changes in state law, along with recent case law, have posed challenges in enforcement of this Code.

Legal Background on Camping Ordinances

The Ninth Circuit case of *Martin v. City of Boise*, (2018) was brought by a group of homeless individuals in *Boise* who were cited for violating the City's camping ordinance along with its disorderly conduct ordinance. Plaintiffs alleged these citations violated the Cruel and Unusual Punishments Clause of the Eighth Amendment. The Circuit Court held that local governments are prohibited from criminalizing homelessness, that jurisdictions must allow individuals to sleep on public property when no other shelter is available to them, and that prosecution under these circumstances violated the cruel and unusual clause of the Eighth Amendment.

The Court also made clear their ruling did not apply to individuals who refuse free shelter when offered realistic access, and that, in some circumstances, jurisdictions can criminalize sleeping outside at certain times or in certain locations. A key consideration in the *Boise* case pertained

to the lack of available beds in the City's homeless shelters at the time the citations were issued. The Ninth Circuit held that "so long as there is a greater number of homeless individuals in [a jurisdiction] than the number of available beds [in shelters]," the jurisdiction cannot prosecute homeless individuals for "involuntarily sitting, lying, and sleeping in public." The *Boise* court concluded that if there is no suitable option for sleeping indoors, the government cannot criminalize indigent, homeless people for sleeping outdoors, on public property, on the false premise they had a choice in the matter. The court further held that the government cannot punish someone's status as being homeless if they have nowhere else to go. As a result of the *Boise* decision, the County cannot criminally cite or arrest a person for a condition of homelessness (such as sleeping, eating, and/or living in public spaces), unless it can demonstrate the individual subject to citation refused housing available to them.

Subsequent case law provides guidance on what jurisdictions can regulate. For example, Boise does not "establish a constitutional right to occupy public property indefinitely at Plaintiffs' option" (*Winslow v. City of Oakland*, 2020 WL 1031759 (N.D. Calif.)). Courts have also authorized the clearing of homeless encampments, particularly with policies providing adequate notice, offering of shelter beds, and storage of property. The policies must also address the Fourteenth Amendment right that homeless have to their property. In 2019, the Court allowed the City of Oakland to clean and clear a park provided it complies with stated policies including providing a notice to vacate, offering shelter beds, and storage of any property.

The legal challenges to camping ordinances and the disposal of articles in disbanded homeless encampments, as well as court rulings on these issues, continue to evolve. Jurisdictions around the state differ in their responses. Some jurisdictions are not enforcing camping ordinances, while others are enacting camping ordinances that attempt to align with the holding of *Boise* and other recent cases. Staff is recommending the latter approach with the proposed ordinance before you for consideration.

County Ordinances

It should be noted that there are other ordinances in County Code that are not impacted by the *Boise* decision and can continue to be enforced to ensure the health, safety and welfare of the public in and around the homeless encampments:

County Code Chapter 8, Article 8.16

8.16.150 Littering.

A. It is unlawful to litter or cause to be littered, or dump or cause to be dumped any waste matter in or upon any public or private highway or road, including any portion of the right-of-way thereof, or in or upon any private property into or upon which the public is admitted by easement or license or upon any private property without the consent of the owner, or in or upon any public park or other public property other than property designated or set aside for such purpose by the governing board or body having charge thereof.

County Code Chapter 9, Article 9.08 Possession or Consumption of Alcoholic Beverages in Designated Areas Prohibited.

Any person consuming any alcoholic beverage or possessing any can, bottle, or other receptacle containing any alcoholic beverage which has been opened, or a seal broken, or the contents of which has been opened, or a seal broken, or the contents of which has been partially removed in the following designated areas shall be guilty of an infraction.

*County Code Chapter 9, Article 9.40 Urinating or Defecating in Public Places
9.40.010 Acts Prohibited.*

No person shall deposit, by means of urination or defecation, any human waste material in any public place (other than in a public toilet or restroom designed to receive waste material), in any place exposed to public view, or upon the surface of the ground or upon any premises, lot, or public street.

*County Code Chapter 12, Article 12.26
12.26.030 Prohibitions...*

B. Fires in Public Areas Prohibited—Penalties.

1. It is unlawful for any person to start, maintain, or use a campfire, warming fire, or other similar open flame within the boundary of any county property or public area unless prior written permission is granted by the enforcement official.
2. Violations of this section shall be punishable pursuant to Section 1.24.010 of the Placer County Code.

Regional Homelessness Action Plan

As your Board is aware, an Ad Hoc committee from the County and municipalities, excluding the Tahoe region, have been working diligently on a Regional Homelessness Action Plan since August 2021. The initial phase of the planning effort (data collection and review, and preliminary recommendations) was concluded in December, and consultants and staff are working on a summary of those discussions. Staff in all jurisdictions are planning public outreach sessions to share information gained through this process and to solicit valuable input from constituents and are scheduling presentations to their respective Board and City/Town Councils in February/March 2022. One of the early recommendations discussed by Ad Hoc committee members, was that each jurisdiction develop compatible camping ordinances grounded in recent state and case law for a unified and consistent approach to addressing health and safety issues that camping creates across Placer County.

Proposed Camping Ordinance

Due to concerns associated with the significant increase in camping on public lands, updating the County's camping laws is recommended by staff to ensure the safety and well-being of the homeless community and preserve the rights of others to use public areas for their intended purposes. The purpose of this proposed ordinance is to avoid unsafe, unsanitary, and

potentially disorderly conditions as well as the degradation or destruction of open spaces and facilities within the County.

In compliance with the *Boise* decision, the proposed ordinance would prohibit camping in county public places (as defined in the ordinance) except in the case of camping of necessity, defined when a jurisdiction cannot offer an alternative because every shelter in the local area is at capacity.

The proposed ordinance would establish the following:

- It shall be unlawful for any person to camp, occupy camp facilities, use camp paraphernalia, or use public utilities on any County Public Property or Very High Fire Severity Zone area in the unincorporated area of the county, except as otherwise provided in Section 12.26.060 (camping due to necessity).
- It shall be unlawful for any person to store personal property, including camp facilities and camp paraphernalia, on any County Public Property.

The following rules will apply to persons deemed to be camping due to necessity:

- No person shall erect, configure, or construct any camp facilities in any public area from 7:00 a.m. to 10:00 p.m.
- A person must take down, fold and completely remove any camp facilities and camp paraphernalia stored, erected, configured, or constructed on any public property between the hours of 7:00 a.m. and 10:00 p.m.
- No camping facilities or paraphernalia shall be stored on County Public Property during the hours of 7:00 a.m. and 10:00 p.m.

Prior to any enforcement action, individuals who are camping on county property will be provided with information on available housing or shelter. Formal notice of the intent to remove the encampment will also be provided at least 48 hours in advance of any enforcement actions. Individuals occupying a camp facility at the time of enforcement will be permitted to retain their personal property, unless the items are deemed as an immediate threat to health or safety of the public or as evidence of a crime. If personal property is not retained at the time an encampment is removed, it will be stored for a maximum of 90 days.

Should your Board adopt the proposed camping Ordinance, a comprehensive implementation plan will be developed. Staff from County Executive Office and County Counsel will coordinate with the District Attorney's Office, the Sheriff's Office, Code Enforcement, Facilities Services, Health and Human Services, and other County Departments to develop operational policies consistent with recent case law, to ensure proper noticing and property storage requirements are in place.

ENVIRONMENTAL IMPACT

The proposed action does not constitute a project under the California Environmental Quality Act (“CEQA”), and it can be seen with certainty that it will have no impact on the environment. Thus, this matter is exempt under CEQA under Sections 15060(c)(2) and 15060(c)(3) of the CEQA Guidelines.

FISCAL IMPACT

It is projected that the fiscal impact resulting from adoption of this Ordinance will not exceed \$110,000. Anticipated one-time costs for clean-up efforts on county owned property including debris removal, temporary storage, and signage will be funded with General Fund in lieu of The Coronavirus Aid, Relief, and Economic Security Act (CARES) dollars. Other avenues for reimbursement through state and/or federal grant funding will also be explored.

ATTACHMENTS

Attachment 1 - Ordinance

