

**ORDINANCE NO. .**

**BOARD OF SUPERVISORS, COUNTY OF SAN MATEO, STATE OF CALIFORNIA**

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**AN ORDINANCE ADOPTING A NEW CHAPTER [ ] OF TITLE [ ] OF THE SAN MATEO COUNTY ORDINANCE CODE TO REGULATE ENCAMPMENTS ON PUBLIC PROPERTY IN THE UNINCORPORATED AREAS OF THE COUNTY**

The Board of Supervisors of the County of San Mateo, State of California, **ORDAINS** as follows:

**SECTION 1. Findings.**

The Board of Supervisors finds and determines that:

- (a)

**SECTION 2.** A new Chapter [ ] is hereby adopted to be numbered and entitled and to read as follows:

**Chapter [ ] – Restrictions on Encampments on Public Property.**

**[ ] .100 - Definitions.**

- (a) “Encampment” means any tent, makeshift structure, or accumulation of belongings in a place not meant for human habitation, belonging to at least one person, where the person or people plan to stay in one location continuously with no definite plans to move.
- (b) “Exigent Circumstances” means there are facts and circumstances that would cause a reasonable person to believe that, for the benefit of public safety and welfare, an Encampment needs to be urgently removed with less than twenty-four hours’ notice. ~~Exigent Circumstances This definition includes, but are~~ not limited to, increased fire risk, obstructing or interfering with the flow of pedestrian or vehicular traffic, blocking access to a parking lot of a building, or outbreak of a communicable or contagious disease.
- (c) “Personal Effects” means personal property consisting of any of the following items:

1. Identification/Social Security cards;

2. Medications, medical devices, eyeglasses;
  3. Photos/photo albums;
  4. Tax/medical records;
  5. Nonperishable food items; and
  6. Reasonably usable, not overly soiled, nonverminous items that reasonably appear to have value to persons experiencing homelessness, including tents, sleeping bags, clothes, and functional bicycles.
- (d) “Qualifying Disability” means a physical or mental disability that prevents the person suffering from such disability from being able to, on a daily basis, break down deconstruct and put away an Encampment.
- (e) “Shelter Location” means a public or private facility, with available space, including a bed, for an indigent, homeless individual to stay for at least 12 hours at no charge to indigent homeless individuals. ~~Shelter Location This definition~~ does not include any of the following: (a) shelter space where an individual cannot stay because the individual has exceeded a shelter’s maximum stay rule; (b) shelter space that cannot reasonably accommodate the individual’s mental or physical needs or disabilities; (c) shelter space that does not permit a minor child to be housed in the same facility with at least one parent or legal guardian; (d) 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; (e) shelter space that is unavailable due to the individual’s gender, religious affiliation, criminal convictions, or pet(s).

**[ .110 – Intent.**

The intent of this Chapter is to preserve the health, safety, and welfare of the inhabitants of San Mateo County, including individuals experiencing homelessness. This chapter addresses issues such as fire risk, unsanitary conditions, public safety hazards, and environmental degradation associated with unregulated encampments in the County. To that end, this chapter generally prohibits the establishment of unregulated encampments on public property when there is an available Shelter Location, as defined herein.

**[ .120 Encampment Prohibitions.**

- (a) Except where expressly authorized by [ ], when there is an available Shelter Location for a person, it is unlawful and a public nuisance for that person to place, erect, configure, construct, maintain, or store an Encampment on public property anywhere in the unincorporated area of the County of San Mateo.
- (b) Subsection (a) shall not be enforced against any indigent homeless person unless there is an available Shelter Location that is promptly available and offered to that person found in violation of subsection (a).

**[ .130 – County Executive Authority To Promulgate Regulations.**

The County Executive is authorized to establish standard procedures, forms, or administrative regulations that are consistent with this chapter in order to implement this Chapter.

**[ .140 – Permitted Encampments.**

Encampments are permitted on public property in the unincorporated area of the County of San Mateo under the following circumstances:

- (a) In public areas that the County has specifically set aside or clearly marked for public camping.
- (b) Where the individuals engaging in the Encampments have received valid permits from the County.

**[ .150 – Penalties For Violations.**

- (a) Any person that has violated or is in violation of this Chapter shall be given a verbal or written warning prior to an infraction citation being issued. The warning shall provide the person with information about available Shelter Locations.
- (b) If a person violates this Chapter, that person is guilty of an infraction. The fine for such an infraction shall not exceed [ ].
- (c) If, after receiving an infraction citation, a person who is in violation of this Chapter fails or refuses to comply with this Chapter, then that person is guilty of a misdemeanor.
- (d) Any person who violates any section of this Chapter and received an infraction citation for such violation, and who, between one and thirty days from receiving

such infraction citation, again violates this Chapter or is still violating this Chapter, is guilty of a misdemeanor.

- (e) If a misdemeanor arrest is permitted under this Chapter, the arresting officer shall be permitted to seize and store the Personal Effects of the person arrested if necessary to prevent items from being stolen, damages and/or if deemed necessary to prevent the immediate reestablishment of an Encampment that violates this Chapter.
- (f) Any person guilty of a misdemeanor violation under this Chapter shall be entitled to participate in any appropriate diversion programs offered by the Superior Court.

[ **.160 – Property Removal and Storage.**

- (a) The establishment of an Encampment that is contrary to this Chapter is declared a public nuisance, and appropriate County representatives are authorized to remove any such Encampment after providing reasonable notice and complying with the Shelter Location requirements set forth in this Chapter. Unless a seizure of property and arrest occur related to a misdemeanor violation, or unless Exigent Circumstances exist, at least 24-hours' written notice shall be given before the County removes property belonging to anyone found to be in violation of this Chapter.
- (b) Personal property that poses an imminent threat to public safety or health, is contraband, is evidence of a crime, is obstructing or interfering with the flow of pedestrian or vehicular traffic, and/or is blocking access to a parking lot of a building shall not be subject to the above-described notice requirements and may be promptly removed by appropriate County staff representatives, pursuant to ~~in accordance with the law.~~
- (c) When neither Exigent Circumstances nor the circumstances described in [ .150(b) exist, prior to removing an Encampment found to be in violation of this Chapter, a written notice with the following content shall be provided to the person violating this chapter:
  - 1. The date and time of written notice;
  - 2. The location of the notice;
  - 3. The following statement: "Persons in this area must vacate and remove all belongings on or before: [insert date and time to vacate]. The County will clean this site on or after the time and date specified above.

Unaccompanied items are subject to removal and may be discarded or destroyed.”

4. A phone number and a physical address for property-related inquiries and for other questions or concerns.
- (d) After the notice period has expired, at the time of removal of any Personal Effects from an Encampment, County representatives shall conspicuously post a dated notice, nearby where Personal Effects were removed, with the following information:
1. A statement that Personal Effects were removed;
  2. A telephone number for information on retrieving Personal Effects;
  3. An address where the Personal Effects are temporarily stored;
  4. That Personal Effects will be stored for ninety days.

The posting of notice required under this section shall not apply if removal of property is conducted pursuant to section [ ].150(e) and the arresting officer has reason to believe that all items belong to the individual(s) being arrested. In such cases, the individual(s) being arrested shall be provided with written notification of where their items are being stored and how to retrieve them at a later date.

- (e) Following removal of any Personal Effects, County representatives shall place the removed Personal Effects in containers labeled in a manner facilitating identification by County representatives and the owner and which reasonably protect such property from damage or theft.
- (f) Personal Effects stored by the County which are claimed within ninety days from removal shall be released to the person claiming ownership providing they provide reasonable evidence of ownership, including, for example, identifying the property and the approximate location where the property was left.
- (g) Personal Effects that remain unclaimed after ninety days may be discarded, recycled, dedicated for public use, or given to a nonprofit agency for charitable use.
- (h) Where the County has a reasonable basis to believe that an Encampment has been abandoned and is not occupied, the County may promptly remove any items that reasonably appear to be garbage. For items that do not reasonably appear to be garbage, the County may post a written “notice of apparently abandoned property” which notifies potentially interested parties that the County

believes the site to be abandoned and will discard unclaimed items in no fewer than seventy-two hours. In these circumstances, the County shall have no obligation to attempt to identify, remove, and/or store Personal Effects. If unattended items remain at an apparently abandoned site after a notice period of seventy-two hours or greater, the County may discard, recycle, or donate items that remain.

[ **.160 Interpretation of Chapter.**

- (a) If any section, subsection, sentence, clause, or phrase of this Chapter is for any reason held to be invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Chapter. The Board of Supervisors declares that it would have adopted this Chapter section, and each and every section, subsection, sentence, clause, and phrase thereof not declared invalid or unconstitutional, without regard to whether any portion of this ordinance would be subsequently declared invalid or unconstitutional.
- (b) Nothing in this Chapter shall be interpreted or applied so as to create any requirement, power, or duty in conflict with any federal or state law.
- (c) Nothing in this chapter shall be interpreted as excusing any individual from complying with other provisions of the County's Ordinance Code.

**SOURCES**

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1. [ ]