



INTRODUCTION OF AMENDMENTS TO SONOMA COUNTY CODE SECTION 19-15

Limiting the Prohibition of Camping on Public Property to Specific Times and Locations

Sonoma County Board of Supervisors, July 12, 2022

Agenda

1. Introduction
2. Summary
3. Background
4. Need for Amendments under *Martin v. City of Boise*
5. Approaches Adopted by Other Jurisdictions
6. Summary of Proposed Amendments
7. Recommended Actions
8. Questions & Comment



Introduction

- Staff recommends that your Board adopt the proposed amendments to Section 19-15 of the Sonoma County Code so that the County's camping laws conform to recent court decisions that limit local jurisdictions' ability to enforce laws regarding public camping unless certain requirements are met.
- With the adoption of the recommended action for this Item, the amendments to Section 19-15 would further define public property, where camping on public property is prohibited *at all times*, and the hours of the day that public camping is allowed in other areas of public property.
- The proposed amendments balance the legal rights of unhoused individuals to have a place to sleep when there is no shelter otherwise available for those individuals with the need to regulate the growth and duration of large encampments for the overall health and safety of the community at large.



Summary

- The legal challenges to public camping ordinances and the solutions for legally addressing growing homeless encampments continue to evolve.
- Jurisdictions around the state differ in their responses.
- Some jurisdictions are not enforcing camping ordinances or tying enforcement to shelter availability, while others are enacting camping ordinances that attempt to align with recent legal cases.
- Staff is recommending the latter approach with the proposed ordinance before you for consideration. By doing so, this would bring the ordinance in line with *Martin v. City of Boise* by recognizing the fundamental right for unsheltered individuals to sleep where shelter is not otherwise available, while maintaining the County's ability to prohibit prolonged occupation of public property, large accumulation of items and debris, and the establishment of large-scale encampments.
- Proposed amendments include (1) prohibition of camping on or near certain types of properties that are particularly sensitive or inconsistent with such use and (2) limiting public camping to 9:00 p.m. to 7:00 a.m. in the remaining areas of public property.



Background – Existing Restrictions on Public Camping

- Sonoma County Code Section 19-15 generally prohibits overnight camping on public property at any time and at any place.
 - Generally applicable to County owned property and public property throughout unincorporated Sonoma County
 - As currently written, Section 19-15 states:
“(b) Camping on Public Property Prohibited. It shall be unlawful for any person or persons to camp in any public park, on any public street or on any other public property, except in a designated public campground or by authority of a written permit issued by the county.”
- Sonoma County Code Section 20-25 specifically prohibits camping in Sonoma County Regional Parks except for in designated areas with a permit
- Sonoma County Code Section 20-40 prohibits camping on County-controlled property except for those areas designated for camping.
- Since the *Martin* decision, the County does not enforce Section 19-15 or 20-25 unless the County has provided advance notice, opportunities for outreach and assessment, offers of adequate shelter, and storage of property prior to clearing an encampment (absent immediate health or safety concerns).



Martin v. City of Boise Decision

- The Ninth Circuit case of *Martin v. City of Boise* was brought by a group of homeless individuals in Boise who were cited for violating the City's camping ordinance and disorderly conduct ordinance. Plaintiffs alleged these citations violated the Cruel and Unusual Punishments Clause of the Eighth Amendment.
- The Ninth Circuit's April 2019 decision recognized that the Eighth Amendment prohibits the government from criminalizing an involuntary act or condition if it is an unavoidable consequence of being homeless. In *Martin*, this rule was applied to anti-camping laws that prohibit sitting, lying, or sleeping on public land.
- The Ninth Circuit Court of Appeals stated its holding as follows: "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. That is, as long as there is no option of 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." *Martin v. City of Boise*, 920 F.3d 584, 617 (9th Cir. 2019).
- The Court in *Martin* qualified its holding as "a narrow one" and stated, "we in no way dictate to the City that it must provide sufficient shelter for the homeless, or allow anyone who wishes to sit, lie, or sleep on the streets ... at any time and at any place." *Id.*



Martin v. City of Boise Decision

- As a result of the *Martin* decision, the County cannot criminally cite or arrest a person for a condition of homelessness (such as sleeping or camping in public spaces), unless it can demonstrate the individual subject to citation or arrest was first offered shelter or otherwise had alternative housing available to them.
- The *Martin* decision outlined some general types of enforcement actions that are still legally permissible even without providing adequate shelter.
 - First, individuals who decline an offer of shelter, or reasonably have access to or the means to acquire shelter are not shielded from enforcement.
 - Second, the County may continue to enforce rules against obstruction of public rights of way (streets and sidewalks) or the erection of certain kinds of structures.
 - Third, “even where shelter is unavailable, an ordinance prohibiting sitting, lying, or sleeping outside at particular times or in particular locations might well be constitutionally permissible.”
Martin at 617, fn. 8.
- The key is whether the local regulation “punishes a person for lacking the means to live out the ‘universal and unavoidable consequences of being human’ in the way the ordinance prescribes.” *Id.*



Approaches Adopted by Other Jurisdictions

- Eliminate local restrictions on public camping
- Prohibit enforcement of public camping ordinance unless there is sufficient shelter space is available
- Impose restrictions on types of structures erected on public property or type of camping materials allowed
- Permit public camping only in specified areas
- Impose only geographic restrictions on public camping
- Impose only time restrictions on public camping
- Impose both reasonable time and place restrictions on public camping



Summary of Proposed Amendments

The following is a list of the proposed amendments to bring the County's existing camping ordinances into compliance with current law under *Martin v. City of Boise* while still providing the County with the necessary legal options to address encampments when they become a health and safety concern:

1. Impose time limitation on enforcement

- As amended, Section 19-15 would prohibit camping on public property daily between the hours of 7:00 a.m. to 9:00 p.m.
- By doing so, this would bring the ordinance in line with *Martin v. City of Boise* by recognizing the fundamental right for unsheltered individuals who have no other place to sleep, while maintaining the County's ability to prohibit prolonged occupation of public property, large accumulation of items and debris, and the establishment of large encampments.



Summary of Proposed Amendments

(Continued)

2. **Impose complete prohibition on camping on or near certain types of properties that are particularly sensitive or inconsistent with such use:**
 - a. Inside public buildings;
 - b. Within 100 feet of a residence or residential zoning district;
 - c. Within 100 feet of a playground, school, daycare, or other licensed childcare facility;
 - d. Within 150 feet of the high water mark of the waters of the state as defined by subdivision (e) of California Water Code § 13050;
 - e. Within a “Very High Fire Severity Zone”;
 - f. Within any County park (i.e., leave existing Section 20-25 unchanged);
 - g. Within any public highway, road, or street; and
 - h. Within any public right-of-way, where the camping obstructs the free passage of persons, bicycles, or vehicles.



Recommended Actions

- (A) Conduct a public hearing and consider whether to adopt an ordinance amending Section 19-15 of the Sonoma County Code to limit the prohibition of camping on public property to certain times and locations as set forth in Agenda Attachment A.
- (B) Adopt Resolution introducing, reading the title of, and waiving further reading of the proposed ordinance amending Section 19-15 of the County Code to limit prohibitions on public camping to certain times and locations as set forth in Agenda Attachment B



Comments & Questions

