



COUNTY OF SAN DIEGO

AGENDA ITEM

BOARD OF SUPERVISORS

VACANT
First District

JOEL ANDERSON
Second District

TERRA LAWSON-REMER
Third District

MONICA MONTGOMERY STEPPE
Fourth District

JIM DESMOND
Fifth District

DATE: March 11, 2025

13

TO: Board of Supervisors

SUBJECT

ESTABLISHING AN UNSAFE CAMPING ORDINANCE IN SAN DIEGO COUNTY TO PREVENT WILDFIRE HAZARDS AND ENSURE PUBLIC SAFETY IN OUR COMMUNITIES (DISTRICTS: ALL)

OVERVIEW

On October 24, 2023 (19), the Board of Supervisors (Board) directed the Chief Administrative Officer to draft an Unsafe Camping Ordinance that will allow law enforcement to prohibit and abate illegal encampments, remove improperly stored property on public property, and protect vacant property, such as the San Diego River corridor, from fire and pollution. This action also requested the development of a list of properties that would create the capacity needed to meet then existing shelter requirements to enforce an Unsafe Camping Ordinance. On June 28, 2024, the Supreme Court of the United States (Supreme Court) issued its ruling on *City of Grants Pass v. Johnson*, which overturned *Martin v. Boise*, a Ninth Circuit case holding that an individual could not be cited for sleeping on public property unless they were first offered alternative shelter. In *Grants Pass*, the Supreme Court upheld enforcement of local ordinances regulating camping on public property even if no shelter beds were available. Under this new guidance, the County of San Diego's (County) existing camping ordinances could be enforced. Subsequently on August 27, 2024 (15), the Board reiterated its direction to ensure that the draft Unsafe Camping Ordinance should include provisions to address the threat of fires occurring from illegal encampments.

Based on direction from the Board, staff have prepared options that include keeping the existing County ordinance or modifying the County's existing ordinance with components that address fire risk, adding protections to additional areas, and formalizing noticing practices. The County has, and would continue to have, a 'services first' approach with the goal of connecting people with sheltering, food, and, where appropriate, substance use disorder and mental health treatment.

Today's recommendation request that the Board consider and provide direction on the proposed options of an Unsafe Camping Ordinance. The Unsafe Camping Ordinance would apply to property that the County owns or leases and specified areas such as parks, open space, and certain public works facilities. The Board may direct any combination of enhancements A, B, and C, or that all enhancements be in the Unsafe Camping Ordinance. Option 2 would keep the current ordinance as is. Included in Attachment A is a summary of the enhancements that may be included.

SUBJECT: ESTABLISHING AN UNSAFE CAMPING ORDINANCE IN SAN DIEGO COUNTY TO PREVENT WILDFIRE HAZARDS AND ENSURE PUBLIC SAFETY IN OUR COMMUNITIES (DISTRICTS: ALL)

In addition to these options, the proposed ordinance will also update existing provisions of the Code to change or remove outdated language.

RECOMMENDATION(S)
CHIEF ADMINISTRATIVE OFFICER

1. Consider options to modify existing ordinance and provide direction on the key elements to address unsafe camping to be included in an updated ordinance that will be brought back to the Board:

Option 1 (the Board may direct any combination, or all the enhancements listed)

Enhancement A: Add provisions related to fire risk

Enhancement B: Add protections in specific areas such as open spaces and public works infrastructure

Enhancement C: Codify existing procedures for unsheltered encampments notification period for movement of personal property to storage and adopt a notification period of 24-hours.

Option 2: Keep ordinance as is

EQUITY IMPACT STATEMENT

The proposed Unsafe Camping Ordinance aims to balance public safety and the rights and dignity of individuals experiencing homelessness. The County has and will continue a ‘services first’ approach which means impacted individuals are first contacted and offered to be connected to available resources. The ordinance would also address fire and environmental degradation risks that could worsen existing inequities faced by the unincorporated communities.

SUSTAINABILITY IMPACT STATEMENT

The recommended actions support the County of San Diego’s Sustainability Goal #4 of protect the health and wellbeing of everyone in the region by addressing fire risk and protecting open space from the negative impacts of encampments in the unincorporated area.

FISCAL IMPACT

There is no fiscal impact associated with this item’s recommendation. There will be no change in net General Fund cost and no additional staff years.

BUSINESS IMPACT STATEMENT

N/A

ADVISORY BOARD STATEMENT

N/A

BACKGROUND

On October 24, 2023 (19), the Board of Supervisors (Board) took three actions, which included adopting an official position supporting the actions by the City of Grants Pass to overturn the ruling

SUBJECT: ESTABLISHING AN UNSAFE CAMPING ORDINANCE IN SAN DIEGO COUNTY TO PREVENT WILDFIRE HAZARDS AND ENSURE PUBLIC SAFETY IN OUR COMMUNITIES (DISTRICTS: ALL)

in *Johnson v. Grants Pass* and directing County Counsel to file an amicus brief urging the U.S. Supreme Court to grant review in the case; directing the Chief Administrative Officer to draft an Unsafe Camping Ordinance to prohibit and abate illegal encampments, remove improperly stored property on public property, and protect vacant property from fire and pollution; and directing the development of a list of properties that would create the capacity needed to enforce an Unsafe Camping Ordinance and explore partnerships with other jurisdictions on regionally serving facilities.

Johnson v. Grants Pass

While the deadline for the County of San Diego (County) to file an amicus brief in support of a writ of certiorari by the Supreme Court had already passed, Governor Newsom, the San Francisco City Attorney, and the California State Association of Counties (CSAC) all filed briefs urging the Supreme Court to grant review, which it did in January 2024. On June 28, 2024, the Supreme Court issued its ruling on *City of Grants Pass v. Johnson*, which upheld local ordinances regulating camping on public property. The 6-3 opinion found that enforcing local camping bans did not constitute cruel or unusual punishment in violation of the Eighth Amendment, even if there were no shelter beds available to the individual. This decision overturned *Martin v. Boise*, a Ninth Circuit case that held that anti-camping ordinances could not be enforced unless alternative shelter was provided.

As a result of the Supreme Court’s holding in *Grants Pass v. Johnson*, the County’s existing ordinance (County Regulatory Code Section 73.108: See Attachment B) restricting camping on public property, which does not require offering alternative shelter, is now enforceable. The Board may choose to provide direction to staff to leave this ordinance in place without additional enhancements detailed below.

Enhancement Options for the Unsafe Camping Ordinance

The proposed enhancement language provides considerations for prohibiting and abating illegal encampments, removing improperly stored property on public property, and protecting vacant property from fire and pollution. Currently there are several existing state and local codes that address fire prohibitions and liabilities due to careless, negligent, or intentional acts. These existing codes grant enforcement authority to local law enforcement and/or fire agencies to investigate and hold individuals accountable for unlawful acts as defined in code sections.

These codes include:

- California Health & Safety Code Sections 13000-13011 – Liability in Relation to Fires
- California Penal Code Sections 450-457.1 – Arson, Negligent/Reckless Fires, Possession of Materials with Intent to Set Fire, Attempted Arson
- California Public Resources Code Sections 4103.5, 4432, 4433, 4434 – Neglecting Campfire, Permit Requirements, Campfire Escape
- San Diego County Code of Regulatory Ordinances Sections 41.118, 41.118.5, 41.119, 41.150 – Fire Hazards, Smoking, Misuse of Barbeque and Fire Rings, Overnight Camping

Enforcement actions for violations of the abovementioned California Health & Safety Codes, Public Resources Codes, and the San Diego County Code of Regulatory Ordinances may include

SUBJECT: ESTABLISHING AN UNSAFE CAMPING ORDINANCE IN SAN DIEGO COUNTY TO PREVENT WILDFIRE HAZARDS AND ENSURE PUBLIC SAFETY IN OUR COMMUNITIES (DISTRICTS: ALL)

the issuance of a criminal citation. Violation of the abovementioned Penal Codes are generally classified as felonies and enforcement actions may include the issuance of a criminal citation or arrest.

The County has, and would continue to have, a “services first” approach with the goal of connecting people with sheltering, food, and, where appropriate, substance use disorder and mental health treatment. The County’s outreach team, which consists of The Health and Human Services Agency, Parks and Recreation, Public Works, and Sheriff’s Office Homeless Assistance Resource Team (HART), coordinates provision of services and resources including emergency housing to people experiencing homelessness in the unincorporated communities.

The Board may choose to direct the inclusion of the below elements to enhance the County’s current ordinance:

- **Enhancement A: Add Provisions Related to Fire Risk:** The Board may direct staff to include language that prohibits (1) use of an ignition source to cause or intend to cause a fire or maintaining an existing fire; (2) camping while using or possessing an ignition source; and (3) discarding any product or material that could set fire to grass, shrubs, buildings or any other combustible substance anywhere on property owned or leased by the County, including parks and streets, unless authorized by law. This language was developed based on a review of similar ordinances from other jurisdictions.
- **Enhancement B: Add Protections for Open Spaces and Public Works Infrastructure:** The Board may direct staff to include language to prohibit camping, causing or maintaining an existing fire, camping while using or possessing an ignition source, discarding any product or material that could set fire to grass, shrubs, buildings or any other combustible substance. This also includes language to prohibit storing of personal belongings or waste and activities that alter the property in a manner that damages the function of the property or creates a threat to public health/safety. In addition to generally applying on property the County owns or leases, the ordinance specifically applies these protections to certain areas such as open space, bodies of water, public works and Flood Control infrastructure. This is because some land in these areas is only managed by the County while not being owned or leased by it. The ordinance also temporarily restricts people from areas where emergency, construction, or maintenance activities are being conducted by the County.
- **Enhancement C:** Codify existing procedures for unsheltered encampments notification period for movement of personal property to storage and adopt a notification period of 24-hours: The Board may direct staff to include language that codifies the existing noticing procedure for abatement of encampments. If directed, the language would also include a modification to the noticing period. Under existing procedures, a minimum 72 hour written notice must be provided prior to the cleanup, including how individuals can retrieve any property stored during the cleanup. The proposed language recommends this notice be changed to 24 hours to align with other local jurisdictions to protect the County from increases in encampments from individuals that have been removed from other jurisdictions. The 24-hour notice to vacate will also ensure trash, debris, and biohazardous

SUBJECT: ESTABLISHING AN UNSAFE CAMPING ORDINANCE IN SAN DIEGO COUNTY TO PREVENT WILDFIRE HAZARDS AND ENSURE PUBLIC SAFETY IN OUR COMMUNITIES (DISTRICTS: ALL)

waste can be removed quickly to protect public health and the environment. The Governor’s Executive Order N-1-24 encourages local governments to provide 48 hours’ notice when there are no exigent circumstances, however this is not mandatory, and the County has the authority to enact a shorter notice period. Personal property that is eligible for storage will be stored for a minimum of 90 calendar days.

In addition to the options described above, the proposed ordinance will make edits to existing sections on camping and obstructing rights of way, in order to change or remove outdated language.

List of Properties to Create the Capacity Needed to Enforce the Unsafe Camping Ordinance

On October 24, 2023 (9), the Board directed the Chief Administrative Officer to develop a list of properties that create the capacity needed to enforce an Unsafe Camping Ordinance and explore partnerships with other jurisdictions on regionally serving facilities. The Board directed that this list should include a feasibility assessment for each property that includes consideration of program operations and financial impacts, and the availability of County-owned property that fit programmatic needs and it should include consideration of vacant properties such as the former Fry’s Electronics site in the City of San Diego.

The 2024 Point in Time Count identified approximately 200 people experiencing homelessness in the unincorporated area. This number captures unsheltered individuals only and does not include 250 households who are already placed in the County’s emergency housing program.

The Board has taken multiple actions to address shelter and service needs over the past several years, including approval of Compassionate Emergency Solutions and Pathways to Housing (CESPH) projects on February 8, 2022 (14) to establish shelter capacity for the unincorporated communities, and directing the screening of various properties for use as emergency shelter. As part of CESPH efforts, since 2022, the Department of General Services (DGS) has maintained a list of over 1,300 properties that have been assessed for emergency housing, including the former Fry’s Electronics site in the City of San Diego. This particular site is privately owned, and the property owner has indicated to DGS that it is currently not available for acquisition. DGS in partnership with County’s Office of Homeless Solutions has moved most viable projects forward, which resulted in the Board’s approval of two safe parking sites and one sleeping cabin project to expand options available to people experiencing homelessness in the unincorporated communities. Two safe parking sites provide 44 safe parking spaces along with wrap-around for those experiencing homelessness in their vehicles. The sleeping cabin project will add estimated 60 sleeping cabins and is currently in design phase anticipated to be completed by 2026. In addition to these options, County’s Office of Homeless Solutions administers Regional Homeless Assistance Program (RHAP) as the primary emergency housing program for the unincorporated communities. In current capacity RHAP serves 250 households on any given night. In addition to County’s emergency housing options, Office of Homeless Solutions outreach staff connect individuals people experiencing homelessness to other available regional resources and programs based on their individual needs.

LINKAGE TO THE COUNTY OF SAN DIEGO STRATEGIC PLAN

SUBJECT: ESTABLISHING AN UNSAFE CAMPING ORDINANCE IN SAN DIEGO COUNTY TO PREVENT WILDFIRE HAZARDS AND ENSURE PUBLIC SAFETY IN OUR COMMUNITIES (DISTRICTS: ALL)

The recommended actions align with the Strategic Initiatives of Community and Equity in the County of San Diego's 2025-2030 Strategic Plan with its focus on opportunities for health, safety, and well-being. The Unsafe Camping Ordinance also supports environmental sustainability by addressing the risk of fire and protecting open spaces and the natural environment from negative impacts of encampments.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Ebony N. Shelton', is centered below the text 'Respectfully submitted,'.

EBONY N. SHELTON
Chief Administrative Officer

ATTACHMENT(S)

ATTACHMENT A: ACTION SHEET

ATTACHMENT B: COUNTY REGULATORY CODE SECTION 73.108