



City Council Memorandum

City of Arts & Innovation

**TO: SAFETY, WELLNESS, AND YOUTH
COMMITTEE MEMBERS**

DATE: SEPTEMBER 18, 2024

FROM: CITY ATTORNEY'S OFFICE

WARDS: ALL

SUBJECT: AN ORDINANCE OF THE CITY OF RIVERSIDE, CALIFORNIA, AMENDING TITLE 6 AND TITLE 9 OF THE RIVERSIDE MUNICIPAL CODE BY AMENDING SECTION 6.15.020 REGARDING ABATEMENT OF PUBLIC NUISANCES, DELETING IN THEIR ENTIRETY SECTIONS 9.04.600, 9.04.610, 9.04.620, AND 9.04.630 REGARDING CAMPING ON PUBLIC SIDEWALKS, STREETS, AND/OR OTHER PUBLIC PROPERTY, AND ADDING CHAPTER 9.11 REGARDING CAMPING AND ENCAMPMENTS.

ISSUE:

Consider a proposed ordinance that replaces the City's existing Municipal Code provisions relating to camping and sleeping on public property.

RECOMMENDATIONS:

That the Safety, Wellness, and Youth Committee:

1. Receive a report regarding a proposed ordinance to delete and amend the City's ordinances regulating camping and encampments considering the recent United States Supreme Court case of *Johnson v. City of Grants Pass, Oregon* (2024)144 S.Ct. 2202; and
2. Recommend that the City Council adopt the proposed ordinance regarding the regulation of camping and encampments.

BACKGROUND:

In *Martin v. City of Boise* (9th Cir. 2019) 920 F.3d 584, the Ninth Circuit held that "the Eighth Amendment prohibits the imposition of criminal penalties for sitting, sleeping, or lying outside on public property for homeless individuals who cannot obtain shelter."

On June 28, 2024, the U.S. Supreme Court issued its decision in *Johnson v. City of Grants Pass, Oregon*. Among other things, the Supreme Court held that the Eighth Amendment does not prohibit cities from enforcing laws regulating camping on public property (144 S.Ct. 2202). The Supreme Court's *Johnson* decision overruled the Ninth Circuit's decision in *Martin*.

On July 25, 2024, Governor Gavin Newsom issued Executive Order N-1-24. Among other things, the order explained that California is experiencing a homelessness crisis decades in the making

and highlighted the potential dangers associated with encampments, including subjecting unsheltered occupants to extreme weather, fires, predatory and criminal activity, and widespread substance abuse. The Governor’s order highlighted the Supreme Court’s *Johnson* decision and encouraged local governments to take action “with urgency” to remove encampments from public spaces, “prioritizing those encampments that most threaten the life, health, and safety of those in and around them.”

DISCUSSION:

The proposed activity is amendments to the Riverside Municipal Code to make it unlawful for any person to camp in or upon any public property, unless specifically authorized by the City Manager. In addition, it would make it unlawful, at any time regardless of the availability of shelter beds, for any person to camp or to have encampments in the following locations:

1. Within two blocks of an elementary, middle, or high school. This prohibition does not include vocational or professional institutions of higher education, including community or junior colleges, colleges, or universities. The ordinance will reduce the risks of exposure to incidents which can impact students’ emotional and mental well-being, such as being exposed to illicit drugs, unintentional indecent exposure, or violent behavior,
2. Within two blocks of any shelter, provided signs are posted prohibiting camping that are clearly visible to pedestrians. The ordinance will reduce adverse impacts of camping around homeless shelters where residents who are most vulnerable are receiving services to resolve their homelessness. Some of those impacts include exposure to predatory behavior of drug dealing which can undermine the community effort to provide long-term solutions to the homelessness issue,
3. In any park provided signs are posted prohibiting camping that are clearly visible to pedestrians. The ordinance will reduce of exposure to incidents which can impact park staff, visitors, and children emotional and mental well-being from being exposed to illicit drugs, unintentional indecent exposure, or violent behavior, wildfire risk, and possible assault.
4. The ordinance will restrict unregulated human activity in the Wildland Urban Interface which will reduce wildfire risk, pollution, and unsanitary conditions.

The purpose of the proposed ordinance is to protect the public health, safety, and welfare of City residents including the unsheltered population, businesses, visitors, and City personnel including first responders. The proposed ordinance makes the following major changes to the Riverside Municipal Code:

The proposed ordinance (Attachment 1) would:

- ***Imminent Risk of Harm:*** Unauthorized camping would be prohibited at all times when it poses an immediate threat to another person, public health, public safety, or disruption of vital government services.
- ***Sensitive Areas:*** Prohibit unauthorized camping at all times in specified sensitive areas, includes within two blocks of schools or shelters, as well as at any open space, waterway, banks of a waterway, specified public transit infrastructure, and any park. The ordinance would only be enforceable when signage is visible at all sites, except for open space, waterways, and banks of a waterway where no signage is needed.
- ***Public Property:*** Unauthorized camping would be prohibited on all public property,

regardless of shelter availability.

- **Codifying Encampment Clean-up and Abatement.** The proposed ordinance also codifies the abatement process to remove personal property and other items during encampment clean-up.

Prior to abatement, a written Notice of Clean-Up will be posted on each tent or structure and in any other distinct areas of the encampment providing notice of the date of clean-up and giving a minimum of 24 hours for persons to remove their personal property.

A 3-hour noticed expedited abatement would occur in the following circumstances:

- The City receives direction from County of Riverside or other governmental authority that abatement of the encampment is necessary to preserve public health or safety, including to address known or suspected outbreaks of diseases; or
- The City Manager observes or reasonably suspects the encampment creates a condition that presents a significant risk of property damage, bodily injury or death.

STRATEGIC PLAN ALIGNMENT:

The proposed amendment to the Riverside Municipal Code supports all priorities of the City of Riverside's Envision Riverside 2025 Strategic Plan.

This item aligns with each of the five Cross-Cutting Threads as follows:

1. **Community Trust** – Establishing and applying city ordinances has increased the capabilities and capacities of enforcement officials to increase community trust in our public safety efforts.
2. **Equity** – The City of Riverside strives to serve the community with duty and honor by protecting and preserving life, property, and the environment through prevention, education, enforcement, medical, rescue, and fire suppression services.
3. **Fiscal Responsibility** – To provide a timely response, with the highest quality of emergency and non-emergency services to the community. The city's goal is to optimize these services through fiscal responsibility.
4. **Innovation** – Establishing an ordinance and utilizing designated enforcement officials to patrol high-risk areas within the city is an innovative method that is being used to mitigate the risks associated with encampments.
5. **Sustainability & Resiliency** – The establishment of an ordinance within designated high-risk areas will provide the community with a sense of well-being. The proposed ordinance represents the city's proactive stance toward public safety, health, and fire risk reduction.

FISCAL IMPACT:

There is no fiscal impact associated with receiving this item should this ordinance go into effect. On July 17, 2024, Councilmember Jim Perry requested the City Attorney's Office review the City's current camping ordinance in light of the recent United States Supreme Court case.

Prepared by: Jack Liu, Assistant City Attorney

Certified as to

availability of funds: Kristie Thomas, Finance Director/Assistant Chief Financial Officer

Approved by: Mike Futrell, City Manager

Approved as to form: Phaedra A. Norton, City Attorney

Attachments:

1. Exhibit A – Proposed Ordinance
2. Presentation