

LEGAL LANDSCAPE IMPACTING PEOPLE EXPERIENCING HOMELESSNESS

City Attorney's Office, Public Safety Division

City Council
September 30, 2021



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OVERVIEW

1. Encampments
2. Anti-Camping Ordinances



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ENCAMPMENTS

Constitutional Issues:

1. 4th Amendment

Search and Seizure

2. 8th Amendment

Cruel & Unusual Punishment

3. 14th Amendment

Due Process



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ENCAMPMENTS

***Lavan v. City of Los Angeles* (2012)**

1. Removing and immediately destroying a person's unattended property violates the Constitution.
2. Cities are required to establish a process for property left on sidewalks.
 - Must be notice prior to removal and storage for a reasonable period prior to disposing of it.
 - Does not apply to items which pose an immediate threat to public health and safety, or is evidence of a crime.



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ENCAMPMENTS

***Garcia v. City of Los Angeles* (2020)**

1. City ordinance had allowed — without prior notice — removal and disposal of bulky items, unless the item is being used as shelter. City lost.
2. Citing *Lavan* case, the court said the City's interest in keeping the City clean and safe was not sufficient.
3. Does not apply to abandoned property or trash.



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ANTI-CAMPING ORDINANCES

Laws that criminalize the act of sleeping or pitching tents or other structures on publicly owned property.



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ANTI-CAMPING ORDINANCES

***Jones v. Los Angeles* (2016)**

1. Invalidated a city ordinance that prohibited sitting, lying, or sleeping on a “street, sidewalk or other public way.”
2. Violation of 8th Amendment.
3. People experiencing homelessness exceeded the number of available shelter beds.



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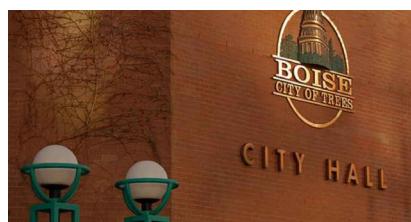
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ANTI-CAMPING ORDINANCES

***Martin v. City of Boise* (2018)**

A city may not enforce its ordinances that prohibit camping when there is no available temporary shelter for persons experiencing homelessness in the city.



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ANTI-CAMPING ORDINANCES

***Martin v. City of Boise* (2018)**

“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.”



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ANTI-CAMPING ORDINANCES

***Warren v. City of Chico* (2021)**

- A city constructed an “outdoor temporary shelter facility” at the municipal airport with the capacity to house all of its residents experiencing homelessness.
- Asphalt tarmac without a roof, walls, water or electricity.
- City could not enforce its camping ordinance because it had 120 available shelter beds but over 500 homeless residents.



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LEGAL LANDSCAPE IMPACTING PEOPLE EXPERIENCING HOMELESSNESS

Other City Attorney Office Workshop Presentations:

- 1. Riverside Municipal Code Provisions**
- 2. Bail in California**
- 3. Effect of Voter Initiatives**



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QUESTIONS?



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