



CITY OF
EL SEGUNDO

Agenda Item D.16
First Reading of Ordinance
Amending
ESMC Titles 7, 9, and 10

City Council Meeting
September 3, 2024

Roadmap

1. Legal Background
2. Features of Ordinance
3. Next Steps

PRIOR Legal Precedent – *Martin v. Boise*

- Ninth Circuit Federal Court of Appeal
- *Martin v. Boise* (2018)
- Boise's prohibition against sleeping in public violates the Eighth Amendment's prohibition on cruel and unusual punishment when the homeless individuals have no access to alternative shelter.
- Upshot for cities → Cities could not enforce this type of ordinance if homeless individuals had no access to alternative shelter space in the jurisdiction.

NEW Legal Precedent – *Grants Pass v. Johnson*

- U.S. Supreme Court
- *Grants Pass v. Johnson* (2024)
- Overturned *Martin v. Boise*
- Criminal enforcement of anti-camping ordinances does not violate the Eighth Amendment's prohibition on cruel and unusual punishment.
- Ordinance generally prohibits **conduct** for all persons and not any specific **status** affecting some persons.
- Upshot for cities → No longer required that there be sufficient shelter beds for the unhoused prior to enforcement.

NEW legal precedent – *Grants Pass v. Johnson*

- Court touted Grants Pass’s “light-touch approach to enforcement.”
- Court observed Grants Pass’s “multifaceted approach” to the homelessness crisis that aims to protect the rights and property of the homeless population and provides a “homeless community liaison” that can offer information about assistance programs and other resources.
 - El Segundo PATCHES Program

Ordinance Features – Camping Prohibited

- Prohibited activity: “Camping” at a “campsite.”
- Where prohibited: Any public property.
- “Camping” → Setting up or remaining at a “campsite.”
- “Campsite” → Any place where bedding, sleeping bag, or other material used for bedding purposes or any stove or fire is placed, established, or maintained for the purpose of maintaining a temporary place to live, whether or not such place incorporates the use of any tent, lean-to, shack, or any other structure, or any vehicle or part thereof.
- Exemptions: Otherwise authorized by ESMC or City Council resolution with public interest finding.

Ordinance Features – Public Right of Way Prohibitions

- Prohibited activity: Lying, sleeping, or storing personal property.
- Where prohibited: Public sidewalk, public street, public alleyway, or other public right of way.
- Potential addition of time, place, manner regulations.

Ordinance Features – Due Process

- Notice: City must post notice of any campsite removal on site at least 24 hours before removal.
 - Proposed addition of exception for immediate threat to public health, safety, or welfare.
- Reclamation of personal property / City storage:
 - City stores recovered personal property up to 30 days, unless property is evidence of a crime, e.g., weapon or drug paraphernalia.
 - Individuals can prove ownership and claim custody of their personal property during the 30 days.

Ordinance Features – Enforcement

- Civil Fines
 - Resolution No. 5104: \$100 / \$200 / \$500
- Criminal Misdemeanor
 - Up to six months in county jail and/or \$1,000 fine.
- Civil Nuisance
- Civil Injunction
- Multi-phased approach:
 - Upon third citation → 30-day ban from specific property → Criminal trespass

Ordinance Features – Cleanup

- Expansion of current ban on overnight (10:00 p.m. to 6:00 a.m.) habitation in vehicles on specific public property locations to all public property locations.
- Cross reference to camping restrictions included in ESMC City park and rules, respectively.
 - Replaces current, brief camping restrictions.

Ordinance Features – Library Rules

- Library Board established → Resolution No. 3665 (December 4, 1990)
- State law authorizes the Library Board to establish → Rules “necessary for administration, government, and protection of the Library.” (Ed. Code, § 18919.)
- The Library Board has historically adopted Library Rules of Conduct.
- Ordinance would formalize the authorization and direction to the Library Board to adopt the Library Rules of Conduct.
- This would provide a belt-and-suspenders approach to Library enforcement by augmenting existing enforcement authority in the Rules with the ESMC’s civil and criminal enforcement mechanisms.
- The Library Board will consider updates to its Rules of Conduct.

Next Steps

- Second reading → Proposed for September 17, 2024
- Ordinance effective 30 days after adoption.
- Coordination with PATCHES.
- Library Board updating of Library Rules.