



City Manager's Report
November 12, 2019 City Council Meeting
Prepared by: James M. Ortega, Chief of Police
Item #: 10.2

Subject: Waive the first Reading and Introduce an Ordinance Amending Title 6, Chapter 19 of the Placerville City Code Regulating Camping On Public or Private Property

Purpose: The purpose of this proposed ordinance is to amend Title 6, Chapter 19 of the City Code regulating camping on public as well as private property within the jurisdiction of the City of Placerville.

Discussion: Placerville has seen a proliferation of temporary and makeshift camps being set up on both public and private property throughout the City. These camps present a public safety and health concern, which adversely affect neighborhoods and commercial areas. On January 14, 2014, the City Council adopted the original ordinance to address these concerns. The existing ordinance was modeled after a similar ordinance in the City of Sacramento. That ordinance has recently been challenged in light of the decision in *Martin et al. v. the City of Boise*.

These camps are established in areas not designed or zoned for campground usage. These camps have no restroom facilities or refuse pick up which creates a major public health concern for not only the occupants of the camps, but the public as well. Due to the conditions of these camps, various pests are attracted to them which increases the likelihood of the spread of sickness and disease.

Persons who suffer from a dependency on drugs and alcohol often occupy camps. Many of the subjects have active warrants of arrest, sex registration offenses and are attempting to abscond from parole and/or probation. As a result of this criminal element, the camps can be dangerous for those living in them because of the potential for them to be victimized by others from either within the camps or those from outside of the camps.

The *Boise* case essentially bars a city from prosecuting people criminally for sleeping outside on public property when those people have no home or other shelter to go to. As a result of the *Boise* decision, the current Placerville City Code does not provide the Police Department with a comprehensive set of tools to address this unregulated camping activity within the City limits. However, the *Boise* decision does not cover individuals who do have access to adequate temporary shelter, whether because they have the means to pay for it or because it is available to them for free, but who choose not to use it. The decision also does not hold that a jurisdiction can never criminalize the act of sleeping outside. Even where shelter is unavailable, an ordinance prohibiting sitting, lying or sleeping outside at particular times or in particular locations can be constitutionally permissible.

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Under the *Boise* decision, when shelter is unavailable, the City can't prohibit camping in all public places. The proposed ordinance is designed to designate locations where a homeless person can sleep when shelter is unavailable and not be criminally prosecuted. The intent is to bring the City's camping ordinance within the parameters of the *Boise* decision, and provide law enforcement with an enforceable ordinance.

The proposed ordinance defines the term "available shelter" in accord with the *Boise* decision. It also defines specific areas where camping is not allowed even when shelter is not available such as streets, sidewalks, parks, cemeteries, and within 100 feet of the high-water mark of any water way, as well as other locations listed in the proposed ordinance. It further provides that individuals, for whom shelter is not available, may camp on City owned open space.

Options:

1. Adopt the amendments to Title 6, Chapter 19, allowing the Police Department to enforce the no camping on public or private property ordinance within the City jurisdiction.
2. Repeal Title 6, Chapter 19 and do not enforce camping regulation

Cost: None

Budget Impact: There is no budget impact with this item.

Recommendation: Waive the first reading and Introduce an Ordinance Amending Title 6, Chapter 19 of the Placerville City Code Regulating Camping On Public or Private Property.



M. Cleve Morris, City Manager



James M. Ortega, Chief of Police

Attachments:

- A. Ordinance