

Unlawful Camping Ordinance

- In September 2018 the Ninth Circuit Court of Appeals issued its ruling in *Martin v. City of Boise*. The court ruled that enforcement of ordinances that prohibit sleeping or camping on public property against homeless individuals is unconstitutional when those individuals do not have a meaningful alternative, such as shelter space or a legal place to camp.
- The Court's reasoning was that ... "as long as there is no option of sleeping indoors, the government cannot criminalize indigent, homeless people for sleeping outdoors, on public property, on the false premise they had a choice in the matter."

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- However, the court added a footnote that provides in part: “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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- The footnote cites another case, *Jones v. City of Los Angeles*, to give specific examples. *Jones* is not binding, as there was an underlying settlement between the parties and the Ninth Circuit Court's opinion was vacated as a result. The Court in *Martin v. Boise*, however, stated that they still "agree with *Jones*' reasoning and central conclusion."

- In *Jones* the Court struck down a Los Angeles Ordinance that the Court described as “one of the most restrictive municipal laws regulating public spaces in the United States.” The law prohibited sitting, lying, or sleeping in a public way at any time of day.
- The Court went on to compare the Los Angeles ordinance with “other cities’ ordinances similarly directed at the homeless [which] provide ways to avoid criminalizing the status of homelessness by making an element of the crime some conduct in combination with sitting, lying, or sleeping in a state of homelessness.”

- “For example...[other cases] contain safe harbor provisions such as limiting the hours of enforcement.”
- *Jones* cites Seattle’s Municipal Code section, which states, “No person shall sit or lie down upon a public sidewalk...during the hours between seven (7:00) a.m. and nine (9:00) p.m. in the following zones...”)
- Tucson is similar, except the prohibition is between 7:00 a.m. to 10:00 p.m.
- Houston, Texas’ Municipal Code section 40-352(a) is also similar, except the prohibition is between 7:00 a.m. to 11:00 p.m.

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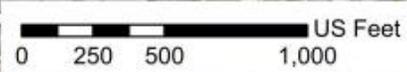
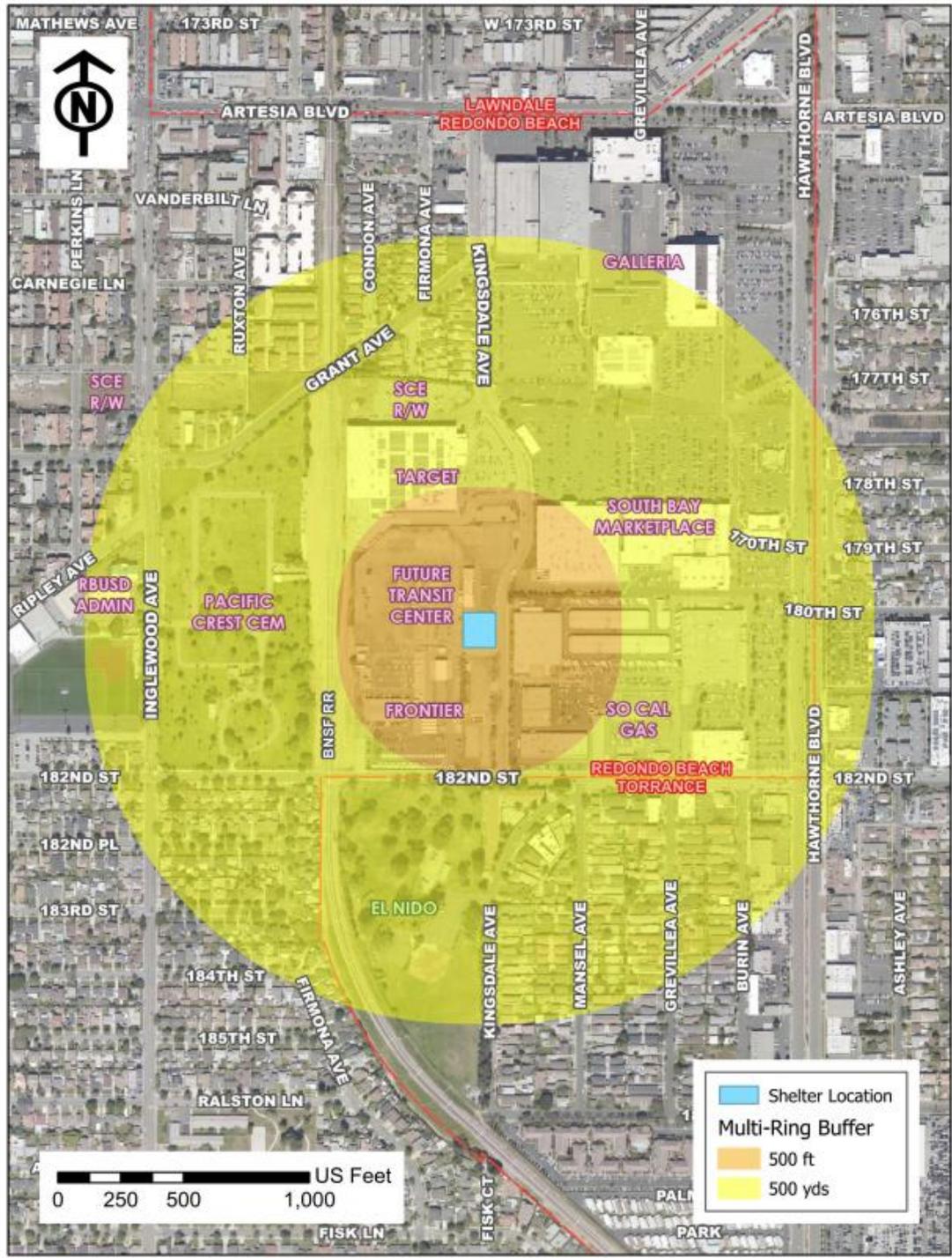
- Amendment to the ordinance that prohibits camping within 500 yards/feet of an emergency transitional housing facility that provides shelter to people experiencing homelessness.
- Amendment to the ordinance that provides that in circumstances in which the provisions of the City's unlawful camping ordinance cannot be enforced pursuant to *Martin v. Boise*, camp facilities may be erected only between the hours of 5:00 p.m. and 10:00 a.m. daily (like the City of San Clemente ordinance)

- **§ 4-34.02. Unlawful camping.**

It is unlawful for any person to camp, occupy camp facilities or use camp paraphernalia in the following areas in the City:

- (a) Any park;
- (b) Any right-of-way;
- (c) Any public parking lot or public area, improved or unimproved, or any public school property;
- (d) Any beach;
- (e) In or upon any street, sidewalk, beach, public right-of-way or **public property within the radius of 500 yards of an emergency transitional housing facility that provides shelter, supportive services, safe parking, or storage to people experiencing homelessness, where signage is posted.**

- **§ 4-34.05. Enforcement.**
- **(a) Absent exigent circumstances relating to immediate threats to the public health, safety, or welfare, the provisions of Section 4-34.02, subsections (a), (b), (c), and (d) will not be enforced against indigent homeless persons when no alternative shelter or publicly provided campsite is available in accordance with the holding in *Martin v. City of Boise* (9th Cir. 2018) 902 F.3d 1031 and *Martin v. City of Boise* (9th Cir. 2019) 920 F.3d 584.**
- **(b) In circumstances in which the provisions of Section 4-34.02, subsections (a), (b), (c), and (d) will not be enforced pursuant to subsection (a) of this section, camp facilities may be erected only between the hours of 5:00 p.m. and 10:00 a.m., daily.**



- Shelter Location
- Multi-Ring Buffer
- 500 ft
- 500 yds

- The City Council directed the City Attorney's Office to explore factual findings that would support adding places, outside of the Coastal Zone, such as Project Homekey or other permanent supportive housing to the anti-camping provisions of section 4-34.03 of the Redondo Beach Municipal Code.
- The justification for the anti-camping ban on public property within the radius of 500 yards of an emergency transitional housing facility (such as the Pallet Shelters) does not apply to permanent supportive housing (such as Project Moonstone).
- **However, this might be made moot depending upon the US Supreme Court's decision on the case of *Grants Pass v. Johnson*.**

- Oral argument was heard yesterday, and it is entirely possible that the Supreme Court will reverse the Ninth Circuit's rulings in *Grant Pass* and *Martin v. Boise* which severely restricted the ability to enforce unlawful camping ordinances. **In that case, the police would once again be able to enforce our unlawful camping ordinances without the need for further amendment or specific time and place limitations.**
- Alternatively, the Supreme Court could provide direction on the types of time and place restrictions that would be constitutional.



- **RECOMMENDATION:** 1) Receive and file this report and 2) wait until the Supreme Court issues its opinion before making any amendments to the ordinance.