



Administrative Report

N.3., File # 25-0467

Meeting Date: 4/1/2025

To: MAYOR AND CITY COUNCIL

From: MICHAEL W. WEBB, CITY ATTORNEY
CITY ATTORNEY-ELECT

JOY A. FORD,

TITLE

DISCUSSION AND POSSIBLE ACTION REGARDING THE AMENDMENT OF THE REDONDO BEACH MUNICIPAL CODE CAMPING ORDINANCE.

INTRODUCE BY TITLE ONLY ORDINANCE NO. 3293-25, AMENDING MUNICIPAL CODE CHAPTER 34 TO TITLE 4 REGARDING UNLAWFUL CAMPING, FOR INTRODUCTION AND FIRST READING

EXECUTIVE SUMMARY

In December of 2020, the Mayor and City Council adopted an ordinance, Ordinance No. O-3209-20, amending the municipal code to provide that in circumstances in which the provisions of the City's unlawful camping ordinance cannot be enforced pursuant to *Martin v. City of Boise*, camp facilities may be erected only between the hours of 5:00 p.m. and 10:00 a.m., daily (similar to the City of San Clemente ordinance). On June 28, 2024, the United States Supreme Court overruled *Martin v. City of Boise* in the case of *City of Grants Pass v. Johnson*, acknowledging local government's authority to regulate conduct. On October 8, 2024, the City Council adopted the new 12-month strategic plan objectives, with Objective 11 of Goal 6 Enhance the Delivery of City Services - "Anti-camping regulations: Evaluate recent anti-camping court decisions and report to the City Council on any recommended corresponding modifications to the Redondo Beach Municipal Code." The proposed ordinance modifying the Redondo Beach Municipal Code reflect the overruling of *Martin v. Boise* and adds a prohibition to utilize a bus stop site for any purpose other than boarding, disembarking, or waiting for a bus.

BACKGROUND

On April 1, 2019, in the *Martin v. City of Boise*, the United States Court of Appeals for the Ninth Circuit ruled that enforcing local laws that prohibit camping and sleeping in public "when no sleeping space is practically available in any shelter" violates the Eighth Amendment protection against cruel and unusual punishment. In December of 2020, in response to the *Martin v. City of Boise* decision, the Mayor and City Council amended the City's Municipal Code to be consistent with the *Martin v. City of Boise* decision, which allowed camp facilities to be erected only between the hours of 5:00 p.m. and 10:00 a.m. per footnote 8 of the decision.

Following *Martin v. City of Boise*, judicial injunctions barring local governments from enforcing public camping laws against people experiencing homelessness were common in the Ninth Circuit when

those cities did not have available shelter beds. Grants Pass in Oregon was one such city. Grants Pass had several laws restricting camping in public places, and shortly after the decision in *Martin v. City of Boise*, two individuals experiencing homelessness, Gloria Johnson and John Logan, filed suit challenging Grants Pass' public camping laws, claiming, among other things, that the city's ordinances violated the Eighth Amendment's Cruel and Unusual Punishment Clause. The district court found that everyone without shelter in Grants Pass was involuntarily homeless because the city's total homeless population outnumbered its practically available shelter beds. The district court thus concluded that the Eighth Amendment prohibited Grants Pass from enforcing its laws against homeless individuals in the city. On appeal, the Ninth Circuit affirmed the district court's decision that under *Martin v. City of Boise*, enforcing the public camping laws against people experiencing homelessness in Grants Pass when the homeless population exceeds the number of available shelter beds amounted to cruel and unusual punishment in violation of the Eighth Amendment. Grants Pass filed a petition for certiorari and many states, cities, and counties across the country, including Redondo Beach, joined Grants Pass in urging the United States Supreme Court to review the Ninth Circuit's decision.

The United States Supreme Court granted review and issued its opinion on June 28, 2024. In a 6-3 decision, the Supreme Court overruled *Martin v. City of Boise*, and reversed and remanded *City of Grants Pass v. Johnson*. The Supreme Court rejected the argument that the Grants Pass ordinances criminalized the status of homelessness. Instead, the Supreme Court concluded that the Grants Pass ordinances regulated conduct and were permissible because they apply uniformly to all individuals and groups. Additionally, the Supreme Court's decision in *City of Grants Pass v. Johnson* concluded the Eighth Amendment's Cruel and Unusual Punishment Clause does not prohibit the enforcement of generally applicable laws regulating camping on public property. In large part, the Supreme Court's decision restores local governments' authority to enforce public camping laws.

The *City of Grants Pass v. Johnson* decision does not obviate all legal risk that comes with addressing encampments or other conduct frequently associated with homelessness. The decision removes the Eighth Amendment as a mechanism to challenge ordinances targeting behaviors often associated with homelessness. There is still significant legal risk with criminal enforcement when someone is experiencing homelessness. According to the case of *In re Eichorn*, a person experiencing homelessness is still entitled to raise a necessity defense to charges of violating a camping ordinance. If someone has no place to stay, violating a camping ordinance may be justified by necessity. It is essential that the City of Redondo Beach continue our compassionate approach to offer a person experiencing homelessness service, interim housing and permanent housing prior to exercising enforcement.

The proposed amendment to the Redondo Beach Municipal Code eliminates the restrictions placed by *Martin v. Boise* and is consistent with the ruling in *City of Grants Pass v. Johnson*.

On August 6, 2024, the Los Angeles County Prosecutors Association formed a subcommittee to review the *City of Grants Pass v. Johnson* decision and potential amendments to each city's Municipal Code. In attendance were cities of Redondo Beach, Long Beach, Pasadena, Santa Monica, Torrance, and the district attorney's office. The Redondo Beach City Prosecutor's Office found Torrance's ordinance regarding remaining at bus stop sites most promising because the City has received multiple complaints about not being able to use bunch benches or shelters because

others remain there for multiple hours for purposes other than for boarding, disembarking or waiting for a bus. The proposed amendment prohibits remaining at a bus stop site for purposes other than for boarding, disembarking or waiting for a bus.

COORDINATION

This is a coordinated The City Attorney's Office coordinated with the Los Angeles County Prosecutors Association subcommittee in connection with the preparation of this report.

FISCAL IMPACT

The continuation of existing enforcement efforts under existing regulations is part of the Departments' annual work programs and can be accommodated with existing resources. The incremental costs associated with minor amendments to the Municipal Code can be absorbed in the Departments' annual operating budgets.

Submitted by:

Michael W. Webb, City Attorney

Joy A. Ford, City Attorney-elect

ATTACHMENTS

- Ordinance Unlawful Camping