

Agenda Report

September 9, 2024

TO: Honorable Mayor and City Council

FROM: Office of the City Manager

SUBJECT: RECEIVE INFORMATION AND PROVIDE GUIDANCE RELATING TO THE CITY'S EFFORTS TO ADDRESS ISSUES ASSOCIATED WITH HOMELESSNESS

RECOMMENDATION:

It is recommended that the City Council:

Receive information and provide guidance relating to services provided to the unhoused in Pasadena by the City and its governmental and non-governmental partners, including guidance relating to Pasadena Municipal Code Section 3.24.110(A)(8) which prohibits camping in public places, and provide guidance on the City's role, if any, on regional efforts to address homelessness.

EXECUTIVE SUMMARY:

The United States Supreme Court recently decided the *Grants Pass v. Johnson* case. Multiple City Departments are involved in providing services to people experiencing homelessness, directly or through contracted parties, and interact with those experiencing homelessness daily. City staff is committed to addressing homelessness with the goal of making homelessness rare, brief, and non-recurring.

This report provides summaries of the *Grants Pass v. Johnson* case, State legislation relating to conservatorship, the Governor's Executive Order regarding encampments, recent motions approved by the Los Angeles County Board of Supervisors, and existing City programs and services to address issues associated with homelessness in Pasadena. Staff from various Departments will present information on all these matters and answer questions from the City Council.

BACKGROUND:

Summary of Supreme Court Case - *Grants Pass v. Johnson*

Case law informing how cities can regulate unhoused populations has shifted significantly over the past several years, and even more recently due to the U.S. Supreme Court's June 28, 2024 decision in *Grants Pass v. Johnson*, 144 S. Ct. 2202 (2024).

In a prior case, *Martin v. City of Boise*, 920 F.3d 584 (9th Cir. 2019), a group of unhoused people living in Boise, Idaho challenged the city's enforcement of its camping and disorderly conduct ordinances against people experiencing homelessness as violating the Eighth Amendment of the U.S. Constitution, which prohibits cruel and unusual punishment. The Ninth Circuit held 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." In other words, the Ninth Circuit held that "the Eighth Amendment preclude[s] the enforcement of a statute prohibiting sleeping outside against homeless individuals with no access to alternative shelter."

After the conclusion of the *Boise* case, the City of Grants Pass, Oregon faced a similar legal challenge from a group of unhoused people against a series of ordinances passed in response to *Boise* that prohibited camping on public property or parking overnight in city parks. The ordinances had an escalating series of civil citations for violations, culminating in criminal sanctions and potential imprisonment for subsequent violations. The ordinances at issue in Grants Pass banned individuals from using forms of protection from the elements, such as sleeping bags, cardboard, or other bedding materials. The Ninth Circuit found that enforcement of the Grants Pass ordinances violated the cruel and unusual punishment clause of the Eighth Amendment.

After the Ninth Circuit decided the *Grants Pass* case, the U.S. Supreme Court granted review, and issued its opinion on June 28, 2024. The Supreme Court, in a 6-3 opinion, reversed the Ninth Circuit and found that the ordinances in Grants Pass do not violate the Eighth Amendment. The majority opinion, authored by Associate Justice Neil Gorsuch, concluded that the enforcement of generally applicable laws regulating camping on public property does not constitute cruel and unusual punishment prohibited by the Eighth Amendment. Therefore, the majority opinion found that the enforcement scheme employed by Grants Pass (a civil fine, leading up to order of temporary exclusion from city parks, escalating to criminal punishment if the order is violated) was not cruel and unusual.

The majority opinion is grounded in the idea that "[t]he Cruel and Unusual Punishments Clause focuses on the question what 'method or kind of punishment' a government may impose after a criminal conviction, not on the question of whether a government may criminalize particular behavior in the first place or how it may go about securing a conviction for that offense." Rather than criminalizing the "status" of being unhoused, which would likely be in opposition to Court precedent, Justice Gorsuch frames the ordinances as criminalizing behaviors, writing "it makes no difference whether the charged

defendant is homeless, a backpacker on vacation passing through town, or a student who abandons his dorm room to camp out in protest on the lawn of a municipal building.”

Associate Justice Sonia Sotomayor authored a dissent, joined by two other justices. The dissenting justices would have ruled against Grants Pass, following a 1962 U.S. Supreme Court opinion that held that “[p]unishing people for their status is ‘cruel and unusual’ under the Eighth Amendment.” The dissent’s reasoning is that for some people, “sleeping outside is their only option...For people with no access to shelter, that punishes them for being homeless.” The dissent also highlighted the Grants Pass City Council meeting record, which shows the ordinances were explicitly devised to “make it uncomfortable enough for [homeless people] in our city so they will want to move on down the road.” Dissents in court opinions are not binding law, but they may contain discussions useful to later courts, and perhaps the City Council here, in its consideration of policy direction to staff.

Both the majority opinion and dissent agree that local governments can regulate the time, place, and manner of public sleeping pursuant to the power to enact regulations in the interest of public safety, health, welfare, or convenience. The *Grants Pass* decision means that criminal penalties for acts like public camping and public sleeping would likely be permissible, even if there is insufficient available shelter space to accommodate a city’s unhoused population. Thus, local governments may enforce restrictions on camping in public places, if desired.

Governor’s Executive Order Regarding Encampments

Following the Court’s June 28, 2024 decision in *Grants Pass v. Johnson*, Governor Newsom issued an Executive Order on July 24. Under the Executive Order, State agencies subject to the Governor’s authority have been ordered to adopt policies to address encampments on state property. The Executive Order also calls for the California Interagency Council on Homelessness to develop guidance and provide technical assistance for local governments to follow in implementing their local homelessness programs. Finally, the Governor’s Executive Order provides the following encouragement (but not requirement) to local governments:

Local governments are encouraged to adopt policies consistent with this Order and to use all available resources and infrastructure, including resources provided by the State’s historic investments in housing and intervention programs where appropriate and available, to take action with the urgency this crisis demands to humanely remove encampments from public spaces, prioritizing those encampments that most threaten the life, health, and safety of those in and around them.

Since the issuance of the Governor’s Executive Order, there have been several publicized encampment removals throughout the state and repeated statements that the Governor wishes to direct funding to agencies that show results in reducing homelessness.

Los Angeles County Board of Supervisors Action

At its July 30, 2024 Board Meeting, as a result of the *Grants Pass* decision, the County Board of Supervisors passed a motion to take several actions that included:

- Affirm the County's Care First approach to encampment resolution;
- Clarify that the County jails will not be used to hold people arrested solely due to enforcement of anti-camping ordinances, consistent with current practice regarding misdemeanors, citable offenses, and settlement agreements; and
- Identify opportunities to expand the County's partnerships with cities to address encampments through shelter, resources, and regional coordination.

Separately, on June 25, 2024 the County Board of Supervisors voted to place a measure, called the Affordable Housing, Homelessness Solutions and Prevention Now Ordinance, or Measure A, on the November 5, 2024 General Election ballot. If approved by voters, Measure A would replace Measure H's quarter-cent sales tax set to sunset in 2027 and double the county's homelessness sales tax to a half-cent to fund housing and homeless services. Funds from the tax can go towards affordable housing, homelessness prevention services, physical and mental health care, substance use treatment, intensive supportive services at permanent supportive housing projects, interim and permanent housing programs, domestic violence services, along with other homeless services. Staff anticipates that \$4.98 million may be available annually directly to the City of Pasadena starting in 2025 if the measure is approved by voters. In addition, millions more dollars from Measure A would flow into Pasadena indirectly from the County's financial support of services to permanent supportive housing units and other County provided homelessness efforts.

California Senate Bill 43 Regarding Conservatorships

In October, 2023, Governor Newsom signed Senate Bill (SB) 43 which updates California's conservatorship laws. The law updates the definition for those eligible for conservatorship to include people who are unable to provide for their personal safety or necessary medical care, in addition to food, clothing, or shelter, due to either severe substance use disorder or serious mental health illnesses. Conservatorship is viewed as a last resort to help connect people with severe behavioral health care needs with the resources and support to protect them and others. The process begins with a county mental health department petitioning a court to appoint a third party, often a family member, to direct the person's care for a limited time, across the full range of behavioral health care. Conservatorship is viewed as an option to address repeated crises including arrest and imprisonment, psychiatric hospitalization, homelessness, and even premature death. LA County is the jurisdiction which implements SB 43 and in December 2023, the Board of Supervisors voted to defer implementation until January 2026. Therefore, it will not be implemented in LA County until 2026.

Los Angeles County Metropolitan Transportation Authority (METRO)

Pasadena has six Metro A line (formerly named Gold Line) rail stations and numerous shared bus stops throughout the city. Metro's rail stations are periodically patrolled by a combination of law enforcement personnel, Metro security officers, and Ambassadors. Those personnel work with homeless outreach partners and crisis intervention staff to try and address homelessness, mental illness, and drug abuse within their transit system. A primary concern with this subset of the homeless population is their transitory nature that crosses jurisdictions, making coordinated and sustained outreach efforts and service delivery difficult. Various City Departments will continue to engage with Metro on these issues and will follow the development of Metro's new Transit Community Public Safety Department.

PASADENA MUNICIPAL CODE – LODGING IN PUBLIC PLACES

The Pasadena Municipal Code (PMC), as well as State law, prohibit lodging in public places. In particular, PMC Section 3.24.110(A)(8) provides that no person shall "camp, erect, maintain, or occupy any tent, lodge, structure, temporary or makeshift shelter, or unattended installation or display in any park or upon the grounds" of the civic center, libraries, or other municipal buildings. Penal Code Section 647(e) provides that any person who "lodges in any building, structure, vehicle, or place, whether public or private, without the permission of the owner or person entitled to the possession or in control of it" is guilty of a misdemeanor. Criminal charges for such offenses were filed by the City's Prosecution Division attorneys, as appropriate, up until 2018. Since then, Prosecution Division attorneys have generally refrained from charging these violations due to the 2018 Ninth Circuit opinion in the *City of Boise* case. In light of *Grants Pass*, these charges could potentially become more commonplace if cases were referred by a law enforcement agency.

Other offenses continue to be prosecuted when referred by PPD, including being in a park between 10 p.m. and 6 a.m. (PMC Section 3.24.110(A)(23)), drinking in a park (PMC Section 3.24.110(A)(11)), public urination/defecation (PMC Section 9.26.020), obstructing a sidewalk or other public way (PMC Section 12.12.080, subdivisions (A) and (B)), and various forms of trespass (such as Penal Code Section 602 *et seq.*).

PASADENA SERVICES AND PROGRAMS TO ADDRESS HOMELESSNESS

Since the 1990s, the City of Pasadena has been designated by the U.S. Department of Housing and Urban Development (HUD) as a Continuum of Care (CoC). CoCs are responsible for planning and coordinating homeless services within their geographic boundaries, applying to HUD annually for grant funding, and conducting the annual Point-in-Time Homeless Count. Additionally, in recent years the State of California and Los Angeles County have utilized the CoC infrastructure to distribute grant funds resulting in the City's receiving additional homeless services funding. In February 2024, the Pasadena CoC finalized its five-year Homelessness Plan, which set quantitative and qualitative targets and strategies to support the shared goal of making homelessness

rare, brief, and non-recurring in Pasadena. Housing Department staff manages the activities of the CoC.

With a combination of federal, state, county, and local resources, the City funds an array of strategies for this complex, regional issue. These City-funded resources, which include street outreach, emergency shelter, permanent housing, and homelessness prevention programming, represent only a portion of the services that are available to Pasadena residents experiencing or at risk of homelessness. Additional resources are available through service providers utilizing county and private funding. Following is an inventory of existing homeless services and programs available in Pasadena.

Homeless Services Inventory

The first point of contact between people experiencing homelessness and homeless services providers is often field-based engagement with street outreach teams. Street outreach is an effective approach as services are brought directly to those in need, many of whom have disabilities and other conditions which make it difficult to seek services on their own. At least ten street outreach teams cover the City's entire geography to engage with the unhoused population. Half of these are full-time City-funded teams which provide services exclusively within the City's boundaries. These City-funded teams include the Pasadena Outreach Response Team (PORT) and the Homeless Outreach Psychiatric Evaluation (HOPE) Team, operated by the Public Health and Police Departments respectively. Other City-funded teams are operated by sub-contracted non-profit service providers including Friends In Deed and Union Station Homeless Services. Several non-City-funded teams serve the broader San Gabriel Valley and provide services in Pasadena with varying degrees of frequency. All street outreach teams that operate in Pasadena meet on a monthly basis to coordinate services and to hold conferences on individual cases.

Similarly, interim housing resources within the City are both City-funded and funded by the County and private entities. Interim housing (emergency shelter) is either congregate (i.e., dorm-style settings) or non-congregate (i.e., motel-based). The City funds several year-round motel-based shelter programs, often referred to as "motel vouchers," which are administered by non-profit service providers and the Public Health Department through the PORT team. The City also funds seasonal shelter programs which include the congregate Bad Weather Shelter and weather-activated motel-based programs which supplement the Bad Weather Shelter's capacity, typically serving either families with children or other populations that are not suited to the Bad Weather Shelter's congregate setting. Union Station Homeless Services operates the Adult Center and the Family Center, both congregate shelters, with County funding. Other non-profit agencies independently operate recovery bridge housing for people with substance use disorder and transitional housing for families within the city, both forms of long-term interim housing. The Pasadena CoC's Homelessness Plan set a goal of having sufficient year-round shelter beds for 80% of the City's homeless population on any given night by 2029. On the night of the 2024 Homeless Count, the City's shelter bed inventory was able to meet the shelter needs of 40% of the homeless population, a slight increase over 2023.

The City Council and City staff continue to prioritize expanding and maintaining permanent housing resources to reduce homelessness. Permanent housing resources that specifically serve people exiting homelessness largely fall into three categories: Permanent Supportive Housing (PSH), Rapid rehousing (RRH), and Other vouchers. PSH pairs an ongoing rental subsidy with intensive case management services and is most appropriate for people exiting chronic homelessness (i.e., more than one year with a disability) with high service needs. PSH can be site-based, such as the recently opened Hope Center and Heritage Square South buildings, or scattered-site, where participants lease apartments on the private rental market. RRH programs offer participants a rental subsidy for fewer than two years and less intensive supportive services, which are also time-limited. RRH programs are most appropriate for those with moderate service needs. Finally, there are other permanent housing resources that do not fall under PSH or RRH. These resources include 184 Mainstream and Emergency Housing Vouchers, both federally funded rental subsidies, which the City committed to households exiting homelessness over the past three years. These vouchers provide households with an ongoing rental subsidy to be used on the private rental market.

In addition to the aforementioned programming, other types of services are available to people experiencing and at-risk of homelessness in Pasadena. Homelessness prevention programs provide rental assistance, case management, and referrals to legal services to extremely- and very-low-income households at imminent risk of eviction. Housing navigation programs support people experiencing homelessness in applying to housing programs and collecting documents that are required for housing applications. Safe parking programs provide a safe place for people sheltering in vehicles to park and sleep without the risk of citation while also providing supportive services. In June 2023, City Council approved zoning code amendments to allow safe parking as an accessory use at certain sites occupied by colleges, transit stations, and religious facilities, requiring a Minor Conditional Use Permit at these sites. Currently the City has one permitted Safe Parking program which is operated by Trinity Lutheran Church, and a second safe parking program has been proposed, although not yet permitted, on the property of All Saints Church. The PMC was recently updated to limit parking of non-commercial vehicles over 7 ft tall, 7 ft wide, and 20 ft long overnight on City streets. This along with other provisions for overnight parking can be enforced citywide while sharing information on safe parking locations to those in need when it can be reasonably identified.

The Continuum of Care's Homelessness Plan and Community Engagement and Gaps Analysis report (both available at <https://pasadenapartnership.org/homelessness-plan/>) identify several needs within the federal, state, county, city, and partners' homeless response system. Foremost is the need for additional interim and permanent housing resources. Homeless Count data show that first-time homelessness is on the rise, indicating a need for expanded homelessness prevention programming. Other needs include an improved referral system, expanded mental health and substance use treatment resources, street medicine including psychiatric care, and a multi-service day center. The City Attorney's office has also identified the need for a "Homeless Court" which would offer housing-focused diversion programming to defendants of certain non-violent offenses who are experiencing homelessness. Further needs include short-term storage solutions such as lockers, protective shelter, outreach services at the libraries,

and overnight parking for RVs as neither of the safe parking sites can accommodate vehicles of that size.

Pasadena Outreach Response Team (PORT)

PORT is a partnership between the Pasadena Public Health Department, Pasadena Fire Department, Huntington Health, and Union Station Homeless Services. PORT consists of a program coordinator, a social worker, two firefighters, two peer outreach navigators, and a registered nurse. PORT responds to calls for assistance in non-violent situations and engages the individual through soft contacts (food, transportation, etc.). If the individual agrees to be part of the program, the case manager conducts a program intake (mental and physical health assessments), and referrals are made for direct services. If the individual does not agree to be part of the program, PORT will maintain the individual's name and continue to provide future soft touches and engagement over time, many times over weeks or months. Both PORT teams operate Monday through Friday from 8:00am to 4:30pm, which align with the operating hours of community resources and services that support the needs of PORT clients.

When an individual agrees to be part of the program, the direct services offered include housing navigation and case management services, including linkage to primary care, dental care, mental health, substance use treatment, hygiene services, social services (DPSS), housing, and more. The program is designed to advocate for those in need, reduce recidivism, and connect clients to various services.

Homeless Outreach Psychiatric Evaluation (H.O.P.E.) Team

The HOPE Team was formed in 2002. It is a partnership with the Los Angeles County Department of Mental Health to provide cooperative and compassionate mental health/law enforcement teams to assist those in crisis who are dealing with homelessness and/or in need of accessing mental health and social services.

HOPE Team members are the first responders to emergency mental health crisis calls. They are proactive by continuously seeking out contact with people who need services prior to potentially volatile situations occurring. The HOPE Team conducts monthly, recurring programs to help Pasadena's street-level homeless population. Subjects are offered outreach in the form of housing and shelter resources, drug rehabilitation referrals, hygiene aids, and mobile showering services.

There are currently three HOPE Teams comprised of a Pasadena Police Officer and a Mental Health Clinician from the Los Angeles County Department of Mental Health (DMH). DMH's Mental Health Clinicians are provided to the Pasadena Police Department at no cost. Their primary responsibility is to respond to radio calls and to assist individuals through the mental health system to see if they qualify for additional mental health services. HOPE Team members are trained negotiators and crisis intervention specialists.

After providing outreach services to the homeless population, the HOPE Team also engages in the enforcement of a variety of laws that safeguard the community's public spaces. The team collaborates with the Park Safety Unit to enforce park closing hours, and coordinates encampment clean-ups.

The Pasadena Police Department approaches encampment cleanups through education first. During enforcement programs, the HOPE team ensures that the rights of people experiencing homelessness are not violated. The HOPE Team engages with those experiencing homelessness to inform them about local ordinances and available resources. They provide information on shelters, food assistance, and mental health services. If or when an encampment cleanup is needed, the HOPE Team will collaborate with several City departments, including the Fire Department, Parks and Recreation, MASH, Code Enforcement, Public Works, the City Prosecutor's office, and outside entities such as the California Highway Patrol, CalTrans, METRO, and various other organizations.

Pasadena Public Health Department

The Public Health Department is a critical partner and operator of services that reach the homeless population. While several others have already been described, two other programs warrant particular mention. Proposition 47 aims to reduce recidivism for justice-involved clients experiencing homelessness through intensive case management and creating stronger cross collaboration with relevant service providers, such as Flintridge Center, the Gang Outreach and Violence Interruption Services (GOVIS) team, and the Community Overcoming Recidivism through Education (CORE) team at Pasadena City College. The objective for these collaborations is to provide educational support, enrichment, and job training to clients. Funding is provided by the California Board of State and Community Corrections (BSCC). The Department also receives funding from the Los Angeles County Department of Mental Health to support a United Mental Health Promoters team that serves the unhoused by providing referrals for services, case management, navigation assistance, and delivery of trainings to community members and organizations on Mental Health First Aid and Community Resiliency.

Pasadena Library System

The Pasadena Central Library served as a refuge, especially for those experiencing homelessness, offering a temperature-controlled, safe space while providing a full-time Care Navigator from the Pasadena Public Health Department (PPHD). The Care Navigator provided essential social services not replicated at the library branches. This position may return upon the reopening of Central Library, depending on availability of funding at that time. PPHD stationed the Care Navigator at the Central Library to provide intense case management and linkages to care for all populations experiencing homelessness who had chronic health conditions and/or mental health and substance use disorders. The Care Navigator was supported through a library grant which has now ended. The staff member who performed those duties moved to other programs and remains with the Department. Their new assignment is with the United Mental Health Promoters.

Pasadena Transit and Dial-A-Ride Service

Pasadena Transit has taken measures to address the unhoused crisis, reaffirming the City's commitment to the safety and comfort of all passengers. When reports are received of individuals living or sleeping at bus stops, Transit staff coordinates with PORT to offer services and resources. Over the years, Pasadena Transit has also installed mid-bench armrests to discourage sleeping on bus benches. To ensure access to transit services, Pasadena Transit participates in the Low Income Fare is Easy (LIFE) program which provides a subsidy to those who participate in the program. For Pasadena, the subsidy provides them with free transportation.

Dial-A-Ride trips have been provided, at the request of the Bad Weather Shelter administrator, to those 60 or over or those with a disability to/from the shelter. Dial-A-Ride has also provided emergency services, such as picking up unhoused individuals throughout the City and transporting them to the temporary shelter at Villa Parke during Hurricane Hilary. The Transit Division has experienced an uptick in applications from the unhoused. Unfortunately, the program has a proof of residency requirement to use the service. City staff are identifying potential solutions on how to address requests for Dial-A-Ride service for those who do not have permanent addresses but live in our service area (Pasadena, San Marino, Altadena and the unincorporated areas of Chapman Woods, Kinneloa and near the City of San Gabriel).

City Attorney/City Prosecutor's Office

The Prosecution Division of the City Attorney/City Prosecutor's Office is responsible for reviewing crime reports, deciding whether to file criminal charges, and, if charges are to be filed, deciding what charges to file. The Prosecution Division only reviews and prosecutes cases that are referred to it by a law enforcement agency. About 87 percent of cases are referred by the Pasadena Police Department (PPD). PPD decides what matters warrant referral to the Prosecution Division. As a result, if PPD does not cite homeless individuals for certain offenses, such as blocking a sidewalk or sleeping in a park overnight, those cases would not be presented for prosecution. If PPD does cite for such offenses, then Prosecution Division attorneys must decide whether to file charges and, if a case is filed, what offer should be made to resolve the case. Offers, which are often diversion offers, can include housing assistance, drug treatment, mental health treatment, and other programs to benefit the defendant. However, defendants, through their defense attorneys, can reject offers and either set the matter for trial or ask the court for an indicated offer or diversion. The court's offer may not include any program requirements whatsoever. If a doubt is expressed by the defense attorney or by the judge about a defendant's competency to stand trial, a defendant will receive a mental health evaluation. Defendants deemed incompetent can be offered mental health diversion by the court, can be referred to Assisted Outpatient Treatment, or can have their cases dismissed. If there is a suspicion that a defendant is "gravely disabled," the defendant is referred to the Public Guardian. The Public Guardian determines if the defendant is, in fact, gravely disabled. If the Public Guardian determines that the defendant is gravely disabled, then it will file a petition for conservatorship. Senate Bill (SB) 43, approved by the Governor in

October 2023, expanded the standard for conservatorships. In December 2023, the LA County Board of Supervisors passed a motion to defer implementation of this new SB 43 standard in Los Angeles County until January 2026, which SB 43 allowed.

The Prosecution Division generally seeks to resolve such cases with a “care first” model. This includes attempting to include housing assistance, drug treatment, mental health treatment, and/or other programs that may be of benefit to the defendant as part of any resolution for these types of cases. Such cases will often end in dismissals with acceptance of services. For some defendants who reject services and reject any conditions of probation, the only option (assuming the court does not dismiss the case on its own motion) may be a no-probation disposition that might include jail time.

To better understand issues and challenges surrounding the unhoused, a Prosecution Division attorney has regularly accompanied the PORT Team in its outreach efforts and is leading efforts to create a homeless court in the Pasadena Courthouse. This would be another way to pursue housing for unhoused defendants charged with low level offenses commonly associated with homelessness. The homeless court implementation would include a service provider being in court two days per week. This would allow participants to be transported from court and receive same-day shelter/housing and be assessed for other needed services. Over the course of six to nine months, that person’s criminal case would be diverted, and, upon successful completion, they would be moved into more permanent housing with their case(s) dismissed.

Participating in a homeless court program requires no action by the City Council and can be administratively carried out by the Prosecution Division in the City Attorney’s office. However, to implement some major aspects of the program, including provision of housing vouchers and a navigator organization to provide resources and case management, additional funding would be needed. Prosecution Division staff is working with other City Departments to launch the program, utilizing existing resources and seeking outside funding assistance.

Additional Considerations

There is existing case law from 2012, *Lavan v. City of Los Angeles*, 693 F.3d 1022 (9th Cir. 2012), which prohibits cities from seizing and destroying the personal property of unhoused individuals without providing reasonable notice and an opportunity for owners to reclaim their possessions before they are destroyed. The *Lavan* decision remains applicable, even with the recent Supreme Court decision in *Grants Pass*.

Additionally, following the Supreme Court’s *Grants Pass* decision, the American Civil Liberties Union of Washington filed a new lawsuit utilizing the “cruel and unusual punishment” clause of the Washington State Constitution to challenge some Spokane, Washington ordinances. The suit alleges that Spokane’s ordinances governing camping and lying in public spaces are unconstitutional and impose cruel punishment on people experiencing homelessness. In other words, the lawsuit argues that the ordinances functionally criminalize homelessness and impose cruel and unusual punishment in violation of the Washington State Constitution. One Spokane ordinance makes camping

and sleeping on public property a misdemeanor; the second makes sitting or lying between 6:00 a.m. and 12:00 a.m. on public property that is encompassed by a designated zone a misdemeanor; and the third authorizes the city to remove, destroy, or store the property of individuals who have been cited for unlawful camping. California's Constitution contains a similar clause to Washington in Cal. Const. Art. 1, section 17, which states as follows: "Cruel or unusual punishment may not be inflicted or excessive fines imposed." The City Attorney's office is not aware of any post-*Grants Pass* lawsuits challenging local anti-camping ordinances in California but will continue to monitor the issue.

Council-Manager Form of Government

If the Council were inclined to provide policy direction to staff through a future (action) agenda item on one or more of the matters discussed herein, the Council could "instruct" the City Manager in matters of policy, but the Council cannot instruct subordinates of the City Manager. In the Council-Manager form of government, the City Council sets policy, passes ordinances, approves projects and programs, and adopts the annual budget. The City Manager implements the policies, advises the City Council, makes recommendations on City Council decisions, formulates the budget, and oversees the administration and management of staff and resources. As the City's efforts to address issues associated with homelessness are discussed and assessed, consensus and direction from City Council will be needed if a policy change is to be considered at a future meeting.

COUNCIL POLICY CONSIDERATION:

The existing City services and programs to address issues related to homelessness are consistent with the City Council's strategic goals to support and promote the quality of life, ensure public safety, and maintain fiscal responsibility and stability.


ENVIRONMENTAL ANALYSIS:

The proposed action has been determined to be exempt from the California Environmental Quality Act (CEQA) pursuant to State CEQA Guidelines section 15061 (b)(3), the Common Sense Exemption that CEQA applies only to projects which have the potential for causing a significant effect on the environment. The review and discussion of the City's efforts to address issues associated with homelessness would have no adverse impact on the environment.

FISCAL IMPACT:

No budget requests are included in this report. There is no impact to the General Fund.

Respectfully submitted:



WILLIAM HUANG
Director, Housing Department

In Concurrence with:



MICHELE BEAL BAGNERIS
City Attorney/City Prosecutor

In Concurrence with:



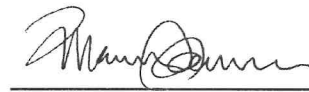
CHAD AUGUSTIN
Chief, Fire Department

In Concurrence with:



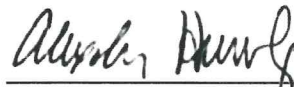
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Attachments:

Attachment A – Ordinance 7287