

## **ORDINANCE 2022-0011**

Adopted by the Sacramento City Council

August 9, 2022

### **An Ordinance Adding Chapter 12.100 to the Sacramento City Code, Relating to Emergency Shelter and Enforcement Act of 2022**

#### **THE PEOPLE OF THE CITY OF SACRAMENTO DO ORDAIN AS FOLLOWS:**

##### **SECTION 1.** Findings

- A. The most important issue facing our city is the massive increase in the number of people experiencing homelessness and living on our public streets and sidewalks, in vehicles, or in other public spaces. Recent data indicates that the number of unsheltered homeless persons has more than doubled in just the last few years.
- B. Numerous homeless encampments, many with dozens of people living in tents and other makeshift shelters on both public and private property, have created a public health and safety crisis.
- C. The living conditions facing people experiencing homelessness are unhealthy and unsafe.
- D. Homeless encampments create tons of hazardous waste, creating dangerous health conditions for the occupants and the entire city. The unsanitary conditions have led to infestation of disease-carrying rats and the spread of communicable diseases. Our rivers and storm water systems have become contaminated with unsafe levels of E. coli. The public has even been warned to stay out of the American River and to be wary of needles in our public parks because of the dangerous conditions caused by homeless encampments.
- E. Criminal activity may be present near established encampments, which creates potential victimization of all residents, housed and unhoused. The prevalence of substance abuse and mental health disorders can also lead to an increase in low-level offenses due to individuals being disconnected from supports and housing.
- F. Homelessness disproportionately impacts people of color, members of the LGBTQ+ community, former foster youth, and veterans. These populations are more likely to suffer from these deplorable living conditions.

- G. Governor Newsom has stated that the ideal long-term solution to solving homelessness is permanent housing with services for those needing assistance with drug addiction, mental illness, and economic disadvantages. But, as the Governor also noted, that could take years to come to fruition. The Governor stated that we must do more – we must find a “bridge to permanent supportive housing.” Unfortunately, funding resources make it impossible to successfully create both short-term and long-term solutions simultaneously.
- H. The community of Sacramento has demanded an immediate and urgent response from their city government. There is nothing compassionate about letting people deteriorate and ultimately die on our city streets. There is nothing compassionate about allowing large encampments that create a public health and safety crisis. And there is nothing compassionate in allowing conditions which threaten the livability, security, and economic vitality of the city. The community of Sacramento has demanded that the city take immediate action to address this crisis, which includes taking humane action to move persons camping on public streets to a safer and more suitable and secure housing location, or to a shelter facility until permanent housing is provided. We must provide the homeless with a bridge to a more permanent housing solution.
- I. Under existing law, the City is authorized to commence proceedings against private property owners to abate unlawful camping and unlawful storage of personal property that occurs on their property. The City owns thousands of acres of public property, and the City should be held responsible to abide by the same standard that the City imposes on the owners of private property. Any resident, or group of residents, harmed by unlawful camping and unlawful storage of personal property that occurs on public property must be authorized to demand the City to abate those violations.
- J. Therefore, the people hereby enact “The City of Sacramento Emergency Shelter and Enforcement Act of 2022.” Nothing in this Act prevents or prohibits the city from providing long term housing or social services to persons experiencing homelessness, and doing so is necessary and encouraged. However, the city of Sacramento must also take immediate steps to create emergency shelter space and to enforce its laws and protect the interests of all of its citizens.

## **SECTION 2.**

Chapter 12.100 is hereby added to the Sacramento City Code to read as follows:

### **Chapter 12.100 Emergency Shelter and Enforcement Act of 2022**

#### **12.100.010 Definitions.**

The following definitions apply in this chapter:

“Camp” means to place, pitch, or occupy camp facilities; to live temporarily in a camp facility or outdoors; to use camp paraphernalia.

“Camp facilities” include, but are not limited to, tents, huts, vehicles, vehicle camping outfits, or temporary shelter.

“Camp paraphernalia” includes, but is not limited to, bedrolls, tarpaulins, cots, beds, sleeping bags, hammocks, or cooking facilities and similar equipment.

“City manager” means the city manager or designee.

“Emergency shelter space” means a city-authorized location providing temporary shelter or alternative sleeping space for a person experiencing homelessness until permanent shelter or housing can be obtained. “Emergency shelter space” includes the following:

- (a) An enclosed or partially enclosed space of at least 70 square feet with a bed and roof that provides protection from the sun and rain in which a person may sleep.
- (b) A space of at least 100 square feet in which a person may camp. The city may provide the camp paraphernalia, or the person may bring their own camp paraphernalia, according to the rules for that location. The city may permit the person to sleep in the space during designated nighttime hours and require them to vacate the space during the day, so long as each person is provided reasonable space for storage of property and possessions during the time the person is required to vacate the space.
- (c) A space of at least 150 square feet in which a person may park a vehicle in which they can sleep temporarily.

“Encampment” means four or more unrelated persons camping together or within 50 feet of each other and without permitted electrical power, permitted running water, and permitted bathroom facilities that serve that encampment.

“Harm” means monetary loss and the loss of the quiet use and enjoyment of private or public property.

“Minimum threshold” means the number of emergency shelter spaces that equals 60% of the estimated number of unsheltered homeless persons in the city pursuant to the 2022 PIT Count Report or the most recent PIT Count Report, whichever is less.

“New emergency shelter spaces” means shelter spaces identified or authorized after December 31, 2021.

“PIT Count Report” means the report of the Point-in-Time Homeless Count documenting the results of the survey of every individual in the County of Sacramento experiencing homelessness during a twenty-four-hour period, conducted to fulfill a federal funding requirement from the U.S. Department of Housing and Urban Development.

“Resident” means a person who resides in the city or owns a business located in the city, and includes a group of residents, or an organization of residents.

“Unrelated” means not related by blood, adoption, marriage, or registered domestic partnership.

“Utilization rate” means the percentage calculated as follows: (monthly average number of occupied emergency shelter spaces)/(total emergency shelter spaces identified and authorized by the city manager). For purposes of this calculation, the monthly average is calculated using the daily counts conducted pursuant to section 12.100.020.

### **12.100.020 Emergency shelter identified and provided.**

The city of Sacramento hereby declares its commitment to identify and authorize the minimum threshold as follows:

- A. Within 90 days of the effective date of this chapter, the city manager will identify and authorize at least the number of new emergency shelter spaces that equals 20% of the minimum threshold. If in any given month thereafter, the utilization rate is greater than 60%, the city manager shall, within 30 days, identify and authorize an additional number of emergency shelter spaces that equals 20% of the minimum threshold. However, the city manager shall not be required to identify and authorize emergency shelter spaces that exceed the minimum threshold.
  - 1. Of the required emergency shelter spaces, as circumstances allow, the city manager shall endeavor to identify and authorize emergency shelter spaces in every council district, to avoid over-concentration.
- B. Nothing in this section restricts the city manager from identifying and authorizing more emergency shelter spaces in any given time period if funds are available.
- C. For purposes of subsections A through D, the city manager may include emergency shelter spaces within the city that are:
  - 1. On any public property, except for city streets, sidewalks, or neighborhood parks; locations within 1,000 feet of a K-12 school, public library, licensed daycare or preschool facility, or playground; or locations within 500 feet of a stream or river;
  - 2. Provided by nonprofit organizations if such space is adequate and reasonably available; and
  - 3. Established by contract with an owner of private property, or a local, state, or federal government.
- D. The city manager will require all persons within an emergency shelter space to comply with all laws and rules for that location.
- E. The city manager may allow emergency shelter spaces to accommodate persons with physical disabilities, partners, and pets (though pets may be kenneled), as necessary to further the purposes of this chapter.

- F. The city manager will inform all city employees or contractors conducting outreach and relevant city agencies, including the police department, of the number and location of emergency shelter spaces available as of 5:00 p.m. each day. The city manager may accomplish this by developing an internet-based application that provides real-time updates of the availability of emergency shelter spaces to city employees, service providers, advocates, nonprofits, and the public.
- G. The city manager will collect data regarding the progress in providing emergency shelter space, and in eliminating encampments and unlawful camping; and report the data to the city council every thirty days. Within 12 months of the effective date of this chapter, the city will achieve a significant reduction in the number of encampments and in the number of unsheltered persons; and the city manager will report the results to the city council.
- H. At least five days per week, the city manager will deploy city personnel or contractors in a designated part of the city, as determined by the city manager, to conduct outreach to persons unlawfully camping and to offer available emergency shelter space, as appropriate for that person. The outreach shall include, at a minimum:
  - 1. Giving notice orally and in writing to persons camping on public property in violation of section 12.52.030 that doing so is illegal, and that the law will be enforced in that designated part of the city beginning on a specified date at least 14 days from the date the notice is first provided.
  - 2. Making reasonable efforts to connect persons who are illegally camping with appropriate county social services agencies, including mental health services and drug rehabilitation services, and maintaining data on those efforts and the county agencies' participation.
  - 3. Assisting with the relocation of the person who is camping to a housing unit, shelter, or emergency shelter space. The city may use city personnel and vehicles or may obtain the services of contractors to provide such services (e.g., waste removal and rideshare services). The city may pay a person for the reasonable value of that personal property in lieu of moving such property if the person agrees to such sale. If the person agrees to the sale, the city may dispose of the property, in the city manager's discretion.
- I. Subject to the limitations set forth in section 12.100.060, the duties imposed on the city manager pursuant to this section are mandatory.

**12.100.030 Unlawful camping enforcement.**

Section 12.52.030 (unlawful camping) may not be enforced against any individual on public property unless and until all the following have occurred:

- A. The city manager has authorized the number of emergency shelter spaces, in accordance with section 12.100.020;
- B. The city manager has determined that an emergency shelter space for the individual is currently available, in accordance with section 12.100.020.F;

- C. The city manager has offered the individual an emergency shelter space; and
- D. The individual has rejected the city's offer of an emergency shelter space and refuses to move from the public property.

**12.100.040 Unlawful encampments.**

- A. It is unlawful and a public nuisance for any person to do the following in an encampment located on any public or private property:
  - 1. Camp, occupy camp facilities, or use camp paraphernalia; or
  - 2. Accumulate or fail to properly dispose of waste including, but not limited to hazardous waste, human waste, garbage, debris, and used needles.
- B. This section does not prohibit encampments on private residential property by friends or family of the property owner, so long as the owner consents and the encampment is limited to not more than one consecutive night.
- C. This section does not prohibit or make unlawful, activities of an owner of private property or other lawful user of private property that are normally associated with and incidental to the lawful and authorized use of private property for residential or other purposes; and provided further, this section does not prohibit or make unlawful, activities of a property owner or other lawful user if such activities are expressly authorized by the Planning and Development Code or other laws, ordinances, and regulations.
- D. The city manager may, in his or her discretion, issue a permit to establish, maintain, and operate an encampment in connection with a special event. A special event is intended to include, but not be limited to, programs operated by the departments of the city, youth or school events, marathons or other sporting events, and scouting activities. The city manager may consult with various city departments, the health officer, and the public prior to issuing any temporary permit. Each department or person consulted may provide comments regarding any health, safety or public welfare concerns and provide recommendations pertaining to the issuance, denial, or conditioning of the permit. A reasonable fee, to be set by the city council shall be paid, in advance, by the applicant. The fee shall be returned if the application is denied. In exercising his or her discretion to issue a temporary permit, the city manager may consider any facts or evidence bearing on the sanitary, health, safety and welfare conditions on or surrounding the area or tract of land upon which the proposed temporary camp or camp facility is to be located.
- E. Notwithstanding the provisions of section 12.100.030, subsection A of this section may be enforced to prohibit encampments on public or private property without regard to the provisions of section 12.100.020.
- F. A violation of this section is a misdemeanor. In addition to the remedies set forth in California Penal Code section 370, the city attorney may institute civil actions to abate a public nuisance under this chapter.

**12.100.050 Abatement of unlawful camping or storage on public property owned by the city.**

- A. Any resident harmed by a violation of sections 12.52.030 (unlawful camping) or 12.52.040 (unlawful storage) on public property owned by the city, except for public property used for emergency shelter space, is authorized to commence proceedings to require the city to abate the violations. This section goes into effect 180 days after the effective date of this chapter.
  
- B. To commence proceedings to require the city to abate the violation of sections 12.52.030 or 12.52.040 on public property owned by the city, a resident must file with the city clerk a notice of violation and demand to abate (“notice and demand”). The city manager shall create a form for the notice and demand and establish a process for filing the notice and demand that complies with this section. The process for filing the notice and demand shall include options to file online, by personal delivery, and by mail. No fee shall be imposed for the filing of a notice and demand. The notice and demand must contain:
  - 1. The street address or such other description needed to identify the location of the subject public property;
  - 2. A description of the conditions that constitute the violation of section 12.52.030 or 12.52.040;
  - 3. A description of the harm to the resident caused by the violation;
  - 4. A demand that the city take action to abate the violation.
  
- C. Within 20 days from the date the city receives the notice and demand, the city shall inspect the subject public property location and respond to the notice and demand by informing the resident that the city will:
  - 1. Abate the violations within 45 days of the date the notice and demand was received by the city, by following the outreach and relocation process as described in section 12.100.020.H;
  - 2. Require an extension of time to abate the violation, not to exceed 30 days;
  - 3. Not abate the violation because the city does not own the subject property; or
  - 4. Dispute that a violation exists.
  
- D. If the city manager determines that the city does not own the subject property, disputes that a violation exists, or otherwise refuses or fails to cure the violation within the time prescribed, the resident may seek an appeal, consistent with the provisions of section 8.04.170 et seq. The city manager shall establish rules of procedure for the processing of appeals filed pursuant to this section, so long as they are consistent with this chapter and the appeal procedures in chapter 8.04.

- E. Notwithstanding any provision of chapter 8.04 to the contrary, the hearing examiner's authority on appeal is limited to determining whether, pursuant to this chapter, the city must abate the alleged violations on public property, and if so, ordering the city to take any appropriate action to abate the violation.
- F. If, following an appeal pursuant to subsection D, the hearing examiner orders the city to abate the violation, the resident shall be entitled to recover from the city their costs and reasonable attorney's fees incurred, if any, in connection with the hearing.

**12.100.060 Budgeting.**

- A. To fund the commitments, obligations, and liabilities created under this chapter, the city manager shall first allocate the money from external sources, such as county, state, and federal governments.
- B. If the resources allocated in subsection A are not sufficient to meet the commitments, obligations, and liabilities created under this chapter, the city manager shall then annually allocate up to 50% of unobligated general fund year-end resources, as identified in the city's budget, not to exceed \$5,000,000.

**SECTION 3. General Provisions.**

- A. If any provision or subsection of this Act or application thereof to any person or circumstance is held invalid, that invalidity shall not affect other provisions or subsections or applications of the Act which can be given effect without the invalid provision or subsection or application, and to this end the provisions of this Act are severable.
- B. This Act is intended to be comprehensive. It is the intent of the people that in the event this Act or acts relating to the same subject shall appear on the same ballot, the provisions of the other Act or Acts shall be deemed to be in conflict with this Act. In the event that this Act receives a greater number of affirmative votes, the provisions of this Act shall prevail in their entirety, and all provisions of the other Act or Acts shall be null and void.
- C. This Act may be amended by the city council upon a two-thirds vote of the members of the council, but only to further the purposes of this Act.
- D. This Act is not intended to relieve the state and county of their obligation to provide services to those who need assistance. It is intended to prompt the county to adopt a comparable county measure. This should be a unified regional approach to successfully address this crisis.

**SECTION 4. Majority Approval; County Partnership Required; Operative Date.**

- A. This ordinance shall be effective only if approved by a majority of the voters voting on this ordinance.
- B. This ordinance shall not be operative, and no provision of Sacramento City Code chapter 12.100 is enforceable, unless and until the city (acting through the City Council) and the County of Sacramento (acting through the Board of Supervisors) approve a legally-



binding partnership agreement that, at a minimum, memorializes the respective roles of the city and county to improve the homelessness crisis. The partnership agreement shall include, but not be limited to, the County's roles, responsibilities, and obligations to provide the following to homeless persons in the city who need them:

1. Mental-health services;
2. Substance-abuse services;
3. Clinical outreach and case management to refer individuals to appropriate County services, such as housing, medical, employment, social services, and drug-rehabilitation services; and
4. Child-welfare and domestic-violence services.

C. This ordinance – and thereby Sacramento City Code chapter 12.100 – shall not be operative at any time the partnership agreement described in subsection B is not in effect.

Adopted by the City of Sacramento City Council on August 9, 2022, by the following vote:

Ayes: Members Ashby, Guerra, Harris, Jennings, Loloee, Schenirer, and Mayor Steinberg

Noes: Members Valenzuela and Vang

Abstain: None

Absent: None

Attest:  01/23/2023

Mindy Cuppy, City Clerk

*The presence of an electronic signature certifies that the foregoing is a true and correct copy as approved by the Sacramento City Council.*

Passed for Publication: Not applicable.

Published: To Be Published in its entirety per City Charter Section 32(d).

Effective: November 8, 2022