

ORDINANCE NO. _____

BOARD OF SUPERVISORS, COUNTY OF SAN MATEO, STATE OF CALIFORNIA

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AN ORDINANCE ADDING A NEW CHAPTER 3.109 OF TITLE 3 OF THE SAN MATEO COUNTY ORDINANCE CODE TO REGULATE ENCAMPMENTS ON PUBLIC PROPERTY IN THE UNINCORPORATED AREAS OF SAN MATEO COUNTY (HOPEFUL HORIZONS: EMPOWERING LIVES INITIATIVE)

The Board of Supervisors of the County of San Mateo, State of California,

ORDAINS as follows:

WHEREAS, all San Mateo County residents should have safe, healthy, and dignified shelter, and the County is dedicated to reaching and maintaining Functional Zero homelessness, where every unsheltered homeless person in the County who chooses assistance will be provided interim or permanent housing; and

WHEREAS, homeless encampments, which are plagued by fire risks, unsanitary conditions, public safety hazards, and environmental degradation, are unsafe and unhealthy for individuals living in them and make surrounding communities less safe and less healthy; and

WHEREAS, the County recognizes that homelessness is connected to trauma in a number of ways, as individuals and families experiencing homelessness face the daily trauma of not knowing whether they will be able to sleep in a safe environment or obtain regular meals; are highly vulnerable to violence, victimization, and adverse health

outcomes; and a disproportionate number of those experiencing homelessness have suffered past forms of trauma such as child abuse and domestic violence; and

WHEREAS, trauma-informed care is an evidence-based practice that recognizes the trauma associated with homelessness and focuses on tenets such as safety, compassion, trustworthiness, learning, and empowerment; and

WHEREAS, the County employs, and will continue to employ, multi-disciplinary outreach teams who are trained to utilize trauma-informed care when engaging with homeless individuals living in encampments over the course of weeks, months, and sometimes years to support them in their healing and housing journeys; and

WHEREAS, the County's trauma-informed care engagement efforts directed to homeless individuals living in encampments include: Coordinated Entry System ("CES") assessment and placement; transportation assistance; food and hygiene resources and care kits; referrals to Street Medicine and/or the Homeless Engagement Assessment and Linkage (HEAL) program, which provides field-based mental health and additional treatment; connection to the Healthcare for the Homeless outreach team for linkages to primary care, dental, and/or vision services; assistance with obtaining vital documentation (ID, Social Security Card, birth certificate); and assistance with employment resources; and

WHEREAS, when engaging with individuals living in encampments, the County's outreach and enforcement teams are, and will remain, cognizant of potential language barriers, and take steps to comply with the County's Language Access Policy, which calls for meaningful access to County services, programs, benefits, and information for all County residents, regardless of their English language proficiency; and

WHEREAS, County services, programs, benefits, and information are, and will continue to be, offered to all individuals living in encampments, regardless of citizenship status; and

WHEREAS, when individuals living in encampments accept shelter, they are placed at one of the County's congregate or non-congregate shelters, with women and families placed separately from single men; and

WHEREAS, all individuals placed in a shelter are assigned a shelter case manager, who will meet with each individual regularly and work with them on a housing-focused case plan, which includes obtaining housing readiness documentation (ID, Social Security Card, birth certificate), applying to housing waitlists, earning income either through benefits (such as General Assistance, Supplemental Security Income, and Social Security Disability Insurance), or securing employment, and addressing healthcare and treatment needs; and

WHEREAS, shelter stays in the County generally last for 90 to 120 days, but extensions are approved if the individual is actively working on a case plan toward longer-term stable housing; and

WHEREAS, since the start of the COVID-19 pandemic in March 2020, the County has added 146 permanent supportive housing units and 409 non-congregate units, including the Navigation Center – which offers 240 safe temporary living spaces for individuals and couples, along with intensive wrap-around support services – and successfully converted five hotels into interim non-congregate housing and permanent supportive housing: (1) Coast House (formerly Coastside Inn), a 51-room interim housing site serving the Coastside community; (2) The Pacific Shelter (formerly Pacific Inn), a 74-room interim housing site located in Redwood City; (3) El Camino House (formerly The Stone Villa Inn), a 44-room interim housing site located in San Mateo; (4) Shores Landing (formerly Towneplace Suites), a 95-unit permanent affordable housing site for seniors who were previously homeless or at risk of homelessness, also located in Redwood City; and (5) Casa Esperanza (formerly The Comfort Inn), a 51-unit permanent supportive housing site for previously homeless individuals, also located in Redwood City; and

WHEREAS, mindful of the decision of the United States Court of Appeals for the Ninth Circuit in *Martin, et al. v. City of Boise* (2019) 920 F.3d 584, and related case law, this Ordinance conditions enforcement of prohibitions on illegal encampments on public property in the unincorporated areas of the County on the availability of shelter, and

further provides that those charged with a misdemeanor for violations of the Ordinance shall be entitled to participate in appropriate diversion programs offered by the San Mateo County Superior Court, the goal being to route individuals to shelter, and not to jail; and

WHEREAS, also mindful of practical difficulties faced by individuals attempting to remove property from encampments, this Ordinance mandates that the County offer reasonable assistance in the removal and temporary storage of such property, and the County is also dedicated to ensuring that all storage locations for such property will be near accessible transit and reasonable transportation services will be offered to individuals.

SECTION 1. A new Chapter 3.109 of Title 3 of the San Mateo County Ordinance Code regulating illegal encampments on public property in the unincorporated areas of San Mateo County, which Chapter shall be known as the Hopeful Horizons: Empowering Lives Initiative (“Chapter”), is hereby adopted to be numbered and entitled and to read as follows:

Chapter 3.109 – Hopeful Horizons: Empowering Lives Initiative.

3.109.010 - Definitions.

- (a) **“Encampment”** means any tent, makeshift structure, or accumulation of belongings in a place not meant for human habitation, belonging to at least one person, where the person or people plan to stay in one location continuously with no definite plans to move, except when such activity occurs (i) in a public area that the County has specifically set aside or clearly marked for public camping, such as a campground or picnic area, and (ii) with a valid permit, reservation, or other applicable authorization from the County.
- (b) **“Exigent Circumstances”** means there are facts and circumstances that would cause a reasonable person to believe that, in the interest of public safety and

welfare, an Encampment urgently needs to be removed with less than 24 hours' notice. Exigent Circumstances include, but are not limited to, material fire risk, obstructing or interfering with the flow of pedestrian or vehicular traffic, blocking access to a parking lot of a building, or outbreak of a communicable or contagious disease.

(c) **“Personal Effects”** means personal property consisting of any of the following items:

1. Identification/Social Security cards;
2. Medications, medical devices, eyeglasses;
3. Photos/photo albums;
4. Tax, medical or legal records;
5. Nonperishable food items; and
6. Any other reasonably usable, not overly soiled, nonverminous items that reasonably appear to have value to persons experiencing homelessness, including tents, sleeping bags, clothes, and functional bicycles.

(d) **“Shelter Location”** means a public or private facility, with available space, including a bed, for an indigent, homeless individual to stay at no charge to the individual. For purposes of this Chapter, Shelter Location does not include any of the following: (a) shelter space where an individual cannot stay because the individual has exceeded a shelter's maximum stay rule; (b) shelter space that cannot reasonably accommodate the individual's mental or physical disabilities; (c) shelter space that does not permit a minor child to be housed in the same facility with at least one parent or legal guardian when the individual in question has custody of a minor child; (d) shelter space for which an individual is required to attend or participate in religious activities or programs as a condition of utilizing the shelter space; or (e) shelter space that is unavailable due to the individual's sexual orientation, gender identity or gender expression, religious affiliation, criminal convictions, or pet(s).

3.109.020 – Intent.

The intent of this Chapter is to preserve the health, safety, and welfare of the inhabitants of San Mateo County, including individuals experiencing homelessness. This Chapter addresses issues such as fire risk, unsanitary conditions, public safety hazards, and environmental degradation associated with unregulated encampments in the County. To that end, this Chapter generally prohibits the establishment of unregulated encampments on public property when there is an available Shelter Location, as defined herein.

3.109.030 Encampment Prohibitions.

- (a) When there is an available Shelter Location for a person, it is unlawful and a public nuisance for that person to place, erect, configure, construct, or maintain an Encampment on public property anywhere in the unincorporated area of the County.
- (b) Section 3.109.030(a) shall not be enforced against any person unless that person has declined an offer of an available Shelter Location or otherwise has access to shelter or the means to obtain it.

3.109.040 – County Executive Authority To Promulgate Regulations.

The County Executive is authorized to establish standard policies, procedures, forms, and/or administrative regulations that are consistent with this Chapter in order to implement this Chapter.

3.109.050 – Penalties For Violations.

- (a) Any person who is in violation of this Chapter shall be given at least two (2) written warnings prior to enforcement of the violation as a misdemeanor. The written warnings may be issued at any time a violation is identified regardless of the duration of time between each warning, subject to the requirements of Subsection (b) below, and regardless of the location of the Encampment. Each written warning will be issued in accordance with the County's Language Access Policy and shall provide the person with information about at least one available Shelter Location, as required by Section 3.109.030(b) and shall include a written offer of placement in such Shelter Location.
- (b) Each day that an Encampment exists under Section 3.109.030(a) shall be a separate violation of this Chapter, and each written warning required under this Section 3.109.050 shall be given no more frequently than once during every 24-hour period.

- (c) A person who is in violation of this Chapter shall be guilty of a misdemeanor 24 hours after receiving a second written warning as set forth above and failing to vacate the Encampment.
- (d) If a person who violates this Chapter is subject to arrest, the arresting officer shall be permitted to seize and store the Personal Effects of the person arrested if necessary to prevent items from being stolen or damaged and/or if deemed necessary to prevent the immediate reestablishment of an Encampment that violates this Chapter.
- (e) Any person charged with a misdemeanor violation under this Chapter shall be entitled to participate in any appropriate diversion programs offered by the Superior Court.

3.109.060 –Removal and Storage of Personal Effects.

- (a) The establishment of an Encampment that violates this Chapter is declared a public nuisance, and appropriate County representatives are authorized to remove any such Encampment after providing notice and complying with the Shelter Location requirements set forth in this Chapter. Unless a seizure of Personal Effects or other items of property and arrest occur related to a misdemeanor violation, as set forth above in Section 3.109.050(d), or unless Exigent Circumstances exist, at least 72-hours' written notice shall be given before the County removes any Personal Effects belonging to anyone found to be in violation of this Chapter.
- (b) Personal Effects or other items of property that pose an imminent threat to public safety or health, are contraband, are evidence of a crime, are obstructing or interfering with the flow of pedestrian or vehicular traffic, and/or are blocking access to a parking lot of a building shall not be subject to the above-described notice requirements and may be immediately removed by appropriate County staff, pursuant to law.
- (c) When neither Exigent Circumstances nor the circumstances described in Section 3.109.060(b) exist, prior to removing an Encampment found to be in violation of this Chapter, a written notice with the following information shall be provided to the person violating this Chapter in accordance with the County's Language Access Policy:
 - 1. The date and time of written notice;
 - 2. The location of the notice;

3. The following statement: "Persons in this area must vacate and remove all belongings on or before: [insert date and time to vacate]. The County will clean this site on or after the time and date specified above. Unaccompanied items are subject to removal and may be discarded or destroyed."
 4. A telephone number and a physical address for individuals receiving the notice to direct questions or concerns regarding removal and storage of Personal Effects, and to make requests for reasonable assistance from County representatives in the removal of Personal Effects.
- (d) After the notice period has expired, at the time of removal of any Personal Effects from an Encampment, County representatives shall conspicuously post a dated notice, at or near the location from which Personal Effects were removed, with the following information:
1. A statement that Personal Effects were removed;
 2. A telephone number for information on retrieving Personal Effects;
 3. A physical address where the Personal Effects are temporarily stored and instructions for retrieving the Personal Effects;
 4. A statement that Personal Effects will be stored for 90 days.
- The posting of notice required under this subsection shall not apply if the removal of Personal Effects is conducted pursuant to Section 3.109.050(d) and the arresting officer has reason to believe that all items belong to the individual(s) being arrested. In such cases, the individual(s) being arrested shall be provided with written notification of where their Personal Effects are being stored and how to retrieve them at a later date.
- (e) County representatives shall itemize and photograph all removed Personal Effects and place such Personal Effects in containers labeled in a manner facilitating identification by County representatives and the owner and which reasonably protect such Personal Effects from damage or theft.
- (f) Personal Effects stored by the County which are claimed within 90 days from removal shall be released to the person claiming ownership providing they provide reasonable evidence of ownership, including, for example, identifying the property and the approximate location where the property was left. Presentation of a government-issued identification shall not be required to reclaim Personal Effects.

- (g) Personal Effects that remain unclaimed after 90 days may be discarded, recycled, dedicated for public use, or given to a nonprofit agency for charitable use.
- (h) Where the County has a reasonable basis to believe that an Encampment has been abandoned and is not occupied, the County may promptly remove any items that reasonably appear to be garbage. For items that do not reasonably appear to be garbage, the County may post a written "notice of apparently abandoned property" which notifies potentially interested parties that the County believes the site to be abandoned and will discard unclaimed items in no fewer than 72 hours. In these circumstances, the County shall have no obligation to attempt to identify, remove, and/or store any unattended items that reasonably appear to have no value. If unattended items remain at an apparently abandoned site after a notice period of 72 hours or longer, the County may discard, recycle, or donate items that remain.

3.109.070 Interpretation of Chapter.

- (a) Nothing in this Chapter shall be interpreted or applied so as to create any requirement, power, or duty in conflict with any federal or state law.
- (b) Nothing in this Chapter shall be interpreted as excusing any individual from complying with other provisions of the County's Ordinance Code.

SECTION 2. SEVERABILITY. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by the decision of a court of competent jurisdiction, it shall not affect the remaining portions of this Ordinance. The Board of Supervisors declares that it would have adopted this Chapter and each and every section, subsection, sentence, clause, and phrase thereof not declared invalid or unconstitutional, without regard to whether any portion or this ordinance would be subsequently declared invalid or unconstitutional.

SECTION 3. EFFECTIVE DATE. This Ordinance shall be effective 30 days from the date of adoption.

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