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September 25, 2020

Mayor Bob Sipple, [bsipple@lakejacksontx.gov](mailto:bsipple@lakejacksontx.gov)  
Mayor Pro Tem Matthew Broaddus, [mbroaddus@lakejacksontx.gov](mailto:mbroaddus@lakejacksontx.gov)  
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City council member Ralph "Buster" Buell III, [rbuell@lakejacksontx.gov](mailto:rbuell@lakejacksontx.gov)  
City council member Jon "J.B." Baker, [jbaker@lakejacksontx.gov](mailto:jbaker@lakejacksontx.gov)

Via email

Dear Mayor and Councilors:

I write on behalf of the National Law Center on Homelessness & Poverty ("Law Center") to share our concerns with Ordinance 20-2200 that was adopted on June 1, 2020. Earlier this month, the city council passed Ordinance 20-2200, which makes it a Class C misdemeanor for "camping on public property; outside of public buildings; and on streets, sidewalks, and public parking lots" and storing "personal property on public property." Furthermore, the ordinance allows for the removal and destruction of personal property.

We also would like to inform you that recent guidelines released by the Centers for Disease Control and Prevention ("CDC") state that homeless encampments should not be evicted during the COVID-19 pandemic unless the city can offer individual housing units to people experiencing homelessness, and to urge you to not begin enforcing Ordinance 20-2200 to comply with these guidelines. See <https://www.cdc.gov/coronavirus/2019-ncov/community/homeless-shelters/unsheltered-homelessness.html>.

This step is necessary to curb the spread of the virus and to protect against avoidable hospitalization and death among both housed and unhoused people.

The Law Center is the nation's only legal advocacy organization dedicated solely to ending and preventing homelessness. In 2017, we published *Tent City, USA: The Growth of America's Homeless Encampments, and How Communities are Responding* ("Tent City Report"), collecting data on 187 cities' policy responses to encampments, along with best practices, model policies, and case studies from across the country. The Tent City Report is available at [https://nlchp.org/wp-content/uploads/2018/10/Tent\\_City\\_USA\\_2017.pdf](https://nlchp.org/wp-content/uploads/2018/10/Tent_City_USA_2017.pdf). Additionally, since 1991, the Law Center has documented the dramatic increase in laws nationwide that punish homeless people for performing harmless, life-sustaining activities in public places, as well as the negative consequences of those discriminatory measures. The Law Center's 2016 Report addressing this issue, *Housing Not Handcuffs: The Criminalization of Homelessness in U.S. Cities* ("Housing Not Handcuffs Report"), is available at <https://www.nlchp.org/documents/Housing-Not-Handcuffs>. The Law Center's reports demonstrate that laws such as Ordinance 20-2200 do not address the underlying causes of homelessness, and instead injure homeless persons' rights and waste taxpayer resources.

We all share the goal of not having homeless persons sleep on our streets, sidewalks, and parks—but the best, most cost-effective, and permanent way to achieve that is to ensure that all who are unsheltered are able to

access adequate, alternative housing. Ordinance 20-2200 misses the most significant feature of a homeless encampments policy—namely, where will those residing in the encampments live if not in the targeted encampment? The lack of plan or requirement to house or adequately shelter the displaced encampment residents means these people are merely dispersed to different public spaces, leading to the inevitable reappearance of outdoor encampments. Thus, we are concerned that this type of ordinance merely provides procedures for pursuing ineffective and expensive punishment strategies, rather than constructive solutions that can actually end homelessness in Lake Jackson.

Because people experiencing homelessness are not on the street by choice but because they lack choices, punishment serves no constructive purpose. Whether punished through civil fines or immediate incarceration, homeless persons usually cannot pay fines, and because they often miss notices to appear in court due to a lack of permanent address, those fines frequently turn into a bench warrant and a criminal arrest. As stated by the Department of Justice in the context of its argument regarding an anti-camping ordinance in *Bell v. Boise*, but equally applicable here:

Criminalizing public sleeping in cities with insufficient housing and support for homeless individuals does not improve public safety outcomes or reduce the factors that contribute to homelessness... Issuing citations for public sleeping forces individuals into the criminal justice system and creates additional obstacles to overcoming homelessness. Criminal records can create barriers to employment and participation in permanent, supportive housing programs. Convictions under these municipal ordinances can also lead to lengthy jail sentences based on the ordinance violation itself, or the inability to pay fines and fees associated with the ordinance violation... Finally, pursuing charges against individuals for sleeping in public imposes further burdens on scarce public defender, judicial, and carceral resources. Thus, criminalizing homelessness is both unconstitutional and misguided public policy, leading to worse outcomes for people who are homeless and for their communities.

*Bell v. Boise, et. al.*, 1:09-cv-540-REB, Statement of Interest of the United States (Aug. 6, 2015).

While the cost of this type of ordinance can be easily overlooked, each person fined under the ordinance will burden Lake Jackson's law enforcement system. Numerous studies have shown that communities actually save money by providing housing and services to those in need, rather than saddling them with fines, fees and arrest records and cycling them through the expensive jail system. *See* Housing Not Handcuffs Report above. The Economic Roundtable of Homelessness in Los Angeles found that housing reduced average monthly spending by 41% per person, even after including the cost of providing housing.

This type of ordinance also runs afoul of the federal government's policies to end homelessness, and may ultimately threaten the community's access to federal funding to provide homeless services. For several years, the U.S. Department of Housing and Urban Development has asked questions on its funding application for its \$2.5 billion Continuum of Care funding stream to reward communities that have implemented constructive solutions to homelessness, and restrict funding for those that continue punishment strategies.

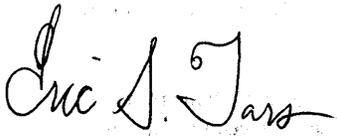
Further, this type of ordinance may spur litigation, which incurs additional fiscal expenses. Based on our observations, 57% of lawsuits brought against municipalities for anti-sleeping or anti-camping ordinances between 2014 and 2017 resulted in decisions favorable to the homeless

plaintiffs. *See* National Law Center on Homelessness and Poverty, *Housing Not Handcuffs: A Litigation Manual* (2017) available at <https://www.nlchp.org/documents/Housing-Not-Handcuffs-Litigation-Manual>.

We hope you will draw on our experience and make use of the Law Center’s Encampment Best Practices and Procedures found in the appendix to the Tent City Report. Any “solution” which does not meet the actual needs of those living in the encampments—including where they can find a safe place to be, day and night, with their belongings—will result in those individuals needing to improvise their own solutions, and most likely, Lake Jackson’s city council will not like those solutions any more than they like the current ones. Only by providing a better alternative for these individuals that actually meets their needs will Lake Jackson stop this wasteful and harmful cycle. In February, Los Angeles adopted our best practices into their own official guidance, which we consider the best model to date. *See* Los Angeles Homeless Services Authority, *Guiding Principles and Practices for Unsheltered Homelessness* (2019), <https://www.lahsa.org/documents?id=2951-guiding-principles-and-practices-for-unsheltered-homelessness.pdf>).

In an era of record poverty, prolonged unemployment, and a shrinking stock of affordable housing, sensible and cost-effective policies are needed. The Law Center urges the council to review our best practices and model ordinances in our reports before enacting Ordinance 20-2200 or any similar ordinances. We suggest the best way to address the problem is by removing the need for people to shelter themselves in public in the first place, by providing adequate housing and services. Our reports document numerous case studies of constructive alternatives. If the city council of Lake Jackson would like, we would be happy to work with you to develop and implement solutions that work for everyone. Please feel free to contact me at [etars@nlchp.org](mailto:etars@nlchp.org) or 202-638-2535 x. 120.

Sincerely,

A handwritten signature in black ink that reads "Eric S. Tars". The signature is written in a cursive, flowing style.

Eric S. Tars  
Legal Director