

ORDINANCE NUMBER O- 18967 (NEW SERIES)

ADOPTED ON AUG 6 2001

AN ORDINANCE AMENDING CHAPTER VI, ARTICLE 3, OF THE SAN DIEGO MUNICIPAL CODE BY ADDING DIVISION 15, SECTIONS 63.1501 THROUGH 63.1505 RELATING TO, POSSESSION, SALE, AND DISPOSAL OF THE GENUS *CAULERPA*, ALSO KNOWN AS "KILLER ALGAE"

BE IT ORDAINED, by the Council of the City of San Diego, as follows:

Section 1. That Chapter VI, Article 3, of the San Diego Municipal Code is amended by adding Division 15 titled to read as follows:

**Limitations on Possession, Sale, and Disposal of *Caulerpa* Algae**

Section 2. That Chapter VI, Article 3, of the San Diego Municipal Code is amended by adding sections 63.1501 through 63.1505 to read as follows:

**§ 63.1501 Legislative Findings and Intent of Division**

The Council finds that the decorative algae known as the genus *Caulerpa* that is used in home and office aquariums is an invasive plant pest that is highly injurious to marine animal and plant life. *Caulerpa* has been found in the ocean off the City of Carlsbad, just twenty miles to the north of this City. The Council finds that *Caulerpa* most likely enters the ocean by means of storm drains into which people have dumped their waste from aquariums, which includes pieces of *Caulerpa*. Without drastic, local, preventive measures, this algae may spread and kill flora and fauna in the oceans within this City's jurisdiction. The purposes of this division are to establish

laws that prevent the possession, sale, or distribution of *Caulerpa* in the City of San Diego and to prevent the improper disposal of *Caulerpa* into the City's waterways, storm drains, and ocean.

**§ 63.1502 Possession, Sale, or Improper Disposal of *Caulerpa* Unlawful**

Except as provided in this division, it is unlawful for any person:

- (a) to sell, possess, transport within this City, transfer, or make a gift of any salt water algae of the genus *Caulerpa*; or,
- (b) to release alive into the City's waterways, storm drains or ocean any salt water algae of the genus *Caulerpa*.

**§ 63.1503 Bona Fide Scientific Research Exception.**

A person may possess or transport specimens of the algae genus *Caulerpa* for bona fide scientific research or for identification purposes. Whether the research is bona fide shall be determined by a senior marine biologist of the City's Water or Metropolitan Wastewater Departments, or their successor departments.

**§ 63.1504 Acceptable Methods of Disposal**

Acceptable methods of disposal shall be determined by the City's Water Department after consultation with the Regional Water Quality Control Board, the California Department of Fish and Game, or the National Marine Fisheries Service.

**§ 63.1505 Penalties**

- (a) A violation of this division constitutes an infraction punishable by a fine of up to \$250 per violation. The designated Enforcement Official may also seek injunctive relief in the Superior Court pursuant to Municipal Code section 12.0202.

(b) Each day a violation of this division persists constitutes a separate violation.

(c) Any fine that is levied under this division for violation of section 67.4502 may be waived by the City if the violator disposes of the algae by an acceptable method, as determined by the City's Water Department under section 63.1504.

Section 4. That two years after passage of this ordinance the City Manager and City Attorney are directed to review this ordinance in light of then existing state and federal law regulating the possession, sale, and distribution of Caulerpa algae and make recommendations to the City Council about whether to retain, repeal, or amend the Municipal Code provisions pertaining to Caulerpa algae. Nothing in this paragraph is intended to limit the City Manager or City Attorney's ability to review the status of the law pertaining to Caulerpa algae and make recommendations to the Council before that time.

Section 5. That a full reading of this ordinance is dispensed with prior to its final passage, a written or printed copy having been available to the City Council and the public a day prior to its final passage.

Section 6. This ordinance shall take effect and be in force on the thirtieth day from and after its passage.

APPROVED: CASEY GWINN, City Attorney

By *Cristie C McGuire*  
Cristie C. McGuire  
Deputy City Attorney

CCM:mr  
06/21/01  
Or.Dept:Water  
O-2001-171  
Form=codeo.frm