(0-2004-59)

# ORDINANCE NUMBER O- <u>19290</u> (NEW SERIES) ADOPTED ON **JUN 21 2004**

### AN ORDINANCE OF THE COUNCIL OF THE CITY OF SAN DIEGO AMENDING CHAPTER 5, ARTICLE 6, DIVISION 0, OF THE SAN DIEGO MUNICIPAL CODE BY AMENDING SECTION 56.54 BY MAKING FORMATTING CHANGES AND ENFORCING A 24-HOUR BAN ON THE CONSUMPTION OF ALCOHOLIC BEVERAGES IN FANUEL STREET PARK; AND BY AMENDING SECTIONS 56.55 AND 56.56 BY MAKING FORMATTING CHANGES ONLY.

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

Section 1. That Chapter 5, Article 6, Division 5, of the San Diego Municipal Code is

amended by amending Section 56.54, to read as follows:

§56.54 Alcoholic Beverage Consumption Prohibited in Certain Areas

(a) Definitions. For purposes of sections 56.54, 56.55, and 56.56, the

following terms are defined as follows:

*"Alcoholic beverage"* has the same meaning as that set forth in California Business and Professions Code section 23004.

"Beach" means the sand or land area bordering the water of an ocean or bay.

*"Public park"* means any property designated, dedicated or developed for park or open space use.

"Seawall" means any wall between the beach and the boardwalk.

*"Sidewalk cafe"* has the same meaning as that set forth in San Diego Municipal Code section 141.0621.

(b) Unless the City Manager or designee has issued a special event permit,

or unless otherwise permitted by section 56.54, it is unlawful for any

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person to consume any *alcoholic beverage* at any time, upon any public property, not including *public parks* and *beaches* except as specifically listed in Appendix 56.54A, and public rights-of-way, including but not limited to public streets, parking lots, sidewalks, alleys, plazas, piers, including on or against *seawalls*, and including all sidewalks along the outer perimeters of such areas.

(c) 12 Hour Ban

It is unlawful to consume alcohol in the areas listed in Appendix 56.54B between 8:00 p.m. and 8:00 a.m., unless the City Manager or designee has issued a special event permit or unless otherwise permitted by Section 56.54.

(d) 16 Hour Ban

It is unlawful to consume alcohol in the areas listed in Appendix 56.54C between 8:00 p.m. and Noon, unless the City Manager or designee has issued a special event permit or unless otherwise permitted by Section 56.54.

- (e) Section 56.54 does not prohibit:
  - any person from consuming *alcoholic beverages* within the defined boundaries of a *sidewalk cafe* located on the public right-of-way, or on property leased from the City.
  - (2) any business from lawfully selling or dispensing *alcoholic beverages* in accordance with the requirements of local and state law.

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Section 2. That Chapter 5, Article 6, Division 5, of the San Diego Municipal Code is amended by amending section 56.55, to read as follows:

§56.55 Urinating/Defecating in Public Prohibited

No person shall urinate or defecate in or upon any street, sidewalk, alley, plaza, park, *beach*, public building or publicly maintained facility, or in any place open to the public or exposed to public view. This section shall not apply to urination or defecation which is done in any restroom or other facility designed for the sanitary disposal of human waste.

Section 3. That Chapter 5, Article 6, Division 5, of the San Diego Municipal Code is amended by amending Section 56.56, to read as follows:

**§56.56** Open Alcoholic Beverage Containers Prohibited on Posted Premises

- (a) Any person who has in his or her possession any bottle, can or other receptacle containing any *alcoholic beverage* which has been opened, or a seal broken, or the contents of which have been partially removed, and who enters, is on, or remains on the posted premises of, any retail package off–sale *alcoholic beverage* licensee licensed pursuant to Division 9 of the Business and Professions Code, or on any public sidewalk immediately adjacent to the licensed premises is guilty of an infraction.
- (b) All retail package off-sale *alcoholic beverage* licensees licensed pursuant to Division 9 of the Business and Professions Code to operate in the City of San Diego shall post such licensed premises with notices clearly visible to patrons of the licensee and parking lot and to persons

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on the public sidewalk that the provisions of subdivision (a) are applicable. Such notices shall include language that states that possession of any opened *alcoholic beverage* container is prohibited by law. Any licensee who does not so post the licensed premises is guilty of an infraction.

(c) As used in this section "posted premises" means those premises which are subject to licensure under any retail off-sale *alcoholic beverage* license, the parking lot immediately adjacent to the licensed premises and any public sidewalk immediately adjacent to the licensed premises which are posted with notices pursuant to subdivision (b).

(d) through (f) [No change.]

Section 4. 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.

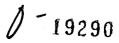
Section 5. This ordinance shall take effect and be in force on the thirtieth day from and after its passage.

APPROVED: CASEY GWINN, City Attorney

Shannon M. Thomas Deputy City Attorney

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## APPENDIX 56.54Å

#### 24 HOUR BAN

Adams Community Park Adams Elementary School/Park Alcott Elementary School/Park Allen, Dennis V., Neighborhood Park Azalea Community Park Balboa Park areas not included in Section 56.54(c) [Appendix 56.54B] **Bay Terraces Neighborhood Park** Bay Terraces Junior High School/Park Berry Neighborhood Park Birdland Neighborhood Park (Fletcher Elementary School/Park) Bird Rock Elementary School/Park **Bimey Elementary School/Park** Black Mountain Middle School/Park **Boone Neighborhood Park** Cabrillo Elementary School/Park Cabrillo Mini-Park Cabrillo Recreation Center Cadman Community Park Cadman Elementary School/Park Cedar Ridge Mini-Park Central Mini-Park Chicano Neighborhood Park Children's Park & Pond Chollas Canyon Park Chollas Lake Community Park City Heights Community Park **City Heights Mini-Park** Clay Elementary School/Park **Clay Mini-Park** Clay Neighborhood Park Cliffridge Athletic Area Colina del Sol Community Park Crown Point Elementary School/Park Dailard Elementary School/Park Dana Center Decatur Elementary School/Park Doyle Elementary School/Park East San Diego Adult Recreation Club Edison Elementary School/Park

Emerald Hills Neighborhood Park **Encanto Community Park** Ericson Elementary School/Park Fanuel Street Park Field Elementary School/Park Forward Elementary School/Park Franklin Elementary School/Park Gaslamp Square Park Golden Hill Community Park **Gompers Neighborhood Park** Grant Elementary School/Park Grant Hill Neighborhood Park Hardy Elementary School/Park Henderson, Willie, Athletic Area Hollywood Neighborhood Park Hoover Senior High School/Park Horton Plaza Park and to a Hourglass Community Park Howard Lane Neighborhood Park "J" Street Mini- Park Jerabek Elementary School/Park Juarez Elementary School/Park Keiller Neighborhood Park Kellogg Park, including the boardwalk, seawall and La Jolla Shores Beach Kelly Neighborhood Park Kermedy, John F., Elementary School/Park Kermedy Neighborhood Park Kensington Neighborhood Park King, Martin Luther Community Park King, Martin Luther, Elementary School/Park "L" Street Mini-Park (at 28th Street) La Jolla Athletic Area (Allen Field) La Jolla Community Park La Jolla Elementary School/Park La Jolla Senior High School/Park La Paz Mini- Park (undeveloped) Laurel Street Mini-Park Lewis Middle School/Park Linda Vista Community Park

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Lindberg Neighborhood Park; Community Park Lomita Neighborhood Park Macdowell Neighborhood Park Mann Middle School/Park Marian Bear Memorial Park;

Marine Street Beach, including the beach, bluffs, stairs, and adjacent public rights-of-way between

the northern property line of 274 Coast Boulevard and the westerly extension of the northern side of

Westboume Street;

Marston Middle School/Park Mason Elementary School/Park Mata Mini- Park Memorial Community Park Mid-City Athletic Area Mira Mesa Senior High School/Park

Mission Beach Park, including the Belmont Park public areas and parking lots, including the boardwalk and *seawall*, and excluding the *beach*, as described in Section 56:54(d) [Appendix

56.54C];

Mission Heights Neighborhood Park Mission Trails Regional Park Montclair Neighborhood Park Montgomery-Waller Community Park Mount Etna Neighborhood Park Mountain View Community Park

Nestor Neighborhood Park North Clairemont Community Park North Mountain View Mini-Park North Park Community Park Oak Neighborhood Park Ocean Beach Elementary School/Park;

Ocean Beach Park, including the boardwalk and seawall, and excluding the beach; as described in

Secfion 56.54(d) [Appendix 56.54C];

Ocean Boulevard Park (Pacific Beach Park), including the boardwalk and seawall, and excluding the

*beach*, as described in Section 56.54(d) [Appendix 56.54C];

Old Trolley Bam Neighborhood Park Pacific Beach Community Park Pacific Beach Middle School/Park Bob McEvoy Youth Fields (Mission Bay/Pacific Beach Youth Field) Palisades Park North (undeveloped) Palisades Park South (Law Street) Palm Ridge Neighborhood Park

Pantoja Mini-Park Paradise Hills Community Park Park de la Cruz Parkside Neighborhood Park Perm Elementary School/Park (Athletic Area) Plumosa Neighborhood Park Point Loma Community Park Portola Middle School/Park

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Presidio Community Park Rolando Mini-Park Rose Canyon Park San Diego School of Creative and Performing Arts Santa Clara Point Santa Isabel Mini-Park San Ysidro Athletic Area (Larsen Field) San Ysidro Col. Irving Solomon Center San Ysidro Community Park Serra Senior High School/Park Sherman Elementary School/Park Sherman Mini-Park Silverwing Neighborhood Park Skyline Community Park Skyview Neighborhood Park South Bay Community Park (South) Clairemont Community Park;

South Mission Beach Park, including the boardwalk and *seawall*, and excluding the *beach*, as

described in Section 56.54(d) [Appendix 56.54C];

Southcrest Community Park Spreckels Elementary School/Park Standley Junior High School/Park Sunny Slope Neighborhood Park Taylor Library Park Tecolote Canyon Natural Park Tierrasanta Elementary School/Park Union Place Circle Park Valencia Elementary School/Park Villa del Norte Mini-Park Vista Terrace Neighborhood Park Wabash Mini-Park

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Wagenheim Middle School/Park
Walker Elementary School/Park
Washington Elementary School/Park
Western Hills Neighborhood Park
Widman, Marie, Memorial Neighborhood Park (Little Encanto Park)
Wilson Middle School/Park
30th Street Mini-Park
32nd Street Mini-Park (north of Redwood)
39th Street Mini-Park
41st Street Mini-Park
All parking lots in Mission Bay Park;

All parking lots on the Pacific Ocean between the southern boundary of Sunset Cliffs Park and the

southern boundary of Torrey Pines State Park;

The Peninsula of land known as "The Clam" including all areas west of Coast Walk and the La Jolla

sea caves, and north of the public parking lots adjacent to 1325 Coast Boulevard which are

accessible to pedestrians.

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#### APPENDIX 56.54B

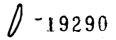
#### 12 HOUR BAN – 8:00 P.M. – 8:00 A.M.

That portion of Balboa Park bounded by Upas Street on the north, Highway 163 on the west,

Interstate 5 on the south, and Park Boulevard on the east;

Cabrillo Heights Neighborhood Park Carmel Creek Neighborhood Park Carmel Del Mar Neighborhood Park Cleator, Bill, Neighborhood Park Collier Neighborhood Park East Clairemont Athletic Area Famosa Slough and Channel Gershwin Neighborhood Park Lake Murray Community Park Montezuma Neighborhood Park Mount Acadia Neighborhood Park Murray Ridge Neighborhood Park Ocean Beach Community Park Olive Grove Community Park Pioneer Park (Mission Hills) Presidio Park Rancho Bernardo Community Park San Carlos Community Park Serra Mesa Community Park Sessions, Kate, Neighborhood Park Solana Highland Neighborhood Park; Tecolote Community Park.

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#### APPENDIX 56.54C

#### 16 HOUR BAN - 8:00 P.M. - NOON

All *beaches* on the Pacific Ocean and adjacent parks and perimeter sidewalks between the southern boundary of Sunset Cliffs Park and the southern boundary of Torrey Pines State Park that are not included in section 56.54(b) [Attachment A]; and

All land areas of Mission Bay Park, including Bayside Walk, Ocean Beach Athletic Area (Robb Field) and Dusty Rhodes Park, but excluding parking lots, Santa Clara Point, Bob McEvoy Youth Fields (Mission Bay/Pacific Beach Youth Fields), and Fanuel Street Park.

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