

ORDINANCE NUMBER O- 19779 (NEW SERIES)

DATE OF FINAL PASSAGE JUL 29 2008

AN ORDINANCE SUBMITTING TO THE QUALIFIED VOTERS OF THE CITY OF SAN DIEGO AT THE MUNICIPAL SPECIAL ELECTION CONSOLIDATED WITH THE STATEWIDE GENERAL ELECTION TO BE HELD ON NOVEMBER 4, 2008, ONE PROPOSITION AMENDING CHAPTER 5, ARTICLE 6, DIVISION 0, OF THE SAN DIEGO MUNICIPAL CODE BY AMENDING SECTION 56.54, RELATING TO ALCOHOL CONSUMPTION IN CERTAIN AREAS.

WHEREAS, on December 5, 2007, the City Council adopted Ordinance No. O-19690 N.S. amending Chapter 5, Article 6, Division 0, of the San Diego Municipal Code by amending sections 56.54 and related provisions to make consumption of alcohol unlawful at City beaches, Mission Bay Park, and coastal parks; and

WHEREAS, the amendments to San Diego Municipal Code section 56.54 and related provisions were specifically enacted to remain in effect for one year until January 14, 2009, unless extended by the City Council; and

WHEREAS, the law has been in effect during the spring and summer of 2008, and the City has found it to result in safer and cleaner beaches, bays, and coastal parks; and

WHEREAS, the City Council desires to ask the people of the City of San Diego to decide whether to make the consumption of alcohol unlawful at City beaches, Mission Bay Park, and coastal parks by amending San Diego Municipal Code section 56.54; and

WHEREAS, by Ordinance No. O-19770 adopted on July 15, 2008, the Council of the City of San Diego is calling a Municipal Special Election to be consolidated with the Statewide

General Election on November 4, 2008, for the purpose of submitting to the qualified voters of the City one or more ballot propositions; and

WHEREAS, pursuant to California Elections Code section 9222 and San Diego Municipal Code sections 27.1001, 27.1036, 27.0502 and 27.0507, the City Council has authority to place amendments to the San Diego Municipal Code on the ballot to be considered at a Municipal Special Election; and

WHEREAS, pursuant to San Diego City Charter sections 275(c) and 295(b) and (d), an ordinance relating to elections may be passed by the City Council on the same day it is introduced, and is not subject to veto by the Mayor; NOW, THEREFORE,

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

Section 1. That one proposition amending the San Diego Municipal Code by amending section 56.54 is hereby submitted to the qualified voters at the Municipal Special Election to be held on November 4, 2008, with the proposition to read as follows:

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**PROPOSITION**

BE IT ORDAINED by the People of the City of San Diego that Chapter 5, Article 6, Division 0 of the San Diego Municipal Code is hereby 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 by or on behalf of the City of San Diego 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)-(d) [No change]

(e) Section 56.54 does not prohibit:

(1) 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.

(f) Notwithstanding any other provision of section 56.54 and its appendices, and except as provided in section 56.54(g), it is unlawful for any person to consume any alcoholic beverage at any time, upon all public beaches, including any sidewalks, boardwalks, alleys, plazas, piers, jetties, on or against seawalls, upon public rights-of-way at any beach or coastal bluff, and all coastal access, view point and bluff rights-of-way, and including the adjacent coastal public parks and areas listed below:

Calumet Park

Charlotte Park

Hermosa Park

Hermosa Terrace Park

Kellogg Park, including the boardwalk, *seawall* and La Jolla Shores Beach

La Strand 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 Westbourne Street

Mission Bay Park, including all land areas of Mission Bay Park, including Bayside Walk, Ocean Beach Athletic Area (Robb Field) and Dusty Rhodes Park, including the parking lots, Santa Clara Point, Bob McEvoy Youth Fields (Mission Bay/Pacific Beach Youth Fields), Fiesta Island, Famosa Slough and Channel, and Fanuel Street Park

Mission Beach Park, including the Belmont Park public areas and parking lots, including the boardwalk, *seawall*, and the *beach*

Nicholson's Point Park

Ocean Beach Park, including the boardwalk, *seawall*, jetty, and the *beach*

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

Palisades Park North (undeveloped)

Palisades Park South (Law Street)

Scripps Park

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

Sunset Cliffs Natural Park

Torrey Pines City Park

Tourmaline Surfing Park

Windansea 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 public areas accessible to pedestrians west of Coast Walk and the La Jolla sea caves, and north of the public parking lots adjacent to 1325 Coast Boulevard

Crystal Pier and Ocean Beach Pier

(g) Section 56.54(f) shall not apply:

- (1) to Mission Bay Golf Course and Torrey Pines Golf Course;
- (2) to locations for which the City Manager or designee has issued a special event permit;
- (3) if otherwise permitted under the terms of a lease agreement with the City of San Diego; and
- (4) if otherwise permitted by section 56.54(e).

Appendices 56.54A-C [No change]

BE IT FURTHER ORDAINED, that these amendments will be effective as of January 15, 2009.

**END OF PROPOSITION**

Section 2. The proposition shall be presented and printed upon the ballot and submitted to the voters in the manner and form set out in Section 3 of this ordinance.

Section 3. On the ballot to be used at this Municipal Special Election, in addition to any other matters required by law, there shall be printed substantially the following:

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|--|-----|--|
| <b>PROPOSITION ____ . MAKING ALCOHOL CONSUMPTION UNLAWFUL AT CITY BEACHES, MISSION BAY PARK, AND COASTAL PARKS</b><br>Shall the People of the City of San Diego amend San Diego Municipal Code section 56.54 to make the consumption of alcohol unlawful at City beaches, Mission Bay Park, and coastal parks? | YES |  |
|  | NO  |  |

Section 4. An appropriate mark placed in the voting square after the word "Yes" shall be counted in favor of the adoption of this proposition. An appropriate mark placed in the voting square after the word "No" shall be counted against the adoption of the proposition.

Section 5. Passage of this proposition requires the affirmative vote of a majority of those qualified electors voting on the matter at the Municipal Special Election.


Section 6. The City Clerk shall cause this ordinance or a digest of this ordinance to be published once in the official newspaper following this ordinance's adoption by the City Council.

Section 7. Pursuant to San Diego Municipal Code section 27.0402, this measure will be available for public examination for no fewer than ten calendar days prior to being submitted for printing in the sample ballot. During the examination period, any voter registered in the City may seek a writ of mandate or an injunction requiring any or all of the measure to be amended or deleted. The examination period will end on the day that is 75 days prior to the date set for the election. The Clerk shall post notice of the specific dates that the examination period will run.

Section 8. Pursuant to sections 295(b) and 295(d) of the Charter of the City of San Diego, this ordinance shall take effect on the date of passage by the City Council, which is deemed the date of its final passage.

APPROVED: MICHAEL J. AGUIRRE, City Attorney

By

  
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Kimberly Ann Davies  
Deputy City Attorney

KD:nda  
7/24/08  
7/29/08 COR.COPY  
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