

ORDINANCE NUMBER O- 21674 (NEW SERIES)DATE OF FINAL PASSAGE JUN 29 2023

AN ORDINANCE AMENDING CHAPTER 5, ARTICLE 4, DIVISION 2 OF THE SAN DIEGO MUNICIPAL CODE BY AMENDING SECTION 54.0212; AMENDING CHAPTER 6, ARTICLE 3, DIVISION 00 BY REPEALING AND RESERVING SECTION 63.20.11; AMENDING CHAPTER 6, ARTICLE 3, DIVISION 1 BY AMENDING SECTIONS 63.0102, 63.0103, 63.0105 AND 63.0108; AND AMENDING CHAPTER 6, ARTICLE 3 BY ADDING DIVISION 4, SECTIONS 63.0401, 63.0402, 63.0403, 63.0404, 63.0405 AND 63.0406, ALL RELATING TO REGULATING ENCAMPMENTS ON PUBLIC PROPERTY.

WHEREAS, the City of San Diego is committed to protecting the life, health, and safety of its residents and all people within the geographical boundaries of the City; and

WHEREAS, the Council finds that certain public lands within the City's geographical boundaries pose significant health and safety hazards to people who make shelter or stay overnight in these areas; and

WHEREAS, the Council finds that some of these public lands are environmentally sensitive and may be significantly damaged by unregulated human activity; and

WHEREAS, the Council is committed to protecting the rights of individuals who cannot obtain shelter and to treating their personal property with respect and consideration and therefore updates the Municipal Code to conform to and address the impacts of the Ninth Circuit Court of Appeals decision in *Martin v. City of Boise*; and

WHEREAS, the City currently provides more than 1,780 shelter beds for people experiencing homelessness, which offer a place to sleep and supportive services including job

programs, housing support, treatment for mental health conditions or substance abuse, and security; and

WHEREAS, the City engages in significant outreach work to build relationships with people experiencing homelessness, using a person-centered, compassionate approach to provide services tailored to each person's specific needs; and

WHEREAS, the City and the San Diego Housing Commission provide housing stability support, eviction protection, transitional housing, and supportive and permanent housing solutions to assist people with ending their homelessness; and

WHEREAS, the 2022 Point-in-Time Count administered by the Regional Task Force on Homelessness reported 2,494 people were experiencing unsheltered homelessness within the City, which represents a nine percent increase from the prior year; and

WHEREAS, San Diego County has experienced three deadly public health crises in the last 12 years that have had a significant impact on people experiencing homelessness, including a Hepatitis A outbreak in 2017 resulting in 20 deaths and COVID-19 resulting in more than 5,500 deaths; and

WHEREAS, City streets, sidewalks, and parks are intended for safe and sanitary shared use by a diverse community of users including businesses, government, and the general public for gathering, recreating, movement of people, maintenance, and cleaning, and are frequently used by people relying on a variety of mobility devices; and

WHEREAS, the Council finds that certain public lands in the City pose a greater danger to the health and safety of people who may stay in those areas overnight and to the general public

if used for sheltering, including near schools, shelters, in open space and City waterways, transit hubs, trolley platforms, and in certain City parks; and

WHEREAS, over a six-month period from late 2022 to early 2023, the City received almost 1,400 reports of encampments within one-tenth of a mile of a school; and

WHEREAS, this activity has forced students to walk in the street to pass encampments blocking City sidewalks on their way to school and puts students at risk of injury or death from vehicular traffic; and

WHEREAS, there are significant adverse impacts caused by encampment activity concentrated around shelters provided to individuals and families experiencing homelessness, including predatory behavior and drug dealing that undermines the community's efforts to provide meaningful assistance and long-term solutions for people seeking assistance; and

WHEREAS, people experiencing homelessness on the City's streets and in transit hubs have been involved in serious and deadly accidents involving cars, buses, or the trolley; and

WHEREAS, people experiencing homelessness on City streets, in City parks, and in transit hubs have been exposed to illicit fentanyl leading to exponential increases in the accidental deaths by overdose among people experiencing homelessness; and

WHEREAS, the sustained presence of people in the City's open space and waterways within the City has created unsafe, unsanitary, unhealthy, and dangerous conditions including water pollution and frequent uncontained fires that threaten people living or using these areas, first responders, and the general public; and

WHEREAS, San Diego Fire-Rescue indicates that fire crews responded to 425 vegetation fires in the City's open space areas and 379 rubbish fires last year, which were all suspected to have resulted from human activity in these areas; and

WHEREAS, the City annually experiences extended periods of high temperatures with little or no precipitation and strong seasonal dry winds from the east (i.e., Santa Ana winds) that can significantly increase the danger and spread of wildfires, adding to the severity of fires when they start; and

WHEREAS, due to the high wildfire risk in San Diego County, San Diego Fire-Rescue responds to a vegetation fire with at least two fire engines and eight first responders and these fires are frequently elevated to a First Alarm fire necessitating additional support including brush engines, battalion chiefs and helicopters; and

WHEREAS, people sheltering along the San Diego River and other waterways within the City are at risk of experiencing flooding, vector-related disease and other health issues and these areas often contain sensitive environments at risk of significant damage by unregulated human activity; and

WHEREAS, the San Diego River Foundation counted approximately 230 encampments along the San Diego River in 2022 and collected over 104,685 pounds of trash during a ten-day period in 2022; and

WHEREAS, the City is obligated to protect public health and safety and its natural resources by maintaining clean, safe, and accessible City properties for all residents to enjoy, including parks, open space, and the public right of way; and

WHEREAS, to mitigate risks to the health and safety of its citizens and potential damage to environmentally sensitive lands, the Council desires to adopt regulations establishing locations where camping and the maintenance of an encampment is prohibited, regardless of the availability of shelter, due to the significant health and safety risk to those engaged in that activity, the general public, and the environment; and

WHEREAS, outside of these specific locations, the prohibition on camping and maintaining an encampment will not be enforced between the hours of 9:00 p.m. and 5:30 a.m. or when there are no available shelter beds; and

WHEREAS, it is the intent of this Ordinance to prohibit camping and maintenance of encampments within the City while encouraging people experiencing homelessness to use available low barrier shelters and access a variety of services available from the City and its partners; and

WHEREAS, when abating any encampment, the City will provide written notice in advance of the cleared that explains when the encampment will be cleaned up and how an individual can reclaim items stored during the process; and

WHEREAS, the City will store any personal property that may belong to a person, has apparently utility in its current condition and can be safely retrieved from the site, but will not store property that is hazardous, practically un-storable, contraband, or listed on the City's current list of common items regularly abandoned during the abatement process; and

WHEREAS, Council intends to rely on the enforcement provisions and remedies in Chapter 1 of the San Diego Municipal Code; and

WHEREAS, Council desires to add a definition of open space and parks to the Municipal Code and makes changes to implement these new definitions and makes other general revisions for consistency and gender neutrality; and

WHEREAS, the Office of the City Attorney has drafted this Ordinance based on the information provided by City staff, with the understanding that this information is complete, true, and accurate; NOW, THEREFORE,

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

Section 1. That Chapter 5, Article 4, Division 2 of the San Diego Municipal Code is amended by amending section 54.0212, to read as follows:

§54.0212 Abandoned Personal Property

- (a) Any personal property or possessions located on Public Property that are unattended and whose owner cannot be readily identified are presumed to be abandoned and, pursuant to Civil Code section 2080.7, the provisions of Municipal Code section 22.0603 do not apply. Enforcement Officials shall make a reasonable effort to ascertain whether the unattended personal property or possessions have been abandoned and, if so, to thereafter cause their removal. Any personal property or possessions found during the abatement process in Municipal Code section 63.0406 shall first be stored as required by that section.
- (b) Unattended personal property or possessions that are unsanitary, soiled or verminous may be summarily abated and destroyed. Unattended personal property or possessions that are not summarily abated or destroyed under

section 54.0212 may be disposed of or recycled by the Director pursuant to Chapter 6, Article 6 of the Code or donated for reuse.

Section 2. That Chapter 6, Article 00, Division 3, is amended by repealing and reserving section 63.20.11.

§63.20.11 [Reserved]

Section 3. That Chapter 6, Article 3, Division 1 of the San Diego Municipal Code is amended by amending sections 63.0102, 63.0103, 63.0105, and 63.0108, to read as follows:

§63.0102 Use of Public Parks and Beaches Regulated

(a) [No change in text.]

(b) Definitions

For purposes of this Division, defined terms appear in italics. The following definitions apply in this Division:

Beach areas has the same meaning as in San Diego Municipal Code section 63.20.

Open space means any undeveloped public property either primarily in its natural state, including canyons, coastal bluffs, and unimproved waterways, or that is held out by the City or used by the public for passive recreational purposes, conservation, habitat preservation, or that maintains or enhances the conservation of natural or scenic resources.

Park means any public property, whether developed or undeveloped, held out by the City or used by the public for active or passive park and recreation uses, including adjacent buffer lands and natural areas and any adjacent

parking lots and perimeter sidewalks. The definition of *park* includes *open space* and all public beaches, *beach areas*, bays, and wetlands within the City.

(c) It is unlawful for any person within any *park* to do any of the acts listed in San Diego Municipal Code section 63.0102(c).

(1) Post Handbills. It is unlawful to litter, to throw, or deposit on the ground, to post or affix to any tree, fence, or structure situated within or on any *park* any handbills, circulars, pamphlets, tracts, dodgers, papers, or advertisements.

(2) Loose Animals. It is unlawful to bring, leave, turn loose, or allow to go free, any animal, fowl, or bird of any kind in or upon any *park*; provided, however, that section 63.0102(c)(2) does not apply to:

(A) through (B) [No change in text.]

(C) Dogs which are in special areas of *parks* designated and posted by the Parks and Recreation Director as dog off-leash areas or dog training areas and so long as the regulations of the Parks and Recreation Director with respect to the use of such areas are followed.

(i) Implied Consent. The presence of a dog in a designated dog off-leash area or dog training area shall constitute implied consent of the person either owning or controlling the dog to the regulations imposed by the Parks and Recreation Director.

(ii) [No change in text.]

- (3) Fireworks. It is unlawful to discharge any firearm, firecracker, bomb, torpedo, rocket, or other fireworks without the written consent of the City Manager; provided, however, that as to the discharging of firearms section 63.0102(c)(3) does not apply to authorized peace officers or employees of the San Diego Zoo while in the performance of their duties.
- (4) Destruction of Plants. It is unlawful to injure, drive a nail or other object into, destroy, cut or remove any tree or other natural vegetation, soil, or rock in any *park* without the written permission of the City Manager.
- (5) Defacement of Property. It is unlawful to build or erect a physical structure of any type, or cut, break, deface, or injure any building, monument, rock, fountain, cage, pen, fence, bench, hydrant, swing, or other structure, apparatus or property, dig caves, or otherwise reconfigure the natural or developed landscape in a manner that damages the landscape within a *park* without the written permission of the City Manager.
- (6) Dumping. It is unlawful to deposit or dump any garbage, refuse, human or animal waste, dirt, ashes or like substances, or any carcass of any animal or fowl.
- (7) through (8) [No change in text.]
- (9) Park waters. It is unlawful to bathe in the waters of any lake, pond, pool, fountain, or at any hydrant, drinking fountain, or sink; or throw

into or deposit any dirt, filth or foreign matter in the waters of any lake, pond, pool, or fountain, or in like manner pollute the same; provided, however, that nothing contained in section 63.0102(c)(9) prohibits persons from swimming in any municipal pool in accordance with the rules and regulations provided therefor.

(10) Mistreatment of Animals. It is unlawful to take, kill, wound, disturb, or maltreat any bird or animal, either wild or domesticated, unless the same shall have been declared noxious by the City Manager and a permit issued for the killing of such noxious animals; provided, however, that section 63.0102(c)(10) does not apply to any exhibits in the San Diego Zoo when done by employees in the course of their duties.

(11) Fires. It is unlawful to kindle or allow to be kindled any fire, bonfire, Tiki Torch, or any device set on fire for entertainment purposes, or to throw upon the ground a lighted match, lighted cigar or cigarette, or anything that would be liable to set fire to any grass, tree, shrub, building, or other property; provided, however, that nothing in Municipal Code section 63.0102(c)(11) prohibits persons from kindling fires in *City-provided fire rings* or portable propane-fueled devices as permitted in Municipal Code section 63.20.5(c).

(12) Temporary Shade Structures. Unless specifically authorized in writing by the City Manager, it is unlawful for any person to erect or maintain any temporary shade structure in any *park*, unless the

temporary shade structure has a minimum of two sides open and there is an unobstructed view of the interior from the outside on at least two sides.

(13) through (16) [No change in text.]

(17) Sports. It is unlawful to play any game of ball or engage in any sport except at such places and at such times as shall be designated for such purpose by the Parks and Recreation Department.

(18) [Reserved.]

(19) Bicycles. It is unlawful to ride a bicycle except: (1) where posted to authorize bicycle riding; or (2) on any designated bikeway; or (3) on any road designated and established for automotive traffic; or (4) on paved and unpaved roads within a *park* used as fire or service roads by authorized motor vehicles unless otherwise posted. Motorcycles or any other motorized vehicles are prohibited except on roads designated and established for automotive traffic.

(20) Automobile Speed. It is unlawful to drive an automobile, motorcycle, or other self-driven vehicle upon any *park* property at any speed in excess of the limitations established by ordinances of the City of San Diego.

(21) Horses and Vehicles. It is unlawful to leave or hitch any horse, or leave or park any automobile, motorcycle, or other self-driven vehicle in any *park*, except at such places as are provided and designated for those purposes.

- (22) [No change in text.]
- (23) Vehicular Traffic. Unless making deliveries or loading onto *park* property, it is unlawful to drive or place any dray, truck, wagon, cart, or other traffic vehicle with a manufacturer's rate of capacity of more than one ton, carrying or regularly used or employed in carrying goods, merchandise, lumber, machinery, oil, manure, dirt, sand, soil, or any article of trade or commerce or any offensive article or material whatsoever upon any road or drive in any *park*, except such road or drive as may be provided or designated for such use.
- (24) Large Groups. Except as otherwise required or permitted by Chapter 2, Article 2, Division 40 of this Code, it is unlawful for any group of persons consisting of fifty or more persons to hold, conduct, or participate in any celebration, parade, service, picnic, exercise, or other special event in any *park* without having first obtained a permit from the City Manager.
- (25) Obstructing Traffic. It is unlawful to obstruct the free travel of any vehicle or pedestrian over any of the walks, roads, or avenues of any *park*.
- (26) Park Department Tools. It is unlawful for any person, other than a Parks and Recreation Department employee while in the performance of the employee's duties, to move or remove from one

location to another or destroy any equipment, tools, implements, or materials used by the Parks and Recreation Department.

(27) [No change in text.]

(28) Valves and Use of Utilities. It is unlawful to open or close any valves or switches, remove any utility access covers or secured plugs, tap into wiring, or damage any maintenance covers, plugs or other facilities pertaining to the water or electric services in any *park*.

(d) [No change in text.]

(e) Dogs in Parks. It is unlawful for a dog owner or person with custody, care, charge, control, or possession of a dog within any *park* to do any of the following:

(1) [No change in text.]

(2) In the event of a dog bite that results in injury requiring medical care to a person or another dog, failure to provide to the injured person or owner or custodian of the injured dog, at the time of the injury, all of the following information: the full name of the dog owner or person with custody, care, charge, control, or possession of the dog that caused the injury, correct dog license information, telephone number, mailing address, and driver's license number, if any.

(f) [No change in text.]

(g) [No change in text.]

§63.0103 City Manager Permit Procedure

Whenever doing any of the acts specified in this Article is conditioned upon obtaining a permit, permission, or consent from the City Manager, the following procedure shall be followed:

- (a) [No change in text.]
- (b) The application shall include information as to the proposed activity, the sponsoring person or organization, the number of persons expected to attend, the proposed *park* area to be used, the proposed date and time of the event, the duration in time, and the proposed alternate *park* areas and dates, if any;
- (c) [No change in text.]
- (d) The City Manager shall issue the permit, permission, or consent if there is capacity for the proposed activity, except as set forth in (1) through (3) below:
 - (1) An applicant for a Special Event, as defined in Chapter 2, Article 2, Division 40, to be held at a *park*, shall apply for a reservation of space, which, if granted, is effective until the Special Event Permit is granted or denied. The City Manager shall consider all requests for reservations of space filed at least 120 days before the date of the proposed event; however, the City Manager may consider any permit which is filed less than 120 days before the proposed event. A reservation of space may be granted after consideration of factors such as previously scheduled events at and adjacent to the requested location, the park capacity,

impacts to the *park* that may be caused by the event, any restrictions on Special Events such as the Summer Moratorium, and any recommendation from the appropriate park advisory body. A permit as required by Chapter 6, Article 3 shall be issued concurrently with the Special Event Permit.

(A) through (B) [No change in text.]

(2) through (3) [No change in text.]

(e) Each permit shall state the date, time and area of the *park* for which it is issued, and the name of the person or persons to whom it is issued;

(f) through (g) [No change in text.]

(h) The City Manager shall notify the applicant in person or by mail of the decision granting or denying the application or alternative application. The City Manager, in denying an application, may authorize the gathering at such other date, time, or location as may be available, based on park capacity. If the applicant wishes to accept the proposed alternate date, time, or location, the applicant shall, within two days of receiving the City Manager's notification, file a notice of acceptance with the City Manager. The City Manager shall thereupon issue a permit.

(i) Any parade proposed to be conducted in or through any *park* shall be subject to Chapter 2, Article 2, Division 40, of this Code.

(j) [No change in text.]

§63.0105 Exceptions to Application of Regulations

- (a) Nothing in this Division shall be construed to prevent any employee or agent of the City of San Diego from performing any duty that, in the opinion of the City Manager or designee, may be thought necessary or proper for the maintenance, improvement, or betterment of any *park* as may be in the best interests of the City of San Diego.
- (b) [No change in text.]

§63.0108 Park Rangers Authorized to Enforce State and Local Codes

The Park Rangers of the City of San Diego are hereby authorized and empowered to enforce provisions of the San Diego Municipal Code and violations of the California State Codes which are designated as misdemeanors; to make arrests without a warrant whenever the Park Ranger has reasonable cause to believe that the person to be arrested has committed a misdemeanor in the Park Ranger's presence which is a violation of a statute or Code the Park Ranger has the duty to enforce; and, while engaged in the performance of the Park Ranger's duties, to arrest persons and issue citations under the provisions of sections 836.5 and 853.6 of the California Penal Code for violations which occur in the *parks*.

Section 4. That Chapter 6, Article 3 of the San Diego Municipal Code is amended by adding Division 4, titled "Encampments on Public Property" and sections 63.0401, 63.0402, 63.0403, 63.0404, 63.0405, and 64.0406, to read as follows:

Division 4: Encampments on Public Property

§63.0401 Purpose

The Council finds that the City is committed to protecting the life, health, and safety of all people in the City and finds that certain public lands within the geographical boundaries of the City pose significant health and safety hazards to the people who make shelter or stay overnight in these areas. Additionally, the Council finds that some of these public lands are environmentally sensitive and may be significantly damaged by unregulated human activity. The Council is committed to protecting the rights of individuals related to their personal property and to treating such property with respect and consideration. It is the purpose of this Division to set standards for the preservation and protection of human life, health, and safety, to further the preservation and protection of sensitive public lands to prevent destruction of these assets, and to establish a process for the collection, storage, and disposal, recycling, or reuse of personal property found in *encampments* on public property.

§63.0402 Definitions

For purposes of this Division, defined terms appear in italics. The following definitions apply in this Division:

Abatement means the process of documenting and collecting eligible items for storage, and removing and disposing of, recycling, or reusing of *waste* at an *encampment* according to the process in section 63.0406.

Camp means to pitch, erect, or occupy an *encampment*, or to use *camp paraphernalia* or both, for the purpose of, or in a way that facilitates outdoor

sheltering for living accommodation purposes or for remaining outdoors overnight.

Camp paraphernalia means personal property used to facilitate occupancy of an area and includes personal property typically associated with camping such as tarps, cots, beds, sleeping bags, hammocks, bedding, camp stoves, cooking equipment, buckets, and similar equipment, mattresses, couches, dressers, or other furniture.

Encampment means one or more temporary, makeshift, or hand-built structures not intended for long-term continuous occupancy, including tents, that are used to shelter one or more persons or their belongings and that are not authorized by the property owner. *Encampment* includes any *camp paraphernalia* and personal property associated with or located in or around the structures or tents.

Open space has the same definition as in San Diego Municipal Code section 63.0102(b).

Park has the same definition as in San Diego Municipal Code section 63.0102(b).

Shelter means any City-funded shelter or shelter provided as part of the City's Coordinated Intake System for shelter placements where individuals or families experiencing homelessness can access beds and other services or an area designated by the City Manager for use by individuals or families experiencing homelessness. A list of current *shelters* is provided on the City's website and is available through 2-1-1 San Diego.

Waste has the same definition as in San Diego Municipal Code section 54.0202.

Waterway means all the portions of Chollas Creek, Los Peñasquitos Creek, San Diego River, San Dieguito River, and Tijuana River found within the boundaries of the City of San Diego.

§63.0403 Protection of Waterways

- (a) It is unlawful for any person to do any of the following:
 - (1) build or erect a structure of any type along the banks of any *waterway*, or drive a nail or other object into any tree or other natural area vegetation for the purpose of building an *encampment* or any other structure, or to affix an object to any tree or other natural vegetation,
 - (2) move boulders or large rocks, destroy vegetation, paved roads or paths created by the City, or otherwise reconfigure the natural landscape in the waters of or along the banks of a *waterway*,
 - (3) drive, park, or bring any vehicle along the banks of a *waterway*, except in places specifically provided and designated for vehicular use,
 - (4) dig on the banks of a *waterway*, or
 - (5) discharge or store *waste*, including garbage, refuse, or human or animal *waste*, along the banks or into the waters of a *waterway*.
- (b) Nothing in section 63.0403 is intended to prohibit the activities of an owner of private property or other lawful user of private property that are normally associated with and incidental to the lawful and authorized use of private property; and nothing is intended to prohibit the activities of a

lawful user if such activities are expressly authorized by the City Manager or by any law, regulation, permit, order or other directive from a regulatory authority.

§63.0404 Unauthorized Encampments on Public Property

- (a) It is unlawful for any person to *camp* or to maintain an *encampment* in or upon any public property, including in any street, sidewalk, *park*, beach, *open space*, *waterway*, and banks of a *waterway*, unless specifically authorized by the City Manager.
- (b) At all times, regardless of the availability of *shelter* space or beds, it is unlawful for any person to *camp* or to maintain an *encampment* where such activity poses:
 - (1) an immediate threat or an unreasonable risk of harm to any natural person,
 - (2) an immediate threat or an unreasonable risk of harm to public health or safety, or
 - (3) disruption to vital government services.
- (c) At all times, regardless of the availability of *shelter* space or beds, it is unlawful for any person to *camp* or to maintain an *encampment* in the following locations:
 - (1) within two blocks of a school that offers instruction on those courses of study required by the California Education Code or that is maintained pursuant to standards set by the State Board of Education provided that signs are posted prohibiting camping that are clearly visible to

pedestrians. School for purposes of section 63.0404(c) does not include a vocational or professional institution of higher education, including a community or junior college, college, or university;

- (2) within two blocks of any *shelter* provided that signs are posted prohibiting camping that are clearly visible to pedestrians;
- (3) in any *open space*, *waterway*, or banks of a *waterway*;
- (4) within any transit hub, on any trolley platform, or along any trolley tracks provided that signs are posted prohibiting camping that are clearly visible to pedestrians; and
- (5) in any *park* where the City Manager determines there is a substantial public health and safety risk and provided that signs are posted prohibiting camping that are clearly visible to pedestrians. For purposes of this section 63.0404(c)(5), the definition of *park* does not include *open space* or *beach areas*, as defined in section 63.0102(b), or beaches, bays, or wetlands.

§63.0405 Enforcement

- (a) Violations of this Division may be prosecuted as misdemeanors subject to the fines and custody provisions in San Diego Municipal Code section 12.0201.
- (b) Law enforcement officers shall not issue a criminal citation to enforce a violation of section 63.0404(a) between the hours of 9:00 p.m. and 5:30 a.m. or when the person is on public property at a time when there is no available *shelter*. For purposes of this Section 63.0405(b), available *shelter* means the *shelter* is reasonably available to the person at the time enforcement is taking

place and taking into consideration any disability or other specific circumstances applicable to that person.

- (c) Sections 63.0403 and 63.0404(b) and (c) are enforceable at all times regardless of *shelter* availability.

§63.0406 Abatement of Encampments

The City Manager may remove personal property, *camping paraphernalia*, and all other property, contraband, litter, and *waste* found at an *encampment* or at a location where a person is engaged in unlawful camping in compliance with the following procedures:

(a) Written Notice Required Prior to Abatement

- (1) A written Notice of Clean-Up will be posted on each tent or structure and in any other distinct areas of the *encampment* providing notice of the date of clean-up and giving a minimum of 24 hours for persons to remove their personal property. The written notice shall also include the following statement, which may be updated by the City Manager to provide accurate and current information:

You must remove your belongings from the site within 24 hours. You should not leave behind any belongings you want to keep. All belongings left behind will be removed by the City. The City will post an Impound Notice if belongings are stored during the clean-up process.

If you wish to minimize the risk of losing valued belongings, you should try to keep those belongings on your person at all times, in a storage facility, or in visible, sanitary, and safely accessible bags or bins.

If you think your belongings were stored, you can claim them by following the directions on the Impound Notice after the clean-up is complete. Information about how to claim your belongings is also available on the City's website. You may retrieve any stored belongings without being asked about your criminal background or outstanding warrants.

You may access shelter or services, including access to storage for your personal belongings, through the City of San Diego's website or by calling 2-1-1 San Diego.

- (2) After 24 hours, the City Manager shall conduct *abatement* of the site on the date posted on the Notice of Clean-Up. If *abatement* is delayed or rescheduled, the City Manager may conduct *abatement* within 48 hours of the posted Notice of Clean-Up without reposting a new Notice of Clean-Up. If *abatement* is delayed longer, the City Manager shall repost a Notice of Clean-Up with a new date.
- (b) The City Manager shall follow these additional procedures when persons are present at an *encampment* during *abatement*:

- (1) When *shelter* is available, the City Manager shall provide any person at an *encampment* with *shelter* and service information and direct them to remove their belongings from the site. The City Manager shall evaluate reasonable requests for additional time or assistance to remove items and may accommodate those requests to the extent practicable.
 - (2) Any person who returns to an *encampment* during *abatement* shall be allowed to remove their personal property from the site. Personal property left behind will be deemed abandoned.
 - (3) Any person arrested for a criminal offense or an outstanding warrant shall not be required to abandon personal property they identify as their own. Unless the person requests the personal property be discarded or entrusted to another, all personal property of apparent value will be taken to the San Diego Police Department for impoundment in accordance with existing policy and procedure. Where the owner of the items cannot be readily identified or discovered, the City Manager shall follow the *abatement* process in this Division.
- (c) The City Manager shall document the *abatement* process as follows:
- (1) photograph or video record the site before any *abatement* begins,
 - (2) open backpacks, purses, suitcases, and other small storage containers to determine whether they contain items eligible for storage,
 - (3) set out items contained in bags or suitcases and photograph the items,

- (4) photograph or video record all items to be stored,
 - (5) photograph or video record the cleanup process, and
 - (6) photograph or video record the site after *abatement* has concluded.
- (d) Unclaimed items found in *abatement* shall be eligible for storage if:
- (1) circumstances indicate that the item belongs to a person,
 - (2) the item has apparent utility in its current condition and circumstances, and
 - (3) the item can be safely retrieved from the site.

Examples of items potentially eligible for storage include identification and associated paperwork, medication stored in medication bottles with identifying information, art, art supplies, musical instruments, and items that reasonably appear to have sentimental value in their current condition.

An item need not be in a new or perfect condition to have apparent utility.

- (e) An eligible item found during an *abatement* shall be put into storage, unless it meets one the following disqualifying conditions:
- (1) hazardous, including items contaminated with human *waste*, animal *waste*, or bugs, explosives, weapons, liquids, drug paraphernalia, or mold;
 - (2) likely to become hazardous in storage, including perishables, wet materials that might become moldy, and items covered in mud;
 - (3) practically un-storable, due to large size, weight, or other similar characteristic;
 - (4) contraband or stolen; or

- (5) is on the City Manager's current list, published on the City's website, of common types of items that, in the experience of City staff, individuals regularly abandon during *abatement*, and there is no contrary indication as to the specific item.
- (f) The City Manager shall record each eligible item to be stored, including the location it was found and the date of storage. Any stored items shall be kept in storage at least 90 calendar days and then may be disposed of, recycled, or reused following the process in San Diego Municipal Code section 54.0212.
- (g) After *abatement* has concluded and when eligible items are collected and will be placed in storage, the City Manager shall post notices at the location of the *abatement* that includes information how a person can claim stored items. Information about retrieval of stored items shall also be available on the City's website. A person may retrieve stored items based on a description with sufficient specificity to demonstrate ownership. A person may retrieve stored items without inquiry into the person's criminal background or outstanding warrants.
- (h) Expedited Abatement
- (1) In an expedited *abatement*, the City Manager shall follow the same *abatement* and storage procedures in section 63.0406, but shall post a Notice of Clean-Up giving a minimum of three hours for all persons to remove their personal property.

(2) The City Manager shall prioritize and expedite the removal of an *encampment* if:

(A) the City receives direction from County of San Diego or other governmental authority that *abatement* of the *encampment* is necessary to preserve public health or safety, including to address known or suspected outbreaks of diseases; or


(B) the City Manager observes or reasonably suspects the *encampment* creates a condition that presents a significant risk of property damage, bodily injury or death.

Section 6. That a full reading of this Ordinance is dispensed with prior to passage, a written copy having been made available to the Council and the public prior to the day of its passage.

Section 7. That this Ordinance shall take effect and be in force on the thirtieth day from and after its final passage or thirty days from the date the first safe sleeping lot at 20th and B Streets is open for use, whichever is later. The Mayor's Office shall notify the City Clerk of the safe sleeping lots opening date for purposes of determining the effective date of this Ordinance.

Section 8. The City Manager shall provide monthly written statistical updates to Council on the demographics of those contacted, cited, or arrested for violations of San Diego Municipal Code section 63.0404.

APPROVED: MARA W. ELLIOTT, City Attorney

By 
Heather M. Ferbert
Senior Chief Deputy City Attorney


HMF:sc
05/30/2023
06/13/2023 REV.
Or.Dept: Council District 3
Doc. No.: 3319689_2

I hereby certify that the foregoing Ordinance was passed by the Council of the City of San Diego, at this meeting of JUN 27 2023.

DIANA J.S. FUENTES
City Clerk

By 
Deputy City Clerk

Approved: 6/29/23
(date)


TODD GLORIA, Mayor

Vetoed: _____
(date)

TODD GLORIA, Mayor

STRIKEOUT ORDINANCE**OLD LANGUAGE: ~~Struck-Out~~****NEW LANGUAGE: Double Underline**

ORDINANCE NUMBER O-_____ (NEW SERIES)

DATE OF FINAL PASSAGE _____

AN ORDINANCE AMENDING CHAPTER 5, ARTICLE 4, DIVISION 2 OF THE SAN DIEGO MUNICIPAL CODE BY AMENDING SECTION 54.0212; AMENDING CHAPTER 6, ARTICLE 3, DIVISION 00 BY REPEALING AND RESERVING SECTION 63.20.11; AMENDING CHAPTER 6, ARTICLE 3, DIVISION 1 BY AMENDING SECTIONS 63.0102, 63.0103, 63.0105 AND 63.0108; AND AMENDING CHAPTER 6, ARTICLE 3 BY ADDING DIVISION 4, SECTIONS 63.0401, 63.0402, 63.0403, 63.0404, 63.0405 AND 63.0406, ALL RELATING TO REGULATING ENCAMPMENTS ON PUBLIC PROPERTY.

§54.0212 Abandoned Personal Property

- (a) Any personal property or possessions located on Public Property that are unattended and whose owner cannot be readily identified are presumed to be abandoned and, pursuant to Civil Code ~~S~~section 2080.7, the provisions of Municipal Code ~~S~~section 22.0603 do not apply. ~~Wherever possible,~~ Enforcement Officials shall make a reasonable effort to ascertain whether the unattended personal property or possessions have been abandoned and, if so, to thereafter cause their removal. Any personal property or possessions found during the abatement process in Municipal Code section 63.0406 shall first be stored as required by that section.
- (b) Unattended personal property or possessions that are unsanitary, soiled or verminous may be summarily abated and destroyed. Unattended personal

property or possessions that are ~~recyclable~~ not summarily abated or destroyed under section 54.0212 may be disposed of or recycled by the Director pursuant to Chapter 6, Article 6 of the Code or donated for reuse. ~~Unattended personal property or possessions that are sanitary and saleable or useable and of a value greater than one hundred dollars (\$100) shall be transferred as soon as is practicable to the Chief of Police pursuant to Section 22.0603 of this Code.~~

§63.20.11 ~~Camping, Sleeping Overnight Prohibited~~ [Reserved]

~~Unless specifically authorized by license or lease from the City, it is unlawful for any person, to remain overnight, or to erect, maintain, use, or occupy any tent, lodge, shelter, or structure on any public beach in this City, unless the tent, lodge, shelter, or structure has two sides open and there is an unobstructed view of the interior from the outside on at least two sides.~~

§63.0102 Use of Public Parks and Beaches Regulated

(a) [No change in text.]

(b) Definitions

For purposes of this Division, defined terms appear in italics. The following definitions apply in this Division:

Beach areas has the same meaning as in San Diego Municipal Code section 63.20.

Open space means any undeveloped public property either primarily in its natural state, including canyons, coastal bluffs, and unimproved waterways, or that is held out by the City or used by the public for passive recreational

purposes, conservation, habitat preservation, or that maintains or enhances the conservation of natural or scenic resources.

Park means any public property, whether developed or undeveloped, held out by the City or used by the public for active or passive park and recreation uses, including adjacent buffer lands and natural areas and any adjacent parking lots and perimeter sidewalks. The definition of park includes open space and all public beaches, beach areas, bays, and wetlands within the City.

(bc) It is unlawful for any person within any ~~public park or plaza or public beach or beach areas within the City of San Diego~~ park to do any of the acts ~~enumerated~~ listed in San Diego Municipal Code ~~S~~section 63.0102(bc).

(1) ~~Posting of Handbills.~~ It is unlawful to litter, to throw, or deposit on the ground, to post or affix to any tree, fence, or structure situated within or on any ~~City-owned park or plaza~~ park any handbills, circulars, pamphlets, tracts, dodgers, papers, or advertisements.

(2) Loose Animals. It is unlawful to bring, leave, turn loose, or allow to go free, any animal, fowl, or bird of any kind in or upon any ~~City-owned park or plaza~~ park; provided, however, that ~~S~~section 63.0102(bc)(2) does not apply to:

(A) through (B) [No change in text.]

- (C) Dogs which are in special areas of ~~parks~~ parks designated and posted by the Parks and Recreation Director as dog off-leash areas or dog training areas and so long as the regulations of the Parks and Recreation Director with respect to the use of such areas are followed.
- (i) Implied Consent. The presence of a dog in a designated dog off-leash area or dog training area shall constitute implied consent of the person either owning or controlling the dog to the regulations imposed by the Parks and Recreation Director.
- (ii) [No change in text.]
- (3) Fireworks. It is unlawful to discharge any firearm, firecracker, bomb, torpedo, rocket, or other fireworks without the written consent of the City Manager; provided, however, that as to the discharging of firearms ~~S~~section 63.0102(~~b~~c)(3) does not apply to ~~any~~ authorized peace officers or employees of the San Diego Zoo while in the performance of ~~his or her~~ their duties.
- (4) Destruction of Plants. It is unlawful to injure, drive a nail or other object into, destroy, cut or remove any tree, ~~shrub, plant, wood, turf, grass, or other natural vegetation~~, soil, or rock in ~~or growing in any City-owned park or plaza~~ park without the written permission of the City Manager.

- (5) Defacement of Property. It is unlawful to build or erect a physical structure of any type, or cut, break, deface, or injure any building, monument, rock, fountain, cage, pen, fence, bench, hydrant, swing, or other structure, apparatus or property, ~~or dig caves, or other depressions within the cliff areas adjacent to the ocean shoreline~~ otherwise reconfigure the natural or developed landscape in a manner that damages that landscape within a park without the written permission of the City Manager.
- (6) Dumping. It is unlawful to deposit or dump any garbage, refuse, human or animal waste, dirt, ashes, ~~broken glass, crockery, bones, tin cans,~~ or like substances, or any carcass of any animal or fowl.
- (7) through (8) [No change in text.]
- (9) Park waters. It is unlawful to bathe in the waters of any lake, pond, pool, fountain, or at any hydrant, drinking fountain, or sink; or throw into or deposit any dirt, filth or foreign matter in the waters of any lake, pond, pool, or fountain, or in like manner pollute the same; provided, however, that nothing contained in S§ection 63.0102(~~bc~~)(9) prohibits persons from swimming in any municipal pool in accordance with the rules and regulations provided therefor.
- (10) Mistreatment of Animals. It is unlawful to take, kill, wound, disturb, or maltreat any bird or animal, either wild or domesticated, unless the same shall have been declared noxious by the City Manager and a permit issued for the killing of such noxious animals; provided,

however, that ~~Section~~ 63.0102(~~b~~)(10) does not apply to any exhibits in the San Diego Zoo ~~of Balboa Park~~ when done by any employees in the course of ~~his or her~~ their duties.

- (11) Fires. It is unlawful to kindle or allow to be kindled any fire, bonfire, Tiki Torch, or any device set on fire for entertainment purposes, or to throw upon the ground a lighted match, lighted cigar or cigarette, or anything that would be liable to set fire to any grass, tree, shrub, building, or other property; provided, however, that nothing in Municipal Code section 63.0102(~~b~~)(11) prohibits persons from kindling fires in *City-provided fire rings* or portable propane-fueled devices as permitted in Municipal Code section 63.20.5(c).
- (12) ~~Overnight Camping. It is unlawful to camp, lodge, sleep, or tarry overnight; provided, however, that nothing in Section 63.0102(b)(12) prohibits any person from being or remaining in any park while in attendance at any function for which the City Manager has previously granted permission. Temporary Shade Structures. Unless specifically authorized in writing by the City Manager, it is unlawful for any person to erect or maintain any temporary shade structure in any park, unless the temporary shade structure has a minimum of two sides open and there is an unobstructed view of the interior from the outside on at least two sides.~~
- (13) through (16) [No change in text.]

- (17) Sports. It is unlawful to play any game of ball or engage in any sport except at such places and at such times as shall be designated for such purpose by the Parks and Recreation Department.
- (18) ~~Use of Restrooms. It is unlawful for any person to resort to any toilet or restroom set apart for members of the opposite sex, provided that Section 63.0102(b)(18) does not apply to children under ten (10) years of age accompanied by their parent or guardian.~~ [Reserved]
- (19) Bicycles. It is unlawful to ride a bicycle except: (1) where posted to authorize bicycle riding; or (2) on any designated bikeway; or (3) on any road designated and established for automotive traffic; or (4) on paved and unpaved ~~park roads~~ within a park used as fire or service roads by authorized motor vehicles unless otherwise posted. Motorcycles or any other motorized vehicles are prohibited except on roads designated and established for automotive traffic.
- (20) Automobile Speed. It is unlawful to drive an automobile, motorcycle, or other self-driven vehicle upon any ~~park or plaza~~ park property at any speed in excess of the limitations established by ordinances of ~~The~~ City of San Diego.
- (21) Horses and Vehicles. It is unlawful to leave or hitch any horse, or leave or park any automobile, motorcycle, or other self-driven vehicle ~~on any park or plaza property~~ in any park, except at such places as are provided and designated for those purposes.

- (22) [No change in text.]
- (23) Vehicular Traffic. Unless making deliveries or loading onto ~~park or plaza~~ park property, it is unlawful to drive or place any dray, truck, wagon, cart, or other traffic vehicle with a manufacturer's rate of capacity of more than one ton, carrying or regularly used or employed in carrying goods, merchandise, lumber, machinery, oil, manure, dirt, sand, soil, or any article of trade or commerce or any offensive article or material whatsoever upon any road or drive in any ~~park or plaza~~ park, except such road or drive as may be provided or designated for such use.
- (24) Large Groups. Except as otherwise required or permitted by Chapter 2, Article 2, Division 40 of this Code, it is unlawful for any group of persons consisting of fifty or more persons to hold, conduct, or participate in any celebration, parade, service, picnic, exercise, or other special event in any ~~park, plaza, or beach~~ park without having first obtained a permit from the City Manager.
- (25) Obstructing Traffic. It is unlawful to obstruct the free travel of any vehicle or pedestrian over any of the walks, roads, or avenues of any ~~park or plaza property~~ park.
- (26) Park Department Tools. It is unlawful for any person, other than a Parks and Recreation Department employee while in the performance of ~~his or her~~ the employee's duties, to move or remove from one location to another or destroy any equipment, tools,

implements, or materials used by the Parks and Recreation Department.

(27) [No change in text.]

(28) Valves and Use of Utilities. It is unlawful to open or close any valves or switches, remove any utility access covers or secured plugs, tap into wiring, or damage any maintenance covers, plugs or other facilities pertaining to the water or electric services in any park, plaza or beach park.

(e) (d) [No change in text.]

~~(d)~~ (e) Dogs in ~~Public Parks, Plazas, Beaches, and Beach Areas~~. It is unlawful for a dog owner or person with custody, care, charge, control, or possession of a dog, ~~or both~~, within any ~~public park or plaza or public beach or beach area~~ within the City of San Diego park to do any of the following:

(1) [No change in text.]

(2) In the event of a dog bite that results in injury requiring medical care to a person or another dog, failure to provide to the injured person or owner or custodian of the injured dog, at the time of the injury, ~~his or her~~ all of the following information: the full name of the dog owner or person with custody, care, charge, control, or possession of the dog that caused the injury, correct dog license information, telephone number, mailing address, and driver's license number, if any.

(e) (f) [No change in text.]

~~(f)~~ (g) [No change in text.]

§63.0103 City Manager Permit Procedure

Whenever doing any of the acts specified in this Article is conditioned upon obtaining a permit, permission, or consent from the City Manager, the following procedure shall be followed:

- (a) [No change in text.]
- (b) The application shall include information as to the proposed activity, the sponsoring person or organization, the number of persons expected to attend, the proposed ~~park~~ park area to be used, the proposed date and time of the event, the duration in time, and the proposed alternate ~~park~~ park areas and dates, if any;
- (c) [No change in text.]
- (d) The City Manager shall issue the permit, permission, or consent if there is capacity for the proposed activity; ~~except as set forth in (1) through (3)~~ below:
 - (1) An applicant for a Special Event, as defined in Chapter 2, Article 2, Division 40, to be held at a ~~park or beach~~ park, shall apply for a reservation of space, which, if granted, is effective until the Special Event Permit is granted or denied. The City Manager shall consider all requests for reservations of space filed at least 120 days before the date of the proposed event; however, the City Manager may consider any permit which is filed less than 120 days before the proposed event. A reservation of space may be granted after consideration of factors such as previously scheduled events at and adjacent to the requested

location, the park capacity, impacts to the ~~park~~ park that may be caused by the event, any restrictions on Special Events such as the Summer Moratorium, and any recommendation from the appropriate park advisory body. A permit as required by Chapter 6, Article 3 shall be issued concurrently with the Special Event Permit.

(A) through (B) [No change in text.]

(2) through (3) [No change in text.]

(e) Each permit shall state the date, time and area of the ~~park~~ park for which it is issued, and the name of the person or persons to whom it is issued;

(f) through (g) [No change in text.]

(h) The City Manager shall notify the applicant in person or by mail of ~~his or her action~~ the decision granting or denying the application or alternative application. The City Manager, in denying an application, may authorize the gathering at such other date, time, or location as may be available, based on park capacity. If the applicant wishes to accept the proposed alternate date, time, or location, ~~he or she~~ the applicant shall, within two days of receiving the City Manager's notification, file a notice of acceptance with the City Manager. The City Manager shall thereupon issue a permit.

(i) Any parade proposed to be conducted in or through any ~~park~~ park shall be subject to Chapter 2, Article 2, Division 40, of this Code.

(j) [No change in text.]

§63.0105 Exceptions to Application of Regulations

- (a) Nothing in this Division shall be construed to prevent any employee or agent of the City of San Diego from performing any duty that, in the opinion of the City Manager or ~~his or her~~ designee, may be thought necessary or proper for the maintenance, improvement, or betterment of any ~~park, plaza or beach~~ park as may be in the best interests of the City of San Diego.
- (b) [No change in text.]

§63.0108 Park Rangers Authorized to Enforce State and Local Codes

The Park Rangers of ~~the~~ City of San Diego are hereby authorized and empowered to enforce provisions of the San Diego Municipal Code and violations of the California State Codes which are designated as misdemeanors; to make arrests without a warrant whenever the Park Ranger has reasonable cause to believe that the person to be arrested has committed a misdemeanor in the Park Ranger's presence which is a violation of a statute or Code the Park Ranger has the duty to enforce; and, while engaged in the performance of ~~his or her~~ the Park Ranger's duties, to arrest persons and issue citations under the provisions of ~~Sections~~ 836.5 and 853.6 of the California Penal Code for violations which occur in the ~~City of San Diego, beach or park areas~~ parks.

Division 4: Encampments on Public Property

§63.0401 **Purpose**

The Council finds that the City is committed to protecting the life, health, and safety of all people in the City and finds that certain public lands within the geographical boundaries of the City pose significant health and safety hazards to the people who make shelter or stay overnight in these areas. Additionally, the Council finds that some of these public lands are environmentally sensitive and may be significantly damaged by unregulated human activity. The Council is committed to protecting the rights of individuals related to their personal property and to treating such property with respect and consideration. It is the purpose of this Division to set standards for the preservation and protection of human life, health, and safety, to further the preservation and protection of sensitive public lands to prevent destruction of these assets, and to establish a process for the collection, storage, and disposal, recycling, or reuse of personal property found in encampments on public property.

§63.0402 **Definitions**

For purposes of this Division, defined terms appear in italics. The following definitions apply in this Division:

Abatement means the process of documenting and collecting eligible items for storage, and removing and disposing of, recycling, or reusing of waste at an encampment according to the process in section 63.0406.

Camp means to pitch, erect, or occupy an *encampment*, or to use *camp paraphernalia* or both, for the purpose of, or in a way that facilitates outdoor

sheltering for living accommodation purposes or for remaining outdoors overnight.

Camp paraphernalia means personal property used to facilitate occupancy of an area and includes personal property typically associated with camping such as tarps, cots, beds, sleeping bags, hammocks, bedding, camp stoves, cooking equipment, buckets, and similar equipment, mattresses, couches, dressers, or other furniture.

Encampment means one or more temporary, makeshift, or hand-built structures not intended for long-term continuous occupancy, including tents, that are used to shelter one or more persons or their belongings and that are not authorized by the property owner. *Encampment* includes any *camp paraphernalia* and personal property associated with or located in or around the structures or tents.

Open space has the same definition as in San Diego Municipal Code section 63.0102(b).

Park has the same definition as in San Diego Municipal Code section 63.0102(b).

Shelter means any City-funded shelter or shelter provided as part of the City's Coordinated Intake System for shelter placements where individuals or families experiencing homelessness can access beds and other services or an area designated by the City Manager for use by individuals or families experiencing homelessness. A list of current *shelters* is provided on the City's website and is available through 2-1-1 San Diego.

Waste has the same definition as in San Diego Municipal Code section 54.0202.

Waterway means all the portions of Chollas Creek, Los Peñasquitos Creek, San Diego River, San Dieguito River, and Tijuana River found within the boundaries of the City of San Diego.

§63.0403 **Protection of Waterways**

- (a) It is unlawful for any person to do any of the following:
- (1) build or erect a structure of any type along the banks of any waterway or drive a nail or other object into any tree or other natural area vegetation for the purpose of building an encampment or any other structure, or to affix an object to any tree or other natural vegetation,
 - (2) move boulders or large rocks, destroy vegetation, paved roads or paths created by the City, or otherwise reconfigure the natural landscape in the waters of or along the banks of a waterway,
 - (3) drive, park, or bring any vehicle along the banks of a waterway, except in places specifically provided and designated for vehicular use,
 - (4) dig on the banks of a waterway, or
 - (5) discharge or store waste, including garbage, refuse, or human or animal waste, along the banks or into the waters of a waterway.
- (b) Nothing in section 63.0403 is intended to prohibit the activities of an owner of private property or other lawful user of private property that are normally associated with and incidental to the lawful and authorized use of private property; and nothing is intended to prohibit the activities of a lawful user if such activities are expressly authorized by the City Manager

or by any law, regulation, permit, order or other directive from a regulatory authority.

§63.0404 **Unauthorized Encampments on Public Property**

(a) It is unlawful for any person to camp or to maintain an encampment in or upon any public property, including in any street, sidewalk, park, beach, open space, waterway, and banks of a waterway, unless specifically authorized by the City Manager.

(b) At all times, regardless of the availability of shelter space or beds, it is unlawful for any person to camp or to maintain an encampment where such activity poses:

(1) an immediate threat or an unreasonable risk of harm to any natural person,

(2) an immediate threat or an unreasonable risk of harm to public health or safety, or

(3) disruption to vital government services.

(c) At all times, regardless of the availability of shelter space or beds, it is unlawful for any person to camp or to maintain an encampment in the following locations:

(1) within two blocks of a school that offers instruction on those courses of study required by the California Education Code or that is maintained pursuant to standards set by the State Board of Education provided that signs are posted prohibiting camping that are clearly visible to pedestrians. School for purposes of section 63.0404(c) does not include

a vocational or professional institution of higher education, including a community or junior college, college, or university;

- (2) within two blocks of any shelter provided that signs are posted prohibiting camping that are clearly visible to pedestrians;
- (3) in any open space, waterway, or banks of a waterway;
- (4) within any transit hub, on any trolley platform, or along any trolley tracks provided that signs are posted prohibiting camping that are clearly visible to pedestrians; and
- (5) in any park where the City Manager determines there is a substantial public health and safety risk and provided that signs are posted prohibiting camping that are clearly visible to pedestrians. For purposes of this section 63.0404(c)(5), the definition of park does not include open space or beach areas, as defined in section 63.0102(b), or beaches, bays, or wetlands.

§63.0405

Enforcement

- (a) Violations of this Division may be prosecuted as misdemeanors subject to the fines and custody provisions in San Diego Municipal Code section 12.0201.
- (b) Law enforcement officers shall not issue a criminal citation to enforce a violation of section 63.0404(a) between the hours of 9:00 p.m. and 5:30 a.m. or when the person is on public property at a time when there is no available shelter. For purposes of this Section 63.0405(b), available shelter means the shelter is reasonably available to the person at the time enforcement is taking

place and taking into consideration any disability or other specific circumstances applicable to that person.

- (c) Sections 63.0403 and 63.0404(b) and (c) are enforceable at all times regardless of *shelter* availability.

§63.0406 Abatement of Encampments

The City Manager may remove personal property, *camping paraphernalia*, and all other property, contraband, litter, and *waste* found at an *encampment* or at a location where a person is engaged in unlawful camping in compliance with the following procedures:

(a) Written Notice Required Prior to Abatement

- (1) A written Notice of Clean-Up will be posted on each tent or structure and in any other distinct areas of the *encampment* providing notice of the date of clean-up and giving a minimum of 24 hours for persons to remove their personal property. The written notice shall also include the following statement, which may be updated by the City Manager to provide accurate and current information:

You must remove your belongings from the site within 24 hours. You should not leave behind any belongings you want to keep. All belongings left behind will be removed by the City. The City will post an Impound Notice if belongings are stored during the clean-up process.

If you wish to minimize the risk of losing valued belongings, you should try to keep those belongings on your person at all times, in a storage facility, or in visible, sanitary, and safely accessible bags or bins.

If you think your belongings were stored, you can claim them by following the directions on the Impound Notice after the clean-up is complete. Information about how to claim your belongings is also available on the City's website. You may retrieve any stored belongings without being asked about your criminal background or outstanding warrants.

You may access shelter or services, including access to storage for your personal belongings, through the City of San Diego's website or by calling 2-1-1 San Diego.

- (2) After 24 hours, the City Manager shall conduct *abatement* of the site on the date posted on the Notice of Clean-Up. If *abatement* is delayed or rescheduled, the City Manager may conduct *abatement* within 48 hours of the posted Notice of Clean-Up without reposting a new Notice of Clean-Up. If *abatement* is delayed longer, the City Manager shall repost a Notice of Clean-Up with a new date.
- (b) The City Manager shall follow these additional procedures when persons are present at an *encampment* during *abatement*:

- (1) When *shelter* is available, the City Manager shall provide any person at an *encampment* with *shelter* and service information and direct them to remove their belongings from the site. The City Manager shall evaluate reasonable requests for additional time or assistance to remove items and may accommodate those requests to the extent practicable.
 - (2) Any person who returns to an *encampment* during *abatement* shall be allowed to remove their personal property from the site. Personal property left behind will be deemed abandoned.
 - (3) Any person arrested for a criminal offense or an outstanding warrant shall not be required to abandon personal property they identify as their own. Unless the person requests the personal property be discarded or entrusted to another, all personal property of apparent value will be taken to the San Diego Police Department for impoundment in accordance with existing policy and procedure. Where the owner of the items cannot be readily identified or discovered, the City Manager shall follow the *abatement* process in this Division.
- (c) The City Manager shall document the *abatement* process as follows:
- (1) photograph or video record the site before any *abatement* begins,
 - (2) open backpacks, purses, suitcases, and other small storage containers to determine whether they contain items eligible for storage,
 - (3) set out items contained in bags or suitcases and photograph the items,

- (4) photograph or video record all items to be stored,
 - (5) photograph or video record the cleanup process, and
 - (6) photograph or video record the site after *abatement* has concluded.
- (d) Unclaimed items found in *abatement* shall be eligible for storage if:
- (1) circumstances indicate that the item belongs to a person,
 - (2) the item has apparent utility in its current condition and
circumstances, and
 - (3) the item can be safely retrieved from the site.

Examples of items potentially eligible for storage include identification and associated paperwork, medication stored in medication bottles with identifying information, art, art supplies, musical instruments, and items that reasonably appear to have sentimental value in their current condition. An item need not be in a new or perfect condition to have apparent utility.

- (e) An eligible item found during an *abatement* shall be put into storage, unless it meets one the following disqualifying conditions:
- (1) hazardous, including items contaminated with human waste, animal waste, or bugs, explosives, weapons, liquids, drug paraphernalia, or mold;
 - (2) likely to become hazardous in storage, including perishables, wet materials that might become moldy, and items covered in mud;
 - (3) practically un-storable, due to large size, weight, or other similar characteristic;
 - (4) contraband or stolen; or

- (5) is on the City Manager's current list, published on the City's website, of common types of items that, in the experience of City staff, individuals regularly abandon during abatement, and there is no contrary indication as to the specific item.
- (f) The City Manager shall record each eligible item to be stored, including the location it was found and the date of storage. Any stored items shall be kept in storage at least 90 calendar days and then may be disposed of, recycled, or reused following the process in San Diego Municipal Code section 54.0212.
- (g) After abatement has concluded and when eligible items are collected and will be placed in storage, the City Manager shall post notices at the location of the abatement that includes information how a person can claim stored items. Information about retrieval of stored items shall also be available on the City's website. A person may retrieve stored items based on a description with sufficient specificity to demonstrate ownership. A person may retrieve stored items without inquiry into the person's criminal background or outstanding warrants.
- (h) Expedited Abatement
 - (1) In an expedited abatement, the City Manager shall follow the same abatement and storage procedures in section 63.0406, but shall post a Notice of Clean-Up giving a minimum of three hours for all persons to remove their personal property.

- (2) The City Manager shall prioritize and expedite the removal of an encampment if:
- (A) the City receives direction from County of San Diego or other governmental authority that abatement of the encampment is necessary to preserve public health or safety, including to address known or suspected outbreaks of diseases; or
- (B) the City Manager observes or reasonably suspects the encampment creates a condition that presents a significant risk of property damage, bodily injury, or death.

HMF:sc
05/30/2023
06/13/2023 REV.
Or.Dept: Council District 3
Doc. No.: 3319225_2

Passed by the Council of The City of San Diego on JUN 27 2023, by the following vote:

Councilmembers	Yeas	Nays	Not Present	Recused
Joe LaCava	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Jennifer Campbell	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Stephen Whitburn	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Monica Montgomery Steppe	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Marni von Wilpert	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Kent Lee	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Raul A. Campillo	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Vivian Moreno	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sean Elo-Rivera	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Date of final passage JUN 29 2023.

AUTHENTICATED BY:

TODD GLORIA

Mayor of The City of San Diego, California.

(Seal)

DIANA J.S. FUENTES

Interim City Clerk of The City of San Diego, California.

By Cennie Patterson, Deputy

I HEREBY CERTIFY that the foregoing ordinance was not finally passed until twelve calendar days had elapsed between the day of its introduction and the day of its final passage, to wit, on

JUN 13 2023

and on JUN 29 2023.

I FURTHER CERTIFY that said ordinance was read in full prior to passage or that such reading was dispensed with by a vote of five members of the Council, and that a written copy of the ordinance was made available to each member of the Council and the public prior to the day of its passage.

(Seal)

DIANA J.S. FUENTES

Interim City Clerk of The City of San Diego, California.

By Cennie Patterson, Deputy

Office of the City Clerk, San Diego, California

Ordinance Number O- 21674