

**COUNCIL ACTION  
EXECUTIVE SUMMARY SHEET  
CITY OF SAN DIEGO**

DATE: 6/10/2015

ORIGINATING DEPARTMENT: City Council District 9

SUBJECT: Amend San Diego Municipal Code (SDMC) Chapter 5: Public Safety, Morals, and Welfare section 56.54 to establish a 24-hour alcohol ban at Montezuma Neighborhood Park.

COUNCIL DISTRICTS: City Council District 9

CONTACT/PHONE NUMBER: Chris Pearson (619) 236-6681

REQUESTED ACTION: Amend SDMC Chapter 5: Public Safety, Morals, and Welfare section 56.54 to move Montezuma Neighborhood Park from section 56.54 List B to 56.54 List A, changing the alcohol ban from 8:00PM - 8:00AM to 24 hours.

STAFF RECOMMENDATION: Approve requested action.

**EXECUTIVE SUMMARY OF ITEM BACKGROUND:**

SDMC Chapter 5: Public Safety, Morals, and Welfare section 56.54 concerns “Alcoholic Beverage Consumption Prohibited in Certain Areas.” Appendix 56.54A lists parks that have a 24 hour alcohol ban. Appendix 56.54B lists parks that have a 12 hour alcohol ban from 8:00 P.M. to 8:00 A.M. Montezuma Neighborhood Park located at 4929 Catoctin Drive is listed on Appendix 56.54B. This action requests that Montezuma Neighborhood Park be moved from Appendix 56.54B to Appendix 56.54A, changing the alcohol ban from 12 hours to 24 hours.

The request to amend the SDMC Chapter 5: Public Safety, Morals, and Welfare section 56.54 was brought forward by the College Area Business Improvement District, (BID). The BID has reported numerous issues related to alcohol consumption; including calls to police, disturbances and damage to property. In addition, Montezuma Neighborhood Park is located across the street from an elementary school, the Language Academy.

FISCAL CONSIDERATIONS: None.

EQUAL OPPORTUNITY CONTRACTING INFORMATION: N/A

PREVIOUS COUNCIL and/or COMMITTEE ACTION: None.

**COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:**

The proposed amendment was unanimously approved by the College Area Business Improvement District on April 15, 2015, and the College Area Community Planning Board on April 8, 2015.

KEY STAKEHOLDERS AND PROJECTED IMPACTS: Residents of Council District 9.

# College Area Community Planning Board

P.O. Box 15723, San Diego, CA 92175

<http://www.collegearea.org/cacc/>

[info@collegearea.org](mailto:info@collegearea.org)

April 10, 2014

Councilmember Marti Emerald  
City of San Diego  
202"C" Street, MS#10A  
San Diego, CA 92101

Dear Councilmember Emerald,

At the April 8, 2015 meeting of the College Area Community Council/Community Planning Board, the board voted unanimously to pass the following motion:

In accordance with San Diego Municipal Code section 56.54, the College Area Community Planning Board and Community Council requests that the current twelve (12) hour ban on alcohol possession and consumption in Montezuma Park be changed to a twenty-four (24) hour ban by moving Montezuma Park from SDMC 56.54 List B to 56.54 List A.

This requested change is supported by the following facts:

- There have been numerous calls to the police by neighborhood residents regarding homeless encampments in the park where alcohol is being consumed on a continuous basis. These homeless encampments have included mattresses, blankets, and other accoutrements of permanent residence, and extensive litter of empty alcohol containers and trash which have created an unsightly mess and reduced the usability of the park by residents of the neighborhood.
- Montezuma Park is the ONLY park accessible to residents of the College Area for picnics and play during school hours, as the two other "parks" in the College Area are joint-use facilities with the San Diego Unified School District.
- Montezuma Park is directly across a narrow street from an elementary school, the Language Academy.
- The drainage channel behind Montezuma Park is used continuously for the consumption of alcohol, both day and night. This channel backs on to the Best Western Lamplighter Inn at 6474 El Cajon Boulevard. The drinking has resulted in disturbance to the Inn, and damage to its physical plant, sufficient to have resulted in requests by management personnel of the Inn to the College Area Business Improvement District to ban alcohol at the park.

For these reasons, we respectfully request that alcohol be banned 24 hours per day at Montezuma Park, in conformance with SDMC 56.54.

Sincerely,

A handwritten signature in black ink that reads "Jose Reynoso". The signature is written in a cursive style with a large initial "J" and "R".

Jose Reynoso, President and Chair  
College Area Community Council  
College Area Community Planning Board

Cc: Ricardo Flores, District 9  
Chris Pearson, District 9  
Jim Schneider, College Area Business District



# College Area Business District

Representing the College Area Economic Development Corporation

April 10, 2014

Councilmember Marti Emerald  
City of San Diego  
202C Street, MS-10A  
San Diego, CA 92101

Dear Councilmember Emerald,

At the April 15, 2015 College Area Business District Board Meeting, the board voted to pass the following motion:

**In accordance with San Diego Municipal Code section 56.54, the College Area business District requests that the current alcohol possession and consumption rules in Montezuma Park be changed to a full ban by moving Montezuma Park from SDMC 56.54 List B to SDMC 56.54 List A.**

This requested change is supported by the following facts:

- There have been numerous calls to the police by neighborhood residents regarding homeless encampments in the park where alcohol is being consumed on a continuous basis. These homeless encampments have created an unsightly mess and significantly reduced the ability of the neighborhood residents to use the park.
- Montezuma Park is directly across a narrow street from an elementary school, the Language Academy.
- Montezuma Park is the ONLY park accessible to neighborhood residents of the College Area during school hours, as the two other parks in the College Area are joint-use facilities with the San Diego Unified School District.
- The area around Montezuma Park is used continuously for the consumption of alcohol, both day and night. This affects the operations of the Best Western Lamplighter Inn at 6474 El Cajon Boulevard. This has resulted in disturbances and damage to its property,

For these reasons, we respectfully request that alcohol be banned 24 hours per day at Montezuma Park, in conformance with SDMC 56.54.

Sincerely,

Jim Schneider  
Executive Director

- (b) Definitions. Whenever in this section the word “nude” is used, it shall mean devoid of an opaque covering which covers the genitals, pubic hair, buttocks, perineum, anus or anal region of any person, or any portion of the breast at or below the areola thereof of any female person.

Whenever in this section the term “public right of way” is used, it shall mean any place of any nature which is dedicated to use by the public for pedestrian and vehicular travel, and includes, but is not limited to, a street, sidewalk, curb, gutter, crossing, intersection, parkway, highway, alley, lane, mall, court, way, avenue, boulevard, road, roadway, viaduct, subway, tunnel, bridge, thoroughfare, square, and any other similar public way.

- (c) Nudity Prohibited. No person over the age of ten years shall be nude and exposed to public view in or on any public right of way, public park, public beach or waters adjacent thereto, or other public land, or in or on any private property open to public view from any public right of way, public beach, public park, or other public land.
- (d) The provisions of this section shall not apply to live theatrical performances performed in a theater, concert hall, or other similar establishment located on public land. As used in this section, theater, concert hall or similar establishment means a building, playhouse, room, hall or other enclosed place not open to public view from any public right of way but having a stage upon which movable scenery is located and theatrical, vaudeville or similar performances are given and seats so arranged that a body of spectators can have an unobstructed view of the stage and whose primary function is to give such performances.

*(Amended 11-19-1979 by O-15083 N.S.)*

**§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.

“*Bather*” has the same meaning as that set forth in California Harbor and Navigation Code section 651.1.

“*Beach*” means the sand or land area bordering the water of an ocean or bay.

“*Marine league*” means three nautical miles.

“*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.

“*Vessel*” has the same meaning as set forth in California Harbor and Navigation Code section 651(aa).

- (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 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:
  - (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).
- (h) 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 *bather* to consume any *alcoholic beverage* within one *marine league* of any *beach*. However, subsection (h) shall not be construed to regulate the consumption of *alcoholic beverages* on any *vessel*.

*(Amended 9-8-1998 by O-18582 N.S.)*

*(Amended 6-21-2004 by O-19290.N.S.)*

*(Amended 11-8-2004 by O-19323 N.S.)*

*(Amended 12-5-2007 by O-19690 N.S.; effective 1-14-2008)*

*(Amended 7-15-2008 by O-19779 N.S.; effective 1-15-2009)*

*(Amended 7-26-2010 by Emergency Ordinance O-19977 N.S.; effective 7-26-2010; replaced 9-14-2010 by O-19989 N.S.; effective 10-14-2010.)*

APPENDIX 56.54A  
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(d) [Appendix 56.54C]  
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  
Birney 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  
Calumet Park

Cedar Ridge Mini-Park  
Central Mini-Park  
Charlotte 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

Dailard Elementary School/Park  
Dana Center  
Doyle Community Park

East San Diego Adult Recreation Club  
Edison Elementary School/Park  
Emerald Hills Neighborhood Park  
Encanto Community Park

Famosa Slough and Channel  
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  
Hermosa Park  
Hermosa Terrace Park  
Hollywood Neighborhood Park  
Hoover Senior High School/Park  
Horton Plaza Park  
Hourglass Community Park  
Howard Lane Neighborhood Park

“J” Street Mini- Park

Jerabek Neighborhood Park  
Juarez Elementary School/Park

Keiller Neighborhood Park  
Kellogg Park  
Kelly Neighborhood Park  
Kennedy, John F., Elementary School/Park  
Kennedy 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)

La Strand Park  
Laureate Park  
Laurel Street Mini-Park  
Lewis Middle School/Park  
Linda Vista Community Park  
Lindberg Neighborhood Park  
Lomita Neighborhood Park

Macdowell Neighborhood Park  
Marian Bear Memorial Park

Memorial Community Park  
Mesa Verde Neighborhood Park  
Mesa Viking Neighborhood Park  
Mid-City Athletic Area  
Mira Mesa Senior High School/Park

Mission Beach Park, including the Belmont Park public areas and parking lots

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  
Nicholson’s Point 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  
Ocean Boulevard Park (Pacific Beach Park)  
Old Trolley Barn 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  
Penn Elementary School/Park (Athletic Area)  
Plumosa Neighborhood Park  
Point Loma Community Park  
Portola Middle School/Park  
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

Scripps Park  
Serra Senior High School/Park  
Sessions, Kate O. Memorial 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  
Southcrest Community Park  
Spreckels Elementary School/Park  
Standley Junior High School/Park  
Sunny Slope Neighborhood Park  
Sunset Cliffs Natural Park

Taylor Library Park  
Tecolote Canyon Natural Park  
Tierrasanta Elementary School/Park  
Torrey Pines City Park  
Tourmaline Surfing Park

Union Place Circle Park

Valencia Elementary School/Park  
Villa del Norte Mini-Park  
Vista Terrace Neighborhood Park

Wabash Mini-Park  
Walker Neighborhood Park  
Washington Elementary School/Park  
Western Hills Neighborhood Park  
Widman, Marie, Memorial Neighborhood Park (Little Encanto Park)  
Wilson Middle School/Park  
Windansea Park

30th Street Mini-Park  
32nd Street Mini-Park (north of Redwood)  
39<sup>th</sup> 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 Natural 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-

Crystal Pier and Ocean Beach Pier

*(Amended 12-5-2007 by O-19690 N.S.; effective 1-14-2008)*  
*(Amended 7-31-2009 by O-19892 N.S.; effective 8-30-2009.)*  
*(Amended 6-21-2010 by O-19962 N.S.; effective 7-21-2010.)*  
*(Amended 12-7-2010 by Emergency Ordinance O-20012 N.S.; effective 12-7-2010; replaced 1-18-2011 by O-20016 N.S.; effective 2-17-2011.)*

APPENDIX 56.54B  
12 HOUR BAN – 8:00 P.M. – 8:00 A.M.

Cabrillo Heights Neighborhood Park  
Carmel Creek Neighborhood Park  
Carmel Del Mar Neighborhood Park  
Cleator, Bill, Neighborhood Park  
Collier Neighborhood Park

East Clairemont Athletic Area

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  
Solana Highland Neighborhood Park

Tecolote Community Park<sup>2</sup>

*(Amended 12-5-2007 by O-19690 N.S.; effective 1-14-2008)*

*(Amended 6-21-2010 by O-19962 N.S.; effective 7-21-2010.)*

*(Amended 12-7-2010 by Emergency Ordinance O-20012 N.S.; effective 12-7-2010; replaced 1-18-2011 by O-20016 N.S.; effective 2-17-2011.)*