

000287

COMMITTEE ACTION SHEET

60
3/27

COUNCIL DOCKET OF March 27, 2007

Supplemental Adoption Consent Unanimous Consent Rules Committee Consultant Review

R -

O -

Proposed Ordinance Regulating Beach Fires

Reviewed Initiated By NR&C On 2/21/07 Item No. 2

RECOMMENDATION TO:

Approve

VOTED YEA: Frye, Faulconer, Hueso

VOTED NAY:

NOT PRESENT: Maienschein

CITY CLERK: Please reference the following reports on the City Council Docket:

REPORT TO THE CITY COUNCIL NO.

COUNCIL COMMITTEE CONSULTANT ANALYSIS NO.

OTHER:

Draft Ordinance with Strike-Out

COUNCIL COMMITTEE CONSULTANT 

ORDINANCE NUMBER O-_____ (NEW SERIES)

DATE OF FINAL PASSAGE _____

AN ORDINANCE OF THE COUNCIL OF THE CITY OF SAN DIEGO AMENDING CHAPTER 6, ARTICLE 3, DIVISION 20 OF THE SAN DIEGO MUNICIPAL CODE BY AMENDING SECTION 63.20.5 TITLED WASTE, REFUSE, FIRES TO CLARIFY REGULATIONS PERTAINING TO BEACH FIRES.

WHEREAS, the regulations pertaining to beach fires contained in Section 63.20.5 of the San Diego Municipal Code [SDMC] were intended to prohibit fires except as built in portable barbeque devices and City-provided fire containers, which are concrete and installed permanently at beaches where fires are permitted; and

WHEREAS, the current language in Section 63.20.5 of the SDMC states that "It is unlawful for any person to build, maintain, use, or be within ten (10) feet of a fire on any beach that is not in a City-provided fire container," and that "It is permissible to build a fire on a public beach in a portable barbeque container or other similar device..."; and

WHEREAS, said language in Section 63.20.5 does not define what a "City-provided fire container" or "other similar" device is for the purposes of the SDMC; and

WHEREAS, the City of San Diego finds it necessary for the health, safety and welfare of the public to better refine the fire regulations pertaining to beach fires and assist the public in complying with the law; and

WHEREAS, the signs installed at public beaches should also reference the applicable SDMC regulations pertaining to beach fires to better inform the public about how to comply with the regulations; NOW THEREFORE,

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

Section 1. That Chapter 6, Article 3, Division 20 of the San Diego Municipal Code is amended by amending Section 63.20.5, to read as follows:

§63.20.5 Waste, Refuse, Fires

- (a) No change in text.
- (b) No change in text.
- (c) It is unlawful for any person to build, maintain, use, or be within ten (10) feet of a fire on any public beach that is not in a City-provided fire container. City-provided fire containers are concrete and pre-installed at certain beach locations where fires are allowed. Fires are prohibited on beaches where there is no City-provided fire container(s).
- (d) Fires may be built in City-provided fire containers only using fire materials limited to charcoal, clean wood, or paper products, none of which contains landscape debris, paint, stain, sealer, wood preservative, cloth, rubber, metal (including nails and other hardware), asphalt, foam rubber, plastic, or any similar matter or material producing noxious fumes, odors, smoke, or leaving any type of solid residue other than ash. Fire materials shall not exceed a height of more than twelve (12) inches above the upper edge of the fire container and must be wholly contained within the inside edge of the fire container.
- (e) Notwithstanding subsection 63.20.5(c), it is permissible to build a fire on a public beach in a portable barbecue device using fuel material authorized in Section 63.20.5(c). Coals from any portable barbecue device shall either be removed from the beach area or

be deposited in a City-provided fire container or designated hot coal container provided on the beach for such purposes.

- (f) No change in text.
- (g) No change in text.
- (h) No change in text.
- (i) No change in text.
- (j) No change in text.
- (k) No change in text.

Section 2. That a full reading of this ordinance is dispensed with prior to its passage, a written copy having been available to the City Council and the public prior to the day of its final passage.

Section 3. That this ordinance shall take effect and be in force on the thirtieth day from and after its final passage.

APPROVED: MICHAEL J. AGUIRRE, City Attorney

By _____
Nina M. Fain
Deputy City Attorney

NMF:mm
Or.Dept:
O-XXXX-X
MMS#

000292

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

ELIZABETH S. MALAND
City Clerk

By _____
Deputy City Clerk

Approved: _____
(date)

JERRY SANDERS, Mayor

Vetoed: _____
(date)

JERRY SANDERS, Mayor

STRIKE OUT ORDINANCE

OLD LANGUAGE: ~~Struck-Out~~
NEW LANGUAGE: Underline

ORDINANCE NUMBER O-_____ (NEW SERIES)

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AN ORDINANCE OF THE COUNCIL OF THE CITY OF SAN DIEGO AMENDING CHAPTER 6, ARTICLE 3, DIVISION 20 OF THE SAN DIEGO MUNICIPAL CODE BY AMENDING SECTION 63.20.5 TITLED WASTE, REFUSE, FIRES.

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above the upper edge of the fire container and must be wholly contained within the inside edge of the fire container.

(e) Notwithstanding subsection 63.20.5(c), it is permissible to build a fire on a public beach in a portable barbecue ~~or other similar~~ device using fuel material authorized in Section 63.20.5(c). Coals from any portable barbecue device shall either be removed from the beach area or be deposited in a City-provided fire container or designated hot coal container provided on the beach for such purposes.

(d) (f) No change in text

(e) (g) No change in text.

(f) (h) No change in text.

(g) (i) No change in text.

(h) (j) No change in text.

(i) (k) No change in text.

NFM:mm
DATE
Or.Dept:
O-XXXX-X
MMS#

REQUEST FOR COUNCIL ACTION

1. CERTIFICATE NUMBER: **60**

3/27

000295
SAN DIEGO

TO: CITY ATTORNEY

2. FROM: (ORIGINATING DEPARTMENT)
Councilmember Donna Frye

3. DATE
March 6, 2007

4. SUBJECT:
Amending Chapter 6, Article 3, Division 20 of the San Diego Municipal Code by Amending Section 63.20.5 Titled Waste, Refuse, Fires to Clarify Regulations Pertaining to Beach Fires

5. FOR INFORMATION, CONTACT: (NAME & MAIL STA.)
Mary Ann Kempczenski, 10A

6. TELEPHONE NO.
619-236-6616

7. CHECK BOX IF REPORT TO COUNCIL IS ATTACHED

8. COMPLETE FOR ACCOUNTING PURPOSES

FUND				
DEPT.				
ORGANIZATION				
OBJECT ACCOUNT				
JOB ORDER				
C.I.P. NO.				
AMOUNT				

9. ADDITIONAL INFORMATION/ESTIMATED COST:

10. ROUTING AND APPROVALS

ROUTE (#)	APPROVING AUTHORITY	APPROVAL SIGNATURE	DATE SIGNED	ROUTE (#)	APPROVING AUTHORITY	APPROVAL SIGNATURE	DATE SIGNED
1	ORIGINATING DEPARTMENT	<i>[Signature]</i>	3-9-07	6	Deputy Chief	<i>[Signature]</i> JILLOLEN	3-13-07
2	EAS	<i>[Signature]</i>	3/12/07	7			
3	Fire-Rescue Department	<i>[Signature]</i>	3/13/07	8	CITY ATTORNEY	<i>[Signature]</i> Ning, Fain	3/13/07
4				9	ORIGINATING DEPARTMENT	<i>[Signature]</i>	3/13/07
5				DOCKET COORD. _____ COUNCIL LIAISON _____			
				COUNCIL PRESIDNET <input checked="" type="checkbox"/> CONSENT <input type="checkbox"/> ADOPTION <input type="checkbox"/> Refer to <input type="checkbox"/> Council Date 3/27/07			

11. PREPARATION OF: RESOLUTION(S) ORDINANCE(S) AGREEMENT(S) DEED(S)

X
Please docket the following for discussion at an up coming City Council meeting:

- Amending the Municipal Code Chapter 6, Article 3, Division 20, Section 63.20.5 Titled Waste, Refuse, Fires to Clarify Regulations Pertaining to Beach Fires consistent with the directions and recommendations from the Natural Resources and Culture Committee made at the February 21, 2007 meeting.

11a. STAFF RECOMMENIONS
1. Approve the recommended action

12. SPECIAL CONDITIONS

Council District: 6 (Frye)
Community Area: District One, Two, Six and Eight

Environmental Impact: This activity is exempt from CEQA pursuant to Section 15061(b)(3) of the State CEQA Guidelines.
Other Issues: **000296**
None

EXECUTIVE SUMMARY SHEET
CITY OF SAN DIEGO

DATE ISSUED: February 13, 2007
ATTENTION: Council President and City Council
ORIGINATING DEPARTMENT: Council Member Donna Frye
SUBJECT: Introduction of an Ordinance Pertaining to Beach Fires
Amending the Municipal Code Section 63.20.5
COUNCIL DISTRICT(S): Districts One, Two, Six and Eight
CONTACT/PHONE NUMBER: Mary Ann Kempczenski 619-236-6616

REQUESTED ACTION:

Approval of an Ordinance amending Chapter 6, Article 3, Division 00 of the San Diego Municipal Code by amending section 63.20.5 titled Waste, Refuse, Fires to clarify regulations pertaining to beach fires.

STAFF RECOMMENDATION:

The staff recommendation is to approve the Ordinance.

EXECUTIVE SUMMARY:

Council Member Donna Frye's office received a letter dated January 30, 2007 from the Sierra Club reporting that "a group brought a fire pit and built a big bonfire" on January 27, 2007 at Children's Pool Beach in La Jolla. According to the letter, the Fire Department responded to a call regarding the fire, and allowed the fire to continue on the beach pursuant to a sign posted at the Children's Pool Beach, which states that beach fires are allowed "only in approved fire rings." Council Member Frye requested that the City Attorney's Office look into the issue and draft an ordinance accordingly for presentation to the NR&C Committee. Upon further investigation, the City Attorney's Office determined that the signs at the Children's Pool are not in accordance with the Municipal Code regulations governing beach fires. Specifically, Municipal Code Section 63.20.5(c) currently reads:

It is unlawful for any person to build, maintain, use, or be within ten (10) feet of a fire on any public beach that is not in a City-provided fire container. Fires may be built using fire materials limited to charcoal, clean wood, or paper products, none of which contains landscape debris, paint, stain, sealer, wood preservative, cloth, rubber, metal (including nails and other hardware), asphalt, foam rubber, plastic, or any similar matter or material producing noxious fumes, odors, smoke, or leaving any type of solid residue other than ash. Fire materials shall not exceed a height of more than twelve (12) inches above the upper edge of the fire container and must be wholly contained within the inside edge of the fire container. It is permissible to build a fire on a public beach in a portable barbecue or other similar device using fuel material authorized in Section 63.20.5(c). Coals from any portable barbecue or similar device shall either be removed from the beach area or be deposited in a City-provided fire container or designated hot coal container provided on the beach for such purposes.

Id. (Emphasis added).

The current language of the signs pertaining to beach fires at Children's Pool Beach read:

NO BEACH FIRES MIDNIGHT TO 5 AM
ALL OTHER TIMES FIRES ALLOWED
ONLY IN APPROVED FIRE RINGS
FUEL CANNOT EXCEED 12" IN HEIGHT
CLEAN, DRY WOOD OR CHARCOAL ONLY
NO PALLETS, PAINTED WOOD OR NAILS

Because the signs need to be updated, the City Attorney's Office is working with the Fire Department to develop appropriate language in order for new signs to be installed.

However, even with new signs, the Municipal Code should be amended to better clarify where beach fires are allowed and where they are prohibited. Section 63.20.5 of the Municipal Code was intended to prohibit fires except in portable barbeque devices and City-provided fire containers, which are concrete and installed permanently at beaches where fires are permitted.

Currently, the language in Section 63.20.5 does not define what a "City-provided fire container," "portable barbeque or other similar device" is for the purposes of the Municipal Code. Accordingly, the City Attorney's Office prepared an ordinance clarifying the fire regulations for beaches. The draft ordinance was presented to the Natural Resources and Culture [NR&C] Committee on February 21, 2007 for recommendation to the City Council. The draft ordinance presented at the meeting added a description of "City-provided fire container" and eliminated the language referring to "other similar" devices, in order to give the public better direction as to where and in what containers fires are allowed to be built. (*See* Attachment 1). In addition, Section 63.20.5 subsection (c) was divided into three separate subsections, (c), (d), and (e), to make the beach fire regulations easier to understand and comply with. This resulted in the renumbering of subsections (c) through (i) to be renumbered as subsections (c) through (k); however, the majority of the former text remains the same notwithstanding the aforementioned clarifying terms.

Based on comments received from the public and from the Fire Department at the February 21, 2007 meeting, the NR&C Committee voted to direct the Fire Chief and the City Attorney's office to work together to make any necessary revisions, and for the revised ordinance to move forward to City Council for approval within 30 days from the NR&C meeting date. The ordinance so revised is attached hereto as Attachment 2.

FISCAL CONSIDERATIONS:

There are no fiscal considerations with this action. This is a clarification of the Municipal Code provisions pertaining to beach fires.

000299

NATURAL RESOURCES AND CULTURE COMMITTEE RECOMMENDATION:

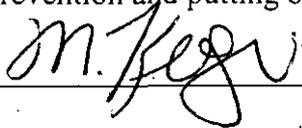
On February 21, 2007, NR&C Committee voted unanimously to recommend the Ordinance go forward to City Council for approval as revised taking into consideration comments made by the City's Fire Chief.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

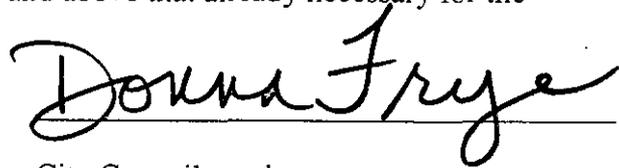
Public comments were received at the February 21, 2007 NR&C Committee meeting. Members of the public who submitted speaker slips were given the opportunity to speak on the issue.

PROJECTED IMPACTS TO CODE ENFORCEMENT:

This is a minor clarification of the Municipal Code provisions relating to beach fires. It will require no more code enforcement resources over and above that already necessary for the prevention and putting out of beach fires.



Originating Department



City Councilmember

CITY ATTORNEY DIGEST

ORDINANCE NUMBER O- _____ (NEW SERIES)

ADOPTED ON _____

EFFECTIVE DATE _____

AN ORDINANCE OF THE COUNCIL OF THE CITY OF SAN DIEGO AMENDING CHAPTER 6, ARTICLE 3, DIVISION 00 OF THE SAN DIEGO MUNICIPAL CODE BY AMENDING SECTION 63.20.5 TITLED WASTE, REFUSE, FIRES TO CLARIFY REGULATIONS PERTAINING TO BEACH FIRES.

This ordinance makes minor changes to the language of the City of San Diego's laws pertaining to beach fires in order to clarify where and in what containers beach fires may be built. Specifically, it contains minor amendments to the San Diego Municipal Code section 63.20.5 to describe what a "City-provided fire container" is and to eliminate language pertaining to "other similar" barbeque devices. In addition, Section 63.20.5 subsection (c) was divided into three separate subsections, (c), (d), and (e), to make the beach fire regulations easier to understand and comply with. This resulted in the renumbering of subsections (c) through (i) to be amended to include subsections (c) through (k); however, the majority of the former text remains the same notwithstanding the aforementioned clarifying terms.

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

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

000302

(O-2007-108)

A complete copy of the ordinance is available for inspection in the office of the City Clerk of the City of San Diego, 2nd Floor, City Administration Building, 202 C Street, San Diego, CA 92101.

NMF:mm

03/07/07

Or.Dept: Council District 6

O-2007-108

MMS#4506

ORDINANCE NUMBER O-_____ (NEW SERIES)

DATE OF FINAL PASSAGE _____

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WHEREAS, the regulations pertaining to beach fires contained in Section 63.20.5 of the San Diego Municipal Code [SDMC] were intended to prohibit fires except as built in portable barbeque devices and City-provided fire containers, which are concrete and installed permanently at beaches where fires are permitted; and

WHEREAS, the current language in Section 63.20.5 of the SDMC states that "It is unlawful for any person to build, maintain, use, or be within ten (10) feet of a fire on any beach that is not in a City-provided fire container," and that "It is permissible to build a fire on a public beach in a portable barbeque container or other similar device...;" and

WHEREAS, said language in Section 63.20.5 does not define what a "City-provided fire container" or "other similar" device is for the purposes of the SDMC; and

WHEREAS, the City of San Diego finds it necessary for the health, safety and welfare of the public to better refine the fire regulations pertaining to beach fires and assist the public in complying with the law; and

WHEREAS, the City Fire Chief has reviewed the subject ordinance and has determined that there will be no additional Fire Department resources over and above that already necessary for the prevention and putting out of fires; and

WHEREAS, the signs installed at public beaches should also reference the applicable SDMC regulations pertaining to beach fires to better inform the public about how to comply with the regulations; NOW, THEREFORE,

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

Section 1. That Chapter 6, Article 3, Division 00 of the San Diego Municipal Code is amended by amending Section 63.20.5, to read as follows:

§63.20.5 Waste, Refuse, Fires

- (a) No change in text.
- (b) No change in text.
- (c) It is unlawful for any person to build, maintain, use, or be within ten (10) feet of a fire on any public beach that is not in a City-provided fire container. City-provided fire containers are concrete and pre-installed at certain beach locations where fires are allowed. Fires are prohibited on beaches where there is no City-provided fire container(s).
- (d) Fires may be built in City-provided fire containers only using fire materials limited to charcoal, clean wood, or paper products, none of which contain landscape debris, paint, stain, sealer, wood preservative, cloth, rubber, metal (including nails and other hardware), asphalt, foam rubber, plastic, or any similar matter or material producing noxious fumes, odors, smoke, or leaving any type of solid residue other than ash. Fire materials shall not exceed a height of more than twelve (12) inches above the upper edge of the fire container and must be wholly contained within the inside edge of the fire container.

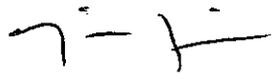
- (e) Notwithstanding subsection 63.20.5(c), it is permissible to build a fire on a public beach in a portable barbecue device using fuel material authorized in subsection 63.20.5(d). Coals from any portable barbecue device shall either be removed from the beach area or be deposited in a City-provided fire container or designated hot coal container provided on the beach for such purposes.
- (f) No change in text from former section (d).
- (g) No change in text from former section (e).
- (h) It is unlawful for any person who has built, maintained, used, or been within ten (10) feet of a fire on the beach to abandon the fire until all ignited fire fuel material has been exhausted or extinguished. Sand, dirt, or similar material shall not be employed as an extinguishing material. Extinguished ashes shall not be covered but may be left in City-provided fire containers. All unused fire material must be removed from the beach and the adjacent public areas of the beach or park. All refuse or rubbish adjacent to the fire container must be removed from the beach or placed in trash receptacles provided for such purpose, so that the beach is left in a clean, sanitary, and presentable condition.
- (i) It is unlawful for any person to use a City-provided fire container or a portable barbeque device between the hours of 12:00 a.m. and 5:00 a.m. The City Manager may issue a permit to allow a fire in a City-provided fire container between the hours of 12:00 a.m. and 5:00 a.m.
- (j) No change in text from former section (h).

(k) No change in text from former section (i).

Section 2. That a full reading of this ordinance is dispensed with prior to its passage, a written copy having been available to the City Council and the public prior to the day of its final passage.

Section 3. That this ordinance shall take effect and be in force on the thirtieth day from and after its final passage.

APPROVED: MICHAEL J. AGUIRRE, City Attorney

By 

Nina M. Fain
Deputy City Attorney

NMF:mm
03/07/07
Or.Dept: Council District 6
O-2007-108
MMS#4506

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

ELIZABETH S. MALAND
City Clerk

By _____
Deputy City Clerk

Approved: _____
(date)

JERRY SANDERS, Mayor

Vetoed: _____
(date)

JERRY SANDERS, Mayor

000308

ATTACHMENT 1

ORDINANCE NUMBER O-_____ (NEW SERIES)

DATE OF FINAL PASSAGE _____

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WHEREAS, said language in Section 63.20.5 does not define what a "City-provided fire container" or "other similar" device is for the purposes of the SDMC; and

WHEREAS, the City of San Diego finds it necessary for the health, safety and welfare of the public to better refine the fire regulations pertaining to beach fires and assist the public in complying with the law; and

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Section 3. That this ordinance shall take effect and be in force on the thirtieth day from and after its final passage.

APPROVED: MICHAEL J. AGUIRRE, City Attorney

By _____
Nina M. Fain
Deputy City Attorney

NMF:mm
Or.Dept:
O-XXXX-X
MMS#

000312

(O-XXXX-X)
DRAFT

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

ELIZABETH S. MALAND
City Clerk

By _____
Deputy City Clerk

Approved: _____
(date)

JERRY SANDERS, Mayor

Vetoed: _____
(date)

JERRY SANDERS, Mayor

STRIKE OUT ORDINANCE

OLD LANGUAGE: ~~Struck Out~~

NEW LANGUAGE: Underline

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above the upper edge of the fire container and must be wholly contained within the inside edge of the fire container.

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(e) (g) No change in text.

(f) (h) No change in text.

(g) (i) No change in text.

(h) (j) No change in text.

(i) (k) No change in text.

NFM:mm
DATE
Or.Dept:
O-XXXX-X
MMS#

000315

ATTACHMENT 2

STRIKE OUT ORDINANCE

OLD LANGUAGE: ~~Struck Out~~NEW LANGUAGE: Underline

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- (b) No change in text.
- (c) It is unlawful for any person to build, maintain, use, or be within ten (10) feet of a fire on any public beach that is not in a City-provided fire container. City-provided fire containers are concrete and pre-installed at certain beach locations where fires are allowed. Fires are prohibited on beaches where there is no City-provided fire container(s).
- (d) Fires may be built in City-provided fire containers only using fire materials limited to charcoal, clean wood, or paper products, none of which contains landscape debris, paint, stain, sealer, wood preservative, cloth, rubber, metal (including nails and other hardware), asphalt, foam rubber, plastic, or any similar matter or material producing noxious fumes, odors, smoke, or leaving any type of solid residue other than ash. Fire

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materials shall not exceed a height of more than twelve (12) inches above the upper edge of the fire container and must be wholly contained within the inside edge of the fire container.

(e) Notwithstanding Section 63.20.5(c), it is permissible to build a fire on a public beach in a portable barbecue ~~or other similar~~ device using fuel material authorized in Section 63.20.5(d). Coals from any portable barbecue device shall either be removed from the beach area or be deposited in a City-provided fire container or designated hot coal container provided on the beach for such purposes.

~~(d)~~ (f) No change in text.

~~(e)~~ (g) No change in text.

~~(f)~~ (h) It is unlawful for any person who has built, maintained, used, or been within ten (10) feet of a fire on the beach to abandon the fire until all ignited fire fuel material has been exhausted or extinguished. Sand, dirt, or similar material shall not be employed as an extinguishing material.

Extinguished ashes shall not be covered but may be left in City-provided fire containers. All unused fire material must be removed from the beach and the adjacent public areas of the beach or park. All refuse or rubbish adjacent to the fire container must be removed from the beach or placed in trash receptacles provided for such purpose, so that the beach is left in a clean, sanitary, and presentable condition.

~~(g)~~ (i) It is unlawful for any person to use a City-provided fire container or a portable barbecue device between the hours of 12:00 a.m. and 5:00 a.m.

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The City Manager may issue a permit to allow a fire in a City-provided
fire container between the hours of 12:00 a.m. and 5:00 a.m.

(h) (j) No change in text.

(i) (k) No change in text.

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