

THE CITY OF SAN DIEGO
REPORT TO THE CITY COUNCIL

DATE ISSUED: 7/8/2010

REPORT NO: 10-106

ATTENTION: Council President and City Council

ORIGINATING DEPARTMENT: Fire-Rescue

SUBJECT: Revision to the Ordinance Banning Alcohol Consumption

COUNCIL DISTRICT(S): 1,2,6

CONTACT/PHONE NUMBER: Lifeguard Chief Rick Wurts -- (619) 221-8832

REQUESTED ACTION:

1. Approve an ordinance to amend San Diego Municipal Code § 56.54 to extend the alcohol ban to bathers within one marine league of the shoreline; and to add the definition of "bather" as set forth in the California Harbor and Navigation Code Section 651.1.
2. Determine whether a threat to public peace, property, health or safety exists and if so, declare an emergency and adopt an emergency ordinance.

STAFF RECOMENDATION: Approve an amendment to the San Diego Municipal Code Section 56.54 as described in "Requested Actions".

SUMMARY: Over the last year, San Diego City Lifeguards and Police have observed an increasing trend in loosely organized rafting events that are promoted over social networking sites on the internet such as Facebook. These events (also known as "Floatopia" or "Floatilla"), which have all occurred on Mission Bay, have transpired in response to the ordinance prohibiting consumption of alcohol on public beaches, which went into effect January, 2009. The ordinance banning alcohol consumption on beaches was enacted in response to a ballot measure approved by the voters in the November 2008 election. Since the ballot measure was limited to alcohol consumption on beaches and did not address alcohol consumption in the water, the Floatopia concept arose which provided a venue for participants to consume alcohol while floating on swim aids such as inner tubes, rafts, and other floatation devices. For all of these events Police, Fire, Lifeguards and Parks and Recreation coordinated a response plan in advance in order to provide public safety and sanitation services.

Recent Floatopia related events include: "Inner2bapalooza" (Sail Bay area August 8, 2009); "Floatopia" (Sail Bay area September 5, 2009); "Floatopia Spring Break 2010" (Sail Bay area March 20, 2010); and "Floatopia Save Our Rights" (Fiesta Island area May 8, 2010). The average attendance per event, ranged from 1,500 to 6,000 people. In total, 66 water rescues were made. There were 20 medical aids performed and several patients were transported to the hospital. All of these incidents were alcohol related. Police report making multiple arrests and numerous citations were issued for various violations.

The Centers for Disease Control (CDC) has determined that "swimming and the consumption of alcohol is an inherently dangerous combination and that a link exists between the consumption of alcohol and drowning." Further, the CDC reports "alcohol use is involved in up to half of the adolescent and adult deaths associated with water recreation and about one in five boating fatalities. Alcohol influences balance, coordination and judgment, and its effects are heightened by sun exposure and heat." The United States Lifesaving Association encourages sober swimming and considers "alcohol to be a major factor in drowning; because it can reduce body temperature and impair swimming ability and good judgment."

ENVIRONMENTAL IMPACTS: Anecdotal accounts of water contamination were witnessed by public safety personnel. This included large numbers of beer cans that were dumped into the water and deposited on the floor of Mission Bay. There was also destruction of the eel grass in the area of Sail Bay. Additionally, there are large amounts of trash left on the beach. For example, during the March 20, 2010 Floatopia, the park generated eight (600 lb) dumpsters of trash. On a typical weekend during that time of the year, the park generates approximately one half to a full dumpster. Forty-eight hundred pounds of debris or 2.4 tons of refuse was collected by City Park and Recreation staff and clean-up efforts took 6 hours.

Proposed Amendment:

San Diego Municipal Code (SDMC) Section 56.54 prohibits alcohol on beaches and specified certain areas. An amendment to this section of the code is being proposed in order to address the threats to public safety associated with alcohol consumption in the water, beyond the sand area. Proposed amendments include:

- 1) Addition of the definition of "bather" as set forth in the California Harbor and Navigation Code Section 651.1 to mean "*a person floating, swimming, wading, or bodysurfing, with or without the use of a flotation device, including, but not limited to, floating upon or with the aid of a surfboard, paddle board, surfmat, innertube, life preserver, or air mattress, except a flotation device which is designed to be propelled by sail, mechanical means, power, oars, or paddle.*"
- 2) Addition of, SDMC Section 56.54 subdivision (h) - extending the alcohol ban to bathers within the City's area of jurisdiction (one marine league beyond the shoreline).

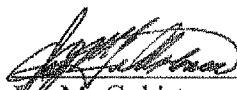
FISCAL CONSIDERATIONS: This is a revision to the existing municipal code enhancing public safety. No financial impact is anticipated. However, if the change to the ordinance is not approved and Floatopia events continue to occur, there will be a financial impact on public safety. For example, Floatopia type events impact the operational budgets of both the Police and

Fire-Rescue Departments. The Fire-Rescue Department estimates that the costs of operations for Fire, EMS and Lifeguard Division for the most recent two events were \$20,622.32. The Police Department estimates their costs at \$16,104.00.

PREVIOUS COUNCIL and/or COMMITTEE ACTIONS: At the June 30, 2010 meeting, Public Safety and Neighborhood Services Committee recommended amending the San Diego Municipal Code Section 56.54 to extend the alcohol ban to bathers and directed the Office of the City Attorney to make necessary preparations to consider an emergency measure.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: None.

KEY STAKEHOLDERS AND PROJECTED IMPACTS: City of San Diego, residents and visitors.


Jay M. Goldstone, Chief Operating Officer


Javier Mainar, Fire Chief