

ORDINANCE NUMBER O- 21046 (NEW SERIES)

DATE OF FINAL PASSAGE MAR 07 2019

AN ORDINANCE AMENDING CHAPTER 8, ARTICLE 6,  
DIVISION 1, OF THE SAN DIEGO MUNICIPAL CODE BY  
RETITLING SECTION 86.0137 AND REPEALING  
SUBSECTION 86.0137(f), RELATING TO USING A VEHICLE  
AS A PLACE OF HABITATION.

WHEREAS, San Diego Municipal Code section 86.0137(f) (Ordinance) prohibits using a vehicle as a place of habitation while it is parked or standing on any street; and

WHEREAS, the Ordinance was enacted in 1983 (San Diego Ordinance O-16022 (August 15, 1983)), and has remained in effect without substantive change; and

WHEREAS, the Ordinance is the subject of a federal legal challenge in *Bloom, et. al. vs. City of San Diego*, 17-cv-2324-AJB-NLS; and

WHEREAS, on August 21, 2018, the United States District Court for the Southern District of California issued a preliminary injunction prohibiting citywide enforcement of the Ordinance; and

WHEREAS, the San Diego Police Department ceased enforcement in compliance with the preliminary injunction; and

WHEREAS, a similar City of Los Angeles ordinance was challenged in federal court and found unconstitutionally vague by the United States Court of Appeals for the Ninth Circuit for failing to adequately define the term "living quarters" and failing to provide adequate notice of prohibited conduct. (*Desertrain v. City of Los Angeles*, 754 F.3d 1147 (9th Cir. 2014)); and

WHEREAS, the Council of the City of San Diego now wishes to repeal the Ordinance;  
NOW, THEREFORE,

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

Section 1. That Chapter 8, Article 6, Division 1 of the San Diego Municipal Code is amended by retitling section 86.0137 and by repealing subsection 86.0137(f) to read as follows:

**Article 6: Stopping, Standing, Parking of Vehicles, and Impound Procedures**

**Division 1: General Parking Regulations**

**§86.0137 Prohibition of Use of Streets for Storage, Service, or Sale of Vehicles**

(a) – (e) [No change in text.]

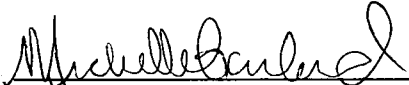
(f) [Reserved]

(g) – (i) [No change in text.]

Section 2. 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 3. That this ordinance shall take effect and be in force on the thirtieth day from and after its final passage.

APPROVED: MARA W. ELLIOTT, City Attorney

By   
Michelle A. Garland  
Deputy City Attorney


MAG:hm  
January 11, 2019  
Or.Dept: Police  
Doc. No.: 1889889\_6

I hereby certify that the foregoing Ordinance was passed by the Council of the City of San Diego, at this meeting of FEB 25 2019.

ELIZABETH S. MALAND  
City Clerk

By   
Deputy City Clerk

Approved: 3/7/19  
(date)

  
KEVIN L. FAULCONER, Mayor

Vetoed: \_\_\_\_\_  
(date)

\_\_\_\_\_  
KEVIN L. FAULCONER, Mayor

Item 55  
2-25-19  
(O-2019-87)

**STRIKEOUT ORDINANCE**

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

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AN ORDINANCE AMENDING CHAPTER 8, ARTICLE 6,  
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RETITLING SECTION 86.0137 AND REPEALING  
SUBSECTION 86.0137(f), RELATING TO USING A VEHICLE  
AS A PLACE OF HABITATION.

**Article 6: Stopping, Standing, Parking of Vehicles, and Impound Procedures**

**Division 1: General Parking Regulations**

**§86.0137 Prohibition of Use of Streets for Storage, Service, or Sale of Vehicles ~~or For~~  
Habitatation**

(a) through (e) [No change in text.]

(f) ~~It is unlawful for any person to use a vehicle while it is parked or standing  
on any street as either temporary or permanent living quarters, abode, or  
place of habitatation either overnight or day by day. [Reserved]~~

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

MAG:hm  
January 4, 2019  
Or.Dept: Police  
Doc. No.: 1889885\_3

Passed by the Council of The City of San Diego on FEB 25 2019, by the following vote:

Councilmembers	Yeas	Nays	Not Present	Recused
Barbara Bry	<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"/>
Chris Ward	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Monica Montgomery	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mark Kersey	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Chris Cate	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Scott Sherman	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Vivian Moreno	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Georgette Gómez	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Date of final passage MAR 07 2019.

AUTHENTICATED BY:

KEVIN L. FAULCONER  
Mayor of The City of San Diego, California.

(Seal)

ELIZABETH S. MALAND  
City Clerk of The City of San Diego, California.

By *Hy Beady*, 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

FEB 05 2019

, and on

MAR 07 2019

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)

ELIZABETH S. MALAND  
City Clerk of The City of San Diego, California.

By *Hy Beady*, Deputy

Office of the City Clerk, San Diego, California

Ordinance Number O-

21046