

ORDINANCE NO. _____

ORDINANCE OF THE CITY OF CHULA VISTA ADDING
DIVISION XII, PRESERVATION OF PUBLIC PROPERTY,
AND CHAPTER 9.90, CAMPSITES AND OTHER
OBSTRUCTIONS ON PUBLIC PROPERTY, TO THE CHULA
VISTA MUNICIPAL CODE

WHEREAS, on June 28, 2024, the U.S. Supreme Court issued its decision in *City of Grants Pass, Oregon v. Johnson*, overruling the Ninth Circuit's *Martin v. City of Boise* decision and holding that the Eighth Amendment does not prohibit cities from enforcing laws regulating camping on public property; and

WHEREAS, the City of Chula Vista 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 City of Chula Vista is committed to protecting the rights of individuals who cannot obtain shelter and to treating their personal property with respect and consideration; and

WHEREAS, the City of Chula Vista has implemented a multifaceted approach to dealing compassionately and effectively with the myriad of issues surrounding homelessness; 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 Chula Vista City Council finds that the placement of campsites on certain public property within the City's geographical boundaries, including near parks, schools, shelters, safe camping and parking sites, and open space, poses a significant health and safety risk to people living in the campsites and to people otherwise accessing public property for its intended use; and

WHEREAS, there are significant adverse impacts caused by campsite activity concentrated around shelters, safe camping, and safe parking sites provided to individuals and families experiencing homelessness that undermines the community's efforts to provide meaningful assistance and long-term solutions for people seeking reasonable support; and

WHEREAS, the Chula Vista City Council finds that some lands are environmentally sensitive and may be significantly damaged by unregulated human activity, including water pollution and uncontained or unauthorized fires; and

WHEREAS, the Chula Vista Fire Department has had to respond to several vegetation fires in the City's that were suspected to have resulted from unauthorized campsites, which is especially dangerous due to the high wildfire risk in all of San Diego County; and

WHEREAS, the Chula Vista City Council finds it to be in the best interest of public safety to address the potential for human-caused fires in areas that may be environmentally sensitive, remote, or unseen for lengthy periods of time, which could allow for the quick spread of fires posing a significant danger to life and property throughout the City; and

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

WHEREAS, to mitigate the risks to the health and safety of its citizens and potential damage to environmentally sensitive lands, the Chula Vista City Council desires to adopt reasonable and objective time, place, and manner regulations establishing locations where campsites and obstruction of public property is prohibited, regardless of the availability of shelter, due to the significant health and safety risks to those engaged in that activity, the general public, and the environment; and

WHEREAS, it is the intent of this Ordinance to prohibit camping and obstruction of public property within certain areas of 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 campsite or obstruction of public property, the City will provide written notice, except in cases of an imminent threat to public health or safety, in advance of the clearing that explains when the encampment will be removed and how an individual can reclaim items that are stored during the process.

NOW, THEREFORE the City Council of the City of Chula Vista does ordain as follows:

Section I. All of the above recitals are true and correct and incorporated herein by reference.

Section II. Division XII, Preservation of Public Property, and Chapter 9.90, Campsites and Other Obstructions on Public Property, area hereby added to the Chula Vista Municipal Code to read as follows:

DIVISION XII. PRESERVATION OF PUBLIC PROPERTY

Chapter 9.90

CAMPSITES AND OTHER OBSTRUCTIONS ON PUBLIC PROPERTY

Sections:

- 9.90.010 Title and purpose.
- 9.90.020 Definitions.
- 9.90.030 Sitting, Lying, Sleeping, or Storage at Specified Locations on Public Property Prohibited.
- 9.90.040 Campsites at Specified Locations on Public Property Prohibited.

9.90.050 Enforcement.

9.90.010 Title and purpose.

A. Title. This chapter shall be known as the Encampment Restriction Ordinance.

B. Purpose. It is the purpose and intent of the City Council of the City to protect life, health, safety, and to preserve and maintain access to public property in the City through the adoption of this chapter, and to provide additional abatement and enforcement tools to restrict encroachment onto public property at specific, sensitive locations within the City.

9.90.020 Definitions.

When used in this chapter, the following words and phrases shall have the meanings ascribed to them below. Words and phrases not specifically defined below shall have the meanings ascribed to them elsewhere in this Code, or shall otherwise be defined by common usage. For definitions of nouns, the singular shall also include the plural; for definitions of verbs, all verb conjugations shall be included. Any reference to state or federal laws, including references to any California or federal statutes or regulations, is deemed to include any successor or amended version of the referenced statute or regulations promulgated thereunder consistent with the terms of this chapter.

“Campsite” means any place where bedding, sleeping bag, or other material used for bedding purposes, or any stove or fire is placed, established, or maintained for the purpose of maintaining a temporary or permanent place to live, whether or not such place incorporates the use of any tent, lean-to, shack or any other structure.

“City Manager” means the City Manager of the City of Chula Vista or their designee.

“City Park” has the same meaning as defined in Chula Vista Municipal Code section 2.66.015(B).

“Major Transit Stop” has the same meaning as defined in section 21064.3 of the Public Resources Code.

“MSCP” means the Chula Vista multiple species conservation program.

9.90.030 Sitting, Lying, Sleeping, or Storage at Specified Locations on Public Property Prohibited.

A. ADA Access. A person shall not sit, lie, sleep, or store, maintain, or place personal property upon a street, sidewalk, or other public property in a manner that impedes passage, as provided by the Americans with Disabilities Act of 1990, 42 U.S.C. § 12101, et seq. (1990).

B. City Permit Activity. A person shall not sit, lie, sleep, or store, maintain, or place personal property upon a street, sidewalk, or other public property in a manner that obstructs or interferes with the use of the right of way for any activity for which the City has issued a permit.

C. Motor Vehicles or Bike Paths. A person shall not sit, lie, sleep, or store, maintain, or place personal property upon a street, bike lane, bike path, or other public property open to use by motor vehicles or bicycles.

9.90.040 Campsites at Specified Locations on Public Property Prohibited.

A. No person may maintain or occupy a Campsite in or upon public property within the following locations:

1. Five hundred feet of a public or private school providing instruction in grades 1 to 12, inclusive.
2. A City Park and the area within five hundred feet of a City Park.
3. Any MSCP land, including but not limited to:
 - a. Otay Valley Regional Park
 - b. Sweetwater Valley Regional Park
4. A Major Transit Stop and the area within five hundred feet of a Major Transit Stop, including but not limited to:
 - a. Palomar Street Trolley stop
 - b. H Street Trolley stop
 - c. E Street Trolley stop
 - d. Rapid Bus Service, Line 225, stops, including:
 - i. East Palomar Station
 - ii. Heritage Station
 - iii. Lomas Verde Station
 - iv. Santa Venetia Station
 - v. Otay Ranch Station
 - vi. Millenia Station
5. Within five hundred feet of an area designated by the City as a shelter, safe camping, or safe parking site.

B. Nothing in subsection (A) 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 governmental authority.

9.90.050 Enforcement.

A. Subject to subsections (B) and (C) below, this chapter may be enforced as follows:

1. The City Manager or the Police Department may remove personal property, and all other property, contraband, litter, and waste found at Campsite in violation of this chapter.
2. A violation of this chapter is a public nuisance that may be enjoined, abated, and prevented. The City Attorney, in the name of the people, may maintain an action to abate and prevent the nuisance.
3. A violation of this section may be charged as a misdemeanor or an infraction, at the discretion of the prosecutor.

B. A person shall not be found to be in violation of Section 9.90.030 unless an agent or employee of the City, as applicable, has provided that person written notice, at least 3 hours before commencement of any enforcement action described in subsection (A) above, that the person is prohibited from sitting, lying, sleeping, or storing, using, maintaining, or placing personal property in a prohibited location. A person shall not be found to be in violation of Section 9.90.040 unless an agent or employee of the City, as applicable, has provided that person written notice, at least 24

hours before commencement of any enforcement action described in subsection (A) above, that the person is prohibited from occupying a campsite in a prohibited location pursuant to this chapter. When possible, information regarding services and resources shall additionally be provided to the person.

C. If the City Manager or Police Department reasonably determines that a violation of this chapter creates a dangerous condition or an imminent threat to public health or safety, or if the City receives direction from County of San Diego or another governmental authority that abatement of a campsite is necessary to preserve public health or safety, the violation may be summarily abated by any reasonable means without notice. Summary abatement must be limited to those actions which are reasonably necessary to immediately remove the threat.

Section III. Severability

If any portion of this Ordinance, or its application to any person or circumstance, is for any reason held to be invalid, unenforceable or unconstitutional, by a court of competent jurisdiction, that portion shall be deemed severable, and such invalidity, unenforceability or unconstitutionality shall not affect the validity or enforceability of the remaining portions of the Ordinance, or its application to any other person or circumstance. The City Council of the City of Chula Vista hereby declares that it would have adopted each section, sentence, clause or phrase of this Ordinance, irrespective of the fact that any one or more other sections, sentences, clauses or phrases of the Ordinance be declared invalid, unenforceable or unconstitutional.

Section IV. Construction

The City Council of the City of Chula Vista intends this Ordinance to supplement, not to duplicate or contradict, applicable state and federal law and this Ordinance shall be construed in light of that intent.

Section V. Effective Date

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

Section VI. Publication

The City Clerk shall certify to the passage and adoption of this Ordinance and shall cause the same to be published or posted according to law.

Presented by

Approved as to form by

Stacey Kurz
Housing and Homeless Services Director

Marco A. Verdugo
City Attorney