

Article 3: Public Parks, Playgrounds, Beaches, Tidelands and other Property**Division 4: Encampments on Public Property**

(“*Encampments on Public Property*” added 6-29-2023
by O-21674 N.S.; effective 7-29-2023.)

§63.0401 Purpose

The Council finds that the City is committed to protecting the life, health, and safety of all people in the City and finds that certain public lands within the geographical boundaries of the City pose significant health and safety hazards to the people who make shelter or stay overnight in these areas. Additionally, the Council finds that some of these public lands are environmentally sensitive and may be significantly damaged by unregulated human activity. The Council is committed to protecting the rights of individuals related to their personal property and to treating such property with respect and consideration. It is the purpose of this Division to set standards for the preservation and protection of human life, health, and safety, to further the preservation and protection of sensitive public lands to prevent destruction of these assets, and to establish a process for the collection, storage, and disposal, recycling, or reuse of personal property found in *encampments* on public property.

(“*Purpose*” added 6-29-2023 by O-21674 N.S.; effective 7-29-2023.)

§63.0402 Definitions

For purposes of this Division, defined terms appear in italics. The following definitions apply in this Division:

Abatement means the process of documenting and collecting eligible items for storage, and removing and disposing of, recycling, or reusing of *waste* at an *encampment* according to the process in section 63.0406.

Camp means to pitch, erect, or occupy an *encampment*, or to use *camp paraphernalia* or both, for the purpose of, or in a way that facilitates outdoor sheltering for living accommodation purposes or for remaining outdoors overnight.

Camp paraphernalia means personal property used to facilitate occupancy of an area and includes personal property typically associated with camping such as tarps, cots, beds, sleeping bags, hammocks, bedding, camp stoves, cooking equipment, buckets, and similar equipment, mattresses, couches, dressers, or other furniture.

Encampment means one or more temporary, makeshift, or hand-built structures not intended for long-term continuous occupancy, including tents, that are used to shelter one or more persons or their belongings and that are not authorized by the property owner. *Encampment* includes any *camp paraphernalia* and personal property associated with or located in or around the structures or tents.

Open space has the same definition as in San Diego Municipal Code section 63.0102(b).

Park has the same definition as in San Diego Municipal Code section 63.0102(b).

Shelter means any City-funded shelter or shelter provided as part of the City's Coordinated Intake System for shelter placements where individuals or families experiencing homelessness can access beds and other services or an area designated by the City Manager for use by individuals or families experiencing homelessness. A list of current *shelters* is provided on the City's website and is available through 2-1-1 San Diego.

Waste has the same definition as in San Diego Municipal Code section 54.0202.

Waterway means all the portions of Chollas Creek, Los Peñasquitos Creek, San Diego River, San Dieguito River, and Tijuana River found within the boundaries of the City of San Diego.

("Definitions" added 6-29-2023 by O-21674 N.S.; effective 7-29-2023.)

§63.0403 Protection of Waterways

(a) It is unlawful for any person to do any of the following:

- (1) build or erect a structure of any type along the banks of any *waterway*, or drive a nail or other object into any tree or other natural area vegetation for the purpose of building an *encampment* or any other structure, or to affix an object to any tree or other natural vegetation,
- (2) move boulders or large rocks, destroy vegetation, paved roads or paths created by the City, or otherwise reconfigure the natural landscape in the waters of or along the banks of a *waterway*,
- (3) drive, park, or bring any vehicle along the banks of a *waterway*, except in places specifically provided and designated for vehicular use,
- (4) dig on the banks of a *waterway*, or

- (5) discharge or store *waste*, including garbage, refuse, or human or animal *waste*, along the banks or into the waters of a *waterway*.
- (b) Nothing in section 63.0403 is intended to prohibit the activities of an owner of private property or other lawful user of private property that are normally associated with and incidental to the lawful and authorized use of private property; and nothing 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 regulatory authority.

(“*Protection of Waterways*” added 6-29-2023 by O-21674 N.S.; effective 7-29-2023.)

§63.0404 Unauthorized Encampments on Public Property

- (a) It is unlawful for any person to *camp* or to maintain an *encampment* in or upon any public property, including in any street, sidewalk, *park*, beach, *open space*, *waterway*, and banks of a *waterway*, unless specifically authorized by the City Manager.
- (b) At all times, regardless of the availability of *shelter* space or beds, it is unlawful for any person to *camp* or to maintain an *encampment* where such activity poses:
- (1) an immediate threat or an unreasonable risk of harm to any natural person,
 - (2) an immediate threat or an unreasonable risk of harm to public health or safety, or
 - (3) disruption to vital government services.
- (c) At all times, regardless of the availability of *shelter* space or beds, it is unlawful for any person to *camp* or to maintain an *encampment* in the following locations:
- (1) within two blocks of a school that offers instruction on those courses of study required by the California Education Code or that is maintained pursuant to standards set by the State Board of Education provided that signs are posted prohibiting camping that are clearly visible to pedestrians. School for purposes of section 63.0404(c) does not include a vocational or professional institution of higher education, including a community or junior college, college, or university;

- (2) within two blocks of any *shelter* provided that signs are posted prohibiting camping that are clearly visible to pedestrians;
- (3) in any *open space*, *waterway*, or banks of a *waterway*;
- (4) within any transit hub, on any trolley platform, or along any trolley tracks provided that signs are posted prohibiting camping that are clearly visible to pedestrians; and
- (5) in any *park* where the City Manager determines there is a substantial public health and safety risk and provided that signs are posted prohibiting camping that are clearly visible to pedestrians. For purposes of this section 63.0404(c)(5), the definition of *park* does not include *open space* or *beach areas*, as defined in section 63.0102(b), or beaches, bays, or wetlands.

(“*Unauthorized Encampments on Public Property*” added 6-29-2023 by O-21674 N.S.; effective 7-29-2023.)

§63.0405 Enforcement

- (a) Violations of this Division may be prosecuted as misdemeanors subject to the fines and custody provisions in San Diego Municipal Code section 12.0201.
- (b) Law enforcement officers shall not issue a criminal citation to enforce a violation of section 63.0404(a) between the hours of 9:00 p.m. and 5:30 a.m. or when the person is on public property at a time when there is no available *shelter*. For purposes of this Section 63.0405(b), available *shelter* means the *shelter* is reasonably available to the person at the time enforcement is taking place and taking into consideration any disability or other specific circumstances applicable to that person.
- (c) Sections 63.0403 and 63.0404(b) and (c) are enforceable at all times regardless of *shelter* availability.

(“*Enforcement*” added 6-29-2023 by O-21674 N.S.; effective 7-29-2023.)

§63.0406 Abatement of Encampments

The City Manager may remove personal property, *camping paraphernalia*, and all other property, contraband, litter, and *waste* found at an *encampment* or at a location where a person is engaged in unlawful camping in compliance with the following procedures:

(a) Written Notice Required Prior to Abatement

- (1) A written Notice of Clean-Up will be posted on each tent or structure and in any other distinct areas of the *encampment* providing notice of the date of clean-up and giving a minimum of 24 hours for persons to remove their personal property. The written notice shall also include the following statement, which may be updated by the City Manager to provide accurate and current information:

You must remove your belongings from the site within 24 hours. You should not leave behind any belongings you want to keep. All belongings left behind will be removed by the City. The City will post an Impound Notice if belongings are stored during the clean-up process.

If you wish to minimize the risk of losing valued belongings, you should try to keep those belongings on your person at all times, in a storage facility, or in visible, sanitary, and safely accessible bags or bins.

If you think your belongings were stored, you can claim them by following the directions on the Impound Notice after the clean-up is complete. Information about how to claim your belongings is also available on the City's website. You may retrieve any stored belongings without being asked about your criminal background or outstanding warrants.

You may access shelter or services, including access to storage for your personal belongings, through the City of San Diego's website or by calling 2-1-1 San Diego.

- (2) After 24 hours, the City Manager shall conduct *abatement* of the site on the date posted on the Notice of Clean-Up. If *abatement* is delayed or rescheduled, the City Manager may conduct *abatement* within 48 hours of the posted Notice of Clean-Up without reposting a new Notice of Clean-Up. If *abatement* is delayed longer, the City Manager shall repost a Notice of Clean-Up with a new date.
- (b) The City Manager shall follow these additional procedures when persons are present at an *encampment* during *abatement*:
- (1) When *shelter* is available, the City Manager shall provide any person at an *encampment* with *shelter* and service information and direct them to remove their belongings from the site. The City Manager shall evaluate reasonable requests for additional time or assistance to remove items and may accommodate those requests to the extent practicable.
 - (2) Any person who returns to an *encampment* during *abatement* shall be allowed to remove their personal property from the site. Personal property left behind will be deemed abandoned.
 - (3) Any person arrested for a criminal offense or an outstanding warrant shall not be required to abandon personal property they identify as their own. Unless the person requests the personal property be discarded or entrusted to another, all personal property of apparent value will be taken to the San Diego Police Department for impoundment in accordance with existing policy and procedure. Where the owner of the items cannot be readily identified or discovered, the City Manager shall follow the *abatement* process in this Division.
- (c) The City Manager shall document the *abatement* process as follows:
- (1) photograph or video record the site before any abatement begins,
 - (2) open backpacks, purses, suitcases, and other small storage containers to determine whether they contain items eligible for storage,
 - (3) set out items contained in bags or suitcases and photograph the items,
 - (4) photograph or video record all items to be stored,
 - (5) photograph or video record the cleanup process, and
 - (6) photograph or video record the site after abatement has concluded.

- (d) Unclaimed items found in *abatement* shall be eligible for storage if:
- (1) circumstances indicate that the item belongs to a person,
 - (2) the item has apparent utility in its current condition and circumstances, and
 - (3) the item can be safely retrieved from the site.
- Examples of items potentially eligible for storage include identification and associated paperwork, medication stored in medication bottles with identifying information, art, art supplies, musical instruments, and items that reasonably appear to have sentimental value in their current condition. An item need not be in a new or perfect condition to have apparent utility.
- (e) An eligible item found during an *abatement* shall be put into storage, unless it meets one the following disqualifying conditions:
- (1) hazardous, including items contaminated with human *waste*, animal *waste*, or bugs, explosives, weapons, liquids, drug paraphernalia, or mold;
 - (2) likely to become hazardous in storage, including perishables, wet materials that might become moldy, and items covered in mud;
 - (3) practically un-storable, due to large size, weight, or other similar characteristic;
 - (4) contraband or stolen; or
 - (5) is on the City Manager's current list, published on the City's website, of common types of items that, in the experience of City staff, individuals regularly abandon during *abatement*, and there is no contrary indication as to the specific item.
- (f) The City Manager shall record each eligible item to be stored, including the location it was found and the date of storage. Any stored items shall be kept in storage at least 90 calendar days and then may be disposed of, recycled, or reused following the process in San Diego Municipal Code section 54.0212.

- (g) After *abatement* has concluded and when eligible items are collected and will be placed in storage, the City Manager shall post notices at the location of the *abatement* that includes information how a person can claim stored items. Information about retrieval of stored items shall also be available on the City's website. A person may retrieve stored items based on a description with sufficient specificity to demonstrate ownership. A person may retrieve stored items without inquiry into the person's criminal background or outstanding warrants.
- (h) Expedited Abatement
- (1) In an expedited *abatement*, the City Manager shall follow the same *abatement* and storage procedures in section 63.0406, but shall post a Notice of Clean-Up giving a minimum of three hours for all persons to remove their personal property.
- (2) The City Manager shall prioritize and expedite the removal of an *encampment* if:
- (A) the City receives direction from County of San Diego or other governmental authority that *abatement* of the *encampment* is necessary to preserve public health or safety, including to address known or suspected outbreaks of diseases; or
- (B) the City Manager observes or reasonably suspects the *encampment* creates a condition that presents a significant risk of property damage, bodily injury or death.

(“*Abatement of Encampments*” added 6-29-2023 by O-21674 N.S.; effective 7-29-2023.)