



AGENDA REPORT

SAN CLEMENTE CITY COUNCIL MEETING
Meeting Date: June 18, 2019

Agenda Item 9A
Approvals:
City Manager [Signature]
Dept. Head [Signature]
Attorney [Signature]
Finance [Signature]

Department: City Attorney

Prepared By: Scott C. Smith, City Attorney

Subject: *INTRODUCTION OF ORDINANCE ADDING SECTION 8.86.050 TO THE SAN CLEMENTE MUNICIPAL CODE RELATING TO RULES FOR TRANSITIONAL CAMPS*

Fiscal Impact: None.

Background: The San Clemente Municipal Code (SCMC) prohibits camping on public property. SCMC Section 8.86.040 bars enforcement of the Code's public camping prohibition where individuals lack alternative shelter, except where, upon a findings of exigent circumstances, the City makes certain City property available for transitional camping for persons suffering the effects of homelessness (hereinafter "transitional camping").

Discussion: On May 21, 2019 and on June 4, 2019, the City Council considered and approved ordinances making findings of exigent circumstances requiring the enforcement of the City's anti-camping ordinances and designating one piece of City property at the City's public works yard on Avenida Pico where transitional camping is permitted.

Over concerns for the safety and welfare of persons in the transitional camp and the peace, safety, and welfare of nearby neighborhoods and communities, City staff conducted a survey of similar transitional camps to impose rules and regulations for conduct in those camps in order to apply them to activities in the City's yard.

This ordinance will codify those rules and regulations as part of the SCMC, thus making violations thereof citable and prosecutable as other municipal code violations are.

Recommended

Action: STAFF RECOMMENDS THAT the City Council introduce AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE CALIFORNIA ADDING SECTION 8.86.050 TO THE SAN CLEMENTE MUNICIPAL CODE RELATING TO RULES FOR TRANSITIONAL CAMPS.

Attachment: Proposed Ordinance.

Notification: Not applicable.

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE ADDING SECTION 8.86.050 TO THE SAN CLEMENTE MUNICIPAL CODE RELATING TO RULES FOR TRANSITIONAL CAMPS

WHEREAS, the San Clemente Municipal Code (“SCMC”) prohibits camping on public property; and

WHEREAS, SCMC Section 8.86.040 bars enforcement of the Code’s public camping prohibition where individuals lack alternative shelter, except where, upon a findings of exigent circumstances, the City makes certain City property available for transitional camping for persons suffering the effects of homelessness (hereinafter “transitional camping”); and

WHEREAS, in circumstances and on property where the City allows transitional camping, the City desires to adopt and enforce transitional camping rules for the protection of the health, safety, and general welfare of the general public, and for the protection of the health safety, and general welfare of the persons occupying transitional camp sites; and

WHEREAS, the City Council’s purpose in adopting this ordinance is to ameliorate the dangers and hazards to persons camping in uncontrolled and unmanaged public spaces throughout the City, including, but not limited to the health risks associated with unsanitary conditions, unreasonable noise and disturbances, and potential violence and injury to occupants; and

WHEREAS, by virtue of the police powers delegated to it by the California Constitution, the City is authorized to adopt policies to promote the health, safety, and general welfare of its residents.

NOW, THEREFORE, the City Council of the City of San Clemente does ordain as follows:

Section 1. Recitals. The recitals above are each incorporated by reference and adopted as findings by the City Council.

Section 2. Code Amendment. Section 8.86.050 is hereby added to San Clemente Municipal Code to read as follows:

“8.86.050 - Transitional Camp Rules – Community Safety Plan

Where, based upon a finding of exigent circumstances pursuant to Section 8.86.040, the City allows transitional camping on City property, the following rules shall apply in the areas designated for transitional camping:

- A. All campers shall check-in and register with the on-site security

guard upon first arrival to the site. Individuals wishing to camp and reserve a space must provide their name and last location of residence. Any guests to the site must also check-in and provide their name to the security guard.

- B. Quiet time will be enforced from 10 pm to 7 am.
- C. The following items are prohibited on the property and will be confiscated:
 - 1. Weapons of any kind.
 - 2. Alcohol.
 - 3. Drugs or drug paraphernalia not prescribed to the occupant.
 - 4. Illegal substances of any kind. The following items are not allowed on the property and can be held by security:
 - 5. Personal lighters.
 - 6. Dangerous tools or personal items that can present hazards to fellow occupants.
- D. The following activities are prohibited in transitional camps:
 - 1. Violence, harassment, bullying or threatening behavior of any kind towards others.
 - 2. Illegal possession or use of drugs, alcohol, or other substances.
 - 3. Sharing legal or illegal drugs or medications with another person
 - 4. Theft of property.
 - 5. Defacing, destroying, or damaging property or property in the surrounding area.
 - 6. Open flames or flammable items.
 - 7. Loud music or other disruptive noise.
 - 8. Behavior on or near the property that may negatively affect the peace and enjoyment of the property and surrounding property for other overnight sleepers or for adjacent neighbors.
- E. The following site use regulations apply:
 - 1. Designated camping spaces are for tent camping only.

2. Tents may be erected between the hours of 5 pm and 10 am, daily.
3. Bicycles are be permitted and limited to one per camper. Any additional bicycles will be stored offsite by the City."

Section 3. CEQA. The City Council finds that this ordinance is not subject to the requirements of California Environmental Quality Act ("CEQA") for the following reasons:

- A. This ordinance is not "project" within the meaning of Section 15378 of the State CEQA Guidelines, because it has no potential for resulting in direct or indirect physical change in the environment.
- B. This Ordinance is exempt under Section 15061(b)(3), the general rule exemption, because it can be seen with certainty that there is no possibility that this code amendment will have a significant effect on the environment.

The City Council, therefore, directs that a Notice of Exemption for this ordinance be filed with the County Clerk of the County of Orange in accordance with State CEQA Guidelines.

Section 4. Publication. The City Clerk shall certify to the adoption of this ordinance and cause it, or a summary of it, to be published once within fifteen (15) days of adoption in a newspaper of general circulation printed and published within the City of San Clemente, and shall post a certified copy of this ordinance, including the vote for and against the same, in the Office of the City Clerk in accordance with California Government Code Section 36933.

Section 5. Severability. If any provision of this ordinance or its application to any person or circumstance is held invalid, such invalidity has no effect on the other provisions or applications of the ordinance that can be given effect without the invalid provision or application, and to this extent, the provisions of this resolution are severable. The City Council declares that it would have adopted this resolution irrespective of the invalidity of any portion thereof.

APPROVED AND ADOPTED this ____ day of _____, _____.

ATTEST:

City Clerk of the City of
San Clemente, California

Mayor Pro Tem of the City of San
Clemente, California

STATE OF CALIFORNIA)
COUNTY OF ORANGE) ss.
CITY OF SAN CLEMENTE)

I, **JOANNE BAADE**, City Clerk of the City of San Clemente, California, hereby certify that Ordinance No. _____ having been regularly introduced at the meeting of _____, was again introduced, the reading in full thereof unanimously waived, and duly passed and adopted at a regular meeting of the City Council held on the _____ day of _____, _____, and said ordinance was adopted by the following vote:

AYES:

NOES:

ABSENT:

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the City of San Clemente, California, this _____ day of _____, _____.

CITY CLERK of the City of
San Clemente, California

APPROVED AS TO FORM:

CITY ATTORNEY