



# AGENDA REPORT

SAN CLEMENTE CITY COUNCIL MEETING  
Meeting Date: November 19, 2019

Agenda Item 9-13

Approvals: \_\_\_\_\_

City Manager JM

Dept. Head \_\_\_\_\_

Attorney \_\_\_\_\_

Finance \_\_\_\_\_

**Department:** City Attorney  
**Prepared By:** City Attorney

**Subject:** *INTRODUCTION OF AN ORDINANCE ADDING SECTION 12.28.030 TO THE SAN CLEMENTE MUNICIPAL CODE RELATING TO TENTS IN CITY PARKS*

**Fiscal Impact:** None.

**Background:** As a matter of public safety, numerous cities regulate the various types of “easy-up” devices and tent-style structures that may be used at city parks and/or beaches. San Clemente does not currently have such an ordinance. This Ordinance outlines the types of tents, lodges, shelters, and/or shade structures permitted in City parks.

**Discussion:** At the City’s parks, numerous individuals have erected and continue to erect tents, lodges, shelters, and/or structures with fabric sides that either partially or completely enclose the covering. Structures with enclosed coverings constitute a danger to public safety as they prevent OCSD officers and other public safety personnel from observing all areas of the Park, including any illegal activity inside the enclosed structures, such as alcohol consumption, weapons violations, or drug use. These structures also can take up considerable space within the park which could otherwise be used by others. They create eyesores in green space.

As noted, neighboring cities regulate the types of structures that may be used in city parks and/or beaches. For example, Huntington Beach prohibits canopies in excess of 100 square feet and tents without at least two sides completely open to public view at city beaches. (Huntington Beach Municipal Code, § 13.08.051 (A).) Laguna Beach requires that any canopy, awning, umbrella, or tent in any city park or beach have at least two sides completely open to public view. (Laguna Beach Municipal Code, § 18.04.020.) Further south, San Diego prohibits any tent, lodge, shelter, or structure on any public beach unless the tent, lodge, shelter, or structure has two sides open and there is an unobstructed view of the interior from the outside on at least two sides. (San Diego Municipal Code, § 63.20.11.)

The proposed Ordinance balances the publics’ desire for shade at City parks with the needs of public safety officers and other public safety personnel to observe all areas of the Park (in at times very crowded conditions). Consistent with other coastal California cities, the proposed Ordinance prohibits tents, lodges, shelters, or structures at City parks unless the tent, lodge, shelter, or

structure has two sides open and there is an unobstructed view of the interior from the outside on at least two sides.

**Environmental  
Review:**

An activity does not qualify as a project requiring environmental review under the California Environmental Quality Act ("CEQA") if the activity does not have potential to result in a direct or reasonably foreseeable indirect physical change in the environment. (See State CEQA Guidelines, §§ 15060 ["An activity is not subject to CEQA if ... [t]he activity is not a project as defined in Section 15378"], 15378(a).) Moreover, even if an activity does qualify as a project, that project is subject to CEQA only if the activity has potential to cause a significant effect on the environment. (State CEQA Guidelines, § 15061(b)(3).) A project is thus exempt from CEQA where "it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment." (State CEQA Guidelines, § 15061(b)(3).)

The City's adoption of this Ordinance is not subject to CEQA because the Ordinance (i) does not constitute a "project" under CEQA, and (ii) will not potentially cause a significant effect on the environment. (State CEQA Guidelines, §§ 15060 15061(b)(3), 15378(a).) In particular, the City's adoption of them would not impact or alter the physical environment in any way.

**Recommended**

**Action:** STAFF RECOMMENDS THAT the City Council introduce AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE ADDING SECTION 12.28.030 TO THE SAN CLEMENTE MUNICIPAL CODE RELATING TO TENTS IN CITY PARKS.

**Attachments:** 1) Proposed Ordinance

**Notification:** None

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE ADDING SECTION 12.28.030 TO THE SAN CLEMENTE MUNICIPAL CODE RELATING TO TENTS IN CITY PARKS**

**WHEREAS**, as a matter of public safety, numerous coastal California cities regulate the various types of "easy-up" devices and tent-style structures that may be used at city parks and/or beaches; and

**WHEREAS**, at City parks, numerous individuals have erected and continue to erect tents, lodges, shelters, and/or structures with fabric sides that either partially or completely enclose the covering; and

**WHEREAS**, structures with enclosed coverings constitute a danger to public safety as they prevent Orange County Sheriff Department officers and other public safety personnel from observing all areas of City parks, including any illegal activity inside the enclosed structures, such as alcohol consumption, weapons violations, or drug use; and

**WHEREAS**, these structures also can take up considerable space within the park which could otherwise be used by others; and

**WHEREAS**, these structures create eyesores in areas designed to serve as public green space; and

**WHEREAS**, for the reasons enumerated above, the adoption and enactment of this Ordinance is necessary for preservation of public health and safety, and the prevention of greater health, welfare, and safety risks as documented in the agenda report presented to the City Council in connection with this ordinance.

**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 12.28.030 is hereby added to the San Clemente Municipal Code to read as follows:

"Section 12.28.030 – Tents in City Parks

Notwithstanding any other section of this Code, it shall be unlawful for any person to erect, maintain, use, or occupy any tent, lodge, shelter, or structure in any park in the City, unless the tent, lodge, shelter, or structure has two sides open and there is an unobstructed view of the interior from the outside on at least two sides."

**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 a "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. Effective Date.** This Ordinance shall take effect thirty (30) days following its adoption.

**Section 5.** 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 6.** The documents and materials associated with this Ordinance that constitute the record of proceedings on which the City Council's findings and determinations are based are located at City Hall, 910 Calle Negocio, San Clemente, CA 92672.

**Section 7. 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