

ORDINANCE NO. 1760

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF
SAN CLEMENTE, CALIFORNIA, AMENDING SECTION
12.28.030 OF THE SAN CLEMENTE MUNICIPAL CODE
RELATING TO TENTS IN CITY PARKS AND BEACHES, AND
FINDING THE ORDINANCE EXEMPT FROM THE
CALIFORNIA ENVIRONMENTAL QUALITY ACT**

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

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 and beaches, 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 and beaches, 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 and beach areas that could otherwise be used by others; and

WHEREAS, for the reasons enumerated above, the adoption and enactment of this Ordinance is necessary for the 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; and

WHEREAS, a properly noticed public hearing was held where the City Council received and considered public testimony regarding this ordinance.

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

Section 1. Incorporation of Recitals. The recitals above are true and correct and are hereby incorporated as findings as if fully set forth herein.

Section 2. CEQA. The City Council finds that this Ordinance is not a "project" as defined under the California Environmental Quality Act (CEQA). This Ordinance

does not qualify as a project because it lacks the potential to result in a direct or reasonably foreseeable indirect physical change to the environment (State CEQA Guidelines, § 15378, subd. (a)). The language of this Ordinance merely refines existing rules concerning the use of tents, lodges, shelters, and similar structures in city parks and beaches. Alternatively, the City Council finds that this Ordinance is exempt from CEQA review under the "common sense" exemption specified in State CEQA Guidelines section 15061, subdivision (b)(3). This exemption applies when "it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment." In this case, it is evident that the Ordinance will not have a significant environmental impact as it serves to clarify existing rules governing the use of such structures in public spaces.

Section 3. Code Amendment. Section 12.28.030 of the San Clemente Municipal Code is hereby amended to read in its entirety, as follows (added language is underlined):

"Section 12.28.030 - Tents in City Parks and Beaches"

"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 or beach area 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 4. Publication. The City Clerk shall certify to the adoption of this ordinance by the City Council and cause it, or a summary of it, to be published once within 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. Records. 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 92673.

Section 6. 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 ordinance are severable. The City Council declares that it would have adopted this ordinance irrespective of the invalidity of any portion thereof.

Section 7. Effective Date. This Ordinance shall become effective 30 days after its adoption.

APPROVED AND ADOPTED this ____ day of _____, 2023.

ATTEST:

City Clerk of the City of
San Clemente, California

Mayor of the City of San
Clemente, California

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

I, LAURA CAMPAGNOLO, City Clerk of the City of San Clemente, California, hereby certify that Ordinance No. 1760 having been regularly introduced at the meeting of _____, 2023, 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 _____, 2023, 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 _____, 2023.

CITY CLERK of the City of
San Clemente, California

APPROVED AS TO FORM:

Elizabeth A. Mitchell, CITY ATTORNEY