

ORDINANCE NO. 3058-15

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SUNNYVALE ADDING CHAPTER 9.63 (CAMPING AND STORAGE OF PROPERTY IN PUBLIC AREAS) OF TITLE 9 (PUBLIC PEACE, SAFETY OR WELFARE) OF THE SUNNYVALE MUNICIPAL CODE

WHEREAS, the City of Sunnyvale desires to add a chapter to the Sunnyvale Municipal Code Title 9 (Public Peace, Safety or Welfare) relating to camping and storage of personal property in public places.

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF SUNNYVALE DOES ORDAIN AS FOLLOWS:

SECTION 1. CHAPTER 9.63 ADDED. Chapter 9.63 (Camping and Storage of Property in Public Areas) of Title 9 (Public Peace, Safety or Welfare) of the Sunnyvale Municipal Code is hereby added to read as follows:

Chapter 9.63

CAMPING AND STORAGE OF PROPERTY IN PUBLIC AREAS

- 9.63.010. Purpose and Intent.**
- 9.63.020. Definitions.**
- 9.63.030. Unlawful Camping.**
- 9.63.040. Storage of Personal Property in Public Places.**
- 9.63.050. Enforcement Procedures.**
- 9.63.060. Violations.**

9.63.010. Purpose and intent.

The public parks, streets, sidewalks and other public areas within the city should be readily accessible and available to residents and the public at large for their intended purposes. The purpose of this section is to maintain public areas within the city in a clean, sanitary, safe, attractive and accessible condition and to protect the health, safety, environment and general welfare of the community. In addition, the use of public areas for camping and sleeping interferes with the rights of others to use and enjoy those areas as they are intended.

9.63.020. Definitions.

For purposes of this chapter:

- (a) "Camp" means the erecting of or occupying camp facilities for the apparent purpose of overnight occupancy, or to use camp paraphernalia.

(b) "Camp facilities" include, but are not limited to, tents, huts, or other temporary shelters.

(c) "Camp paraphernalia" includes, but is not limited to, tarpaulins, mattresses, lanterns, stoves, or non-city designated cooking facilities and similar equipment.

(d) "Park" means any publicly-owned park or recreation area, playground, athletic field, bike trail, hiking trail, or publicly-accessible open space that is used and devoted to active or passive recreation within the city of Sunnyvale, including buildings and facilities thereon, whether or not such areas have been formally dedicated to such purpose.

(e) "Store" means to put aside or accumulate for use when needed, to put for safekeeping, to place or leave unattended in a location.

(f) "Unattended property" means any personal property which appears to have been abandoned, discarded, or disregarded by its owner; or property which has been left unattended for an unreasonable amount of time. An "unreasonable" amount of time may be any amount of time, however, any property left unattended for twelve hours or more shall be considered unattended per se.

(g) "Street" or "public street" includes avenues, highways, lanes, alleys, crossings or intersections, and courts which have been dedicated and accepted according to law, or which have been in common and undisputed use by the public for a period of not less than five years next preceding the effective date of the ordinance codified in this chapter.

(h) "Public property" means all publicly owned real property, including, but not limited to, any street, alley, sidewalk, pedestrian or transit mall, public parking lot, bike path, greenway, creek, waterway, lots, parcels, open space, any other forms of improved or unimproved land or real property or any other structure or area encompassed within the public right-of-way; any park, parkway, mountain park, or other recreation facility; or any other grounds, buildings, or other facilities owned or leased by the city or by any other public owner, regardless of whether such public property is vacant or occupied and actively used for any public purpose.

9.63.030. Unlawful camping.

It shall be unlawful for any person to camp, occupy camp facilities, use camp paraphernalia, or cause a disturbance or nuisance, in any park, street, or other public property, except as otherwise authorized by the Sunnyvale Municipal Code:

9.63.040. Storage of personal property in public places.

It shall be unlawful for any person to store personal property or unattended property, including camp facilities and camp paraphernalia, in any park, street, or other public property, except as otherwise authorized by the Sunnyvale Municipal Code.

9.63.050. Enforcement procedures.

No officer of the department of public safety shall issue a citation, make an arrest or otherwise enforce this section against any person unless:

(a) The officer first orally requests or orders the person to refrain from the alleged violation of this section.

(b) If the person fails to comply after receiving the oral request or order, the officer tenders a written warning stating that if the person fails to comply, he or she may be cited or arrested for a violation of this section.

(c) If the person refuses to cooperate after receiving the oral and written warning, the officer may proceed to arrest or criminally cite the person for a violation of this section.

(d) Where individuals are not present to remove unattended property pursuant to this chapter, the area shall be posted at least seventy-two hours before such property is removed. The property shall thereafter be removed and stored by the city in a manner consistent with the city's administrative procedures regarding encampment removals and applicable state and federal law. Owners of personal property shall have ninety days to recover such property, after which time the city may destroy the property.

9.63.060. Violations.

(a) Violations of this chapter shall constitute an infraction and may be subject to an administrative citation, fine, criminal prosecution, or any other civil or criminal remedies available under the Sunnyvale Municipal Code or other legal authority.

(b) Subsequent violations of this chapter within two years subsequent to the date of the initial violation may, at the discretion of the city attorney, be prosecuted as a misdemeanor, punishable by a fine of not less than five hundred dollars, nor more than one thousand dollars, by imprisonment in the county jail for not more than six months, or by both such fine and imprisonment. This remedy is in addition to any other legal remedy, civil or criminal, available under the Sunnyvale municipal code or other legal authority.

(c) Each such person is guilty of a separate offense for each and every day during any portion of which any violation of the ordinances of the city is committed, continued or permitted by any such person, and may be cited or punished accordingly.

SECTION 2. CEQA - EXEMPTION. The City Council finds, pursuant to Title 14 of the California Code of Regulations, Section 15061(b)(3), that this ordinance is exempt from the requirements of the California Environmental Quality Act (CEQA) in that it is not a project which has the potential for causing a significant effect on the environment.

SECTION 3. CONSTITUTIONALITY; SEVERABILITY. If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid, such decision or decisions shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance, and each section, subsection,

sentence, clause and phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid.

SECTION 4. EFFECTIVE DATE. This ordinance shall be in full force and effect thirty (30) days from and after the date of its adoption.

SECTION 5. POSTING AND PUBLICATION. The City Clerk is directed to cause copies of this ordinance to be posted in three (3) prominent places in the City of Sunnyvale and to cause publication once in The Sun, the official publication of legal notices of the City of Sunnyvale, of a notice setting forth the date of adoption, the title of this ordinance, and a list of places where copies of this ordinance are posted, within fifteen (15) days after adoption of this ordinance.

Introduced at a regular meeting of the City Council held on August 11, 2015, and adopted as an ordinance of the City of Sunnyvale at a regular meeting of the City Council held on _____, 2015, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

RECUSAL:

ATTEST:

APPROVED:

City Clerk
Date of Attestation: _____

Mayor

(SEAL)

APPROVED AS TO FORM:

City Attorney