

**ORDINANCE NO. 2024 –**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF NATIONAL CITY, CALIFORNIA, AMENDING TITLE 10 OF THE NATIONAL CITY MUNICIPAL CODE BY REPEALING AND RESERVING SECTION 10.52.010(W); AMENDING TITLE 10 BY ADDING CHAPTER 10.56, ALL PERTAINING TO REGULATING ENCAMPMENTS ON PUBLIC PROPERTY TO ESTABLISH A STANDARD FOR THE PROTECTION OF THE LIFE, HEALTH, AND SAFETY OF ALL PEOPLE, AND SENSITIVE PUBLIC LANDS WITHIN THE CITY OF NATIONAL CITY.**

**WHEREAS**, the City of National City (the “City”) may adopt ordinances in accordance with its police powers to ensure the public health, welfare, and safety of its residents, including the police powers vested in the City pursuant to article XI, section 7, of the California Constitution; and

**WHEREAS**, pursuant to the terms and provision of the Government Code of the State of California, proceedings were duly initiated for the amendment of the National City Municipal Code; and

**WHEREAS**, City staff and the City Attorney’s Office have analyzed the National City Municipal Code and are recommending updates where appropriate; and

**WHEREAS**, the City of National City desires to keep all public property clean and readily accessible to all residents, businesses, and the public at large; and

**WHEREAS**, the use of public property for camping and/or for the storage of personal belongings interferes with the rights of others to use and enjoy these public spaces and can constitute a public health and safety hazard; and

**WHEREAS**, the City of National City wants to maintain all public areas within the City in a clean, sanitary, safe and accessible condition to ensure public property public property is used for its intended purposes.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF NATIONAL CITY, CALIFORNIA, HEREBY ORDAINS AS FOLLOWS:**

**Section 1.** The City Council of the City of National City hereby repeals and reserves Section 10.52.010(W) to establish a chapter regulating encampments on public property.

**Section 2.** The City Council of the City of National City adds Chapter 10.56 of the National City Municipal Code to read as follows:

**CHAPTER 10.56      REGULATIONS FOR ENCAMPMENTS ON PUBLIC PROPERTY**

**Section(s):**

- 10.56.010      Purpose – Adopted.
- 10.56.020      Definitions – Adopted.
- 10.56.030      Protection of Waterways – Adopted.
- 10.56.040      Unauthorized Encampments on Public Property – Adopted.

10.56.050 Abatement of Encampments – Adopted.

10.56.060 Enforcement – Adopted.

10.56.010 **Purpose.**

Public property throughout the City should be readily accessible and available to all people and businesses at large. The use of public property for camping purposes interferes with the rights of others to use and enjoy the public property as it was intended. Such activity presents a public health and safety hazard, which adversely impacts all people and sensitive public land. The purpose of this chapter is to establish a standard for the protection of the life, health, and safety of all people, which includes residents of such unauthorized encampments, and the protection of sensitive public lands to avoid the destruction of these assets. Nothing in this chapter is intended to interfere with otherwise lawful and ordinary use of public property. This chapter shall be interpreted in a manner that is consistent with applicable state and federal law.

10.56.020 **Definitions.**

Whenever in this chapter the following terms are used, they shall be deemed and construed to have the meaning ascribed to such respective terms in this section.

- A. "Abatement" means the process of documenting and collecting valuable items for temporary storage, removing and disposing of, recycling, or reusing of waste at an encampment as authorized by the National City Administrative Policy Manual Chapter 10.04.
- B. "Camp" or "Camping" means to place, 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 or habitation purposes or for remaining outdoors overnight.
- C. "Camp Paraphernalia" includes, but is not limited to, tarps, cots, beds, sleeping bags, hammocks, bedrolls, camp stoves, cooking equipment, buckets, and similar equipment or items that are accessory to encampments, mattresses, couches, dressers, or other furniture.
- D. "Encampment" means one or more temporary, makeshift, or hand-built shelters, including tents or huts, used for one or more persons or their belongings and without permitted authorization by property owner.
- E. "Official" or "Officer" means any official or officer who is charged by the Municipal Code with code enforcement authority.
- F. "Park" means the same as defined in Section 18.50.010 of Title 18.
- G. "Public Property" means all property that is owned by the city including, but not limited to, streets, alleys, parking lots, sidewalks, parks, waterways, natural areas abutting waterways, and improved or unimproved land.

- H. "School" means institutions that offer 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. This does not include a vocational or professional institution of higher education, including a community or junior college, college, or university.
- I. "Shelter" means any city-funded shelter or an area designated by the City Manager within the City where unsheltered individuals or families can access beds or other services.
- J. "Sidewalk" means the same as defined in Section 18.50.010 of Title 18.
- K. "Street" means the same as defined in Section 18.50.010 of Title 18.
- L. "Waste" means materials of any nature that constitute rubbish in Section 18.50.010. Waste also means abandoned personal property that is left unattended in or upon public property. Waste does not mean recyclable material properly contained and disposed of in a timely fashion.
- M. "Waterway" means all portions of Sweetwater River and drainage culverts found within the boundaries of the City of National City.

10.56.030     **Protection of Waterway**

- A. It is unlawful for any person to cause damage to a waterway.
- B. It is unlawful for any individual to do any of the following:
  - a. Erect an encampment or any other structure along the bank of a waterway, in any natural area abutting a waterway, or drive or affix an object into any tree or other natural area vegetation for the purpose of erecting an encampment or any other structure;
  - b. Reconfigure the natural landscape in the waters of or along the banks of a waterway for the purpose of erecting an encampment or any other structure;
  - c. Drive, park, or bring any vehicle along the banks of a waterway, unless otherwise permitted;
  - d. Dig in the banks of a waterway for the purpose of erecting an encampment or any other structure;
  - e. Accumulate or fail to properly dispose of waste including, but not limited to, hazardous waste, human waste, animal waste, garbage, debris, rubbish, and used needles, in the waters of or along the banks of a waterway.
- C. Nothing in Section 10.56.030 is intended to prohibit the activities of an owner of private property or any other lawful user of private property so long as they are normally associated with and incidental to the lawful and authorized use of private property; and nothing is intended to prohibit the activities of any other lawful user if such activities are expressly authorized by the City Manager or by any law, regulation, or ordinances.

10.56.040     **Unauthorized Encampments on Public Property.**

- A. It is unlawful and a public nuisance for any individual to do the following in an encampment located in or upon any public property unless specifically authorized by the City Manager:
  - a. Camp, occupy camping facilities, or use camp paraphernalia; or
  - b. Accumulate or fail to properly dispose of waste including, but not limited to, hazardous waste, human waste, animal waste, garbage, debris, rubbish, and used needles.
- B. Section 10.56.040(A) is applicable at all times, regardless of shelter bed availability, when such activity poses:
  - a. An immediate threat or an unreasonable risk of harm to any particular individual;
  - b. An immediate threat or an unreasonable risk of harm to public health or safety; or
  - c. Disruption to essential government services.
- C. Section 10.56.040(A) is applicable at all times, regardless of shelter bed availability, in the following locations:
  - a. within two blocks of a schools provided that signs are posted prohibiting encampments that are clearly visible to pedestrians;
  - b. in any waterway or natural area abutting a waterway;
  - c. within any transit hub, on any trolley platform, or along any trolley tracks provided that signs are posted prohibiting encampments that are clearly visible to pedestrians; and
- D. Nothing in Section 10.56.040 is intended to prohibit the activities of an owner of private property or any other lawful user of private property so long as they are normally associated with and incidental to the lawful and authorized use of private property; and nothing is intended to prohibit the activities of any other lawful user if such activities are expressly authorized by the City Manager or by any law, regulation, or ordinances.

**10.56.050 Abatement of Encampments.**

Any activity in violation of this chapter is declared to be a public nuisance, and the City is authorized to abate the nuisance and remove the encampment as authorized by the National City Administrative Policy Manual Chapter 10.04.

**10.56.060 Enforcement.**

- A. This chapter may be enforced by any official or officer who is charged by the Municipal Code with code enforcement authority. Violation of any provision of this chapter shall be punishable as a misdemeanor subject to fines and custody provisions as prescribed in Chapter 1.20 of the National City Municipal Code. This chapter may also be enforced via administrative or civil actions as authorized by the Municipal Code.
  - a. Violation of Section 10.56.040(A) shall not be punishable with criminal action between 9:00 p.m. to 5:30 a.m., or when the

individual is on public property at a time when there is no shelter accessibility.

- b. Violation of Section 10.56.040(B) and (C) shall be punishable at all times regardless of shelter accessibility.
- B. Section 10.56.040(A) may not be enforced against any individual on public property unless all of the following have occurred:
  - a. The official or officer has identified the number of shelter beds accessible;
  - b. The official or officer has determined that a shelter bed for the individual is currently accessible;
  - c. The official or officer has offered the shelter bed to the individual;
  - d. The individual has rejected the offer of the shelter bed, and the official or officer has given the individual a warning and an opportunity to immediately leave the public property; and
  - e. The individual refuses to leave the public property.

**Section 3:** This Ordinance shall take effect and be in force thirty (30) days from the date of its passage, and before the expiration of fifteen (15) days after its passage, it or a summary of it, shall be published once, with the names of the members of the City Council voting for and against the same in the Star News, a newspaper of general circulation published in the County of San Diego, California.

**Section 4:** The City Clerk shall certify to the adoption of this Ordinance and shall publish in accordance with the law.

**INTRODUCED** at a regular meeting of the City Council of the City of National City, held on this \_\_\_\_ day of \_\_\_\_, 2024.

**PASSED and ADOPTED** this \_\_\_\_ day of \_\_\_\_\_, 2024.

\_\_\_\_\_  
Ron Morrison, Mayor

**ATTEST:**

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Shelley Chapel, MMC, City Clerk

**APPROVED AS TO FORM:**

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Barry J. Schultz, City Attorney