

City Council Meeting: November 15, 2022

Santa Monica, California

ORDINANCE NUMBER 2728 (CCS)

(City Council Series)

AN EMERGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SANTA MONICA AMENDING SANTA MONICA MUNICIPAL CODE SECTION 4.08.095, PROHIBITION AGAINST CAMPING IN PUBLIC PLACES, TO CLARIFY: (1) THE APPLICABILITY OF THE SECTION'S PROHIBITIONS, AND (2) THE DEFINITION OF "CAMP FACILITY."

WHEREAS, for many years, the City of Santa Monica has experienced numerous individuals maintaining camp facilities for the purposes of living accommodations in public places, including City parks; and

WHEREAS, an increase in individuals maintaining camp facilities for the purposes of living accommodations in the City's parks and public places can lead to serious health, safety, and accessibility concerns and an overall deterioration in the physical condition of the community's parks and public places; and

WHEREAS, Santa Monica Municipal Code Section 4.08.095, Prohibition against camping in public places, was initially enacted to address these concerns; and

WHEREAS, the City Council wishes to continue protecting public safety in, and access, to Santa Monica's parks and other public places by prohibiting camping and camping facilities except in designated areas as determined by the City Council; and

WHEREAS, recent case law, however, has made clear that cities cannot prohibit, by criminal penalty or administrative citation that may lead to criminal penalty, a homeless individual from sleeping or merely using blankets, pillows, sleeping bags, or other

rudimentary protections against the weather on public property, unless there is shelter space available for that individual to use; and

WHEREAS, the City wishes to clarify Section 4.08.095 in compliance with recent case law by not enforcing its camping prohibitions against homeless individuals who are merely sleeping with the use of blankets, pillows, sleeping bags, and other rudimentary protections against the weather on public property; and

WHEREAS, the City Council also wishes to clarify the definition of “camping facility” for ease of enforcement; and

WHEREAS, to ensure compliance with applicable case law and to protect the due process rights of homeless individuals, the City Council finds and declares that a current and immediate threat to the public health, safety, and general welfare exists such that this amendment qualifies for an emergency ordinance.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SANTA MONICA DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. Santa Monica Municipal Code 4.08.095 is hereby adopted to read as follows:

4.08.095 Prohibition against camping in public places.

(a) No person shall camp in a prohibited public place.

(b) For the purpose of this Section:

(1) “Camp” means to erect, maintain, store, or occupy a camp facility for the purpose of living accommodations.

(2) “Camp facility” means the use of, settling, fixing in place, setting up, storing, locating, or leaving behind in a prohibited public place any or a combination

of the following: tents, huts, other temporary physical shelters, cots, beds, or hammocks.

(3) "Prohibited public place" means any of the following: the public parks listed in Section 4.55.020, public beaches, the Santa Monica Municipal Pier, public streets, public alleyways, public parking lots, public passageways, public rights-of-way, publicly-owned landscaped areas or greenbelts, public educational institutions including properties owned by the Santa Monica-Malibu Unified School District or Santa Monica College, or other government-owned properties located within the City of Santa Monica.

(c) The City Council may, by majority vote, establish one or more specified camping areas. Such camping areas, if any, may be located in prohibited public places, except that such camping areas shall not be located within public parks.

(d) This ordinance does not prohibit those who are homeless from using sleeping bags, blankets, pillows, and/or bedrolls while sleeping.

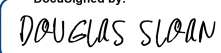
SECTION 2. Any provision of the Santa Monica Municipal Code or appendices thereto inconsistent with the provisions of this Ordinance, to the extent of such inconsistencies and no further, is hereby repealed or modified to that extent necessary to effect the provisions of this Ordinance.

SECTION 3. If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision 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 and every section, subsection, sentence, clause, or phrase not

declared invalid or unconstitutional without regard to whether any portion of the ordinance would be subsequently declared invalid or unconstitutional.

SECTION 4. The Mayor shall sign and the City Clerk shall attest to the passage of this ordinance. The City Clerk shall cause the same to be published once in the official newspaper within 15 days after its adoption. Pursuant to Sections 615 and 619 of the City Charter, for the reasons stated in the recitals above, the staff report accompanying this ordinance, oral and written testimony received by the City Council, and City Council discussion, the City Council declares this ordinance to be necessary as an emergency measure for preserving the public peace, health, and safety, with the result that this ordinance shall be introduced and adopted at the same meeting and shall become effective immediately upon its adoption.

APPROVED AS TO FORM:

DocuSigned by:

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DOUGLAS SLOAN
City Attorney

Approved and adopted this 15th day of November, 2022.

DocuSigned by:

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Sue Himmelrich, Mayor

State of California)
County of Los Angeles) ss.
City of Santa Monica)

I, Denise Anderson-Warren, City Clerk of the City of Santa Monica, do hereby certify that the foregoing Ordinance No. 2728 (CCS) had its introduction and adoption at the Santa Monica City Council meeting held on November 15, 2022, by the following vote:

AYES: Councilmembers Brock, de la Torre, Davis, Negrete, Parra,
Mayor Pro Tem McCowan, Mayor Himmelrich

NOES: None

ABSENT: None

ATTEST:

DocuSigned by:

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Denise Anderson-Warren, City Clerk

11/23/2022

Date

A summary of Ordinance No. 2728 (CCS) was duly published pursuant to California Government Code Section 40806.