



The City of San Diego

Staff Report

DATE ISSUED: May 23, 2023

TO: City Council

FROM: Office of Councilmember Stephen Whitburn

SUBJECT: Amendments to the San Diego Municipal Code Related to Unauthorized Camping or Encampments on Public Property

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Council District(s): Citywide

OVERVIEW:

This item recommends amendments to the San Diego Municipal Code to protect the life, health, and safety of all people in the City of San Diego, recognizing that camping overnight on certain public lands within the geographical boundaries of the city can pose significant health and safety hazards. Moreover, some public land is environmentally sensitive and may be significantly damaged by unregulated human activity. In addition, there are areas where the risks are elevated including K-12 schools, shelters, parks, and along trolley tracks and transportation hubs.

The San Diego Municipal Code 63.01.02 (b) (12) regulating camping adopted in December of 1913 and amended in 1963, 1977, and 1993, was written to regulate camping in designated areas. The Municipal Code does not reflect the current situation in which encampments for overnight use have expanded into areas of the city on public land that impacts public health and safety.

There are several health and safety risks from unregulated human activity when people stay or camp overnight in public areas. These health and safety risks can include disease, bacterial infection, virus exposure, burn injury, fire danger, potential drowning, water pollution, pedestrian danger, risk of injury or death from a vehicle crash, risk of drug exposure or overdose (potentially fatal), and this activity can possibly impede emergency response crews.

The proposed changes to the San Diego Municipal Code related to overnight camping will provide clear language about how camping bans in the city will be enforced and where, a person cannot have an encampment on certain public land at any time to protect the life, health, and safety of all people in the City of San Diego. The proposed amendment will also set standards and establish a process for the collection, storage, and disposal of personal property found in encampments on public property.

The city is committed to protecting the rights of individuals who cannot obtain shelter and to treating their personal property with respect and consideration. The amendments to the Municipal Code are consistent with the Ninth Circuit Court of Appeals decision in *Martin v. City of Boise*, 920 F.3d 584 (9<sup>th</sup> Cir. 2019) and the settlement agreements related to the City's response to homelessness, including the 2007 Spencer Settlement and the 2011 Isaiah Settlement. See City Attorney Memo MS-2022-6 (June 3, 2022) <https://docs.sandiego.gov/memooflaw/MS-2022-6.pdf>. This ordinance also makes changes to ensure consistency with other sections, makes changes to adopt gender neutral language, updates definitions consistent with other regulations, and provides clarity on prohibited activities that could damage or harm the natural landscape or public facilities intended to be available to all.

In addition to this ordinance restricting unsafe camping, City Council District 3 has been working with the Mayor's Office to develop safe sleeping sites. The first site at 20<sup>th</sup> and B Streets, which can accommodate approximately 136 tents, is targeted to open in July of 2023. The second lot at the O lot off Nursery Road, which can accommodate approximately 400 tents, is scheduled to open in the fall of 2023. The sites will have bathroom facilities, security, and a variety of services provided by partner providers. The funding for the Safe Sleeping Initiative will be paid for with \$5,000,000 from the City's budget. The city is also exploring other government and philanthropic funding sources.

#### PROPOSED ACTIONS:

Adopt an Ordinance amending Chapter 5, Article 4, Division 2 of the San Diego Municipal Code by amending section 54.0212; amending Chapter 6, Article 3, Division 00 by repealing and reserving section 63.20.11; amending Chapter 6, Article 3, Division 1 by amending sections 63.0102, 63.0103, 63.0105 and 63.0108; amending Chapter 6, Article 3, by adding Division 4 sections 63.0401, 63.0402, 63.0403, 63.0404, 63.0405, and 63.0406 all relating to regulating encampments on public property.

#### DISCUSSION OF ITEM:

This item recommends amendments and additions to the San Diego Municipal Code to protect the life, health, and safety of all people in the city recognizing that certain public lands within the geographical boundaries of the city pose significant health and safety hazards to people who make shelter or stay overnight in these areas. In addition, some of these public lands are environmentally sensitive and may be significantly damaged by unregulated human activity.

The San Diego Municipal Code regulations pertaining to camping in the City of San Diego date back to December of 1913 and were related designated areas. The Municipal Code regulating camping and subsequent amendments in 1963, 1977, and 1993 did not address, and could not have foreseen, the extent of encampments and tents for overnight use expanding into areas of the city that impact the public health and safety of residents.

The Council is committed to protecting the rights of individuals related to their personal property and such property should be treated with respect and consideration. The additions in the amendment also set standards for the preservation and protection of human life, health, and safety, to further the preservation and protection of sensitive public lands to prevent destruction of these assets, and to establish a process for the collection, storage, and disposal of personal property found in encampments on public property.

The amendments to the Municipal Code are consistent with the Ninth Circuit Court of Appeals decision in *Martin v. City of Boise*, 920 F.3d 584 (9<sup>th</sup> Cir. 2019) and the settlement agreements related to the City's response to homelessness. See City Attorney Memo MS-2022-6 (June 3, 2022) <https://docs.sandiego.gov/memooflaw/MS-2022-6.pdf>. In addition, the camping language and abatement process in the ordinance is compliant with the 2007 Spencer Settlement and the 2011 Isaiah Settlement. See back-up material for additional detail.

The City has been working to address and prevent homelessness through the creation of permanent housing opportunities, expanding street outreach and shelter capacity, and implementing homelessness prevention programs and resources. There is broad commitment to advancing solutions on this complex topic.

### **Homelessness Response**

The City of San Diego has increased shelter bed capacity by 68% in the last two years. As of February of 2023, the City of San Diego had more than 1,780 shelter beds. City shelters also have a combination of supportive services for people experiencing homelessness including jobs programs, housing navigation, mental health treatment, substance abuse treatment, and security. There are shelters for seniors, women, LGBTQ youth, adults, families, veterans, and people struggling with substance abuse disorder or who need mental health support. The City of San Diego also allows people to bring their pet to select shelters.

There are five safe parking lots in the City of San Diego and the city is continuing to look for additional parking lots to serve people experiencing homelessness. These safe parking lots have services including jobs programs, housing navigation, mental health treatment, substance abuse treatment, and security. The City of San Diego also offers a day center, three storage centers, and a Homeless Response Center to connect people to shelter and services.

Outreach is a critical tool for ending homelessness. The City of San Diego has several targeted outreach teams working to build relationships with individuals experiencing homelessness. The teams use a person-centered, compassionate approach to resolve homelessness through the offer of services tailored to the specific needs of individuals.

The San Diego City Council approved \$3 million for the Housing Instability Prevention Program administered by the San Diego Housing Commission to provide 300 households who qualify, including seniors, to receive \$500 per month for up to two years towards rent or other approved expenses to help prevent households from falling into homelessness.

The program is modeled after the very successful Housing Stability Program implemented during the pandemic and administered by the San Diego Housing Commission that had disbursed \$218,156,910.21 to 18,312 households as of August 15, 2022. In addition, the city also put an eviction protection program into place during the pandemic and recently adopted updated tenant protections.

The City of San Diego in conjunction with the San Diego Housing Commission also offers transitional, supportive, and permanent housing. In 2022, more than 2,200 people ended their homelessness through the City's outreach and shelter system.

### **Aggravating Circumstances Contributing to the Growth of Individuals Experiencing Homelessness**

Despite the City of San Diego's intensive effort to reduce homelessness, several converging crises exacerbated the issue, including the COVID-19 pandemic, growing Fentanyl crisis, extremely limited mental health treatment resources, and a lack of affordable, low-income housing.

Data from the 2022 Point-in-Time Count from the Regional Task Force on Homelessness showed there were 2,494 people experiencing homelessness and unsheltered in the City of San Diego. A 9% increase over 2021. While the number of people experiencing homelessness in shelters was down by 11%.

Recent statistics from the Downtown San Diego Partnership during the last six months of 2022 show for every 10 people able to obtain housing through City of San Diego funded homeless services and programs, 13 people fell out of housing in San Diego.

From August of 2022 through February of 2023 there were 15,689 reports of encampments submitted to the City of San Diego Performance and Analytics Department through the Get It Done app.

One of the most significant impacts of the increase in people experiencing homelessness has been the use of public spaces to sleep. These areas include sidewalks, canyons, parks, and transportation hubs. Some of these areas are environmentally sensitive and unregulated human activity can put the health and safety of people experiencing homelessness and the public at-large at risk.

### **Risks to Health and Safety for Unsheltered**

There are several health and safety risks resulting from unregulated human activity when people set up tents to stay overnight in public areas. These health and safety risks are not limited to but include, disease, bacterial infection, virus exposure, burn injury, fire danger, potential drowning,

water pollution, pedestrian crossing danger, danger of being struck by a vehicle, drug exposure and overdose risk, and possibly impeding emergency response.

It is the City's obligation to protect public health and safety and our natural resources by maintaining clean, safe, and accessible City properties for all residents to enjoy, including parks, open space, and the public right of way. While the City is doing what it can to achieve this goal through the CleanSD program, the quality of life in our neighborhoods is failing to meet community expectations. This is evidenced by the thousands of complaints made by residents every month through the Get It Done app and to our respective Councilmember offices.

Therefore, this ordinance recommends amendments and additions to the San Diego Municipal Code to protect the life, health, and safety of all people in the city, recognizing that certain public lands within the geographical boundaries of the City of San Diego pose significant health and safety hazards to people who make shelter or stay overnight in these areas. In addition, some of these public lands are environmentally sensitive and may be significantly damaged by unregulated human activity.

This ordinance would make it unlawful for any person to camp in or upon any public property if shelter beds are available, unless specifically authorized by the City Manager. In addition, it would make it unlawful, at any time regardless of the availability of shelter beds, for any person to camp or to have unauthorized encampments in the following locations:

1. within two blocks of an elementary, middle, or high school. This prohibition does not include vocational or professional institutions of higher education, including community or junior colleges, colleges, or universities. The ordinance will reduce the risks of exposure to incidents which can impact students' emotional and mental well-being, such as being exposed to illicit drugs, unintentional indecent exposure, or violent behavior,
2. within two blocks of any shelter, provided signs are posted prohibiting camping that are clearly visible to pedestrians. The ordinance will reduce adverse impacts of camping around homeless shelters where residents who are most vulnerable are receiving services to resolve their homelessness. Some of those impacts include exposure to predatory behavior of drug dealing which can undermine the community effort to provide long-term solutions to the homelessness issue,
3. in any open space or waterway, as defined in the ordinance as the portions of Chollas Creek, Los Penasquitos Creek, San Diego River, San Dieguito River, and Tijuana River found within the boundaries of the city, or the banks of a waterway. The ordinance will restrict unregulated human activity in these areas which will reduce wildfire risk, pollution, and unsanitary conditions,
4. within any transit hub, on any trolley platform, or along any trolley tracks, provided signs are posted prohibiting camping that are clearly visible to pedestrians. The ordinance will protect unsheltered individuals and those using public transportation in transit hubs from risks associated with the high volume of traffic and the speed of the trolley,
5. in any park provided signs are posted prohibiting camping that are clearly visible

to pedestrians. The ordinance will reduce of exposure to incidents which can impact park staff, visitors, and families emotional and mental well-being from being exposed to illicit drugs, unintentional indecent exposure, or violent behavior, wildfire risk, and possible assault.

The City's Environmental Services Department regularly finds items in encampments or tents used by people experiencing homelessness that pose a risk to public health or the environment. The Environmental Services Department provided this partial list of items commonly found at occupied and abandoned encampments:

- Aerosol cans
- Appliances/computers and other Universal Waste Items that have heavy metals
- Empty backpacks and backpacks full of trash and food wrappers
- Barbeques and other cooking apparatuses/products
- Fuels and propane tanks
- Bags of human waste
- Bottles and jars of urine or other unidentified liquid
- Open pet foods (which become rodent attractant)
- Partially consumed food and food packaging (which are left as litter or act as rodent attractant)
- Food infested with bugs
- Broken glass
- Bongs and hookahs
- Batteries (large car batteries, small alkaline, rechargeable etc.)
- Scooters (not in full working condition, with Lithium Battery tampered with)
- Buckets to hold urine and feces.
- Campers, cardboard, and pallets used as flooring (which encourage rodent activity)
- Cleaning products
- Items (bedding or furniture) infested with cockroaches, bedbugs, mold
- Razorblades
- Weapons (knives, makeshift, clubs)
- Construction equipment
- Generators
- Drugs and drug paraphernalia
- Household electronics
- Landscaping equipment with fuels and oils (or Lithium-Ion Batteries)
- Lumber (which can be a fuel if fire breaks out)
- Needles
- Tires (which hold rainwater and provide mosquito breeding habitat)

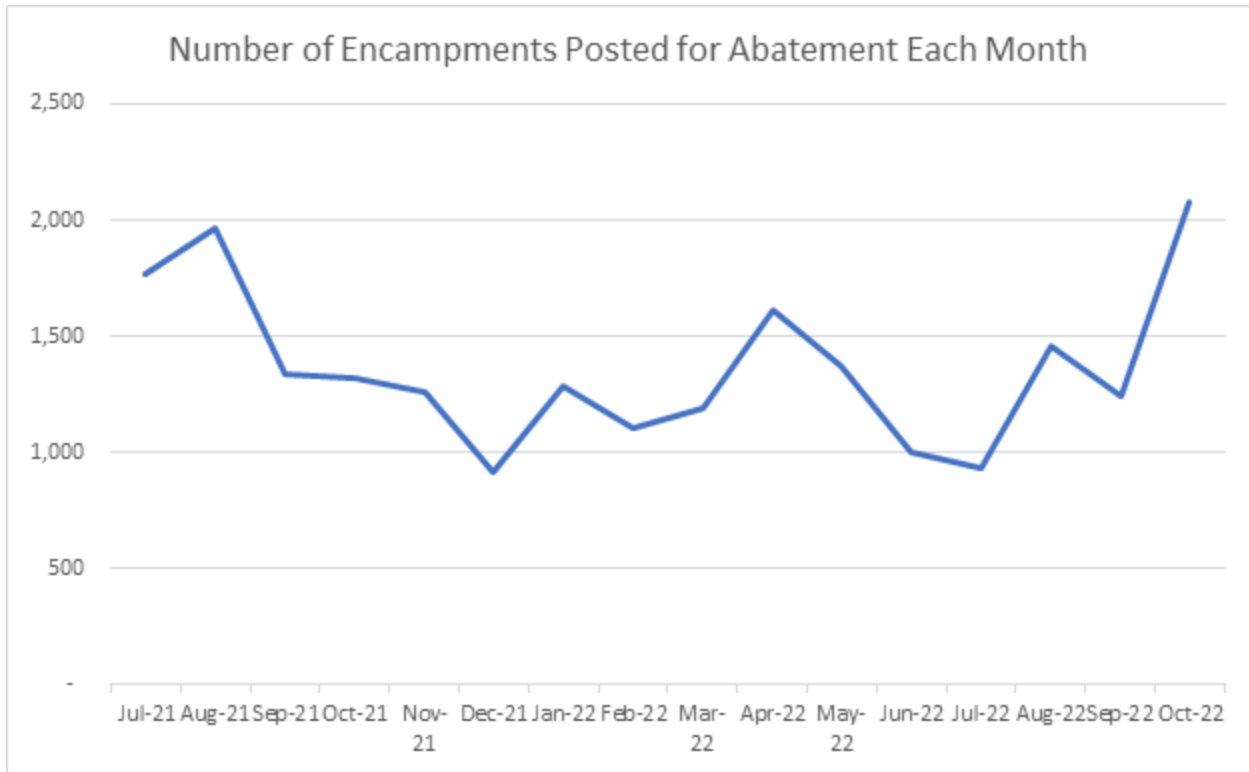


**Photos: City of San Diego**

Data from the City of San Diego Environmental Services Department in 2022 shows crews collected an average of more than 3,000 pounds of waste a month from encampments on sidewalks, streets, parks, open space, and other public land with peaks in July and December of more than 6,000 pounds of waste. The Environmental Services Department cleans from 1,000 to 2,000 encampments monthly.







Unauthorized overnight use of public parks, open space, sidewalks, and other areas pose public health and safety concerns that the city must address. Some of the items found in tents or encampments (as listed above) include fuels or propane tanks, drugs and drug paraphernalia, bags of human waste, and weapons.

Discussion of the updated abatement procedures in the Unauthorized Camping Ordinance can be found on page 17-18 of this staff report.

**Public Health Risks**

The ordinance will allow the City to be responsive to a variety of public health and safety concerns created by unregulated human use of public property and growing encampments. It also allows the City to address health and safety concerns for people sheltering on City property, including the risk of disease and wildfire. The following sections discuss some of the key health and safety concerns raised by City staff and citizens related to camping and encampments maintained on public property.

**Risk of Disease**

Over the last 12 years San Diego County has experienced three deadly public health crises.

The February 2017 Hepatitis A outbreak began in the unsheltered population. It became the largest Hepatitis A epidemic in the U.S. in more than 20 years, claiming 20 lives in San Diego. In January of 2023, San Diego County reported the beginning of another Hepatitis A outbreak. As of May 22, 2023, there has been one death of an unsheltered person from Hepatitis A with 28 total reported cases;18



in the unsheltered population. The County has asked cities “to locate encampments and provide housing and/or more frequent cleaning along with handwashing stations and portable restrooms. Outreach workers also are identifying locations where increased sanitation would be beneficial.”<sup>1</sup>

In addition, in 2021 San Diego experienced an outbreak of shigellosis among people who were experiencing homelessness. Fifty-three people were infected. Tuberculosis cases have also circulated long within the unsheltered population.

Shelter locations provide regular access to healthcare and vaccinations to improve overall health and reduce the spread of disease. During the 2017 Hepatitis A outbreak the County of San Diego declared a Health Emergency and the San Diego City Council made an emergency declaration to help people experiencing homelessness get into shelter, which effectively ended the deadly outbreak by connecting people with lifesaving healthcare.

### ***Unsheltered Substance Abuse Risk***

According to the San Diego County Medical Examiner accidental overdose deaths of unsheltered individuals related to drugs or medication have more than doubled since 2018. A San Diego County Medical Examiner report shows that in 2021, 317 out of 394 accidental deaths of unsheltered individuals were related to drugs or medication, by far the highest cause of accidental death. That is compared to 86 of 146 accidental deaths in 2018. See attached background material.

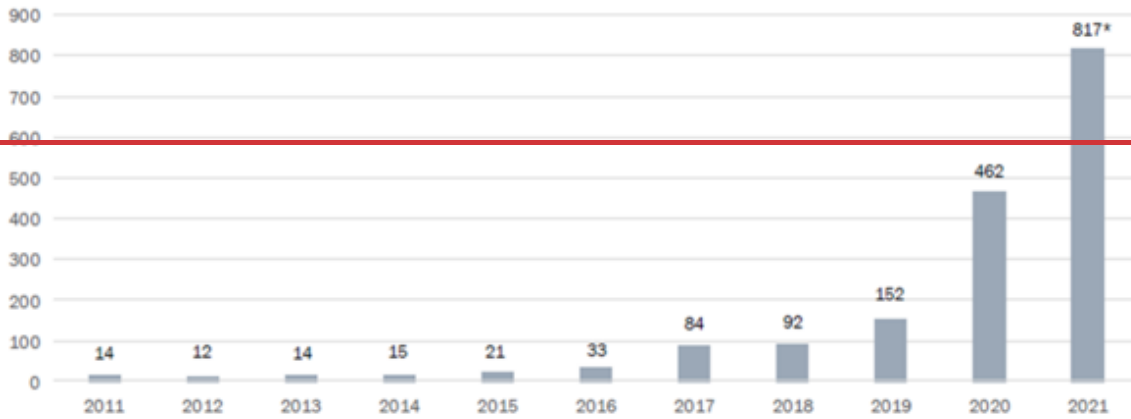
The increased availability of illegal Fentanyl has significantly contributed to the increase in overdose deaths among unsheltered individuals in San Diego. During the San Diego City Council’s Public Safety Committee meeting of February 15, 2023, the Department of Justice testified that 60% of the Fentanyl coming into the United States enters through San Diego County, and the City of San Diego has seen a 2366% increase in Fentanyl deaths since 2016. The San Diego Police Department testified that, according to their records, six out of ten counterfeit pills contain Fentanyl. There were 817 overdose deaths related to Fentanyl in San Diego County in 2021 compared to 84 in 2017.

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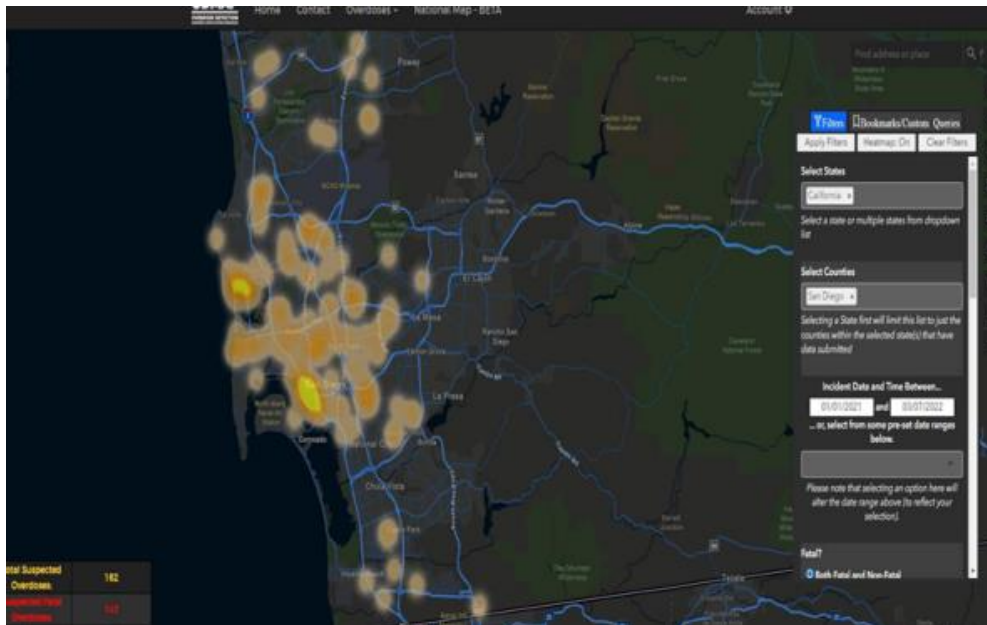
<sup>1</sup> <https://www.countynewscenter.com/county-public-health-responds-to-growing-number-of-hepatitis-a-cases/>

# San Diego County | Fentanyl ODs

Fentanyl Overdose Deaths | 2011 to 2021



\*2021 numbers are pending confirmation and case closure.



Graphic: February 2023 Public Safety Committee - Map of San Diego Fentanyl HOT SPOTS

In November of 2022, San Diego Mayor Todd Gloria issued an Executive Order directing further action and cooperation with law enforcement to address the illicit fentanyl crisis.

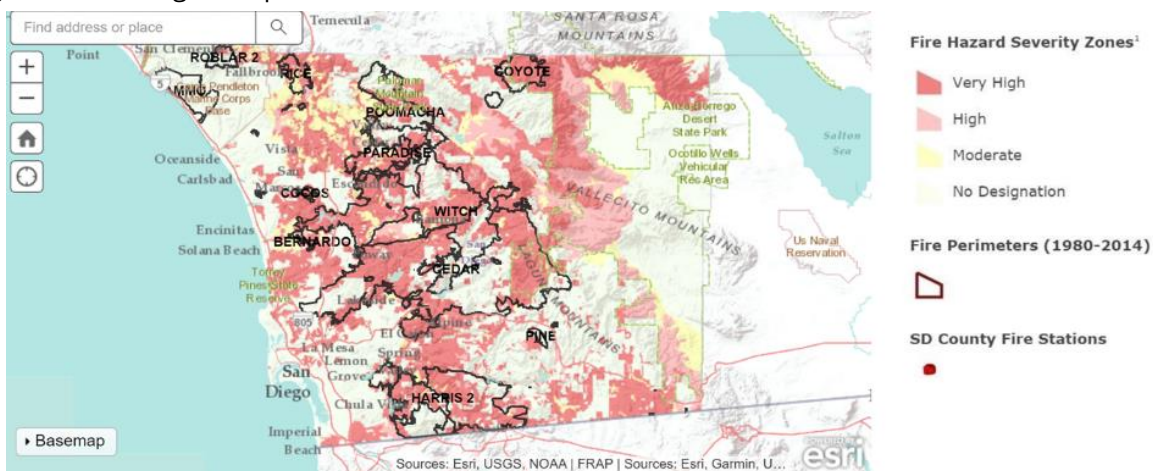
According to a 2019 UCLA California Policy Lab study which analyzed just over 64,000 surveys of sheltered and unsheltered individuals, 75% of unsheltered people reported substance abuse conditions compared to 13% of people living in shelters. This ordinance will help to eliminate encampments in which illegal drug activity can take place out of public view, and it will reduce the number of people who may be approached by predatory drug dealers utilizing areas with encampments to avoid detection by law enforcement.

## Environmental Risk

### *Wildfire Risk in Open Space*

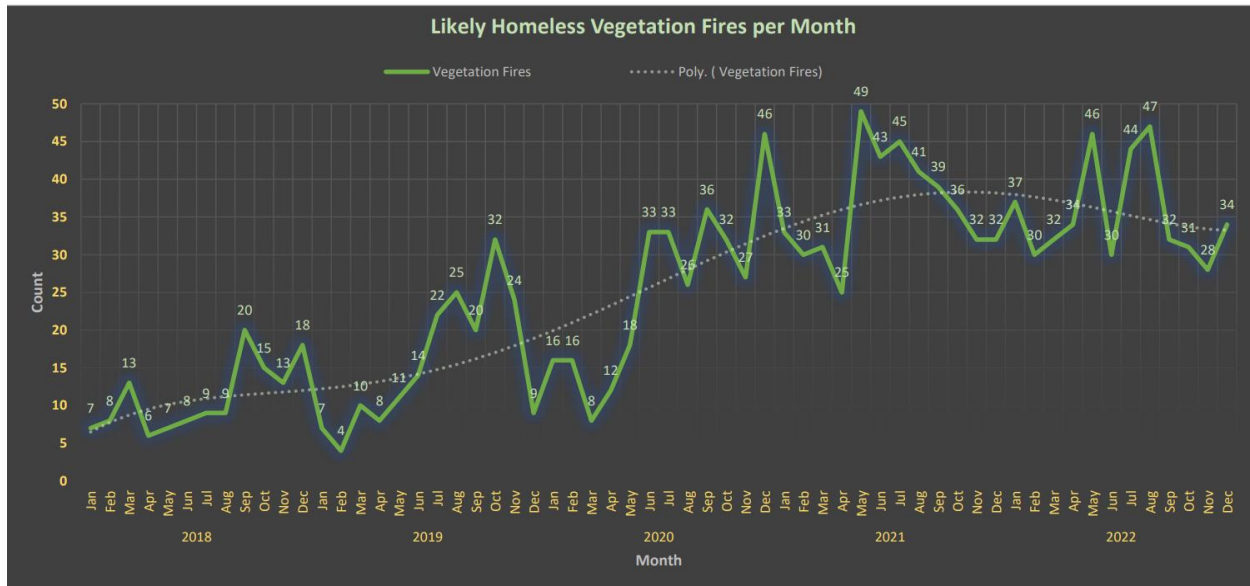
Two of the largest wildfires over the last 20 years in California were in San Diego County, according to CAL Fire data. The 2003 Cedar Fire burned 273,246 acres, destroyed 2,820 structures, and claimed 15 lives. The 2007 Witch Fire burned 197,990 acres, destroyed 1,650 structures, and claimed 2 lives. The largest two wildfires in state history occurred in 2020 and 2021. The 2020 August Complex Fire burned 1,032,648 acres across seven counties and the 2021 Dixie Fire burned 963,309 acres across five counties.

San Diego County is categorized a “very high hazard” for fire danger according to the organization Ready San Diego. San Diego experiences extended periods of high temperatures with little or no precipitation. This weather pattern produces dry grass and brush which creates fuel for wildfires. These high temperatures, dry fuel, and strong seasonal dry winds from the east, known as Santa Ana winds, significantly increase the danger of fast spreading wildfires which can quickly cause significant damage and potential loss of life.



Fires started by individuals sheltering in the City’s open space and along the city waterways pose a significant danger to those individuals and others who live nearby. Data from San Diego Fire-

Rescue’s Computer Aided Dispatch (CAD) system shows San Diego fire crews responded to 425 likely homeless-related vegetation fires in 2022 representing a 219% increase over 2018 when data shows fire crews responded to 133 reported vegetation fires. San Diego Fire-Rescue also responded to 379 suspected rubbish fires in 2022, which are fires located outside of open space typically in dumpsters, trash cans, or in the right-of-way in the City’s more urban environments. Due to the potential threat of wildfire in San Diego County, San Diego Fire-Rescue takes its response to all suspected vegetation fires very seriously, sending at least 2 Engines with a total of 8 personnel.



San Diego Fire-Rescue Department

Likely Homeless Vegetation Fires

Year	Month												Year Total
	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	
2018	7	8	13	6	7	8	9	9	20	15	13	18	133
2019	7	4	10	8	11	14	22	25	20	32	24	9	186
2020	16	16	8	12	18	33	33	26	36	32	27	46	303
2021	33	30	31	25	49	43	45	41	39	36	32	32	436
2022	37	30	32	34	46	30	44	47	32	31	28	34	425
<b>Total</b>	<b>100</b>	<b>88</b>	<b>94</b>	<b>85</b>	<b>131</b>	<b>128</b>	<b>153</b>	<b>148</b>	<b>147</b>	<b>146</b>	<b>124</b>	<b>139</b>	

Homeless Vegetation Fires are vegetation fires within the City of San Diego with the following keywords mentioned in CAD’s comments: "homeles", "home les", "homeles", "encampment", or "transient".

Based on certain considerations (weather, other information from the caller, etc.), the response by San Diego Fire-Rescue may be elevated to a Vegetation 1<sup>st</sup> Alarm fire. In 2022, 5% of vegetation fires suspected to have started in an encampment were elevated to a 1<sup>st</sup> Alarm fire. This level of elevated Fire-Rescue response consists of:

- The 2 engines from the original vegetation initial response
- 2 Brush Engines (these are a different type of firefighting apparatus, specialized for off road purposes) with 4 personnel per apparatus.
- 4 battalion chiefs
- 2 helicopters

- Notification, and possible addition of a water tanker which transports water to a location, based on conditions.

The response may be further escalated by the on-scene incident manager to add strike teams, which are packages of additional fire engines with a battalion chief and additional aircraft. These teams may come from county or state resources.



**Photos: City of San Diego Environmental Services Department and San Diego River Park Foundation**

By prohibiting encampments and camping activity in the City's open space and along the City's waterways where fire risk is significantly higher, the ordinance will reduce fires and improve responses by San Diego Fire-Rescue in areas at risk for high fire danger. It should contribute to improved response times for other 9-1-1 calls by reducing the demand on the San Diego Fire-Rescue Department's resources.

***Waterway Safety Risk***

During the San Diego River Park Foundation's October 2022 count, approximately 230 encampments were found along the San Diego River.



The San Diego River Park Foundation mapped and collected 104,685 pounds of trash during a 10-day collection period alone in October of 2022. Nearly 70% of the trash collected was related to



**Photos: San Diego River Park Foundation**

unsafe or unauthorized camping. The River Park Foundation's data show 30% of the trash was related to active encampments, and 38% was found at inactive or abandoned encampments or originated from an encampment. For example, during the collection period, items found included medical needles, utensils, straws, cups, tennis balls, shoes, pizza cartons, and items related to latrine (bathroom) use. By prohibiting unauthorized camping at any time in City waterways, this ordinance will protect environmentally sensitive areas and reduce water pollution from unregulated human activity. Prohibiting unsheltered camping along and near the San Diego River and other City waterways will also protect unsheltered individuals from injuries or possibly death from drowning (according to the San Diego Medical Examiner 4 unsheltered people drown in 2021), snake bites, vector-related disease, and other health issues related to exposure to unclean water.

### **Safety Concerns for K-12 Schools**

Activity associated with camping and encampments near elementary, middle, and high schools poses risks of students being exposed to illicit drug use, unintentional indecent exposures, violent behavior, urine, and feces, which impacts students' emotional and mental well-being, security, and safety. City of San Diego Performance and Analytics data over a six-month period from August 1, 2022, to January 31, 2023, showed there have been 1,397 reports of encampments within 0.1 mile of schools.

According to the San Diego Unified School District Police Department, officers responded to more than 125 calls involving people experiencing homelessness camping or sleeping at K-12 campuses from September 21, 2021, through February of 2023.

In addition, SDUSD Police<sup>2</sup> responded to more than 100 calls of a person experiencing homelessness entering campus for a variety of reasons during the same time-period. Some people simply wandered onto campus or entered the office.

According to school principals and the SDUSD Police Department, students have been verbally accosted, physically accosted, and exposed to a variety of issues, including unintentional and intentional nudity, illegal drug use and paraphernalia, and public urination.

Some of the schools in the San Diego Unified School District (including charter schools) with the highest rate of reports of encampments on or near campus are: Perkins Elementary School, Burbank Memorial Park, Waring Elementary, San Diego High School, King-Chavez Charter School, E3 Civic High School, Roosevelt Middle School, Fay Elementary, Clark, Wilson Central Elementary, Colina del Sol Elementary, Rosa Parks Elementary School, Garfield High School, Clay Elementary, Ocean Beach Middle School, Pacific Beach Middle School, Crown Point Elementary, Millennial Technical

School, and Clairemont High School. As discussed above, potentially hazardous, or dangerous items which are commonly found at both occupied and abandoned encampments can pose a greater threat of harm to children. Additionally, encampments that block access to schools put students at risk of harm if they are forced to cross into the street to get to school.

### **Safety Surrounding Shelters, Transit Centers, and other Public Land**

The City's right-of-way and public places are not intended for sheltering or camping, and individuals who make shelter in these areas are often at risk of serious harm or death from a variety of factors.

In March of 2021, a driver found to be under the influence of drugs drove up onto a sidewalk on B Street and plowed into a group of unsheltered people in tents. Three unsheltered individuals were killed and six more were injured in the crash.

On January 8, 2023, an unsheltered man was fatally stabbed by another unsheltered man during a fight at an encampment at 17<sup>th</sup> Street north of Imperial Avenue.

According to the San Diego Police Department, the Neighborhood Policing Division receives frequent calls of violence such as assaults, fights, and threats of violence, and are frequently asked to send more officers around encampments.

According to the City of San Diego Performance and Analytics Department, over a six-month period from August 1, 2022 – January 31, 2023, there were 1,685 reports of encampments within 0.1 mile of City-provided shelters.

### **Safety Concerns for City Parks**

The Parks & Recreation Department has identified a variety of health and safety impacts of camping and encampments within the boundaries of city parks including destruction of public property,

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<sup>2</sup> SDUSD Police follow City of San Diego procedures for encampment resolution and refer people experiencing homelessness to homeless services providers and substance abuse clinics.



vandalism, theft, and assaults on staff and park visitors. Additionally, the Parks & Recreation Department has seen a general increase in criminal activity in parks and several drug-related incidents and overdoses during the last three years. According to the City of San Diego Performance and Analytics Department there have been 4,379 reports of encampments or tents within the boundaries of city parks over a six-month period from August 1, 2022, to January 31, 2023.

Unregulated camping in City parks has caused harm to staff and damage to city park facilities, making it challenging for the city to offer park and recreational services to the public. For example, in 2023 and 2022 there were eight incidents involving an attack on park employees by a person experiencing homelessness, in 2022 two people experiencing homelessness died from drug overdoses in city parks, in 2022 and 2021 there were four brush fires started by people experiencing homelessness, in 2021 and 2022 on two separate occasions unsheltered individuals were found residing in buildings in neighborhood parks. In one of these cases a fire damaged the recreation center roof and forced the city to temporarily close the center. Luckily no one was injured in these fires, but the risk of fire in a public park or recreation center threatens the health and safety of the unsheltered individual staying in the park as well as the public using the public facility. Additionally, the increased risk of spreading disease in these highly used areas is greater. In 2017, the Hepatitis A outbreak spread into Balboa Park and among the general population who frequently use Balboa Park. Prohibiting encampments in public parks would help prevent the spread of communicable diseases.

There were 834 reports of encampments in Balboa Park and 75 reports in Presidio Park alone. These parks, along with Mission Bay Park and the Shoreline Parks, are areas of historical significance and are used by local students and millions of visitors annually. Mission Bay and the Shoreline Parks are areas where residents and millions of visitors travel to access the coast. In these locations, the safe movement of people and the unobstructed flow of pedestrian traffic promotes public safety.



**Photo: City of San Diego**

## **Implementation**

To mitigate the public health, environmental, safety, and other risks, the Municipal Code should be amended to clarify the City's prohibitions on camping in or upon any public property unless specifically authorized by the City Manager if shelter beds are available, and always, regardless of the availability of shelter beds, in specific sensitive areas. These areas include a two-block radius around elementary, middle, and high schools, City-provided shelters, open space, waterways or banks of a waterway, transit hubs, and parks.

By prohibiting unauthorized camping in sensitive areas, the city can address public health and safety risks associated with the spread of disease, environmental contamination, and the need for shared use of city streets and sidewalks. The city can also reduce risks for people experiencing homelessness of serious harm or deaths related to vehicle or train incidents, being preyed upon by drug dealers, and accidental drug overdoses.

Law Enforcement officers shall not issue a criminal citation to enforce a violation of section 63.0404 (a) between the hours of 9:00 p.m. and 5:30 a.m. or when a person is on public property at a time when there is no available shelter.

The San Diego Police Department should adopt procedures to ensure enforcement is consistent with *Martin v. City of Boise* and requirements of the Proposed Ordinance and that could assist in gathering evidence necessary for successful prosecution.

## **Abatement of Encampments**

In addition to addressing unauthorized camping and encampments on city property, the ordinance establishes a process for the city to clean-up, or abate, encampments. The process preserves the belongings of individuals who left them at the encampment and provides notice to people staying in an encampment about when clean-up activity will occur and how to collect any belongings that the city will store. To provide consistent procedures for the removal of occupied or unoccupied encampments, the city will post a written notice on each tent giving a minimum of 24 hours for persons to remove belongings, noting not to leave behind items they would like to keep. The city must conduct the clean-up within 48 hours of posting a notice. If a person returns to a site during a clean-up, they will be allowed to remove their items. Shelter will be offered when available, as will information on how to access shelter through the City's website or 2-1-1 San Diego.

City staff are required to document the abatement process, which includes taking photographs or video of tents and belongings found in an encampment and opening bags to determine if items are eligible for storage. The ordinance describes what types of items can and cannot be stored and the process for storage. The location of where items are stored and how to collect stored items will be posted during abatement.

The ordinance provides the city an expedited clean-up process that can be used when necessary to preserve health and safety or if there is a significant risk of property damage, bodily injury, or death. In an expedited clean-up, the process in the ordinance must still be followed but notice of clean-up can be issued with 3-hour advance notice.

Reminder: The city is committed to protecting the rights of individuals who cannot obtain shelter and to treating their personal property with respect and consideration.

### **Additional Efforts to Reduce Homelessness with the Addition of Safe Sleeping Sites**

This ordinance is part of a larger effort aimed at reducing the number of San Diego residents who are sleeping on San Diego streets without vital care and access to basic facilities, like restrooms and handwashing stations.

In addition to this ordinance restricting unsafe camping, City Council District 3 has been working with the Mayor's Office to develop safe sleeping sites. The first site targeted to open in July of 2023 will be located at 20<sup>th</sup> and B Streets. It can accommodate approximately 136 tents. The second lot scheduled to open in the fall of 2023 is the O lot off Nursery Road. The site can accommodate approximately 500 tents. The sites will have bathroom facilities, security, and a variety of services provided by partner providers. The funding for the Safe Sleeping Initiative will be paid for with \$5,000,000 from the City's budget. The city is also exploring other government and philanthropic funding sources.

#### City of San Diego Strategic Plan:

This information item is related to three elements of the City of San Diego Strategic Plan, *Protect and Enrich Every Neighborhood* by providing access to a safe and secure environment along with a variety of core amenities that improve quality of life, *Advance Mobility* for residents of all ages to get from point A to point B with mobility options that are safe, affordable, and sustainable, and the *Operating*

*Principals of Trust Transparency* to use data to make better-informed decisions, answer questions, and build trust with the public.

Fiscal Considerations:

N/A

Charter Section 225 Disclosure of Business Interests:

N/A

Environmental Impact:

The Unauthorized Camping Ordinance is categorically exempt from CEQA pursuant to CEQA Guidelines Sections 15301(d) (Existing Facilities) and 15308 (Actions by Regulatory Agencies for Protection of the Environment). CEQA Guidelines Section 15301(d) exempts the repair and maintenance of existing public structures and facilities and covers the restoration or rehabilitation of deteriorated or damaged structures, facilities, or mechanical equipment to meet current standards of public health and safety, unless it is determined that the damage was substantial and resulted from an environmental hazard such as earthquake, landslide, or flood. This ordinance prohibits unauthorized camping on public property deemed sensitive from a public health and safety perspective and/or an environmental perspective. The ordinance addresses public health and safety risks associated with the spread of disease and environmental contamination and reduces risks for people experiencing homelessness of serious harm or deaths related to vehicle or train incidents, being preyed upon by drug dealers, and accidental drug overdoses. Clearing encampments in parks, open space, and near schools would restore deteriorated existing public structures and facilities and would ensure that they are maintained in a manner that meets current standards of public health and safety, as covered in CEQA Guidelines Section 15301(d). CEQA Guidelines Section 15308 covers actions taken by regulatory agencies, as authorized by state or local ordinance, to assure the maintenance, restoration, enhancement, or protection of the environment where the regulatory process involves procedures for protection of the environment. Prohibiting unauthorized camping at any time in open space and near City waterways would protect environmentally sensitive areas and reduce water pollution from unregulated human activity. None of the exceptions to the exemptions as outlined in CEQA Guidelines Section 15300.2 would apply.

Climate Action Plan Implementation:

N/A

Equal Opportunity Contracting Information (if applicable):

N/A

Previous Council and/or Committee Actions:

N/A

Planning Commission Action:

N/A

Key Stakeholders and Community Outreach Efforts:

Schools impacted by encampments, neighborhoods in the East Village, downtown, and several other communities impacted by multiple tents and or encampments. The San Diego River Foundation, beach communities, and communities near canyons and open space impacted by fire danger. District 3 Councilmember Stephen Whitburn and his staff have presented information on the ordinance and safe sleeping to multiple community groups. List of groups is in the background materials.

Bridget Naso

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Policy Advisor

Jacob O'Neill

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Chief of Staff/Department Director