



Specifically, the ordinance:

- Amends Chapter 8.36 – Camping on Public Property by narrowing the scope of unlawful camping on public property, prohibiting unlawful camping on private property, prohibiting fires and cooking on public property and prohibiting storage or leaving unattended personal property in public areas during certain times of day
- Amends Section 8.28.050 concerning distribution or solicitation to persons in vehicles by adding “sales” to the conduct to be regulated
- Adds a new Chapter 8.34 to address various types of solicitation, such as aggressive solicitation and soliciting to motor vehicles stopped at a traffic signal, sign or light
- Adds a new Chapter 8.38 to address obstruction of property, trespassing and disorderly conduct
- Amends Section 8.44.040 concerning consumption and possession of alcoholic beverages in certain public places and city parks by adding Holiday Park and Pine Avenue Community Park to the prohibited locations (exceptions apply)

The proposed ordinance provisions will be included in Title 8 of the code, which concerns protection of public peace, morals and safety. Its provisions address increasing community concerns with public peace, safety, health and the environment that have been voiced in community meetings and communications to city staff and elected officials and verified by statistical data discussed in this staff report. The ordinance’s provisions are intended to protect the health, safety and welfare of all Carlsbad residents, businesses and visitors.

The proposed provisions are drafted to be limited in scope and to comply with existing applicable federal and state law. Because the law in this area is constantly evolving, staff will continue to monitor developments and adjust enforcement activities appropriately, returning to the City Council with additional proposed amendments or additions as appropriate.

### Discussion

#### Carlsbad Police Department data

The Carlsbad Police Department has identified a noticeable increase in the number of homeless encampments and homeless-related calls for service over the last five years, as illustrated in the table below:

<b>Homeless-related calls for service*</b>		
	<b>Calls</b>	<b>Average per month</b>
<b>2017</b>	3,463	289
<b>2018</b>	4,480	373
<b>2019</b>	4,623	385
<b>2020</b>	4,497	375
<b>2021 (as of 8/31)</b>	3,975	497

\* These calls for service include both citizen- and officer-initiated calls for service.

The city’s homeless-related crime reports also show a generally increasing trend, according to police department data shared in the Homeless Response Plan update at the May 14, 2019, City Council meeting and additional data attached as Exhibit 1. Not all calls for service resulted in an

arrest or a citation. Some calls for service were resolved through a warning or did not involve citable conduct. Of those calls for service that resulted in an arrest, the most prevalent crimes included narcotics offenses,<sup>1</sup> being drunk in public, assault and property crimes, such as larceny. Community members have also complained about hostile homeless individuals they have encountered near city beaches or public parks, as well as fights observed among homeless persons, which do not necessarily generate calls for service or rise to the level of criminal conduct.

In addition to these safety concerns, the Police Department’s Homeless Outreach Team, or HOT, has documented numerous instances of illegal encampments polluting waterways and causing environmental harm to open space areas with waste products, camping equipment and abandoned property. The Police Department and the Fire Department have also encountered multiple fires in public and open space areas that are not citable under any local or state law, but which pose a safety hazard to the community.

As shown in Exhibit 1, the Police Department has allocated substantial funding to its homeless response budget over the past five fiscal years. Below is a summary of these budgets:

<b>Police Department homeless response budget</b>	
<b>FY 2017-18</b>	\$1.1 million
<b>FY 2018-19*</b>	\$362,555 +
<b>FY 2019-20</b>	\$946,400
<b>FY 2020-21</b>	\$2,151,238
<b>FY 2021-22</b>	\$1,192,227

\* The FY 2018-19 the budget is documented as “N/A” in Exhibit 1 due to a shared budget with the Crime Suppression Team during that year. The budget for the two dedicated HOT police officers during that period was \$362,555.

The department’s homeless response budget for FY 2021-22 is comparatively lower than it was in the previous fiscal year because the City Council voted in March 2021 to create a new Department of Housing and Homeless Services, and many homelessness related contracts have been moved to the new department’s budget. The Homeless Division’s FY 2021-22 budget is \$4,793,786.

**Legal landscape**

Meanwhile, the legal landscape concerning homelessness, civil rights and law enforcement has been quickly evolving in California and nationwide. People experiencing homelessness and special interest groups have successfully challenged local ordinances and state laws on constitutional grounds, including the First Amendment right to use public open space for free speech, expression and association; the Fourth Amendment right against unreasonable search and seizure of places and property to which one has a reasonable expectation of privacy; the

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<sup>1</sup> Drug use is rampant among San Diego County arrestees, and particularly among the homeless population. In October 2020, SANDAG published a Criminal Justice Bulletin titled “2019 Adult Arrestee Drug Use in the San Diego Region,” providing statistics on drug use by 2019 arrestees. The bulletin reports that drug use is at a 20-year high, with 79 percent of male adult arrestees and 82 percent of female adult arrestees testing positive for at least one illicit substance.

Eighth Amendment right against cruel and unusual punishment, i.e., criminalization based merely on unavoidable status or the exercise of human necessities such as sleeping; and the Fourteenth Amendment right to due process of law. Many cases have resulted in increased legal protection for the homeless, including amended ordinances and legal settlements. These measures passed legal muster because they came with reasonable time, place and manner restrictions rather than enacting wholesale prohibitions on types of conduct.

From a law enforcement perspective, the following changes in state law limit law enforcement's ability to protect the public from certain low-level offenses that may impact the community's quality of life:

- **Assembly Bill 109 – The Public Safety Realignment Act, 2011**  
The responsibility of incarcerating criminals convicted of certain serious felony violations was permanently transferred from state prisons to county jail facilities. The housing of serious felons in county jails has resulted in less capacity for minor offenders for violations such as quality of life crimes.
- **Proposition 47 – The Safe Neighborhood & Schools Act, 2014**  
This measure reclassified certain felonies as misdemeanors and created new misdemeanor offenses. Under this law, simple possession of illegal drugs including cocaine, heroin, fentanyl and methamphetamine are classified as misdemeanors. Several other crimes that had previously been classified as felonies are now misdemeanors unless the defendant has one of a handful of very specific serious and violent prior convictions. Offenses including shoplifting, theft, forgery, fraud and receiving stolen property, in which the value of the items involved in the offenses are under \$950, are all misdemeanors.
- **Proposition 57 – Parole for Non-Violent Criminal Act, 2016**  
Gives the California Board of State and Community Corrections the authority to release up to 30,000 “non-violent” inmates from California State prisons. Crimes not already defined as “violent” are now deemed “non-violent.”

Environmental legal issues are also of increasing concern as open space areas and watercourses become polluted from unlawful campsites, litter and human waste. Various regional water quality control boards throughout the state have collaborated with local and state agencies and non-profit entities to identify and promote solutions that reduce water quality impacts associated with people experiencing homelessness. The local Regional Water Quality Control Board has the authority under a regional permit to cite the city for any pollutants or other illegal discharges in the city's stormwater systems. Such discharges constitute a violation of the federal Clean Water Act, regardless of the pollutants' origin or cause. The city may face substantial liability in such actions, including civil penalties of up to \$25,000 per day, revocation of its regional permit and even criminal liability for negligent or knowing actions.

As the homelessness crisis in California continues to grow, many cities have begun to offer more shelter options,<sup>2</sup> housing and other assistance for the homeless. At the same time, many cities have adopted new ordinances and policies to protect the health, safety and welfare of the community at large while also respecting individual rights. Cities throughout the state, including Los Angeles and San Diego, are continuing to adopt and enforce ordinances to regulate camping, obstruction of public and quasi-public property, trespassing and other activities that impact their communities' quality of life. Though enforcement of these ordinances and policies was permanently or partially suspended during the COVID-19 pandemic emergency, cities have begun to resume enforcement in recent months as the emergency has evolved.

### **Carlsbad Municipal Code**

Currently, the code addresses some of the current quality of life concerns in Carlsbad, which may or may not be associated with homelessness. Existing offenses include:

- Camping on public property
- Urinating/defecating in public
- Open alcohol containers and drinking in public in the Village Barrio Master Plan area
- Scavenging
- Entering parks or beaches after the posted closing times
- Obstructing walkways in parks
- Erecting structures in parks
- Distribution or solicitation to persons in vehicles

Most of the city's misdemeanor cases for these offenses have been worked out through negotiated plea offers. The plea offers have often included a term of probation, stayed custody – that is, no jail time unless there has been a probation violation, an order to stay outside of a certain radius of the site in question (mostly for unlawful camping cases) and proof of contact with a homeless outreach program if the offender is homeless. These cases resulted in many successful terms of probation that linked homeless defendants with homeless outreach programs and successfully cleared encampments from environmentally sensitive and other problematic public areas.

City staff have hosted several homelessness and public safety outreach meetings and have heard the community's concerns about quality of life issues. The community has communicated its desire for more accountability for disruptive and low-level criminal behavior. Additionally, staff have conducted a multi-year survey and analysis of the city's quality of life ordinances cross-referenced with the applicable law in this field, the legal track record of other cities' quality of life ordinances, police and fire enforcement data and HOT field encounters.

Staff recommend that the noted provisions be modified or added to the municipal code to balance the rights of the community and the rights of homeless people. These provisions are outlined in detail in the subsections that follow.

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<sup>2</sup> While shelter options are expanding statewide, as of 2019, there were approximately 144 open beds in North County for emergency shelter. An additional four beds are allocated to transitional age youth through the YMCA, and an additional 34 beds are available between December and March, the winter months. This count does not include COVID-19 hotels for "at-risk" individuals operated during 2020 and 2021.

## **Recommendations**

Staff recommend that all of the following quality of life offenses be chargeable as a misdemeanor, consistent with the penalties set forth in Section 1.08.010(B) of the code. In practice, police officers use their discretion to issue infraction citations, make misdemeanor arrests or issue warnings in lieu of enforcement. The City Attorney's Office also has the authority to downgrade a misdemeanor charge to an infraction.

### **A. Amend Chapter 8.36 – Camping on public property**

Chapter 8.36 of the code currently seeks to “maintain public streets, public parks, public beaches and other public property within the city in a clean and accessible condition and to protect the public health and environment by ensuring that camping occurs only in those areas where appropriate provisions have been made for handling camping-related waste.” Section 8.36.030 currently prohibits persons from camping on any “public street, public park, public beach, or other public property, except in areas which have been specifically posted and designated for such purposes.” Camping includes the erection or occupation of a “camp facility,” which includes by definition a camper, motor home, RV or other vehicle used for sleeping or living quarters.

#### **1. Camping on public property**

The proposed amendments related to unlawful camping on public property expand the purpose and definitions provisions of Chapter 8.36 (Exhibit 4). The definition of “camping” is more narrowly tailored to highlight that camping does not include “picnicking, sitting, lying, or sleeping in an outdoor area or in a camp facility that is not being used for living accommodations purposes” (see proposed Section 8.36.020 in Exhibit 4). Additionally, the term “camp facility” would no longer include vehicles used for sleeping or living quarters. Based on pending litigation in other jurisdictions, it is not advisable to restrict camping in vehicles without the offer of an alternative motorized living accommodation such as a safe parking lot.

Section 8.36.030 – Unlawful camping on public property essentially codifies current Police Department enforcement policy by including time and place restrictions on enforcement. Unlawful public camping citations would not be issuable between the hours of 10 p.m. and 6 a.m., except on open space property<sup>3</sup> where citations may be issued any time of day. People may also be cited for unlawful camping if they have realistic access to alternative temporary or permanent shelter and willfully refuse such shelter for any reason unrelated to the exercise of a First Amendment or other state or federal constitutional right. Other code provisions would still be enforceable overnight, such as Section 11.32.030(9), which prohibits persons from being on city park property between the hours of 10 p.m. and 8 a.m., since signage designates that parks are closed to the public during these times.

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<sup>3</sup> “Open space” is defined in proposed Section 8.36.020 as “any parcel of land or water which is unimproved and devoted to an open space use, and which is designated as part of the Open Space Zone in the Carlsbad Zoning Ordinance.”

The proposed amendment's tailored enforcement of sitting, lying and sleeping in public places is compatible with the federal Ninth Circuit panel decision [Martin v. City of Boise](#), a case related to an ordinance in Boise, Idaho. In Martin, the Ninth Circuit found that an ordinance violates the cruel and unusual punishment clause of the Eighth Amendment if it imposes criminal sanctions against homeless individuals for sitting, lying or sleeping outdoors on public property when no alternative shelter is available to them. However, the ruling in Martin is narrow in that it does not permit individuals to sit, lie or sleep on the streets at any time or at any place; nor does it prohibit cities from regulating camping and storage of personal property. Rather, the court found that even if shelter is unavailable, an ordinance may constitutionally prohibit sitting, lying or sleeping outside at particular times or in particular locations, and an ordinance could bar the obstruction of public rights of way or the erection of certain structures. Finally, the court stated that its ruling does not apply to individuals who have access to adequate temporary shelter, but who choose not to use it.

The proposed amendment's time and place restrictions on enforcement in public places provide homeless persons reasonable times and places to lawfully carry out "universal and unavoidable" human activities, such as sleeping. The time and place restrictions can be narrowed by a future ordinance amendment should the city expand temporary or permanent shelter and housing options for its homeless population.

## **2. Camping on private property**

The proposed amendment to Chapter 8.36 also adds a provision to protect private property owners and lessees from people who camp on their property without permission. Most North County cities' municipal codes include such a provision, including the cities of Oceanside, Vista, San Marcos, Encinitas, Del Mar and Escondido. Not only would this provision protect private property owners, but it would also protect the public health, safety and environment in cases of unauthorized campsites that are located at or near shopping centers frequented by the public or on environmentally sensitive open space private property.

The California Penal Code provisions for trespassing on private property are not always applicable to camping on private property cases, and the District Attorney's Office infrequently files charges in such trespass cases. This provision would give the city the means of prosecuting such violations.

## **3. Fires on public property**

Section 11.32.030(2) of the code prohibits people from starting or maintaining any fire in or upon any park or beach within the city, except in areas specially designated by the city manager for such fires. But there is no municipal code section that prohibits the starting or maintaining of fires on public property citywide. Police officers and firefighters have encountered illegal encampments outside of city parks and beaches, some of them with fires.

Carlsbad Fire Department data for 2020 and for 2021 through August 10 reveals a significant number of fires associated with homeless persons (see Exhibit 2). In 2020, there were 126 such fires that required extinguishing or other fire department resources. To date in 2021, there have been 87 such fires. The majority of these fires

occurred outdoors and could quickly spread to a dangerous or life-threatening uncontrolled outdoor fire.

Patrol officers have witnessed small fires in encampment and open space areas, but they have no legal authority to cite the responsible party. The California Penal Code does not have an applicable provision unless the fire rises to the level of an arson, which would require willful or malicious setting fire to or burning of a structure, forest land or property.

Adding Section 8.36.040 would outlaw starting or maintaining a fire or cooking on public property unless specially authorized by a license, permit or the City Manager. This would give the Police Department an additional tool to prevent potentially dangerous fires from spreading outside of their intended area.

#### **4. Storage of personal property in public areas**

The code does not have any provisions that regulate the storage of personal property in public areas. However, the Police Department has developed internal policies and training bulletins that standardize encampment cleanups, including guidelines on the storage and disposal of personal property found in public areas. Other city departments such as Library & Cultural Arts rely on rules of conduct that broadly regulate the storage of private property in shared public spaces.

Proposed Section 8.36.050 provides a mechanism to facilitate the cleanup of personal property stored in public areas, including encampment cleanups. The definitions section of Chapter 8.36 has been supplemented to clarify terms used in this new section.

Subsection (A) of Section 8.36.050 prohibits the storage of personal property in public areas between the hours of 6 a.m. and 10 p.m., the same timeframe that unlawful camping on public property would be prohibited.

Subsection (B) permits designated city personnel, in most cases the Police Department or its contractors, to remove and store personal property unlawfully stored on public property in accordance with applicable police procedures.

Subsection (C) makes it unlawful for persons to interfere with or obstruct the removal of such personal property.

#### **B. Amend Section 8.28.050 – Distribution or solicitation to persons in vehicles and add new Chapter 8.34 – Solicitation**

Section 8.28.050 – Distribution or solicitation to persons in vehicles addresses some of the complaints the city has received with regard to solicitation of motorists (Exhibit 5). However, the ordinance has many exceptions, governed by two maps that are difficult for officers to quickly apply in a given scenario. Indeed, police have rarely cited individuals under this section since the ordinance was passed in 2000. The ordinance was originally passed to address newspaper hawkers and day laborers, which are now a minimal issue.

Outside of the code, police have the option of charging someone with the offense of panhandling under State Vehicle Code Section 22520.5(a), which outlaws soliciting on a roadway and near a freeway ramp. A first violation of this section is an infraction.

Aggressive panhandling is chargeable under California Penal Code Section 647(c), resulting in a disorderly conduct misdemeanor charge. Both of these offenses are prosecuted by the county District Attorney's Office rather than the City Attorney's Office.

The proposed Chapter 8.34 on solicitation (Exhibit 6) regulates a slightly wider range of conduct than does the current Section 8.28.050 and state law. It prohibits:

- Aggressive solicitation throughout the city (as defined in the ordinance)
- Solicitation by approaching motor vehicles stopped at a traffic signal, sign or light
- Distribution of materials to vehicle occupants stopped at a traffic signal, sign or light
- Solicitation of a person in a public parking lot or structure after dark

This chapter also incorporates two provisions from the recently repealed and amended Chapter 8.32 – Vending and soliciting relating to soliciting, selling or canvassing on private property.

This new chapter is intended to provide the Police Department with a more workable tool to protect the safety of the general public against abusive conduct from persons engaged in solicitation. The ordinance is narrowly tailored with reasonable time, place and manner restrictions on solicitation in order to respect the constitutional right of free speech for all citizens. Additionally, violators must be warned before being cited. This chapter has been tailored to address areas of problematic solicitation within the city. Larger cities such as Los Angeles have more expansive and aggressive solicitation ordinances that would not be appropriate for Carlsbad.

### **C. Add new Chapter 8.38 – Obstruction of property, trespass, and disorderly conduct**

A description of each section in proposed Chapter 8.38 (Exhibit 7) is provided below. The obstruction and trespassing sections require a warning or signage before someone can be cited.

#### **1. Add new Section 8.38.030 – Unlawful obstruction of property**

Section 11.32.030 of the code governs “unlawful acts” in parks and beaches located within city limits. Subsection (25) of Section 11.32.020 makes it unlawful “(f) or any person to assemble, collect or gather together in any walk, passageway, or pathway set apart for the travel of persons through any park or beach or to occupy same so that the free passage or use thereof by persons passing along the same shall be obstructed in any manner.”

Proposed Section 8.38.030 supplements Section 11.32.030 with a more expansive provision prohibiting the obstruction of all of these areas within the city:

- Public sidewalk, street, curb, parkway, crosswalk, walkway or pathway area, highway or park
- Shopping center or other private property open to the patronage of the public

“in any manner that partially or completely blocks, obstructs, prevents or otherwise hinders the free movement of people who may or may not yet be present at the location in question, or in any manner that impedes passage in contravention of federal or state disability access laws.”

Staff recommend this provision based on officer encounters and complaints from community members that their access to public passageways, parks and certain private properties open to the public has been blocked or hindered by encampments or individuals who loiter, sleep or leave possessions or structures in these areas. When confronted or asked to move, some individuals refuse to do so and/or exhibit aggressive behavior. This conduct puts the public safety at risk.

**2. Add new Section 8.38.040 – Trespass on parking lots, shopping center property, and other private property open to the patronage of the public**

The code does not have a general trespassing ordinance that protects private property owners. The only trespass ordinance is contained in Section 11.32.030(8), which prohibits trespassing in parks or beaches where posted. Police have the option of charging trespassers on private property under California Penal Code Sections 602(o) and 602.1(a). Squatting can be charged under Penal Code Section 602(m). These charges are handled by the District Attorney's Office.

The proposed Section 8.38.040 protects the rights of private property owners and the general public, who may repeatedly encounter and feel threatened by individuals who remain on, wander, idle or loiter on any parking lot, shopping center property or any other private property open to the public without visible or lawful business with the owner or occupant or without written permission of the owner or possessor. By prosecuting such offenders through the City Attorney's Office, rather than the District Attorney's Office, the city can maintain more control over offenders and route them to necessary services as a condition of probation.

**3. Add new Section 8.38.050 – Disorderly conduct**

The Police Department is limited in its enforcement capabilities under California Penal Code Section 415 – Disturbing the peace. This Penal Code provision requires a citizen's arrest by the person whose peace is being disturbed, i.e., the victim and/or witness, to arrest someone for a misdemeanor offense.

New Section 8.38.050 regulates conduct similar to that in Penal Code Section 415 without the requirement of a witness, other than a police officer, for most of the named offenses.

**D. Amend Section 8.44.040 – Consuming or possessing an open container of alcoholic beverages in certain public places and parks owned by the city prohibited**

Section 8.44.040 of the code prohibits anyone from possessing an open alcohol container or consuming any alcoholic beverage in any public street, sidewalk, alley, highway or public parking lot in the city's V-B Village Barrio Zone – the city's downtown and historic center – and in Rotary Park. Under Section 8.44.020, drinking on any publicly accessible beach, or on any street, sidewalk, alley, highway, public parking lot or bluff-top adjacent to such beach is strictly prohibited, with the exception of the South Carlsbad State Beach campgrounds.

The proposed amendment to Section 8.44.040 (Exhibit 8) expands the open alcohol container prohibition to include Holiday Park and Pine Avenue Community Park. The ordinance provides an exception for persons who obtain a special event permit or a park

and facility use permit before scheduling an event in public spaces that will include the possession or consumption of open alcohol containers.

Consumption of alcohol in public may be charged as a misdemeanor, while the possessory offense must be charged as an infraction, in accordance with the California Business and Professions Code.

Staff recommend this amendment based on resident complaints and police enforcement issues with alcohol being abused in these parks and on other city properties where homeless individuals and others congregate. Abuse of alcohol creates health and safety issues for both the abuser and the public at large.

### Options

The following options are provided for the City Council's consideration:

1. Introduce the proposed ordinance, which amends or adds the following code provisions:
  - Amends Chapter 8.36 – Camping on Public Property
  - Amends Section 8.28.050 – Distribution or solicitation to persons in vehicles
  - Adds new Chapter 8.34 – Solicitation
  - Adds new Chapter 8.38 – Obstruction of Property, Trespass, and Disorderly Conduct
  - Amends Section 8.44.040 – Consuming or possessing an open container of alcoholic beverages in certain public places and parks owned by the city prohibited

### Pros

- City ordinances, as opposed to Penal Code citations, provide the Police Department with a more tailored enforcement option to address these quality of life issues at the infraction and misdemeanor level.
- These changes in the municipal code address concerns the community expressed during district townhall meetings related to homelessness.
- The ordinance complements the homeless resources authorized by the City Council at the March 23, 2021, meeting.
- Misdemeanor cases could result in plea offers that require stay-away orders and contacts with homeless services providers as a condition of probation. Stay-away orders could alleviate the proliferation of encampments in ecologically sensitive areas such as watercourses and native habitat areas, as well as in city parks and parks frequented by the public.

### Cons

- May disproportionately affect unsheltered persons.
- The city cannot control the outcome of a criminal case once filed; not every case will result in a finding of guilt.
- Citations can create legal and financial barriers for people trying to exit the cycle of homelessness.
- Some homeless people may have difficulty complying with the unlawful camping and storage of property ordinances during the daytime hours because of a lack of public storage facilities and shelter resources.

2. Direct staff to return with an ordinance that includes some of the proposed amendments and additions, as identified by the City Council

Pros

- Adoption of any of the proposed additions or amendments to the code adds enforcement tools for the Police Department to use judiciously as the circumstances warrant.
- Adopting just the amendments for Chapter 8.36.030 – Camping on Public Property would make the city’s existing unlawful public camping ordinance consistent with current law, rather than relying on police policies to achieve this same goal.

Cons

- The elimination or modification of the proposed amendments or additions could limit local enforcement options for quality of life offenses and related community concerns.

2. Do not introduce the ordinance.

Pros

- All of the cons in Option 1

Cons

- All of the pros in Option 1

Staff recommend that the City Council select Option 1 and introduce the ordinance with all of the proposed amendments and additions discussed in this staff report.

**Fiscal Analysis**

The proposed ordinance should not have an appreciable fiscal impact. It is difficult to predict whether enforcement of the new provisions such as unlawful camping on private property, storage of private property in public places, obstruction, trespass and open containers of alcohol in Pine Avenue Community Park and Pine Park will impact overall police calls for service. Enforcement costs for unlawful public camping offenses will remain substantially the same, since the ordinance amendments essentially codify existing police policies. The Police Department, its Homeless Outreach Team and the City Attorney’s Office will continue to use available resources and the different enforcement options available to address community concerns on this important issue.

**Next Steps**

If the ordinance is introduced by the City Council, the City Clerk’s Office will prepare it for adoption at the next regular City Council meeting. Once it is adopted, the City Clerk will publish the ordinance or a summary of the ordinance in a newspaper of general circulation within 15 days. The ordinance will be effective 30 days following its adoption. Staff will provide updates, as appropriate, on the implementation of this ordinance in the quarterly updates for the City Council’s goal to “reduc[e] the unsheltered homeless population by 50%, among those who want help, within the next five years.”

### Environmental Evaluation (CEQA)

In keeping with California Public Resources Code Section 21065, this action does not constitute a “project” within the meaning of the California Environmental Quality Act in that it has no potential to cause either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment. Therefore, it does not require environmental review.

### Public Notification

This item was noticed in accordance with the Ralph M. Brown Act and was available for public viewing and review at least 72 hours prior to the scheduled meeting date.

### Exhibits

1. Police Department homeless response data
2. Homeless related fires in the City of Carlsbad 2020-2021
3. Proposed ordinance:
  - a. Amends Chapter 8.36 – Camping on Public Property
  - b. Amends Section 8.28.050 – Distribution or solicitation to persons in vehicles
  - c. Adds new Chapter 8.34 – Solicitation
  - d. Adds new Chapter 8.38 – Obstruction of Property, Trespass, and Disorderly Conduct
  - e. Amends Section 8.44.040 – Consuming or possessing an open container of alcoholic beverages in certain public places and parks owned by the city prohibited
4. Version of Chapter 8.36 showing revisions
5. Version of Section 8.28.050 showing revisions
6. Version of new Chapter 8.34 showing revisions
7. Version of new Chapter 8.38 showing revisions
8. Version of Section 8.44.040 showing revisions

Homeless Calls for Service		Homeless Crimes		Unlawful Camping Citations and Warnings		Homeless Arrests by Type				
Jan-17	183	Jan-17	31	Jan-17			2018	2019	2020	2021
Feb-17	217	Feb-17	21	Feb-17	3	ARSON	1		2	
Mar-17	269	Mar-17	30	Mar-17		ASSAULT	7	15	19	12
Apr-17	231	Apr-17	28	Apr-17	4	BURGLARY	5	8	10	3
May-17	238	May-17	21	May-17	7	CHILD AND FAMILY	1	2	4	4
Jun-17	235	Jun-17	24	Jun-17	2	DEADLY WEAPONS	7	11	2	3
Jul-17	340	Jul-17	42	Jul-17	8	EMBEZZLEMENT				1
Aug-17	382	Aug-17	38	Aug-17	12	FORGERY	1		2	
Sep-17	406	Sep-17	38	Sep-17	10	FRAUD	2	6	10	2
Oct-17	370	Oct-17	39	Oct-17	9	LARCENY	5	10	18	4
Nov-17	342	Nov-17	42	Nov-17	1	MALICIOUS MISCHIEF	3	2	3	2
Dec-17	250	Dec-17	32	Dec-17	3	NARCOTIC	57	88	130	35
Jan-18	346	Jan-18	50	Jan-18	5	OTHER NON-CRIMINAL	36	63	28	14
Feb-18	285	Feb-18	29	Feb-18	5	OTHER PART II CRIME	97	167	201	115
Mar-18	371	Mar-18	44	Mar-18	15	ROBBERY	1	4	2	
Apr-18	383	Apr-18	48	Apr-18	12	SEX CRIMES	1	1	5	4
May-18	357	May-18	45	May-18	15	VEHICLE THEFT	4	4	6	1
Jun-18	369	Jun-18	49	Jun-18	12					
Jul-18	419	Jul-18	96	Jul-18	3					
Aug-18	445	Aug-18	78	Aug-18	16					
Sep-18	274	Sep-18	82	Sep-18	20					
Oct-18	331	Oct-18	65	Oct-18	7					
Nov-18	307	Nov-18	86	Nov-18	12					
Dec-18	355	Dec-18	53	Dec-18	9					
Jan-19	274	Jan-19	57	Jan-19	9					
Feb-19	345	Feb-19	66	Feb-19	26					
Mar-19	438	Mar-19	76	Mar-19	16					
Apr-19	469	Apr-19	54	Apr-19	6					
May-19	355	May-19	92	May-19	5					
Jun-19	364	Jun-19	59	Jun-19	19					
Jul-19	407	Jul-19	86	Jul-19	1					
Aug-19	452	Aug-19	53	Aug-19	14					
Sep-19	476	Sep-19	52	Sep-19	17					
Oct-19	347	Oct-19	52	Oct-19	12					
Nov-19	295	Nov-19	93	Nov-19	12					
Dec-19	401	Dec-19	86	Dec-19	6					
Jan-20	365	Jan-20	62	Jan-20	19					
Feb-20	365	Feb-20	70	Feb-20	12					
Mar-20	360	Mar-20	82	Mar-20	2					
Apr-20	351	Apr-20	58	Apr-20						
May-20	394	May-20	159	May-20						
Jun-20	322	Jun-20	83	Jun-20						
Jul-20	359	Jul-20	72	Jul-20						

Aug-20	391	Aug-20	129	Aug-20	1
Sep-20	305	Sep-20	76	Sep-20	
Oct-20	432	Oct-20	77	Oct-20	
Nov-20	413	Nov-20	96	Nov-20	
Dec-20	440	Dec-20	93	Dec-20	
Jan-21	438	Jan-21	112	Jan-21	
Feb-21	452	Feb-21	82	Feb-21	
Mar-21	401	Mar-21	83	Mar-21	
Apr-21	452	Apr-21	78	Apr-21	
May-21	541	May-21	98	May-21	
Jun-21	617	Jun-21	88	Jun-21	1
Jul-21	521	Jul-21	104	Jul-21	0
Aug-21	534	Aug-21	86	Aug-21	0

	2018	2019	2020	2021	TOTAL
<b>OTHER NON-CRIMINAL</b>	<b>36</b>	<b>63</b>	<b>28</b>	<b>14</b>	<b>141</b>
CONTEMPT OF COURT:DISOBEY COURT ORDER (M)	2	1		1	4
COUNTY/MUNICIPAL ORDINANCES	1				1
FELONY OTHER AGENCY'S WARRANT	8	20	15	10	53
MISDEMEANOR OTHER AGENCY'S WARRANT	19	38	5	1	63
OPERATE MOTOR VEHICLE W/0.01% OR MORE BAC WHILE ON PROBATION FOR DUI (I)			2	1	3
PITCH TENT IN PUBLIC PLACE-(I)			2		2
POSSESSION OF OPEN CONTAINER NEAR LIQUOR BUSINESS-(M)		2			2
PROBATION VIOLATION:REARREST/REVOKE	1	1	1		3
RECOVERY OF STOLEN VEHICLE		1	1		2
UNAUTHORIZED ACTS RELATING TO TRANSIT FACILITIES (M)			1		1
UNLAWFUL CAMPING-(I)	4		1		5
URINATING OR DEFICATING IN PUBLIC-(M)	1			1	2
<b>OTHER PART II CRIME</b>	<b>97</b>	<b>167</b>	<b>201</b>	<b>115</b>	<b>580</b>
APPROPRIATE LOST PROPERTY (\$950 OR LESS) (M)		1	1		2
ATTEMPT TO COMMIT 496 PC:STOLEN PROP (F)		2			2
CARRY SWITCHBLADE KNIFE ON PERSON (M)		1			1
COMMIT FEL ON BAIL OR O/R RELEASE (BAIL+)	1			1	2
CONSPIRACY:COMMIT CRIME (F)	1	2	6		9
CONSPIRACY:COMMIT CRIME (M)		1	1		2
CONTEMPT OF COURT:DISORD BEHAVIOR (M)			1		1
CONTEMPT OF COURT:VIOLATE PROTECTIVE ORDER (M)			1	1	2
DESTROY/CONCEAL EVIDENCE (M)				1	1
DISORD CONDUCT:FIGHT/CHALLENGE FIGHT PUB PLACE (M)			1		1
DISORD CONDUCT:PROWL/LOITER PRIVATE PROP (M)			1		1
DRIVE W/O INTERLOCK Dev WHEN REQUIRED (M)				1	1
DRUNK IN PUBLIC: ALCOHOL, DRUGS, COMBO OR TOLUENE (M)	36	66	84	42	228
DRVG WHILE LIC SUSP OR REVOKED (M)			1	1	2
DRVG WHILE LIC SUSP OR REVOKED:OTHER REASONS (M)		1			1
DRVG WITHOUT VALID DRVR'S LIC (M)			1		1
DUI ALC/0.08 PERCENT (M)		2	1	1	4
DUI ALCOHOL (M)		3	1	2	6
DUI DRUG (M)		1	1	1	3
DUMP OR ABANDON REFUSE/ETC IN OR NEAR STATE WATERS (M)			1		1
EVADE PEACE OFCR WITH WANTON DISREGARD FOR SAFETY (F)	1				1
FAIL TO PROVIDE WRITTEN PROMISE AT ARREST				1	1
FAILED TO STOP FOR STOP SIGN (I)				1	1
FALSE IDENT TO PEACE OFCR (M)	1	2	3		6
FALSE IMPRISONMENT (M)			1		1
FELONY BENCH WARRANT (OUR AGENCY)	2	1	3	5	11
FLASH INCARCERATION			1		1
KIDNAPPING (F)	1				1
LICENSEE LET MINOR CONSUME LIQUOR (M)		1			1
LITTER PUBLIC/PRIVATE PROP (I)	1				1
MAKE Mot Veh KEY W/O WORK ORDER (M)		1			1
MENTAL DISORDER 72 HR OBSERVATION	13	25	43	36	117
MISDEMEANOR BENCH WARRANT (OUR AGENCY)	10	11	3		24
NARCOTIC ADDICT POSS/BUY/USE STUN GUN (M)	2				2
OBSTRUCT/RESIST PEACE OFCR/EMER MED TECH (M)	3	7	12	8	30
POSS BURGLARY TOOLS (M)	3	2	3		8
POSS SHOPPING/LAUNDRY CART (M)		3		1	4
POSS STOLEN VEH/VESSEL (F)	4	5	6		15
POSSESS SWITCHBLADE IN VEHICLE (M)			1		1
PRCS VIOLATION	1				1
PROBATION VIOLATION:REARREST/REVOKE [STATE SPECIFIC CRIME]		1	2		3
RECEIVE/ETC KNOWN STOLEN PROPERTY (F)	3	3	1		7
RECEIVE/ETC KNOWN STOLEN PROPERTY [\$950 OR LESS] (M)	6	3	4	2	15
REMOVE SHOPPING/LAUNDRY CART (M)			1		1
SELL LIQUOR TO MINOR (M)		1			1
SMOKING IN PUBLIC PARKS & BEACH PROHIBITED (I)-(I)	1				1
SOLICIT ON FWY & ON/OFF RAMP (M)		1			1
THROW SUBS AT VEH ON HWY (M)		1			1
TRESPASS:ENTER AFTER NOTIF. BY PEACE OFCR ON BEHALF OF OWNER (M)	1	1		1	3
TRESPASS:OBSTRUCT BUSINESS OPERS (M)			2	5	7
TRESPASS:OCCUPY REAL PROPERTY W/O OWNER CONSENT (M)	3	9	1	1	14
TRESPASS:REFUSE TO LEAVE PROPERTY:PEACE OFFICER REQUEST (M)			4		4
TRESPASSING (M)	1	4	4	2	11
VIOLATION PAROLE:FELONY	2	5	4	1	12

HOT Budget by Year	
2018-19	n/a
2019-20	\$ 946,400.00
2020-21	\$ 2,151,238.00
2021-22	\$ 1,192,227.00

**2018-19 ORG KEY 0012137 - CST & HOT**  
*4 CST, 2 HOT, 1 Sergeant*

	BUDGETED EXPENDITURES	PER EMPLOYEE	x2.5 EMPLOYEES
<b>TOTAL PERSONNEL</b>	<b>\$ 688,145.00</b>	<b>\$ 144,316.95</b>	<b>\$ 360,792.38</b>
PRINTING	\$ -	\$ 9.43	\$ 23.57
TELEPHONE & COMMUNICATIONS	\$ -	\$ 123.00	\$ 307.50
MISC SUPP	\$ -	\$ 64.32	\$ 160.79
TRAINING/TRAINING RELATED TRVL	\$ -	\$ 497.76	\$ 1,244.41
MISC MEALS/MILES	\$ -	\$ 10.52	\$ 26.29
<b>TOTAL M &amp; O</b>	<b>\$ -</b>	<b>\$ 4,230.13</b>	<b>\$ 145,021.98</b>
			<b>\$ 362,554.94</b>

## Homeless Related Fires in City of Carlsbad 2020-2021\*

## EXHIBIT 2

Record Id	Incident Number	Incident Number1	Incident Type	Actions Taken
327155	2020-002165	2020-002165	142 - Brush or brush-and-grass mixture fire	11 - Extinguishment by fire service personnel, 12 - Salvage & overhaul
329466	2020-006705	2020-006705	150 - Outside rubbish fire, other	11 - Extinguishment by fire service personnel
332534	2020-012583	2020-012583	151 - Outside rubbish, trash or waste fire	11 - Extinguishment by fire service personnel
334445	2020-016377	2020-016377	112 - Fires in structure other than in a building	86 - Investigate
336886	2020-021238	2020-021238	112 - Fires in structure other than in a building	11 - Extinguishment by fire service personnel, 86 - Investigate
337480	2020-021817	2020-021817	142 - Brush or brush-and-grass mixture fire	13 - Establish fire lines (wildfire), 14 - Contain fire (wildland), 15 - Confine fire (wildland), 16 - Control fire (wildland)
340980	2020-027945	2020-027945	100 - Fire, other	11 - Extinguishment by fire service personnel, 86 - Investigate
342025	2020-029823	2020-029823	151 - Outside rubbish, trash or waste fire	12 - Salvage & overhaul, 84 - Refer to proper authority
343297	2020-029635	2020-029635	151 - Outside rubbish, trash or waste fire	11 - Extinguishment by fire service personnel, 12 - Salvage & overhaul
343582	2020-031931	2020-031931	151 - Outside rubbish, trash or waste fire	11 - Extinguishment by fire service personnel
343698	2020-032286	2020-032286	154 - Dumpster or other outside trash receptacle fire	11 - Extinguishment by fire service personnel, 12 - Salvage & overhaul, 51 - Ventilate, 52 - Forcible entry, 86 - Investigate
344295	2020-033009	2020-033009	100 - Fire, other	11 - Extinguishment by fire service personnel
344798	2020-032103	2020-032103	100 - Fire, other	11 - Extinguishment by fire service personnel, 12 - Salvage & overhaul, 86 - Investigate
344823	2020-034129	2020-034129	142 - Brush or brush-and-grass mixture fire	10 - Fire control or extinguishment, other, 12 - Salvage & overhaul
345309	2020-034538	2020-034538	151 - Outside rubbish, trash or waste fire	11 - Extinguishment by fire service personnel
345707	2020-033669	2020-033669	111 - Building fire	11 - Extinguishment by fire service personnel, 86 - Investigate
357196	2020-038103	2020-038103	170 - Cultivated vegetation, crop fire, other	11 - Extinguishment by fire service personnel
357782	2020-038842	2020-038842	151 - Outside rubbish, trash or waste fire	11 - Extinguishment by fire service personnel
357887	2020-039065	2020-039065	142 - Brush or brush-and-grass mixture fire	10 - Fire control or extinguishment, other, 11 - Extinguishment by fire service personnel, 16 - Control fire (wildland), 73 - Provide manpower
369911	2020-042322	2020-042322	100 - Fire, other	86 - Investigate
370991	2020-042515	2020-042515	100 - Fire, other	11 - Extinguishment by fire service personnel, 12 - Salvage & overhaul, 84 - Refer to proper authority, 86 - Investigate
371080	2020-042632	2020-042632	151 - Outside rubbish, trash or waste fire	11 - Extinguishment by fire service personnel
371509	2020-043184	2020-043184	142 - Brush or brush-and-grass mixture fire	11 - Extinguishment by fire service personnel, 73 - Provide manpower, 81 - Incident command
371520	2020-043341	2020-043341	142 - Brush or brush-and-grass mixture fire	11 - Extinguishment by fire service personnel, 12 - Salvage & overhaul, 81 - Incident command
371668	2020-043435	2020-043435	131 - Passenger vehicle fire	11 - Extinguishment by fire service personnel
372811	2020-044854	2020-044854	150 - Outside rubbish fire, other	11 - Extinguishment by fire service personnel
374618	2020-046644	2020-046644	151 - Outside rubbish, trash or waste fire	86 - Investigate
376103	2020-048296	2020-048296	160 - Special outside fire, other	11 - Extinguishment by fire service personnel
376233	2020-048278	2020-048278	151 - Outside rubbish, trash or waste fire	11 - Extinguishment by fire service personnel
376737	2020-048683	2020-048683	150 - Outside rubbish fire, other	11 - Extinguishment by fire service personnel, 86 - Investigate

Homeless Related Fires in City of Carlsbad 2020-2021\*

Record Id	Incident Number	Incident Number1	Incident Type	Actions Taken
376819	2020-048922	2020-048922	140 - Natural vegetation fire, other	11 - Extinguishment by fire service personnel
376860	2020-048990	2020-048990	151 - Outside rubbish, trash or waste fire	10 - Fire control or extinguishment, other, 12 - Salvage & overhaul, 14 - Contain fire (wildland), 86 - Investigate
377817	2020-050004	2020-050004	100 - Fire, other	11 - Extinguishment by fire service personnel
378224	2020-050521	2020-050521	142 - Brush or brush-and-grass mixture fire	11 - Extinguishment by fire service personnel, 12 - Salvage & overhaul, 13 - Establish fire lines (wildfire), 31 - Provide first aid & check for injuries
378530	2020-050927	2020-050927	100 - Fire, other	10 - Fire control or extinguishment, other
379295	2020-051792	2020-051792	100 - Fire, other	11 - Extinguishment by fire service personnel
379954	2020-052424	2020-052424	170 - Cultivated vegetation, crop fire, other	11 - Extinguishment by fire service personnel, 86 - Investigate
379986	2020-052428	2020-052428	142 - Brush or brush-and-grass mixture fire	11 - Extinguishment by fire service personnel, 14 - Contain fire (wildland), 16 - Control fire (wildland), 32 - Provide basic life support (BLS), 73 - Provide manpower, 76 - Provide water, 81 - Incident command, 86 - Investigate, 92 - Standby
380155	2020-052751	2020-052751	150 - Outside rubbish fire, other	10 - Fire control or extinguishment, other, 11 - Extinguishment by fire service personnel, 12 - Salvage & overhaul, 13 - Establish fire lines (wildfire), 14 - Contain fire (wildland), 15 - Confine fire (wildland), 16 - Control fire (wildland)
381396	2020-054108	2020-054108	100 - Fire, other	11 - Extinguishment by fire service personnel
383392	2020-055999	2020-055999	151 - Outside rubbish, trash or waste fire	11 - Extinguishment by fire service personnel, 12 - Salvage & overhaul
383483	2020-055962	2020-055962	151 - Outside rubbish, trash or waste fire	11 - Extinguishment by fire service personnel, 86 - Investigate
383636	2020-056330	2020-056330	141 - Forest, woods or wildland fire	11 - Extinguishment by fire service personnel
394579	2020-057736	2020-057736	140 - Natural vegetation fire, other	11 - Extinguishment by fire service personnel
394766	2020-057897	2020-057897	100 - Fire, other	11 - Extinguishment by fire service personnel
395511	2020-058809	2020-058809	100 - Fire, other	11 - Extinguishment by fire service personnel
395536	2020-058788	2020-058788	137 - Camper or recreational vehicle (RV) fire	11 - Extinguishment by fire service personnel, 33 - Provide advanced life support (ALS), 34 - Transport person
395542	2020-058788	2020-058788	130 - Mobile property (vehicle) fire, other	33 - Provide advanced life support (ALS), 34 - Transport person
396209	2020-059426	2020-059426	150 - Outside rubbish fire, other	11 - Extinguishment by fire service personnel
396323	2020-059467	2020-059467	151 - Outside rubbish, trash or waste fire	11 - Extinguishment by fire service personnel
396540	2020-054462	2020-054462	142 - Brush or brush-and-grass mixture fire	11 - Extinguishment by fire service personnel, 12 - Salvage & overhaul, 13 - Establish fire lines (wildfire), 73 - Provide manpower, 86 - Investigate
396553	2020-054420	2020-054420	100 - Fire, other	11 - Extinguishment by fire service personnel, 86 - Investigate
396651	2020-059667	2020-059667	141 - Forest, woods or wildland fire	11 - Extinguishment by fire service personnel
397239	2020-057214	2020-057214	140 - Natural vegetation fire, other	11 - Extinguishment by fire service personnel
397556	2020-060934	2020-060934	151 - Outside rubbish, trash or waste fire	10 - Fire control or extinguishment, other
397697	2020-061101	2020-061101	151 - Outside rubbish, trash or waste fire	11 - Extinguishment by fire service personnel, 12 - Salvage & overhaul, 86 - Investigate

Homeless Related Fires in City of Carlsbad 2020-2021\*

Record Id	Incident Number	Incident Number1	Incident Type	Actions Taken
397971	2020-061390	2020-061390	100 - Fire, other	11 - Extinguishment by fire service personnel
398157	2020-061584	2020-061584	151 - Outside rubbish, trash or waste fire	11 - Extinguishment by fire service personnel, 73 - Provide manpower, 86 - Investigate
398875	2020-062365	2020-062365	100 - Fire, other	11 - Extinguishment by fire service personnel, 86 - Investigate
399823	2020-063352	2020-063352	100 - Fire, other	11 - Extinguishment by fire service personnel, 86 - Investigate
399939	2020-063481	2020-063481	142 - Brush or brush-and-grass mixture fire	11 - Extinguishment by fire service personnel
401342	2020-065032	2020-065032	150 - Outside rubbish fire, other	11 - Extinguishment by fire service personnel
401599	2020-065316	2020-065316	151 - Outside rubbish, trash or waste fire	11 - Extinguishment by fire service personnel
412685	2020-066513	2020-066513	151 - Outside rubbish, trash or waste fire	11 - Extinguishment by fire service personnel
412826	2020-066664	2020-066664	130 - Mobile property (vehicle) fire, other	10 - Fire control or extinguishment, other, 11 - Extinguishment by fire service personnel, 12 - Salvage & overhaul, 78 - Control traffic
413331	2020-067185	2020-067185	100 - Fire, other	11 - Extinguishment by fire service personnel, 86 - Investigate
413461	2020-067309	2020-067309	150 - Outside rubbish fire, other	73 - Provide manpower, 86 - Investigate
413468	2020-067318	2020-067318	160 - Special outside fire, other	80 - Information, investigation & enforcement, other
414514	2020-068611	2020-068611	100 - Fire, other	11 - Extinguishment by fire service personnel
414575	2020-068683	2020-068683	100 - Fire, other	86 - Investigate
414641	2020-068759	2020-068759	150 - Outside rubbish fire, other	86 - Investigate
414802	2020-068934	2020-068934	150 - Outside rubbish fire, other	10 - Fire control or extinguishment, other, 12 - Salvage & overhaul
415961	2020-070293	2020-070293	142 - Brush or brush-and-grass mixture fire	11 - Extinguishment by fire service personnel, 73 - Provide manpower
416001	2020-070336	2020-070336	140 - Natural vegetation fire, other	11 - Extinguishment by fire service personnel
416160	2020-070519	2020-070519	151 - Outside rubbish, trash or waste fire	11 - Extinguishment by fire service personnel
416360	2020-070793	2020-070793	143 - Grass fire	10 - Fire control or extinguishment, other, 11 - Extinguishment by fire service personnel, 12 - Salvage & overhaul
416539	2020-071016	2020-071016	100 - Fire, other	73 - Provide manpower
417133	2020-071729	2020-071729	151 - Outside rubbish, trash or waste fire	11 - Extinguishment by fire service personnel, 86 - Investigate
417350	2020-071987	2020-071987	100 - Fire, other	11 - Extinguishment by fire service personnel, 86 - Investigate
427687	2020-072403	2020-072403	100 - Fire, other	10 - Fire control or extinguishment, other
428253	2020-073103	2020-073103	151 - Outside rubbish, trash or waste fire	12 - Salvage & overhaul, 86 - Investigate
428535	2020-073431	2020-073431	142 - Brush or brush-and-grass mixture fire	11 - Extinguishment by fire service personnel
428798	2020-073729	2020-073729	100 - Fire, other	11 - Extinguishment by fire service personnel
428939	2020-073890	2020-073890	151 - Outside rubbish, trash or waste fire	11 - Extinguishment by fire service personnel
429621	2020-074737	2020-074737	140 - Natural vegetation fire, other	11 - Extinguishment by fire service personnel, 12 - Salvage & overhaul
430049	2020-075215	2020-075215	100 - Fire, other	11 - Extinguishment by fire service personnel
430397	2020-075648	2020-075648	112 - Fires in structure other than in a building	12 - Salvage & overhaul, 86 - Investigate
430697	2020-076003	2020-076003	100 - Fire, other	11 - Extinguishment by fire service personnel
431111	2020-076493	2020-076493	131 - Passenger vehicle fire	11 - Extinguishment by fire service personnel

Homeless Related Fires in City of Carlsbad 2020-2021\*

Record Id	Incident Number	Incident Number1	Incident Type	Actions Taken
431625	2020-077086	2020-077086	142 - Brush or brush-and-grass mixture fire	10 - Fire control or extinguishment, other, 86 - Investigate
431754	2020-077253	2020-077253	131 - Passenger vehicle fire	11 - Extinguishment by fire service personnel, 73 - Provide manpower
432074	2020-077622	2020-077622	112 - Fires in structure other than in a building	11 - Extinguishment by fire service personnel, 12 - Salvage & overhaul
432211	2020-077783	2020-077783	151 - Outside rubbish, trash or waste fire	73 - Provide manpower, 86 - Investigate
432339	2020-077933	2020-077933	100 - Fire, other	11 - Extinguishment by fire service personnel
432899	2020-078605	2020-078605	160 - Special outside fire, other	12 - Salvage & overhaul, 86 - Investigate
433481	2020-079283	2020-079283	150 - Outside rubbish fire, other	11 - Extinguishment by fire service personnel
433955	2020-079681	2020-079681	151 - Outside rubbish, trash or waste fire	11 - Extinguishment by fire service personnel
434148	2020-080049	2020-080049	150 - Outside rubbish fire, other	11 - Extinguishment by fire service personnel
434538	2020-080593	2020-080593	141 - Forest, woods or wildland fire	11 - Extinguishment by fire service personnel
434668	2020-080744	2020-080744	152 - Garbage dump or sanitary landfill fire	11 - Extinguishment by fire service personnel
434766	2020-080891	2020-080891	131 - Passenger vehicle fire	11 - Extinguishment by fire service personnel, 12 - Salvage & overhaul, 73 - Provide manpower, 86 - Investigate
434819	2020-080977	2020-080977	140 - Natural vegetation fire, other	11 - Extinguishment by fire service personnel, 12 - Salvage & overhaul
434915	2020-081108	2020-081108	142 - Brush or brush-and-grass mixture fire	11 - Extinguishment by fire service personnel, 12 - Salvage & overhaul
434918	2020-081113	2020-081113	142 - Brush or brush-and-grass mixture fire	11 - Extinguishment by fire service personnel, 12 - Salvage & overhaul, 86 - Investigate
435152	2020-081375	2020-081375	150 - Outside rubbish fire, other	11 - Extinguishment by fire service personnel
435591	2020-081931	2020-081931	151 - Outside rubbish, trash or waste fire	11 - Extinguishment by fire service personnel
436067	2020-082463	2020-082463	151 - Outside rubbish, trash or waste fire	11 - Extinguishment by fire service personnel, 73 - Provide manpower, 86 - Investigate
436134	2020-082538	2020-082538	150 - Outside rubbish fire, other	86 - Investigate
436982	2020-083537	2020-083537	140 - Natural vegetation fire, other	10 - Fire control or extinguishment, other
437458	2020-084106	2020-084106	100 - Fire, other	11 - Extinguishment by fire service personnel
437466	2020-084118	2020-084118	140 - Natural vegetation fire, other	11 - Extinguishment by fire service personnel, 12 - Salvage & overhaul
437468	2020-084120	2020-084120	142 - Brush or brush-and-grass mixture fire	86 - Investigate
438047	2020-084765	2020-084765	151 - Outside rubbish, trash or waste fire	11 - Extinguishment by fire service personnel
438129	2020-084861	2020-084861	151 - Outside rubbish, trash or waste fire	11 - Extinguishment by fire service personnel, 14 - Contain fire (wildland), 16 - Control fire (wildland)
438301	2020-085048	2020-085048	151 - Outside rubbish, trash or waste fire	11 - Extinguishment by fire service personnel
438997	2020-085918	2020-085918	151 - Outside rubbish, trash or waste fire	11 - Extinguishment by fire service personnel, 86 - Investigate
439989	2020-087120	2020-087120	150 - Outside rubbish fire, other	86 - Investigate
450242	2020-052862	2020-052862	150 - Outside rubbish fire, other	11 - Extinguishment by fire service personnel
450243	2020-052841	2020-052841	150 - Outside rubbish fire, other	11 - Extinguishment by fire service personnel









**ORDINANCE NO. \_\_\_\_\_**

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CARLSBAD, CALIFORNIA, AMENDING TITLE 8 OF THE CARLSBAD MUNICIPAL CODE BY AMENDING CHAPTER 8.36 AND SECTIONS 8.28.050 AND 8.44.040 AND BY ADDING CHAPTERS 8.34 AND 8.38 TO ADDRESS QUALITY OF LIFE CONCERNS

WHEREAS, the purpose of the foregoing proposed amended and new provisions is to address increasing health, safety, and environmental concerns with unlawful encampments and storage of personal property, unauthorized fires on public property, obstruction of public property and trespass on private property open to the patronage of the public, disorderly conduct, open containers and consumption of alcohol in public, and solicitation; and

WHEREAS, the Ninth Circuit Court of Appeals held in *Martin v. City of Boise* that an ordinance violates the cruel and unusual punishment clause of the Eighth Amendment if it imposes criminal sanctions against homeless individuals for sleeping outdoors, on public property, when no alternative shelter is available to them; and

WHEREAS, the holding in *Martin v. City of Boise* is narrow in that it does not permit individuals to sit, lie, or sleep on the streets at any time or at any place; nor does it prohibit cities from regulating camping and storage of personal property. Rather, the court found that even if shelter is unavailable, an ordinance may constitutionally prohibit sitting, lying, or sleeping outside at particular times or in particular locations, and an ordinance could bar the obstruction of public rights of way or the erection of certain structures; and

WHEREAS, the city has an interest in balancing the needs of all city residents, businesses and visitors for clean, healthy, and safe public areas; and

WHEREAS, the city also has an interest in protecting its economic viability and preventing blight in publicly accessible areas, especially those near residential neighborhoods; and

WHEREAS, the proposed ordinance package would further the purpose of Title 8, of the Carlsbad Municipal Code, which is designed to protect public peace, morals, and safety, while at the same time fit within the limitations set forth in *Martin v. City of Boise* and other applicable federal and state authorities; and

WHEREAS, as to proposed Chapter 8.34 entitled "Solicitation," this chapter is further intended to protect the compelling interest of public safety as against certain abusive conduct of persons engaged in solicitation, by imposing reasonable time, manner, and place restrictions on solicitation while respecting the constitutional rights of free speech for all citizens; and

WHEREAS, existing ordinances under Title 8 of the Carlsbad Municipal Code do not adequately address the escalating health, safety, and environmental concerns and increased calls for service associated with unauthorized encampments, storage of personal property in public, unauthorized fires on public property, obstruction and trespass of public and private property open to the patronage of the public, disorderly conduct, possession and consumption of open alcohol containers in public, and solicitation; and

WHEREAS, these amendments and additions to the Carlsbad Municipal Code are intended to regulate unlawful, repeated, and compounding conduct that negatively impacts community members' quality of life, health, and/or safety.

NOW, THEREFORE, the City Council of the City of Carlsbad, California, does ordain as follows:

Section 1. The above recitations are true and correct.

Section 2. That Chapter 8.36 of the Carlsbad Municipal Code is amended to read as follows:

### **Chapter 8.36**

#### **UNLAWFUL CAMPING, FIRES ON PUBLIC PROPERTY, AND STORAGE OF PROPERTY**

##### **Sections:**

- 8.36.010 Purpose.**
- 8.36.020 Definitions.**
- 8.36.030 Unlawful camping.**
- 8.36.040 Fires and cooking on public property.**
- 8.36.050 Storage of personal property in public places.**
- 8.36.060 Severability.**

**8.36.010 Purpose.**

Public places within the city should be readily accessible to residents and the public at large. The use of public places for camping can interfere with the rights of others to use these places for the purposes for which they were intended. Camping in these places can also endanger the public health and the environment when camping-related waste and human waste are disposed of improperly, particularly in environmentally sensitive areas, such as native habitat, open spaces and watercourses. Human presence in open spaces, other than on designated trails, can also increase the risk of wildfire danger and possible injuries to and from threatened wildlife. Additionally, camping on private outdoor property without permission of the owner or lessee interferes with the owner or lessee's property rights and desire to utilize the private outdoor property for lawful and authorized purposes.

The purpose of this chapter is to maintain public places and private outdoor property within the city in a clean and accessible condition and to protect the public health, safety, and environment by ensuring that camping occurs only in those designated areas where appropriate provisions have been made for handling camping-related waste, food preparation, and fires.

**8.36.020 Definitions.**

As used in this chapter:

"Beach" means those areas as defined in Carlsbad Municipal Code Section 11.32.020.

"Camp" means to use camping implements in an outdoor area or to erect or occupy a camp facility for living accommodations purposes such as sleeping activities, preparations to sleep (including the laying down of bedding for the purpose of sleeping), storing personal property, or making a camp fire. These activities constitute camping when it reasonably appears, in light of all the circumstances, that the participants in these activities are in fact using the area as a living accommodation regardless of the intent of the participants or the nature of any other activities in which they may also be engaging. Camping does not include picnicking, sitting, lying, or sleeping in an outdoor area or in a camp facility that is not being used for living accommodations purposes. This definition shall not limit enforcement of Chapter 8.38 "Obstruction of Property and Trespass."

"Camp facility" means a tent, hut, tarpaulin, or other temporary outdoor shelter used for sleeping, living accommodations purposes, or carrying on cooking activities.

"Camping implements" means cots, beds, hammocks, sleeping bags, bedrolls, blankets, sheets, luggage, backpacks, kitchen utensils, cookware, clothing, and similar gear or materials.

"City personnel" means the police department and its third-party contractors and any other city employees or third-party contractors designated by the city manager.

"Highway" means a way or place of whatever nature, publicly maintained and open to public use for purposes of vehicular travel.

"Open space" means any parcel of land or water which is unimproved and devoted to an open space use, and which is designated as an Open Space Zone in the Zoning Ordinance (Title 21).

"Park" means those areas as defined in Carlsbad Municipal Code Section 11.32.010.

"Parkway" means the area of the street between the back of the curb and the sidewalk that typically is planted and landscaped.

"Person" is defined as any natural person, firm, association, business, trust, organization, corporation, partnership, company, or any other entity recognized by law as the subject of rights or duties.

“Personal property” includes the following items:

- (i) Medication, medical devices, eyeglasses, or other prescription lenses;
- (ii) Sleeping bag or bed roll which is sanitary and non-verminous;
- (iii) Tents in usable and reasonably good condition
- (iv) Clothes stored in a manner protecting them from the elements, which are not unsanitary, soiled, or verminous;
- (v) Non-perishable food items; and
- (vi) Personal property with an estimated individual fair market value of at least \$50.

“Public place” means any property in the city owned, leased, licensed, or operated by a public entity that is accessible to the public, including any of the following: parks, beaches, alleyways, parking lots, passageways, rights-of-way, landscaped areas or parkways, streets, highways, open space, sidewalks, curbs, and public educational institutions.

“Shelter” means a structure designed to provide homeless persons and unstably housed individuals with overnight sleeping accommodations and relief from the elements. The “shelter” may offer meals, clothing, and supportive and self-sufficiency development services. “Shelter” may include a safe parking lot owned, leased, or operated by the city, another public entity, or a non-profit entity.

“Sidewalk” means that portion of a highway, other than the roadway, set apart by curbs, barriers, markings, or other delineation, for pedestrian travel.

“Store” means to put aside or accumulate for use when needed, to place for safekeeping, or to put in place or leave in a particular place, whether attended or unattended.

“Street” means every highway, avenue, lane, alley, court, place, square, sidewalk, parkway, curb, bikeway, or other public way in the city dedicated and open to public use, or such other public property so designated by state law.

“Tent” means a collapsible shelter made of fabric, such as nylon or canvas, or a tarp stretched and sustained by supports, which is not open on all sides and which hinders an unobstructed view behind or into the area surrounded by the fabric.

“Unattended personal property” means no person is present with an item or items of personal property who asserts or claims ownership over the personal property. Indicia of unattended personal property includes, but is not limited to, the act of leaving the personal property in a public place so that it may be appropriated by the next comer. Personal property is not considered “unattended” if a person is present with the personal property and the person claims ownership over the personal property.

### **8.36.030 Unlawful camping.**

#### **A. Public property**

1. It is unlawful for any person to camp between the hours of 6 a.m. and 10 p.m. in or upon any public street, public park, public beach, or other public place, except in areas which have been specifically posted, designated, or permitted for such purposes.
2. Notwithstanding Section 8.36.030(A)(1), it is unlawful for any person to:
  - a. Camp or sleep in open space at any time.

- b. Camp or sleep at any time and in any location of the city if the person realistically has access to temporary or permanent shelter where the person can sleep and willfully refuses such shelter for any reason unrelated to the exercise of a state or federal constitutional right.
  - 3. It is not the intent of this Section to prohibit lawful protesting, picketing, demonstrating, signature gathering, voter registration, leafleting, or any other lawful activity.
- B. Private property
  - 1. It is unlawful for any person to camp on any private outdoor property without the express written or verbal permission of the owner or lessee of such property.
  - 2. This subsection is not intended to:
    - a. Prohibit overnight camping on private residential property by friends or family of the property owner, so long as the owner consents to the camping activity.
    - b. Prohibit or make unlawful, activities of an owner of private property or other lawful user of private property that are normally associated with and incidental to the lawful and authorized use of private property for residential or other purposes.
    - c. Prohibit or make unlawful, activities of a property owner or other lawful user if such activities are expressly authorized by the Zoning Ordinance (Title 21) or other applicable laws, ordinances and regulations.
- C. The city manager or designee may issue a temporary permit to allow camping on public or private property in connection with special events (Chapter 8.17) or emergency services (Chapter 6.04).

**8.36.040 Fires and cooking on public property.**

- A. It is unlawful for any person to start or maintain any fire in a public place, except in such areas specifically designated by the city manager or designee for such fires, including stoves, barbecue pits, and fire rings.
- B. It is unlawful for any person to cook food in a public place, except as otherwise allowed by this code or by license or permit, or except in locations specifically designated by the city manager or designee.

**8.36.050 Storage of personal property in public places.**

- A. Unlawful Storage. It is unlawful for any person to store or leave unattended any personal property, including camp facilities or camping implements, in a public place between the hours of 6 a.m. and 10 p.m., except as otherwise provided by this code or pursuant to a valid license or permit. This subsection is not intended to permit storage of personal property where otherwise prohibited by this code.
- B. Property Removal. City personnel may remove and store personal property that is unlawfully stored, unattended, or otherwise found in an unlawful encampment pursuant to applicable written and publicly available police department policies and procedures.
- C. Obstruction or Interference with Property Removal. It is unlawful to willfully interfere with, resist, delay, or otherwise obstruct city personnel from moving, removing, impounding, or discarding personal property pursuant to Section 8.36.050(B).

**8.36.060 Severability.**

If any portion of this chapter, or its application to particular persons or circumstances, is held to be invalid or unconstitutional by a final decision of a court of competent jurisdiction, the decision shall not affect the validity of the remaining portions of this chapter or the application of the chapter to persons or circumstances not similarly situated.

Section 3: That Section 8.28.050 of the Carlsbad Municipal Code is amended to read as follows:

**8.28.050 Distribution, solicitation or sales to persons in vehicles.**

- A. Except as permitted by Section 8.28.050(B), it is unlawful for any person, while on a public sidewalk or in a public roadway, to distribute, sell, or attempt to distribute or sell materials to, or to solicit, or attempt to solicit business or contributions from, any person who is traveling in any type of vehicle along a public roadway.
- B. Distributing materials or soliciting business or contributions is permitted on sidewalks adjacent to public roadways with a speed limit of 35 miles per hour or less as shown on the map labeled Exhibit A attached to the ordinance codified in this chapter and found on file in the city clerk’s office, except:
  - 1. When the public roadway intersects with another public roadway that has a speed limit greater than 35 miles per hour, in which case distribution or solicitation is prohibited within 100 feet of the intersection;
  - 2. In the commercial/visitor-serving overlay zone as shown on the map labeled Exhibit B attached to the ordinance codified in this chapter and found on file in the city clerk’s office;
  - 3. Anywhere on La Costa Avenue.
- C. No more than one person at a time may distribute materials or solicit business or contributions at the quadrant of any intersection where distribution or solicitation is permitted under Section 8.28.050(B).

Section 4: That Chapter 8.34 is added to the Carlsbad Municipal Code to read as follows:

**Chapter 8.34**

**SOLICITATION**

**Sections:**

- 8.34.010 Purpose.**
- 8.34.020 Definitions.**
- 8.34.030 Aggressive solicitation prohibited.**
- 8.34.040 Solicitation of motor vehicles and in parking lots.**
- 8.34.050 Entering private property for the purpose of sale without permission.**
- 8.34.060 Restriction on hours.**

**8.34.070 Severability.****8.34.010 Purpose.**

This chapter is intended to improve the quality of life and economic vitality of the city, and to protect the safety of the general public against certain abusive conduct of persons engaged in solicitation, by imposing reasonable time, place, and manner restrictions on solicitation while respecting the constitutional rights of free speech for all citizens. Motorists have complained of solicitation activity near signaled intersections and highway ramps, where solicitors have approached their vehicles. This carries an implicit threat to both person and property. Similarly, the city seeks to prevent threatening and dangerous solicitation in sensitive areas such as city parking lots or parking structures during the evening hours. Restricting solicitation in these places will provide a balance between the rights of solicitors and the rights of persons who wish to decline or avoid solicitations and will help prevent potential violent confrontations.

**8.34.020 Definitions.**

As used in this chapter:

"Public place" means a place to which the public or a substantial group of persons has access, and includes, but is not limited to, any street, parkway, highway, sidewalk, parking lot, plaza, transportation facility, school, place of amusement, park, playground, open space, and any doorway, entrance, hallway, lobby, and other portion of any business establishment, an apartment house, or hotel not constituting a room or apartment designed for actual residence.

"Solicit, ask, or beg" includes using the spoken, written, or printed word, or bodily gestures, signs or other means with the purpose of obtaining an immediate donation of money or other thing of value or soliciting the sale of goods or services. However, passively standing, sitting, or performing music while holding a sign, with no further conduct or spoken word, except in response to an inquiry, is exempt from this definition and regulation under this chapter. This chapter is not intended to restrict the exercise of protected free speech.

**8.34.030 Aggressive solicitation prohibited.**

- A. It is unlawful to solicit, ask, beg, distribute materials, or attempt to distribute materials in an aggressive manner in any public place after first being warned by a law enforcement officer.
- B. "Aggressive manner" means persisting in soliciting, asking, begging, distributing materials, attempting to distribute materials, approaching, or closely following a person(s), after the solicitor or distributor has been informed by unequivocal or multiple words or conduct that the person does not want to be solicited, does not want to give money or any other thing of value to the solicitor, or does not want to receive any materials. All other conduct that may constitute an assault or battery in conjunction with solicitation, asking, begging, or distribution shall be charged separately as such crimes.

**8.34.040 Solicitation of motor vehicles and in parking lots.**

- A. Motor vehicles. No person shall approach an operator or occupant of a motor vehicle stopped in obedience to a traffic control sign, signal, or light for the purpose of soliciting, asking, begging,

distributing materials, or attempting to distribute materials while the vehicle is located in any public place.

- B. Parking lots. No person shall solicit, ask, beg, distribute materials, or attempt to distribute materials in any public parking lot or parking structure any time after dark. "After dark" means any time from one-half hour after sunset to one-half hour before sunrise.
- C. Exemptions. The provisions of section 8.34.040(B) shall not apply to any of the following:
  - 1. Solicitations related to business which is being conducted on the subject premises by the owner or lawful tenants;
  - 2. Solicitations related to the lawful towing of a vehicle; or
  - 3. Solicitations related to emergency repairs requested by the operator or other occupant of a vehicle.
- D. Penalty. After first being warned by a law enforcement officer, any violation of this subsection may be charged as a misdemeanor.

**8.34.050 Entering private property for the purpose of sale without permission.**

No person shall go onto private property within the city for the purpose of selling, offering for sale, or soliciting orders for the sale of any merchandise, product, service, or thing whatsoever when the occupant of such property has given notice or warned such persons to keep away. A sign posted by the occupant of the property, with the words "no solicitors," "no peddlers," or other similar words, at or near the front door or primary entrance to a residential structure on private property, shall constitute sufficient notice or warning pursuant to this section. For any property used for a purpose other than a residential use, such notice may be posted at each public entrance to any structure on the property in any conspicuous location on the property, in such a manner so as to provide reasonable notice of the restriction.

**8.34.060 Restriction on hours.**

No person shall go onto private property for the purposes of commercial or noncommercial peddling, soliciting or canvassing before 8:00 a.m. or after 8:00 p.m., except that while the United States is on federally mandated daylight savings time the hours shall be 8:00 a.m. to 9:00 p.m.

**8.34.070 Severability.**

If any portion of this chapter, or its application to particular persons or circumstances, is held to be invalid or unconstitutional by a final decision of a court of competent jurisdiction, the decision shall not affect the validity of the remaining portions of this chapter or the application of the chapter to persons or circumstances not similarly situated.

Section 5: That Chapter 8.38 is added to the Carlsbad Municipal Code to read as follows:

**CHAPTER 8.38**

**OBSTRUCTION OF PROPERTY, TRESPASS, AND DISORDERLY CONDUCT**

**Sections:**

- 8.38.010 Purpose.**
- 8.38.020 Definitions.**
- 8.38.030 Unlawful obstruction of property.**
- 8.38.040 Trespass on parking lots, shopping center property, and other private property open to the patronage of the public.**
- 8.38.050 Disorderly conduct.**
- 8.38.060 Severability.**

**8.38.010 Purpose.**

The purpose of this chapter is to maintain public and private property open to the patronage of the public in an orderly and accessible condition to protect public health, safety, and welfare. The obstruction of or trespass upon these areas can interfere with the rights of others to use these areas for the purposes for which they were intended. Pedestrians, the elderly, disabled, and vision-impaired are put at increased risk when they must see and navigate around individuals sitting or lying upon a public walkway or otherwise obstructing public access. In some circumstances, people sitting or lying on public walkways deter members of the public from frequenting those areas. This, in turn, contributes to an erosion of the essential economic viability of those areas. Business failures and relocations can cause vacant storefronts, contributing to deterioration and blight, which harms the public health, safety, and welfare.

The city recognizes that there is a fundamental need to rest and sleep and desires to accommodate that need while also satisfying the needs of the general public to travel freely and safely throughout the city. The limited regulation of obstruction or trespass on public property or private property open to the patronage of the public is reasonably necessary and appropriately balances the public interest and individual rights.

**8.38.020 Definitions.**

All definitions provided in Carlsbad Municipal Code Chapter 8.36, Section 8.36.020 are applicable to this chapter. Additionally, as used in this chapter:

“Loitering” is defined as delaying or lingering in any one place without a lawful purpose under circumstances that would warrant a reasonable person to believe that the purpose or effect is to commit a crime or to conceal illegal activities.

**8.38.030 Unlawful obstruction of property.**

- A. It is unlawful for any person, after first being warned by a law enforcement officer, or where a sign or signs have been posted in accordance with this chapter, to loiter, stand, sit, lie, sleep, maintain, or leave any objects, possessions, or structures either :
  1. Upon any public sidewalk, street, curb, parkway, crosswalk, walkway or pathway area, highway, park, or
  2. Upon any shopping center or other private property open to the patronage of the public, in any manner that partially or completely blocks, obstructs, prevents, or otherwise hinders the

free movement of people who may or may not yet be present at the location in question, or in any manner that impedes passage in contravention of federal or state disability access laws.

- B. It is unlawful for any person, object, or possession to partially or completely block, obstruct, prevent, or otherwise hinder the free access to the entrance to any building open to the public, whether or not other persons are present at the location in question.

**8.38.040 Trespass on parking lots, shopping center property, and other private property open to the patronage of the public.**

It is unlawful for any person, after first being warned by a law enforcement officer, or where a sign or signs have been posted in accordance with this chapter, to remain on, wander, idle, or loiter on any parking lot, shopping center property, or any other private property open to the patronage of the public, without visible or lawful business with the owner or occupant or without the written permission of the owner, the person entitled to immediate possession or the authorized agent of either. This section does not apply to a public officer or employee acting within the course and scope of employment.

**8.38.050 Disorderly conduct.**

- A. It is unlawful for a person to commit any of the following acts with the intent to cause another person annoyance, alarm, or disturbance, or with the intent to interfere with another person's lawful discharge or pursuit of any lawful business or occupation:
1. Engaging in fighting or in violent, tumultuous, or threatening behavior that would put a reasonable person in fear for the person's safety; or
  2. Using language that a reasonable person would consider offensive, lewd, vulgar, profane, threatening, abusive, or insulting, within the hearing range of another person in any public place or any place open to the patronage of the public; or
  3. Uttering or using within the hearing of another person any language, words, epithets, expressions, or remarks, either intended to or likely to incite or create a breach of the peace; or
  4. Encouraging by words or conduct, disobedience to any lawful order or request of any law enforcement officer pursuant to and in the performance of the officer's duties; or
  5. Making or participating in making any unreasonably loud noise or engaging in offensive conduct or behavior, as measured by an objectively reasonable person standard, in any public place or any place open to the patronage of the public.
- B. It is unlawful for a person to commit any of the acts specified in Section 8.38.050(A) with reckless disregard for the risk of causing another person annoyance, alarm, or disturbance, or of interfering with another person's lawful discharge or pursuit of any lawful business or occupation.
- C. It is unlawful for a person to congregate with two or more other persons in any public place, or in any place open to the patronage of the public, when the purpose of congregating is, by words, acts, or conduct generally offensive to the community, to annoy, disturb, or interfere with another person's lawful discharge or pursuit of a lawful business or occupation, or to maliciously interfere with or annoy another person lawfully at the place.

**8.38.060 Severability.**

If any portion of this chapter, or its application to particular persons or circumstances, is held to be invalid or unconstitutional by a final decision of a court of competent jurisdiction, the decision shall not affect the validity of the remaining portions of this chapter or the application of the chapter to persons or circumstances not similarly situated.

Section 6: That Section 8.44.040 of the Carlsbad Municipal Code is amended to read as follows:

**8.44.040 Consuming or possessing an open container of an alcoholic beverage in certain public places and public parks owned by the city.**

- A. No person shall possess any can, bottle, or other receptacle containing any alcoholic beverage that has been opened, or a seal broken, or the contents of which have been partially removed, nor shall any person consume any alcoholic beverage in any city-owned public place or city-owned park identified in this section as:
1. Any public street, sidewalk, alley, highway, public parking lot, or public open space owned by, leased to, licensed to, or operated by the city in the V-B Village Barrio Zone, as that zone is designated in Chapter 21.35 of this code, as amended, and specifically within or adjacent to the VC, VG, HOSP, FC, and PT districts and the VBO district (Magee and Maxton Brown parks) of the Village and Barrio Master Plan.
  2. Rotary Park located at the 2900 block of Washington Street, bordered to the west by Washington Street, bordered to the east by the west alley of State Street immediately east of the Atchison, Topeka and Santa Fe Rail Road tracks, bordered to the south by Carlsbad Village Drive and bordered to the north by Grand Avenue in the City of Carlsbad.
  3. Holiday Park and Pine Avenue Community Park.
- B. Unlawful possession of an open container of an alcoholic beverage as described in Section 8.44.040(A) shall be charged as an infraction; unlawful consumption of an open container of an alcoholic beverage as described in Section 8.44.040(A) may be charged as a misdemeanor.
- C. Any of the prohibitions set forth in this section may be waived when a special event permit or a park and facility use permit requesting a waiver has been granted by the city manager or designee.
- D. This section does not apply when an individual is in possession of an alcoholic beverage container within a sidewalk café or curb café that is approved and permitted as required by the Village and Barrio Master Plan and the California Department of Alcoholic Beverage Control, or any temporary permits issued under state or local emergency orders.
- E. This section does not apply when an individual is in possession of an alcoholic beverage container for the purpose of recycling or other related disposal activity.

EFFECTIVE DATE: The proposed ordinance shall be effective thirty days after its adoption; and the City Clerk’s Office shall certify the adoption of this ordinance and cause it to be published at least once in a newspaper of general circulation in the City of Carlsbad within fifteen days after its adoption.

INTRODUCED AND FIRST READ at a regular meeting of the Carlsbad City Council on the \_\_\_\_ day of \_\_\_\_\_, 2021, and thereafter

PASSED AND ADOPTED at a regular meeting of the City Council of the City of Carlsbad on the day of \_\_\_\_\_, 2021, by the following vote, to wit:

AYES:

NAYS:

ABSENT:

APPROVED AS TO FORM AND LEGALITY:

\_\_\_\_\_  
CELIA A. BREWER, City Attorney

\_\_\_\_\_  
MATT HALL, Mayor

\_\_\_\_\_  
FAVIOLA MEDINA, City Clerk Services Manager

(SEAL)

## Chapter 8.36

**UNLAWFUL CAMPING, FIRES ON PUBLIC PROPERTY, AND STORAGE OF PROPERTY****Sections:**

- 8.36.010 Purpose.  
 8.36.020 Definitions.  
 8.36.030 Unlawful camping.  
8.36.040 Fires and cooking on public property.  
8.36.050 Storage of personal property in public places.  
8.36.060 Severability.

**8.36.010 Purpose.**

Public ~~places streets, public parks, public beaches and other public property~~ within the city should be readily accessible to residents and the public at large. The use of ~~these areas~~ public places for camping can interfere with the rights of others to use these ~~areas~~ places for the purposes for which they were intended. Camping in these places can also endanger the public health and the environment when camping-related waste ~~is and human waste are~~ disposed of improperly, particularly in environmentally sensitive areas, such as native habitat, open spaces, and watercourses. Human presence in open spaces, other than on designated trails, can also increase the risk of wildfire danger and possible injuries to and from threatened wildlife. Additionally, camping on private outdoor property without permission of the owner or lessee interferes with the owner or lessee's property rights and desire to utilize the private outdoor property for lawful and authorized purposes.

The purpose of this ~~section chapter~~ is to maintain public ~~places streets, public parks, public beaches and other public and private outdoor~~ property within the city in a clean and accessible condition and to protect the public health, safety, and environment by ensuring that camping occurs only in those designated areas where appropriate provisions have been made for handling camping-related waste, food preparation, and fires.

**8.36.020 Definitions.**

As used in this chapter:

"Beach" means those areas as defined in Carlsbad Municipal Code Section 11.32.020.

"Camp" means to use camping implements paraphernalia in an outdoor area or to erect or occupy a camp facility for living accommodations purposes such as sleeping activities, preparations to sleep (including the laying down of bedding for the purpose of sleeping), storing personal property or making a camp fire. These activities constitute camping when it reasonably appears, in light of all the circumstances, that the participants in these activities, are in fact using the area as a living accommodation regardless of the intent of the participants or the nature of any other activities in which they may also be engaging. Camping does not include picnicking, sitting, lying, or sleeping in an outdoor area or in a camp facility that is not being used for living accommodations purposes. This definition shall not limit enforcement of Chapter 8.38 "Obstruction of Property and Trespass."

"Camp facility" includes means a tent, hut, tarpaulin, or other temporary outdoor shelter used for sleeping, or living quarters accommodations purposes, or carrying on cooking activities. "Camp facility" also includes a camper, motor home, recreational vehicle, or other vehicle while parked and being used for sleeping or living quarters.

"Camping implements" paraphernalia" includes means cots, beds, hammocks, sleeping bags, bedrolls, blankets, sheets, luggage, backpacks, kitchen utensils, cookware, clothing, portable cooking equipment and similar gear or materials.

“City personnel” means the police department and its third-party contractors and any other city employees or third-party contractors designated by the city manager.

“Highway” means a way or place of whatever nature, publicly maintained and open to public use for purposes of vehicular travel.

“Open space” means any parcel of land or water which is unimproved and devoted to an open space use, and which is designated as an Open Space Zone in the Zoning Ordinance (Title 21).

“Park” means those areas as defined in Carlsbad Municipal Code Section 11.32.010.

“Parkway” means the area of the street between the back of the curb and the sidewalk that typically is planted and landscaped.

“Person” is defined as any natural person, firm, association, business, trust, organization, corporation, partnership, company, or any other entity recognized by law as the subject of rights or duties.

“Personal property” includes the following items:

- (i) Medication, medical devices, eyeglasses, or other prescription lenses;
- (ii) Sleeping bag or bed roll which is sanitary and non-verminous;
- (iii) Tents in usable and reasonably good condition
- (iv) Clothes stored in a manner protecting them from the elements, which are not unsanitary, soiled, or verminous;
- (v) Non-perishable food items; and
- (vi) Personal property with an estimated individual fair market value of at least \$50.

“Public place” means any property in the city owned, leased, licensed, or operated by a public entity that is accessible to the public, including any of the following: parks, beaches, alleyways, parking lots, passageways, rights-of-way, landscaped areas or parkways, streets, highways, open space, sidewalks, curbs, and public educational institutions.

“Shelter” means a structure designed to provide homeless persons and unstably housed individuals with overnight sleeping accommodations and relief from the elements. The “shelter” may offer meals, clothing, and supportive and self-sufficiency development services. “Shelter” may include a safe parking lot owned, leased, or operated by the city, another public entity, or a non-profit entity.

“Sidewalk” means that portion of a highway, other than the roadway, set apart by curbs, barriers, markings, or other delineation, for pedestrian travel.

“Store” means to put aside or accumulate for use when needed, to place for safekeeping, or to put in place or leave in a particular place, whether attended or unattended.

“Street” means every highway, avenue, lane, alley, court, place, square, sidewalk, parkway, curb, bikeway, or other public way in the city dedicated and open to public use, or such other public property so designated by state law.

“Tent” means a collapsible shelter made of fabric, such as nylon or canvas, or a tarp stretched and sustained by supports, which is not open on all sides and which hinders an unobstructed view behind or into the area surrounded by the fabric.

“Unattended personal property” means no person is present with an item or items of personal property who asserts or claims ownership over the personal property. Indicia of unattended personal property includes, but is not limited to, the act of leaving the personal property in a public place so that it may be appropriated by the next comer. Personal property is not considered “unattended” if a person is present with the personal property and the person claims ownership over the personal property.

### **8.36.030 Unlawful camping.**

#### **A. Public property**

1. It is unlawful for any person to camp between the hours of 6 a.m. and 10 p.m. in or upon any public street, public park, public beach, or other public propertyplace, except in areas which have been specifically posted, and designated, or permitted for such purposes.
2. Notwithstanding Section 8.36.030(A)(1), it is unlawful for any person to:
  - a. Camp or sleep in open space at any time.
  - b. Camp or sleep at any time and in any location of the city if the person realistically has access to temporary or permanent shelter where the person can sleep and willfully refuses such shelter for any reason unrelated to the exercise of a state or federal constitutional right.
3. It is not the intent of this Section to prohibit lawful protesting, picketing, demonstrating, signature gathering, voter registration, leafleting, or any other lawful activity.

**B. Private property**

1. It is unlawful for any person to camp on any private outdoor property without the express written or verbal permission of the owner or lessee of such property.
2. This subsection is not intended to:
  - a. Prohibit overnight camping on private residential property by friends or family of the property owner, so long as the owner consents to the camping activity.
  - b. Prohibit or make unlawful, activities of an owner of private property or other lawful user of private property that are normally associated with and incidental to the lawful and authorized use of private property for residential or other purposes.
  - c. Prohibit or make unlawful, activities of a property owner or other lawful user if such activities are expressly authorized by the Zoning Ordinance (Title 21) or other applicable laws, ordinances and regulations.

C. The city manager or designee may issue a temporary permit to allow camping on public or private property in connection with special events (Chapter 8.17) or emergency services (Chapter 6.04).

**8.36.040 Fires and cooking on public property.**

- A. It is unlawful for any person to start or maintain any fire in a public place, except in such areas specifically designated by the city manager or designee for such fires, including stoves, barbecue pits, and fire rings.
- B. It is unlawful for any person to cook food in a public place, except as otherwise allowed by this code or by license or permit, or except in locations specifically designated by the city manager or designee.

**8.36.050 Storage of personal property in public places.**

- A. Unlawful Storage. It is unlawful for any person to store or leave unattended any personal property, including camp facilities or camping implements, in a public place between the hours of 6 a.m. and 10 p.m., except as otherwise provided by this code or pursuant to a valid license or permit. This subsection is not intended to permit storage of personal property where otherwise prohibited by this code.
- B. Property Removal. City personnel may remove and store personal property that is unlawfully stored, unattended, or otherwise found in an unlawful encampment pursuant to applicable written and publicly available police department policies and procedures.
- C. Obstruction or Interference with Property Removal. It is unlawful to willfully interfere with, resist, delay, or otherwise obstruct city personnel from moving, removing, impounding, or discarding personal property pursuant to Section 8.36.050(B).

**8.36.060 Severability.**

If any portion of this chapter, or its application to particular persons or circumstances, is held to be invalid or unconstitutional by a final decision of a court of competent jurisdiction, the decision shall not affect the validity of the remaining portions of this chapter or the application of the chapter to persons or circumstances not similarly situated.

**8.28.050 Distribution, ~~or~~ solicitation, or sales to persons in vehicles.**

- A. Except as permitted by ~~subsection Section 8.28.050(B) of this section~~, it is unlawful for any person, while on a public sidewalk or in a public roadway, to distribute, sell, or attempt to distribute or sell materials to, or to solicit, or attempt to solicit business or contributions from, any person who is traveling in any type of vehicle along a public roadway.
- B. Distributing materials or soliciting business or contributions is permitted on sidewalks adjacent to public roadways with a speed limit of 35 miles per hour or less as shown on the map labeled Exhibit A attached to the ordinance codified in this chapter and found on file in the city clerk's office, except:
1. When the public roadway intersects with another public roadway that has a speed limit greater than 35 miles per hour, in which case distribution or solicitation is prohibited within 100 feet of the intersection;
  2. In the commercial/visitor-serving overlay zone as shown on the map labeled Exhibit B attached to the ordinance codified in this chapter and found on file in the city clerk's office;
  3. Anywhere on La Costa Avenue.
- C. No more than one person at a time may distribute materials or solicit business or contributions at the quadrant of any intersection where distribution or solicitation is permitted under ~~subsection B of this section~~Section 8.28.050(B).

Chapter 8.34SOLICITATIONSections:8.34.010 Purpose.8.34.020 Definitions.8.34.030 Aggressive solicitation prohibited.8.34.040 Solicitation of motor vehicles and in parking lots.8.34.050 Entering private property for the purpose of sale without permission.8.34.060 Restriction on hours.8.34.070 Severability.8.34.010 Purpose.

This chapter is intended to improve the quality of life and economic vitality of the city, and to protect the safety of the general public against certain abusive conduct of persons engaged in solicitation, by imposing reasonable time, place, and manner restrictions on solicitation while respecting the constitutional rights of free speech for all citizens. Motorists have complained of solicitation activity near signaled intersections and highway ramps, where solicitors have approached their vehicles. This carries an implicit threat to both person and property. Similarly, the city seeks to prevent threatening and dangerous solicitation in sensitive areas such as city parking lots or parking structures during the evening hours. Restricting solicitation in these places will provide a balance between the rights of solicitors and the rights of persons who wish to decline or avoid solicitations and will help prevent potential violent confrontations.

8.34.020 Definitions.

As used in this chapter:

"Public place" means a place to which the public or a substantial group of persons has access, and includes, but is not limited to, any street, parkway, highway, sidewalk, parking lot, plaza, transportation facility, school, place of amusement, park, playground, open space, and any doorway, entrance, hallway, lobby, and other portion of any business establishment, an apartment house, or hotel not constituting a room or apartment designed for actual residence.

"Solicit, ask or beg" includes using the spoken, written, or printed word, or bodily gestures, signs, or other means with the purpose of obtaining an immediate donation of money or other thing of value or soliciting the sale of goods or services. However, passively standing, sitting, or performing music while holding a sign, with no further conduct or spoken word, except in response to an inquiry, is exempt from this definition and regulation under this chapter. This chapter is not intended to restrict the exercise of protected free speech.

8.34.030 Aggressive solicitation prohibited.

- A. It is unlawful to solicit, ask, beg, distribute materials, or attempt to distribute materials in an aggressive manner in any public place after first being warned by a law enforcement officer.
- B. "Aggressive manner" means persisting in soliciting, asking, begging, distributing materials, attempting to distribute materials, approaching or closely following a person(s), after the solicitor or distributor has been informed by unequivocal or multiple words or conduct that the person does not want to be solicited, does not want to give money or any other thing of value to the solicitor, or does not want to receive any materials. All other conduct that may constitute an assault or battery in conjunction with solicitation, asking, begging, or distribution shall be charged separately as such crimes.

8.34.040 Solicitation of motor vehicles and in parking lots.

- A. Motor vehicles. No person shall approach an operator or occupant of a motor vehicle stopped in obedience to a traffic control sign, signal, or light for the purpose of soliciting, asking, begging,

distributing materials, or attempting to distribute materials while the vehicle is located in any public place.

- B. Parking lots. No person shall solicit, ask, beg, distribute materials, or attempt to distribute materials in any public parking lot or parking structure any time after dark. "After dark" means any time from one-half hour after sunset to one-half hour before sunrise.
- C. Exemptions. The provisions of section 8.34.040(B) shall not apply to any of the following:
1. Solicitations related to business which is being conducted on the subject premises by the owner or lawful tenants;
  2. Solicitations related to the lawful towing of a vehicle; or
  3. Solicitations related to emergency repairs requested by the operator or other occupant of a vehicle.
- D. Penalty. After first being warned by a law enforcement officer, any violation of this subsection may be charged as a misdemeanor.

**8.34.050 Entering private property for the purpose of sale without permission.**

No person shall go onto private property within the city for the purpose of selling, offering for sale, or soliciting orders for the sale of any merchandise, product, service, or thing whatsoever when the occupant of such property has given notice or warned such persons to keep away. A sign posted by the occupant of the property, with the words "no solicitors," "no peddlers," or other similar words, at or near the front door or primary entrance to a residential structure on private property, shall constitute sufficient notice or warning pursuant to this section. For any property used for a purpose other than a residential use, such notice may be posted at each public entrance to any structure on the property in any conspicuous location on the property, in such a manner so as to provide reasonable notice of the restriction.

**8.34.060 Restriction on hours.**

No person shall go onto private property for the purposes of commercial or noncommercial peddling, soliciting or canvassing before 8:00 a.m. or after 8:00 p.m., except that while the United States is on federally mandated daylight savings time the hours shall be 8:00 a.m. to 9:00 p.m.

**8.34.070 Severability.**

If any portion of this chapter, or its application to particular persons or circumstances, is held to be invalid or unconstitutional by a final decision of a court of competent jurisdiction, the decision shall not affect the validity of the remaining portions of this chapter or the application of the chapter to persons or circumstances not similarly situated.

**CHAPTER 8.38****OBSTRUCTION OF PROPERTY, TRESPASS, AND DISORDERLY CONDUCT****Sections:**

- 8.38.010 Purpose.**
- 8.38.020 Definitions.**
- 8.38.030 Unlawful obstruction of property.**
- 8.38.040 Trespass on parking lots, shopping center property, and other private property open to the patronage of the public.**
- 8.38.050 Disorderly conduct.**
- 8.38.060 Severability.**

**8.38.010 Purpose.**

The purpose of this chapter is to maintain public and private property open to the patronage of the public in an orderly and accessible condition to protect public health, safety, and welfare. The obstruction of or trespass upon these areas can interfere with the rights of others to use these areas for the purposes for which they were intended. Pedestrians, the elderly, disabled, and vision-impaired are put at increased risk when they must see and navigate around individuals sitting or lying upon a public walkway or otherwise obstructing public access. In some circumstances, people sitting or lying on public walkways deter members of the public from frequenting those areas. This, in turn, contributes to an erosion of the essential economic viability of those areas. Business failures and relocations can cause vacant storefronts, contributing to deterioration and blight, which harms the public health, safety, and welfare.

The city recognizes that there is a fundamental need to rest and sleep and desires to accommodate that need while also satisfying the needs of the general public to travel freely and safely throughout the city. The limited regulation of obstruction or trespass on public property or private property open to the patronage of the public is reasonably necessary and appropriately balances the public interest and individual rights.

**8.38.020 Definitions.**

All definitions provided in Carlsbad Municipal Code Chapter 8.36, Section 8.36.020 are applicable to this chapter. Additionally, as used in this chapter:

“Loitering” is defined as delaying or lingering in any one place without a lawful purpose under circumstances that would warrant a reasonable person to believe that the purpose or effect is to commit a crime or to conceal illegal activities.

**8.38.030 Unlawful obstruction of property.**

- A. It is unlawful for any person, after first being warned by a law enforcement officer, or where a sign or signs have been posted in accordance with this chapter, to loiter, stand, sit, lie, sleep, maintain, or leave any objects, possessions or structures either:
  1. Upon any public sidewalk, street, curb, parkway, crosswalk, walkway or pathway area, highway, park, or
  2. Upon any shopping center or other private property open to the patronage of the public, in any manner that partially or completely blocks, obstructs, prevents, or otherwise hinders the free movement of people who may or may not yet be present at the location in question, or in any manner that impedes passage in contravention of federal or state disability access laws.

- B. It is unlawful for any person, object or possession to partially or completely block, obstruct, prevent, or otherwise hinder the free access to the entrance to any building open to the public, whether or not other persons are present at the location in question.

**8.38.040 Trespass on parking lots, shopping center property, and other private property open to the patronage of the public.**

It is unlawful for any person, after first being warned by a law enforcement officer, or where a sign or signs have been posted in accordance with this chapter, to remain on, wander, idle, or loiter on any parking lot, shopping center property or any other private property open to the patronage of the public, without visible or lawful business with the owner or occupant or without the written permission of the owner, the person entitled to immediate possession or the authorized agent of either. This section does not apply to a public officer or employee acting within the course and scope of employment.

**8.38.050 Disorderly conduct.**

- A. It is unlawful for a person to commit any of the following acts with the intent to cause another person annoyance, alarm, or disturbance, or with the intent to interfere with another person's lawful discharge or pursuit of any lawful business or occupation:
1. Engaging in fighting or in violent, tumultuous, or threatening behavior that would put a reasonable person in fear for the person's safety; or
  2. Using language that a reasonable person would consider offensive, lewd, vulgar, profane, threatening, abusive, or insulting, within the hearing range of another person in any public place or any place open to the patronage of the public; or
  3. Uttering or using within the hearing of another person any language, words, epithets, expressions, or remarks, either intended to or likely to incite or create a breach of the peace; or
  4. Encouraging by words or conduct, disobedience to any lawful order, or request of any law enforcement officer pursuant to and in the performance of the officer's duties; or
  5. Making or participating in making any unreasonably loud noise or engaging in offensive conduct or behavior, as measured by an objectively reasonable person standard, in any public place or any place open to the patronage of the public.
- B. It is unlawful for a person to commit any of the acts specified in Section 8.38.050(A) with reckless disregard for the risk of causing another person annoyance, alarm, or disturbance, or of interfering with another person's lawful discharge or pursuit of any lawful business or occupation.
- C. It is unlawful for a person to congregate with two or more other persons in any public place, or in any place open to the patronage of the public, when the purpose of congregating is, by words, acts, or conduct generally offensive to the community, to annoy, disturb, or interfere with another person's lawful discharge or pursuit of a lawful business or occupation, or to maliciously interfere with or annoy another person lawfully at the place.

**8.38.060 Severability.**

If any portion of this chapter, or its application to particular persons or circumstances, is held to be invalid or unconstitutional by a final decision of a court of competent jurisdiction, the decision shall not affect the validity of the remaining portions of this chapter or the application of the chapter to persons or circumstances not similarly situated.

**8.44.040 Consuming or possessing an open container of an alcoholic beverages in certain public places and public parks owned by the city ~~prohibited~~.**

- A. No person shall possess any can, bottle, or other receptacle containing any alcoholic beverage that has been opened, or a seal broken, or the contents of which have been partially removed, nor shall any person consume any alcoholic beverage in any city-owned public places ~~and~~ or city-owned park identified in this section as:
1. Any public street, sidewalk, alley, highway, ~~or~~ public parking lot, or public open space owned by, leased to, licensed to, or operated by the city in the ~~city's~~ V-B Village Barrio Zone, as that zone is designated in Chapter 21.35 of this code, as amended, and specifically within or adjacent to the VC, VG, HOSP, FC, and PT districts and the VBO district (Magee and Maxton Brown parks) of the Village and Barrio Master Plan.
  2. Rotary Park located at the 2900 block of Washington Street, bordered to the west by Washington Street, bordered to the east by the west alley of State Street immediately east of the Atchison, Topeka and Santa Fe Rail Road tracks, bordered to the south by Carlsbad Village Drive and bordered to the north by Grand Avenue in the City of Carlsbad.
3. Holiday Park and Pine Avenue Community Park.
- B. Unlawful possession of an open container of an alcoholic beverage as described in Section 8.44.040(A) shall be charged as an infraction; unlawful consumption of an open container of an alcoholic beverage as described in Section 8.44.040(A) may be charged as a misdemeanor.
- C. Any of the prohibitions set forth in this section may be waived ~~during a special event~~ when a special event permit or a park and facility use permit requesting a waiver has been granted by the city manager or designee.
- ~~C~~D. This section does not apply when an individual is in possession of an alcoholic beverage container within a sidewalk café or curb café that is approved and permitted as required by the Village and Barrio Master Plan and the California Department of Alcoholic Beverage Control, or any temporary permits issued under state or local emergency orders.
- ~~D~~E. This section does not apply when an individual is in possession of an alcoholic beverage container for the purpose of recycling or other related disposal activity.