

ORDINANCE NO. 18-0020

AN ORDINANCE OF THE CITY OF MANHATTAN BEACH ADDING CHAPTER 4.140 (CAMPING AND STORAGE OF PERSONAL PROPERTY) TO TITLE 4 (PUBLIC WELFARE, MORALS AND CONDUCT) OF THE MANHATTAN BEACH MUNICIPAL CODE RELATING TO CAMPING AND STORAGE OF PERSONAL PROPERTY IN PUBLIC AREAS AND PRIVATE PROPERTY

THE CITY COUNCIL OF THE CITY OF MANHATTAN BEACH DOES ORDAIN AS FOLLOWS:

SECTION 1. On September 4, 2018, the City Council conducted a duly noticed public meeting to consider adding Chapter 4.140 (Camping and Storage of Personal Property) to Title 4 (Public Welfare, Morals and Conduct) of the Manhattan Beach Municipal Code (MBMC) to maintain streets, parks, and other public and private areas within the City in a clean and accessible condition and to adequately protect the health, safety, and welfare of the community.

SECTION 2. Based upon the foregoing, the Manhattan Beach City Council hereby adds Chapter 4.140 (Camping and Storage of Personal Property) to Title 4 (Public Welfare, Morals and Conduct) of the MBMC to read as follows:

“CHAPTER 4.140 - CAMPING AND STORAGE OF PERSONAL PROPERTY

Section 4.140.010: Purpose.

Section 4.140.020: Definitions.

Section 4.140.030: Unlawful Camping.

Section 4.140.040: Storage of Personal Property on Public and Private Property.

Section 4.140.050: Impoundment.

Section 4.140.060: Notice Prior to Impoundment.

Section 4.140.070: Notice Upon Impoundment.

Section 4.140.080: Holding and Disposal of Stored Personal Property.

Section 4.140.090: Owner May Claim Personal Property.

Section 4.140.100 - Unclaimed Personal Property to be Used by City or Sold at Auction

Section 4.140.110: Dangerous or Perishable Personal Property; Evidence.

Section 4.140.120: Shopping Carts.

Section 4.140.130: Violations, Penalties and Enforcement.

Section 4.140.010 - Purpose.

The public parks, public streets and alleys, public parking lots, public rights-of-ways, public parkways, public sidewalks, recreational areas, public property, public areas, and other publicly-owned or controlled property within the City, should be readily accessible and available to residents, businesses and the public at large for their intended purposes. The use of these public areas for camping purposes or storage of personal property interferes with the rights of others to use and enjoy these public areas as they are

intended. In addition, camping on private property without the consent of the owner, without proper sanitary measures, and for other than a minimal duration affects private property rights as well as public health and safety.

Such activities can constitute a public health and safety hazard which adversely impacts public offices, facilities and services, neighborhoods and commercial areas. The purpose of this Chapter is to maintain these public and private areas within the City in a clean, sanitary, safe and accessible condition, to adequately protect the health, safety, environment and general welfare of the community, and to ensure that these areas are used for their intended purposes and remain accessible to all citizens, businesses and visitors in the City. Nothing in this Chapter is intended to interfere with otherwise lawful and ordinary uses of public property or private property.

Section - 4.140.020 Definitions.

Unless the particular provisions or the context otherwise requires, the definitions contained in this Section shall govern the construction, meaning and application of words and phrases used in this Chapter.

“Alley” shall have the meaning set forth in California Vehicle Code Section 110.

“Camp” or “Camping” means to pitch, maintain, or occupy camp facilities; to live temporarily in a camp facility or outdoors; or to use camp paraphernalia, in such a way as to reasonably appear, in light of all circumstances, that at least one person is using the area occupied as a living accommodation, regardless of his or her intent or the nature of any other activities in which he or she might also be engaging.

“Camp Facility” means all temporary shelters, including but not limited to, tents, huts, yurts, vehicles, vehicle camping outfits or temporary shelters.

“Camp Paraphernalia” means items including, but not limited to, bedrolls, air mattresses, tarpaulins, cots, beds, sleeping bags, hammocks and similar equipment.

“Establish” means to set up or move equipment, supplies or materials on to public or private property to camp or operate camp facilities.

“Maintain” means to keep or permit equipment, supplies or materials to remain on public or private property in order to camp or operate camp facilities.

“Operate” means to participate or assist in establishing or maintaining a camp or camp facility.

“Personal Property” means tangible personal belongings or possessions, which shall include any movable or tangible thing that is subject to ownership; property or chattels that can be seen, weighed, measured, felt, or touched, including, but not limited to, furniture, appliances, camping equipment or paraphernalia, money, books, and shopping carts or carts as defined in this Section.

“Private Property” means all private property including, but not limited to, private streets, private sidewalk, private alleys, and private improved or unimproved land.

“Public Area,” “Public Areas,” or “Public Property” means a publicly owned or controlled place, including, but not limited to, any public street, alley, public parking lot, public park, public right-of-way, public parkway, public sidewalk, public recreational area, public recreational facility, open space, the Manhattan Beach Civic Center and all public areas adjacent thereto, the County of Los Angeles Public Library - Manhattan Beach Library and all public areas adjacent thereto, the Joslyn Community Center and all public areas adjacent thereto, the Manhattan Heights Community Center and all public areas adjacent thereto, Veterans’ Parkway, and any and all other publicly-owned or controlled property in the City.

“Shopping Carts” or “Carts” shall have the meaning set forth in Business and Professions Code Section 22435.

“Store”, “Stored” or “Storage” means to place or put aside personal property in a public area or accumulate it for use when needed, to place personal property in a public area for safekeeping, or to leave personal property unattended in a public area.

“Street” shall have the meaning set forth in California Vehicle Code Section 590.

“Unclaimed Personal Property” means personal property that has been delivered to the Chief of Police or impounded pursuant to this Chapter, and that has not been claimed within a period of 120 days by its owner.

Section 4.140.030 - Unlawful Camping.

It shall be unlawful and a public nuisance for any person to camp, establish, maintain, operate, or occupy camping facilities, or use camp paraphernalia in the following areas, except as otherwise provided:

- (a) Any improved or unimproved public area.
- (b) Any improved or unimproved private property.

(1) This Section does not prohibit overnight camping on private residential property by friends or family of the property owner or lawful occupant, so long as the owner or lawful occupant consents; and the overnight camping is limited to not more than one consecutive night.

(2) Nothing in this Section is intended to prohibit or make unlawful the activities of an owner or lawful occupant of private property that are normally associated with and incidental to the lawful and authorized use of private property for residential or other purposes, or where such activities are expressly authorized by the City’s laws, ordinances, and other regulations.

(3) The City may issue a temporary permit to allow camping on public or private property in connection with certain temporary events, as provided in Chapter 5.28.

Section 4.140.040 - Storage of Personal Property on Public and Private Property.

It shall be unlawful and a public nuisance for any person to store personal property, any camp facility or camp paraphernalia, in any public area, except as otherwise approved by the Chief of Police, the City Manager or by resolution of the City Council. It shall be unlawful for any person to store personal property, including any camp facility or camp paraphernalia, in any private property without the consent of the property owner.

Section 4.140.050 - Impoundment.

The Chief of Police shall impound personal property stored in violation of Section 4.140.040, and shall make provisions for the receipt and safekeeping of personal property coming into his or her possession pursuant to this Chapter. A receipt shall be issued to the person delivering such personal property, unless the personal property was found in the course of employment by an employee of the City. The Chief of Police shall notify the owner of the personal property, in writing, if his or her identity is reasonably ascertainable; or, if the identity of the owner is not reasonably ascertainable, cause a written notice to be left in a prominent place at or near where the personal property was located prior to removal, for any personal property impounded, advising that the Chief of Police is in possession of the personal property and the location where it may be claimed.

Section 14.140.060 - Notice Prior to Impoundment.

A. Stored personal property may be impounded without notice if there is a reasonable belief that it is abandoned, presents an immediate threat to public health or safety, is evidence of a crime, is evidence in a criminal investigation, or is contraband.

B. The City may erect signs in any public area or areas conspicuously stating that any personal property stored in those areas is subject to immediate impoundment. Those signs shall serve to provide the prior notice otherwise required by subsection c of this Section. Personal property unlawfully stored where any such sign has been posted may be immediately impounded.

C. If neither subparagraph A nor subparagraph B apply, personal property unlawfully stored in public areas shall be impounded only after a notice is left on, or at or near the location of the personal property, advising that the personal property will be impounded if it is not removed. This notice will specify a time when the personal property will be impounded if it is not removed. Such time shall not be less than 48 hours after the notice is left.

Section 4.140.070 - Notice Upon Impoundment.

If, after any notice required by Section 4.140.060 is given, personal property remains unlawfully stored in any public area, that personal property may be impounded. The City shall leave a notice in a conspicuous place at or near where the personal property was

located prior to being impounded, advising where the personal property is being kept and when and where it may be claimed by its owner.

Section 4.140.080 - Holding and Disposal of Stored Personal Property.

Personal property coming into possession of the Chief of Police pursuant to this Chapter shall be deposited in a safe place for a period of at least 120 days. If the personal property consists of money, it shall be deposited with the City's Director of Finance for a period of not less than 120 days, unless sooner claimed by its owner. In the event the personal property or money is not claimed within 120 days, it shall be deemed to be abandoned personal property, subject to disposition as provided in this Chapter.

Section 4.140.090 - Owner May Claim Personal Property.

During the time that any personal property is held by the City, it may be delivered or paid to its owner as follows:

A. The personal property shall be delivered upon proof of ownership satisfactory to the Chief of Police after 10 days' notice by mail to any other person who has asserted a claim of ownership at any address given by such person.

B. If the personal property consists of money, it shall be paid to the owner upon written order from the Chief of Police to the Director of Finance. The Chief of Police shall make such order upon the same proof of ownership and with the same notice as prescribed in the case of personal property.

C. If ownership cannot be determined to the satisfaction of the Chief of Police, he or she may refuse to deliver the personal property or refuse to order the payment of such money to anyone until ordered to do so by a court of competent jurisdiction.

Section 4.140.100 - Unclaimed Personal Property to be Used by City or Sold at Auction.

Upon expiration of the 120-day period, any personal property received by the City may be retained by the City or sold at public auction pursuant to Municipal Code Chapter 2.32.

Section 4.140.110 - Dangerous or Perishable Personal Property; Evidence.

Any personal property coming into the possession of the Chief of Police may be disposed of immediately and without notice, in a manner that the Chief of Police determines to be in the public interest and otherwise as provided by law, when such personal property is perishable, contraband, evidence of a crime, evidence in a criminal investigation, or is reasonably believed to constitute an immediate threat to the public health or safety.

Section 4.140.120 - Shopping Carts.

Confiscated shopping carts may be released to the owners or operators of businesses providing evidence of ownership of the confiscated cart.

Violations, Penalties and Enforcement.

Each violation of Sections 4.140.030 or 4.140.040 of this Chapter shall:

A. Be punishable alternatively as a misdemeanor or an infraction at the discretion of the City Attorney or City Prosecutor. The penalty for an infraction and/or misdemeanor shall be as set forth in Chapters 1.04 and 1.06 of this Code.

B. Constitute a nuisance and may be abated by the City through civil process by means of restraining order, preliminary or permanent injunction or in any other manner provided by law for the abatement of such nuisances.”

SECTION 3. Municipal Code Section 2.36.190 is hereby repealed. Municipal Code Section 2.32.030 (Sale of Unclaimed Property at Public Auction) is hereby amended by adding thereto a new paragraph at the end to read as follows:

“This Ordinance is hereby authorized by California Civil Code Section 2080.4.”

Section 4. CEQA Findings. This Ordinance was assessed in accordance with the authority and criteria contained in the California Environmental Quality Act (CEQA), the State CEQA Guidelines, and the environmental regulations of the City. The adoption and implementation of the Ordinance is not a project for purposes of CEQA in that it is a general policy and procedure for maintenance of public areas and rights-of-way, and even if it were a project, it would be exempt from the requirements of CEQA pursuant to CEQA Guidelines Section 15061(b)(3) because it can be seen with certainty that there is no possibility that prohibiting unattended personal property or unlawful camping in the public right-of-way or in a public area will have a significant effect on the environment. This Ordinance is additionally exempt from CEQA pursuant to CEQA Guidelines Section 15308, as it involves actions taken to ensure the maintenance, restoration or protection of the environment.

SECTION 5. If any sentence, clause, or phrase of this Ordinance is for any reason held to be unconstitutional or otherwise invalid, such decision shall not affect the validity of the remaining provisions of this Ordinance. The City Council hereby declares that it would have adopted this Ordinance and each sentence, clause or phrase thereof irrespective of the fact that any one or more sentences, clauses or phrases be declared unconstitutional or otherwise invalid.

SECTION 6. Any provisions of the MBMC, or appendices thereto, or any other resolution or ordinance of the City, to the extent that they are inconsistent with this Ordinance, are hereby repealed; and the City Clerk shall make any necessary changes to the MBMC for internal consistency.

SECTION 7. The City Clerk shall certify to the passage and adoption of this Ordinance and shall cause this Ordinance to be published within 15 days after its passage, in accordance with Government Code Section 36933.

ADOPTED _____, 2018.

AYES:

NOES:

ABSENT:

ABSTAIN:

STEVEN A. NAPOLITANO
Mayor

ATTEST:

LIZA TAMURA
City Clerk

APPROVED AS TO FORM:

QUINN M. BARROW
City Attorney