

ITEM No. 6 - A

MOTION

I MOVE that the matter of the Arts, Parks, Health, Aging and River Committee Report and Ordinance First Consideration relative to the amendment of the Los Angeles Municipal Code (LAMC) to restrict the possession or use of non-permitted bulky items and tents in parks, to prohibit the storage of personal property within the limits of any park, and to prohibit erecting barriers against or attaching personal property to park property, Item No. 6 on today's Council Agenda (CF 14-1551), BE AMENDED to PRESENT and ADOPT the attached ordinance in lieu of any other ordinance relative to this matter.

PRESENTED BY:



MITCH O'FARRELL
Councilman, 13th District

SECONDED BY:



ORIGINAL

June 16, 2015

ak



MICHAEL N. FEUER
CITY ATTORNEY

REPORT NO. R 1 5 - 0 1 6 0
JUN 1 6 2015

REPORT RE:

REVISED DRAFT ORDINANCE AMENDING SUBSECTIONS B AND I OF SECTION 63.44 OF CHAPTER VI OF THE LOS ANGELES MUNICIPAL CODE TO RESTRICT THE POSSESSION OR USE OF NON-PERMITTED BULKY ITEMS AND TENTS AND TO PROHIBIT THE STORAGE OF PERSONAL PROPERTY WITHIN THE LIMITS OF ANY PARK

The Honorable City Council
of the City of Los Angeles
Room 395, City Hall
200 North Spring Street
Los Angeles, California 90012

Council File No. 14-1656

Honorable Members:


On May 19, 2015, this Office transmitted for your consideration an ordinance amending Los Angeles Municipal Code Sections 63.44.B and 63.44.I to restrict the possession or use of non-permitted bulky items and tents and to prohibit the storage of personal property within the limits of any park. Thereafter, the draft ordinance was considered by the Board of Commissioners for the Department for Recreation and Parks. The Board requested a one sentence clarification to the definition of "Bulky Item" to ensure that a portable picnic table or chair would not be deemed to be a "Bulky Item," prohibited by the ordinance. The enclosed revised draft ordinance, approved as to form and legality, adds the one sentence clarification to the ordinance, as requested.

If you have any questions regarding this matter, please contact Senior Assistant City Attorney Valerie Flores at (213) 978-8149. She or another member of this Office will be present when you consider this matter to answer any questions you may have.

Very truly yours,

MICHAEL N. FEUER, City Attorney

By


DAVID MICHAELSON
Chief Assistant City Attorney

DM:VLF:ac
Transmittal

ORDINANCE NO. _____

An ordinance amending Subsections B and I of Section 63.44 of Chapter VI of the Los Angeles Municipal Code to restrict the possession or use of non-permitted bulky items and tents, and to prohibit the storage of personal property within the limits of any Park, including a Park consisting of beaches and water recreation areas.

**THE PEOPLE OF THE CITY OF LOS ANGELES
DO ORDAIN AS FOLLOWS:**

Section 1. A new Subdivision 26 is added to Subsection B of Section 63.44 of the Los Angeles Municipal Code to read as follows:

26. Bulky Items, Tents and Storage of Personal Property in Parks.

(a) Declaration of Legislative Intent - Purpose.

Parks should be accessible and available to residents and the public at large for their intended recreational uses. Bringing bulky items into a Park and the unauthorized use of a Park for the storage of personal property interferes with the rights of other members of the public to use Parks for their intended purposes and can create a public health or safety hazard that adversely affects the Park and those who use the Park for recreational activities. The purpose of this section is to maintain Parks in clean, sanitary and accessible condition, to prevent harm to the health or safety of the public, to prevent the misappropriation of Parks for personal use, and to promote the public health and safety by ensuring that Parks remain readily accessible for their intended recreational uses.

(b) Definitions.

The definitions contained in this subsection shall govern the construction, meaning and application of words and phrases used in this section.

(1) **“Bulky Item”** means any item that is too large to fit in one of the City's 60 gallon trash containers with the lid closed, including, but not limited to, a mattress, couch, chair or other furniture or appliance. Bulky Item does not include a portable, collapsible picnic chair or table.

(2) **“Person”** means any individual, group, business, business trust, company, corporation, joint venture, joint stock company, partnership, entity, association, club or organization composed of two or more individuals (or manager, lessee, agent servant, officer or employee).

(3) **“Personal Property”** means any and all tangible property, and includes, but is not limited to, goods, materials, merchandise, Tents, tarpaulins, bedding, sleeping bags, hammocks, and personal items such as luggage, backpacks, clothing, documents, medication and household items.

(4) **“Store,” “Stored” or “Storing”** means to put aside or accumulate for use when needed, to put for safekeeping, to place or leave in a location.

(5) **“Tent”** means any tarpaulin, cover, structure or shelter, made of any material which is not open on all sides and which hinders an unobstructed view behind or into the area surrounded by the tarpaulins, cover, structure or shelter.

(c) **Prohibition on Bulky Items in a City Park.**

No Person shall bring into any Park any Bulky Item without a permit therefor.

(d) **Prohibition on Erecting a Tent in a City Park.**

Except for areas expressly designated for camping, no person shall erect, configure or construct a Tent in any Park.

(e) **Ban on Attachments.**

No Person shall erect any barrier against or lay string or join any wires, ropes, chains or otherwise attach any Personal Property to any of the City’s real or personal property or trees or plants in a Park, including, but not limited to, a building or portion or protrusion thereof, playground equipment, sports equipment, exercise equipment, fencing, netting, trash can, gazebo, pagoda, pole, post, bike rack, drinking fountain, sign, table, bench, tree, bush, shrub or plant, without the City’s prior written consent.

(f) **Removal of Stored Personal Property; Discarding of Stored Personal Property.**

(1) No Person shall Store Personal Property in any Park.

(2) All Stored Personal Property remaining in any Park after closing may be removed by the City.

(3) Personal Property placed in a Park shall be deemed to be Stored Personal Property if it has not been removed from the Park prior to the daily closure of the Park. Moving Personal Property to another

location in the same Park or another Park or any other Public Area as defined in Los Angeles Municipal Code Section 56.11, shall not be considered removing the Personal Property from the Park. The City may remove such Stored Personal Property after providing notice pursuant to Subsection (g) herein. This section shall not apply to Personal Property that remains in the Park after the Park closes pursuant to statute, ordinance, regulation, permit, contract or other authorization by the City.

(4) The City may remove and discard any non-permitted Bulky Item from a Park without prior notice.

(5) In the event Personal Property placed in a Park poses an immediate threat to the health or safety of the public, the City may remove and discard it without prior notice.

(g) **Pre-Removal Notice.** Notice of the City's removal of Personal Property will be provided as follows:

(1) By erecting in a Park at least one sign in a conspicuous place providing notice that any Personal Property remaining in the Park after the Park closes may be removed and impounded and may be discarded by the City if not claimed within 90 days of the City's removal of the Personal Property; or

(2) By placing on or near the Personal Property, a written notice containing the following:

(i) A general description of the Personal Property to be removed;

(ii) The location from which the Personal Property will be removed;

(iii) The date and time the notice was posted;

(iv) A statement that the Personal Property has been Stored in violation of Section 63.44.B.26 and will be removed by the City if the Person who Stored the Personal Property in the Park does not remove the Personal Property from the Park within 24 hours;

(v) The location where the removed Personal Property will be stored, including a telephone number and the internet website of the City through which a Person may receive information as to impounded Personal Property as well as information as to voluntary storage location(s); and

(vi) A statement that the City may discard the Personal Property if not claimed within 90 days after the City's removal of it.

(h) **Post Removal Notice.** Upon the City's removal of Personal Property, written notice shall be placed conspicuously in the area from which the City removed the Personal Property. The written notice shall contain the following:

(1) A general description of the Personal Property removed by the City;

(2) The date and approximate time the Personal Property was removed by the City;

(3) A statement that the Personal Property was Stored in violation of 63.44.B.26;

(4) The location where the removed Personal Property will be impounded, including a telephone number and internet website of the City through which a Person may receive information as to impounded Personal Property; and

(5) A statement that removed Personal Property may be discarded if not claimed within 90 days of the City's removal of it.

(i) **Failure to Remove Attended Personal Property.**

It shall be unlawful to fail to remove from a Park attended Stored Personal Property within 24 hours of receiving written notice pursuant to Subsection (f)(2) or after closure of the Park, in any Park with a sign posed pursuant to Subsection (g).

(j) **Storage and Disposal.**

(1) Except as specified herein, impounded Personal Property shall be moved to a place of storage;

(2) Except as specified herein, impounded Personal Property shall be held by the City for 90 days, after which time, if not claimed, it may be discarded. The City shall not be required to undertake any search for, or return of, any Personal Property held by the City for longer than 90 days;

(3) The City shall maintain a record of the date any Personal Property was discarded.

(k) **Repossession.**

The owner or any other person entitled to the Personal Property removed by the City may repossess the Personal Property prior to its disposal upon submitting satisfactory proof of ownership or entitlement to the Personal Property. A Person may establish proof of ownership by, among other methods, describing the location where and date when the Personal Property was Stored in a Park and providing a specific and detailed description of the Personal Property. Valid, government-issued identification is not required to claim removed Personal Property.

(l) **Illegal Dumping.**

Nothing herein precludes the enforcement of any law prohibiting illegal dumping, including but not limited to, California Penal Code Section 374.3, and Los Angeles Municipal Code Sections 41.14, 63.44.B.13 or 190.02, or any successor statutes proscribing illegal dumping.

(m) **Certain Penalties Inapplicable.**

Los Angeles Municipal Code Section 11.00 shall not apply to violations of this section except as to violations of Subsections (c), (d), (e), (i) and (l).

(n) **Severability.** If any subsection, sentence, clause or phrase of this article is for any reason held to be invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have adopted this section, and each and every subsection, sentence, clause and phrase thereof not declared invalid or unconstitutional, without regard to whether any portion of the ordinance would be subsequently declared invalid or unconstitutional.

Sec. 2. A new Subdivision 13 is added to Subsection I of Section 63.44 of the Los Angeles Municipal Code to read as follows:

13. **Bulky Items, Tents and Storage of Personal Property in Beach Parks.**

(a) **Declaration of Legislative Intent - Purpose.**

Beach Parks should be accessible and available to residents and the public at large for their intended recreational uses. Bringing bulky items into a Beach Park and the unauthorized use of a Beach Park for the storage of personal property interferes with the rights of other members of the public to use Beach Parks for their intended purposes and can create a public health or safety hazard that adversely affects the Beach Park and