

DRAFT

ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY OF SAN JOSE
AMENDING CHAPTER 10.20 OF TITLE 10 OF THE SAN
JOSE MUNICIPAL CODE TO ADD PART 6 TO
ESTABLISH "SCHOOL CLEARANCE ZONES" WHICH
WOULD PROHIBIT CERTAIN OBSTRUCTIONS WITHIN
150 FEET OF SCHOOLS**

WHEREAS, the City's Parks, Recreation, and Neighborhood Services Department currently maintains an Encampment Management Program; and

WHEREAS, as part of the Encampment Management Program, the City maintains a policy of removing homeless encampments and people that are in setback areas, including areas within 150 feet of schools; and

WHEREAS, the City Council has directed the City Manager to codify this policy by drafting an ordinance prohibiting encampments within at least 150 feet of schools, consistent with the Encampment Management Program; and

WHEREAS, pursuant to the provisions and requirements of the California Environmental Quality Act of 1970, together with related State CEQA Guidelines and Title 21 of the San José Municipal Code (collectively, "CEQA"), the provisions of this Ordinance do not constitute a project under File No. PP17-008; and

WHEREAS, the City Council is the decision-making body for this proposed Ordinance; and

WHEREAS, the City Council has reviewed and considered the "not a project" determination under CEQA prior to taking any approval actions on this proposed Ordinance;

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF SAN JOSE:

A new Part is added to Chapter 10.20 of Title 10 of the San José Municipal Code to be numbered, entitled and to read as follows:

Part 6

SCHOOL CLEARANCE ZONES

10.20.210 Prohibition on Obstruction In A School Clearance Zone.

No person shall obstruct a street (including any storm sewer or natural outlet or channel), sidewalk, bicycle lane, or other public right-of-way by sitting, lying, or sleeping, or by storing, using, maintaining, or placing personal property, in a School Clearance Zone.

10.20.220 School Clearance Zone Defined.

For purposes of this Chapter, a School Clearance Zone shall be defined as any area within one hundred fifty feet of the lot or parcel line for a real property with a licensed public or private preschool, elementary, middle, or secondary school on-site.

10.20.230 Exception to the Prohibition.

The prohibition in Section 10.20.210 shall not apply to any person:

- A. Sitting or lying down due to a medical emergency.

- B. Using a mobility device such as a wheelchair, walker, crutches, canes, braces, and other similar device to move within the School Clearance Zone.
- C. Operating under a sidewalk café permit issued under previously existing provisions of Title 20 of the Code or an encroachment permit issued pursuant to Chapter 13.37 of the Code.
- D. Who sits on a chair on a sidewalk at a business with a sidewalk café permit issued under previously existing provisions of Title 20 of the Code or an encroachment permit issued pursuant to Chapter 13.37 of the Code.
- E. Sitting on a bench that is permanently affixed to the sidewalk at a mass transportation stop, plaza, paseo, or city park.

10.20.240 Enforcement.

- A. Any violation of this Chapter shall only be punishable by an administrative citation in accordance with the procedures set forth in Chapter 1.15 of Title 1 of this Code relating to the issuance of administrative citations, imposing of administrative fines, right to appeal, and the right to an administrative hearing.
- B. The amounts of the fines for violations imposed pursuant to this Chapter shall be set forth in the schedule of fines established by resolution of the City Council.

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PASSED FOR PUBLICATION of title this _____ day of _____, 2024, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

MATT MAHAN
Mayor

ATTEST:

TONI J. TABER, CMC
City Clerk