



# Memorandum

**TO:** HONORABLE MAYOR  
AND CITY COUNCIL

**FROM:** Nora Frimann  
City Attorney

**SUBJECT:** SEE BELOW

**DATE:** March 25, 2024

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**SUBJECT: PROPOSED ORDINANCE CODIFYING THE EXISTING ENCAMPMENT MANAGEMENT PROGRAM AROUND SCHOOLS AND ESTABLISHING SCHOOL CLEARANCE ZONES**

## **RECOMMENDATION**

Approve an ordinance 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.

## **BACKGROUND**

The City maintains an Encampment Management Program, which includes a policy for the removal of homeless encampments and people that are in setback areas, including areas within 150 feet of schools.

On August 9, 2023, the Rules and Open Government Committee approved direction to the City Manager to expedite drafting an ordinance prohibiting encampments within 150 feet of the property line of licensed preschools, daycares, and K-12 schools. On January 30, 2024, City Council approved a memorandum coauthored by Mayor Mahan, and Councilmembers Jimenez, Cohen, Ortiz, and Doan ("Joint Memorandum") directing staff to draft an ordinance prohibiting encampments within at least 150 feet of K-12 schools, consistent with the Encampment Management Program.

## **ANALYSIS**

The proposed ordinance will amend Chapter 10.20 of Title 10 of the San Jose Municipal Code to add Part 6 to Chapter 10.20. Pursuant to the City's police power to regulate for the protection of the welfare, peace and comfort of the inhabitants, the City regulates offenses against property under Chapter 10.20. The proposed ordinance would codify the Encampment Management Program's school setback policy, by establishing "School Clearance Zones." The proposed ordinance prohibits obstructing a street

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(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. A School Clearance Zone is defined as any area within 150 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.

The prohibition would not apply to any person sitting or lying down due to a medical emergency, using a mobility device to move within the School Clearance Zone, operating under an encroachment permit, or sitting on a bench that is permanently affixed to the sidewalk at a mass transportation stop, plaza, paseo, or city park.

The proposed ordinance does not subject any violator to criminal enforcement, as a violation of the prohibition would only be punishable by an administrative citation. Administration intends to recommend setting the fine amount to \$0.

### **CONCLUSION**

The proposed ordinance conforms to the direction from the City Council from January 30, 2024, as discussed above.

### **CEQA**

Not a Project, File No. PP17-008, General Procedure and Policy Making resulting in no changes to the physical environment. (City Attorney).

NORA FRIMANN  
City Attorney

/s/ \_\_\_\_\_

For questions, please contact Omar El-Qoulaq, Deputy City Attorney, at (408) 535-1900.

cc: Jennifer Maguire, City Manager