

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF RIVERSIDE, CALIFORNIA
AMENDING SECTION 9.040.600 AND ADDING NEW SECTIONS 9.040.610
THROUGH 9.04.630 TO CHAPTER 9.04 OF THE RIVERSIDE
MUNICIPAL CODE ENTITLED "OFFENSES," TO REGULATE
ENCAMPMENTS IN HIGH FIRE AREAS.

WHEREAS, the City of Riverside (“City”) encourages the use of open spaces and facilities within the City by all members of the public; and

WHEREAS, camping in certain areas has created unsanitary, unhealthy, disorderly, and dangerous conditions that may affect campers, public safety first responders, and the general public; and

WHEREAS, the City has authority to regulate and ensure the public's health, safety, and general welfare; and

WHEREAS, in *Martin v. City of Boise* (9th Cir. 2019) 920 F.3d 584, the Ninth Circuit held that “the Eighth Amendment prohibits the imposition of criminal penalties for sitting, sleeping, or lying outside on public property for homeless individuals who cannot obtain shelter.” (*Ibid.*); and

WHEREAS, the Boise decision applies only to the issuance of criminal penalties for sitting, sleeping, or lying outside to persons experiencing homelessness who cannot obtain shelter; and

WHEREAS, the Boise court qualified its holding, expressly stating that it was not suggesting “that a jurisdiction with insufficient shelter can never criminalize the act of sleeping outside. Even where shelter is unavailable, an ordinance prohibiting sitting, lying, or sleeping outside at particular times or in particular locations might well be constitutionally permissible.” (Boise, *supra*, at 1048, n. 8.) “[T]he opinion holds only that municipal ordinances that criminalize sleeping, sitting or lying in all public spaces, when no alternative sleeping space is available, violate the Eighth Amendment.” (Ibid, citing Boise, *supra*, 902 F.3d at 1035 [emphasis in original].); and

WHEREAS, Riverside Municipal Code Section 9.04.600 prohibits camping but is not enforced when no alternative sleeping space is available, and

WHEREAS, the City intends to act in compliance with the Boise decision; and

1 WHEREAS, wildfires are a frequent natural disaster in California, causing significant harm
2 and loss to individuals, communities, wildlife and great swaths of natural landscape and the
3 frequency, duration and size of wildfires have increased over the last several decades; and

4 WHEREAS, the University of Southern California reported that wildfires scorched the
5 American West in 2021. “In California alone, Cal Fire recorded 8,835 wildfires that destroyed
6 more than 2.5 million acres cumulatively.”; and

7 WHEREAS, the May 2022 Laguna Niguel wildfire in Orange County destroyed at least
8 20 homes and hundreds of acres of foliage in no time. Bill Deverell, director of the Huntington-
9 USC Institute on California stated that the continued effects of climate change and especially
10 extreme drought mean wildfire poses a risk year-round. “Summer in California no longer means
11 the beginning of fire season. Rather, it means we are about to enter the roughest six or so months
12 of a fire season that never ends Drought and the increasing effects of climate change come
13 together in creating the likelihood — even the certainty — of bigger, hotter, and more
14 catastrophic fires year to year.”; and

15 WHEREAS, the *High Country News* reports the following: “Weather isn’t the only thing
16 that drives fires in the West. Most fires are started by humans, either deliberately or accidentally.
17 And the fires require fuel to burn – and the extreme drought gripping the west, as well as a
18 century of fire suppression, has led to the buildup of dead trees and vegetation that has helped
19 stoke some of the largest fires in region. Dry soils have helped flames hurtle across the terrain
20 unimpeded by moisture.” (Maanvi Singh, “Fire Season is Getting Longer”, HIGH COUNTRY
21 NEWS, Aug. 26, 2021); and

22 WHEREAS, while most of California is subject to some degree of fire risk, specific
23 features make some areas particularly hazardous based on the severity of fire hazard that is
24 expected to prevail there; and

25 WHEREAS, the 2022 Point-in-Time Homeless Count identified 3,316 Riverside County
26 residents experiencing homelessness, 59.71% of whom are unsheltered. The 2020 Count
27 identified 587 City unsheltered residents experiencing homelessness, of which 34% are
28 unsheltered living in an encampment, park, or woods; and

1 WHEREAS, the Office of Homeless Solutions develops public and private partnerships
2 and provides direct outreach services that coordinates services directed towards reducing and
3 preventing homelessness by providing a wide-range of services and resources for homeless
4 persons and increasing permanent supportive housing opportunities for very low income and
5 long-term homeless persons to end their homelessness in the City of Riverside; and

6 WHEREAS, while many of these unsheltered persons experiencing homelessness live in
7 urban centers, a growing number have taken refuge in the Santa Ana River bottom or more
8 remote canyon areas. As more people, both housed and unsheltered, live within high fire zones,
9 the risk of fires starting and causing harm and loss of life has also increased; and

10 WHEREAS, unsheltered persons experiencing homelessness are often reliant on fires for
11 everyday survival activities, including cooking food and keeping warm, but these activities also
12 increase the risk of nearby brush catching fire and rapidly spreading. Such individuals living in
13 high-fire zones may miss emergency notifications and may experience challenges in safely
14 evacuating; and

15 WHEREAS, according to the Los Angeles Times, one-third of the 15,610 fires related to
16 homelessness in the past 3 ¼ years were classified as arson. (Doug Smith, James Queally, and
17 Genaro Molina, “24 Fires a Day: Surge in Flames at L.A. Homeless Encampments a Growing
18 Crisis,” LOS ANGELES TIMES, May 12, 2021); and

19 WHEREAS, the wildland-urban interface (WUI) is the area where houses meet or
20 intermingle with undeveloped wildland vegetation. This makes the WUI a focal area for human-
21 environment conflicts such as wildland fires, habitat fragmentation, invasive species, and
22 biodiversity decline; and

23 WHEREAS, wildfires in the WUI interfaces pose a serious threat to communities
24 worldwide as they can be extremely destructive, killing people and destroying homes and other
25 structures, as happened in California in 2003 and 2007, Greece in 2007, Australia in 2009, Israel
26 in 2016 and Chile in 2017. The Global Fire Monitoring Center reports a global annual average of
27 297 fatalities caused by wildfires (both civilians and firefighters) between 2008 and 2015; and
28

1 WHEREAS, the risk of fires poses a significant threat to unsheltered persons experiencing
2 homelessness in the WUI as they may miss emergency notifications and may experience
3 challenges in safely evacuating; and

4 WHEREAS, efforts to notify or evacuate such unsheltered persons experiencing
5 homelessness in remote locations can cause undue harm to outreach workers and first responders
6 including Riverside Fire and Police personnel. For these reasons, unsheltered persons
7 experiencing homelessness in high risk fire zones pose a clear and imminent danger demanding
8 immediate action to prevent or mitigate loss of, or damage to life, health, property and/or essential
9 services; and

10 WHEREAS, as climate change extends and exacerbates the fire season, particular areas of
11 the City pose too great a risk of harm or loss of life for the City's public safety personnel and
12 residents; and

13 WHEREAS, the City has conducted proactive outreach focused on areas involving high-
14 risk fire zones. The City Council voted unanimously in early 2019 create a Public Safety and
15 Engagement Team (PSET) Program. Outreach teams work to connect with unhoused persons
16 experiencing homelessness. Persons have been engaged and warned of potential fire dangers.
17 While some engaged decide to remain, some willingly agreed to relocate to safer areas. Despite
18 an increase in these outreach efforts, the risk of a fires starting and rapidly spreading remains
19 high. Particular areas pose too much risk of harm or loss of life for persons experiencing
20 homelessness, nearby residents, outreach teams, and first responders, to allow encampments to
21 remain; and

22 WHEREAS, to mitigate the foregoing risks, the City Council has determined to prohibit
23 outdoor camping in areas in the wildland-urban interface; and

24 WHEREAS, this ordinance allows for the implementation of specific time, place, and
25 manner restrictions to establish clear camping prohibitions in order to best serve the health,
26 safety, and general welfare of all, including individuals experiencing homelessness. This
27 Ordinance is intended to avoid unsafe and potentially disorderly conditions, unsanitary and
28 unhealthful conditions, and the degradation or destruction of open spaces and facilities within the

1 City. It also seeks to balance public health and safety with the rights and unique needs of
2 individuals experiencing homelessness who are camping by necessity. Without proper safety
3 measures in place, involuntary camping can interfere with the rights of others to use the areas for
4 their intended purposes and is deleterious to the public, health, safety, and welfare; and

5 WHEREAS, City Council desires to protect the public health, safety, and welfare of its
6 first responders, residents, businesses, and visitors; and

7 WHEREAS, to mitigate the foregoing risks, the City Council has determined to prohibit
8 outdoor camping in these high fire areas; and

9 WHEREAS, a further principal threat to the public health, safety, and welfare is the
10 potential destruction of, damage to, or interference with the flora, fauna, hillside habitat, and
11 wildlife, as well as interference with public services such as law enforcement, fire prevention,
12 transportation, and utilities including communication, water, and waste disposal, within the WUI
13 of the City.

14 NOW THEREFORE, the City Council of the City of Riverside does ordain as follows:

15 Section 1. The City Council adopts the foregoing and incorporates the same herein by
16 this reference.

17 Section 2. The City Council declares the purpose of this ordinance is to mitigate the
18 threat of fire and other potential causes of destruction and damage in or around the City's high
19 fire areas, in order to protect the health, safety, and welfare of the public, by authorizing the
20 removal of persons and their personal property in those areas of the City determined to constitute
21 high fire danger, and to prohibit sitting, lying, sleeping, the placement of bulky items or personal
22 property in those areas.

23 Section 3. Section 9.04.600 of the Riverside Municipal Code is hereby amended as
24 follows:

25 **"Section 9.04.600 Camping on public sidewalks, streets, and/or other public**
26 **property.**

27 A. Unless otherwise permitted by law or permit, it is unlawful for any person to camp,
28 use camp facilities, or use camp paraphernalia in or on any public park, street, sidewalk, or other

1 public property.

2 B. The terms used herein are defined as follows:

3 1. *Bulky Item* means any item that is too large or a group of items that
4 cumulatively are too large to fit in one sixty-gallon trash container with the lid
5 closed, including, but not limited to, a mattress, couch, chair or other furniture
6 or appliance. The following items shall not constitute a bulky item: a portable,
7 collapsible picnic chair or table, bicycle or any item approved for a city-
8 authorized special event.

9 21. *Camp* includes, but is not limited to, to pitch, erect, maintain, or occupy
10 camp facilities, to live outdoors, or use of camp paraphernalia on public streets,
11 sidewalks, or property.

12 32. *Camping* includes, but is not limited to, use of public streets or property
13 for living accommodations or habitation purposes such as sleeping, laying down
14 bedding, storing personal property, etc.

15 43. *Camp paraphernalia* includes, but is not limited to, tarpaulins, cots, beds,
16 sleeping bags, hammocks, tents, etc.

17 54. *Camp facilities* includes, but is not limited to, tents, huts, temporary
18 shelters, or similar equipment.

19 6. *Hazardous waste* has the same meaning as in California Public Resources
20 Code section 40141.

21 7. *Infectious waste* has the same meaning as in California Code of
22 Regulations, title 14, section 17225.36.

23 8. *Personal Property* means any and all tangible property, and includes, but is
24 not limited to, goods, materials, merchandise, tents, bedding, sleeping bags,
25 hammocks, and personal items such as luggage, backpacks, clothing, documents,
26 medication and household items.

27 9. *Wildland Urban Interface* means a public geographical area identified by
28 the State of California as a “Fire Hazard Severity Zone” in accordance with

1 Public Resources Code Sections 4201 through 4202 and Government Code
2 Sections 51175 through 51189.

3 ...

4 Section 4. Sections 9.04.610 through and including 9.04.630 are hereby added to the
5 Riverside Municipal Code to read, in their entirety, as follows:

6 **“Section 9.04.610 Specific Prohibited activities.”**

7 A. It is unlawful and a public nuisance for any person to sit, lie, sleep, or store,
8 use, maintain, or place any bulky item or personal property, at the following location(s):

9 1. Wildland Urban Interface

10 B. Nothing in this chapter is intended to prohibit or make unlawful the activities
11 of an owner of private property or other lawful user of private property that are normally
12 associated with and incidental to the lawful and authorized use of private property for
13 residential or other purposes; and nothing is intended to prohibit or make unlawful the
14 activities of a property owner or other lawful user if such activities are expressly
15 authorized by this code or other laws, ordinances, and regulations.

16 **Section 9.04.620. Summary abatement.**

17 A. Any violation of section 9.04.610 may be abated in accordance with
18 procedures in Chapter 6.15 of this Code.

19 B. Abatement pursuant to subsection A may include, but is not limited to,
20 removal of bulky items, personal property, hazardous waste, infectious waste, discarded
21 items, or debris; and securing the perimeter of the property with fencing, gates, or
22 barricades to prevent further occurrences of the nuisance activity.

23 C. Regardless of the city’s authority to conduct abatement pursuant to this
24 section, every owner, occupant, or lessee of real property, and every holder of any interest
25 in real property, is required to maintain the property in compliance with local, state, and
26 federal law; and is liable for violations thereof.

27 **Section 9.04.630. Interference with summary abatement.**

28 No person shall willfully prevent, delay, resist, obstruct, or otherwise interfere with

a city official, employee, contractor, or volunteer in their execution of an abatement pursuant to this section.”

Section 5. The City Council has reviewed the matter and hereby finds that this ordinance is not subject to CEQA pursuant to Sections 15060(c)(2), 15060(c)(3) and/or 15061(b)(3) of the State CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, in that it will not result in a direct or reasonably foreseeable indirect physical change in the environment nor have a significant impact on the environment.

Section 6. If any section, subsection, sentence, clause, or phrase of this ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of any 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 passed this ordinance, and each and every section, 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.

Section 7. The City Clerk shall certify to the passage and adoption of this ordinance, and shall make a minute of the passage and adoption thereof in the records of and the proceedings of the City Council at which the same is passed and adopted. This ordinance shall be in full force and effect thirty (30) days after its final passage and adoption, and within fifteen (15) days after its final passage, the City Clerk shall cause it to be posted and published in a newspaper of general circulation in the manner required by law.

ADOPTED by the City Council this day of , 2022.

PATRICIA LOCK DAWSON
Mayor of the City of Riverside

Attest:

DONESIA GAUSE
City Clerk of the City of Riverside

1 I, Donesia Gause, City Clerk of the City of Riverside, California, hereby certify that the
2 foregoing ordinance was duly and regularly introduced at a meeting of the City Council on the
3 _____ day of _____, 2022, and that thereafter the said ordinance was duly and
4 regularly adopted at a meeting of the City Council on the _____ day of _____, 2022,
5 by the following vote, to wit:

6 Ayes:

7 Noes:

8 Absent:

9 Abstain:

10 IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the
11 City of Riverside, California, this _____ day of _____, 2022.

12
13 _____
14 DONESIA GAUSE
15 City Clerk of the City of Riverside
16
17
18
19
20
21
22
23
24
25
26

27 22-1113 07/19/22
28