

ATTACHMENT A

Ordinance No. 2417

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AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF VICTORVILLE REGARDING THE REGULATION OF CAMPING AND STORAGE OF PERSONAL PROPERTY IN PUBLIC AREAS AND AMENDING IN PART CHAPTER 13.27 OF THE VICTORVILLE MUNICIPAL CODE

WHEREAS, pursuant to *Martin v. City of Boise*, 902 F.3d 1031 (9th Cir. 2018), amended by 920 F.3d 584 (9th Cir. 2019), cert. denied, 140 S. Ct. 674 (2019) (“*Martin*”), the City cannot treat camping on public property or storage of property solely as a code enforcement matter; and

WHEREAS, while despite the holding in *Martin*, the City can still address the secondary effects that are often found to exist at encampments on public properties, it should not proceed by merely citing or prosecuting persons found to be in violation of the City’s Camping and Storage of Personal Property in Public Areas ordinance; and

WHEREAS, the Camping and Storage of Personal Property Ordinance found in Chapter 13.27 currently requires a misdemeanor citation to be issued to any person found in violation of that Chapter; and

WHEREAS, the City Council desires to cease criminal enforcement of violations of Chapter 13.27; and

WHEREAS, the City has determined that the administrative action procedure is the appropriate process to enforce Chapter 13.27 because it requires notifications prior to the issuance of an administrative citation and the notice requirements, coupled with outreach efforts, will facilitate the City in assisting persons that may be in violation of Chapter 13.27; and

WHEREAS, the City Council has determined and finds that this Ordinance is consistent with protection of the public interest, health, safety, and welfare of the City.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF VICTORVILLE DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. RECITALS

The recitals and findings set forth above are true and correct and are hereby incorporated into this Ordinance by this reference as if set forth in their entirety.

**SECTION 2. SECTIONS 13.27.015, 13.27.020, 13.27.035, 13.27.040, and 13.27.050
OF CHAPTER 13.27 OF THE VICTORVILLE MUNICIPAL CODE
ARE HEREBY AMENDED IN THEIR ENTIRETY TO READ AS
FOLLOWS:**

Section 13.27.015 - Definitions.

As used in this chapter:

"Camp" means to pitch or occupy camp facilities; to use camp paraphernalia.

"Camp facilities" include, but are not limited to, tents, huts, or temporary shelters.

"Camp paraphernalia" includes, but is not limited to, tarpaulins, cots, beds, sleeping bags, hammocks or non-city designated cooking facilities and similar equipment.

"Park" means the same as defined in Victorville Municipal Code Section 14.04.020, which states that a park is a park, reservation, playground, recreation center, or any other public area in the city, owned or used by the city, and devoted to active or passive recreation, or a special taxing district.

"Public area" includes but is not limited to parks, streets, and parking lots as defined in this section, as well as those areas open to public use, improved or unimproved.

"Public parking lot" means any public parking area, including but not limited to those in Victorville Municipal Code Chapters 12.60 and 12.64.

"Store" means to put aside or accumulate for use when needed, to put for safekeeping, to place or leave in a location.

"Street" means the same as defined in the Victorville Municipal Code Section 1.01.100(l), which states that a street includes all streets, highway, avenues, lanes, alleys, courts, places, squares, sidewalks, parkways, curbs, or other public ways in this city which have been or may hereafter be dedicated and open to public use, or such other public property as designated in any law of this state.

Section 13.27.020 - Unlawful camping in public places.

(a) It is unlawful for any person to camp, occupy camp facilities, or use camp paraphernalia in the following areas, except as otherwise provided by resolution of the city council:

(1) Any street;

(2) Any park;

(3) Any public area, improved or unimproved, including any portion of the Mojave River Basin within the city limits; or

- (4) Any public parking area.
- (b) Unlawful camping on private property is covered in Victorville Municipal Code Chapter 13.28. sections 13.28.040, 13.28.120, and 13.28.140.

Section 13.27.035 - Abatement Procedures.

Nothing contained in this chapter shall prohibit the health officer, department head or officer designated by the city manager from abating an unlawful camp or unlawful storage of property that poses an immediate threat to the health and safety of the public and violates any portion of this chapter, or any other sections of this code or any other law. The abatement of the threat to health and safety and violation of this code shall follow the provisions stated in California Code of Civil Procedure sections 1822.50 through 1822.60.

Section 13.27.040 - Penalties.

Any person violating any provision or regulations established under this chapter is subject to an administrative action, including but not limited to the issuance of a request to correct, notice of violation, administrative citation and an abatement action.

Section 13.27.050 - Administrative Penalties.

Any person violating any provision or regulations established under this Chapter shall be subject to an administrative action, notice of violation, and/or administrative citation as set forth in Victorville Municipal Code Sections 1.05.060 through 1.05.090. The Administrative Penalty for a violation of this Chapter shall be \$20.00 per citation and shall not accrue daily or incur interest or penalties for nonpayment.

SECTION 3. REPEAL OF CONFLICTING PROVISIONS.

All the provisions of the Victorville Municipal Code heretofore adopted by the City of Victorville that are in conflict with the provisions of this Ordinance are hereby repealed.

SECTION 4. SEVERABILITY.

The City Council declares that, should any provision, section, paragraph, sentence, or word of this Ordinance be rendered or declared invalid by any final court action in a court of competent jurisdiction or by reason of any preemptive legislation, the remaining provisions, sections, paragraphs, sentences, or words of this Ordinance as hereby adopted shall remain in full force and effect.

SECTION 5. CEQA EXEMPTION.

The City Council finds, pursuant to Title 14 of the California Code of Regulations, Section 15378(b)(5), that this Ordinance is exempt from the requirements of the California Environmental Quality Act (CEQA) in that it is a governmental, organizational, or administrative activity that will not result in direct or indirect changes in the environment.

SECTION 6. EFFECTIVE DATE.

This Ordinance shall take effect thirty (30) days after its final passage.

SECTION 7. CERTIFICATION.

The City Clerk of the City of Victorville is hereby directed to certify to the passage and adoption of this Ordinance and to cause it to be published as required by law.