

1. Proposed Ordinance No. 2445 Amending the Victorville Municipal Code(VMC), with an Environmental Exemption, Addressing Unauthorized Camping and Storage of Personal Property in Public Areas

**Recommendation:**

That the Honorable City Council:

- (1) Conduct the Public Hearing;
- (2) Find Ordinance No. 2445 categorically exempt from the California Environmental Quality Act ("CEQA") under CEQA Guidelines 15301(d), "Existing Facilities," and 15308, "Actions by Regulatory Agencies for Protection of the Environment";
- (3) Introduce Ordinance No. 2445 for adoption and first reading by title only; and
- (4) Waive further reading in full of proposed Ordinance No. 2445



Item Number: 1

**City Council / Board of Directors**

**Public Hearing(s)**

**Meeting of: November 7, 2023**

**Submitted By:**

Jorge Duran, Code Enforcement Official  
Scott Webb, City Planner  
Andre de Bortnowsky, City Attorney

**Subject:**

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**Fiscal Impact:**

The adoption of the proposed Ordinance will not directly create budgetary impacts. However, the application of the Ordinance may increase staff training and clean-up costs associated with execution of outreach and compliance actions.

**Strategic Plan Goal:**

In general, the proposed Ordinance seeks to Reduce Homelessness (Goal D) and improve Public Safety (Goal B) by refining anti-camping enforcement protocols to further encourage the unhoused to accept shelter and services, while also having immediate enforcement measures available for encampments located on or surrounding specified public uses or properties based on the elevated public health and safety risk that encampments and storage of personal property pose to these densely populated and sensitive areas.

**Background:**

In 2019, the 9th Circuit Court of Appeals issued a decision in the case of *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*”), which held in part that a city cannot treat camping on public property or lying or sleeping in public ways as a criminal code enforcement matter. Accordingly, a city may not proceed by merely issuing criminal citations and prosecuting persons found to be in violation of their anti-camping or storage laws, as criminalizing the act of sleeping on public property when a homeless person has “no place else to go” (no low-barrier shelter bed is available), constitutes “cruel and unusual punishment” in violation of the Eighth Amendment of the U.S. Constitution. *Martin* imposes a duty on cities to first make sure that homeless persons to whom they intend to issue a criminal citation to have a place indoors to sleep, have been offered such temporary or permanent shelter, and only proceed with criminal enforcement measures when homeless persons refuse to avail themselves of such shelter.

*Johnson v. City of Grants Pass*, 50 F.4th 868 (9th Cir. 2023) (“*Johnson*”), is a follow-up to the *Martin* case. In *Johnson*, some of the key takeaways were that: (1) even administrative enforcement of anti-camping/sleeping in public ordinances can violate the Eighth Amendment if it ultimately leads to criminal prosecution when no shelter is reasonably available; and (2) an ordinance which permits sleeping on public property, but bans the use of sleeping bags, bedding, or blankets when so sleeping, is tantamount to a sleeping in public ban.

However, neither *Johnson* nor *Martin* completely prevents a jurisdiction from prohibiting lying or sleeping outside at particular times or in particular locations, or obstructing the right-of-way, or erecting certain structures.

In 2021, the City of Victorville (“City”) adopted an ordinance that did the following:

- Amended VMC Section 13.27.020 to update provisions related to camping on private property.
- Amended VMC Section 13.27.035 to remove the remedy of summary abatement of unlawful camping and required that any abatement activities necessary to protect the health and safety of the public must observe specific notice procedures and follow the abatement warrant process as codified in the California Code of Civil Procedure. This procedure provided occupants of encampments with advance written notice of abatement activity, the type of abatement activity that was going to occur, and provided for storage and reclamation options for their personal effects removed during an encampment abatement.
- Amended VMC Section 13.27.040 to remove language requiring criminal enforcement of Chapter 13.27 and inserted the City’s administrative citation process as the sole enforcement mechanism for violations of Chapter 13.27.
- Amended VMC Section 13.27.050 to allow for administrative enforcement of Chapter 13.27 using the administrative citation procedures set forth in Sections 1.05.060 through 1.05.090 of the VMC and reduced the fine amount for an administrative citation issued under Chapter 13.27 to \$20.00.

Since the passage of the City's 2021 ordinance addressing camping and storage of personal property in public places, two point-in-time counts (PITC) were conducted. The 2022 PITC reflected 455 individuals experiencing homelessness with 224 unsheltered and 231 sheltered or in transitional housing. The 2023 PITC reflected 607 individuals experiencing homelessness with 317 unsheltered and 290 sheltered or in transitional housing. Moreover, the City's Homeless Engagement Team, who are select code compliance officers tasked with conducting outreach to unhoused individuals, have continued to see a trend of individuals refusing shelter. According to the Homeless Engagement Team, 199 homeless individuals refused offers of shelter from January 1, 2023 through September 30, 2023. Moreover, during the two-year period from January 1, 2021 to December 31, 2022, a total of 357 unsheltered individuals refused shelter and vacated areas to be abated with their personal possessions, but often left behind extensive amounts of rubbish and debris to be cleared by City sanitation staff. Ultimately, homelessness continues to impact our City and remains one of the highest priorities for our residents and businesses.

There are several health and safety risks from unregulated human activity when people stay or camp overnight in public areas. These health and safety risks include, without limitation, disease caused by bacterial infection and/or virus exposure due to unsanitary living conditions, fire danger, burn injury, potential drowning, water pollution, pedestrian danger, risk of injury or death from a vehicle crash, risk of drug exposure or overdose (potentially fatal). Unsheltered and homeless individuals camping overnight in inappropriate and remote areas impede and endanger emergency response crews and frustrate attempts to ensure sanitary and safe conditions.

#### Homelessness Response

The City of Victorville has many years of experience serving persons at risk of or experiencing homelessness. In 2009, the City's former Redevelopment Agency acquired a 67 multi-family unit known as the Hillcrest Court Apartments. The apartment complex provided affordable housing to individuals and families. Although the City no longer manages the property, the City still maintains a 55-year affordability covenant thereon.

In October 2019, in an effort to help the chronically homeless population, the City partnered with the Housing Authority of San Bernardino County ("HASBC") by providing \$1,509,505 of its Neighborhood Stabilization Program funds as a loan to assist in the acquisition of a former dilapidated motel. The 60-unit motel, originally known as the Queen's Motel and now known as Desert Haven, was acquired by HASBC for the purposes of renovating and converting it into 31 one-bedroom and one-bath apartment units to provide permanent housing for homeless individuals. The City's financial participation helped secure all 31 units for the term of 55 years.

On February 5, 2019, the Victorville City Council directed staff to form a staff-led task force to seek solutions to homelessness within the City. The Homelessness Solutions Task Force (HSTF) is an advisory body to the City Council for all items related to homelessness. The HSTF includes both internal and external stakeholders, some with lived experience, to facilitate multiple viewpoints and insight into the issue of

homelessness. On November 5, 2019, the City Council approved a Homelessness Solutions Strategic Action Plan that was designed with input from the HSTF to assist the City with the development and/or expansion of enhanced shelter operations, homeless outreach, prevention services, housing options, and/or other areas that align with homelessness solutions. The City is also collaborating, through its HSTF, with organizations throughout the City offering transitional, supportive, and permanent housing.

In 2019, 2020, and 2021, the City aided a local, non-profit shelter provider by way of funding and use of a city facility as a seasonal warming shelter to accommodate men, women, and families experiencing homelessness. During the COVID-19 pandemic, the seasonal shelter was turned into a 24-hour shelter allowing people to quarantine in place for safety precautions.

In addition to added assistance supplementing extended operations during the COVID-19 pandemic (volunteers, supplies, equipment, etc.) the City recognized the importance of providing support and care for the unhoused, given the limited resources available to such persons and established sanitation stations in areas known to be frequented by the unhoused. These sanitation stations included mobile restrooms, a handwashing station, and trash dumpsters. City staff serviced the sanitation sites at least three times per week to provide hygiene supplies and educational materials to try to connect homeless individuals with available shelter and other resources.

Since 2021, the City has been utilizing the Westwinds Sports Center as a low-barrier 92-bed Interim Shelter. Utilizing additional assistance from Emergency Solutions Grants Program (ESG) funding and Measure P funds, the City has been able to provide necessary 24-hour services to clients housed at the Interim Shelter. Presently, the City has agreements with High Desert Homeless Services and Symba Center to oversee and operate this facility.

In late 2020, the City secured project Homekey grant funds, and commenced with the planning, design, land acquisition, and construction of a 4.5-acre Wellness Center facility to better address the needs of persons experiencing homelessness in the community. With operations at Victorville's Wellness Center anticipated to start in December 2023, the community will have 170 low-barrier, non-congregate beds to assist individuals and families who are experiencing homelessness, as well as interim housing and supportive services. The Wellness Center facility will operate all day, every day throughout the year, providing safe shelter, basic needs, medical services, behavioral health services, recuperative care, housing resources and many other navigational resources to help unsheltered and at-risk community members.

Outreach is a critical tool for ending homelessness. The City has a dedicated Homeless Engagement Team working to build relationships with individuals experiencing homelessness to foster acceptance of services and shelter. Furthermore, collaborative efforts with the Interim Shelter and Wellness Center Supportive Services Operator, Symba Center, has expanded these outreach efforts to include case management, housing

navigation, mental health, and medical services. Additional outreach partners include San Bernardino County's INNRoads Team and the Sheriff's HOPE Team. These teams use a person-centered, compassionate approach to resolve homelessness through the offer of services and onsite health assessments and treatments tailored to the specific needs of individuals.

## **Discussion:**

### **Overview**

This proposed Ordinance amends the VMC to protect the life, health, and safety of all people in the City, recognizing that camping in certain public areas within the geographical boundaries of the City can pose significant health and safety hazards. Moreover, some public land is environmentally sensitive and may be significantly damaged by unregulated human activity. In addition, there are areas where the risks are elevated when unregulated human activity occurs, specifically related to public camping, including the areas immediately surrounding K-12 schools, shelters, parks and other public facilities, and transportation hubs.

The proposed Ordinance amends Chapter 13.27 of the VMC to provide clear language regarding how camping bans in the City will be enforced (*i.e.*, when adequate shelter is available) and identifies specific limited public locations in which persons cannot maintain an encampment at any time, in order to protect the life, health, and safety of all persons in the city. The proposed Ordinance also sets standards and establishes a process for the identification, collection, storage, and disposal of personal property found in encampments on public property (modeled on an anti-camping policy the City has been following for some time). The City is committed to protecting the rights of individuals and treating their personal property with respect and consideration. The proposed amendments to the VMC are intended to address homeless encampments which pose a threat to public health and safety in a manner consistent with *Martin and Johnson*.

In the interest of providing advance notice and due process while equally balancing the need to promptly address public health and safety concerns, the proposed Ordinance implements a progressive enforcement model to provide a consistent approach to enforcement. Enforcement officers are trained to offer services to individuals prior to taking enforcement action and continue to provide offers for shelter and services at each subsequent interaction. Enforcement related to violations of Chapter 13.27 of the VMC will begin (in most instances) with a determination and confirmation that available low-barrier shelter is available. In the event such shelter is available, and the individual chooses not to avail him or herself of said shelter, a notice of violation shall be issued, followed by an administrative fine, and then, if compliance is not achieved (provided shelter is available), a misdemeanor citation will follow.

The proposed Ordinance also establishes provisions allowing for the immediate abatement of camping or storage of personal property in public areas where such activity poses an immediate threat or an unreasonable risk of harm to public health or safety and further provides for immediate abatement of camping or storage of personal property on or surrounding specified public uses or properties ("Sensitive Areas"), based on the

elevated public health and safety risk that encampments and storage of personal property pose to these areas. Such Sensitive Areas (most of which will be identified by signage) include:

- On or within 500 feet of K through 12 schools.
- On or within 500 feet of a shelter.
- On or within 500 feet of any open space, waterway, or banks of a waterway.
- On or within 500 feet of any transit hub, or train tracks.
- On or within 500 feet of any City facility, including parks.

As discussed in the background section of this report, the City has been working and investing in strategies to address and prevent homelessness through multipronged strategic efforts. The proposed Ordinance is but one part of the City's broader commitment to advancing solutions to this complex matter.

#### Encampments Pose Risks to Public Health and Safety

One of the most significant impacts of increasing numbers of people experiencing homelessness has been the use of public spaces to sleep and live. Some of these public spaces, such as the Mojave Riverbed and Oro Grande Wash, are open space areas which are environmentally sensitive and in which unregulated human activity can put the health and safety of people experiencing homelessness, as well as the public at-large, at risk.

These health and safety risks include, but are not limited to: disease, bacterial infection and virus exposure due to the accumulation of trash or human waste; burn injury and fire danger associated with outdoor cooking and heating efforts; potential drowning and water pollution; pedestrian crossing danger, danger of being struck by a vehicle, drug exposure and overdose risk, and possibly impeding emergency response.

The City's Public Works and Sanitation Departments regularly find items in encampments or tents used by people experiencing homelessness that pose a risk to public health or the environment. Both Departments provided this partial list of items commonly found at both occupied and abandoned encampments:

- Aerosol cans
- Computers and other Universal Waste Items that have heavy metals
- Empty backpacks and backpacks full of trash and food wrappers
- Barbeques and other cooking apparatuses/products, including fuels and propane tanks
- Bags, bottles, jars and buckets of human waste or other unidentified liquids / substances
- Open pet foods (which become rodent attractants)
- Partially consumed food and food packaging (which are left as litter and/or are rodent attractants)
- Food infested with bugs
- Broken glass
- Bongs and hookahs

- Batteries (large car batteries, small alkaline, rechargeable, etc.)
- Scooters (not in full working condition, with Lithium Battery tampered with)
- Campers, Cardboard and pallets used as flooring (which encourage rodent activity)
- Cleaning products
- Items (bedding or furniture) infested with cockroaches, bedbugs, mold, etc.
- Razorblades and Weapons (knives, makeshift clubs)
- Construction equipment and generators
- Unconsumed prescribed medication, illicit drugs, and drug paraphernalia
- Appliances, furniture and other common household items
- Landscaping equipment with fuels and oils (or Lithium-Ion Batteries)
- Lumber (which can be a fuel if fire breaks out)
- Needles | Syringes
- Inoperative or junk vehicles, recreational vehicles, and car parts
- Tires (which hold rainwater and provide mosquito breeding habitat)

Data from the City's Solid Waste Division in 2022 shows City crews collected 626 tons of waste from 749 encampments.

It is the City's desire to protect public health and safety and its natural resources by maintaining clean, safe, and accessible City properties for all residents to enjoy, including parks, open space, and the public right of way. While the City is doing what it can to achieve this goal, the quality of life in our neighborhoods is failing to meet community expectations as expressed by the public in a 2022 ZenCity survey where homelessness solutions were identified as the top priority to be addressed.

Therefore, the proposed Ordinance will update the VMC to protect the life, health, and safety of all people in the city, recognizing that certain public lands within the geographical boundaries of the city pose significant health and safety hazards to people who make shelter or camp in these areas. In addition, some of these public lands, particularly those located within the Mojave Riverbed area and connected waterways, contain sensitive habitat and ecosystems. For example, Mojave desert vegetation containing Joshua trees, creosote bushes, and Cottonwood trees that provide habitat for various bird species and wildlife; and wetlands, especially during rainy seasons, which can support aquatic plants, waterfowl and grasslands, all of which are significantly impacted by unregulated human activity.

When adequate shelter beds are available, this proposed Ordinance would make it unlawful for any person to camp in or upon any public property within the city, unless otherwise authorized by the City Manager. In addition, it would make it unlawful, at any time regardless of the availability of shelter beds, for any person to camp or to have unauthorized encampments in the Sensitive Areas identified earlier in this Staff Report.

Many municipalities have regulations in place that prohibit camping in certain areas. These regulations are enforced to maintain and protect public order, health, safety, and the vital operations of public facilities such as parks and government service buildings. Encampments near public facilities can lead to increased litter, sanitation problems, and



reduced access, negatively impacting the cleanliness and functionality of these spaces. It is vital to maintain safe and accessible critical public facilities while encouraging people to use shelters instead of camping near such public facilities.

#### Environmental and Safety Concerns in Sensitive Areas Posed by Encampments

The prevalence of fires and flooding in the Mojave Riverbed area has been an ongoing environmental concern. In recent years, numerous swift water rescues and fires have occurred in this area. By prohibiting encampments and camping activity in the City's improved and unimproved public areas and along the City's waterways, where fire risk is significantly higher and accessibility is low, the proposed Ordinance is designed to reduce fires and improve response by Fire-Rescue in high-risk fire and flood areas. Moreover, the proposed Ordinance should contribute to improved response times for other emergency calls by reducing the demand on the Fire-Rescue resources.

The public has expressed safety concerns relating to children who walk to school and activities associated with camping and encampments near elementary, middle, and high schools. Between January 1, 2021 to December 31, 2022, the City's Code Compliance Department responded to 29 public complaints regarding such concerns related to school aged children, encampments and the reported illicit activities from encampments. These activities pose risks of students being exposed to illicit drug use, unintentional indecent exposures, violent behavior, and human waste, which impacts students' emotional and mental well-being, security, and safety.

Moreover, the Community Services Department has identified a variety of health and safety impacts of camping and encampments within the boundaries of city parks including destruction of public property, vandalism, theft, and aggressive behaviors. Unregulated camping in City parks has caused damage to city park facilities.

#### Ordinance Implementation and Abatement of Encampments

The proposed Ordinance establishes a process for the City to clean-up (abate), encampments. The process preserves the belongings of individuals who leave them behind at an encampment, provides notice to people staying in an encampment about when clean-up activity will occur, and provides direction on how to collect any belongings that the City will store. To provide consistent procedures for the removal of occupied or unoccupied encampments, the City will post a written notice on each tent or structure giving a minimum of 24 hours for persons to remove belongings and advising occupants not to leave behind items they would like to keep. The City must further conduct the clean-up within 72 hours of posting a notice. If persons return to an encampment site during a clean-up, they will be allowed to remove their personal belongings. In addition, shelter will be offered to such persons, as will information on how to access shelter and services.

The Ordinance will require City staff to document the abatement process, which includes taking photographs of tents and belongings found in an encampment and opening bags to determine if items are eligible for storage. The proposed Ordinance provides guidance as to what types of items can and cannot be stored and the storage process. The location of where items are stored and how to collect stored items will be posted during abatement.

The proposed Ordinance further provides the City with an expedited clean-up process that can be used when necessary to preserve health and safety and sensitive areas or if there is a significant risk of property damage, bodily injury, or death. Excluding situations that pose an imminent and immediate threat to property, bodily injury or death requiring abatement forthwith, in an expedited clean-up, the process in the Ordinance must still be followed, but the notice of clean-up can occur with only 3-hours' advance notice.

#### Environmental Review

The proposed Ordinance is considered categorically exempt from CEQA under CEQA Guidelines Sections 15301(d) (Existing Facilities) and 15308 (Actions by Regulatory Agencies for Protection of the Environment). This ordinance prohibits unauthorized camping on public property deemed sensitive from a public health and safety perspective and/or an environmental perspective. The ordinance addresses public health and safety risks associated with the spread of disease and environmental contamination and reduces risks for people experiencing homelessness of serious harm or deaths related to vehicle or train incidents, being preyed upon by drug dealers, and accidental drug overdoses. Clearing encampments in parks, open space, and near schools would restore deteriorated existing public structures and facilities and would ensure that they are maintained in a manner that meets current standards of public health and safety, as covered in CEQA Guidelines Section 15301(d). CEQA Guidelines Section 15308 covers actions taken by regulatory agencies, as authorized by state or local ordinance, to assure the maintenance, restoration, enhancement, or protection of the environment where the regulatory process involves procedures for protection of the environment. Prohibiting unauthorized camping at any time in open space and near City waterways would protect environmentally sensitive areas and reduce water pollution from unregulated human activity. None of the exceptions to the exemptions outlined in CEQA Guidelines Section 15300.2 would apply.

#### Conclusion

In the interest of public health, safety, and welfare, and in conformity with the precedents of *Martin* and *Johnson*, updates to the City's Municipal Code are necessary to address camping and storage of personal property in public areas and on public lands through a defined process and dignified manner. Therefore, staff is recommending the City Council take action to adopt Ordinance No. 2445.

Staff remains available for any questions or comments the City Council may have.

#### **Attachments:**

- A. Ordinance No. 2445 (Clean)
- B. Blackline Version of Ordinance No. 2445 (Comparison to Existing VMC)

## **Attachment A**

## ORDINANCE NO. 2445

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

**WHEREAS**, the City of Victorville ("City" or "Victorville") has the authority to regulate and ensure the public health, safety, and general welfare; and

**WHEREAS**, it is the obligation of the City to keep its streets, sidewalks, public rights of way and public properties clean, free of obstructions, debris, accessible, and available for public use, and to protect the public health, safety, and access by City constituents; and

**WHEREAS**, camping in certain areas has created unsanitary, unhealthy, disorderly, and dangerous conditions often with the accumulation of rubbish and trash that often impact pedestrians, vehicular traffic, public safety responders, and create unsanitary conditions due to the presence of human waste located on pedestrian paths that impact the health and safety to the general public; and

**WHEREAS**, the decision in *Martin v. Boise* (9th Cir. 2018) 902 F.3d 1031, ("*Martin*") applies only to the issuance of criminal penalties for sitting, sleeping, or lying outside to persons experiencing homelessness who cannot obtain Shelter when additional, suitable locations to sleep or be are unavailable; and

**WHEREAS**, the Ninth Circuit 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." (*Martin, 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 *Martin, supra*, at 1035 [emphasis in original].); and

**WHEREAS**, in *Johnson v. City of Grants Pass* (9th Cir. 2023) 72 F.4d 868 ("*Johnson*"), the Ninth Circuit held that the prohibition on criminal sanctions in *Martin* applied to administrative citations issued to enforce similar ordinances in violation of the Eighth Amendment; and

**WHEREAS**, the City intends to act in compliance with the *Martin* and *Johnson* decisions by enforcing this Ordinance only after enforcement officials determine that there are current and suitable locations for unsheltered individuals to sleep or otherwise live within the City in accordance with City policies; and

**WHEREAS**, the establishment and presence of Encampments on, in, near or within 500 feet of youth-serving facilities impacts the ability of to safely access public facilities by obstructing pedestrian pathways or sidewalks, which are commonly used by parents and children to frequently utilize these sites, as well as exposing children to dangerous activities and environments, such as drug use, unsanitary conditions, lewdness, nudity, etc.; and

**WHEREAS**, in the two-year period from January 1, 2021 to December 31, 2022, the Victorville Homeless Engagement and Outreach Team proactively contacted and offered Shelter

and other services to 617 unhoused individuals, resulting in 260 unsheltered individuals accepting Shelter or services, permitting clearance of any debris left behind, with the remaining 357 unsheltered individuals vacating the area, often leaving behind extensive amounts of rubbish and debris to be cleared by city sanitation staff; and

**WHEREAS**, in 2022, the City's Sanitation and Code Compliance divisions removed a total of 626 tons of accumulated rubbish and trash from homeless Encampments throughout the City, resulting in approximately \$38,000 in waste disposal expenses, and an additional \$41,500 for 986 labor hours expended to clear 749 individual Camp sites and remove over 50 inoperative vehicles, for a total cost to the City of \$79,500.00 in 2022; and

**WHEREAS**, wildfires are a frequent natural disaster in California, and when combined with accumulated rubbish from Encampments, cause significant harm and loss to individuals, communities, wildlife, and great swaths of natural landscape and the frequency, duration and size of wildfires have increased over the last several decades; and

**WHEREAS**, the Mojave Riverbed Area, although located within the City limits, is not zoned for residential use and therefore lacks adequate services needed to support a safe living environment, contains dense and often dry vegetation that can easily ignite and accelerate a wildfire, endangering the adjacent and densely populated residential units, mobile home parks and businesses located nearby; and

**WHEREAS**, the Victorville Fire Chief has assessed the geographical conditions, is familiar with the frequency of Camping and Encampment activity within the Mojave Riverbed Area, as well as the related fire response calls, and has determined that the entire Mojave Riverbed Area creates an imminent fire hazard to Encampment occupants, adjacent residential units, adjacent businesses and fire personnel and equipment based on the rough terrain and lack of lighting to safely maneuver large emergency response apparatus; and

**WHEREAS**, unsheltered persons located in the Mojave Riverbed Area experiencing homelessness are often reliant on open or kindled fires for everyday survival activities, including cooking food and keeping warm, which can increase the risk of nearby brush catching fire and rapidly spreading to surrounding residences and businesses; and

**WHEREAS**, in the two-year period from January 1, 2021 to December 31, 2022, the City's Fire Department responded to 384 calls for service, where 100 of those calls were related to medical emergencies and 284 calls were related to fires throughout the Mojave Riverbed Area; and

**WHEREAS**, emergency responders encounter uneven, unstable, and steep terrain often at night with little to no light creating an unnecessary risk to police and fire emergency responders and to Encampment occupants; and

**WHEREAS**, unsheltered individuals living in remote high-fire zones may miss emergency notifications and may experience challenges in safely evacuating; and

**WHEREAS**, the Mojave Riverbed Area is environmentally protected due to unique ecosystems and wildlife habitat that significantly limit the City's ability to proactively clear overgrown or dry brush and vegetation; and

**WHEREAS**, persons experiencing homelessness frequent and Camp in Waterways designed to move enormous amounts of water, resulting in severe and imminent hazards to life and safety for persons experiencing homelessness, outreach workers, and first responders including Victorville Fire and Police personnel; and

**WHEREAS**, The California Department of Forestry and Fire Protection's Fire and Resource Assessment Program (FRAP) assesses the amount and extent of California's forests and rangelands, analyzes their conditions and identifies alternative management and policy guidelines; and

**WHEREAS**, Fire Threat, according to FRAP, provides a measure of fuel conditions and fire potential in the ecosystem, representing the relative likelihood of "damaging" or difficult to control wildfire occurring for a given area; and

**WHEREAS**, Fire Threat can be used to assess the potential for impacts on various assets and values susceptible to fire, and impacts are more likely to occur and/or be of increased severity for the higher threat classes; and

**WHEREAS**, Fire Threat is a combination of two factors: 1) fire probability (the likelihood of a given area burning), and 2) potential fire behavior (hazard); when combined, these two factors create five Fire Threat classes ranging from low to extreme; and

**WHEREAS**, the FRAP Fire Threat Areas Map published in 2019 classified the Mojave Riverbed Area as a "High" Fire Threat Area; and

**WHEREAS**, efforts to notify or evacuate unsheltered persons experiencing homelessness in high-risk fire zones and Waterways pose a clear and imminent danger to staff engaged in attempting to immediately contact unsheltered persons and Encampment occupants due to the significant fire fuel sources or presence of swift water located in the riverbed during fires or flash flood events to prevent or mitigate loss of, or damage to life, health, property and/or essential services; and

**WHEREAS**, the 2022 Point-in-Time Homeless Count identified 455 Victorville residents experiencing homelessness, 224 of whom are unsheltered; and

**WHEREAS**, the 2023 Point-in-Time Homeless Count identified 607 Victorville residents experiencing homelessness, 317 of whom are unsheltered; and

**WHEREAS**, the City currently has a 92-bed interim Shelter where bed availability is verified daily by City staff, with additional Shelter beds available through community-based organizations that do not require adherence to religious beliefs or practices and do not infringe on other protected liberties; and

**WHEREAS**, the City has increased its proactive outreach with respect to offering Shelter and supportive services to the unsheltered population and coordinating transport for entry to its 92-bed interim Shelter; and

**WHEREAS**, the City's construction of a 170-bed Wellness Center Campus is nearing completion, which will increase available Shelter beds and provide supportive services both at the Campus and the surrounding community, where bed availability will continue to be verified daily by City staff and outreach efforts executed by City Homeless Engagement and Outreach

Teams will continue by engaging unsheltered persons and coordinating entry to the Wellness Center Campus; and

**WHEREAS**, the City Council, using its independent judgment, has determined that the Project will not have a significant effect on the environment and is categorically exempt from CEQA under CEQA Guidelines sections 15301(d) (Existing Facilities) and 15308 (Actions by Regulatory Agencies for Protection of the Environment) because the Project would prohibit encampments in public areas that would ensure public facilities are maintained in a manner that meets current standards of health and safety and prohibiting camping and encampments in open space and near waterways would protect environmentally sensitive areas and reduce water pollution from unregulated human activity; and

**WHEREAS**, City Council desires to protect the public health, safety, and welfare of its homeless and unsheltered individuals, first responders, residents, businesses, and visitors; and

**WHEREAS**, the City seeks to accomplish the aforementioned objectives in a manner that preserves the dignity and safety of all residents and in a manner calculated to promote compliance rather than enforcement.

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

**Section 1.     Recitals**

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

**Section 2.     Additions, Deletions, and Revisions of Various Sections of Chapter 13.27 of Title 13 of the Victorville Municipal Code**

That Chapter 13.27 of Title 13 of the Victorville Municipal Code be amended as follows:

**Chapter 13.27 CAMPING AND STORAGE OF PERSONAL PROPERTY IN PUBLIC AREAS**

**Sec. 13.27.010 Purpose.**

The City has the authority to enact laws which promote the public health, safety, and general welfare of its residents and finds that certain public lands within the geographical boundaries of the City pose significant health and safety hazards to the people who make shelter or stay overnight in these areas and to adjacent residents and businesses operating near these areas. Additionally, the City Council and the City Fire Chief find that some of these public lands are fire hazards due to dry vegetation, prone to wildfires and swift water, and pose significant life and property safety risks to unhoused and homeless residents, adjacent residents, and businesses caused by unregulated human activity. The Streets, Parks, and Public Areas within the City should be readily accessible and available to residents and the public at large. The use of these areas for Camping purposes or storage of Personal Property interferes with the rights of others to use the areas for which they were intended and poses risks to adjacent residents and business. The purpose of this chapter is to protect the health, safety, and general welfare of those individuals inhabiting these areas; to maintain Streets, Parks, and Public Areas within the City in a clean and accessible condition; to preserve and protect sensitive public lands to prevent destruction of these

assets; and to establish a process for the collection, storage, and disposal, recycling, or reuse of Personal Property found in Encampments on public property.

### **Sec. 13.27.015 Definitions.**

As used in this Chapter, the following words and phrases, when capitalized, shall have the definitions set forth in this Section. Words and phrases defined in this Section when used in the singular may include the plural and the plural may include the singular:

"Abatement" means the process of removing trash and debris, removing and disposing of, recycling, or reusing of waste at an Encampment according to the Encampment clearance process in section 13.27.040 and documenting and collecting eligible items for storage.

"Camp" or "Camping" means to pitch, erect, or construct an Encampment remaining in the same area for a continuous period of time, not associated with ordinary recreational use of a specified location, or to use Camp Paraphernalia for the purpose of, or in a way that facilitates, outdoor sheltering for inhabitation purposes beyond 24 hours or for remaining outdoors overnight. This excludes City facilities that limit use and occupancy as stated in the municipal code.

"Camp Facilities" include, but are not limited to, tents, huts, or other temporary shelters used for habitation.

"Camp Paraphernalia" includes, but is not limited to, tarpaulins, cots, beds, sleeping bags, hammocks or non-city designated cooking facilities, clothing, shoes, jackets, tents, sleeping bags, bedrolls, blankets, sheets, pillows, luggage, backpacks, bikes, tools, jewelry, audio/visual equipment, cooking equipment, home furniture, chairs, utility carts, documents, and medications.

"Encampment" means one or more temporary, makeshift, or hand-built structures not intended for long-term continuous occupancy, including tents, or Camp Paraphernalia, that are used to shelter one or more persons or their belongings and that are not authorized by the property owner or connected to a permitted public event.

"Mojave Riverbed Area" means all floodplains and levees of the Mojave River found within the boundaries of the City of Victorville.

"Open Space" means any undeveloped public property either primarily in its natural state, whether or not so designated by any land use or zoning ordinance, including desert, vacant lot, and unimproved Waterways, or that is held out by the City or used by the public for passive recreational purposes, conservation, habitat preservation, or that maintains or enhances the conservation of natural or scenic resources.

"Park" means the same as defined in Section 14.04.020 of this Code, 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.

"Personal Property" means any property that is not real property in accordance with California Civil Code section 663.

"Public Area" includes but is not limited to Parks, Streets, and Public 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 described in Chapters 12.60 and 12.64 of this Code.

"Sensitive Area" means any of the following areas:

- (1) On or within 500 feet of a school that offers instruction on those courses of study required by the California Education Code or that is maintained pursuant to standards set



by the State Board of Education, provided that signs are posted prohibiting Camping that are clearly visible to students and pedestrians. For purposes of this definition, school does not include a vocational or professional institution of higher education, including a community or junior college, college, or university;

(2) On or within 500 feet of any Shelter; provided that signs prohibiting Camping are posted at least at the main entry or access point to the Shelter and are clearly visible to patrons and pedestrians;

(3) On or within 500 feet of any Open Space, Waterway, or banks of a Waterway;

(4) On or within 500 feet of any Transit Hub or train tracks; provided that signs prohibiting Camping are posted at least at one entry or access point to the area and are clearly visible to patrons and pedestrians; and

(5) On or within 500 feet of any City-owned or operated building or facility, including Parks; provided that signs prohibiting Camping are posted at every facility entry or access point and are clearly visible to pedestrians.

"Shelter" means any City-funded Shelter or a Shelter provided as part of the Coordinated Entry System for placement of individuals or families experiencing homelessness to access beds and other services, or upon authority delegated to the City Manager by the City Council, an area specifically designated by the City Manager for use by individuals or families experiencing homelessness. A list of current Shelters is provided on the City's website and is available for public access.

"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 Section 1.01.100(I) of this Code, 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.

"Transit Hub" means a multimodal transportation station serving as a drop off and pickup location for multiple bus routes.

"Unclaimed Property" means any Personal Property that is held for safe keeping for a period of ninety (90) days and has remained unclaimed by the apparent owner of such property.

"Waterway" means all the areas of the Oro Grande Wash including channels that connect to the Oro Grande Wash, and the Mojave Riverbed Area, as previously defined herein.

### **Sec. 13.27.020 Unlawful Camping in public places.**

(a) Unless otherwise permitted by law or permit, when Shelter is available, it is unlawful for any person to Camp; occupy Camp Facilities; erect an Encampment; erect, configure, construct, maintain, use, occupy, or allow to remain erected any Camp Facilities; light or kindle a fire except in an appropriate containment device provided or approved for that purpose by the Fire Chief or Building Official; or use Camp Paraphernalia in the following areas, except as otherwise provided by resolution of the City Council and provided that notice of same is clearly and conspicuously posted at the areas:

(1) Any Street;

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- (2) Any Park;
  - (3) Any Open Space;
  - (4) Any Waterway, including any portion of the Mojave Riverbed Area;
  - (5) Any Public Area, or
  - (6) Any Public Parking Lot.
- (b) At all times, regardless of the availability of Shelter space or beds, it is unlawful for any person to Camp; occupy Camp Facilities; erect an Encampment; erect, configure, construct, maintain, use, occupy, or allow to remain erected any Camp Facilities; or use Camp Paraphernalia in any Public Area where such activity poses:
- (1) an immediate threat or an unreasonable risk of harm to any natural person,
  - (2) an immediate threat or an unreasonable risk of harm to public health or safety, or
  - (3) disruption to vital government services.
- (c) At all times, regardless of the availability of Shelter space or beds, it is unlawful for any person to Camp; occupy Camp Facilities; erect an Encampment; erect, configure, construct, maintain, use, occupy, or allow to remain erected any Camp Facilities; or use Camp Paraphernalia in any Sensitive Area as defined in Section 13.27.015.

**Sec. 13.27.025 Unlawful Camping in Waterways and Mojave Riverbed Area.**

- (a) Unless otherwise permitted by law or permit and regardless of the availability of Shelter space or beds, it is unlawful for any person to do any of the following within Waterways or Sensitive Areas located within the City of Victorville City limits:
- (1) Camp, build, or erect a structure of any type along the banks of any Waterway, or drive a nail or other object into any tree or other natural area of vegetation for the purpose of building an Encampment or any other structure, or to affix an object to any tree or other natural vegetation;
  - (2) Move boulders or large rocks, destroy vegetation, damage paved roads or paths created by the City, or otherwise reconfigure the natural landscape in the waters of or along the banks of a Waterway;
  - (3) Drive, park, or bring any vehicle along the banks of a Waterway, except in places specifically provided and designated for vehicular use;
  - (4) Dig on, excavate, or compromise the integrity of the banks of a Waterway;
  - (5) Discharge or store waste, including garbage, refuse, or human or animal waste, along the banks or into the waters or sediment area of a Waterway;
  - (6) Unless approved by the City Fire Chief or by a permit issued by a state or federal government entity, create, ignite, or make any fire including the use of any heat source used for cooking, heating, or warming;
  - (7) Camp, build, or erect a structure of any type in a Sensitive Area as defined in section 13.27.015.

(b) Nothing in this section 13.27.025 is intended to prohibit the activities of an owner of private property or other lawful user of private property that are normally associated with and incidental to the lawful and authorized use of private property; and nothing is intended to prohibit the activities of a lawful user if such activities are expressly authorized by the City Manager or by any law, regulation, permit, order or other directive from a regulatory authority.

**Sec. 13.27.030 Storage of Personal Property in public places.**

- (a) Unless otherwise permitted by law or permit, when Shelter is available, it is unlawful for any person to store Personal Property, including, without limitation, Camp Facilities and Camp Paraphernalia, in the following areas, except as otherwise provided by resolution of the City Council:
- (1) Any Street;
  - (2) Any Park;
  - (3) Any Open Space;
  - (4) Any Public Area, improved or unimproved, including any portion of the Mojave Riverbed Area; or
  - (5) Any Public Parking Lot.
- (b) At all times, regardless of the availability of Shelter space or beds, it is unlawful for any person to store Personal Property, including, without limitation, Camp Facilities and Camp Paraphernalia, in the following areas, except as otherwise provided by resolution of the city council:
- (1) Waterways
  - (2) Sensitive Areas
- (c) Regulations relating to the storage of Personal Property on private property is covered in Title 16, Chapter 6, Article 13 of this Code

**Sec. 13.27.035 Abandoned Personal Property**

- (a) Any Personal Property or possessions left unattended in or on any Public Area for a period longer than 24 hours and the owner cannot be readily identified or located, are presumed to be intentionally abandoned in accordance with California Civil Code section 2080.7. Enforcement Officials shall make a reasonable effort to ascertain whether the unattended Personal Property or possessions have been abandoned and, if so, to thereafter cause the removal of said property. Any Personal Property or possessions found during an Abatement procedure shall be processed in conformity with Subdivisions (a)(1), (a)(5), (a)(6), and (a)(7) of Section 13.27.040 of this Chapter.
- (b) Unattended Personal Property or possessions that are unsanitary, soiled, verminous or create an immediate hazard to pedestrians or vehicles may be summarily abated and destroyed. Unattended Personal Property or possessions that are recyclable may be disposed of in an appropriate manner.
- (c) Any Unclaimed Property, including unclaimed bicycles, shall be held in the possession of the City's Code Enforcement Department for a period not exceeding ninety (90) days. Any Unclaimed Property remaining after that period may be destroyed.

### **Sec. 13.27.040 Abatement Procedures.**

Abatement in Public Areas. When Shelter is available, the City Manager or designee may remove Personal Property, Camp Paraphernalia, and all other property, contraband, litter, and waste found at an Encampment or at a location where a person is engaged in unlawful Camping in Public Areas in compliance with the following procedures:

- (a) Notice of Clean-up Required Prior to Abatement. A Notice of Clean-Up (in English and Spanish) will be posted on each tent or structure and in any other distinct areas of the Encampment providing notice of the date and time at which of Abatement/cleanup will occur and giving a minimum of twenty-four (24) hours for persons to remove their Personal Property. The City Manager or designee shall provide any persons at an Encampment with information related to Shelters and services and direct them to remove their Personal Property (belongings) from the site. The City Manager shall evaluate reasonable requests for additional time or assistance to remove items and may accommodate those requests to the extent practicable. The written Notice of Clean-Up shall also include:
  - (1) A statement that Personal Property located at the Encampment must be removed from the site within twenty-four (24) hours and advising that Personal Property should not be left behind.
  - (2) A statement indicating that the City Manager or designee may conduct the Abatement within seventy-two (72) hours of the posted Notice of Clean-Up without reposting a new Notice of Clean-Up.
  - (3) A statement advising Encampment occupants of the date and time at which cleanup will commence and advising Encampment occupants of the date and time by which all Encampment occupants must vacate the Encampment site and remove their items of Personal Property.
  - (4) A statement that Personal Property, including without limitation Camp Paraphernalia left behind will be cleared by the City (such description of Personal Property may refer to an attached photograph).
  - (5) A statement that Personal Property items deemed intact and of value will be stored by the City for ninety (90) days following the completion of the Abatement/cleanup and information as to where, when, and how and such Personal Property items so stored can be reclaimed.
  - (6) A statement that the City will post a Notice of Completed Clean-Up in the event Personal Property is stored during the clean-up process.
  - (7) A statement that the Notice of Clean-Up may be updated and re-posted by the City Manager or designee to provide accurate and current information.
  - (8) Information that access to Shelter or services, including access to storage for Personal Property, is available through the City of Victorville Code

Compliance Department.

- (b) Posting of Notice of Completed Clean-up. Once Abatement/cleanup of an Encampment has occurred, following the giving of notice in accordance with the provisions of subsection (a) above, a written Notice of Completed Clean-up must be posted, in order to provide adequate notice. The Notice of Completed Clean-up must be posted in accordance with the following rules:
  - (1) The Notice of Completed Clean-up must be posted immediately once the cleanup process has been fully completed.
  - (2) The Notice of Completed Clean-up shall state the date and time at which the Encampment cleanup process was completed and shall provide information the former inhabitants of the Encampment as to where, when, and how they may reclaim any Personal Property that was removed and stored during the cleanup process.
  - (3) Posting of the Notice of Completed Clean-up must be in a prominent place and located within the same area that was cleared. For locations where there is no place to affix the notice, City staff will erect a signpost on which to post the Notice of Clean-up and Completed Clean-up.
  - (4) Staff must document the posting of the site by taking a date-stamped photograph of all notices posted.
  - (5) Staff shall retain copies of all posted notices in accordance with the City's adopted records retention policy.
- (c) Delayed Cleanup. The City Manager or designee shall conduct Abatement/cleanup of the site on the date specified in the Notice of Clean-Up no sooner than twenty-four (24) hours after said notice is initially posted. If Abatement is delayed or rescheduled, the City Manager or designee may conduct Abatement within seventy-two (72) hours of the posted Notice of Clean-Up without reposting a new Notice of Clean-Up. If Abatement is delayed beyond seventy-two (72) hours after the initial posting of the Notice of Clean-up, the City Manager shall repost a new Notice of Clean-up with a new clearance date.
- (d) Abatement Documentation. The City Manager or designee shall document the Abatement process as follows:
  - (1) photograph the site before any Abatement begins,
  - (2) open backpacks, purses, suitcases, and other small storage containers for purposes of safekeeping inventory and to determine whether they contain items eligible for storage,
  - (3) set out items contained in bags or suitcases and photograph the items,
  - (4) photograph all items to be stored,
  - (5) A photo of the cleanup process, and

- (6) A photograph of the site after Abatement has concluded.
  - (7) Contact appropriate law enforcement agencies in the event illegal or dangerous materials, or other evidence of criminal activity, are discovered during an inventory search conducted for the purposes of safekeeping Personal Property.
  - (8) Staff shall retain copies of all Abatement documentation in accordance with the City's adopted records retention policy.
- (e) Storage of Personal Property. Items found during an Abatement of any Camp site or Encampment shall be put into storage, unless they meet one of the following disqualifying conditions:
- (1) items are hazardous, including items contaminated with human waste, animal waste, are soiled, or infested with bugs, explosives, weapons, liquids, drug paraphernalia, or mold;
  - (2) items are likely to become hazardous in storage, including perishables, wet materials that might become moldy, and items covered in mud;
  - (3) items are practically un-storable, due to large size, weight, or other similar characteristics;
  - (4) items are shattered, crumbled, collapsed, or rendered inoperable due to missing components;
  - (5) items constitute contraband or are otherwise indicative of criminal activity.

The City Manager or designee shall record each eligible item to be stored, including the location in which it was found and the date of storage. Any stored items shall be kept in storage at least ninety (90) calendar days and then may be disposed of.

- (g) Enforcement.
- (1) City enforcement officers shall not issue a criminal citation to enforce a violation of Section 13.27.020(a) between the hours of 9:00 p.m. and 5:30 a.m. or when the person is on public or private property at a time when there is no available Shelter.
  - (2) For purposes of this Chapter, "available Shelter" or "when Shelter is available" means that Shelter is reasonably available to the person at the time enforcement is taking place and taking into consideration any disability or other specific circumstances applicable to that person. Prior to any enforcement of a violation of this Chapter which is conditioned upon available Shelter, City enforcement officers shall comply with all policies in effect to identify appropriate, available Shelter and offer to aid in relocating the person in violation to said Shelter.
  - (3) Sections 13.27.020(b) and (c) and 13.27.025(a) are enforceable at all times, regardless of Shelter availability.
- (h) Expedited Abatement. The City Manager or designee shall prioritize and expedite

the removal of an Encampment or Personal Property if:

- (1) the City maintains an active, valid trespass agreement with the property owner; or
- (2) the Encampment or Personal Property violates Sections 13.27.020(b) or (c), Section 13.27.025, or Sections 13.27.030(b)(1) or (b)(2) of this Chapter.
- (3) the City Manager or designee observes and determines that the Encampment or Personal Property creates a condition that presents an imminent and immediate threat to property damage, bodily injury, or death where in such situations and in the interest of protecting life, removal is required forthwith.

In an expedited Abatement, the City Manager or designee shall follow the same Abatement and storage procedures in Section 13.27.040(a)(3) and (4), excluding section 13.27.040 (h)(3), shall post a Notice of Clean-Up giving a minimum of three (3) hours' notice for all persons to remove their Personal Property in a manner reasonably calculated to provide actual notice, taking into consideration any disability or other specific circumstance applicable to that person and providing assistance to accommodate said disability or circumstance.

#### **Sec. 13.27.045 Exceptions.**

Camping shall be permissible under the following circumstances:

- (1) Any commercial use where Camping is authorized and established as a permitted or conditional use pursuant to Title 16 of this Code;
- (2) Any facility owned and operated by the United States Government, state of California, county of San Bernardino, or special district, wherein by their rules or regulations Camping is permitted; and
- (3) Any Camping activities authorized by the City of Victorville pursuant to established regulations.

#### **Sec. 13.27.050 Interference with Abatement.**

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 Chapter.

#### **Sec. 13.27.055 Violations and Penalties.**

Any person violating any provision or regulations established under this Chapter is subject to the following:

- (a) For the first offense, the enforcement officer shall issue a notice of violation.
- (b) For the second offense after the expiration of timeframe to comply with a notice of violation, the enforcement officer shall issue an administrative citation forthwith in the amount of \$20.00 per violation. Contents, service, and appeal of the citation shall comply with Sections 1.05.070, 1.05.080, and 1.05.090 of this Code.
- (c) For the third and subsequent offenses after the expiration of timeframe to comply with a notice of violation and the issuance of the above administrative fine, provided that Shelter is available or that enforcement of the provision(s) of this Chapter violated are not among

those contingent upon Shelter availability, the enforcement officer shall issue a notice to appear for each violation as a misdemeanor in accordance with Chapter 1.04 of this Code.

(d) Each day a violation is committed or permitted to continue shall constitute a new and separate offense.

(e) Nothing in this Section is intended to prohibit the City Manager or designee from executing a clearance of an Encampment or Personal Property in accordance with the provisions of Section 13.27.040.

### **Section 3. California Environmental Quality Act.**

The City Council finds that the adoption of this Ordinance will not have a significant effect on the environment and is categorically exempt from CEQA under CEQA Guidelines sections 15301(d) (Existing Facilities) and 15308 (Actions by Regulatory Agencies for Protection of the Environment) because the Project would prohibit encampments on public property that would ensure public facilities are maintained in a manner that meets current standards of health and safety and prohibiting camping and encampments in open space and near waterways would protect environmentally sensitive areas and reduce water pollution from unregulated human activity.

### **Section 4. Repeal of Conflicting Provisions.**

All ordinances, resolutions, or administrative actions by the City Council, or parts thereof that are inconsistent or otherwise conflict with any provision of this Ordinance are hereby repealed, but only to the extent of such inconsistency or conflict.

### **Section 5. Severability.**

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 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.



## **Attachment B**

## ORDINANCE NO. 2445

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

**WHEREAS**, the City of Victorville ("City" or "Victorville") has the authority to regulate and ensure the public health, safety, and general welfare; and

**WHEREAS**, it is the obligation of the City to keep its streets, sidewalks, public rights of way and public properties clean, free of obstructions, debris, accessible, and available for public use, and to protect the public health, safety, and access by City constituents; and

**WHEREAS**, camping in certain areas has created unsanitary, unhealthy, disorderly, and dangerous conditions often with the accumulation of rubbish and trash that often impact pedestrians, vehicular traffic, public safety responders, and create unsanitary conditions due to the presence of human waste located on pedestrian paths that impact the health and safety to the general public; and

**WHEREAS**, the decision in *Martin v. Boise* (9th Cir. 2018) 902 F.3d 1031, ("*Martin*") applies only to the issuance of criminal penalties for sitting, sleeping, or lying outside to persons experiencing homelessness who cannot obtain Shelter when additional, suitable locations to sleep or be are unavailable; and

**WHEREAS**, the Ninth Circuit 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." (*Martin, 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 *Martin, supra*, at 1035 [emphasis in original].); and

**WHEREAS**, in *Johnson v. City of Grants Pass* (9th Cir. 2023) 72 F.4d 868 ("*Johnson*"), the Ninth Circuit held that the prohibition on criminal sanctions in *Martin* applied to administrative citations issued to enforce similar ordinances in violation of the Eighth Amendment; and

**WHEREAS**, the City intends to act in compliance with the *Martin* and *Johnson* decisions by enforcing this Ordinance only after enforcement officials determine that there are current and suitable locations for unsheltered individuals to sleep or otherwise live within the City in accordance with City policies; and

**WHEREAS**, the establishment and presence of Encampments on, in, near or within 500 feet of youth-serving facilities impacts the ability of to safely access public facilities by obstructing pedestrian pathways or sidewalks, which are commonly used by parents and children to frequently utilize these sites, as well as exposing children to dangerous activities and environments, such as drug use, unsanitary conditions, lewdness, nudity, etc.; and

**WHEREAS**, in the two-year period from January 1, 2021 to December 31, 2022, the Victorville Homeless Engagement and Outreach Team proactively contacted and offered Shelter and other services to 617 unhoused individuals, resulting in 260 unsheltered individuals accepting

Shelter or services, permitting clearance of any debris left behind, with the remaining 357 unsheltered individuals vacating the area, often leaving behind extensive amounts of rubbish and debris to be cleared by city sanitation staff; and

**WHEREAS**, in 2022, the City's Sanitation and Code Compliance divisions removed a total of 626 tons of accumulated rubbish and trash from homeless Encampments throughout the City, resulting in approximately \$38,000 in waste disposal expenses, and an additional \$41,500 for 986 labor hours expended to clear 749 individual Camp sites and remove over 50 inoperative vehicles, for a total cost to the City of \$79,500.00 in 2022; and

**WHEREAS**, wildfires are a frequent natural disaster in California, and when combined with accumulated rubbish from Encampments, cause significant harm and loss to individuals, communities, wildlife, and great swaths of natural landscape and the frequency, duration and size of wildfires have increased over the last several decades; and

**WHEREAS**, the Mojave Riverbed Area, although located within the City limits, is not zoned for residential use and therefore lacks adequate services needed to support a safe living environment, contains dense and often dry vegetation that can easily ignite and accelerate a wildfire, endangering the adjacent and densely populated residential units, mobile home parks and businesses located nearby; and

**WHEREAS**, the Victorville Fire Chief has assessed the geographical conditions, is familiar with the frequency of Camping and Encampment activity within the Mojave Riverbed Area, as well as the related fire response calls, and has determined that the entire Mojave Riverbed Area creates an imminent fire hazard to Encampment occupants, adjacent residential units, adjacent businesses and fire personnel and equipment based on the rough terrain and lack of lighting to safely maneuver large emergency response apparatus; and

**WHEREAS**, unsheltered persons located in the Mojave Riverbed Area experiencing homelessness are often reliant on open or kindled fires for everyday survival activities, including cooking food and keeping warm, which can increase the risk of nearby brush catching fire and rapidly spreading to surrounding residences and businesses; and

**WHEREAS**, in the two-year period from January 1, 2021 to December 31, 2022, the City's Fire Department responded to 384 calls for service, where 100 of those calls were related to medical emergencies and 284 calls were related to fires throughout the Mojave Riverbed Area; and

**WHEREAS**, emergency responders encounter uneven, unstable, and steep terrain often at night with little to no light creating an unnecessary risk to police and fire emergency responders and to Encampment occupants; and

**WHEREAS**, unsheltered individuals living in remote high-fire zones may miss emergency notifications and may experience challenges in safely evacuating; and

**WHEREAS**, the Mojave Riverbed Area is environmentally protected due to unique ecosystems and wildlife habitat that significantly limit the City's ability to proactively clear overgrown or dry brush and vegetation; and

**WHEREAS**, persons experiencing homelessness frequent and Camp in Waterways designed to move enormous amounts of water, resulting in severe and imminent hazards to life

and safety for persons experiencing homelessness, outreach workers, and first responders including Victorville Fire and Police personnel; and

**WHEREAS**, The California Department of Forestry and Fire Protection's Fire and Resource Assessment Program (FRAP) assesses the amount and extent of California's forests and rangelands, analyzes their conditions and identifies alternative management and policy guidelines; and

**WHEREAS**, Fire Threat, according to FRAP, provides a measure of fuel conditions and fire potential in the ecosystem, representing the relative likelihood of "damaging" or difficult to control wildfire occurring for a given area; and

**WHEREAS**, Fire Threat can be used to assess the potential for impacts on various assets and values susceptible to fire, and impacts are more likely to occur and/or be of increased severity for the higher threat classes; and

**WHEREAS**, Fire Threat is a combination of two factors: 1) fire probability (the likelihood of a given area burning), and 2) potential fire behavior (hazard); when combined, these two factors create five Fire Threat classes ranging from low to extreme; and

**WHEREAS**, the FRAP Fire Threat Areas Map published in 2019 classified the Mojave Riverbed Area as a "High" Fire Threat Area; and

**WHEREAS**, efforts to notify or evacuate unsheltered persons experiencing homelessness in high-risk fire zones and Waterways pose a clear and imminent danger to staff engaged in attempting to immediately contact unsheltered persons and Encampment occupants due to the significant fire fuel sources or presence of swift water located in the riverbed during fires or flash flood events to prevent or mitigate loss of, or damage to life, health, property and/or essential services; and

**WHEREAS**, the 2022 Point-in-Time Homeless Count identified 455 Victorville residents experiencing homelessness, 224 of whom are unsheltered; and

**WHEREAS**, the 2023 Point-in-Time Homeless Count identified 607 Victorville residents experiencing homelessness, 317 of whom are unsheltered; and

**WHEREAS**, the City currently has a 92-bed interim Shelter where bed availability is verified daily by City staff, with additional Shelter beds available through community-based organizations that do not require adherence to religious beliefs or practices and do not infringe on other protected liberties; and

**WHEREAS**, the City has increased its proactive outreach with respect to offering Shelter and supportive services to the unsheltered population and coordinating transport for entry to its 92-bed interim Shelter; and

**WHEREAS**, the City's construction of a 170-bed Wellness Center Campus is nearing completion, which will increase available Shelter beds and provide supportive services both at the Campus and the surrounding community, where bed availability will continue to be verified daily by City staff and outreach efforts executed by City Homeless Engagement and Outreach Teams will continue by engaging unsheltered persons and coordinating entry to the Wellness Center Campus; and

**WHEREAS**, the City Council, using its independent judgment, has determined that the Project will not have a significant effect on the environment and is categorically exempt from CEQA under CEQA Guidelines sections 15301(d) (Existing Facilities) and 15308 (Actions by Regulatory Agencies for Protection of the Environment) because the Project would prohibit encampments in public areas that would ensure public facilities are maintained in a manner that meets current standards of health and safety and prohibiting camping and encampments in open space and near waterways would protect environmentally sensitive areas and reduce water pollution from unregulated human activity; and

**WHEREAS**, City Council desires to protect the public health, safety, and welfare of its homeless and unsheltered individuals, first responders, residents, businesses, and visitors; and

**WHEREAS**, the City seeks to accomplish the aforementioned objectives in a manner that preserves the dignity and safety of all residents and in a manner calculated to promote compliance rather than enforcement.

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

**Section 1.     Recitals**

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

**Section 2.     Additions, Deletions, and Revisions of Various Sections of Chapter 13.27 of Title 13 of the Victorville Municipal Code**

That Chapter 13.27 of Title 13 of the Victorville Municipal Code be amended as follows (with included legend defining existing, new, and deleted text by means of underscores, strikethroughs, and italicization for reference only):

| Legend                  |
|-------------------------|
| Existing Text           |
| <i>New Text</i>         |
| <del>Deleted Text</del> |
| {Editing Notes}         |

**Chapter 13.27 CAMPING AND STORAGE OF PERSONAL PROPERTY IN PUBLIC AREAS**

**Sec. 13.27.010 Purpose.**

The ~~streets, parks~~City has the authority to enact laws which promote the public health, safety, and ~~public areas~~general welfare of its residents and finds that certain public lands within the

citygeographical boundaries of the City pose significant health and safety hazards to the people who make shelter or stay overnight in these areas and to adjacent residents and businesses operating near these areas. Additionally, the City Council and the City Fire Chief find that some of these public lands are fire hazards due to dry vegetation, prone to wildfires and swift water, and pose significant life and property safety risks to unhoused and homeless residents, adjacent residents, and businesses caused by unregulated human activity. The Streets, Parks, and Public Areas within the City should be readily accessible and available to residents and the public at large. The use of these areas for campingCamping purposes or storage of personal property Personal Property interferes with the rights of others to use the areas for which they were intended, and poses risks to adjacent residents and business. The purpose of this chapter is to protect the health, safety, and general welfare of those individuals inhabiting these areas; to maintain streets, parksStreets, Parks, and public areasPublic Areas within the cityCity in a clean and accessible condition; to preserve and protect sensitive public lands to prevent destruction of these assets; and to establish a process for the collection, storage, and disposal, recycling, or reuse of Personal Property found in Encampments on public property.

### **Sec. 13.27.015 Definitions.**

As used in this chapter:

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

"Camp facilitiesAs used in this Chapter, the following words and phrases, when capitalized, shall have the definitions set forth in this Section. Words and phrases defined in this Section when used in the singular may include the plural and the plural may include the singular:

"Abatement" means the process of removing trash and debris, removing and disposing of, recycling, or reusing of waste at an Encampment according to the Encampment clearance process in section 13.27.040 and documenting and collecting eligible items for storage.

"Camp" or "Camping" means to pitch, erect, or construct an Encampment remaining in the same area for a continuous period of time, not associated with ordinary recreational use of a specified location, or to use Camp Paraphernalia for the purpose of, or in a way that facilitates, outdoor sheltering for habitation purposes beyond 24 hours or for remaining outdoors overnight. This excludes City facilities that limit use and occupancy as stated in the municipal code.

"Camp Facilities" include, but are not limited to, tents, huts, or other temporary shelters used for habitation.

"Camp paraphernaliaParaphernalia" includes, but is not limited to, tarpaulins, cots, beds, sleeping bags, hammocks or non-city designated cooking facilities and similar equipment, clothing, shoes, jackets, tents, sleeping bags, bedrolls, blankets, sheets, pillows, luggage, backpacks, bikes, tools, jewelry, audio/visual equipment, cooking equipment, home furniture, chairs, utility carts, documents, and medications.

"Encampment" means one or more temporary, makeshift, or hand-built structures not intended for long-term continuous occupancy, including tents, or Camp Paraphernalia, that are used to shelter one or more persons or their belongings and that are not authorized by the property owner or connected to a permitted public event.

"Mojave Riverbed Area" means all floodplains and levees of the Mojave River found within the boundaries of the City of Victorville.

"Open Space" means any undeveloped public property either primarily in its natural state, whether or not so designated by any land use or zoning ordinance, including desert, vacant lot, and unimproved Waterways, or that is held out by the City or used by the public for passive

recreational purposes, conservation, habitat preservation, or that maintains or enhances the conservation of natural or scenic resources.

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

"Personal Property" means any property that is not real property in accordance with California Civil Code section 663.

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

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

"Sensitive Area" means any of the following areas:

(1) On or within 500 feet of a school that offers instruction on those courses of study required by the California Education Code or that is maintained pursuant to standards set by the State Board of Education, provided that signs are posted prohibiting Camping that are clearly visible to students and pedestrians. For purposes of this definition, school does not include a vocational or professional institution of higher education, including a community or junior college, college, or university;

(2) On or within 500 feet of any Shelter; provided that signs prohibiting Camping are posted at least at the main entry or access point to the Shelter and are clearly visible to patrons and pedestrians;

(3) On or within 500 feet of any Open Space, Waterway, or banks of a Waterway;

(4) On or within 500 feet of any Transit Hub or train tracks; provided that signs prohibiting Camping are posted at least at one entry or access point to the area and are clearly visible to patrons and pedestrians; and

(5) On or within 500 feet of any City-owned or operated building or facility, including Parks; provided that signs prohibiting Camping are posted at every facility entry or access point and are clearly visible to pedestrians.

"Shelter" means any City-funded Shelter or a Shelter provided as part of the Coordinated Entry System for placement of individuals or families experiencing homelessness to access beds and other services, or upon authority delegated to the City Manager by the City Council, an area specifically designated by the City Manager for use by individuals or families experiencing homelessness. A list of current Shelters is provided on the City's website and is available for public access.

"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(4), 1) of this Code~~, which states that a ~~street~~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.

"Transit Hub" means a multimodal transportation station serving as a drop off and pickup location for multiple bus routes.

"Unclaimed Property" means any Personal Property that is held for safe keeping for a period of ninety (90) days and has remained unclaimed by the apparent owner of such property.

"Waterway" means all the areas of the Oro Grande Wash including channels that connect to the Oro Grande Wash, and the Mojave Riverbed Area, as previously defined herein.

**Sec. 13.27.020 Unlawful ~~camping~~Camping in public places.**

(a) ~~It~~Unless otherwise permitted by law or permit, when Shelter is available, it is unlawful for any person to ~~camp~~Camp; occupy ~~camp facilities~~, or ~~Camp Facilities~~; erect an Encampment; erect, configure, construct, maintain, use ~~camp paraphernalia~~, occupy, or allow to remain erected any ~~Camp Facilities~~; light or kindle a fire except in an appropriate containment device provided or approved for that purpose by the Fire Chief or Building Official; or use ~~Camp Paraphernalia~~ in the following areas, except as otherwise provided by resolution of the ~~city council~~City Council and provided that notice of same is clearly and conspicuously posted at the areas:

(1) Any ~~street~~Street;

(2) Any ~~park~~; Park;

(3) Any ~~public area, improved or unimproved~~Open Space;

(4) Any ~~Waterway~~, including any portion of the Mojave River Basin within the city limits; or ~~Riverbed Area~~;

(45) Any ~~Public Area~~, or

(6) Any ~~Public Parking Lot~~.

(b) At all times, regardless of the availability of Shelter space or beds, it is unlawful for any person to ~~Camp~~; occupy ~~Camp Facilities~~; erect an Encampment; erect, configure, construct, maintain, use, occupy, or allow to remain erected any ~~Camp Facilities~~; or use ~~Camp Paraphernalia~~ in any Public Area where such activity poses:

(1) an immediate threat or an unreasonable risk of harm to any natural person,

(2) an immediate threat or an unreasonable risk of harm to public ~~parking area~~, health or safety, or

(b) (3) disruption to vital government services.

(c) At all times, regardless of the availability of Shelter space or beds, it is unlawful for any person to ~~Camp~~, occupy ~~Camp Facilities~~, erect an Encampment, erect, configure, construct, maintain, use, occupy, or allow to remain erected any ~~Camp Facilities~~; or use ~~Camp Paraphernalia~~ in any Sensitive Area as defined in Section 13.27.015.



**Sec. 13.27.025 Unlawful campingCamping in Waterways and Mojave Riverbed Area.**

(a) Unless otherwise permitted by law or permit and regardless of the availability of Shelter space or beds, it is unlawful for any person to do any of the following within Waterways or Sensitive Areas located within the City of Victorville City limits:

- (1) Camp, build, or erect a structure of any type along the banks of any Waterway, or drive a nail or other object into any tree or other natural area of vegetation for the purpose of building an Encampment or any other structure, or to affix an object to any tree or other natural vegetation;
- (2) Move boulders or large rocks, destroy vegetation, damage paved roads or paths created by the City, or otherwise reconfigure the natural landscape in the waters of or along the banks of a Waterway;
- (3) Drive, park, or bring any vehicle along the banks of a Waterway, except in places specifically provided and designated for vehicular use;
- (4) Dig on, excavate, or compromise the integrity of the banks of a Waterway;
- (5) Discharge or store waste, including garbage, refuse, or human or animal waste, along the banks or into the waters or sediment area of a Waterway;
- (6) Unless approved by the City Fire Chief or by a permit issued by a state or federal government entity, create, ignite, or make any fire including the use of any heat source used for cooking, heating, or warming;
- (7) Camp, build, or erect a structure of any type in a Sensitive Area as defined in section 13.27.015.

(b) Nothing in this section 13.27.025 is intended to prohibit the activities of an owner of private property is covered in Victorville Municipal Code Chapter 13.28, sections 13.28.040, 13.28.120, and 13.28.140, or other lawful user of private property that are normally associated with and incidental to the lawful and authorized use of private property; and nothing is intended to prohibit the activities of a lawful user if such activities are expressly authorized by the City Manager or by any law, regulation, permit, order or other directive from a regulatory authority.

**Sec. 13.27.025030 Storage of personal propertyPersonal Property in public places.**

(a) ~~Unless otherwise permitted by law or permit, when Shelter is available, it is unlawful for any person to store personal property~~Personal Property, including camp facilities, without limitation, Camp Facilities and camp paraphernaliaCamp Paraphernalia, in the following areas, except as otherwise provided by resolution of the city councilCity Council:

- ~~(1) Any street;~~
- ~~(2) Any park;~~
- ~~(3) Any public area~~Street;
- (2) Any Park;
- (3) Any Open Space;
- (4) Any Public Area, improved or unimproved, including any portion of the Mojave River Basin within the city limits;Riverbed Area; or

~~(45) Any public parking area.~~Public Parking Lot.

- (b) ~~Unlawful~~At all times, regardless of the availability of Shelter space or beds, it is unlawful for any person to store Personal Property, including, without limitation, Camp Facilities and Camp Paraphernalia, in the following areas, except as otherwise provided by resolution of the city council:

(1) Waterways

(2) Sensitive Areas

- (c) Regulations relating to the storage of Personal Property on private property is covered in Title 16, Chapter 6, Article 13 of this Code

### **Sec. 13.27.035 Abandoned Personal Property**

- (a) Any Personal Property or possessions left unattended in or on any Public Area for a period longer than 24 hours and the owner cannot be readily identified or located, are presumed to be intentionally abandoned in accordance with California Civil Code section 2080.7. Enforcement Officials shall make a reasonable effort to ascertain whether the unattended Personal Property or possessions have been abandoned and, if so, to thereafter cause the removal of said property. Any Personal Property or possessions found during an Abatement procedure shall be processed in conformity with Subdivisions (a)(1), (a)(5), (a)(6), and (a)(7) of Section 13.27.040 of this Chapter.
- (b) Unattended Personal Property or possessions that are unsanitary, soiled, verminous or create an immediate hazard to pedestrians or vehicles may be summarily abated and destroyed. Unattended Personal Property or possessions that are recyclable may be disposed of in an appropriate manner.
- (c) Any Unclaimed Property, including unclaimed bicycles, shall be held in the possession of the City's Code Enforcement Department for a period not exceeding ninety (90) days. Any Unclaimed Property remaining after that period may be destroyed.

### **Sec. 13.27.040 Abatement Procedures.**

Abatement in Public Areas. When Shelter is available, the City Manager or designee may remove Personal Property, Camp Paraphernalia, and all other property, contraband, litter, and waste found at an Encampment or at a location where a person is engaged in unlawful Camping in Public Areas in compliance with the following procedures:

(a) Notice of Clean-up Required Prior to Abatement. A Notice of Clean-Up (in English and Spanish) will be posted on each tent or structure and in any other distinct areas of the Encampment providing notice of the date and time at which of Abatement/cleanup will occur and giving a minimum of twenty-four (24) hours for persons to remove their Personal Property. The City Manager or designee shall provide any persons at an Encampment with information related to Shelters and services and direct them to remove their Personal Property (belongings) from the site. The City Manager shall evaluate reasonable requests for additional time or assistance to remove items and may accommodate those requests to the extent practicable. The written Notice of Clean-Up shall also include:

- (1) A statement that Personal Property located at the Encampment must be removed from the site within twenty-four (24) hours and advising that Personal Property should not be left behind.
- (2) A statement indicating that the City Manager or designee may conduct the Abatement within seventy-two (72) hours of the posted Notice of Clean-Up without reposting a new Notice of Clean-Up.
- (3) A statement advising Encampment occupants of the date and time at which cleanup will commence and advising Encampment occupants of the date and time by which all Encampment occupants must vacate the Encampment site and remove their items of Personal Property.
- (4) A statement that Personal Property, including without limitation Camp Paraphernalia left behind will be cleared by the City (such description of Personal Property may refer to an attached photograph).
- (5) A statement that Personal Property items deemed intact and of value will be stored by the City for ninety (90) days following the completion of the Abatement/cleanup and information as to where, when, and how and such Personal Property items so stored can be reclaimed.
- (6) A statement that the City will post a Notice of Completed Clean-Up in the event Personal Property is stored during the clean-up process.
- (7) A statement that the Notice of Clean-Up may be updated and re-posted by the City Manager or designee to provide accurate and current information.
- (4)(8) Information that access to Shelter or services, including access to storage for Personal Property, is available through the City of Victorville Municipal

~~13.27.030~~ (b) Posting of Notice of Completed Clean-up. Once Abatement/cleanup of an Encampment has occurred, following the giving of notice in accordance with the provisions of subsection (a) above, a written Notice of Completed Clean-up must be posted, in order to provide adequate notice. The Notice of Completed Clean-up must be posted in accordance with the following rules:

- (1) The Notice of Completed Clean-up must be posted immediately once the cleanup process has been fully completed.
- (2) The Notice of Completed Clean-up shall state the date and time at which the Encampment cleanup process was completed and shall provide information the former inhabitants of the Encampment as to where, when, and how they may reclaim any Personal Property that was removed and stored during the cleanup process.
- (3) Posting of the Notice of Completed Clean-up must be in a prominent place and located within the same area that was cleared. For locations where there is no place to affix the notice, City staff will erect a signpost on which to post the Notice of Clean-up and Completed Clean-up.
- (4) Staff must document the posting of the site by taking a date-stamped photograph of all notices posted.
- (5) Staff shall retain copies of all posted notices in accordance with the City's adopted records retention policy.

(c) Delayed Cleanup. The City Manager or designee shall conduct Abatement/cleanup of the site on the date specified in the Notice of Clean-Up no sooner than twenty-four (24) hours after said notice is initially posted. If Abatement is delayed or rescheduled, the City Manager or designee may conduct Abatement within seventy-two (72) hours of the posted Notice of Clean-Up without reposting a new Notice of Clean-Up. If Abatement is delayed beyond seventy-two (72) hours after the initial posting of the Notice of Clean-up, the City Manager shall repost a new Notice of Clean-up with a new clearance date.

(d) Abatement Documentation. The City Manager or designee shall document the Abatement process as follows:

- (1) photograph the site before any Abatement begins.
- (2) open backpacks, purses, suitcases, and other small storage containers for purposes of safekeeping inventory and to determine whether they contain items eligible for storage.
- (3) set out items contained in bags or suitcases and photograph the items.
- (4) photograph all items to be stored.
- (5) A photo of the cleanup process, and

- (6) A photograph of the site after Abatement has concluded.
- (7) Contact appropriate law enforcement agencies in the event illegal or dangerous materials, or other evidence of criminal activity, are discovered during an inventory search conducted for the purposes of safekeeping Personal Property.
- (8) Staff shall retain copies of all Abatement documentation in accordance with the City's adopted records retention policy.
- (e) Storage of Personal Property. Items found during an Abatement of any Camp site or Encampment shall be put into storage, unless they meet one of the following disqualifying conditions:
  - (1) items are hazardous, including items contaminated with human waste, animal waste, are soiled, or infested with bugs, explosives, weapons, liquids, drug paraphernalia, or mold;
  - (2) items are likely to become hazardous in storage, including perishables, wet materials that might become moldy, and items covered in mud;
  - (3) items are practically un-storable, due to large size, weight, or other similar characteristics;
  - (4) items are shattered, crumbled, collapsed, or rendered inoperable due to missing components;
  - (5) items constitute contraband or are otherwise indicative of criminal activity.

The City Manager or designee shall record each eligible item to be stored, including the location in which it was found and the date of storage. Any stored items shall be kept in storage at least ninety (90) calendar days and then may be disposed of.

(g) Enforcement.

- (1) City enforcement officers shall not issue a criminal citation to enforce a violation of Section 13.27.020(a) between the hours of 9:00 p.m. and 5:30 a.m. or when the person is on public or private property at a time when there is no available Shelter.
- (2) For purposes of this Chapter, "available Shelter" or "when Shelter is available" means that Shelter is reasonably available to the person at the time enforcement is taking place and taking into consideration any disability or other specific circumstances applicable to that person. Prior to any enforcement of a violation of this Chapter which is conditioned upon available Shelter, City enforcement officers shall comply with all policies in effect to identify appropriate, available Shelter and offer to aid in relocating the person in violation to said Shelter.
- (3) Sections 13.27.020(b) and (c) and 13.27.025(a) are enforceable at all times, regardless of Shelter availability.

(h) Expedited Abatement. The City Manager or designee shall prioritize and expedite

the removal of an Encampment or Personal Property if:

- (1) the City maintains an active, valid trespass agreement with the property owner; or
- (2) the Encampment or Personal Property violates Sections 13.27.020(b) or (c), Section 13.27.025, or Sections 13.27.030(b)(1) or (b)(2) of this Chapter.
- (3) the City Manager or designee observes and determines that the Encampment or Personal Property creates a condition that presents an imminent and immediate threat to property damage, bodily injury, or death where in such situations and in the interest of protecting life, removal is required forthwith.

In an expedited Abatement, the City Manager or designee shall follow the same Abatement and storage procedures in Section 13.27.040(a)(3) and (4), excluding section 13.27.040 (h)(3), but shall post a Notice of Clean-Up giving a minimum of three (3) hours' notice for all persons to remove their Personal Property in a manner reasonably calculated to provide actual notice, taking into consideration any disability or other specific circumstance applicable to that person and providing assistance to accommodate said disability or circumstance.

#### **Sec. 13.27.045 Exceptions.**

Camping shall be permissible under the following circumstances:

- (1) Any commercial use where ~~camping~~Camping is authorized and established as a permitted or conditional use pursuant to Title 16 of this codeCode;
- (2) Any facility owned and operated by the United States Government, state of California, county of San Bernardino, or special district, wherein by their rules or regulations ~~camping~~Camping is permitted; and
- (3) Any ~~camping~~Camping activities authorized by the cityCity of Victorville parks and recreation pursuant to established regulations.

#### **Sec. 13.27.035-050 Interference with 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.~~

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 Chapter.

#### **Sec. 13.27.040-055 Violations and 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.~~

### **13.27.050 Administrative penalties.**

Any person violating any provision or regulations established under this chapter ~~Chapter~~ is subject to the following:

(a) For the first offense, the enforcement officer shall issue a notice of violation.

(b) For the second offense after the expiration of timeframe to comply with a notice of violation, the enforcement officer shall be subject to issue an administrative action, notice citation forthwith in the amount of \$20.00 per violation. Contents, service, and/or administrative appeal of the citation as set forth in Victorville Municipal Code shall comply with Sections 1.05.060 through 070, 1.05.080, and 1.05.090. The administrative penalty for a violation of this Code.

(c) For the third and subsequent offenses after the expiration of timeframe to comply with a notice of violation and the issuance of the above administrative fine, provided that Shelter is available or that enforcement of the provision(s) of this Chapter violated are not among those contingent upon Shelter availability, the enforcement officer shall issue a notice to appear for each violation as a misdemeanor in accordance with Chapter 1.04 of this Code.

(d) Each day a violation is committed or permitted to continue shall constitute a new and separate offense.

(e) Nothing in this Section is intended to prohibit the City Manager or designee from executing a clearance of an Encampment or Personal Property in accordance with the provisions of Section 13.27.040.

### **Section 3. California Environmental Quality Act.**

The City Council finds that the adoption of this Ordinance will not have a significant effect on the environment and is categorically exempt from CEQA under CEQA Guidelines sections 15301(d) (Existing Facilities) and 15308 (Actions by Regulatory Agencies for Protection of the Environment) because the Project would prohibit encampments on public property that would ensure public facilities are maintained in a manner that meets current standards of health and safety and prohibiting camping and encampments in open space and near waterways would protect environmentally sensitive areas and reduce water pollution from unregulated human activity.

### **Section 4. Repeal of Conflicting Provisions.**

All ordinances, resolutions, or administrative actions by the City Council, or parts thereof that are inconsistent or otherwise conflict with any provision of this Ordinance are hereby repealed, but only to the extent of such inconsistency or conflict.

### **Section 5. Severability.**

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 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.